

THIS AGREEMENT, Made this 23rd day
of April, 1928 in pursuance of the Act of
Congress of June 17, 1902 (32 Stat., 388) and acts
amendatory thereof or supplementary thereto, between
THE UNITED STATES OF AMERICA, hereinafter styled the
United States, acting for this purpose by Jos. M. Dixon,
First Assistant Secretary of the Interior, and
IDAHO POWER COMPANY, a corporation organized under the
laws of the State of Maine but authorized to do busi-
ness in the State of Idaho, and having its principal
place of business at Boise, Idaho, hereinafter styled
the Company, its successors and assigns, WITNESSETH
that

WHEREAS, the parties hereto entered into a
certain contract under date of June 15, 1923 whereby
the Company conveyed to the United States certain
real property, two certain power plants and all the
Company's water rights, appropriations, water filings
and permits at American Falls, Idaho, except those
certain rights expressly reserved to the Company as
in said contract set forth; and

WHEREAS, holdover storage remaining in unsold
storage space in the American Falls reservoir at the

end of each irrigation season may, to the extent and only to the extent hereinafter provided for, be utilized temporarily for the generation of hydro-electric power under conditions which will permit the United States to obtain a substantial return from storage which could not be used either for irrigation or for any other useful purpose.

NOW, THEREFORE, it is mutually agreed as follows:

A. Idaho Power Company shall be permitted, and is hereby authorized, to use at American Falls, Idaho, from October 1 of each year to April 30 of the following year from the American Falls reservoir:

(1) All water required to generate at the so-called Minidoka dam the power requirements of the Minidoka (Idaho) project of the United States, provided, however, that the so-called Island and West Side plants of the United States at American Falls may be operated by the United States in the event that accident, necessary repair work, or construction work at the Minidoka plant of the United States should make it impracticable to generate all of such power requirements at the latter plant, in which event the United States agrees to restore its Minidoka plant to full operating conditions with all possible diligence, so far as consistent with ordinary construction methods, and the laws and regulations applicable to government work.

(2) The inflow to the American Falls reservoir to the extent of 300,000 acre feet reserved to the Company under said contract of June 15, 1923. The first 255,000 acre feet of storage water (utilized by the Company in addition to that provided in paragraph A. (1) above) used by the Company shall be considered used out of the water reserved to the Company under paragraph 19 of said contract of June 15, 1923.

(3) Holdover storage remaining in unsold storage space in the American Falls reservoir at the end of each irrigation season to the extent that such holdover storage is owned by the United States and, in addition, the unused portion of any holdover storage allotted to the Minidoka North Side Gravity Extension (Gooding) Project. It is agreed that if the Secretary of the Interior, or such officer as he shall specially designate for that purpose, shall find during any winter that conditions on the Snake River watershed are such that it is considered advisable to withhold from the Company a part of the said holdover storage referred to in this paragraph, for the purpose of insuring an adequate irrigation supply for the ensuing season, then such portion as the Secretary, or such officer of the United States, shall deem necessary for that purpose may be withheld from the Company, and in that event the payments

for the year in which any part of such holdover storage may be withheld will be reduced at the rate of Sixty Dollars (\$60.00) for every one thousand acre feet so withheld. It is further agreed that if the United States shall lease for irrigation purposes for use during any irrigation season stored water from said American Falls reservoir in excess of the amount withheld from the Company under the provision immediately preceding this sentence, then and in that event the payments for the year in which such stored water may be so leased will be reduced at the rate of Sixty Dollars (\$60.00) for every one thousand acre feet of such excess of such leases.

(4) Such additional water as the Secretary of the Interior, or such officer of the United States as he shall specially designate for that purpose, shall decide can be wasted without any danger of jeopardizing the filling of the reservoir.

B. The Company shall have, and is hereby granted, the use of unsold storage space or capacity belonging to the United States in the American Falls reservoir subject to the conditions in this agreement provided, to the extent necessary to regulate the water provided in A. (3) hereof for the power uses in this agreement contemplated.

(1) The Company shall pay to the United States the sum of Thirty One Thousand Dollars (\$31,000.00) per year (payable quarterly in advance, the first

quarterly payment to be due and payable on October 1, 1928), so long as there may be 500,000 acre feet or more unsold storage capacity available in the American Falls reservoir, provided that said annual payment of Thirty One Thousand Dollars (\$31,000.00) will be reduced Sixty Dollars (\$60.00) for every thousand acre feet that the unsold storage capacity is less than 500,000 acre feet in any year. The storage capacity reserved for uncompleted divisions of the Minidoka project will be considered as unsold storage capacity for the purposes of this subdivision B. (1) until the canal systems for such new divisions of the Minidoka project have been completed, and during the time that the lands under such canal systems are only partially reclaimed the storage capacity reserved for such divisions will be considered as leased or sold storage capacity to the extent only that such reserved capacity has been actually used on such new divisions during the preceding irrigation season and as unsold capacity as to the remainder of the amount of storage capacity reserved for such new divisions. It is agreed and understood that the Company is not to be considered liable for any operation and maintenance charges in connection with the American Falls reservoir or the charges for distribution of stored water therefrom except those charges for which the

Company is liable under paragraph 17 of said contract of June 15, 1923, i. e., for the charges in connection with the water stored in the 45,000 acre feet of primary and the 255,000 acre feet of secondary storage capacity/defined in said contract.

C. The Company will furnish the United States, during the months of April to October inclusive, of each year, such power as is needed and ordered for use on the Minidoka project up to 7,500 K.W., of which 3,000 K.W. is understood to be standby power only. The company will furnish emergency standby service during winter months in amounts not in excess of 3,000 kilowatts, when it has spare hydroelectric capacity; the United States agrees to give advance notice of its standby requirements when it can do so, confining such standby requirements as far as possible to off peak hours. It is agreed and understood that by standby power is meant power used to replace power temporarily lost or unavailable on account of a breakdown or interruption in operation of the power system of the Minidoka power plant of the United States. The United States agrees to use all possible diligence, as far as consistent with ordinary construction methods and the laws and regulations applicable to government work, in restoring the power thus temporarily lost. For the power so furnished by the Company, the United States will make available to the Company during the twelve months' period beginning April 1 of each year surplus power from the said Mini-

Minidoka power plant on the basis of two kilowatt hours of such surplus power for each kilowatt hour so furnished by the Company during said twelve months' period. By surplus power is meant power for which the United States has no other use or market, and which can be generated at the said Minidoka power plant with the installed machinery and equipment without waste of water. In case the government can not, from its Minidoka plant, or if American Falls plants are operating, from its present American Falls plants, during the seven months' period from April to October, inclusive, of any year, or from its Minidoka plant during the succeeding five winter months, make available to the Company sufficient power at the rate of two kilowatt-hours for each kilowatt-hour furnished by the Company, to compensate for power furnished by the Company, such power as can not thus be compensated for will be paid for on May 1 following at the rate of 3-1/2 mills per kilowatt hour. It is understood, however, that no money payment shall be made to the Company by the United States for any power furnished by the Company for which the United States has made available surplus power for compensation. Any surplus power ordered and accepted by the Company in excess of the amount required to compensate for power furnished to the United States will be paid for, on May 1 following, at the rate of 1-3/4 mills per kilowatt hour, it being understood, however, that with the two sys-

tems operating in synchronism there will be at times a flow of power from one system to the other when not ordered or needed, but such flow of power not ordered or needed shall not be considered as power furnished by either party to the other. Power is to be delivered at 132,000 volts at the Minidoka power plant of the United States and to be metered at 33,000-volts.

D. The Company shall construct and operate, at its own cost, a 132,000-volt branch line to connect its Shoshone Falls-American Falls 132,000-volt transmission line with a substation at the Minidoka power plant, such branch line to be completed by the time the United States has the substations provided for in article E. hereof ready for use.

E. The United States shall construct and operate, at its own cost, a 7,500-kilowatt 132,000 to 33,000-volt substation at the Minidoka power plant, such substation to be constructed in accordance with the general plan outlined in the letter of March 30, 1928, from the Acting Chief Engineer of the U. S. Bureau of Reclamation to the Chief Engineer of the Idaho Power Company, a copy of which said letter is attached hereto and made a part hereof.

F. United States reserves the right to rent, sell, use or dispose of unsold or unleased water in American Falls reservoir for irrigation purposes at any time, subject to the conditions hereinbefore set forth.

G. This agreement shall take effect May 1, 1929, and

shall continue in effect until October 1, 1938 unless sooner terminated in the manner hereinafter provided.

H. The Company may terminate this agreement on October 1, 1934, or on October 1 of any year thereafter, by two years' advance notice to the Secretary of the Interior, in writing. The United States may terminate this agreement on October 1, 1932, or on October 1 of any year thereafter, by two years' advance notice to the Company, in writing, provided, however, that payment for power furnished by the Company during the six months preceding the termination of this agreement may be made in surplus power made available for the Company by the United States during the six months following the termination of this agreement. In case Congress fails to make the appropriations necessary to enable the United States to carry out this contract, it shall immediately terminate upon the exhaustion of available appropriations, and the Company hereby releases the United States from all claims for damages due to such termination.

I. This agreement is not to alter, amend, or affect in any way the terms and conditions of said contract dated June 15, 1923, between the United States and the Idaho Power Company, excepting insofar as the winter release of water is changed for the period of this agreement.

J. This agreement shall inure to the benefit of and be binding upon the successors and assigns of the Company, and also upon the successors and assigns of the United States.

K. The execution of this agreement shall not be construed as waiving any authority, jurisdiction or control which the Federal Power Commission may have over the Company or its assigns at American Falls or elsewhere, and shall not be construed as waiving or abridging any lawful jurisdiction, authority, or control which the State of Idaho may have over the waters of the state or the issuing of permits, certificates or licenses thereto.

L. No member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

IN WITNESS WHEREOF the parties have hereto signed their names the day and year first above written, said Company acting in pursuance of a resolution of its Board of Directors duly adopted on June 18th, 1928.

UNITED STATES OF AMERICA

(Sgd.) JOS. M. DIXON

By First Assistant Secretary
of the Interior.

IDAHO POWER COMPANY

(SEAL)

ATTEST:

By (Sgd) F. F. JOHNSON
President.

(Sgd) JAMES L. BOONE
Secretary.