

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Arrowrock Division, Boise Project, Idaho

SUPPLEMENTAL CONTRACT BETWEEN
THE UNITED STATES AND THE NEW YORK IRRIGATION DISTRICT

Contents

<u>Article No.</u>		<u>Page No.</u>
	Preamble.....	1
2-7	Explanatory Recitals.....	2
8	Scope and Term of Contract.....	3
9	Storage Capacity Available to District.....	3
10	Place of Delivery and Measurement and Use of Water.....	3
11	Water Supply.....	4
12	United States Not Liable for Water Shortage or Interruptions.....	6
13	Construction Charge.....	6
14	Operation and Maintenance Charge.....	7
15	Elements of Operation and Maintenance Charge.....	8
16	Termination of Contract.....	9
17	Contract to be Authorized By Electors.....	10
18	Standard Contract Articles.....	10
	Signatures.....	11
	Acknowledgments.....	12

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Arrowrock Division, Boise Project, Idaho

SUPPLEMENTAL CONTRACT BETWEEN
THE UNITED STATES AND THE NEW YORK IRRIGATION DISTRICT

THIS CONTRACT, made this 8th day of June 1987, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, particularly subsection 9(d) of the Reclamation Project Act of August 4, 1939 (53 Stat. 1187, 1196), which acts are commonly known and referred to as the Federal Reclamation Laws, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, acting by and through the Regional Director, Pacific Northwest Region, Bureau of Reclamation, Boise, Idaho, hereinafter called the Contracting Officer, and the NEW YORK IRRIGATION DISTRICT, hereinafter called the District;

WITNESSETH, THAT:

Explanatory Recitals

2. WHEREAS, The United States has heretofore constructed, pursuant to the Federal Reclamation laws, Arrowrock Dam and Reservoir on the Boise River, known as Arrowrock Reservoir, for the impounding and storage of water for irrigation purposes; and

Recital 2

3. WHEREAS, 23,000 acre-feet of the active capacity of said Arrowrock Reservoir was reserved for a proposed Hillcrest Unit of the Boise Project pursuant to a contract executed in 1921 between the United States and the Boise-Mora and Hillcrest Irrigation Districts; and

4. WHEREAS, the Hillcrest Unit was never developed, and the United States has terminated the above-said 1921 contract due to supervening events which made performance impractical; and

5. WHEREAS, the District and four other irrigation districts, as provided in contracts executed in 1926 between the districts and the United States, have had all or a portion of the Arrowrock Reservoir storage capacity formerly reserved for the Hillcrest Unit available as a temporary supplemental irrigation water supply since 1930; and

6. WHEREAS, the District and the United States entered into contracts dated September 27, 1926, and August 7, 1941, whereby the District assumed certain construction obligations to the United States; and

7. WHEREAS, the District desires to enter into a repayment contract with the United States for Arrowrock Reservoir storage capacity formerly reserved for the Hillcrest Unit, to be used as a supplemental irrigation water supply.

NOW, THEREFORE, in consideration of the mutual and dependent stipulations and covenants herein contained, it is agreed by and between the parties as follows:

Recitals 3, 4, 5, 6, 7

Scope and Term of Contract

8. (a) This contract is supplemental to the contracts between the District and the United States dated September 27, 1926, and August 7, 1941, and except as modified herein, the provisions of those contracts shall remain in full force and effect to the extent they are not inconsistent with the provisions of this contract.

(b) This contract shall become effective on the date first-above written and will continue in effect unless terminated under the provisions of Article 16 hereof: Provided, That Article 18.A. of this contract shall not terminate until the construction charge obligation under the August 7, 1941, contract has been paid in full.

Storage Capacity Available to District

9. The United States will make available to the District stored water accruing to eight thousand four hundred twenty-three ten-thousandths percent (0.8423%) of the 286,600 acre-foot capacity of Arrowrock Reservoir within the limits and on the terms and conditions provided in this contract. This percentage shall, so long as Arrowrock Reservoir has an active capacity of 286,600 acre-feet, be treated as the equivalent of 2,414 acre-feet. The latter figure may, however, be adjusted from time to time by the Contracting Officer whenever there are determinations that the active capacity is other than above stated. The rights to stored water are those provided in Article 11.

Place of Delivery and Measurement and Use of Water

10. (a) The water to be furnished to the District will be measured by facilities operated by the United States and delivered into the Boise River.

Articles 8, 9, 10

At the option of the United States, the Arrowrock Reservoir stored water to which the District is entitled may be measured and delivered to or for the District at the outlet works of Anderson Ranch Reservoir, Arrowrock Reservoir, or Lucky Peak Reservoir. The District shall incur all transportation and administration losses from the point of such delivery to the place of use.

(b) The District shall be wholly responsible for the diversion, control, carriage, handling, use, disposal, or distribution of such water, and the District shall hold the United States harmless on account of damage or claim of damage of any nature whatsoever from the foregoing activity.

(c) The water provided hereunder shall be used solely for distribution by the District to water users for supplemental irrigation purposes.

(d) The District shall use all practical methods to ensure the economical and beneficial use of water in accordance with Idaho water law.

Water Supply

11. (a) The water supply described in this contract is to be stored in Arrowrock Reservoir under water rights held by the United States, including Claim No. 63-5262, and Water License Nos. 63-2158 and 63-3613 with priority dates of January 1911 and June 1938, for the storage and beneficial use of not less than 286,600 acre-feet per annum of the water of the Boise River in Arrowrock Reservoir. The total capacity of Arrowrock Reservoir is the capacity to elevation 3216 feet above sea level, which capacity as of the date of this contract is understood to be not less than 286,600 acre-feet without bank storage. As provided in Article 9, the District's

storage rights shall comprise eight thousand four hundred twenty-three ten-thousandths percent (0.8423%) of the capacity.

(b) The United States will operate Arrowrock Reservoir so as to store water under existing storage rights in accordance with the applicable provisions of the September 27, 1926, and August 7, 1941, contracts between the United States of America and the District, and in accordance with the "Memorandum of Agreement for Flood Control Operation of Boise River Reservoirs," dated November 20, 1953, as amended. The District's rights to use the stored water accruing to its share of the capacity shall be subject to the requirements of the above-said contracts and memorandum of agreement, as amended. All space in Arrowrock Reservoir shall be operated with like priority as to storage rights. Losses or shortages resulting from the storage operation will be prorated equally.

(c) While the District's storage rights are defined in terms of capacity in Arrowrock Reservoir, the United States shall have the right, without change in the District's obligations with respect to storage rights, to store water accrued to those rights in any storage capacity available to it on the Boise River so long as delivery to the District of the stored water entitlement under this contract is not in anyway impaired. In determining the amount of stored water available, losses incidental to storage will be prorated equally over all water in storage in a given reservoir; and, in determining the amount of stored water, the point of measurement shall be the outlet works of the reservoir from which delivery is made.

Article 11 (Continued)

(d) Arrangements shall be made between the State Watermaster, the District, and the officer of the United States in charge of Arrowrock Reservoir concerning the schedule of delivery of stored water hereunder. The costs of distribution by the State Watermaster are chargeable to the District's water supply and shall be paid by the District.

United States Not Liable for Water Shortage or Interruptions

12. No liability shall accrue against the United States or any of its officers, agents, or employees for damage, direct or indirect, arising by reason of shortages in the quantity of water available from Arrowrock Reservoir or interruptions in water deliveries to facilities of the District resulting from drought, inaccuracy in distribution, hostile diversion, prior or superior claims, accident to or failure of facilities of the United States, whether or not attributable to negligence of officers, agents, or employees of the United States, or other causes of whatsoever kind. Nor shall the District's obligations to the United States under this contract be reduced by reason of such shortages or interruptions except as provided in Articles 13 and 16(b).

Construction Charge

13. The total construction charge for the 0.8423 percent of Arrowrock Reservoir capacity is \$41,689.39. One-half of the \$41,689.39 shall be due and payable by the District upon execution of this contract, and the remaining one-half shall be due on or before 1 year following the date of this contract: Provided, That if the District should be forced to involuntarily relinquish the space under this contract in the first year following the date of this contract, then the United States will return all of the

Articles 12, 13

monies paid under this article; or if relinquished in the second year, then \$34,741.16 will be returned; or if relinquished in the third year, then \$27,792.93 will be returned; or if relinquished in the fourth year, then \$20,844.70 will be returned; or if relinquished in the fifth year, then \$13,896.46 will be returned; or if relinquished in the sixth year following the date of this contract, then \$6,948.23 will be returned by the United States to the District.

Operation and Maintenance Charge

14. (a) In addition to the construction charge established in Article 13, the District shall pay to the United States so long as this contract remains in effect and in advance on or before May 1 of each year, the estimated cost of operation and maintenance (O&M) of Arrowrock Reservoir as is properly apportionable to the District's right to stored water, as provided herein, such cost to be estimated by the Contracting Officer. Under this contract, the District's share of the annual O&M cost is eight thousand four hundred twenty-three ten-thousandths percent (0.8423%) of the annual irrigation O&M costs of Arrowrock Reservoir.

(b) The first payment for the estimated O&M cost shall be due and payable on May 1, 1987. Payment thereafter will be due on May 1 of each succeeding year.

(c) Whenever, in the opinion of the Contracting Officer, funds so advanced will be inadequate to operate and maintain the Arrowrock Reservoir, he may give a supplemental O&M charge notice stating therein the amount of the District's share of additional funds required, and the District shall advance that additional amount within 60 days if the District has on hand

such additional funds not allocated to other uses, otherwise said District to take the statutory steps necessary to collect same by assessment from the water users to be remitted to the United States upon receipt. If funds advanced by the District under this article exceed the District's share of the actual cost of the O&M of the dam and reservoir for the year for which advanced, the surplus shall be credited on the O&M charges to become due for succeeding years.

(d) All payments from the District to the United States under this contract shall be made by the medium requested by the United States on the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(e) It is recognized that the provisions in Article 59 of the September 27, 1926, contract pertaining to O&M costs for the stored water under this contract being chargeable to the Boise Project Board of Control pending the construction of an irrigation system for the Hillcrest and Boise-Mora Districts under a September 16, 1921, contract no longer apply because the September 16, 1921, contract has been terminated.

Elements of Operation and Maintenance Charge

15. The costs which make up the obligations to be paid by the District under this contract to the United States for the O&M of Arrowrock Reservoir shall embrace all expenditures of whatsoever nature or kind in relation to the function for which the charge is made, including, but without limitation by reason of this enumeration, cost of surveys and investigations, labor, property, material and equipment, engineering, legal work, superintendence, administration, overhead, general expenses, inspections, special services,

and damage claims of all kinds, whether or not involving the negligence of officers, agents, or employees of the United States. The Contracting Officer's determination as to what costs are properly chargeable, the amount thereof, and the classification of those charges for repayment purposes shall be conclusive.

Termination of Contract

16. (a) This contract shall be terminated and water storage hereunder shall cease at the option of the United States at any time if the District is delinquent in payments required under this contract or upon failure of the District to comply with other provisions herein or to abide by any lawful notice, order, rule, or regulation of the United States and the State of Idaho, now or hereafter established affecting water storage hereunder: Provided, That the United States notifies the District of any delinquency or deficiency by written notice and the District fails to comply with said notice within 60 days: Provided, further, That if such delinquency or deficiency relates to a supplemental O&M charge referred to in Article 14(c), or in the event the authorization of this contract by the electors of the District is rejected, such 60-day notice shall not apply.

(b) This contract shall terminate immediately, with all payments made by the District herein returned, in the event the authorization of this contract by the electors of the District is rejected.

(c) Termination of this contract for any cause shall not relieve the District of any obligations incurred by way of this contract prior to termination except as specified in Article 13 and Article 16(b).

Contract to be Authorized By Electors

17. The District agrees that, upon the execution of this contract, it will proceed promptly to secure the authorization of this contract by the electors of the District.

Standard Contract Articles

18. This contract is subject to standard contract provisions listed below. The full text of these articles is attached as Exhibit A and is hereby made a part of the contract.

- A. COMPLIANCE WITH RECLAMATION LAWS
- B. CHARGES FOR DELINQUENT PAYMENTS
- C. GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT
- D. CONFIRMATION OF CONTRACT
- E. NOTICES
- F. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS
- G. OFFICIALS NOT TO BENEFIT
- H. CHANGES IN CONTRACTOR'S ORGANIZATION
- I. ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED
- J. BOOKS, RECORDS AND REPORTS
- K. QUALITY OF WATER
- L. WATER AND AIR POLLUTION CONTROL
- M. WATER CONSERVATION
- N. EQUAL OPPORTUNITY
- O. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

Articles 17, 18

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

THE UNITED STATES OF AMERICA

By John W. Key, III
Regional Director, PN Region
Bureau of Reclamation

NEW YORK IRRIGATION DISTRICT

By Brenton Yucelis
President

(DISTRICT SEAL)

Attest:

Margaret Stanton
Secretary-Treasurer

STATE OF IDAHO)
 : ss
County of Ada)

On this 8th day of June, 1988⁷, personally appeared before me John W. Kuyper, III, to me known to be the official of the United States of America that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

Diana L. Jacobs
Notary Public in and for the
State of Idaho,
Residing at Boise

(SEAL)

My commission expires: 5-23-88

* * * * *

STATE OF IDAHO)
 : ss
County of Ada)

On this 6 day of May, 1988⁷, before me, James B. Brooks, a Notary Public, personally appeared Burton Guiles and Margaret Stanton, known to me to be respectively the President (and Secretary-Treasurer of the New York Irrigation District, and the the persons who executed the within instrument on behalf of said corporation, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

James B. Brooks
Notary Public in and for the
State of Idaho
Residing at Boise, Idaho

(SEAL)

My commission expires: March, 21, 1988

STANDARD CONTRACT ARTICLES

Contract No. 7-07-10-W0665 between the United States of America and the
New York Irrigation District, hereinafter called the District

COMPLIANCE WITH RECLAMATION LAWS

A. The parties agree that the delivery of irrigation water or the use of Federal facilities pursuant to this contract is subject to Reclamation law, as amended and supplemented, including, but not limited to, the Reclamation Reform Act of 1982 (Public Law 97-293).

CHARGES FOR DELINQUENT PAYMENTS

B. (1) The District shall be subject to interest, administrative and penalty charges on delinquent installments or payments, pursuant to section 11 of the Debt Collection Act of 1982 (Public Law 97-365). When a payment is not received within 30 days of the due date, the District shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the District shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent 90 days or more, the District shall pay an additional penalty charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further, the District shall pay any fees incurred for debt collection services associated with a delinquent payment.

(2) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month prescribed by section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

(3) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty and administrative charges, second, to the accrued interest, and third to the overdue payment.

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

C. (1) The obligation of the District to pay the United States as provided in this contract is a general obligation of the District notwithstanding the manner in which the obligation may be distributed among the District's water users and notwithstanding the default of individual water users in their obligations to the District.

(2) The payment of charges becoming due hereunder is a condition precedent to receiving benefits under this contract. The United States shall not make water available to the District through project facilities during any period in which the District may be in arrears in the advance payment of water rates due the United States. The District shall not furnish water made available pursuant to this contract for lands or parties which are in arrears in the advance payment of water rates levied or established by the District.

CONFIRMATION OF CONTRACT

D. The District, after the execution of this contract, shall promptly seek to secure a decree of a court of competent jurisdiction of the State of Idaho confirming the execution of this contract. The District shall furnish the United States a certified copy of the final decree, the validation proceedings, and all pertinent supporting records of the court approving and confirming this contract, and decreeing and adjudging it to be lawful, valid, and binding on the District. This contract shall not be binding on the United States until such final decree has been secured.

NOTICES

E. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the District, when mailed, postage prepaid, or delivered to the Regional Director, PN Region, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, Idaho 83724, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Secretary-Treasurer of the District, New York Irrigation District, 214 Broadway Avenue, Boise, Idaho 83702. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

F. The expenditure or advance of any money or the performance of any obligation of the United States under this contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds by the United States shall not relieve the District from any obligations under this contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

OFFICIALS NOT TO BENEFIT

G. No Member of or Delegate to Congress, Resident Commissioner or official of the District shall benefit from this contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN DISTRICT'S ORGANIZATION

H. While this contract is in effect, no change may be made in the District's organization, by inclusion or exclusion of lands, dissolution, consolidation, merger or otherwise, except upon the Contracting Officer's written consent.

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

I. The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest therein shall be valid until approved in writing by the Contracting Officer.

BOOKS, RECORDS AND REPORTS

J. The District shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including: the District's financial transactions, water supply data, project operation, maintenance and replacement logs, and project land and right-of-way use agreements; the water users' land-use (crop census), landownership, land-leasing and water-use data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this contract.

QUALITY OF WATER

K. The operation and maintenance of Federal Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable, as determined by the Contracting Officer. The United States does not warrant the quality of water and is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water.

WATER AND AIR POLLUTION CONTROL

L. The District, in carrying out this contract, shall comply with all applicable water and air pollution laws and regulations of the United States and the State of Idaho and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

WATER CONSERVATION

M. Prior to the delivery of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the District shall develop an effective water conservation program acceptable to the Contracting Officer. The water conservation program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. At subsequent 5-year intervals, the District shall submit a report on the results of the program to the Contracting Officer for review. Based on the conclusions of the review, the Contracting Officer and the District shall consult and agree to continue or to revise the existing water conservation program.

EQUAL OPPORTUNITY

N. During the performance of this contract, the District agrees as follows:

(1) The District will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The District will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The District agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The District will, in all solicitations or advertisements for employees placed by or on behalf of the District, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

(3) The District will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the said labor union or workers' representative of the District's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The District will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The District will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the District's noncompliance with the nondiscrimination clauses of this contract or with any of the such rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the District may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The District will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The District will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the District becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the District may request the United States to enter into such litigation to protect the interests of the United States.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

O. (1) The District shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(2) These statutes require that no person in the United States shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. By executing this contract, the District agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(3) The District makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts or other Federal financial assistance extended after the date hereof to the District by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The District recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this article, and that the United States reserves the right to seek judicial enforcement thereof.