



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 11, 2005

J WILLIAM MCDONALD
BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
1150 NORTH CURTIS RD SUITE 100
BOISE ID 83706-1234

RE: Application for Transfer Nos. 4616 (right 67-2389), 4617 (right 67-2386), 4618 (right 63-3613), 4623 (right 1-2064), 4624 (right 63-3614), 4625 (right 65-2927B), 4626 (right 65-2927A), 4627 (right 65-2917), 4628 (65-9483), 4629 (right 21-2156), 4630 (right 37-2783), 4631 (right 1-2068), 4632 (right 85-2146), and 4633 (right 1-10034).

Application for Amendment of Permit Nos. 63-3618 and 25-7004

Withdrawal of Applications

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

PRESORTED
FIRST CLASS



UNITED STATES POSTAGE
PITNEY BOWES
02 1A \$ 00.27
0004389390 OCT 12 2005
MAILED FROM ZIP CODE 8370

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SENDER
NO DELIVERABLE
AS ADDRESSED
UNABLE TO FOR

Leland Call
600 W 475 S
Burley, ID 83318

RECEIVED
OCT 17 2005
DEPARTMENT OF WATER RESOURCES

83720-0098

JP:klt

cc: Protestants (per list in file)



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Application for Amendment of Permit Nos. 63-3618 and 25-7004

Withdrawal of Applications

Dear Mr. McDonald:

The Department of Water Resources acknowledges receipt of your withdrawal of the applications referenced above. The withdrawal removes your applications from any further consideration or action by the Department.

Please note that Transfer 4636 (right 63-303) was not included in your letter for withdrawal and will continue to be held in abeyance per the Department order dated June 11, 1999. Please submit a written withdrawal to the Department if you would like to withdraw the transfer.

By copy of this letter, the protestant(s) have been informed of this action.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: Protestants (per list in file)

SUPPORT DATA
IN FILE # 1-2068

Debbie G. Glen

RECEIVED

MAR 12 2003

Department of Water Resources



United States Department of the Interior

BUREAU OF RECLAMATION
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234

IN REPLY
REFER TO:

PN-3323
WTR-4.00

MAR 11 2003

Mr. Scott Rhead
United Water Idaho, Inc.
PO Box 7488
Boise, ID 83707-1488

Subject: Lucky Peak Reservoir Water Service Contracts

Dear Mr. Rhead:

Enclosed for your records are originals of two executed contracts for miscellaneous purposes water service between United Water Idaho, Inc., (United Water) and the United States. Contract No. 03XX101369 provides for the use of up to 500 acre-feet of stored water from Lucky Peak Reservoir and Contract No. 03XX101370 provides the use of up to 300 acre-feet. We have received and credited your first annual payments under the subject contracts.

Attached as Exhibit C to each contract is the respective assignment of the prior contractors' (South Boise Mutual Irrigation Company and Capital View Irrigation District) right, title, and interest in Lucky Peak Water Service Contract No. 14-06-100-5590 and Contract No. 14-06-100-6342, which were signed by the United States on January 28, 2003. South Boise Mutual Irrigation Company and Capital View Irrigation District are hereby being provided with a copy of their assignments.

We are providing copies of the contracts to appropriate State and Federal offices.

Thank you for promptly executing the subject contracts. If you have questions about the contracts, please contact Larry Parsons at the above address or telephone 378-5346.

Sincerely,

Ryan M. Patterson,
Program Manager
Repayment and Acreage Limitation

Enclosures

cc: See Attached List

cc: Mr. Peter Newton
Secretary-Treasurer-Manager
Capital View Irrigation District
PO Box 208
Eagle, ID 83616
(w/assignment)

Mr. Jeff Fereday
Attorney at Law
277 N 6th Street
Boise, ID 83702
(w/copy of enclosures)

✓ Mr. Karl Dreher
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83720-9000
(w/copy of enclosures)

Ms. LaVonda Milton
Secretary
South Boise Mutual Irrigation Company
1120 Chamberlin Street
Boise, ID 83706
(w/assignment)

Mr. Lee Sisco
Boise River Watermaster
6616 Overland Road
Boise, ID 83709
(w/copy of enclosures)

U.S. Army Corps of Engineers
201 North 3rd Avenue
Walla Walla, WA 99362
(w/copy of enclosures)

RECEIVED

MAR 12 2003

Department of Water Resources

PN Draft 1-24-02

Contract No. 03XX101369

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Lucky Peak Dam and Reservoir, Boise Project, Idaho

MISCELLANEOUS PURPOSES WATER SERVICE CONTRACT
BETWEEN THE UNITED STATES AND UNITED WATER IDAHO, INC.

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PN Draft 1-24-02

Contract No. 03XX101369

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Lucky Peak Dam and Reservoir, Boise Project, Idaho

MISCELLANEOUS PURPOSES WATER SERVICE CONTRACT
BETWEEN THE UNITED STATES AND UNITED WATER IDAHO, INC.

THIS CONTRACT, made this 4th day of March, 2003, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including section 8 of the Act of December 22, 1944 (58 Stat. 887-891), the Act of July 24, 1946 (60 Stat. 641), and particularly section 9(c)(2) of the Reclamation Project Act of 1939 (53 Stat. 1187), collectively known as the Federal Reclamation Laws, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the officer executing this contract, hereinafter referred to as the Contracting Officer, and UNITED WATER IDAHO, INC., an Idaho Corporation, hereinafter referred to as the Contractor,

WITNESSETH THAT:

EXPLANATORY RECITALS

2. WHEREAS, the United States has constructed and operates the Lucky Peak Dam and Reservoir, hereinafter referred to as Lucky Peak, on the Boise River in which there is water stored which can be used for the irrigation of land and for other beneficial uses, which stored

water was appropriated by the United States pursuant to the laws of Idaho for beneficial use under the Federal Reclamation Laws; and

3. WHEREAS, South Boise Mutual Irrigation Company, Ltd. (SBMIC) is entitled to receive stored water from Lucky Peak on the Boise River in Idaho under the July 26, 1966, water service contract between the United States and SBMIC, Contract No. 14-06-100-5590 (the SBMIC contract). Under the SBMIC contract, a copy of which is attached hereto as Exhibit B, SBMIC is entitled to receive delivery of stored water accruing to seventeen thousand nine hundred and seventy-three one hundred thousandths of one percent (.17973%) of the active capacity of Lucky Peak; and

4. WHEREAS, the Contractor acquired all of SBMIC's right, title, and interest in the SBMIC contract for the remaining term specified in that contract, a copy of which is attached hereto as Exhibit C; and

5. WHEREAS, the Contractor desires to enter into a contract for the use of Lucky Peak stored water for irrigation demands of municipal customers; and

6. WHEREAS, the United States Army Corps of Engineers has concurred with the United States Bureau of Reclamation entering into contracts for stored water from Lucky Peak to be used for miscellaneous irrigation purposes, including the irrigation of lawns, gardens, parks, and landscaping and delivered through a municipal delivery system; and

NOW THEREFORE, in consideration of the mutual and dependent covenants herein contained, the parties hereto agree as follows:

TERM OF CONTRACT

7. This contract shall become effective as of the date first above written and will continue in effect for the remaining period of the SBMIC contract (until July 26, 2006) unless previously terminated under the provisions of Article 12 hereof: Provided, That upon expiration of the term, this contract may be renewed, taking into consideration conditions then existing and under provisions mutually acceptable to the parties.

WATER TO BE MADE AVAILABLE TO THE CONTRACTOR

8. During the term of this contract, the United States shall make available for miscellaneous irrigation purposes to the Contractor stored water accruing to seventeen thousand nine hundred and seventy-three one hundred thousandths of one percent (.17973%) of the active capacity of Lucky Peak, which percent shall, so long as the Reservoir has an active capacity of 278,200 acre-feet, be treated as the equivalent to 500 acre-feet of active capacity. The latter figure of active capacity may be adjusted from time to time by the Contracting Officer whenever there are determinations that the active capacity is other than as stated above. The amount of water released from this space, the rate at which the water is released, and the timing of the releases will be coordinated with the State Watermaster.

RATE AND METHOD OF PAYMENT

9. a. An annual payment of \$12,965 for the first year shall be made to the United States at the time of executing this contract, and subsequent annual payments of \$12,965 will be due on or before January 1 of each succeeding year during the term hereof, which shall entitle the Contractor, as provided in Article 8, to receive stored water accruing to .17973% of the active capacity of Lucky Peak, which percent shall, so long as the Reservoir has an active

capacity of 278,200 acre-feet, be treated as the equivalent to 500 acre-feet of active capacity. In the event the actual amount of water released from this space in any one year is less than 500 acre-feet, the Contracting Officer will adjust the Contractor's subsequent year payment based on the amount of water actually released from this space, Provided however, that a minimum amount of \$2,593 will be payable annually by the Contractor regardless of the amount released.

b. Annual payments due the United States under this contract are based on an initial rate of \$25.93 per acre-foot of stored water.

c. From time to time, but not less often than once every 5 years, the annual payment will be reviewed by the Contracting Officer and revised, if necessary, taking into account any changes in project costs, allocation of costs, interest rates, or other related factors: Provided, That operation, maintenance, replacement, and administration costs will be reviewed each year to ensure that these costs are paid in advance.

d. All payments from the Contractor to the United States under this contract shall be made by the medium requested by the United States. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States. All payments shall be made by check except when otherwise specified by the United States.

MEASUREMENT AND RESPONSIBILITY FOR DISTRIBUTION

10. a. The water to be furnished to the Contractor will be measured by facilities operated by the United States and delivered into the Boise River. At the option of the United States, the Lucky Peak stored water to which the Contractor is entitled may be measured and delivered to or for the Contractor at the outlet works of Lucky Peak, Anderson Ranch Reservoir,

or Arrowrock Reservoir. The Contractor shall incur all transportation and administration losses from the point of such delivery to the place of use.

b. The Contractor agrees to provide measuring devices or other means of measurement, which are acceptable to the State Watermaster in charge of the distribution of water from the Boise River at or near the Contractor's point(s) of diversion. The Contractor also shall pay any charges required by the Idaho Department of Water Resources for the State Watermaster's handling or administration of this water.

c. The United States shall not be responsible for the control, carriage, handling, use, disposal, or distribution of water taken by the Contractor hereunder, and the Contractor shall hold the United States harmless on account of damage or claim of damage of any nature whatsoever, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water by the Contractor.

d. The Contractor agrees to establish an appropriate measurement and accounting procedure in accordance with the policies and provisions of chapters 6 and 7, title 42, Idaho Code.

WATER SUPPLY AND OPERATION OF THE RESERVOIR

11. a. As of the date of this contract, the United States holds License No. 63-3618, dated September 27, 2002, issued by the State of Idaho to the United States for the storage of 293,050 acre-feet per annum of the waters of Boise River in Lucky Peak. The primary purpose of the Reservoir is for flood control, for which it will be operated, in accordance with the flood control operating plan contained in a Memorandum of Agreement between the Department of the

Army and the Department of the Interior, dated November 20, 1953, and as it may be amended, a copy of which is available for inspection at the office of the Contracting Officer. Subject to such operation for flood control, the United States will operate Lucky Peak so as to store under existing storage rights all available water, and during each irrigation season, the United States will make available to the Contractor for miscellaneous irrigation purposes the Contractor's proportionate share of the stored water that accrues in each year to the active capacity of the Reservoir, together with any stored water that may have been carried over in the Contractor's share of such active capacity from prior water years.

b. The Contractor may hold over in Lucky Peak Reservoir water from prior water years, subject to these limitations:

(1) Water may be held only to the extent that the total amount of Lucky Peak stored water held to the credit of the Contractor for any irrigation season shall not exceed the amount which can be stored in the Contractor's proportionate part of the total active capacity of that Reservoir.

(2) Whatever water is held for the credit of the Contractor in Lucky Peak as holdover water shall no longer be accounted for as holdover water as of any date of spilling of the Reservoir.

(3) The United States may discharge such water as required for flood control purposes, or under subarticle (h) of this article, and such discharged water shall be deducted from any stored water held to the credit of the Contractor.

c. All space in Lucky Peak shall be operated with like priority as to storage rights; and the United States reserves the privilege of granting to others holdover rights and of

itself exercising such holdover rights as to any unsold space that are not inconsistent with the rights granted to the Contractor under this contract. While the Contractor's storage water rights are defined in terms of active capacity in Lucky Peak, the United States shall have the rights, without change in the Contractor's obligations with respect to storage rights, to store water accrued to those rights in any storage capacity available to it or to supply a like amount of water from other sources, by exchange or otherwise, so long as delivery for the Contractor of all stored water to which it is entitled under this contract is not in anywise 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 delivered, the point of measurement shall be the outlet works from which the delivery is made.

d. While Lucky Peak is being operated and maintained by the United States, it will operate the Reservoir to the end of delivering all the water to which the Contractor is entitled under this contract and on such schedule of deliveries as shall be agreed to between the Contractor and Contracting Officer, within the capacity limits of the Reservoir and having regard for other existing rights which must be supplied therefrom. Deliveries of stored water shall be limited at any time to the amount which can be delivered by means of the Contractor's proportionate share of the outlet capacity, taking into account the requirement of passing through the Reservoir water belonging to prior rights and the physical limitation of the existing outlet works. The Contractor shall conform its diversions to the control of the stream as established by the State Watermaster.

e. The Contractor hereby releases the United States and agrees to hold the United States free and harmless from all damage claims that might result from the diversion into

storage, storage, regulation and release of water by the United States for the account of the Contractor, in accordance with the Contractor's instructions. In the event of the failure of the Contractor to fulfill its obligations under this subdivision, the United States may discontinue service to the Contractor hereunder and may exercise against the Contractor any and all its other rights and remedies.

f. The United States shall not be liable or responsible for the carriage, distribution, or diversion of water for miscellaneous irrigation purposes after its release from the delivery point, or for any loss or damage of any type or description arising therefrom.

g. The Contractor does not agree to indemnify the United States against any obligation or liability arising out of the operation of the project for flood control purposes or arising out of damage or injury allegedly occurring within the Reservoir. The United States shall not be responsible for loss of water to which the Contractor, or those claiming by, through, or under the Contract, is entitled and which has been stored in the Reservoir of the project and which has been released as a result of the operation of the project for flood control purposes.

h. The United States temporarily may reduce water storage, as may be necessary, for the purpose of investigation, inspection, maintenance, repair, or replacement of any of the facilities of the project. So far as it is feasible, however, the United States will give the Contractor reasonable notice in advance of such temporary reduction except in cases of emergency when notice need not be given.

TERMINATION OF CONTRACT

12. a. This contract shall be terminated and water service hereunder shall cease at the option of the United States at any time if the Contractor is delinquent in payments required

under this contract or upon failure of the Contractor 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 service hereunder: Provided, That the United States notifies the Contractor of any delinquency or deficiency by written notice and the Contractor fails to comply with said notice within 60 days.

b. The Contractor shall have the right to terminate this contract for any reason: Provided, That notice of the intent by the Contractor to terminate this contract shall be in writing to the Contracting Officer at least 60 days prior to the termination date proposed: Provided further, That termination under this provision shall become effective no sooner than January 1 of the next calendar year following such written notice.

c. Termination of this contract for any cause shall not relieve the Contractor of any obligations incurred by way of this contract prior to termination.

UNITED STATES NOT LIABLE FOR WATER SHORTAGE

13. On account of drought, errors in operation, or other causes, there may occur at times a shortage during any year in the quantity of water made available to the Contractor by the United States pursuant to this contract, and in no event shall any liability accrue against the United States or any of its officers, agents, or employees for any damage direct or indirect, arising therefrom.

SPECIAL CONDITIONS

14. In the interest of conservation and protection of environmental resources, from time to time, but not less often than once every 5 years, this contract shall be reviewed by the Contracting Officer. The terms and conditions of this contract may be modified, if deemed

necessary by the Contracting Officer, to avoid or minimize impacts to candidate, listed or proposed threatened and endangered species, or other valuable natural resources. Any modification by the Contracting Officer shall be announced by written notice to the Contractor.

CONTRACT - NOT A WATER RIGHT

15. No provisions of this contract, nor any renewal thereof, nor the furnishing of water hereunder will be construed to either bind the United States after the expiration of this contract or as the basis of a permanent water right.

TITLE TO PROJECT WORKS

16. Title to all of Lucky Peak and associated works shall be and remain in the United States until otherwise provided for by the Congress.

STATUS OF CONTRACTOR

17. The Contractor certifies that it is not in default to any agency or department of the United States on any financial obligations.

BOOKS, RECORDS, AND REPORTS

18. The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including water supply data, water use data, and other matters that the Contracting Officer may require. Reports thereon shall be furnished 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.

STANDARD CONTRACT ARTICLES

19. 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 this contract.

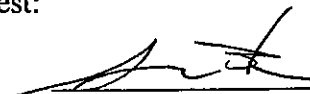
- a. CHARGES FOR DELINQUENT PAYMENTS
- b. GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT
- c. NOTICES
- d. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS
- e. OFFICIALS NOT TO BENEFIT
- f. ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED
- g. COMPLIANCE WITH RECLAMATION LAWS
- h. QUALITY OF WATER
- i. WATER AND AIR POLLUTION CONTROL
- j. WATER CONSERVATION
- k. EQUAL OPPORTUNITY
- l. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
- m. HAZARDOUS MATERIALS

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

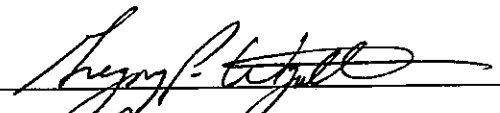
UNITED WATER IDAHO, INC.

(SEAL)

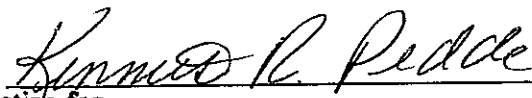
Attest:

By: 

Title: MANAGING ENGINEER

By: 
Title: PRESIDENT

UNITED STATES OF AMERICA

By: 
Acting for

Title: Regional Director, PN Region
Bureau of Reclamation

STATE OF IDAHO)

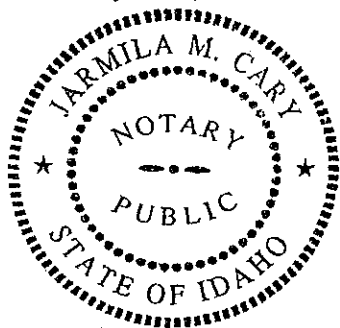
: ss

County of ADA)

On this 13th day of February, 2003, before me, a Notary Public, personally appeared Gregory P. Wyatt known to me to be the President of the United Water Idaho, Inc., and the person 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 the day and year first above written.

(SEAL)



Jarmila M. Cary
Notary Public in and for the
State of IDAHO
Residing at: Boise, IDAHO
My commission expires: 07/14/2005

STATE OF IDAHO)

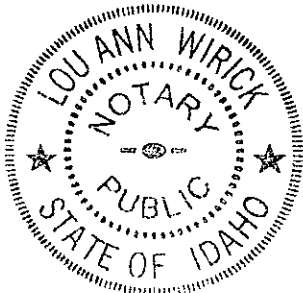
: ss

County of Ada)

On this 4th day of March, 2003, personally appeared before me Kenneth R. Pelle, 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 the day and year first above written.

(SEAL)



Lou Ann Wirick
Notary Public in and for the
State of IDAHO
Residing at: Ada County
My commission expires: Oct 22, 2008

STANDARD CONTRACT ARTICLES

The Contractor, as referred to in the following Standard Contract Articles, shall be United Water Idaho, Inc.

CHARGES FOR DELINQUENT PAYMENTS

a. (1) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the Contractor 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 Contractor shall pay an additional penalty charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor 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, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

(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 Contractor through project facilities during any period in which the Contractor may be in arrears in the advance payment of water rates due the United States. The Contractor 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 Contractor.

NOTICES

c. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Regional Director, PN Region, Bureau of Reclamation, 1150 N. Curtis Road, Suite 100, Boise, Idaho 83706-1234, and on behalf of the United States, when mailed, postage prepaid, or delivered to United Water Idaho Inc., PO Box 7488, Boise, Idaho 83707-1488. 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

d. 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 shall not relieve the Contractor from any obligations under this contract. No liability shall accrue to the United States in case such funds are not appropriated or allotted.

OFFICIALS NOT TO BENEFIT

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

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

f. 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.

COMPLIANCE WITH RECLAMATION LAWS

g. The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this contract is subject to Federal reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C. 390aa *et seq.*), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

QUALITY OF WATER

h. The operation and maintenance of 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

i. The Contractor, 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

j. Prior to the delivery of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the Contractor 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 Contractor 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 Contractor shall consult and agree to continue or to revise the existing water conservation program.

EQUAL OPPORTUNITY

k. During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor 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 Contractor 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 Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

(3) The Contractor 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 Contractor'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 Contractor 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 Contractor 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 Contractor'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 Contractor 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 Contractor 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 Contractor 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 Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor 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

I. (1) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1973 (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 Contractor 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 Contractor 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 Contractor 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 Contractor 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.

HAZARDOUS MATERIALS

m. During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and instructions, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored or disposed of on or in lands, waters or facilities owned by the United States or administered by Reclamation.

(2) "Hazardous material" means any substance, pollutant or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.

(3) The Contractor may not allow contamination of lands, waters or facilities owned by the United States or administered by Reclamation by hazardous materials, thermal pollution, refuse, garbage, sewage, effluent, industrial waste, petroleum products, mine tailings, mineral salts, pesticides (including, but not limited to, the misuse of pesticides), pesticide containers or any other pollutants.

(4) The Contractor shall report to Reclamation, within 24 hours of its occurrence, any event which may or does result in pollution or contamination adversely affecting lands, water or facilities owned by the United States or administered by Reclamation.

(5) Violation of any of the provisions of this Article shall constitute grounds for immediate termination of this contract and shall make the Contractor liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

(6) The Contractor agrees to include the provision contained in paragraphs (1) through (5) of this Article in any sub or third party it may enter into pursuant to this .

(7) Reclamation agrees to provide information necessary for the Contractor, using reasonable diligence, to comply with the provision of this Article.

Exhibit B

Field Solicitor
Draft 4/2/65

Contract No.
14-06-100-5590

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Boise Project, Idaho

WATER SERVICE CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND
SOUTH BOISE MUTUAL IRRIGATION COMPANY, LTD.
PROVIDING FOR THE CONSERVATION USE OF
LUCKY PEAK DAM AND RESERVOIR

THIS CONTRACT, Made this 26th day of July, 1966 pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, including section 8 of the Act of December 22, 1944 (58 Stat. 887-891), and the Act of July 24, 1946 (60 Stat. 641), all of 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, represented by the Contracting Officer, and the
South Boise Mutual Irrigation Company, Ltd., an Idaho corporation, hereinafter referred to as the Contractor,

WITNESSETH, THAT:

EXPLANATORY RECITALS

2. WHEREAS, the United States has constructed and operates the Lucky Peak Dam and Reservoir on the Boise River in which there is water stored which can be used for the irrigation of land and for other beneficial uses, which stored water was appropriated by the United States pursuant to the laws of Idaho for beneficial use under the Federal Reclamation Laws; and

3. WHEREAS, the Contractor desires to secure a supplemental supply of water from the United States;

NOW, THEREFORE, in consideration of the premises and the payment by the Contractor to the United States of the charges in the manner hereinafter provided, it is agreed:

DEFINITIONS

4. The following terms used in this contract shall have the following respective meanings:

"Contracting Officer" shall mean the Secretary of the United States Department of the Interior, his duly authorized representative, or any other representative of the United States who may hereafter be duly authorized.

"Year" shall mean the period from January 1 through December 31.

WATER SERVICE FROM LUCKY PEAK RESERVOIR TO BE AVAILABLE TO THE CONTRACTOR

5. The United States will operate and maintain the Lucky Peak Reservoir and will make available to the Contractor stored water accruing to seventeen thousand nine hundred and seventy-three one hundred thousandths of one percent (.17973%) of the active capacity of that Reservoir within the limits and upon the terms provided in this contract. This percent shall, so long as the Reservoir has an active capacity of 278,200 acre-feet, be treated as the equivalent of 500 acre-feet of active capacity. The latter figure of active capacity may be adjusted from time to time by the Contracting Officer whenever there are determinations that the active capacity is other than as stated above.

PLACE OF DELIVERY AND MEASUREMENT
AND OF USE OF WATER

6. (a) Water for the purposes hereof shall be made available at the outlet works of Lucky Peak Reservoir and shall be delivered to the Contractor and measured at that point, except as hereinafter provided. The Contractor shall receive said water at the delivery point and shall be wholly responsible for taking said water at that point and diverting, conveying, and utilizing it. The water to be delivered hereunder is to be diverted at:

a point on the south bank of the Boise River near where such bank is intersected by the line between township three (3) north, range two (2) east and township three (3) north, range three (3) east, Boise meridian.

by means of a device satisfactory to the State officer in charge of the distribution of water from the Boise River. Such device shall be furnished, installed, and maintained by and at the expense of the Contractor, but it shall be and remain at all times under the control of the State-appointed watermaster whose representative may at all times have access to it over any lands of the Contractor. The Contractor will stand its proportionate share of all losses incurred in running the stored water from the place of measurement and delivery to the place of diversion,

and losses of water from seepage, evaporation, or other causes, below said point of measurement, shall be borne by the Contractor.

(b) Water made available to the Contractor pursuant to this contract shall be used for the irrigation of lands described as follows:

The lands legally served by the South Boise
Mutual Irrigation Company, Ltd.

RATE OF PAYMENT BY THE CONTRACTOR

7. Stored water which is released at the request of the Contractor, as provided above, will be paid for by the Contractor at the rate of fifty cents (\$.50) per acre-foot initially, but that rate is subject to revision from time to time throughout the term of this contract in accordance with the construction, operation, and maintenance costs of the Lucky Peak Dam and Reservoir as allocated to the water supply available for irrigation uses, the then requirements of law relating to such allocations and the return of such costs. Any revision will be made only as to future charges and shall be announced by written notice three (3) months prior to the irrigation season to which the new rate would be applicable.

TERM OF CONTRACT

8. This contract shall remain in effect for a period of forty (40) years from the date of its execution; Provided, That under the terms and conditions mutually agreeable to the parties hereto, renewals may be made for successive periods not to exceed forty (40) years each. The terms and conditions of each renewal shall be agreed upon not later than one (1) year prior to the expiration of the then existing contract; Provided further, That upon written request by the Contractor of the Secretary made not later than one (1) year prior to the expiration of this contract, whenever, account being taken of the amount then credited to the costs of construction of water supply works, the remaining amount of construction costs of water supply works which is properly assignable for

ultimate return by the Contractor as established by the Secretary of the Interior pursuant to (3) of Section 1 of Public Law 643 (70 Stat. 483), probably can be repaid to the United States within the term of a contract under subsection (d), Section 9 of the 1939 Reclamation Project Act (53 Stat. 1187), this contract may be converted to a contract under said subsection (d) upon terms and conditions mutually agreeable to the United States and the Contractor. Notwithstanding any provisions of this contract, the Contractor reserves and shall have all rights and benefits under Public Law 643.

ORDERING OF WATER SERVICE AND
METHOD OF PAYMENT BY THE CONTRACTOR

9. The Contractor shall by notice to the Contracting Officer request that amount of stored water under this contract which it desires to use during that year. The notice shall be accompanied by payment for the cost of the quantity of water ordered. It is the intention of this contract that insofar as possible this request shall be for the amount of stored water which the Contractor actually requires during that year. If the total amount of stored water actually delivered is less than that for which payment has been made in advance, the excess payment shall be applied against water requested in future years and, if the total amount of stored water actually delivered is more than the amount for which payment has been made in advance, the excess shall be paid for at the rate specified in article 7 on or before December 31 of that year.

WATER SUPPLY AND OPERATION OF
THE RESERVOIR

10. (a) As of the date of this contract, the United States holds Permit No. 1183, dated March 20, 1964, issued by the State of Idaho to the United States for the storage of 307,000 acre-feet per annum of the waters of Boise River in Lucky Peak Reservoir. The primary purpose of the Reservoir is for flood control, for which it will be operated, in accordance with the flood control operating plan contained in a Memorandum of Agreement between the Department of the Army and the Department of the Interior, dated November 20, 1953, and as it may be amended, a copy of which is available for inspection at the office of the Contracting Officer. Subject to such operation for flood control, the United States will operate Lucky Peak Dam and Reservoir so as to store under existing storage rights all available water, and during each irrigation season, the United States will make available to the Contractor for irrigation the Contractor's proportionate share of the stored water that accrues in each year to the active capacity of the Reservoir, together with any stored water that may have been carried over in the Contractor's share of such active capacity from prior water years.

(b) The Contractor may hold over in Lucky Peak Reservoir water from prior water years, subject to these limitations:

- (1) Water may be held only to the extent that
the total amount of Lucky Peak stored water held to
the credit of the Contractor for any irrigation season

shall not exceed the amount which can be stored in the Contractor's proportionate part of the total active capacity of that Reservoir.

(2) Whatever water is held for the credit of the Contractor in Lucky Peak Reservoir as holdover water shall no longer be accounted for as holdover water as of any date of spilling of the Reservoir.

(3) The United States may discharge such water as required for flood control purposes, or under sub-article (h) of this article, and such discharged water shall be deducted from any stored water held to the credit of the Contractor.

(c) All space in Lucky Peak Reservoir shall be operated with like priority as to storage rights; and the United States reserves the privilege of granting to others holdover rights and of itself exercising such holdover rights as to any unsold space that are not inconsistent with the rights granted to the Contractor under this contract. While the Contractor's storage water rights are defined in terms of active capacity in Lucky Peak Reservoir, the United States shall have the right, without change in the Contractor's obligations with respect to storage rights, to store water accrued to those rights in any storage capacity available to it or to supply a like amount of water from other sources, by exchange or otherwise, so long as delivery for the Contractor of all stored water to which it is entitled under this contract is not in

anywise 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 delivered, the point of measurement shall be the outlet works from which the delivery is made.

(d) While the Lucky Peak Reservoir is being operated and maintained by the United States, it will operate the Reservoir to the end of delivering all the water to which the Contractor is entitled under this contract and on such schedule of deliveries as shall be agreed to between the Contractor and the contracting officer, within the capacity limits of the Reservoir and having regard for other existing rights which must be supplied therefrom. Deliveries of stored water shall be limited at any time to the amount which can be delivered by means of the Contractor's proportionate share of the outlet capacity, taking into account the requirement of passing through the Reservoir water belonging to prior rights and the physical limitation of the existing outlet works. The Contractor shall conform its diversions to the control of the stream as established by the State watermaster.

(e) The Contractor hereby releases the United States and agrees to hold the United States free and harmless from all damage claims that might result from the diversion into storage, storage, regulation and release of water by the United States for the account of the Contractor, in accordance with the Contractor's instructions. In the event of the failure of the Contractor to fulfill its obligations under this subdivision,

the United States may discontinue service to the Contractor hereunder as provided in article 13 hereof and may exercise against the Contractor any and all its other rights and remedies.

(f) The United States shall not be liable or responsible for the carriage, distribution, or diversion of water for irrigation purposes after its release from the delivery point, or for any loss or damage of any type or description arising therefrom.

(g) The Contractor does not agree to indemnify the United States against any obligation or liability arising out of the operation of the Project for flood control purposes or arising out of damage or injury allegedly occurring within the Reservoir. The United States shall not be responsible for loss of water to which the Contractor, or those claiming by, through, or under the Contractor, is entitled and which has been stored in the Reservoir of the Project and which has been released as a result of the operation of the Project for flood control purposes.

(h) The United States temporarily may reduce water storage, as may be necessary, for the purpose of investigation, inspection, maintenance, repair, or replacement of any of the facilities of the Project. So far as it is feasible, however, the United States will give the Contractor reasonable notice in advance of such temporary reduction except in cases of emergency when notice need not be given.

NO LIABILITY FOR WATER SHORTAGES OR INTERRUPTIONS
QUALITY OF WATER

11. 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 through the project irrigation works or interruptions in water deliveries to lands in the South Boise Mutual Irrigation/ ^{Company, Ltd.} resulting from drought, failure of the power supply, inaccuracy in distribution, hostile diversion, prior or superior claims, accident to or failure of facilities of the project irrigation works, whether or not attributable to negligence of officers, agents, or employees of the United States, or other causes of whatsoever kind. Nor shall the Contractor's obligations to the United States under this contract be reduced by reason of such shortages or interruptions. The United States assumes no responsibility with respect to the quality of water to be furnished pursuant to this contract and it does not warrant the quality of any such water.

EXCESS LAND - COMMINGLING OF PROJECT AND
NON-PROJECT WATER

12. (a) Except as permitted by the Act of July 11, 1956 (70 Stat. 524), or the Act of September 2, 1960 (74 Stat. 732), water made available hereunder shall not be delivered to more than one hundred and sixty (160) irrigable acres held in the beneficial ownership of any single person whether a beneficiary of a trust approved by the Contracting Officer, a natural person, a corporation or other entity, or to more than three hundred and twenty (320) irrigable acres held in the beneficial

ownership of husband and wife jointly, as tenants in common or by the entirety, or as community property, and each owner of land within the area to be served hereunder shall, as a condition precedent to such service, be required to certify to the Contractor or to the Contracting Officer, the extent of such ownership and, if said ownership is in excess of the above limitation, to designate the portion thereof to be treated as nonexcess land and as such eligible to receive service hereunder; Provided, That no irrigable land may be selected, designated, or otherwise receive service as nonexcess land for the purpose of this contract which is held as excess land for the purpose of any repayment, water service, or similar contract with the United States made pursuant to Federal Reclamation Law as supplemented or amended.

(b) Water made available pursuant to this contract may, as necessary, be transported by the Contractor, or water users served by the Contractor, by means of the same non-Federally constructed conveyance facilities, works, and channels used for the transport of water available from non-Reclamation project sources. Notwithstanding such mingling of water, the provisions of this contract shall be applicable only to Reclamation project water and shall not subject to the provisions of this contract any quantity of water available to the Contractor, or water users served by the Contractor, from non-project sources. The Contractor shall install and maintain or cause to be installed and maintained, such measuring equipment and distribution facilities and maintain such records as may be necessary to determine that the amount of water

delivered to lands within the area served by the Contractor, other than to those lands designated as nonexcess pursuant to subarticle (a) hereof, does not, in any 24-hour period, exceed that quantity of water which the Contractor and water users within the area served by the Contractor have introduced into said conveyance facilities, works, and channels from the supply or supplies available other than pursuant to this contract or other water service, repayment, or similar contracts entered into with the United States pursuant to Federal Reclamation Law. The Contracting Officer, or his authorized representative, shall have the right at all reasonable times to inspect such records and measuring equipment.

REFUSAL OF WATER SERVICE IN CASE
OF DEFAULT, AND TERMINATION

13. (a) The United States reserves the right to refuse to operate the Project for the benefit of the Contractor or to order the cessation of the operation thereof for the benefit of the Contractor pursuant to this contract in the event that the Contractor is in default of any of its obligations under this contract, and that it fails after thirty (30) days notice to remedy the said default.

(b) In the event the Contractor is delinquent in advance payment of the charges payable by it herein, the United States shall refuse to operate the Project for the benefit of the Contractor until such time as the delinquency is remedied.

WAIVER OF DEFAULT

14. The waiver by either party to this contract as to any default shall not be construed as a waiver of any other default or as authority of the other party to continue such default or to make, do, or perform, or not to make, do, or perform, as the case may be, any act or thing which would constitute a default.

TITLE TO PROJECT WORKS

15. Title to all of the Lucky Peak Dam and Reservoir and associated works shall be and remain in the United States until otherwise provided for by the Congress.

GENERAL OBLIGATION--LEVIES THEREFOR

16. (a) The Contractor as a whole is obligated to pay to the United States the charges becoming due as provided in this contract notwithstanding the default in the payment to the Contractor by individual water users of assessments, tolls, or other charges levied by the Contractor.

(b) The Contractor will cause to be levied and collected all necessary assessments, tolls, and other charges and will use all of the authority and resources of the Contractor to meet its obligations hereunder to make in full all payments to be made pursuant to this contract on or before the date such payments become due and to meet its other obligations under this contract.

CONSOLIDATION OF CONTRACTING ENTITIES

17. Consolidation of Contractors may be approved by the Contracting Officer provided:

(a) He approves the form and organization of the resulting entity and the utilization by it of the total supply;

(b) The obligations of the Contractor are assumed by such entity.

No such consolidation shall be valid unless and until approved by the Contracting Officer.

BOOKS, RECORDS, AND REPORTS

18. (a) The Contractor shall establish and maintain a modern set of books of account showing all financial transactions of the Contractor, and furnish such financial statements and reports as may be required from time to time. Subject to applicable Federal laws and regulations, the Contractor shall have full and free access at all reasonable times to the account books and official records of the Bureau of Reclamation relating to the construction, operation, and maintenance of the works relating to this contract and the status of the accounts concerning the Contractor's payments of construction and operation and maintenance charges, with the right at any time during office hours to make copies thereof. Subject to applicable state laws and regulations, the proper representatives of the United States shall have similar rights in respect to the account books and records of the Contractor.

(b) The Contractor shall cooperate with the Contracting Officer in the preparation of an annual crop report which will provide a reasonable estimate of crops raised under the irrigation system.

CONTINGENT ON APPROPRIATIONS
OR ALLOTMENT OF FUNDS

19. The expenditure of any money or the performance of any work by the United States herein provided for, which may require appropriations of money by the Congress or the allotment of federal funds, shall be contingent on such appropriations or allotments being made. The failure of the Congress to appropriate funds, or the failure of any allotment of funds, shall not, however, relieve the Contractor from any obligations theretofore accrued under this contract nor give the Contractor the right to terminate this contract as to any of its executory features.

No liability shall accrue against the United States in case such funds are not so appropriated or allotted.

OFFICIALS NOT TO BENEFIT

20. (a) 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 herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

(b) Neither the Contractor nor any official of the Contractor or of its subcontractors shall receive any benefit that may arise by reason of this contract other than as a landowner and in the same manner as other landowners.

ASSIGNMENTS LIMITED;
SUCCESSORS AND ASSIGNS OBLIGATED

21. The provisions of this contract shall apply to and shall bind the successors and assigns of the parties hereto but, except as herein provided, no assignment or transfer of this contract or any part or interest therein shall be valid until approved by the Contracting Officer.

NOTICES

22. Any notice, demand, or request required or authorized by this contract shall be deemed properly given, except where otherwise herein specifically provided, if mailed, postage prepaid, to the Regional Director, Bureau of Reclamation, Boise, Idaho, on behalf of the United

State, and to South Boise Mutual Irrigation Company, Ltd., c/o Mrs. Virginia M. Gray, 1507 Garfield Street, Boise, Idaho, 83706, on behalf of the Contractor. The designation of the person to be notified or the address of such person may be changed at any time by similar notice.

COVENANT AGAINST CONTINGENT FEES

23. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the United States shall have the right to annul this contract without liability or in its discretion to require the Contractor to pay to the United States the full amount of such commission, percentage, brokerage, or contingent fee.

CIVIL RIGHTS ACT OF 1964

24. The Contractor hereby agrees as follows:

(a) To comply with Title VI (Section 601) of the Civil Rights Act of July 2, 1964 (78 Stat. 241) which provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance," and to be bound by the regulations of the Department of the Interior for the effectuation thereof, as set forth in 43 CFR 17.

(b) To obligate his subcontractors, subgrantees, transferees, successors in interest, or any other participants receiving Federal financial assistance hereunder, to comply with the requirements of this provision.

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

THE UNITED STATES OF AMERICA

By H. T. Nelson
Regional Director, Region 1
Bureau of Reclamation
P. O. Box ~~987~~ 8003, Boise, Idaho
SOUTH BOISE MUTUAL IRRIGATION
COMPANY, LTD.

Keith H. Gilmore
Contractor President
Gilmore

Virginia M. Gray
Contractor Secretary
Gray

STATE OF IDAHO

County of

Ada

ss.

On this 26th day of July, 1966, before me personally appeared Keith Selman and Virginia M. Gray to me known to be the President and Secretary, respectively, of the South Boise Mutual Irrigation Co, the corporation that executed the within and foregoing instrument. They acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned; and on oath stated that they were authorized to execute said instrument and that the seal affixed is the seal of said corporation.

IN WITNESS WHEREOF, I set my hand and affix my official seal the day and year last above written.

(SEAL)

Richard L. Gray
Notary Public in and for the
State of Idaho
Residing at: Boise
My commission expires:

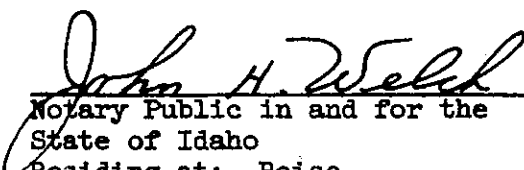
July 15, 1967

STATE OF IDAHO)
) ss.
County of Ada)

On this 18th day of August , 1966, personally appeared before me H. T. Nelson , 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 the day and year first above written.

(SEAL)


Notary Public in and for the
State of Idaho
Residing at: Boise
My commission expires: 6/10/67

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**

Lucky Peak Dam and Reservoir, Boise Project, Idaho

ASSIGNMENT OF WATER SERVICE CONTRACT

This Assignment of Water Service Contract ("Assignment") is made and entered into this 28th day of January, 200~~0~~⁵, in Ada County, State of Idaho, by and between South Boise Mutual Irrigation Company, Ltd., a mutual irrigation company which is an Idaho non-profit corporation ("SBMIC"), and United Water Idaho Inc., an Idaho corporation ("United Water").

WITNESSETH THAT:

EXPLANATORY RECITALS

1. WHEREAS, SBMIC is entitled to receive storage water from Lucky Peak Reservoir on the Boise River in Idaho under the July 26, 1966 Water Service Contract between the United States and SBMIC, Contract No. 14-06-100-5590 (the Contract). Under the Contract, a copy of which is attached hereto as Exhibit A, SBMIC is entitled to receive annual delivery of all stored water accruing to seventeen thousand nine hundred and seventy-three one hundred thousandths of one percent (.17973%) of the active capacity of Lucky Peak Reservoir, which percent is equivalent to 500 acre-feet of active capacity. Pursuant to the Contract, SBMIC has the right to request that the amount of stored water made available hereunder that it actually required during that year be released annually for irrigation uses upon the lands of SBMIC's shareholders; and

2. WHEREAS, United Water supplies municipal and industrial water to customers in and around Boise, Idaho, and has diversion facilities on the Boise River through which it is able to divert and place to beneficial use those river waters to which United Water is entitled; and

3. WHEREAS, United Water desires to acquire SBMIC's entire right, title, and interest in the Contract to place to beneficial use all the water available under the Contract for irrigation within United Water's water delivery system for the remaining term specified in the Contract; and

4. WHEREAS, SBMIC desires to assign all of its rights under the Contract to United Water; and

5. WHEREAS, pursuant to Article 21 of the Contract, this assignment is invalid until approved by the United States. Further, the United States' approval of the assignment of the Contract is ineffective until such time as the United States and United Water have entered into a contract for miscellaneous purposes.

NOW THEREFORE, in consideration of ten dollars and other good and valuable consideration, the receipt of which SBMIC hereby acknowledges, and the

mutual and dependant covenants herein contained, the parties hereto agree as follows:

ASSIGNMENT TERMS

6. Assignment. SBMIC hereby grants, conveys, and assigns to United Water, its successors, administrators, employees, agents, and assigns, all of SBMIC's right, title, and interest in the Contract.

7. United Water assumes SBMIC's obligations under the Contract. By the execution of this Assignment, United Water assumes and agrees to all of the rights and obligations pertaining to the Contract as if it were the original contracting party under the Contract.

8. Changes in the use of water. If United Water determines it is appropriate to seek to change its use of water made available under the contract to establish a new or alternate point of diversion or place or purpose of use, SBMIC shall cooperate with all such efforts, and, at United Water's request, shall provide United Water with all documents in SBMIC's possession pertaining to the Contract and shall execute such documents as may be necessary to support a transfer or exchange application.

9. Effective date and term of Assignment. This Assignment shall become effective only upon the effective date of a contract between the United States and United Water for the use of water available under the Contract for miscellaneous purposes and will continue in effect for the remaining period of the Contract (until July 2006), unless United Water and the United States terminate the Contract earlier.

10. Miscellaneous.

a. SBMIC's Representations and Warranties. SBMIC hereby represents to United Water that this Assignment has been approved by vote of the shareholders and resolution of the board of directors of SBMIC effective October 26, 1999.

b. Entire Agreement. This Assignment shall constitute the entire agreement between SBMIC and United Water.

c. Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors, and assigns.

d. Survival. Each of the representatives, agreements, warranties, and covenants contained in this Assignment shall survive its execution by SBMIC and its delivery to United Water.

e. Relation to Separate Agreement. Simultaneously with the execution of this Assignment, SBMIC and United Water have entered into a

separate Agreement which sets forth payment terms and other conditions pertaining to this Assignment. If the United States requires any amendment to this Assignment in its current form, SBMIC and United Water agree to make such amendments and to take other actions as are necessary to fully effectuate this Assignment.

f. Necessary Acts and Cooperation. The parties hereby agree to do any act or thing and to execute any and all instruments required by this Assignment and which are necessary and proper to make effective the provisions of this Assignment.

g. Recitals incorporated. The above recitals are hereby incorporated into this Assignment.

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

SOUTH BOISE MUTUAL
IRRIGATION COMPANY, LTD.

(SEAL)

Attest: LaVanda Milton
Sec.

Attest: Rockland Ware

By: Rockland Ware
Rockland Ware
Title: President

By: LaVanda Milton Sec.
LaVanda Milton
Title: Secretary

Accepted:

(SEAL)

Attest: Gregory P. Wyatt

UNITED WATER IDAHO INC.

By: Gregory P. Wyatt
Gregory P. Wyatt
Title: President

Approved:

UNITED STATES OF AMERICA

By: William McDonald
Title: Regional Director, PN Region
Bureau of Reclamation

STATE OF IDAHO)

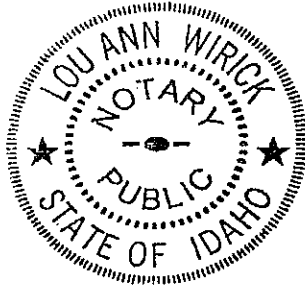
: ss

County of Ada)

On this 28th day of January, 200³0, personally appeared before me J. William McDonald, 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 the day and year first above written.

(SEAL)



Lou Ann Wirick
Notary Public in and for the
State of IDAHO
Residing at: Ada County
My commission expires: Oct 22, 2008

MAR 12 2003

Department of Water Resources

PN Draft 1-24-02

Contract No. 03XX101370

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Lucky Peak Dam and Reservoir, Boise Project, Idaho

MISCELLANEOUS PURPOSES WATER SERVICE CONTRACT
BETWEEN THE UNITED STATES AND UNITED WATER IDAHO, INC.

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PN Draft 1-24-02

Contract No. 03XX101370

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Lucky Peak Dam and Reservoir, Boise Project, Idaho

MISCELLANEOUS PURPOSES WATER SERVICE CONTRACT
BETWEEN THE UNITED STATES AND UNITED WATER IDAHO, INC.

THIS CONTRACT, made this 4th day of March, 2003, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including section 8 of the Act of December 22, 1944 (58 Stat. 887-891), the Act of July 24, 1946 (60 Stat. 641), and particularly section 9(c)(2) of the Reclamation Project Act of 1939 (53 Stat. 1187), collectively known as the Federal Reclamation Laws, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the officer executing this contract, hereinafter referred to as the Contracting Officer, and UNITED WATER IDAHO, INC., an Idaho Corporation, hereinafter referred to as the Contractor,

WITNESSETH THAT:

EXPLANATORY RECITALS

2. WHEREAS, the United States has constructed and operates the Lucky Peak Dam and Reservoir, hereinafter referred to as Lucky Peak, on the Boise River in which there is water stored which can be used for the irrigation of land and for other beneficial uses, which stored

water was appropriated by the United States pursuant to the laws of Idaho for beneficial use under the Federal Reclamation Laws; and

3. WHEREAS, Capital View Irrigation District (Capital View) is entitled to receive stored water from Lucky Peak on the Boise River in Idaho under the September 10, 1968, water service contract between the United States and Capital View, Contract No. 14-06-100-6342 (the Capital View contract). Under the Capital View contract, a copy of which is attached hereto as Exhibit B, Capital View is entitled to receive delivery of stored water accruing to ten thousand seven hundred and eighty-four one hundred thousandths of one percent (.10784%) of the active capacity of Lucky Peak; and

4. WHEREAS, the Contractor acquired all of Capital View's right, title, and interest in the Capital View contract for the remaining term specified in that contract, a copy of which is attached hereto as Exhibit C; and

5. WHEREAS, the Contractor desires to enter into a contract for the use of Lucky Peak stored water for irrigation demands of municipal customers; and

6. WHEREAS, the United States Army Corps of Engineers has concurred with the United States Bureau of Reclamation entering into contracts for stored water from Lucky Peak to be used for miscellaneous irrigation purposes including the irrigation of lawns, gardens, parks, and landscaping and delivered through a municipal delivery system; and

NOW THEREFORE, in consideration of the mutual and dependent covenants herein contained, the parties hereto agree as follows:

TERM OF CONTRACT

7. This contract shall become effective as of the date first above written and will continue in effect for the remaining period of the Capital View contract (until September 10, 2008) unless previously terminated under the provisions of Article 12 hereof: Provided, That upon expiration of the term, this contract may be renewed, taking into consideration conditions then existing and under provisions mutually acceptable to the parties.

WATER TO BE MADE AVAILABLE TO THE CONTRACTOR

8. During the term of this contract, the United States shall make available for miscellaneous irrigation purposes to the Contractor stored water accruing to ten thousand seven hundred and eighty-four one hundred thousandths of one percent (.10784%) of the active capacity of Lucky Peak, which percent shall, so long as the Reservoir has an active capacity of 278,200 acre-feet, be treated as the equivalent to 300 acre-feet of active capacity. The latter figure of active capacity may be adjusted from time to time by the Contracting Officer whenever there are determinations that the active capacity is other than as stated above. The amount of water released from this space, the rate at which the water is released, and the timing of the releases will be coordinated with the State Watermaster.

RATE AND METHOD OF PAYMENT

9. a. An annual payment of \$7,779 for the first year shall be made to the United States at the time of executing this contract, and subsequent annual payments of \$7,779 will be due on or before January 1 of each succeeding year during the term hereof, which shall entitle the Contractor, as provided in Article 8, to receive stored water accruing to .10784% of the active capacity of Lucky Peak, which percent shall, so long as the Reservoir has an active capacity of

278,200 acre-feet, be treated as the equivalent to 300 acre-feet of active capacity. In the event the actual amount of water released from this space in any one year is less than 300 acre-feet, the Contracting Officer will adjust the Contractor's subsequent year payment based on the amount of water actually released from this space, Provided however, that a minimum amount of \$1,555.80 will be payable annually by the Contractor regardless of the amount released.

b. Annual payments due the United States under this contract are based on an initial rate of \$25.93 per acre-foot of stored water.

c. From time to time, but not less often than once every 5 years, the annual payment will be reviewed by the Contracting Officer and revised, if necessary, taking into account any changes in project costs, allocation of costs, interest rates, or other related factors: Provided, That operation, maintenance, replacement, and administration costs will be reviewed each year to ensure that these costs are paid in advance.

d. All payments from the Contractor to the United States under this contract shall be made by the medium requested by the United States. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States. All payments shall be made by check except when otherwise specified by the United States.

MEASUREMENT AND RESPONSIBILITY FOR DISTRIBUTION

10. a. The water to be furnished to the Contractor will be measured by facilities operated by the United States and delivered into the Boise River. At the option of the United States, the Lucky Peak stored water to which the Contractor is entitled may be measured and delivered to or for the Contractor at the outlet works of Lucky Peak, Anderson Ranch Reservoir,

or Arrowrock Reservoir. The Contractor shall incur all transportation and administration losses from the point of such delivery to the place of use.

b. The Contractor agrees to provide measuring devices or other means of measurement which are acceptable to the State Watermaster in charge of the distribution of water from the Boise River at or near the Contractor's point(s) of diversion. The Contractor also shall pay any charges required by the Idaho Department of Water Resources for the State Watermaster's handling or administration of this water.

c. The United States shall not be responsible for the control, carriage, handling, use, disposal, or distribution of water taken by the Contractor hereunder, and the Contractor shall hold the United States harmless on account of damage or claim of damage of any nature whatsoever, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water by the Contractor.

d. The Contractor agrees to establish an appropriate measurement and accounting procedure in accordance with the policies and provisions of chapters 6 and 7, title 42, Idaho Code.

WATER SUPPLY AND OPERATION OF THE RESERVOIR

11. a. As of the date of this contract, the United States holds License No. 63-3618, dated September 27, 2002, issued by the State of Idaho to the United States for the storage of 293,050 acre-feet per annum of the waters of Boise River in Lucky Peak. The primary purpose of the reservoir is for flood control, for which it will be operated, in accordance with the flood control operating plan contained in a Memorandum of Agreement between the Department of the Army

and the Department of the Interior, dated November 20, 1953, and as it may be amended, a copy of which is available for inspection at the office of the Contracting Officer. Subject to such operation for flood control, the United States will operate Lucky Peak so as to store under existing storage rights all available water, and during each irrigation season, the United States will make available to the Contractor for miscellaneous irrigation purposes the Contractor's proportionate share of the stored water that accrues in each year to the active capacity of the reservoir, together with any stored water that may have been carried over in the Contractor's share of such active capacity from prior water years.

b. The Contractor may hold over in Lucky Peak Reservoir water from prior water years, subject to these limitations:

(1) Water may be held only to the extent that the total amount of Lucky Peak stored water held to the credit of the Contractor for any irrigation season shall not exceed the amount which can be stored in the Contractor's proportionate part of the total active capacity of that reservoir.

(2) Whatever water is held for the credit of the Contractor in Lucky Peak as holdover water shall no longer be accounted for as holdover water as of any date of spilling of the reservoir.

(3) The United States may discharge such water as required for flood control purposes, or under subarticle (h) of this article, and such discharged water shall be deducted from any stored water held to the credit of the Contractor.

c. All space in Lucky Peak shall be operated with like priority as to storage rights; and the United States reserves the privilege of granting to others holdover rights and of

itself exercising such holdover rights as to any unsold space that are not inconsistent with the rights granted to the Contractor under this contract. While the Contractor's storage water rights are defined in terms of active capacity in Lucky Peak, the United States shall have the rights, without change in the Contractor's obligations with respect to storage rights, to store water accrued to those rights in any storage capacity available to it or to supply a like amount of water from other sources, by exchange or otherwise, so long as delivery for the Contractor of all stored water to which it is entitled under this contract is not in anywise 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 delivered, the point of measurement shall be the outlet works from which the delivery is made.

d. While Lucky Peak is being operated and maintained by the United States, it will operate the reservoir to the end of delivering all the water to which the Contractor is entitled under this contract and on such schedule of deliveries as shall be agreed to between the Contractor and Contracting Officer, within the capacity limits of the reservoir and having regard for other existing rights which must be supplied therefrom. Deliveries of stored water shall be limited at any time to the amount which can be delivered by means of the Contractor's proportionate share of the outlet capacity, taking into account the requirement of passing through the reservoir water belonging to prior rights and the physical limitation of the existing outlet works. The Contractor shall conform its diversions to the control of the stream as established by the State Watermaster.

e. The Contractor hereby releases the United States and agrees to hold the United States free and harmless from all damage claims that might result from the diversion into

storage, storage, regulation and release of water by the United States for the account of the Contractor, in accordance with the Contractor's instructions. In the event of the failure of the Contractor to fulfill its obligations under this subdivision, the United States may discontinue service to the Contractor hereunder and may exercise against the Contractor any and all its other rights and remedies.

f. The United States shall not be liable or responsible for the carriage, distribution, or diversion of water for miscellaneous irrigation purposes after its release from the delivery point, or for any loss or damage of any type or description arising therefrom.

g. The Contractor does not agree to indemnify the United States against any obligation or liability arising out of the operation of the project for flood control purposes or arising out of damage or injury allegedly occurring within the reservoir. The United States shall not be responsible for loss of water to which the Contractor, or those claiming by, through, or under the Contract, is entitled and which has been stored in the reservoir of the project and which has been released as a result of the operation of the project for flood control purposes.

h. The United States temporarily may reduce water storage, as may be necessary, for the purpose of investigation, inspection, maintenance, repair, or replacement of any of the facilities of the project. So far as it is feasible, however, the United States will give the Contractor reasonable notice in advance of such temporary reduction except in cases of emergency when notice need not be given.

TERMINATION OF CONTRACT

12. a. This contract shall be terminated and water service hereunder shall cease at the option of the United States at any time if the Contractor is delinquent in payments required

under this contract or upon failure of the Contractor 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 service hereunder: Provided, That the United States notifies the Contractor of any delinquency or deficiency by written notice and the Contractor fails to comply with said notice within 60 days.

b. The Contractor shall have the right to terminate this contract for any reason: Provided, That notice of the intent by the Contractor to terminate this contract shall be in writing to the Contracting Officer at least 60 days prior to the termination date proposed: Provided further, That termination under this provision shall become effective no sooner than January 1 of the next calendar year following such written notice.

c. Termination of this contract for any cause shall not relieve the Contractor of any obligations incurred by way of this contract prior to termination.

UNITED STATES NOT LIABLE FOR WATER SHORTAGE

13. On account of drought, errors in operation, or other causes, there may occur at times a shortage during any year in the quantity of water made available to the Contractor by the United States pursuant to this contract, and in no event shall any liability accrue against the United States or any of its officers, agents, or employees for any damage direct or indirect, arising therefrom.

SPECIAL CONDITIONS

14. In the interest of conservation and protection of environmental resources, from time to time, but not less often than once every 5 years, this contract shall be reviewed by the Contracting Officer. The terms and conditions of this contract may be modified, if deemed

necessary by the Contracting Officer, to avoid or minimize impacts to candidate, listed or proposed threatened and endangered species, or other valuable natural resources. Any modification by the Contracting Officer shall be announced by written notice to the Contractor.

CONTRACT - NOT A WATER RIGHT

15. No provisions of this contract, nor any renewal thereof, nor the furnishing of water hereunder will be construed to either bind the United States after the expiration of this contract or as the basis of a permanent water right.

TITLE TO PROJECT WORKS

16. Title to all of Lucky Peak and associated works shall be and remain in the United States until otherwise provided for by the Congress.

STATUS OF CONTRACTOR

17. The Contractor certifies that it is not in default to any agency or department of the United States on any financial obligations.

BOOKS, RECORDS, AND REPORTS

18. The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including water supply data, water use data, and other matters that the Contracting Officer may require. Reports thereon shall be furnished 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.

STANDARD CONTRACT ARTICLES

19. 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 this contract.

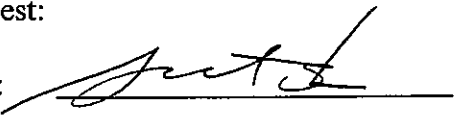
- a. CHARGES FOR DELINQUENT PAYMENTS
- b. GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT
- c. NOTICES
- d. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS
- e. OFFICIALS NOT TO BENEFIT
- f. ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED
- g. COMPLIANCE WITH RECLAMATION LAWS
- h. QUALITY OF WATER
- i. WATER AND AIR POLLUTION CONTROL
- j. WATER CONSERVATION
- k. EQUAL OPPORTUNITY
- l. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
- m. HAZARDOUS MATERIALS

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

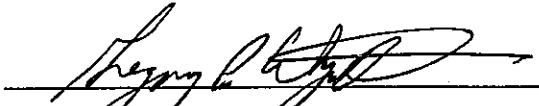
(SEAL)

UNITED WATER IDAHO, INC.

Attest:

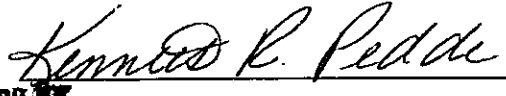
By: 

Title: MANAGING ENGINEER

By: 

Title: PRESIDENT

UNITED STATES OF AMERICA

By: 

Acting ~~for~~

Title: Regional Director, PN Region
Bureau of Reclamation

STATE OF IDAHO)

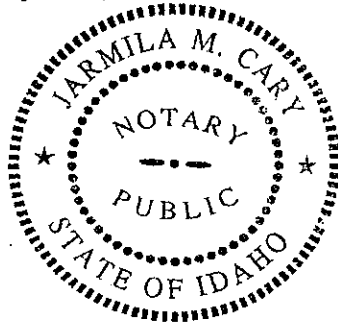
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County of Ada)

On this 13th day of February, 2003, before me, a Notary Public, personally appeared Gregory P. Wyatt known to me to be the President of the United Water Idaho, Inc., and the person 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 the day and year first above written.

(SEAL)



Jarmila M. Cary
Notary Public in and for the
State of IDAHO
Residing at: Boise, IDAHO
My commission expires: 07/14/2005

STATE OF IDAHO)

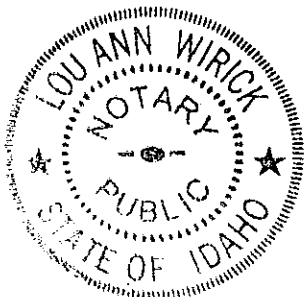
: ss

County of Ada)

On this 4th day of March, 2003, personally appeared before me Kenneth R. Pedde, 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 the day and year first above written.

(SEAL)



Lou Ann Wirick
Notary Public in and for the
State of IDAHO
Residing at: Ada County
My commission expires: Oct 22, 2008

STANDARD CONTRACT ARTICLES

The Contractor, as referred to in the following Standard Contract Articles, shall be United Water Idaho, Inc.

CHARGES FOR DELINQUENT PAYMENTS

a. (1) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the Contractor 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 Contractor shall pay an additional penalty charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor 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, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

(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 Contractor through project facilities during any period in which the Contractor may be in arrears in the advance payment of water rates due the United States. The Contractor 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 Contractor.

NOTICES

c. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Regional Director, PN Region, Bureau of Reclamation, 1150 N. Curtis Road, Suite 100, Boise, Idaho 83706-1234, and on behalf of the United States, when mailed, postage prepaid, or delivered to United Water Idaho Inc., PO Box 7488, Boise, Idaho 83707-1488. 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

d. 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 shall not relieve the Contractor from any obligations under this contract. No liability shall accrue to the United States in case such funds are not appropriated or allotted.

OFFICIALS NOT TO BENEFIT

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

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

f. 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.

COMPLIANCE WITH RECLAMATION LAWS

g. The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this contract is subject to Federal reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C. 390aa *et seq.*), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

QUALITY OF WATER

h. The operation and maintenance of 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

i. The Contractor, 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

j. Prior to the delivery of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the Contractor 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 Contractor 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 Contractor shall consult and agree to continue or to revise the existing water conservation program.

EQUAL OPPORTUNITY

k. During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor 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 Contractor 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 Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

(3) The Contractor 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 Contractor'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 Contractor 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 Contractor 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 Contractor'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 Contractor 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 Contractor 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 Contractor 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 Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor 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

I. (1) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1973 (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 Contractor 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 Contractor 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 Contractor 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 Contractor 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.

HAZARDOUS MATERIALS

m. During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and instructions, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored or disposed of on or in lands, waters or facilities owned by the United States or administered by Reclamation.

(2) "Hazardous material" means any substance, pollutant or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.

(3) The Contractor may not allow contamination of lands, waters or facilities owned by the United States or administered by Reclamation by hazardous materials, thermal pollution, refuse, garbage, sewage, effluent, industrial waste, petroleum products, mine tailings, mineral salts, pesticides (including, but not limited to, the misuse of pesticides), pesticide containers or any other pollutants.

(4) The Contractor shall report to Reclamation, within 24 hours of its occurrence, any event which may or does result in pollution or contamination adversely affecting lands, water or facilities owned by the United States or administered by Reclamation.

(5) Violation of any of the provisions of this Article shall constitute grounds for immediate termination of this contract and shall make the Contractor liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

(6) The Contractor agrees to include the provision contained in paragraphs (1) through (5) of this Article in any sub or third party it may enter into pursuant to this .

(7) Reclamation agrees to provide information necessary for the Contractor, using reasonable diligence, to comply with the provision of this Article.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Boise Project, Idaho

Contract No.
14-06-100-6342

WATER SERVICE CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND
CAPITAL VIEW IRRIGATION DISTRICT
PROVIDING FOR THE CONSERVATION USE OF
LUCKY PEAK DAM AND RESERVOIR

THIS CONTRACT, made this 10th day of September, 1968, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, including section 8 of the Act of December 22, 1944 (58 Stat. 887-891), and the Act of July 24, 1946 (60 Stat. 641), all of 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, represented by the Contracting Officer, and CAPITAL VIEW IRRIGATION DISTRICT, an Idaho corporation, hereinafter referred to as the Contractor,

WITNESSETH, THAT:

EXPLANATORY RECITALS

2. WHEREAS, the United States has constructed and operates the Lucky Peak Dam and Reservoir on the Boise River in which there is water stored which can be used for the irrigation of land and for other beneficial uses, which stored water was appropriated by the United States pursuant to the laws of Idaho for beneficial use under the Federal Reclamation Laws; and

3. WHEREAS, the Contractor desires to secure a supplemental supply of water from the United States;

NOW THEREFORE, in consideration of the premises and the payment by the Contractor to the United States of the charges in the manner hereinafter provided, it is agreed:

DEFINITIONS

4. The following terms used in this contract shall have the following respective meanings:

"Contracting Officer" shall mean the Secretary of the United States Department of the Interior, his duly authorized representative, or any other representative of the United States who may hereafter be duly authorized.

"Year" shall mean the period from January 1 through December 31.

WATER SERVICE FROM LUCKY PEAK RESERVOIR
TO BE AVAILABLE TO THE CONTRACTOR

5. The United States will operate and maintain the Lucky Peak Reservoir and will make available to the Contractor stored water accruing to ten thousand seven hundred and eighty-four one hundred thousandths of one percent (.10784%) of the active capacity of that reservoir within the limits and upon the terms provided in this contract. This percent shall, so long as the reservoir has an active capacity of 278,200 acre-feet, be treated as the equivalent of 300 acre-feet of active capacity. The latter figure of active capacity

may be adjusted from time to time by the Contracting Officer whenever there are determinations that the active capacity is other than as stated above.

PLACE OF DELIVERY AND MEASUREMENT
AND OF USE OF WATER

6. (a) Water for the purposes hereof shall be made available at the outlet works of Lucky Peak Reservoir and shall be delivered to the Contractor and measured at that point, except as hereinafter provided. The Contractor shall receive said water at the delivery point and shall be wholly responsible for taking said water at that point and diverting, conveying, and utilizing it. The water to be delivered hereunder is to be diverted at:

a point where the east line of the Soldiers Home land intersects the Boise River in sec. thirty-two (32), township four (4) north, range two (2) east, Boise meridian,

by means of a device satisfactory to the State officer in charge of the distribution of water from the Boise River. Such device shall be furnished, installed, and maintained by and at the expense of the Contractor, but it shall be and remain at all times under the control of the State-appointed watermaster whose representative may at all times have access to it over any lands of the Contractor. The Contractor will stand its

proportionate share of all losses incurred in running the stored water from the place of measurement and delivery to the place of diversion, and losses of water from seepage, evaporation, or other causes, below said point of measurement, shall be borne by the Contractor.

(b) Water made available to the Contractor pursuant to this contract shall be used for the irrigation of lands described as follows:

The lands legally served by the Capital View
Irrigation District.

RATE OF PAYMENT BY THE CONTRACTOR

7. Stored water which is released at the request of the Contractor, as provided above, will be paid for by the Contractor at the rate of fifty cents (\$.50) per acre-foot initially, but that rate is subject to revision from time to time throughout the term of this contract in accordance with the construction, operation, and maintenance costs of the Lucky Peak Dam and Reservoir as allocated to the water supply available for irrigation uses, the then requirements of law relating to such allocations, and the return of such costs. Any revision will be made only as to future charges and shall be announced by written notice three (3) months prior to the irrigation season to which the new rate would be applicable.

TERM OF CONTRACT

8. This contract shall remain in effect for a period of forty (40) years from January 1, 1969: Provided, That under the terms and conditions mutually agreeable to the parties hereto, renewals may be made for successive periods not to exceed forty (40) years each. The terms and conditions of each renewal shall be agreed upon not later than one (1) year prior to the expiration of the then existing contract: Provided further, That upon written request by the Contractor of the Secretary made not later than one (1) year prior to the expiration of this contract, whenever, account being taken of the amount then credited to the costs of construction of water supply works, the remaining amount of construction costs of water supply works which is properly assignable for ultimate

return by the Contractor as established by the Secretary of the Interior pursuant to (3) of Section 1 of Public Law 643 (70 Stat. 483), probably can be repaid to the United States within the term of a contract under subsection (d), Section 9 of the 1939 Reclamation Project Act (53 Stat. 1187), this contract may be converted to a contract under said subsection (d) upon terms and conditions mutually agreeable to the United States and the Contractor. Notwithstanding any provisions of this contract, the Contractor reserves and shall have all rights and benefits under Public Law 643.

ORDERING OF WATER SERVICE AND
METHOD OF PAYMENT BY THE CONTRACTOR

9. The Contractor shall by notice to the Contracting Officer request that amount of stored water under this contract which it desires to use during that year. The notice shall be accompanied by payment for the cost of the quantity of water ordered. It is the intention of this contract that insofar as possible this request shall be for the amount of stored water which the Contractor actually requires during that year. If the total amount of stored water actually delivered is less than that for which payment has been made in advance, the excess payment shall be applied against water requested in future years and, if the total amount of stored water actually delivered is more than the amount for which payment has been made in advance, the excess shall be paid for at the rate specified in article 7 on or before December 31 of that year.

WATER SUPPLY AND OPERATION OF
THE RESERVOIR

10. (a) As of the date of this contract, the United States holds Permit No. 1183, dated March 20, 1964, issued by the State of Idaho to the United States for the storage of 307,000 acre-feet per annum of the waters of Boise River in Lucky Peak Reservoir. The primary purpose of the reservoir is for flood control, for which it will be operated, in accordance with the flood control operating plan contained in a Memorandum of Agreement between the Department of the Army and the Department of the Interior, dated November 20, 1953, and as it may be amended, a copy of which is available for inspection at the office of the Contracting Officer. Subject to such operation for flood control, the United States will operate Lucky Peak Dam and Reservoir so as to store under existing storage rights all available water, and during each irrigation season, the United States will make available to the Contractor for irrigation the Contractor's proportionate share of the stored water that accrues in each year to the active capacity of the reservoir, together with any stored water that may have been carried over in the Contractor's share of such active capacity from prior water years.

(b) The Contractor may hold over in Lucky Peak Reservoir water from prior water years, subject to these limitations:

- (1) Water may be held only to the extent that the total amount of Lucky Peak stored water held to

the credit of the Contractor for any irrigation season shall not exceed the amount which can be stored in the Contractor's proportionate part of the total active capacity of that reservoir.

(2) Whatever water is held for the credit of the Contractor in Lucky Peak Reservoir as holdover water shall no longer be accounted for as holdover water as of any date of spilling of the reservoir.

(3) The United States may discharge such water as required for flood control purposes, or under sub-article (h) of this article, and such discharged water shall be deducted from any stored water held to the credit of the Contractor.

(c) All space in Lucky Peak Reservoir shall be operated with like priority as to storage rights; and the United States reserves the privilege of granting to others holdover rights and of itself exercising such holdover rights as to any unsold space that are not inconsistent with the rights granted to the Contractor under this contract. While the Contractor's storage water rights are defined in terms of active capacity in Lucky Peak Reservoir, the United States shall have the right, without change in the Contractor's obligations with respect to storage rights, to store water accrued to those rights in any storage capacity available to it or to supply a like amount of water from other sources, by exchange or otherwise, so long as delivery for the Contractor of all

stored water to which it is entitled under this contract is not in anywise 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 delivered, the point of measurement shall be the outlet works from which the delivery is made.

(d) While the Lucky Peak reservoir is being operated and maintained by the United States, it will operate the Reservoir to the end of delivering all the water to which the Contractor is entitled under this contract and on such schedule of deliveries as shall be agreed to between the Contractor and the Contracting Officer, within the capacity limits of the reservoir and having regard for other existing rights which must be supplied therefrom. Deliveries of stored water shall be limited at any time to the amount which can be delivered by means of the Contractor's proportionate share of the outlet capacity, taking into account the requirement of passing through the reservoir water belonging to prior rights and the physical limitation of the existing outlet works. The Contractor shall conform its diversions to the control of the stream as established by the State watermaster.

(e) The Contractor hereby releases the United States and agrees to hold the United States free and harmless from all damage claims that might result from the diversion into storage, storage, regulation and release of water by the United States for the account

of the Contractor, in accordance with the Contractor's instructions. In the event of the failure of the Contractor to fulfill its obligations under this subdivision, the United States may discontinue service to the Contractor hereunder as provided in article 13 hereof and may exercise against the Contractor any and all its other rights and remedies.

(f) The United States shall not be liable or responsible for the carriage, distribution, or diversion of water for irrigation purposes after its release from the delivery point, or for any loss or damage of any type or description arising therefrom.

(g) The Contractor does not agree to indemnify the United States against any obligation or liability arising out of the operation of the project for flood control purposes or arising out of damage or injury allegedly occurring within the reservoir. The United States shall not be responsible for loss of water to which the Contractor, or those claiming by, through, or under the Contractor, is entitled and which has been stored in the reservoir of the project and which has been released as a result of the operation of the project for flood control purposes.

(h) The United States temporarily may reduce water storage, as may be necessary, for the purpose of investigation, inspection, maintenance, repair, or replacement of any of the facilities of the project. So far as it is feasible, however, the United States will

give the Contractor reasonable notice in advance of such temporary reduction except in cases of emergency when notice need not be given.

NO LIABILITY FOR WATER SHORTAGES OR INTERRUPTIONS
QUALITY OF WATER

11. 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 through the project irrigation works or interruptions in water deliveries to lands in the Capital View Irrigation/^{District} resulting from drought, failure of the power supply, inaccuracy in distribution, hostile diversion, prior or superior claims, accident to or failure of facilities of the project irrigation works, whether or not attributable to negligence of officers, agents, or employees of the United States, or other causes of whatsoever kind. Nor shall the Contractor's obligations to the United States under this contract be reduced by reason of such shortages or interruptions. The United States assumes no responsibility with respect to the quality of water to be furnished pursuant to this contract and it does not warrant the quality of any such water.

EXCESS LAND - COMMINGLING OF PROJECT AND
NON-PROJECT WATER

12. (a) Except as permitted by the Act of July 11, 1956 (70 Stat. 524), or the Act of September 2, 1960 (74 Stat. 732), water made available hereunder shall not be delivered to more than one

hundred and sixty (160) irrigable acres held in the beneficial ownership of any single person whether a beneficiary of a trust approved by the Contracting Officer, a natural person, a corporation or other entity, or to more than three hundred and twenty (320) irrigable acres held in the beneficial ownership of husband and wife jointly, as tenants in common or by the entirety, or as community property, and each owner of land within the area to be served hereunder shall, as a condition precedent to such service, be required to certify to the Contractor or to the Contracting Officer, the extent of such ownership and, if said ownership is in excess of the above limitation, to designate the portion thereof to be treated as nonexcess land and as such eligible to receive service hereunder: Provided, That no irrigable land may be selected, designated, or otherwise receive service as nonexcess land for the purpose of this contract which is held as excess land for the purpose of any repayment, water service, or similar contract with the United States made pursuant to Federal Reclamation Law as supplemented or amended.

(b) Water made available pursuant to this contract may, as necessary, be transported by the Contractor, or water users served by the Contractor, by means of the same non-Federally constructed conveyance facilities, works, and channels used for the transport of water available from non-Reclamation project sources. Notwithstanding such mingling of water, the provisions of this contract shall be applicable only to Reclamation project water and shall not subject to the

provisions of this contract any quantity of water available to the Contractor, or water users served by the Contractor, from non-project sources. The Contractor shall install and maintain or cause to be installed and maintained, such measuring equipment and distribution facilities and maintain such records as may be necessary to determine that the amount of water delivered to lands within the area served by the Contractor, other than to those lands designated as nonexcess pursuant to subarticle (a) hereof, does not, in any 24-hour period, exceed that quantity of water which the Contractor and water users within the area served by the Contractor have introduced into said conveyance facilities, works, and channels from the supply or supplies available other than pursuant to this contract or other water service, repayment, or similar contracts entered into with the United States pursuant to Federal Reclamation Law. The Contracting Officer, or his authorized representative, shall have the right at all reasonable times to inspect such records and measuring equipment.

REFUSAL OF WATER SERVICE IN CASE
OF DEFAULT, AND TERMINATION

13. (a) The United States reserves the right to refuse to operate the project for the benefit of the Contractor or to order the cessation of the operation thereof for the benefit of the Contractor pursuant to this contract in the event that the Contractor is in default of any of its obligations under this contract, and that it fails after thirty (30) days notice to remedy the said default.

(b) In the event the Contractor is delinquent in advance payment of the charges payable by it herein, the United States shall refuse to operate the project for the benefit of the Contractor until such time as the delinquency is remedied.

WAIVER OF DEFAULT

14. The waiver by either party to this contract as to any default shall not be construed as a waiver of any other default or as authority of the other party to continue such default or to make, do, or perform, or not to make, do, or perform, as the case may be, any act or thing which would constitute a default.

TITLE TO PROJECT WORKS

15. Title to all of the Lucky Peak Dam and Reservoir and associated works shall be and remain in the United States until otherwise provided for by the Congress.

GENERAL OBLIGATION--LEVIES THEREFOR

16. (a) The Contractor as a whole is obligated to pay to the United States the charges becoming due as provided in this contract notwithstanding the default in the payment to the Contractor by individual water users of assessments, tolls, or other charges levied by the Contractor.

(b) The Contractor will cause to be levied and collected all necessary assessments, tolls, and other charges and will use all of the authority and resources of the Contractor to meet its obligations

hereunder to make in full all payments to be made pursuant to this contract on or before the date such payments become due and to meet its other obligations under this contract.

CONSOLIDATION OF CONTRACTING ENTITIES

17. Consolidation of contractors may be approved by the Contracting Officer provided:

- (a) He approves the form and organization of the resulting entity and the utilization by it of the total supply;
- (b) The obligations of the Contractor are assumed by such entity.

No such consolidation shall be valid unless and until approved by the Contracting Officer.

BOOKS, RECORDS, AND REPORTS

18. (a) The Contractor shall establish and maintain a modern set of books of account showing all financial transactions of the Contractor, and furnish such financial statements and reports as may be required from time to time. Subject to applicable Federal laws and regulations, the Contractor shall have full and free access at all reasonable times to the account books and official records of the Bureau of Reclamation relating to the construction, operation, and maintenance of the works relating to this contract and the status of the accounts concerning the Contractor's payments of construction and operation and maintenance charges, with the right at any time during office hours to make copies

thereof. Subject to applicable state laws and regulations, the proper representatives of the United States shall have similar rights in respect to the account books and records of the Contractor.

(b) The Contractor shall cooperate with the Contracting Officer in the preparation of an annual crop report which will provide a reasonable estimate of crops raised under the irrigation system.

CONTINGENT ON APPROPRIATIONS
OR ALLOTMENT OF FUNDS

19. The expenditure of any money or the performance of any work by the United States herein provided for, which may require appropriations of money by the Congress or the allotment of federal funds, shall be contingent on such appropriations or allotments being made. The failure of the Congress to appropriate funds, or the failure of any allotment of funds, shall not, however, relieve the Contractor from any obligations theretofore accrued under this contract nor give the Contractor the right to terminate this contract as to any of its executory features. No liability shall accrue against the United States in case such funds are not so appropriated or allotted.

OFFICIALS NOT TO BENEFIT

20. (a) 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 herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

(b) Neither the Contractor nor any official of the Contractor or of its subcontractors shall receive any benefit that may arise by reason of this contract other than as a landowner and in the same manner as other landowners.

ASSIGNMENTS LIMITED;
SUCCESSORS AND ASSIGNS OBLIGATED

21. The provisions of this contract shall apply to and shall bind the successors and assigns of the parties hereto but, except as herein provided, no assignment or transfer of this contract or any part or interest therein shall be valid until approved by the Contracting Officer.

NOTICES

22. Any notice, demand, or request required or authorized by this contract shall be deemed properly given, except where otherwise herein specifically provided, if mailed, postage prepaid, to the Regional Director, Bureau of Reclamation, Boise, Idaho, on behalf of the United States, and to Capital View Irrigation District, c/o Mr. Tom Hardin, 83616 President, Pearl Route, Eagle, Idaho/ on behalf of the Contractor. The designation of the person to be notified or the address of such person may be changed at any time by similar notice.

COVENANT AGAINST CONTINGENT FEES

23. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established

commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the United States shall have the right to annul this contract without liability or in its discretion to require the Contractor to pay to the United States the full amount of such commission, percentage, brokerage, or contingent fee.

EQUAL EMPLOYMENT OPPORTUNITY

24. (a) During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor 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 contractor agrees to post in conspicuous places, available to employees

and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the administering agency, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) Inclusion of the above Equal Employment Opportunity clause in subcontracts may be by reference to Section 202 of Executive Order No. 11246 of September 24, 1965. Subcontracts below the second tier, other than subcontracts calling for construction work at the site of construction, are exempt from the requirements of the clause.

TITLE VI, CIVIL RIGHTS ACT OF 1964

25. The Contractor (hereinafter in this Article called "Applicant-Recipient") HEREBY AGREES THAT IT will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Department of the Interior Regulation (43 CFR 17) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives financial assistance from the U. S. Bureau of Reclamation and Hereby Gives Assurance That It will immediately take any measures to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant-Recipient by the U. S. Bureau of Reclamation, This assurance obligates the Applicant-Recipient, or in the case of any transfer of such property, any transferee for the period during which the real property or structure is used for a purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance obligates the Applicant-Recipient, for the period during which the Federal financial assistance is extended to it by the U. S. Bureau of Reclamation.

THIS ASSURANCE is given 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 Applicant-Recipient by the bureau or office, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Applicant-Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall reserve the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant-Recipient, its successors, transferees, or assignees, and the person or persons whose signature appear below are authorized to sign this assurance on behalf of the Applicant-Recipient.

WATER POLLUTION CONTROL

26. The Contractor agrees that it will comply fully with all applicable Federal laws, orders, and regulations, and the laws of the State of Idaho, all as administered by appropriate authorities, concerning the pollution of streams, reservoirs, groundwater, or water courses with respect to thermal pollution or the discharge of refuse, garbage, sewage effluent, industrial waste, oil, mine tailings, mineral salts, or other pollutants. The Contractor further agrees that any contract it may enter into with a third party for the

furnishing of project water will contain a similar water pollution control article.

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

UNITED STATES OF AMERICA

By /s/ Norman H. Moore
Acting Regional Director, Region 1
Bureau of Reclamation
P.O. Box 8008, Boise, Idaho

CAPITAL VIEW IRRIGATION DISTRICT

/s/ Tom Hardin
President

/s/ Alon E. Davis
Secretary

STATE OF IDAHO

County of Ada

} ss

On this 10th day of September, 1968, personally appeared before me Norman H. Moore, 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 the day and year first above written.

/s/ John H. Welch
Notary Public in and for the
State of Idaho
Residing at Boise
My commission expires: 6-10-71

STATE OF IDAHO)
) ss.
County of Ada

On this 30th day of August , 196 8, before me personally
appeared Tom Hardin and Alon E. Davis
to me known to be the President and Secretary, respectively, of the
CAPITAL VIEW IRRIGATION DISTRICT , the corporation that
executed the within and foregoing instrument. They acknowledged said
instrument to be the free and voluntary act and deed of said corpora-
tion, for the uses and purposes therein mentioned; and on oath stated
that they were authorized to execute said instrument and that the
seal affixed is the seal of said corporation.

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

(SEAL)

/s/ Van R. Henderlinder
Notary Public in and for the
State of Idaho
Residing at: Boise, Idaho
My commission expires: 9-5-70

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**

Exhibit C

Lucky Peak Dam and Reservoir, Boise Project, Idaho

ASSIGNMENT OF WATER SERVICE CONTRACT

This Assignment of Water Service Contract ("Assignment") is made and entered into this 28th day of January, 2000, in Ada County, State of Idaho, by and between Capital View Irrigation District, a mutual irrigation company which is an Idaho non-profit corporation ("Capital View"), and United Water Idaho Inc., an Idaho corporation ("United Water").

WITNESSETH THAT:

EXPLANATORY RECITALS

1. WHEREAS, Capital View is entitled to receive storage water from Lucky Peak Reservoir on the Boise River in Idaho under the September 10, 1968 Water Service Contract between the United States and Capital View, Contract No. 14-06-100-6342 (the Contract). Under the Contract, a copy of which is attached hereto as Exhibit A, Capital View is entitled to receive annual delivery of all stored water accruing to ten thousand seven hundred and eight-four one hundred thousandths of one percent (.10784%) of the active capacity of Lucky Peak Reservoir, which percent is equivalent to 300 acre-feet of active capacity. Pursuant to the Contract, Capital View has the right to request that the amount of stored water made available hereunder that it actually required during that year be released annually for irrigation uses upon the lands of Capital View's shareholders; and
2. WHEREAS, United Water supplies municipal and industrial water to customers in and around Boise, Idaho, and has diversion facilities on the Boise River through which it is able to divert and place to beneficial use those river waters to which United Water is entitled; and
3. WHEREAS, United Water desires to acquire Capital View's entire right, title, and interest in the Contract to place to beneficial use all the water available under the Contract for irrigation within United Water's water delivery system for the remaining term specified in the Contract; and
4. WHEREAS, Capital View desires to assign all of its rights under the Contract to United Water; and
5. WHEREAS, pursuant to Article 21 of the Contract, this assignment is invalid until approved by the United States. Further, the United States approval of the assignment of the Contract is ineffective until such time as the United States and United Water have entered into a contract for miscellaneous purposes.

NOW THEREFORE, in consideration of ten dollars and other good and valuable consideration, the receipt of which Capital View hereby acknowledges, and the mutual and dependant covenants herein contained, the parties hereto agree as follows:

ASSIGNMENT TERMS

6. Assignment. Capital View hereby grants, conveys, and assigns to United Water, its successors, administrators, employees, agents, and assigns, all of Capital View's right, title, and interest in the Contract.

7. United Water assumes Capital View's obligations under the Contract. By the execution of this Assignment, United Water assumes and agrees to all of the rights and obligations pertaining to the Contract as if it were the original contracting party under the Contract.

8. Changes in the use of water. If United Water determines it is appropriate to seek to change its use of water to establish a new or alternate point of diversion or place or purpose of use, Capital View shall cooperate with all such efforts, and, at United Water's request, shall provide United Water with all documents in Capital View's possession pertaining to the Contract and shall execute any documents United Water deems necessary to support any transfer or exchange application necessary to accomplish this.

9. Effective date and term of Assignment. This Assignment shall become effective only upon the effective date of a contract between the United States and United Water for the use of water available under the Contract for miscellaneous purposes and will continue in effect for the remaining period of the Contract (until September 2008).

10. Miscellaneous.

a. Capital View's Representations and Warranties. Capital View hereby represents to United Water that Capital View has full right, power, and authority to enter into this Assignment and to assign all of Capital View's rights under the Contract to United Water, and that this Assignment has been approved by resolution of the board of directors of Capital View of March 9, 1999.

b. Entire Agreement. This Assignment shall constitute the entire agreement between Capital View and United Water.

c. Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors, and assigns.

d. Survival. Each of the representatives, agreements, warranties, and covenants contained in this Assignment shall survive its execution by Capital View and its delivery to United Water.

e. Rights and Remedies. The parties shall have all rights and remedies provided under Idaho law for a breach or threatened breach of this Assignment, these rights and remedies shall not be mutually exclusive, and the exercise of one or more of these rights and remedies shall not preclude the exercise of any other rights and remedies. Each party confirms that damages at law may be inadequate for a breach or threatened breach of any provision hereof and the respective rights and obligations of the parties hereunder shall be enforceable by specific performance, injunction, or other equitable remedy.

f. Necessary Acts and Cooperation. The parties hereby agree to do any act or thing and to execute any and all instruments required by this Assignment and which are necessary and proper to make effective the provisions of this Assignment.

g. Attorney's Fees. The prevailing party in any action brought by either party to enforce the terms and conditions of this Assignment shall be entitled to reasonable costs and expenses of such action including attorney's fees.

h. Recital incorporated. The above recitals are hereby incorporated into this Assignment.

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

CAPITAL VIEW IRRIGATION DISTRICT

(SEAL)

Attest:

Tawala M. M. M. M. M.

By:

Earl Silverstein

Title:

President

Attest:

Tawala M. M. M. M. M.

By:

Secretary/Treasurer

Secretary/Treasurer

UNITED WATER IDAHO INC.

(SEAL)

Attest:

Gregory P. Wyatt

By:

Gregory P. Wyatt

Gregory P. Wyatt
Title: President

UNITED STATES OF AMERICA

By: *J. William McDonald*

Title: Regional Director, PN Region
Bureau of Reclamation

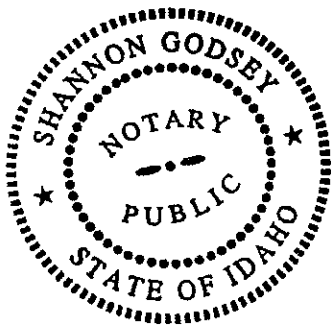
STATE OF IDAHO)

County of ADA) : ss

On this 9th day of May, 2000, before me, a Notary Public, personally appeared Earl Silverstein and *Earl G. Newton* known to me to be the President and Secretary/Treasurer of the Capital View Irrigation District, an Idaho non-profit corporation, and that they 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 the day and year first above written.

(SEAL)



Shannon Godsey

Notary Public in and for the
State of IDAHO

Residing at: BOISE

My commission expires: 9/22/2005

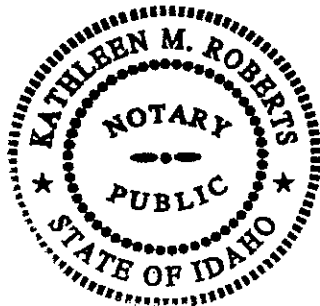
STATE OF IDAHO)

County of Ada : ss

On this 18th day of May, 2000, before me, a Notary Public, personally appeared Gregory P. Wyatt known to me to be the President of United Water Idaho Inc., an Idaho corporation, and the person 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 the day and year first above written.

(SEAL)



Kathleen M. Roberts
Notary Public in and for the
State of IDAHO
Residing at: Boise
My commission expires: 12-11-2001

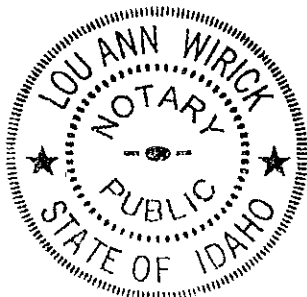
STATE OF IDAHO)

County of Ada : ss

On this 28th day of January, 2000³, personally appeared before me J. William McDonald, 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 the day and year first above written.

(SEAL)



Lou Ann Wirick
Notary Public in and for the
State of IDAHO
Residing at: Ada County
My commission expires: Oct 22, 2008



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 30, 2002

US DEPT OF INTERIOR
BUREAU OF RECLAMATION
PN REGIONAL OFFICE
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

RE: License No. 63-3618 - Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Enclosed is a copy of the approved Application for Amendment.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-327-7946.

Sincerely,

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED
NOV 12 2002

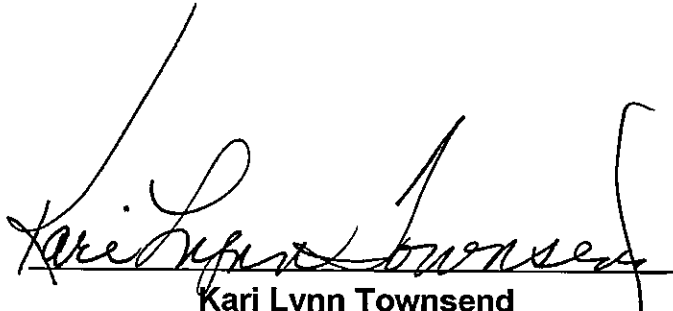
CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2002 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

63-3618

**US DEPT OF INTERIOR
BUREAU OF RECLAMATION
PN REGIONAL OFFICE
1150 N CURTIS RD STE 100
BOISE ID 83706-1234**



**Kari Lynn Townsend
Secretary**

MICROFILMED

NOV 12 2002

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



IN REPLY
REFER TO:

PN-3100
WTR-1.10

United States Department of the Interior

BUREAU OF RECLAMATION

Pacific Northwest Region

1150 North Curtis Road, Suite 100

Boise, Idaho 83706-1234

SEP 27 2002

RECEIVED

SEP 27 2002

Department of Water Resources

Mr. Karl Dreher
Director
Idaho Department of Water Resources
1301 North Orchard Street
Boise ID 83706-2237

Subject: Amendment to Lucky Peak Water Right Permit - No. 63-03618

Dear Mr. Dreher:

Enclosed is an application for amendment for the Lucky Peak water right permit and a \$50 check to be applied towards the application fee. Additional places of use have been added that reflect parks at Lucky Peak that are operated by the Corps of Engineers. These have been added as a matter of comity.

Sincerely,

J. William McDonald
J. William McDonald
Regional Director
ACTING FOR

Enclosures

MICROFILMED

NOV 12 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

FAX TRANSMITTAL COVER SHEET

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

DATE: 9/23/2002

TO: Gail McGarry
U.S. Bureau of Reclamation
Boise, Idaho
Fax 378-5305

FROM: Shelley Keen
Water Right Permits Section
IDWR
327-7946

DOCUMENT

DESCRIPTION: Application for Amendment (for Licensing Purposes)
of Water Right 63-3618 (Lucky Peak). The amendment will
change the authorized place of use. Please sign and
return (hand deliver or mail) ASAP.

COMMENTS: I believe Dave Tutthill left a voice mail
message explaining the need for the amendment. The
filing fee is \$50⁰⁰. Please call if you have
questions.

COVER SHEET + 3 PAGES

PLEASE CONTACT 327-7946 IF YOU DON'T RECEIVE THIS
ENTIRE DOCUMENT

MICROFILMED

NOV 12 2002

FAX TRANSMISSION RECORD

Bureau of Reclamation
Pacific Northwest Region



From: E. Gail McGarry,
Program Manager, Water Rights and Acquisition
Bureau of Reclamation
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise Idaho 83706-1234
Phone: 208-378-5306 Fax: 208-378-5305

Date: September 9, 2001

To: Dave Tuthill & Susan Nigard, Idaho Department of Water Resources.

Fax/Phone Number: (208) 327-~~7056~~ 5400

Number of pages including this sheet: 1

Subject: Lucky Peak License

Dear Dave & Susan:

The following are Corps of Engineers recreation areas at Lucky Peak. We would like the following places of use added as a matter of comity.

✓ Placer Point	T3N R4E Section 32 SWNE, NWNE	
✓ Charcoal Creek	T3N R4E Section 32-W1/2SE1/4-	NWSE SWSE
	✓ T2N R4E Section 5 SE1/4; W1/2NE1/4	NWNE SWNE
	✓ T2N R4E Section 4 SWSW	NESE NWSE SWSE & ESE
Pipeline Gulch	T2N R4E Section 7-N1/2SW1/4, NWSE, W1/2NE1/4, E1/2NW1/4	NESW NWSW NWNE SWNE
Deer Flat	✓ T2N R4E Section 6 SWSW; E1/2SW1/4; W1/2SE; NESE; SWNE	NENW SENW
	✓ T2N R4E Section 5 SWNW	NESW SESW NWSE SWSE
Macks Creek	✓ T3N R4E Section 11 SENE, NESE	
	✓ T3N R4E Section 12 SWNW, NWSW	
Barkley Bay	✓ T2N R3E Section 11 NESE	
	✓ T2N R3E Section 12 SWSW	

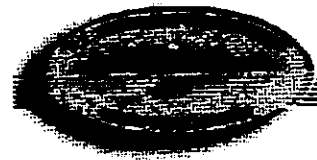
Gail McGarry

MICROFILMED

NOV 12 2002

FAX TRANSMISSION RECORD

Bureau of Reclamation
Pacific Northwest Region



From: E. Gail McGarry,
Program Manager, Water Rights and Acquisition
Bureau of Reclamation
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise Idaho 83706-1234
Phone: 208-378-5306 Fax: 208-378-5305

Date: September 8, 2001

To: Dave Tuthill & Susan Nigard, Idaho Department of Water Resources.

Fax/Phone Number: (208) 327-7866

Number of pages including this sheet: 1

Dear Dave & Susan:

We would like the following added to address places of use for Lucky Peak parks:

- For: Robie Creek - T03N R04E Section 5 SENE (5 acres) - noted as a matter of comity. ✓
- For: Chimney Rock - T03N R04E Section 22 NENW, SWNW, SENW (10 acres) - noted as a matter of comity. ✓
- For: Sandy Point - T02N R03E Section 11 NENE; T02N R03E 12 NWNW ✓

As we discussed, in addition, there are very minor amounts for trees and a small planter bed at the following Corps of Engineer parks: Placer Point, Charcoal Creek Pipeline Gulch, Deer Flat, Macks Creek and Barkley Bay ramp. We are obtaining the legal descriptions for these and should have them to you shortly.

Gail McGarry

MICROFILMED

NOV 12 2002

FAX TRANSMISSION RECORD

Bureau of Reclamation
Pacific Northwest Region



From: E. Gail McGarry,
Program Manager, Water Rights and Acquisition
Bureau of Reclamation
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise Idaho 83706-1234
Phone: 208-378-5306 Fax: 208-378-5305

RECEIVED

AUG 16 2002

Department of Water Resources

Date: _____

To: Phil Rassier / Susan Healin

Fax/Phone Number: _____

Number of pages including this cover sheet: 2

MICROFILMED

NOV 12 2002

August 16, 2002

Dear Susan Hamlin/Phil Rassier,

Two items causing Reclamation the most concern in the latest draft of the Lucky Peak license are the following:

1. For the place of use for "Irrigation from Storage" it is described as "The lands of the Boise Federal Reclamation Project in ... counties ..." Because Lucky Peak is a Corps of Engineers facility, the contractors are not limited to those within the Boise Federal Reclamation Project and there are districts which have Contracts for Lucky Peak water pursuant to the Flood Control Act of 1944 which districts are not part of the Boise Federal Reclamation Project. Therefore, that limitation needs to be removed.

This is also one reason we recommend a tie to a Federal contract in the license.

2. Under condition #6, it states: "The operations of the facilities of the Boise Federal Reclamation Project to divert, store and release water is subject to non-exempted Idaho law and is coordinated with other Federal installations on the Boise and the Payette Rivers."

I understand that "non-exempted" was a typo and was intended to read "non-preempted."

However, we would like the entire condition removed. Lucky Peak is not a facility of the Boise Federal Reclamation Project. Therefore, as it is now written, the entire first clause is a condition on facilities *other than Lucky Peak*. It does not seem appropriate to us to include conditions that apply solely to other water rights in the subject license. Therefore, although we originally requested the condition, it is more appropriate to delete #6 than retain it as is.

What
about
on others
that
are
Boe?

Please call me if you would like to discuss.

Sincerely,

E. Gail McGarry

E. Gail McGarry

Program Manager, Water Rights and Acquisition

MICROFILMED

NOV 12 2002



FAX TRANSMISSION RECORD

United States Department of the Interior

BUREAU OF RECLAMATION
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234



FAX NUMBER: 208-378-5305

TELEPHONE: 208-378-5304

TO: SUSAN
HAMLIN

FROM: GAIL MCGARRY

CODE: _____

CODE: PN 3100

FAX NO. 327 - 5400

WE ARE SENDING 2 PAGES, INCLUDING THIS COVER SHEET. IF THE FAX IS NOT RECEIVED IN GOOD ORDER PLEASE CALL THE NUMBER LISTED ABOVE.

Hard Copy not to follow

Comments on Lucky Desk. License

MICROFILMED
NOV 12 2002

August 7, 2002

Dear Susan Hamlin and Dave Tuthill,

The following are changes to the August 1 draft of conditions and elements we would like to see in the Lucky Peak License:

Rather than "Maximum Diversion Volume: 293,050.0 AF", we would like it to be changed to "Maximum Storage Volume and Release from Storage Volume: 293,050.0 AF."

Rather than the statement "An examination indicates that the works have a diversion capacity of 307,000 af of water," we would like it changed to "An examination indicates that the works have a storage capacity of 307,000 af of water."

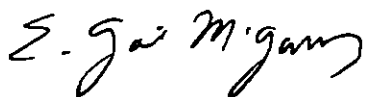
We would like condition #3 replace with: "Place of use for irrigation from storage is within the following counties: Ada, Boise, Canyon, Payette, Gem, and Elmore Counties, Idaho and Malheur County, Oregon."

Because we would like a recognition in the license of the role of the Federal contracts, we would like condition #7 to not be omitted, but rather be retained and amended to state: "Use of irrigation water under this right is subject to contract administered by the United States Department of Interior, Bureau of Reclamation."

Thank you for the opportunity to review your proposal. We would be glad to meet with you to discuss any of the above.

As you know, Lucky Peak Dam is a Corps of Engineer facility; therefore, acceptance of a state license by the United States is subject to the Flood Control Act of December 22, 1944, and the Flood Control Act of July 24, 1946.

Sincerely,



E. Gail McGarry

MICROFILMED
NOV 12 2002