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**SANTA CLARA PROJECT AGREEMENT**

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## **AGREEMENT**

This Agreement is entered into by and between the Lower Gunlock Reservoir Corporation, a Utah non-profit mutual water company ("Corporation"), the Utah Division of Wildlife Resources ("Division"), and the Washington County Water Conservancy District ("District").

### **Recitals**

A. The Corporation and the Division entered into a written Contract dated March 20, 1970 for the joint financial participation, construction and use of the Gunlock Reservoir located on the Santa Clara River in Washington County, Utah, providing among other things a contractual right for a sport fishery conservation pool in said Reservoir for the benefit of the Division.

B. The March 20, 1970 Contract was amended and superceded by an Amended Contract dated June 10, 1981 whereby the parties reallocated the fish conservation pool and active storage pool in Gunlock Reservoir. A copy of the 1981 Amended Contract is attached hereto as Exhibit A and incorporated by reference herein.

C. The parties wish to implement the Santa Clara Project Agreement which is intended to:

1. Conserve water and provide more dependable supplies for water users below Gunlock Reservoir;
2. Settle the water right claims of the Shivwits Band of Paiute Indians; and,
3. Provide certain instream flows in the Santa Clara River below Gunlock Reservoir for the Virgin River Spinedace.

A copy of the Santa Clara Project Agreement is attached hereto as Exhibit B and incorporated by reference herein.

D. As required by Paragraph 8.1 of the Santa Clara Project Agreement, and in order to implement that Agreement, it is necessary for the parties to reallocate a portion of the Division's fish conservation pool in Gunlock Reservoir in order to help provide instream flows for the Virgin River Spinedace below Gunlock Reservoir in the Santa Clara River.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the parties mutually agree as follows:

1. The Division hereby relinquishes its contractual right to the first 1,086 acre-feet of water in its existing fish conservation pool in Gunlock Reservoir which was heretofore granted in Exhibit A. The Division shall retain the right to all remaining portions of the fish conservation pool and the sediment pool in Gunlock Reservoir, to be used for sport fishery purposes as provided in Exhibit A.
2. The contractual right to the use of 1,086 acre-feet of water in the fish conservation pool relinquished by the Division shall be assigned by the Corporation to the District and may be used by the District for any project purpose under the Santa Clara Project Agreement, including but not limited to providing instream flows below Gunlock Reservoir.
3. To fully compensate the Division for its relinquishment of 1,086 acre-feet from the fish conservation pool in Gunlock Reservoir, the District shall provide the Division with a perpetual sport fishery conservation pool of 1,086 acre-feet in Sand Hollow Reservoir.
4. Under no circumstances shall the release of water from Gunlock Reservoir for any Santa Clara Project uses, or otherwise, diminish the Division's remaining conservation pool rights in the Reservoir, except as may be provided in Exhibit A.
5. Any and all water released from or bypassed through Gunlock Reservoir for instream flow purposes for the Virgin River Spinedace shall be used by the Division pursuant to the Santa Clara

Agreement. The Division shall file with the Utah State Engineer an instream flow change application, pursuant to § 73-3-3, Utah Code Annotated, to preserve those flows for their intended purpose. However, the obligation to release water required for instream flows under the Santa Clara Project Agreement shall not be an obligation of the Division, but is an obligation of the Corporation and/or the operator of the Santa Clara Project, pursuant to the Santa Clara Project Agreement.

6. The parties shall cooperate in and do any act or thing and execute any and all instruments or applications required by this Agreement and which are necessary and proper to make effective the provisions of this Agreement.

7. This Agreement shall be effective and enforceable only after all of the following have been accomplished:

(a) The execution of this Agreement by the parties hereto;

(b) The approval of this Agreement has been secured in writing by the Sport Fishery Section of the United States Fish & Wildlife Service;

(c) The Santa Clara Project Agreement (Exhibit B) becomes effective and enforceable as provided for in ¶ 11.0 of the Santa Clara Project Agreement; and,

(d) The funding for the Santa Clara Project has been secured and is available to construct that Project.

8. The Amended Contract of June 10, 1981 (Exhibit A), unless inconsistent with this Agreement, shall remain in full force and effect.

DATED this 15<sup>th</sup> day of January, <sup>2001</sup>~~2000~~.

LOWER GUNLOCK RESERVOIR CORPORATION

By: Scott A. Smith

UTAH DIVISION OF WILDLIFE RESOURCES

By: John Kimball

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

By: Jack Lemmon



1 22.0 Officials Not To Benefit

2 No member of or delegate to Congress or Resident Commissioner shall be admitted to any  
3 share of this Agreement or to any benefit that may arise herefrom. This restriction shall not be  
4 construed to extend to this Agreement if made with a corporation or company for its general  
5 benefit.

6 23.0 Persons Bound By Agreement.

7 23.1 This Agreement shall be binding upon and inure to the benefit of the Parties hereto  
8 and their respective employees, representatives, successors, and assigns.

9 23.2 In any action to enforce any term of this Agreement, no Party hereto shall raise as a  
10 defense the failure by any of its officers, directors, agents, servants, employees, successors, assigns,  
11 and contractors to take actions necessary to comply with the provisions of this Agreement. Each  
12 Party to this Agreement reserves its rights against any such person or entity whose acts cause or  
13 permit the Party to violate the terms of this Agreement. Each Party to this Agreement shall be  
14 responsible for the acts of its officers, directors, agents, servants, employees, successors, assigns,  
15 and contractors who violate, cause or permit the Party to violate the terms of this Agreement.

1 24.0 Signature Authority

2 The undersigned representative of each Party to this Agreement certifies that he or she is  
3 fully authorized to enter into the terms and conditions of this Agreement, to execute it, and to bind  
4 the Party each person represents to this Agreement.

5  
6 IN WITNESS THEREOF, the Parties have executed this Agreement on the day and year first  
7 written above.

8 NEW SANTA CLARA FIELD CANAL  
9 COMPANY

10 By: [Signature]  
11 Its: pres  
12 Date: 1/15/2001

ST. GEORGE CLARA FIELD CANAL  
COMPANY

By: [Signature]  
Its: Pres  
Date: 01-15-01

13 IVINS IRRIGATION COMPANY

14  
15 By: [Signature]  
16 Its: pres  
17 Date: 1/15/01

13 LOWER GUNLOCK RESERVOIR  
14 CORPORATION

By: [Signature]  
Its: Pres  
Date: 01-15-01

20 SHIVWITS BAND OF THE PAIUTE  
21 INDIAN TRIBE OF UTAH

22 By: [Signature]  
23 Its: Band chairman  
24 Date: 1-15-01  
25 Approved: [Signature]  
26 Chair, Paiute Indian Tribe of Utah

WASHINGTON COUNTY WATER  
CONSERVANCY DISTRICT

By: [Signature]  
Its: Chair  
Date: JAN. 15. 2001

1 CITY OF ST. GEORGE

2 By: Daniel D. McArthur

3 Its: Mayor

4 Date: Jan 15, 2001

BLOOMINGTON CANAL COMPANY

By: [Signature]

Its: Pres-

Date: Jan 15, 2001

7 SOUTHGATE IRRIGATION COMPANY

8 By: [Signature]

9 Its: Pres.

10 Date: 15 Jan 01

ED BOWLER

By: [Signature]

Its: \_\_\_\_\_

11 Date: 01/15/01

12 STATE OF UTAH

13 By: [Signature]

14 Its: Ex Dir. Dept of Natural Resources

15 Date: 16 Jan 01

UNITED STATES OF AMERICA

By: [Signature]

Its: \_\_\_\_\_

16 Date: 1/18/01

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