UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

BOULDER CANYON PROJECT

AMENDATORY CONTRACT WITH THE STATE OF NEVADA
FOR DELIVERY OF COLORADO RIVER WATER

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UNITED STATES
DEPARTMENT OF THE INTERIOR
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BOULDER CANYON PROJECT

AMENDATORY CONTRACT WITH THE STATE OF NEVADA
FOR DELIVERY OF COLORADO RIVER WATER

Preamble

1. THIS CONTRACT, made this 12th day of November, 1981, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, particularly the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, herein referred to as the "United States," represented by the Secretary of the Interior, hereinafter referred to as the "Secretary," and the State of Nevada, a body politic and corporate, hereinafter referred to as "State," acting through THE COLORADO RIVER COMMISSION OF NEVADA, said Commission acting in the name of the State with its principal place of business and offices at Las Vegas, Nevada, hereinafter referred to as the "Commission;"

WITNESSETH THAT:
Explanatory Recitals

2. WHEREAS, for the purpose of controlling floods, improving navigation, regulating the flow of the Colorado River, providing for storage and for the delivery of stored waters for the reclamation of public land and other beneficial uses exclusively within the United States, the Secretary of the Interior, acting pursuant to the provisions of the Colorado River Compact and the Boulder Canyon Project Act and acts amendatory thereof or supplementary thereto, has constructed and is now operating and maintaining in the mainstream of the Colorado River at Black Canyon a structure known as Hoover Dam and incidental works, creating a reservoir designated Lake Mead; and

WHEREAS, the Boulder Canyon Project Act provides that the Secretary, under such general rules and regulations as he may prescribe, may contract for the storage of water in Lake Mead, and for the delivery of such water at such points on the river as may be agreed upon, for irrigation and domestic uses. The Act provides that no person shall be entitled to use the stored water for any purpose except by contract. Accordingly, by contract dated March 30, 1942, as supplemented January 3, 1944, between the United States and the State, the United States agreed to deliver to the State each year from storage in Lake Mead, so much water, including all other waters diverted for use in Nevada from the Colorado River system, as necessary to supply the State a total quantity not to exceed a consumptive use of 300,000 acre-feet annually to be used within
the State exclusively for irrigation, household, stock, municipal, mining, milling, industrial, and other like purposes, but not for the generation of electric power; and

WHEREAS, the Supreme Court of the United States in its opinion of June 3, 1963, in Arizona v. California et al. (373 U.S. 546), determined that the Secretary cannot reduce water deliveries to Nevada by the amount of its uses from tributaries to the Colorado River above Lake Mead, and Subsection II(C) of the March 9, 1964, Decree of the Supreme Court of the United States enjoined the United States from applying the provisions of Article 5(a) of the March 30, 1942, contract, as amended, to reduce the apportionment or delivery of mainstream water to users within the State of Nevada by reason of any uses in the State from the tributaries flowing therein; and

WHEREAS, the United States and the State desire to further amend the March 30, 1942, contract in order that the contract might conform to said opinion and decree; and

WHEREAS, Subarticle 7(f) of the February 9, 1944, contract between the United States and the State of Arizona recognizes the right of the United States and the State of Nevada to contract for use of 1/25th of any surplus waters available in the Lower Colorado River Basin and unapportioned by the Colorado River Compact, which waters are subject to further equitable apportionment after October 1, 1963, as provided in Article III(f) and Article III(g) of the Colorado River Compact; and
WHEREAS, Subsection II(B)(2) of the March 9, 1964, Decree of the Supreme Court of the United States in Arizona v. California et al. (376 U.S. 340), provides that if sufficient mainstream water is available for release to satisfy annual consumptive use in excess of 7,500,000 acre-feet in the States of Arizona, California, and Nevada, such excess consumptive use is surplus, and 50 percent thereof shall be apportioned for use in Arizona, and 50 percent for use in California; Provided, however, that if the United States so contracts with Nevada, then 46 percent of such surplus shall be apportioned for use in Arizona and 4 percent for use in Nevada; and

WHEREAS, the State has requested that contractual arrangements be made to provide for the delivery of 4 percent of such surplus waters available in the Lower Colorado River Basin to the State for use therein; and

WHEREAS, the Supreme Court of the United States in its Opinion of June 3, 1963, in Arizona v. California et al. (373 U.S. 546), construed the aforesaid Act and the Nevada contract as requiring Nevada water users other than the State to have water delivery contracts with the Secretary, and the March 9, 1964, Decree of the Supreme Court of the United States provided that Colorado River water shall be released or delivered to water users in Arizona, California, and Nevada only pursuant to valid contracts therefor made with such users by the Secretary of the Interior; and
WHEREAS, to facilitate the administration of contracts for delivery of small amounts of Colorado River water for use within the State of Nevada, the United States and the State desire to further amend the March 30, 1942, contract to provide that the State may subcontract with entities for the delivery of small amounts of Colorado River water;

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

Definitions

3. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof, the term:

(a) "Secretary" or "Contracting Officer" shall mean the Secretary of the Interior of the United States or his duly authorized representative.

(b) "Year" shall mean the calendar year.

(c) "Domestic use" shall include the use of water for household, stock, municipal, mining, milling, industrial and other like purposes, but shall exclude the generation of electrical power.

(d) "Project" shall mean the Boulder Canyon Project as authorized and constructed pursuant to the Act of December 21, 1928, as amended.

(e) "Small amounts of Colorado River water" shall mean amounts not to exceed 300 acre-feet per year.

(f) "Mainstream" shall mean the mainstream of the Colorado River downstream from Lee Ferry within the United States, including reservoirs thereon.
Amendment of Article 5 "Delivery of Water by the United States"

4. (a) Article 5(a) of the March 30, 1942, contract, as amended on January 3, 1944, is hereby amended by deleting from the first sentence thereof the phrase "including all other waters diverted for use within the State of Nevada from the Colorado River system," and replacing it with the phrase "including all other waters diverted for use within the State of Nevada from the Colorado River mainstream."

(b) Article 5 of the March 30, 1942, contract is hereby further amended by inserting after Subarticle (a) the following Subarticle (b) and redesignating the remaining Subarticles (c), (d), and (e):

(b) In addition to the water to be delivered to the State pursuant to Subarticle (a) hereof, the United States shall also deliver from storage in Lake Mead for use in Nevada, at points of diversion approved by the Secretary and for uses set forth in Subarticle (a) hereof, 4 percent of any excess or surplus waters available to the States of Arizona, California, and Nevada, to the extent that such excess or surplus waters are available for use, as determined by the Secretary, in the aforementioned States under said compact, the Boulder Canyon Project Act, and the March 9, 1964, Decree of the Supreme Court of the United States.

(c) Article 5 of the March 30, 1942, contract is hereby further amended by adding the following Subarticle (f):
(f) Subject to prior approval of each subcontract by the Contracting Officer, the State may enter into subcontracts with other entities for the delivery of small amounts of Colorado River water made available hereby; Provided, however, That the water delivered pursuant to such subcontracts shall be for domestic purposes only and shall not in total exceed 4,000 acre-feet per year; And provided further, That such subcontractors shall be bound by the terms of this contract, and should the provisions of any such subcontract conflict with the terms of this contract, the terms of this contract shall prevail.

Amendment of Article 8 "Record of Water Diverted"

5. Article 8 of the March 30, 1942, contract is hereby amended by changing the period at the end of the last sentence of the article to a semicolon and adding the following proviso:

Provided, however, That reports of diversions made pursuant to subcontracts between the State and other entities as provided for in Subarticle 5(f) hereof shall be made annually. Said reports shall be due on March 1 of each year and shall cover all such diversions made during the preceding year.

Amendment of Article 10, "Billing and Payments"

6. Article 10 of the March 30, 1942, contract is hereby amended by changing the period at the end of the second sentence to a semicolon and adding the following proviso:
Provided, however, That the State shall pay annually for all water delivered pursuant to subcontracts entered into in accordance with the provisions of Subarticle 5(f) hereof. Said payments shall be due on March 1 of each year and shall cover water deliveries made pursuant to such subcontracts during the preceding year.

Replacement of Article 20 "Notices"

7. Article 20 is hereby deleted from the March 30, 1942, contract and replaced with the following:

Notices

20. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the State, when mailed, postage prepaid, or delivered to the Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Chairman, Colorado River Commission of Nevada, P.O. Box 19090, Las Vegas, Nevada 89132. 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.

Additional Articles

8. Additional articles are hereby included in the March 30, 1942, contract as follows:

Quality of Water

23. 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

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

Books, Records, and Reports

25. The State shall establish and maintain accounts and other books and records pertaining to its financial transactions, land use, water supply, water use, and to other matters as the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as he may require. Subject to applicable Federal laws and regulations, each party shall have the right during office hours to examine and make copies of each other's books and records relating to matters covered by this contract.

Equal Opportunity Clause

26. During the performance of this contract, the State agrees as follows:

(a) The State will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The State 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 State 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.

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

(c) The State 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 worker's representative of the State'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.
(d) The State will comply with all provisions of Executive Order No. 11246 of September 24, 1964, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The State 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.

(f) In the event of the State's noncompliance with the nondiscrimination clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the State 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.

(g) The State will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by 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 State 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 State becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the State may request the United States to enter into such litigation to protect the interests of the United States.

Title VI, Civil Rights Act of 1964

27. (a) The State agrees that it will comply with Title VI the Civil Rights Act of July 2, 1964 (78 Stat. 241), 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 grounds 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 State receives financial assistance from the United States and hereby gives assurance that it will immediately take any measures to effectuate this agreement.
(b) If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the State by the United States, this assurance obligates the State, 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 State for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the State for the period during which the Federal financial assistance is extended to it by the United States.

(c) 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 State by the United States, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The State 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 State, its successors, transferees, and assignees.

Water Conservation

28. Pursuant to 43 CFR 417.2, the Contracting Officer will, prior to the beginning of each calendar year, consult with the Commission as the Contracting Officer may deem appropriate and (1) shall make annual recommendations relating to water conservation measures and operating practices in the diversion, delivery, distribution, and use of Colorado River water and (2) shall make annual determinations of the States' estimated water requirements for the ensuing calendar year to the end that deliveries of Colorado River water to each contractor for Colorado River water will not exceed those reasonably required for beneficial use.

Excess Lands

29. All irrigable land held in private ownership by any one owner in excess of 160 irrigable acres shall be appraised in a manner to be prescribed by the Secretary of the Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value at the date of appraisal without reference to the construction or proposed construction of the project.

No such excess lands shall receive water from any project or division if the owners thereof refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the
Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior. Until one-half the construction charges against the lands in the project service area shall have been paid, no sale of any such lands shall carry the right to receive water unless and until the purchase price involved in such sale is approved by the Secretary of the Interior.

These provisions shall remain in effect throughout the term of this contract, unless Congress expressly provides otherwise in legislation modifying or repealing the excess land or other provisions of Reclamation law.

March 30, 1942, Contract to Remain in Full Force and Effect

9. Except as expressly modified herein, the contract of March 30, 1942, as supplemented by contract dated January 3, 1944, shall remain in full force and effect.

Officials Not to Benefit

10. (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. This restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

(b) No official of the State shall receive any benefit that may arise by reason of this contract other than as a water user within the project and in the same manner as other water users within the project.
IN WITNESS WHEREOF, the parties hereto have executed this contract number 1-07-30-W0022 the day and year first above written.

STATE OF NEVADA
By
Chairman
Colorado River Commission of Nevada

UNITED STATES OF AMERICA
By
Regional Director
Lower Colorado Region
Bureau of Reclamation

Approved as to form:

Attorney General of Nevada

Ratified and Approved:

Governor of Nevada
ACKNOWLEDGMENT

State of Nevada )
) ss.
County of Clark )

On this 6th day of October, 1981,
before me, Rebecca A. Dalton, a Notary Public in and for said County and State personally appeared Eugene Hinds, Regional Director, Lower Colorado Region, Bureau of Reclamation, United States Department of the Interior, known to me to be the person described in the foregoing instrument, and acknowledged to me that he executed the same on behalf of the United States of America in the capacity therein stated and for the purpose therein contained.

[Signature]
Notary Public in and for the County of Clark, State of Nevada

[Stamp]
REBECCA A. DALTON
NOTARY PUBLIC
State of Nevada, Clark County
My commission expires Aug. 7, 1982