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UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

BOULDER CANYON PROJECT

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

Preamble

1. THIS AMENDATORY AND SUPPLEMENTARY CONTRACT, made this 8th day of November, 1983, 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, and the COLORADO RIVER COMMISSION OF NEVADA, said Commission acting in the name of the State but as principal in its own behalf as well as in behalf of the State, with its principal place of business and offices at Las Vegas, Nevada; the term "State" as used in this contract being deemed to be both the State of Nevada and its Colorado River 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, hereinafter referred to as the "original contract," as supplemented January 3, 1944, and amended November 12, 1981, 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 United States and the State desire to further amend the original 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 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 Colorado River water for use in the Laughlin,
Nevada area, the United States and the State desire to further
amend the original contract to provide that the State may
subcontract with other entities for the delivery of up to
10,000 acre-feet of Colorado River water per year in that area;

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

Supplemental and Amendatory Contracts Cancelled and Superseded

3. The January 3, 1944, Supplemental Contract with the
State of Nevada for delivery of Colorado River Water, Contract
No. 11r-1399, and the November 12, 1981, Amendatory Contract with
the State of Nevada for delivery of Colorado River Water,
Contract No. 1-07-30-W0022, are hereby cancelled so as to no
longer be in force or effect and are superseded by this
amendatory and supplementary contract.

Renumbering of Articles 2, 3 and 4

4. Articles 2, 3, and 4, respectively, of the original
contract are hereby renumbered as subarticle (a) of article 2,
subarticle (b) of article 2 and article 3, respectively.
Addition of New Article 4 "Definitions"

5. The original contract is hereby amended by adding thereto a new article, designated as article 4, following article 3, to read as follows:

Definitions

4. As used in this Contract, unless the context otherwise requires:

(a) "Consumptive use" means deliveries from the mainstream less such return flow thereto as is available for consumptive use in the United States or in the satisfaction of the Mexican Treaty obligation.

(b) "Contracting officer" means the Secretary or his designated representative.

(c) "Decree" means the March 9, 1964, Decree of the Supreme Court of the United States in Arizona v. California et al. (376 U.S. 340), as supplemented by the court.

(d) "Domestic use" includes the use of water for household, stock, municipal, mining, milling, industrial and other like purposes, but excludes the generation of electrical power.

(e) "Mainstream" means the mainstream of the Colorado River downstream from Lee Ferry within the United States, including the reservoirs thereon.
(f) "Project" means the Boulder Canyon Project as authorized and constructed pursuant to the Boulder Canyon Project Act of December 21, 1928, as amended and supplemented.

(g) "Secretary" means the Secretary of the Interior of the United States or his authorized representative.

(h) "Year" means a calendar year.

Amendment of Article 5 "Delivery of Water by the United States"

6. Article 5 of the original contract is hereby amended to read as follows:

5. (a) Subject to the availability thereof for use in Nevada under the provisions of the Colorado River Compact and the Boulder Canyon Project Act, the United States shall deliver to the State each year at a point or points to be selected by the State and approved by the Secretary, so much water, including only water diverted for use within the State from the Colorado River mainstream, as may be necessary to supply the State a total quantity not to exceed 300,000 acre-feet of annual consumptive use. This water may be used only within the State, and exclusively for irrigation and domestic use.

(b) In addition to the water to be delivered to the State pursuant to subarticle (a), the United States shall also deliver for use in Nevada, at points of diversion to be selected by the State and approved by the
Secretary, for the uses set forth in subarticle (a), 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 the Colorado River Compact, the Boulder Canyon Project Act, and the Decree.

(c) Water agreed to be delivered to the State under this Contract shall be delivered continuously as far as reasonable diligence will permit, but the United States shall not be obligated to deliver water to the State when for any reason, as conclusively but not arbitrarily determined by the Secretary, such delivery would interfere with the use of Hoover Dam or Lake Mead for river regulation, improvement of navigation, flood control, or for the satisfaction of allocations made respecting the State in subdivision D of Division II of the Decree.

(d) The United States reserves the right, for the purpose of investigation, inspection, maintenance, repairs and replacement or installation of equipment or machinery at Hoover Dam, to discontinue temporarily or reduce the amount of water to be delivered hereunder, but so far as feasible the United States will give the State reasonable notice in advance of such temporary discontinuance or reduction. The United States, its officers, agents and
employees shall not be liable for damages when, for any reason whatsoever, suspensions or reductions in delivery of water occur.

(e) This contract is for permanent service, and is made subject to the express condition that the State, upon request of the Secretary, shall submit in writing prior to January 1st of any year, an estimate of the amount of water to be required under this contract for the succeeding year.

(f) Subject to the restrictions contained in this subarticle, the State may enter into subcontracts with other entities for the delivery for domestic use in the service areas designated in Exhibit A, which is attached hereto and by this reference made a part of this contract, of 10,000 acre-feet per year out of the mainstream Colorado River water allocated to the State in Subarticle 5(a). No water may be delivered under a subcontract executed pursuant to this subarticle to lands within the Big Bend service area which are now in Federal ownership until all actions including, but not limited to, transfer of title or lease of title and environmental documentation as required by the Federal agency having management jurisdiction of the lands have been completed as determined by the Secretary or until arrangements, including required environmental documentation, have been
completed for delivery of water to those lands for Federal purposes. All such subcontracts shall include provisions which bind the subcontractors to the terms of this contract, and shall further provide that 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"

7. Article 8 of the original contract and its title are hereby amended to read as follows:

Books, Records, and Reports

8. The State shall establish and maintain accounts and other books and records pertaining to its financial transactions, land use and crop census, water supply, water use, changes of project works, 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.

Amendment of Article 9 "Charge for Delivery of Water"

8. Article 9 of the original contract is hereby amended to read as follows:

9. (a) Except for deliveries to Federal agencies, a charge of $0.50 per acre-foot shall be made during the Hoover Dam cost-repayment period for the diversion of water by the State under this contract. The amount of this charge may be reduced by the Secretary if, in his opinion, studies
show that the charge is too high. After the Hoover Dam cost-repayment period, charges shall be made on such basis as may be prescribed by the Congress. Charges shall be made against the State only for the number of acre-feet of water actually diverted by it.

(b) Beginning on March 1, 1984, and on March 1 of each year thereafter, the State shall pay the United States $100 to cover the costs associated with the administration of water deliveries to the service areas designated in Exhibit A. The United States reserves the right, beginning on March 1, 1989, and at intervals of 5 years thereafter, to examine the charge to be paid pursuant to this subarticle and, after notice to the State and an opportunity for the State to be heard, to modify the charge.

Amendment of Article 10 "Billing and Payments"

9. Article 10 of the original contract is hereby amended to read as follows:

10. (a) The State shall pay monthly for all water delivered to it under this contract at the rate established under subarticle 9(a). The United States shall submit bills to the State by the tenth day of each month immediately following the month during which the water is delivered and payments are due on the first day of the month immediately succeeding.
(b) Except as provided in subarticle (c), if the charge described in subarticle 9(a) is not paid when due, an interest charge of 1 percent of the amount unpaid shall be added thereto as liquidated damages and, thereafter, as further liquidated damages, an additional interest charge of 1 percent of the principal sum unpaid shall be added on the first day of each succeeding calendar month until the amount due, including the interest, is paid in full.

(c) If the charges made under subarticle 9(a) for water delivered within the service area specified in Exhibit A or the administrative charge described in subarticle 9(b) are not paid when due, the State shall pay a percentage rate on those charges which shall be calculated by the Department of the Treasury and published quarterly in the Federal Register. The rate of this late payment charge shall not be less than 0.5 percent per month. The rate of the late payment charge on an overdue payment remains in effect until the payment is received. The rate of the late payment charge for a 30-day period shall be determined on the day immediately following the due date and shall be applied to the overdue payment for any portion of the 30-day period of delinquency. Any amounts received in payment shall be applied first to the late charge on the overdue payment and then to the overdue payment.
Amendment of Article 13 "Rules and Regulations"

10. Article 13 of the original contract is hereby amended to read as follows:

13. (a) The parties agree that the delivery of irrigation water pursuant to this contract is subject to the acreage and ownership limitation and pricing provisions of Reclamation Law, as amended and supplemented, including but not limited to the Reclamation Reform Act of 1982 (Public Law 97-293).

(b) The State further agrees to abide by final rules and regulations promulgated by the Secretary covering the enforcement and administration of those limitations and provisions of the Reclamation Law as amended and supplemented by the Reclamation Reform Act of 1982, including the payment of full costs as provided therein.

(c) The Secretary has the right to make, after an opportunity has been offered to the State for consultation, rules and regulations consistent with the provisions of this contract, the laws of the United States and the State of Nevada, to add to or to modify them as may be deemed proper and necessary to carry out this contract, and to supply necessary details of its administration which are not covered by express provisions of this contract. The State shall observe such rules and regulations.

(d) Where the terms of this contract provide for action to be based upon the opinion or determination of either party to this contract, whether or not stated, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. In the event that the State questions any factual determination made by the Secretary, the findings as to the facts shall be made by the Secretary only after consultation with the State and shall be conclusive upon the parties.

Amendment of Article 20 "Notices"

11. Article 20 of the original contract is hereby amended to read as follows:
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, Mail Room Complex, Las Vegas, Nevada 89158. 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

12. The original contract is hereby amended by adding thereto 5 new articles, designated articles 23 to 27, inclusive, respectively, following article 22, to read 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 the 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 shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

Equal Opportunity Clause

25. 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 discrimination because of 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 said labor union or workers' 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, 1965, 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 clauses of this contract or with any of such 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 paragraph (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

26. (a) The State agrees that it will comply with Title VI of 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 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 State receives financial assistance from the United States and hereby gives assurances 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

27. Pursuant to 43 CFR 417.2, the Contracting Officer will, prior to the beginning of each calendar year, consult with the State 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.

Original Contract to Remain in Full Force and Effect

13. Except as expressly modified herein, the original contract shall remain in full force and effect.

Contract Contingent Upon Appropriations or Allotment of Funds

14. The expenditure or advance of any money or the performance of any work by the United States hereunder which may require appropriation of money by the Congress or the
allotment of funds shall be contingent upon such appropriation or allotment being made. The failure of Congress to appropriate funds or the absence of any allotment of funds shall not relieve the State 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

15. (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 No. 4-07-30-W0041 the day and year first above written.

STATE OF NEVADA

By
Chairman
Colorado River Commission
of Nevada

Approved as to form
Attorney General of the State
Nevada

Ratified and Approved:
Governor of the State of Nevada

UNITED STATES OF AMERICA

By
Regional Director
Lower Colorado Region
Bureau of Reclamation

Approved:
Commissioner
Bureau of Reclamation