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WATER RIGHTS
SALT LAKE

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
PROVO RIVER PROJECT
DEER CREEK DIVISION

CONTRACT BETWEEN THE UNITED STATES AND PROVO RIVER WATER USERS'
ASSOCIATION PROVIDING FOR THE CONSTRUCTION OF THE DEER CREEK DIVISION
OF THE PROVO RIVER PROJECT, UTAH

THIS CONTRACT, Made this 27th day of June,
1936, in pursuance of the Act of Congress of June 16, 1933 (48 Stat.,
195), known as the National Industrial Recovery Act (herein styled the
N. I. R. A.), the Act of Congress of June 22, 1936 (Public Resolution
No 741 - 74th Congress), and the Act of Congress of June 17, 1902
(32 Stat., 388) and amendatory acts (herein styled the National Reclama-
tion Law) between the United States of America (herein styled the United
States) acting in this behalf by T. A. Walters Acting, Secretary
of the Interior (herein styled the Secretary), and the Provo River Water
Users' Association (herein styled the Association), a corporation of the
State of Utah, with its principal place of business at Provo City, Utah:
WITNESSETH THAT:

EXPLANATORY RECITALS

2. WHEREAS, the Association desires the United States to construct
for the benefit of the Association certain irrigation works in Salt Lake,
Utah, Wasatch, Summit and Duchesne counties, Utah, commonly known as the
Deer Creek Division of the Provo River Project, for the storage, diversion
and beneficial use of the waters of the Provo, Weber and Duchesne rivers

and their tributaries, for irrigation and other purposes, consisting of a reservoir on the Provo River near Vivian Park or near Deer Creek in Provo Canyon, the site used to be satisfactory to the United States and the Association, known as the Deer Creek Reservoir, a tunnel, known as the Duchesne Tunnel with feeder canals tributary thereto, the enlargement of that certain canal known as the Weber-Provo Diversion Canal, heretofore constructed by the United States as a part of the first division of the Salt Lake Basin Project, and the enlargement of that certain canal of the Provo Reservoir Water Users' Company, known as the Provo Reservoir Canal, from the Provo River to the Jordan Narrows, or the enlargement and extension of that certain canal of the Provo Bench Canal and Irrigation Company and the North Union Irrigation Company, known as the Big Bench and North Union Canal, from the Provo River to the Jordan Narrows (hereinafter called the North Union Canal) in the event the Secretary determines that this latter canal enlargement and extension is more desirable than the enlargement of the Provo Reservoir Canal, and other works; and

3. WHEREAS, there has been allocated to the Bureau of Reclamation and is now available (including the amount heretofore expended) \$1,500,000 for the construction of the Provo River Project which includes as a part thereof said Deer Creek Division, consisting of said Deer Creek Reservoir, Duchesne Tunnel, Weber-Provo Diversion Canal enlargement, Provo Reservoir Canal enlargement or North Union Canal enlargement and extension, Provo River Channel Revision and appurtenant and incidental works; and

4. WHEREAS, additional funds may be allotted or appropriated for the works contemplated in Article 3 hereof, not to exceed, however, such a sum as will bring the total funds available for the construction of said Deer Creek Division of the Provo River Project to an amount not exceeding the maximum construction charge liability of Seven Million Six Hundred Thousand Dollars (\$7,600,000.00) contemplated in this contract; and

5. WHEREAS, the United States has acquired for and in connection with said reservoir, tunnel, two canal enlargements, channel revision and appurtenant and incidental works, certain water and water rights from the Provo, Weber, and Duchesne rivers, and their tributaries, as represented by the following described water appropriations and filings:

Application No. 9569 - dated August 22, 1924 for the storage of 140,000 acre feet of water in the Deer Creek Reservoir, from the waters of the Provo River, from Weber River up to a diversion of 1,000 second feet, and from Beaver Creek up to a diversion of 500 second feet, filed and recorded in the office of the State Engineer of Utah, on pages 282 to 284 of Book I-29 of applications to appropriate water.

Application No. 9579 - dated August 22, 1924 for direct flow diversion of 1,050 second feet of water from the Provo River and the enlargement of the North Union and Provo Reservoir Companies' canals, filed and recorded in the office of the State Engineer of Utah, on pages 322 to 324 of Book I-29 of applications to appropriate water.

Application No. 12,060 - dated March 5, 1936 for the storage of 150,000 acre feet of water in the Deer Creek Reservoir from the waters of the Weber River up to a diversion of 1,500 second feet, filed and recorded in the office of the State Engineer of Utah on page 522 of Book I-34 of applications to appropriate water.

Application No. 12,144 - dated April 3, 1936 covering an exchange of water between the Deer Creek Division of the Provo River Project and the interests of Utah Lake, whereby Provo River water, up to 30,000 acre feet annually, may be stored in the Deer Creek Reservoir in lieu of certain seepage return flow and/or other waters belonging to the United States which will flow into and augment the water supply of Utah Lake as a result of the construction and operation of the Deer Creek Reservoir, which application was filed and recorded in the office of the State Engineer of Utah on page 86 of Book I-35 of applications to appropriate water.

Application No. 12,229 - dated June 25, 1936 for the storage (for irrigation purposes) of 50,000 acre feet in the Deer Creek Reservoir from the North Fork of the Duchesne River up to a diversion of 550 second feet, filed and recorded in the office of the State Engineer on page 242 of Book I-35 of applications to appropriate water.

Application No. 12,230 - dated June 25, 1936 for the storage (for domestic and municipal purposes) of 50,000 acre feet in the Deer Creek Reservoir from the North Fork of the Duchesne River up to a diversion of 550 second feet, filed and recorded in the office of the State Engineer on page 598 of Book D-6 of applications to appropriate water.

and may acquire other water, water rights or filings for use in connection with said irrigation works; and

6. WHEREAS, by direction of the President of the United States under said National Industrial Recovery Act, the prosecution by the United States of the construction of said Deer Creek Division of the Provo River Project is contingent upon the ability of the United States to secure a satisfactory contract or contracts for the repayment of expenditures made or to be made in so doing; and

7. WHEREAS, the Association desires to secure the construction of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision, and appurtenant and incidental works by the United States and the right to use for its stockholders for irrigation and other purposes the water supply which will be made available through and by means of said works from the water rights and water filings described in Article 5 hereof or other water and water rights which may be acquired for the use of said Association and its stockholders.

8. NOW, THEREFORE, in consideration of the mutual and dependent stipulations and covenants herein contained, it is hereby mutually agreed between the parties hereto as follows:

IRRIGATION WORKS TO BE CONSTRUCTED BY THE UNITED STATES

9. The United States (subject to the provisions of Article 11 hereof) will expend in the construction of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision and appurtenant and incidental works, the sum of Seven Million Six Hundred Thousand Dollars (\$7,600,000.00) or so much thereof as the Secretary may find to be necessary for such purpose within the limits of the funds herein made available. The works to be constructed shall include

- (a) Said Deer Creek Reservoir so as to impound water to an elevation of 5398.5 feet above mean sea level (U. S. C. & G. S. datum) at which elevation said reservoir will have an estimated dead storage capacity of 10,000 acre feet and an estimated live storage capacity of 160,000 acre feet or a total estimated storage capacity of 170,000 acre feet if the damsite near Vivian Park is used, or said Deer Creek Reservoir so as to impound water to an elevation of 5417.0 feet above mean sea level (U. S. C. & G. S. datum) at which elevation said reservoir will have a dead storage capacity of 3,000 acre feet and an estimated live storage capacity of 147,000 acre feet or a total estimated storage capacity of 150,000 acre feet if the damsite near Deer Creek is used; the construction of the reservoir at either site to include the reconstruction of existing railroads, roads, power transmission lines, telephone lines and other facilities existing within the reservoir basin;
- (b) Said Duchesne Tunnel with a length of approximately 5.31 miles and a capacity of approximately 325 second feet, and which tunnel will commence in the Northeast Quarter of Section 22, Township 3 North, Range 9 West, Uintah Special Meridian, and end in the Southwest Quarter of Section 31, Township 2 South, Range 9 East, S. L. B. & M., together with feeder canals tributary thereto;
- (c) Enlargement of said Weber-Provo Diversion Canal, so that said canal will have a capacity of 1,000 second feet, which canal enlargement will commence in the Southwest Quarter of Section 21, Township 1 South, Range 6 East, S. L. B. & M., and end in the Northeast Quarter of Section 31, Township 2 South, Range 6 East, S. L. B. & M.;
- (d) Enlargement of said Provo Reservoir canal so that said canal will have a capacity of 550 second feet, which canal enlargement will commence in the Northeast Quarter of Section 6, Township 6 South, Range 3 East, S. L. B. & M., and end in the Southwest Quarter of Section 26, Township 4 South, Range 1

West, S. L. B. & M., or enlargement and extension of said North Union Canal so that said Canal will have a capacity of 550 second feet, which canal enlargement and extension will commence in the Northwest Quarter of Section 7, Township 6 South, Range 3 East, S. L. B. & M., and end in the Southwest Quarter of Section 26, Township 4 South, Range 1 West, S. L. B. & M.;

- (e) Such appurtenant and incidental works as may be necessary and incident to the construction and operation and maintenance of said Deer Creek Division of the Provo River Project;
- (f) Such channel revision or improvement work on the Provo River as determined by the Chief Engineer of the Bureau of Reclamation as shall be necessary or advisable.

It is further understood and agreed, notwithstanding anything herein contained to the contrary, that the United States may proceed to construct the works specified herein, other than the Duchesne Tunnel, when subscription contracts satisfactory to the Secretary and in such amount as he may determine to be necessary have been executed by the Association, and that the United States will be under no obligation to construct the Duchesne Tunnel until additional subscription contracts satisfactory to the Secretary in an amount sufficient in his opinion to warrant the construction of the Duchesne Tunnel have been secured by the Association, it being understood by the Association that if the Duchesne Tunnel is not constructed the estimated average annual yield of the Deer Creek Reservoir will be 68,000 acre feet, instead of 100,000 acre feet as mentioned in Article 10.

UTILIZATION OF WORKS BY ASSOCIATION

10. Upon payment by the Association of the payments when and as required by the terms of this contract and its compliance with the covenants hereof, by it to be performed, the Association shall have the right to utilize the storage capacity of the Deer Creek Reservoir as herein defined together with the total yield of storage water therefrom, estimated at 100,000 acre feet annually together with the right to use any water above that required for storage purposes which may be available from or under said water appropriations and filings described in Article 5 hereof or from or under any other water appropriations, water filings or water rights made or acquired for use in connection with said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, or any other canals used for the diversion and distribution of said waters, except such use as may be necessary and desirable to replace any vested power rights which may, in the opinion of the Secretary, be impaired by the construction of any of the works comprehended by this contract.

CONSTRUCTION OF IRRIGATION WORKS SUBJECT TO APPROPRIATIONS

11. This contract is subject to the availability of N.I.R.A., Reclamation or other funds supplied to do the work provided for herein. No liability shall accrue against the United States by

reason of such funds not being available. In case said amount of Seven Million Six Hundred Thousand and no/100 Dollars (\$7,600,000.00), or such portion thereof as is made available therefor, is not sufficient to complete said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision, and appurtenant and incidental works, or any of them, the Association nevertheless agrees to pay the United States the amount (as conclusively determined by the Secretary) expended in the partial completion of such works, or of any part or item thereof.

UNITED STATES NOT LIABLE FOR WATER SHORTAGE

12. On account of drouth, inaccuracy in distribution, or other causes, it is expected that there will occur at times a shortage in the quantity of water which will be made available through and by means of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision, and appurtenant and incidental works, constructed hereunder, 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 and the payments to the United States provided for herein shall not be reduced because of any such shortage or damage.

WATER RIGHTS TO BE PERMANENT

13. It is understood that upon payment of all sums of money required to be paid to the United States by the terms hereof, the

Association is to acquire from the United States as defined and limited by the provisions of this contract, a permanent right to the exclusive use of the water made available through the operations under this contract, for any and all lawful purposes.

DISTRIBUTION AND USE OF WATER BY ASSOCIATION

14. The President of the United States having prescribed that the Reclamation Project to be constructed hereunder shall be governed, so far as possible, by the Federal Reclamation Law (Act of Congress of June 17, 1902, 32 Stat., 388, and amendatory acts) the Association agrees thereto and in the distribution of the water supply made available through and by means of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision and appurtenant and incidental works, shall comply with the provisions of the Federal Reclamation Law, particularly the Warren Act of February 21, 1911 (36 Stat., 925), and regulations of the United States applicable thereto, and shall not furnish or deliver to any one land owner water in excess of an amount sufficient to irrigate ⁹⁶⁰~~360~~ acres of irrigable land. It is understood and agreed that the Association may dispose of part of its stock to parties desiring to use project water for domestic, municipal and industrial purposes as permitted by the Act of February 25, 1920

(41 Stat., 451), and every share of Association stock shall be entitled to its pro rate share (but not exceeding one acre foot of water per share annually, measured at the reservoir, as also provided by the Articles of Incorporation of the Association) of the water developed by this project and in the use of the project works, it being agreed that the project works contemplated to be constructed and acquired pursuant to this agreement are the only practicable sources of water supply for those organizations participating in the project pursuant to the Act of February 25, 1920 (41 Stat., 451) and that the delivery of such pro rata share of the water of such users shall not be deemed detrimental to the water service for irrigated lands serviced by the project notwithstanding that shortages in supply are expected at times. The rights of the Association and its assigns hereunder are subject to the provisions of Section 13 of the Boulder Canyon Project Act approved December 21, 1928 (45 Stat. 1064). The project water in any year available in excess of a supply of one acre foot per share of Association stock may be disposed of by the Association to shareholders or others subject to the approval of such disposition by the Secretary.

HOLDOVER STORAGE WATER

15. To encourage the economical use of stored water from the Deer Creek Reservoir and the accumulation thereof for use in times of greatest need stockholders of the Association shall be permitted to hold over in the Deer Creek Reservoir any stored water, to which they may be entitled, in any year or years for release in future years, when there is storage capacity in said Deer Creek Reservoir not being used and not required by the United States or the Association, subject to the following conditions:

- (a) Storage water held over shall remain the property of the stockholder without regard to the total of the amount accumulated so long as the reservoir does not spill;
- (b) When sufficient unused storage capacity is not available to permit stockholders to hold over all water which they desire to hold over, then each stockholder will be entitled for that purpose to that proportion of the unused capacity of the reservoir that the number of shares of stock owned by him bears to the total number of shares of stock owned by the stockholders desiring to so utilize unused storage capacity. When the reservoir spills and there is holdover storage in the reservoir, the spill shall be charged against such holdover storage, and if one or more stockholders have more holdover storage per share than other stockholders the initial spill shall be charged equally per share against the stockholder or group of stockholders having the greatest holdover per share until the holdover per share is reduced to an equality with that of the stockholder or group of stockholders having the next greatest holdover per share, and so on in like manner with each successive stockholder or group of stockholders until the holdover per share of all stockholders shall have been reduced to an equality, whereupon the spills shall be charged equally per share against all stockholders having holdover storage.
- (c) Holdover storage water shall be charged its pro rata share of evaporation and seepage losses.

Provided further that the right of stockholders under this article shall at all times be subject to the right of the United States and/or the Association to use the entire capacity of the reservoir whenever so desired by the United States and/or the Association.

PAYMENT OF OPERATION AND MAINTENANCE CHARGES TO THE
UNITED STATES

16. In addition to the payment of the construction charges as provided in Article 17 the Association shall pay to the United States each year in advance for such operation and maintenance as may be performed by the United States and in such amounts as may be fixed by the Secretary as the cost of the operation and maintenance of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision and appurtenant and incidental works, including repairs, replacements, betterments, or any of them. The total of said cost due to the United States shall be set forth in an estimate to be furnished each year by the Secretary and shall be due and payable in advance on March 1 of each year for the year beginning on each such due date. The cost of any operation and maintenance performed by the United States during the period prior to that covered by the first estimate furnished by the Secretary as aforesaid shall be covered by a separate state-

ment and shall be due and payable at the same date as said first estimate, provided, however, that the Secretary may, if he deems it advisable, include such prior costs as part of the construction cost. Said estimate to be so furnished each year shall take account of any surplus or deficiency resulting from the estimate for the previous year being too high or too low.

PAYMENT OF CONSTRUCTION COST BY ASSOCIATION

17. The Association shall pay to the United States as the construction charge for said works and water supply as herein described the cost thereof as determined and stated by the Secretary in the statement hereinafter provided for, but not to exceed the sum of \$7,600,000.00 in forty (40) equal annual installments, the first of which shall become due and payable on January 15 of the year following the year in which the Secretary by notice dated at least six (6) months prior thereto announces either that said \$7,600,000.00 or such portion thereof as is made available has been expended in full towards the construction of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision, and appurtenant and incidental works, or that expenditures have been made for said works to the point where, in the opinion of the Secretary, the said works may be used for the purposes for which constructed.

Subsequent instalments shall become due on January 15 of each year thereafter for the term above stated. It is agreed that in case the total cost of said works is less than \$7,600,000.00, the amount to be repaid to the United States shall be proportionately reduced. In case said amount of \$7,600,000.00 is not sufficient to complete said works, the Association nevertheless agrees to pay the United States the amount so expended in the partial completion of said works. In case the Secretary, at the time said works are completed, is unable, for any reason, to ascertain the total cost thereof, he may at his discretion, in lieu of the notice hereinabove provided for, give a provisional notice in which the cost of said works is estimated, upon which estimate the amount of the annual instalments herein provided for shall be based until the first notice contemplated in this article be given, after which the annual instalments shall be such as to liquidate in full the total cost so announced within the period herein contemplated.

OPERATION AND MAINTENANCE BY ASSOCIATION

18. The Association shall, at its own cost and expense, when notified by the Secretary so to do, operate and maintain said Deer Creek Reservoir, Luchesne Tunnel, two canal enlargements, channel revision and appurtenant and incidental works after the construction

special service is rendered to the Association by the United States in connection with which overhead expense is incurred by the United States, the cost of such special service and the amount of such special overhead as determined in each case by the Secretary shall be paid by the Association to the United States within sixty (60) days after bills are rendered to the Association therefor.

INSPECTION

20. The Secretary may cause to be made from time to time at his election a reasonable inspection of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision, and appurtenant and incidental works, and of the books, records and papers of the Association to ascertain whether the terms of this contract are being faithfully executed by the Association. The actual expense of such inspection as found by the Secretary shall be promptly paid by the Association upon submission of bills therefor by the United States.

COST OF INSPECTION AND REPAIRS

21. The cost of inspection under Article 20 shall be paid by the Association to the United States annually on March 1 following the calendar year in which the expense is incurred. The cost

of repairs and other work which may be done by the United States as provided in Article 18 hereof, other than that of inspection, shall be paid by the Association to the United States within sixty (60) days after bills are rendered to the Association therefor.

COMPUTATION OF COST

22. The cost of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision and appurtenant and incidental works, provided for by this contract which the Association obligates itself to pay shall embrace all expenditures of whatsoever kind in connection with, growing out of, or resulting from the work described, including the cost of labor, material, equipment, investigations, engineering, legal work, superintendence, administration, overhead, rights of way, property, any operation and maintenance cost made a part of the construction cost as provided in Article 16 hereof, and damages of all kinds, and also including expenditures, not exceeding One Hundred Twenty-five Thousand (\$125,000) Dollars made for any of said above mentioned purposes incurred prior to the date of this contract; and the Secretary will furnish the Association a statement of the total amount of such cost incurred by the United States, which statement shall be accepted as final and binding on both parties hereto.

PROVIDE SECURITY

23. The Association shall provide or cause to be provided adequate security as determined by the Secretary by which the United States will be protected, secured and insured in the payment of all sums and charges herein provided to be paid to the United States by the Association; Provided: That no expenditures will be made by the United States under the contract until such security has been duly approved by the Secretary notwithstanding prior execution of this contract by the United States.

TO USE ALL POWER TO COLLECT CHARGES

24. The Association agrees that it will cause to be made and collected all necessary assessments including assessments to make up for the defaults of those who do not pay construction or other charges to the United States or assessments levied by the Association, and will use all the powers and resources of the Association, including the power of the Association to levy and collect assessments against its shares of stock and the power to withhold delivery of water, to collect and pay to the United States all charges or sums provided in this contract in full on or before the day the same become due. The debts due the United States hereunder are prior to all other obligations of the Association, and from any moneys coming into the possession of the Association, and applicable

to the payment of its obligations, the United States shall be paid prior to all other claimants, whether the directors of the Association or other claimants.

INTEREST FOR DELINQUENCY IN PAYMENT

25. Every instalment of money required to be paid to the United States under this contract, which shall remain unpaid after the same becomes due, shall bear interest at the rate of six per cent per annum until paid.

DEFICIENCY ASSESSMENTS

26. The amounts stated in this contract as the amounts due the United States are to be paid by the Association in full without deduction on account of the failure of some of the shareholders of the Association to pay assessments when due, and the Association shall levy such deficiency assessments against its shares of stock as may be necessary to enable the Association to pay such amounts in full when due.

REFUSAL OF WATER IN CASE OF DEFAULT

27. In the event of the Association's default for a period of more than twelve months in any payment due the United States from the Association, the United States reserves the right, which the Association hereby grants, to take control of the Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision, and

appurtenant and incidental works, and withhold the delivery of water to the Association until the amount so in default is paid, together with the expense incurred by the United States in taking such physical control of said Deer Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision and appurtenant and incidental works. The Association shall refuse water service to all water users who may be in default for more than twelve months in the payment to the Association of any assessments levied by it for the purpose of raising revenues to meet the payments of construction or other charges due the United States from the Association under this contract or who fail to pay to the Association when due any assessments levied by the Association for the purpose of raising revenues to meet the annual operation and maintenance or other charges of the Association or of the United States. The provisions of this article are not exclusive and shall not in any manner hinder the United States from exercising any other remedy to enforce collection of any amount due hereunder.

COMPETENT SUPERINTENDENCE REQUIRED

28. Until payments to the United States for the works herein contracted for have been completed the Association shall employ as superintendent a competent irrigation engineer. The selection of

such a person shall be subject to the approval of the Secretary, and upon notice from the Secretary that said superintendent is or has become unsatisfactory, the Association shall, as often as such notice be given, promptly terminate the employment of such unsatisfactory employes and employ one suitable to the Secretary.

PUBLIC FISHING

29. It is understood between the parties hereto that the public shall be allowed to fish in the reservoir under appropriate restrictions and regulations which shall correspond as nearly as possible with the laws, rules and regulations prescribed by the State of Utah relative to fishing, subject to such reasonable regulations as the Association may make for the protection of the irrigation works, including reservoirs, buildings or structures belonging to the project, and for maintaining the purity of the project water supply. There shall be no charge for fishing privileges.

LAND RESERVED FOR RECREATIONAL PURPOSES

30. It is specifically understood and agreed that the public shall be permitted, without charge, to use for recreational purposes subject to a primary use for reservoir operations and subject to regulations for the protection of wild life as contemplated in Article 34 hereof, the following described tracts of land:

Beginning at the Southwest corner of Section Twenty-one (21), Township Four (4) South, Range Four (4) East, Salt Lake Base and Meridian, thence North Thirteen Hundred Twenty (1320) feet, thence East Thirty-nine Hundred Sixty (3960) feet, thence South Nineteen Hundred Eighty (1980) feet, thence West Thirteen Hundred Twenty (1320) feet, thence South Six Hundred Sixty (660) feet, thence West Twenty-six Hundred Forty (2640) feet, to the west line of Section Twenty-eight (28), Township Four (4) South, Range Four (4) East, Salt Lake Base and Meridian, thence North Thirteen Hundred Twenty (1320) feet to the point of beginning, and containing Two Hundred Twenty (220) acres.

Beginning at the Northeast corner of Section Seven (7), Township Five (5) South, Range Four (4) East, Salt Lake Base and Meridian, and running thence South Twenty-six Hundred Forty (2640) feet, more or less, to the East Quarter corner of said Section Seven (7); thence West Thirteen Hundred Twenty (1320) feet, more or less, to the Southwest corner of Southeast Quarter of the Northeast Quarter of said Section Seven (7); thence North Sixteen Hundred Forty-five and Seven-tenths (1645.7) feet; thence North $50^{\circ}48'$ West Twelve Hundred Eighty-three (1283) feet; thence North $31^{\circ}30'$ West Two Hundred Fifteen (215) feet, more or less, to North section line of said Section Seven (7); thence West along said Section line Fifteen Hundred Thirty-four (1534) feet, more or less, to the Southwest corner of the Southeast Quarter of the Southwest Quarter of Section Six (6), Township Five (5) South, Range Four (4) East, Salt Lake Base and Meridian; thence North Thirteen Hundred Twenty (1320) feet, more or less, to the Northwest corner of the Southeast Quarter of the Southwest Quarter of said Section Six (6); thence East Thirty-three Hundred (3300) feet; thence South Six Hundred Sixty (660) feet; thence South $45^{\circ}00'$ East Nine Hundred Thirty-three and Five-tenths (933.5) feet, more or less, to the Northeast corner of Section Seven (7), Township Five (5) South, Range Four (4) East, Salt Lake Base and Meridian, the point of beginning, and containing One Hundred Ninety-seven and Fifty-eight Hundredths (197.58) acres, more or less.

which tracts of land are to be purchased as a part of the right of way for the Deer Creek Reservoir and appurtenant works.

RIGHTS OF WAY

31. No construction work will be commenced on any feature of the project until all rights of way required for that feature have been secured or valid contracts entered into covering the purchase of the same. The Association shall negotiate at its own expense for the purchase of all rights of way, using in connection therewith such forms of contracts, deeds, and other necessary papers as may be designated by the United States or as may be satisfactory to it. Upon procuring the execution of the necessary contracts, deeds, and/or other papers the same shall be transmitted by the Association to the United States, by whom payment of the purchase price will be made in due course if, in the opinion of the duly authorized officer of the United States, the purchase price is reasonable and said instruments are satisfactory as to form and contents, and show satisfactory title. In case purchase of any rights of way cannot be accomplished by amicable agreement the Association will initiate and carry on the necessary condemnation proceedings for the procuring of such rights of way, the entire expense of which, including the payment of any award or purchase price for the right of way so acquired, shall be borne by the Association from its own funds. The Association, after acquiring the right of way, will convey

the same to the United States upon terms and conditions satisfactory to the Secretary and at the reasonable value thereof as determined by the Secretary but not exceeding the actual cost thereof to the Association and the amount of such payments by the United States to the Association shall be included in the construction cost to be repaid to the United States as herein provided.

ARRANGEMENTS WITH OUTSIDE PARTIES

32. The United States is under no obligation to make expenditures under this contract or commence the construction of any of the works herein provided to be constructed by the United States until whatever arrangements the Secretary may deem necessary or advisable are made covering

- (a) The holding back and storage of such an amount of water annually of the Provo River which otherwise would flow into Utah Lake as the Secretary may deem necessary to augment the project water supply obtained from other sources.
- (b) An exchange of water with the Utah Power & Light Company and the Utah Light and Traction Company or either of them by which the waters of both the Weber and the Provo Rivers used by said companies or either of them for power purposes will be used through the company's (companies') present power plants on the Provo River and for storage in the Deer Creek Reservoir.
- (c) Enlargement of the canal of the Provo Reservoir Water Users' Company, known as the Provo Reservoir Canal, or the enlargement and extension of the canal of the Provo Bench Canal and Irrigation Company and the North Union Irrigation Company (known

as the Big Bench and North Union Canal) which works are provided for in Article 10 hereof.

- (d) The enlargement of the Weber-Provo Diversion Canal, heretofore constructed by the United States as a part of the first division of the Salt Lake Basin Project, and which enlargement is provided for in Article 9 hereof.

WASTE, SEEPAGE AND RETURN WATER

33. It is understood and agreed that the United States does not abandon or relinquish any of the waste or seepage or return water coming from the lands irrigated through the works to be acquired, constructed or reconstructed by the United States, but that the same is reserved and intended to be retained for the use and benefit of the project.

TITLE TO REMAIN IN UNITED STATES

34. Title to the aforesaid Deer Creek Dam and other works constructed by the United States under this contract shall be in the name of the United States until otherwise provided for by Congress, notwithstanding the transfer of the care, operation and maintenance thereof to the Association. Should the United States Biological Survey of the Department of Agriculture desire to establish and maintain bird reserves or wild life refuges upon the land acquired for the Deer Creek Dam or reservoir, it shall be permitted to do so, and the Association will be governed by the regulations of said Survey, so far as required by the agreement

entered into between the Secretary of the Interior and the Secretary of Agriculture, for the establishment and maintenance of bird reserves or wild life refuges on Federal reclamation projects, a copy of which agreement is attached hereto as Exhibit A and made a part hereof.

The Association further agrees that without the consent of the Secretary or other proper officer of the United States the water levels in Deer Creek Reservoir will not be drawn below a content of 10,000 acre feet in case the damsite near Vivian Park is used, nor below 3,000 acre feet in case the damsite near Deer Creek is used.

CROP CENSUS

35. The Association shall keep a reasonable accurate record of all crops raised and agricultural or livestock products produced under the irrigation system of the Association and furnish the Secretary on or before December 31 of each year a crop report, including the aforesaid data, in form prescribed by the Secretary.

SECRETARY MAY MAKE AND MODIFY REGULATIONS

36. The Secretary reserves the right, so far as the purport thereof may be consistent with the provisions of this contract, to make reasonable rules and regulations, and to add to or modify them as may be deemed proper and necessary to carry out the true intent and meaning of the law and of this contract.

VALIDATION OF CONTRACT

37. The Association agrees promptly to bring proceedings and to prosecute the same with dispatch, to obtain either a declaratory judgment under Chapter 64 of the Code of Civil Procedure of Utah, 1933, or to obtain a judgment under the provisions of Chapter 108 of the laws of Utah, 1935, the Secretary to determine under which of the aforesaid laws the proceedings shall be brought, finding the legality and validity of this agreement, of the Articles of Incorporation of the Association and of the stock subscription contracts between the Association and its stockholders. All of the stockholders of the Association shall be parties to said proceedings, and if the Association should fail promptly to file an action as required by this Article, or having filed the action should fail to prosecute it with dispatch, as found by the Secretary, the Secretary may terminate this contract and/or discontinue expenditures hereunder towards the construction of the Pear Creek Reservoir, Duchesne Tunnel, two canal enlargements, channel revision and appurtenant and incidental works, and call upon the Association to make payment to the United States of any expenditures theretofore made towards the construction of said project.

If the court in such proceedings should find this contract

not binding because of the failure of the Association or its members to take any steps required by the laws of Utah or of the United States, and the Association or its members should fail within a reasonable time, as determined by the Secretary, to cure such defective procedure, the Secretary will discontinue expenditures towards the constructions of the Deer Creek Division of the Provo River Project, and take any available measures to recover the expenditures theretofore made by the United States upon the project. If the court in such proceedings should find this contract not binding because of the illegality of the contract, of the stock subscription agreements or of the Articles of Incorporation of the Association, or of any material part of such contract, agreement or articles, and the Association or its stockholders are unable to remedy such illegality, or do not remedy such illegality within a reasonable time, as determined by the Secretary, the Secretary will discontinue the making of expenditures towards the construction of the Deer Creek Division of the Provo River Project, and take any available measures to recover the expenditures theretofore made by the United States upon the project.

APPLICATION OF PROFITS FROM POWER DEVELOPMENT AND OTHER
OPERATIONS

38. (a) Power Development. Either the United States, or

the Association, with the approval of the Secretary, may develop the power possibilities on the project, provided such development does not impair the yield of water from the project nor interfere with the operations thereof for the primary purpose of utilizing the developed water supply of the project for irrigation, municipal, domestic and industrial purposes other than power. The Association shall at all times have the right to use for the project purposes so much of the power produced as may be so required.

(b) Application of profits from power development and other operations. Net income from the sale of surplus power or water (being power not utilized for project purposes and water other than water to which shareholders shall be entitled) as determined by the Secretary shall, upon collection, be remitted to the United States for application on construction charges due or to become due without regard (unless otherwise directed by law) to any deferment legislation pertaining to such construction charges until all obligations of the Association to the United States shall have been liquidated. After all payments have been made as above provided, the net power revenues shall:-

- (1) belong to the Association in case the Association develops the power possibilities at its own expense, or
- (2) be disposed of as Congress shall direct, in case the power possibilities are developed by the United States, or with funds advanced by the United States.

OFFICIALS NOT TO BENEFIT

39. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

SUCCESSORS AND ASSIGNS OBLIGATED

40. The provisions of this agreement shall apply to and bind the successors and assigns of the respective parties.

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

THE UNITED STATES OF AMERICA

By /s/ T. A. Walters
Acting Secretary of the Interior

(Seal)

PROVO RIVER WATER USERS' ASSOCIATION

ATTEST:

By /s/ J. W. Gillman
J. W. Gillman President.

/s/ E. A. JACOB

Secretary.

EXHIBIT "A"

Memorandum of agreement between the Secretary of the Interior and the Secretary of Agriculture respecting administration of reclamation projects which are also bird and wildlife reservations and refuges.

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To the end that the administration of reclamation projects which also constitute bird and other wildlife reservations and refuges may be adjusted in the interests of irrigators and the conservation of wildlife, the Secretary of the Interior and the Secretary of Agriculture have agreed upon the following principles to govern their respective services administering said projects, reservations and refuges:

1. The Biological Survey of the Department of Agriculture will prepare land use maps and specifications for each refuge located on Reclamation areas and will furnish to the Bureau of Reclamation such detailed information concerning the land and water use as may best serve the objectives for which the refuge was established. Grazing and agricultural leases of land that is included in Reclamation areas on which wildlife refuges have been established will be drawn in so far as possible consistent with the requirements of the irrigators to conform to the requirements for wildlife as set forth in the specifications furnished by the Biological Survey. The grazing and agricultural leases of said lands will be executed by or on behalf of the Secretary of the Interior, but before being executed drafts of such proposed leases which are at variance with the wildlife use program will be submitted to the Biological Survey and an opportunity afforded for such readjustments in the provisions of the contract as may be mutually agreed upon, but the paramount reservation for reclamation purposes and the contractual rights of persons interested therein shall be protected to the satisfaction of the Secretary of the Interior.

2. The Biological Survey may fence such areas within refuge boundaries as may be necessary to protect the nesting population and shall keep closed these areas only so long, and to the extent, as may be required to maintain an adequate nesting cover.

3. The Bureau of Reclamation, where possible, shall save a minimum supply of water in reservoirs or swamps for wildlife purposes.

4. The Biological Survey may, with the consent of the Bureau of Reclamation, make small dams on public lands in depressions adjacent to reservoirs where water levels may be maintained unaffected by irrigation activities, where such small areas to be held in permanent marsh for wildlife food production value do not materially reduce the water supply of the reservoir.

5. The Biological Survey may institute and conduct reforestation and range recovery practices for the preservation or development of necessary cover for wildlife.

6. When an irrigation project is finally released or sold to a local water users' association or irrigation district a definite statement shall be included in the contract entered into subsequent to the date of this memorandum of agreement, or prior to said agreement if the contract holders consent, as to the extent and nature of the bird or wildlife reservation or refuge reservations attached to the lands or waters, and the Biological Survey shall be permitted to examine all such contracts before final signature.

7. In all final releases or sale of irrigation projects as to which contracts have been entered into subsequent to the date of this memorandum of agreement there shall be reserved in the contract, by and with the consent of the contracting district or association, the right of the United States to establish a bird or wildlife refuge on the lands of the said project.

8. Permits, if any, to take wildlife on refuge areas will be issued exclusively by the Biological Survey and said Survey shall have the right to control all trespass that may affect, directly or indirectly, wildlife, saving to the Bureau of Reclamation and the water users the right to remove burrowing animals menacing levees, canal banks, or reservoirs, under the supervision of the Survey.

9. All waste waters from any irrigation project beyond present or future irrigation requirements of Federal irrigation needs shall, so far as permitted by law, accrue to the use of the Biological Survey for the benefit of migratory waterfowl, and in all developments and contracts for reclamation projects subsequent to the date of this memorandum of agreement, the Biological Survey shall have the right to become a party to the development or the contract and assumes its proportionate liability for any water that it may desire to use for migratory waterfowl purposes.

10. All new sumps created by reclamation activities shall be held for reservation for such waterfowl refuges as may be established thereon by Executive Order, upon such terms of reimbursement of the Irrigation Districts, so far as their interests may be involved, as shall be agreed upon by the Biological Survey and such Districts.

11. The Department of Agriculture will deputize reclamation reservoir superintendents as deputy game management agents and the Bureau of Reclamation will charge their agents on any reclamation project that is also a bird or wildlife reservation or refuge with the responsibility, so far as consistent with their other duties, to protect the wildlife and to cooperate with the Biological Survey in every way feasible for the advancement of the interests of such wildlife.

/s/ Harold L. Ickes
Secretary of the Interior

/s/ H.A. Wallace
Secretary of Agriculture

December 19, 1935

RESOLUTION OF THE STOCKHOLDERS OF THE PROVO RIVER WATER USERS' ASSOCIATION

BE IT AND IT IS HEREBY RESOLVED by the stockholders of the Provo River Water Users' Association that the Board of Directors of said Association and its President and Secretary be and hereby are authorized and empowered to enter into a contract with the United States for the construction of what is commonly known as the Deer Creek Division of the Provo River Project for the storage, diversion and beneficial use of the waters of the Provo, Weber and Duchesne Rivers and their tributaries for irrigation and other purposes, consisting of a reservoir on the Provo river known as the Deer Creek Reservoir, a tunnel known as the Duchesne Tunnel, with feeder canals tributary thereto, the enlargement of that certain canal known as the Weber Provo diversion canal, the enlargement of that certain canal known as the Provo Reservoir canal, or the enlargement and extension of that certain canal known as the Big Bench and North Union canal, the revision of the channel of the Provo River and appurtenant works, upon terms and conditions as set out in either of the two forms of contract submitted by the United States (form to be used to be determined by the Secretary of the Interior) to the Association and considered at this meeting, or upon such other terms and conditions as the Board of Directors may see fit.

BE IT FURTHER RESOLVED that said Board of Directors is hereby authorized and empowered to take any and all steps as may be necessary to consummate said contract.

C E R T I F I C A T E

I, E. A. Jacob, Secretary of the Provo River Water Users' Association, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a Resolution passed at a special meeting of the stockholders of the Provo River Water Users' Association held on the 27th day of June, A.D., 1936.

I FURTHER CERTIFY that at said special meeting there was duly represented 7 shares of stock of the Provo River Water Users' Association, and that 7 shares of stock voted in favor of said Resolution, and that No shares of stock voted against said Resolution.

I ALSO FURTHER CERTIFY that the total number of shares of stock of the Provo River Water Users' Association entitled to vote at said special meeting held on the 27th day of June, A.D., 1938, was 11, the same being all of the issued and/or outstanding stock of the said Provo River Water Users' Association.

/s/ E. A. Jacob
Secretary of Provo River Water Users'
Association.

(SEAL)

PROVO RIVER WATER USERS' ASSOCIATION

CALL AND WAIVER SPECIAL MEETING OF STOCKHOLDERS

We, the undersigned, being all of the stockholders of the Provo River Water Users' Association of Provo, Utah County, Utah, do hereby call a special meeting of the stockholders of said Association to be held in the Commissioners' Room, at the County Court House, in Provo, Utah County, Utah, on the 27th day of June, 1936, at 10 o'clock A.M., for the purpose of considering and voting on the entering into of a contract with the United States for the construction of what is commonly known as the Deer Creek Division of the Provo River Project, for the storage, diversion and beneficial use of the waters of the Provo, Weber and Duchesne Rivers and their tributaries for irrigation and other purposes, consisting of a reservoir on the Provo River known as the Deer Creek Reservoir, a tunnel known as the Duchesne Tunnel, with feeder canals tributary thereto, the enlargement of that certain canal known as the Weber Provo diversion canal, the enlargement of that certain canal known as the Provo Reservoir canal, or the enlargement and extension of that certain canal known as the Big Bench and North Union canal and appurtenant works; and we hereby waive all statutory, charter and by-law requirements as to notice of time, place and objects of said meeting, and agree to the transaction thereat of any and all business pertaining to the affairs of the company.

Dated this 24th day of June, 1936.

Louis Marcus
Louis Marcus, Salt Lake City.

Fisher Harris
Fisher Harris, Salt Lake City.

George Keyser
George Keyser, Salt Lake City.

W. D. Beers
W.D. Beers, Salt Lake City.

A. V. Watkins
A. V. Watkins, Orem, Utah.

J. W. Gillman
J.W.Gillman, Orem, Utah.

A. J. Evans
A. J. Evans, Lehi, Utah.

Virgil H. Peterson
Virgil H. Peterson, Lehi, Utah.

Walter F. Whitehead
Walter F. Whitehead, Provo, Utah.

Lawrence M. Atwood
Lawrence M. Atwood, Pleasant Grove, Utah.

H. Clay Cummings
H. Clay Cummings, Heber, Utah.

C E R T I F I C A T E

I, E. A. Jacob, Secretary of the Provo River Water Users' Association, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of a call and waiver of a special meeting of the stockholders of the Provo River Water Users' Association held on the 27th day of June, A.D., 1936, for the purpose stated in said call and waiver.

I FURTHER CERTIFY that said call and waiver was signed by all of the stockholders of said Provo River Water Users' Association.

E. A. Jacob
Secretary of Provo River Water Users' Association.

(SEAL)

PROVO RIVER WATER USERS' ASSOCIATION

CALL AND WAIVER OF NOTICE BY ALL DIRECTORS

No, the undersigned, being all the Directors of the Provo River Water Users' Association of Provo, Utah County, Utah, do hereby call a special meeting of the Board of Directors of said Association to be held in the Commissioners Room, at County Court House, in Provo, Utah County, Utah, on the 27 day of June, 1936, at 1:00 o'clock P.M., for the purpose of considering and voting on the entering into of a contract with the United States for the construction of what is commonly known as the Deer Creek Division of the Provo River Project, for the storage, diversion and beneficial use of the waters of the Provo, Weber and Duchesne Rivers and their tributaries for irrigation and other purposes, consisting of a reservoir on the Provo River known as the Deer Creek Reservoir, a tunnel known as the Duchesne Tunnel, with feeder canals tributary thereto, the enlargement of that certain canal known as the Weber Provo Diversion canal, the enlargement of that certain canal known as the Provo Reservoir canal, or the enlargement and extension of that certain canal known as the big Bench and North Union canal and appurtenant works, and we hereby waive all statutory, charter and by-law requirements as to notice of time, place and objects of said meeting, and agree to the transaction thereat of any and all business that may come before the meeting.

Dated this 24th day of June, 1936.

J. F. Gillman

J. F. Gillman, Orem, Utah.

Walter P. Whitehead

Walter P. Whitehead, Provo, Utah.

Virgil H. Peterson
Virgil H. Peterson, Lehi, Utah

A. J. Evans
A. J. Evans, Lehi, Utah.

Lawrence M. Atwood
Lawrence M. Atwood, Pleasant Grove, Utah.

H. Clay Cummings
H. Clay Cummings, Heber, Utah.

A. V. Watkins
A. V. Watkins, Crem, Utah.

C E R T I F I C A T E

I, E. A. Jacob, Secretary of the Provo River Water Users' Association, do hereby certify that the foregoing is a full, true and correct copy of a call and waiver of notice for a special meeting of the Board of Directors of the Provo River Water Users' Association held on the 27th day of June, A.D., 1936, for the purpose specified therein.

I further certify that the said call and waiver was duly signed by all of the Directors of the Provo River Water Users' Association.

(SEAL)

E. A. Jacob
Secretary of Provo River Water Users' Association.

RESOLUTION OF THE BOARD OF DIRECTORS OF THE PROVO RIVER WATER USERS'
ASSOCIATION

BE IT AND IT IS HEREBY RESOLVED by the Board of Directors of the Provo River Water Users' Association that the President and Secretary of said Association be and hereby are authorized and empowered to execute, seal and deliver to the United States a contract for the construction by the United States of what is commonly known as the Deer Creek Division of the Provo River Project for the storage, diversion and beneficial use of the waters of the Provo, Weber and Duchesne Rivers and their tributaries for irrigation and other purposes, consisting of a reservoir on the Provo River known as the Deer Creek Reservoir, a tunnel known as the Duchesne Tunnel, with feeder canals tributary thereto, the enlargement of that certain canal known as the Weber Provo diversion canal, the enlargement of that certain canal known as the Provo Reservoir canal, or the enlargement and extension of that certain canal known as the Big Bench and North Union canal, the revision of the channel of the Provo River and appurtenant works, upon the terms and conditions as set out in either of the two forms of contract submitted by the United States and considered at this meeting.

BET IT FURTHER RESOLVED that the President and Secretary be and hereby are authorized and empowered to execute, seal and deliver to the United States both forms of the contract as submitted by the United States to the Board of Directors and considered at this meeting, and that the Secretary of the Interior shall determine which form shall be executed on behalf of the United States.

C E R T I F I C A T E

I, E. A. Jacob, Secretary of the Provo River Water Users' Association, DO HEREBY CERTIFY that the foregoing is a true, full, and correct copy of a Resolution passed by the Board of Directors of the Provo River Water Users' Association at a special meeting held on the 27th day of June, A.D., 1936.

I FURTHER CERTIFY that at said special meeting 7 directors were present and that 7 directors voted in favor of said resolution, and that no directors voted against said resolution.

I FURTHER CERTIFY that the total number of directors of said Provo River Water Users' Association as provided in the Articles of Incorporation is eleven (11), and at the present time there are seven (7) duly elected and qualified directors.

E. A. Jacob
Secretary of the Provo River Water
Users' Association

(SEAL)

OFFICIALS NOT TO BENEFIT

39. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

SUCCESSORS AND ASSIGNS OBLIGATED

40. The provisions of this agreement shall apply to and bind the successors and assigns of the respective parties.

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

THE UNITED STATES OF AMERICA

By /s/ T. A. Walters
Acting Secretary of the Interior

(Seal)

PROVO RIVER WATER USERS' ASSOCIATION

ATTEST:

By /s/ J. W. Gillman
J. W. Gillman President.

/s/ E. A. JACOB

Secretary.