



## COLORADO

### Colorado Water Conservation Board

Department of Natural Resources  
1313 Sherman Street, Room 718  
Denver, CO 80203  
303-866-3441

October 22, 2025

San Luis Valley Irrigation District  
PO Box 637  
Center, CO 81125

#### Loan Compliance Confirmation - C153386

Attached for your records are the original documents related to the agreement between the San Luis Valley Irrigation District and the Colorado Water Conservation Board (CWCB), Loan Contract No. C153386. The documents have been stamped "PAID IN FULL" denoting that the District has satisfied the terms of the agreement in full.

Should you have any questions, please contact me by email at [mimi.winter@state.co.us](mailto:mimi.winter@state.co.us). If we can be of any further assistance to you in the future, please let us know.

Sincerely,

*Mimi Winter*

Mimi Winter, Finance Manager  
Finance Section

Attachments

cc: CWCB Files



AGENCY NAME: Water Conservation Board

AGENCY NUMBER: PDA

ROUTING NUMBER: 02 PDA 00041

## CONTRACT AMENDMENT No. 2

**THIS AMENDMENT**, made this 1<sup>st</sup> day of November 2001, by and between the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB" and/or "STATE"), and The San Luis Valley Irrigation District, 296 Miles Street, Center, Colorado 81125 ("CONTRACTOR").

### FACTUAL RECITALS

1. Authority exists in the law, and funds have been budgeted, appropriated, and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in Fund Number 424, Contract Encumbrance Number C153386; and
2. Required approval, clearance, and coordination has been accomplished from and with appropriate agencies; and
3. The CWCB and the CONTRACTOR entered into a contract dated June 1, 1982, Contract Encumbrance Number C153386, as amended on August 15, 1986, hereinafter referred to as ORIGINAL CONTRACT, incorporated herein by reference, wherein the CWCB agreed to grant and loan money in the total amount of \$1,134,500, and the CONTRACTOR agreed to repay the loan in accordance with the terms of the ORIGINAL CONTRACT.
4. Section 37-60-120 (3), C.R.S., authorizes the CWCB to defer an annual loan payment if, in the CWCB's opinion, the entity requesting such deferral demonstrates that it has encountered significant and unexpected financial difficulties and that it has been duly diligent in its efforts to comply with the repayment provisions of its contract with the CWCB.
5. The CONTRACTOR submitted a letter dated September 24, 1999, which describes the significant and unexpected economic losses suffered by the CONTRACTOR and its shareholders during 1999 due to high releases of water from the Rio Grande Reservoir that damaged the outlet works. Said letter requested that the August 2000 loan payment in the amount of \$30,014.20 be deferred for one year until August 2001.
6. The CWCB has reviewed the situation described by the CONTRACTOR and is satisfied that CONTRACTOR encountered significant and unexpected financial difficulties, and that it has been duly diligent in its efforts to comply with the repayment provisions of the ORIGINAL CONTRACT.
7. At its November 22-23, 1999 meeting, the CWCB approved deferral of the 2000 payment, pursuant to § 37-60-120(3), C.R.S., for one year, with the interest accruing during the deferral added to the principal loan amount and the loan reamortized based on the 5% per annum interest rate and 25 years remaining on the term of the loan.
8. The Original Contract provided for a loan from the CWCB to the Contractor in the amount of



\$1,134,500 and a subsequent grant in the amount of \$619,500, resulting in a final loan amount of \$515,000. However, an audit of the loan revealed that the Contractor used only \$1,133,304.70 of the loan funds. Paragraph L of the Original Contract provides that in the event the project is less than \$1,134,500, the grant portion and the loan portion shall both be adjusted downward proportionately. Based upon the \$1,195.30 in loan funds not used by the Contractor, the loan amount is reduced by \$542.60 to a final loan amount of \$514,457.40.

9. In 1986, the Board approved a deferral of the CONTRACTOR'S annual payment due to construction cost overruns and time delays. The Board granted the deferral with no interest charge and extended the loan repayment period by one year.
10. In 1993, the Board approved a deferral of the annual payment due to a storage restriction placed on the Rio Grande Reservoir by the State Engineer's Office due to seepage from the left abutment, and the resulting unexpected \$77,000 repair to the reservoir. The Board granted the deferral with not interest charge and extended the loan repayment period by one year.
11. The parties agree to amend the ORIGINAL CONTRACT to (1) establish the actual final loan amount, (2) acknowledge the 1986 and 1993 deferrals, and (3) defer the 2000 annual payment.

NOW THEREFORE, the parties hereby agree that

1. Consideration for this Amendment to the ORIGINAL CONTRACT consists of the payments which shall be made pursuant to this Amendment and ORIGINAL CONTRACT and the promises and agreements herein set forth.
2. It is expressly agreed by the parties that this Amendment is supplemental to the ORIGINAL CONTRACT, and all terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.
3. It is agreed the ORIGINAL CONTRACT is and shall be modified in the following respects only:

- a. **Paragraph A.12** is replaced by the Promissory Note, attached hereto as **Appendix 1** and incorporated herein, in the amount of \$451,894.79 which is the loan amount as of August 1, 2001, and reflects the decrease of \$542.60 to the initial loan amount and the addition of the accrued interest in the amount of \$21,519.74 for the deferral of the August 2000 loan payment.

- b. **Paragraph K** is replaced by the following:

Upon complete repayment of the loan and all accrued interest, the CWCB agrees to convey to the Contractor all of the CWCB's right, title and interest in and to the property conveyed to the CWCB by the Contractor under Warranty Deed dated October 5, 1988, by deed or other proper conveyance.

- c. **Special Provisions** are amended by the addition of the following:

*Pursuant to CRS 24-30-202.4 (as amended), the state controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, CRS; (c) unpaid loans due to the student loan division of the department of higher education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the*

state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller

4. Except for the SPECIAL PROVISIONS, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the ORIGINAL CONTRACT, the provisions of this Amendment shall in all respects supersede, govern, and control. The SPECIAL PROVISIONS shall always be controlling over other provisions in the contract or amendments. The representations in the SPECIAL PROVISIONS concerning the absence of bribery or corrupt influences and personal interest of STATE employees are presently reaffirmed.
5. Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
6. This amendment shall not be deemed valid or effective until it shall have been approved by the controller of the State of Colorado or such assistant as he may designate.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment on the day first above written.

CONTRACTOR San Luis Valley Irrigation  
District

By David W. Graham  
David W. Graham, President

Federal ID Number: 84-60002934

Attest (Seal)

By Janet L. Evans  
Jan Evans, Secretary

State of Colorado  
Bill Owens, Governor

By Rod Kuharich  
For the Executive Director  
Department of Natural Resources  
COLORADO WATER CONSERVATION BOARD  
Rod Kuharich, Director

#### APPROVALS

KEN SALAZAR, ATTORNEY GENERAL

By Robert D. Salazar

ARTHUR BARNHART, STATE CONTROLLER

By Freddie Anderson  
Effective Date 12/17/01



Resorption no 80457

Filed for record the 24<sup>th</sup> day of Oct 1988 at 8:00 AM

Olita Behout, Assessor & Recorder

By Judy Berry, Deputy

Book 129

Page 472

State Documentary Fee

Date 10-24-88

\$ no fee

WARRANTY DEED

THIS DEED, made this 5th day of October, 1988, between the SAN LUIS VALLEY IRRIGATION DISTRICT (the "District") whose address is 296 Miles Street, Center, County of Saguache, State of Colorado and the COLORADO WATER CONSERVATION BOARD (the "CWCB") whose address is 721 State Centennial Building, 1313 Sherman Street, City and County of Denver, State of Colorado.

The District for and in consideration of the covenants and promises stated in its Contract with the CWCB dated June 1, 1982, Contract Encumbrance Number C-153386 (the "Contract"), conveys to the CWCB the following property located in the County of Rio Grande, State of Colorado, which property is appurtenant to and used in conjunction with that structure commonly known as the Rio Grande Reservoir, to wit:

a. Brass seals on the three eight-foot-high by three-foot-wide cast iron gates, located at the dam outlet works;

b. Ten plus or minus cubic yards of concrete to be located at the outlet works tunnel adjacent to the gates;

c. One hundred plus or minus cubic yards of concrete to be located at the dam toe;

d. Six hundred fifty plus or minus feet by twenty plus or minus feet of access road located at the dam toe;

e. Twenty-six thousand plus or minus cubic yards of rockfill to be located on the embankment as shown in Appendix A to the Contract;

f. Four hundred plus or minus cubic yards of riprap and sixty plus or minus cubic yards of concrete to be located as shown in Appendix A of the Contract;

g. Two four-inch-diameter observation wells about one hundred feet deep each, to be cased with one and one-half inch PVC pipe and located at the north abutment, as shown in Appendix A to the Contract;

h. Two six-inch Parshall flumes with Stevens recorders to be installed at the toe of the enlarged dam;

i. Radio equipment to provide for two-way voice transmission;

j. Two inclinometer holes about 100 feet deep with 4-inch casing and 2-inch inner casing, to be located at the north abutment, as shown in Appendix A to the Contract;

Together with all the estate, right, title, interest, claim and demand whatsoever of the District, either in law or equity of, in and to the above conveyed property.

TO HAVE AND TO HOLD the property described above pursuant to the terms and conditions of paragraph K of the Contract. The District covenants and agrees that at the time of the delivery of these properties, the District is well seized of the property above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and restrictions of all kind whatsoever, except:

The encumbrances and restrictions stated in the Contract, dated June 1, 1982, Contract Encumbrance Number C-153386

and warrants title to the same.

IN WITNESS WHEREOF, the District has caused its name to be hereunto subscribed by its President, and its seal to be hereunto affixed, attested by its Secretary, the day and year first written above.

THE SAN LUIS VALLEY IRRIGATION DISTRICT

By: Bill V. Kopfman  
Bill V. Kopfman, President

ATTEST:

Doris Perkins  
Doris Perkins, Secretary





STATE OF COLORADO     )  
                              ) ss.  
COUNTY OF SAGUACHE    )

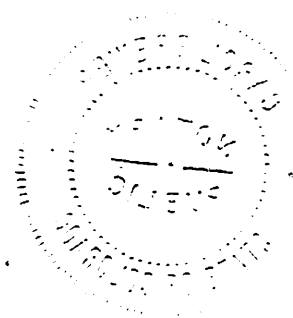
The foregoing instrument was acknowledged before me this 5th  
day of October, 1988, by Bill V. Kopfman as President  
and Doris Perkins as Secretary of the San Luis Valley Irrigation  
District.

My commission expires: 11-25-89

Witness my hand and official seal.

Carol Bremer  
Notary Public





*After recording, return to:*

**CARLSON, HAMMOND & PADDOCK**  
Attorneys at Law  
1700 Lincoln Street, Suite 2750  
Denver, Colorado 80203



# Promissory Note

Date: November 1, 2001

1. FOR VALUE RECEIVED, the San Luis Valley Irrigation District ("BORROWER") promises to pay the State of Colorado Water Conservation Board ("CWCB"), the principal sum of Four Hundred Fifty One Thousand Eight Hundred Ninety Four & 79/100 Dollars (\$451,894.79) plus interest at the rate of Five percent (5%) per annum for a term of Twenty Five (25) years, pursuant to Loan Contract No. C153386 dated June 1, 1982, as amended on November 1, 2001 ("LOAN CONTRACT").
2. This Promissory Note replaces and supersedes the repayment terms of Paragraph A.12 of LOAN CONTRACT.
3. Principal and interest shall be payable in equal installments of \$32,063.05, with the first payment due and payable on August 1, 2001, and annually thereafter until all principal and interest have been paid in full. All principal and interest then remaining unpaid shall be due and payable 25 years thereafter.
4. Payments shall be made payable to the Colorado Water Conservation Board and mailed to 1313 Sherman Street, Room 721, Denver, Colorado 80203.
5. This Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT grants additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.
8. If any annual payment is not paid when due or any default under the LOAN CONTRACT, the CWCB may declare the entire outstanding principal balance of the Note and all accrued interest immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER, any guarantor, and any other person who is now or may hereafter become primarily or secondarily liable for the payment of this Note or any portion thereof hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

(SEAL)

BORROWER: San Luis Valley Irrigation District

By David W. Graham  
David W. Graham, President

Attest:

By Janet L. Evans  
Secretary

**Appendix 1 to Contract C153386 Amendment No. 2**



**SPECIAL PROVISIONS****CONTROLLER'S APPROVAL**

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

**FUND AVAILABILITY**

2. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

**BOND REQUIREMENT**

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public works for this State, the contractor shall, before entering the performance of any such work included in this contract, duly execute and deliver to and file with the official whose signature appears below for the State, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the due and faithful performance of the contract, and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provendor or other supplies used or consumed by such contractor or his subcontractor in performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond, when so required, is executed, delivered and filed, no claim in favor of the contractor arising under this contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with 38-26-106 CRS, as amended.

**INDEMNIFICATION**

4. To the extent authorized by law, the contractor shall indemnify, save and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

**DISCRIMINATION AND AFFIRMATIVE ACTION**

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (24-34-402, CRS 1982 Replacement Vol.), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. *Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.*

**PAID IN FULL**

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.

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

(3) The contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.

(4) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(5) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity, because of race, creed, color, sex, national origin, or ancestry.

(6) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt, either directly or indirectly, to commit any act defined in this contract to be discriminatory.



C-153386

DEPARTMENT OR AGENCY NUMBER
-04-00
CONTRACT ROUTING NUMBER
87055

No encumbrance

## CONTRACT AMENDMENT

THIS CONTRACT, made this 15th day of August 198 6, by and between the State of Colorado for the use and benefit of the Department of '1 Natural Resources (Colorado Water Conservation Board), hereinafter referred to as the State, and '2 the San Luis Valley Irrigation District, 296 Miles St., Center, CO 81125, hereinafter referred to as the contractor,

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in Fund Number 4008, G/L Account Number 5605X, Contract Encumbrance Number C153386, and ABL Account Number 16052, Org. Unit 77-77-777,

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, the State and the Contractor did, on June 1, 1982, enter into a contract for State participation in the repairs of the existing Rio Grande Dam for the benefit of the members of the Irrigation District in Hinsdale County, which contract is attached hereto as Exhibit A and is hereby incorporated herein; and

WHEREAS, because of technical reasons, construction on the project was not completed within the time specified in the contract.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is agreed by the parties hereto that that certain contract attached hereto as Exhibit A and incorporated herein by reference be extended until August 15, 1987. All other terms and provisions of that certain contract dated June 1, 1982, shall remain in full force and effect.





(7) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraph (1) through (8) in every sub-contract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

#### COLORADO LABOR PREFERENCE

6 a. Provisions of 8-17-101 & 102, CRS for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

b. When a construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements (section 8-19-101 and 102, CRS).

#### GENERAL

7. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. At all times during the performance of this Contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules and regulations that have been or may hereafter be established.

9. The signatories hereto aver that they are familiar with 18-8-301, et. seq., (Bribery and Corrupt Influences) and 18-8-401, et. seq., (Abuse of Public Office), CRS 1978 Replacement Vol., and that no violation of such provisions is present.

10. The signatories aver that to their knowledge, no state employee has a personal or beneficial interest whatsoever in the service or property described herein:

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day first above written.

Contractor : SAN LUIS VALLEY  
(Full Legal Name) IRRIGATION DISTRICT

Bill F. Koffman

Position (Title) (Pres)

84-6002934

Social Security Number or Federal I.D. Number

STATE OF COLORADO  
RICHARD D. LAMM, GOVERNOR

By David H. Getches  
\*5 EXECUTIVE DIRECTOR  
DAVID H. GETCHES

DEPARTMENT  
OF NATURAL RESOURCES

(If Corporation:)

Attest (Seal) Loris O. Perkins  
By Loris O. Perkins  
Corporate Secretary, or Equivalent, Town/City/County Clerk

COLORADO WATER CONSERVATION BOARD

By William McDonald  
W. WILLIAM McDONALD, DIRECTOR

#### APPROVALS

CONTROLLER

By James A. Stroup  
JAMES A. STROUP

ATTORNEY GENERAL  
Duane Woodard

By A.H. Jewell, Jr.  
A.H. JEWELL, JR.  
First Assistant Attorney General  
General Legal Services



Ac 83 / 1004

DEPARTMENT OR AGENCY NUMBER
3-04-00
CONTRACT ROUTING NUMBER
83046

\$1,040,000

## CONTRACT

THIS CONTRACT, made this 1st day of June 1982, by and between the State of Colorado for the use and benefit of the Department of '1 Natural Resources (Colorado Water Conservation Board), hereinafter referred to as the State, and '2 the San Luis Valley Irrigation District, 296 Miles Street, Center, Colorado 81125, hereinafter referred to as the contractor,

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in Fund Number 4008, G/L Account Number 5605X, Contract Encumbrance Number C/53386, and ABL Account Number 16052, Org. Unit 77-77-777,

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, pursuant to the provisions of 37-60-119, Colorado Revised Statutes 1973, as amended, the State is authorized to construct certain water projects for the benefit of the people of the State; and

WHEREAS, the Contractor is an irrigation district in the State of Colorado and wishes to undertake repairs to the existing Rio Grande Dam, hereinafter called the project, for the members of the irrigation district in Hinsdale County, Colorado, at an estimated cost of One Million One Hundred Thirty-Four Thousand Five Hundred Dollars (\$1,134,500); and

WHEREAS, a feasibility investigation of said project was conducted and it was found that such a project is economically feasible; and

WHEREAS, the State has agreed to construct said project and to sell the same to the Contractor upon mutually agreeable terms and conditions, subject to the availability of funding for that purpose; and

WHEREAS, pursuant to Senate Bill No. 87, Fifty-Fourth General Assembly of the State of Colorado, duly enacted into law, the Colorado Water Conservation Board has been authorized to expend a sum not to exceed One Million One Hundred Thirty-Four Thousand Five Hundred Dollars (\$1,134,500) for construction of the project;

NOW THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is agreed by the parties hereto as follows:

A. The Contractor agrees that it shall:

1. Employ an engineering firm to prepare project plans and specifications for the proposed project. Both the engineering firm and the project plans and specifications shall be approved by the State.

2. Subcontract the construction of said project to a responsible and capable firm, said project to be completed within two (2) years of the date of this contract in accordance with the project plans and specifications and any necessary modification thereof approved by the State. The State must approve, in writing, all subcontracts before they become effective. The above-mentioned time may be extended by the State if such time is insufficient because of acts of God or other acts or circumstances beyond the control of the Contractor.



3. Require all Subcontractors to indemnify the State and the Contractor against all liability and loss, and against all claims and actions based upon or arising out of damage or injury, including death, to persons or property caused by or sustained in connection with the performance of any subcontract or by conditions created thereby, or based upon any violation of any statute, ordinance, or regulation, and the defense of any such claims or actions.

4. Require all Subcontractors to maintain liability insurance in at least the following amounts:

- a. For any injury to one person in any single occurrence, the sum of One Hundred Fifty Thousand Dollars (\$150,000).
- b. For any injury to two or more persons in any single occurrence, the sum of Four Hundred Thousand Dollars (\$400,000).

Said liability insurance shall name the Contractor and the State as co-insureds. No payments shall be made under this contract unless a copy of a certificate of said liability insurance has been filed with the Colorado Water Conservation Board.

5. Convey or cause title to be conveyed by warranty deed to the Colorado Water Conservation Board, Department of Natural Resources, State of Colorado, the following portions of the proposed project facilities within thirty (30) days of their completion:

- a. Brass seals on the three eight-foot-high by three-foot-wide cast iron gates, located at the dam outlet works.
- b. Ten plus or minus cubic yards of concrete to be located at the outlet works tunnel adjacent to the gates.
- c. One hundred plus or minus cubic yards of concrete to be located at the dam toe.
- d. Six hundred fifty plus or minus feet by twenty plus or minus feet of access road located at the dam toe.
- e. Twenty-six thousand plus or minus cubic yards of rockfill to be located on the embankment as shown in Appendix A.
- f. Four hundred plus or minus cubic yards of riprap and sixty plus or minus cubic yards of concrete to be located as shown in Appendix A.
- g. Two four-inch-diameter observation wells about one hundred feet deep each, to be cased with one and one-half inch PVC pipe and located at the north abutment, as shown in Appendix A.
- h. Two six-inch Parshall flumes with Stevens recorders to be installed at the toe of the enlarged dam.
- i. Radio equipment to provide for two-way voice transmission.
- j. Two inclinometer holes about 100 feet deep with 4-inch casing and 2-inch inner casing, to be located at the north abutment, as shown in Appendix A.



The warranty deed must be recorded by the Contractor in the proper county or counties and all transfer taxes shall be paid by the Contractor.

6. Permit periodic inspection of construction by authorized representatives of the State during and after construction.

7. Without expense to the State, manage, operate, and maintain the project system continuously in an efficient and economical manner, and assume all legal liability for such management, operation, and maintenance. The Contractor shall maintain general liability insurance covering its management, operation, and maintenance of the project system until it has completed purchase of the project system from the State in at least the following amounts:

a. For any injury to one person in any single occurrence, the sum of One Hundred Fifty Thousand Dollars (\$150,000).

b. For any injury to two or more persons in any single occurrence, the sum of Four Hundred Thousand Dollars (\$400,000).

Said liability insurance shall name the State as a co-insured. A copy of a certificate of said liability insurance must be filed with the Colorado Water Conservation Board prior to the start of the operation of the project system.

**PAID IN FULL**

8. Make the services of said project available within its capacity to all persons in the Contractor's service area without discrimination as to race, color, religion, or natural origin at reasonable charges including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, formally adopted by the Contractor through its board of directors, as may be modified from time to time by the Contractor. The initial rate schedule must be approved by the State. Thereafter, the Contractor may, subject to the approval of the State, make such modifications to the rate schedule as the Contractor deems necessary to efficiently and economically provide for the financial requirements of the system as long as the rate schedule remains reasonable and non-discriminatory.

9. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair services, obsolescence reserves, and debt reserves.

10. Expand the system from time to time to meet reasonable growth or service requirements in the area within its jurisdiction.

11. Provide the State with such periodic reports as it may require and permit periodic inspections of its operations and accounts by a designated representative of the State.

12. Purchase from the State all of the State's right, title, and interest in said project and any facilities thereof at a total purchase price of One Million Two Hundred Thousand Five Hundred Sixty-Eight Dollars (\$1,200,568) payable in forty (40) annual installments of Thirty Thousand Fourteen Dollars and Twenty Cents (\$30,014.20) each, which first installment shall be due and payable on June 1, 1984, and yearly thereafter until the entire principal sum shall have been paid. Said installment payments shall be made payable to the Colorado Water Conservation Board, payable at the offices of said Board in Denver, Colorado.



13. Comply with Construction Fund Program Procedures attached hereto as Schedule A.

14. Comply with the provisions of Section 5 of S.B. 439, 1981 Session of the Colorado General Assembly.

15. Not sell, convey, assign, grant, transfer, or otherwise dispose of the project or any portion thereof, so long as any of the annual installments required by paragraph A.12. above remain unpaid, without the prior written concurrence of the State.

B. Upon default in the payments herein set forth to be made by the Contractor, or in the performance of any covenant or agreement contained herein, the State, at its option, may (a) declare the entire principal amount then outstanding immediately due and payable; (b) for the account of the Contractor incur and pay reasonable expenses for repair, maintenance, and operation of the system herein described and such expenses as may be necessary to cure the cause of default; and/or (c) take possession of the system, repair, maintain, and operate or lease it. The provisions of this contract may be enforced by the State at its option without regard to prior waivers by it of previous defaults by the Contractor, through judicial proceedings to require specific performance of this contract or by such other proceedings in law or equity as may be deemed necessary by the State to insure compliance with provisions of this contract and the laws and regulations under which this contract is made.

C. The State agrees that it shall:

1. Make available to the Contractor for the purpose of this contract not to exceed the sum of One Million Forty Thousand Dollars (\$1,040,000). Said One Million Forty Thousand Dollars (\$1,040,000) shall be made available to the Contractor in accordance with the following terms and conditions:

a. Beginning with the monthly period commencing June 1, 1982, and for every month thereafter until said project has been completed, the Contractor shall prepare with the assistance of the consulting engineer referred to in paragraph A.1. above an estimate of the funds required from the State for project construction during that month and shall forward said estimate to the State not less than fifteen (15) days prior to the beginning of such month.

b. Upon receipt and approval by the State of such monthly estimate, the State will, within forty (40) days from the receipt of such estimate, pay over to the Contractor the amount of the monthly estimate or such portion thereof as has been approved by the State.

c. No payments will be made under this contract until the project plans and specifications referred to in paragraph A.1. above are approved by the State.

2. Provide the Contractor with such technical assistance as the State deems appropriate in planning, constructing, and operating the project and in coordinating the project with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.



D. The State Engineer's certification to the Board, as required by Section 4(c) of Senate Bill 87 (1982 session), that an operating agreement satisfactory to him for the State's use of the reservoir for compact purposes and the signed agreements are hereby appended and made a part of this contract (Appendices B, C, and D).

E. Six Hundred Nineteen Thousand Five Hundred Dollars (\$619,500) of the State's cost for the project shall be nonreimbursable in recognition of the fact that the State shall receive the right from the owner of the reservoir to use a portion of the reservoir's storage capacity for the purposes of meeting Colorado's obligations under the Rio Grande Compact, Section 37-66-101, Colorado Revised Statutes 1973, and of maximizing the use of compact-allocated waters in Colorado, according to Appendices B, C, and D.

F. This contract is not assignable by the Contractor except with written approval of the State.

G. The Contractor shall not convey or sell any portion of the project without prior written authorization from the State until the Contractor has completed its payment obligation as set forth in paragraph A.12. above. The parties to this contract intend that the relationship between them contemplated by this contract is that of employer-independent contractor. No agent, employee, or servant of the contractor shall be or shall be deemed to be an employee, agent, or servant of the State. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, and Subcontractors during the performance of this contract.

H. At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws that have been or may hereafter be established.

I. This agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to the state fiscal rules.

J. In its sole discretion, the State may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of the Contractor's obligations under this agreement, with or without valuable consideration, upon such terms and conditions as the State may determine to be (a) advisable to further the purposes of this contract or to protect the State's financial interest therein, and (b) consistent with both the statutory purposes of this contract and the limitations of the statutory authority under which it is made.

K. Upon completion of the payment of the full purchase price to the State in the sum of One Million Two Hundred Thousand Five Hundred Sixty-Eight Dollars (\$1,200,568) as set forth in paragraph A.12. of this contract, the State agrees to convey to the Contractor all of the State's right, title, and interest in and to the project by deed or other proper conveyance.

L. Should the cost of constructing the project be less than the appropriated money One Million One Hundred Thirty-Four Thousand Five Hundred Dollars (\$1,134,500), the nonreimbursable

amount of the project funding of Six Hundred Nineteen Thousand Five Hundred Dollars (\$619,500) and the reimbursable part of Five Hundred Fifteen Thousand Dollars (\$515,000) shall both be adjusted downward proportionately.

M. Should the cost of constructing the project be more than the appropriated money, the nonreimbursable amount of the project funding of Six Hundred Nineteen Thousand Five Hundred Dollars (\$619,500) and the reimbursable part of Five Hundred Fifteen Thousand Dollars (\$515,000) shall both be adjusted upwards proportionately.

N. The Colorado Water Conservation Board, its agents and employees, is hereby designated as the agent of the State for the purpose of this contract.

**PAID IN FULL**



## CONTROLLER'S APPROVAL

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

## FUND AVAILABILITY

2. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

## BOND REQUIREMENT

3. If this contract involves the payment of more than ten thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public work for this State, the contractor shall, before entering upon the performance of any such work included in this contract, duly execute and deliver to and file with the official whose signature appears below for the State, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the due and faithful performance of the contract, and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such contractor or his subcontractor in performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond, when so required, is executed, delivered and filed, no claim in favor of the contractor arising under this contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order made payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond.

## MINIMUM WAGE

4. Except as otherwise provided by law, if this contract provides for the payment of more than five thousand dollars and requires or involves the employment of laborers or mechanics in the construction, alteration or repair of any building or other public work, (except highways, highway bridges, underpasses and highway structures of all kinds) within the geographical limits of the State, the rate of wage for all laborers and mechanics employed by the contractor or any subcontractor on the building or public work covered by this contract shall be not less than the prevailing rate of wages for work of a similar nature in the city, town, village or other civil subdivision of the State in which the building or other public work is located. Disputes respecting prevailing rates will be resolved as provided in 8-16-101, CRS 1973, as amended.

## DISCRIMINATION AND AFFIRMATIVE ACTION

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (24-34-301, CRS 1973, as amended), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertisements; lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.

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

(3) The contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.

(4) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(5) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity, because of race, creed, color, sex, national origin, or ancestry.

(6) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt, either directly or indirectly, to commit any act defined in this contract to be discriminatory.



(7) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every sub-contract and sub-contractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each sub-contractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

#### COLORADO LABOR PREFERENCE

6. Provisions of 8-17-101, & 102, CRS 1973 for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

#### GENERAL

7. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. The signatories hereto aver that they are familiar with 18-8-301, et seq., (Bribery and Corrupt Influences) and 18-8-401, et seq., (Abuse of Public Office), C.R.S. 1973, as amended, and that no violation of such provisions is present.

9. The signatories aver that to their knowledge, no state employee has any personal or beneficial interest whatsoever in the service or property described herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first above written.

SAN LUIS VALLEY IRRIGATION  
DISTRICT

Contractor

Position

84-6002934

EMPLOYER I. D. NUMBER

STATE OF COLORADO

RICHARD D. LAMM, GOVERNOR

By

\*5 EXECUTIVE DIRECTOR, D. MONTE PASCOE

DEPARTMENT

OF NATURAL RESOURCES

COLORADO WATER CONSERVATION BOARD

By

J. WILLIAM McDONALD, DIRECTOR

APPROVALS

ATTORNEY GENERAL

J. D. MacFARLANE

CONTROLLER

JAMES A. STROUP

By

A. H. JEWELL, JR.

Assistant Solicitor General

General Legal Services

## **\*INSTRUCTIONS**

(1) Insert official Department designation, e. g., Administration, Local Affairs, etc. as appropriate.

(2) Set forth company(ies) or individual(s) name(s) and address(es).

(3) Insert a brief statement indicating reason for contract, e. g., "The contractor having special knowledge, expertise and skill in diagnosing and testing diseases affecting cattle; and." Use as many "Whereas's" as required. If additional space is required continue to above words "NOW, THEREFORE;" and state "continued on page 2". On page 2, state "Whereas continued from page 1" if required.

(4) Specify clearly the goods or services contracted for, the consideration moving from one party to the other, the time within which the contract is to be executed, limitations on assignments, if any, and special provisions desired, or required. Seek legal assistance when in doubt. Separate each principal item and number consecutively using as many pages as necessary.

(5) If a delegee signs for the Executive Director place the words "FOR THE" before the word "EXECUTIVE"

Autographic, as distinguished from stamped, signatures should, as a minimum, be affixed to the original, which will be filed by the Division of Accounts and Control, and two counterparts, one of which shall be transmitted to the contractor. If there is more than one contractor a copy so signed will be sent to each, thus requiring additional autographic signatures.



Reception no 80451

Filed for record the 24<sup>th</sup> day of Oct 1988 at 8:00 AM

BOOK 127  
Page 472

Oliver Belmont, Insdale Co Recorder

By Judy Berry, Deputy

State Documentary Fee

Date 10-24-88

\$ no fee

### WARRANTY DEED

THIS DEED, made this 5th day of October, 1988, between the SAN LUIS VALLEY IRRIGATION DISTRICT (the "District") whose address is 296 Miles Street, Center, County of Saguache, State of Colorado and the COLORADO WATER CONSERVATION BOARD (the "CWCB") whose address is 721 State Centennial Building, 1313 Sherman Street, City and County of Denver, State of Colorado.

The District for and in consideration of the covenants and promises stated in its Contract with the CWCB dated June 1, 1982, Contract Encumbrance Number C-153386 (the "Contract"), conveys to the CWCB the following property located in the County of Rio Grande, State of Colorado, which property is appurtenant to and used in conjunction with that structure commonly known as the Rio Grande Reservoir, to wit:

a. Brass seals on the three eight-foot-high by three-foot-wide cast iron gates, located at the dam outlet works;

b. Ten plus or minus cubic yards of concrete to be located at the outlet works tunnel adjacent to the gates;

c. One hundred plus or minus cubic yards of concrete to be located at the dam toe;

d. Six hundred fifty plus or minus feet by twenty plus or minus feet of access road located at the dam toe;

e. Twenty-six thousand plus or minus cubic yards of rockfill to be located on the embankment as shown in Appendix A to the Contract;

f. Four hundred plus or minus cubic yards of riprap and sixty plus or minus cubic yards of concrete to be located as shown in Appendix A of the Contract;

g. Two four-inch-diameter observation wells about one hundred feet deep each, to be cased with one and one-half inch PVC pipe and located at the north abutment, as shown in Appendix A to the Contract;

h. Two six-inch Parshall flumes with Stevens recorders to be installed at the toe of the enlarged dam;

i. Radio equipment to provide for two-way voice transmission;

j. Two inclinometer holes about 100 feet deep with 4-inch casing and 2-inch inner casing, to be located at the north abutment, as shown in Appendix A to the Contract;

Together with all the estate, right, title, interest, claim and demand whatsoever of the District, either in law or equity of, in and to the above conveyed property.

TO HAVE AND TO HOLD the property described above pursuant to the terms and conditions of paragraph K of the Contract. The District covenants and agrees that at the time of the delivery of these properties, the District is well seized of the property above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and restrictions of all kind whatsoever, except:

The encumbrances and restrictions stated in the Contract, dated June 1, 1982, Contract Encumbrance Number C-153386

and warrants title to the same.

IN WITNESS WHEREOF, the District has caused its name to be hereunto subscribed by its President, and its seal to be hereunto affixed, attested by its Secretary, the day and year first written above.

THE SAN LUIS VALLEY IRRIGATION DISTRICT

By: Bill V. Kopfman  
Bill V. Kopfman, President

ATTEST:

Doris Perkins  
Doris Perkins, Secretary

PAID IN FULL





STATE OF COLORADO     )  
                                  ) ss.  
COUNTY OF SAGUACHE    )

The foregoing instrument was acknowledged before me this 5th  
day of October, 1988, by Bill V. Kopfman as President  
and Doris Perkins as Secretary of the San Luis Valley Irrigation  
District.

My commission expires: 11-25-89

Witness my hand and official seal.



Carol Brewer  
Notary Public

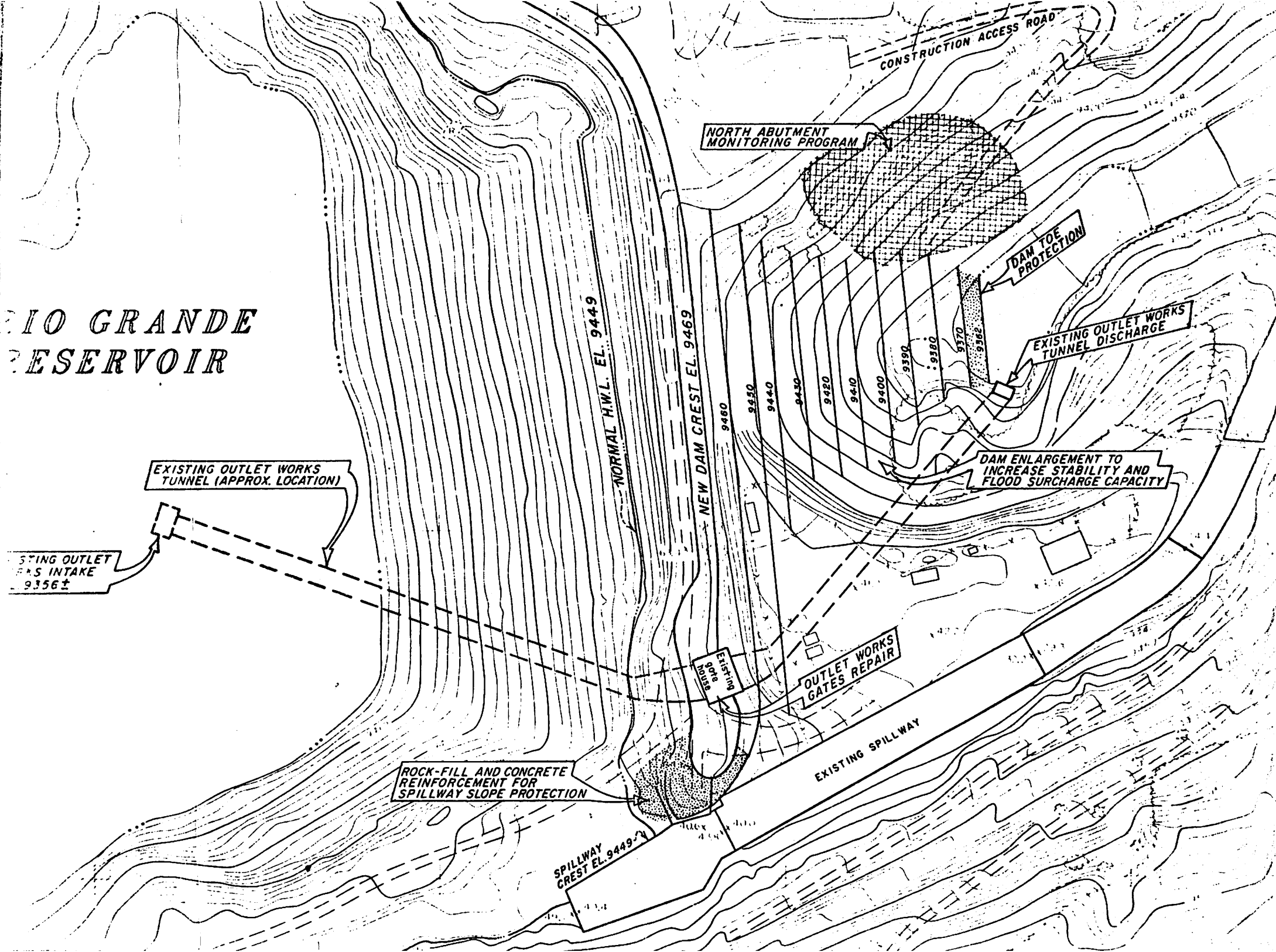
PAID IN FULL

*After recording, return to:*

**CARLSON, HAMMOND & PADDOCK**  
Attorneys at Law  
1700 Lincoln Street, Suite 2750  
Denver, Colorado 80203



# PIO GRANDE RESERVOIR



## SCHEDULE A

### COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND PROGRAM PROCEDURES

1. Board approval of engineering firm and engineering agreement between engineering firm and project sponsor.
2. Preparation of detailed plans and specifications for authorized projects by consulting engineering firm.
3. Approval of detailed plans and specifications by Board staff (plans and specifications for storage dams and reservoirs must also be approved by State Engineer's office).
4. Board staff approval of bidding for the project. Board staff present at bid opening for construction.
5. Project sponsor may issue the notice of award and the notice to proceed with construction to the contractor (both notices must be approved by the Board staff before they are issued).
6. Conduct a pre-construction conference. Approval of construction schedule by Board staff.
7. Construction commences. The Board staff makes periodic inspections during construction. All change orders must be approved by the Board staff in advance and before any construction on change items can commence. Emergency items cleared by telephone.
8. The consulting engineer certifies that the project has been completed according to approved drawings and specifications and arranges for final inspection.
9. Final inspection and acceptance of as-built project by Board staff.
10. Submittal of as-built drawings to Board staff for approval and filing.



RICHARD D. LAMM  
Governor

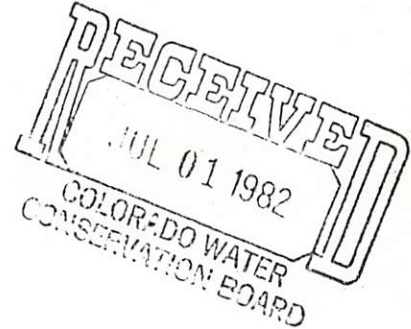


APPENDIX B

JERIS A. DANIELSON  
State Engineer

OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

1313 Sherman Street-Room 818  
Denver, Colorado 80203  
(303) 866-3581  
July 1, 1982




Mr. J. William McDonald, Executive Director  
Colorado Water Conservation Board  
823 Centennial Building  
1313 Sherman Street  
Denver, CO 80203

Dear Bill,

Please find attached the fully executed Agreement and Operating Agreement with respect to the use of Rio Grande Reservoir for Rio Grande Compact storage purposes. In accordance with the Board's resolution and the enabling legislation, you are authorized to release the monies appropriated for the repair of Rio Grande Reservoir dam.

Sincerely,

PAID IN FULL



Jeris A. Danielson  
State Engineer

JAD/pjl

Attachment (a/s)

cc: John Land, Esq. (w/attachments)  
Bill Kopfman (w/attachments)  
Richard Messick (w/attachments)

APPENDIX B

APPENDIX C

OPERATING AGREEMENT

RECEIVED  
JUN 16 1982  
WATER RESOURCES  
STATE ENGINEER  
COLO.

WHEREAS, the San Luis Valley Irrigation District (the District") is the owner of Rio Grande Reservoir (the "Reservoir"), located in Hinsdale County, Colorado;

WHEREAS, the Reservoir requires substantial rehabilitation work in order to meet federal and state safety standards;

WHEREAS, the Reservoir has been utilized for the benefit of all water users diverting from the Rio Grande to aid the State of Colorado in meeting its commitments under the Rio Grande Compact and under the Motion for Continuance and Stay of proceedings in an interstate controversy pending before the United States Supreme Court, Texas and New Mexico v. Colorado (the "Compact and Stay");

WHEREAS, by use of the Reservoir for regulation of Compact deliveries it is estimated that an average quantity of 25,000 a.f. per year can be saved to appropriators from the Rio Grande and over-deliveries to Texas and New Mexico in corresponding and greater amounts can be avoided;

WHEREAS, without use of the Reservoir for Compact regulation, the State of Colorado and its citizens will suffer losses of water allocated to Colorado by Compact;

WHEREAS, it is the policy of the State of Colorado to conserve for beneficial uses in Colorado the maximum amount of water that is available under interstate apportionments for use by the citizens of Colorado;

WHEREAS, rehabilitation of the Reservoir is required in order to continue the use of the Reservoir for the purposes of avoiding interstate over-deliveries and of affording the maximum amounts of water to Colorado appropriators from the Rio Grande;



WHEREAS, use of the Reservoir for Compact purposes is compatible with use of the Reservoir by the District for storage of its decreed water rights;

WHEREAS, the use of the Reservoir for Compact purposes as contemplated in this Agreement is predicated on the continuation of the method of Compact administration which imposes on the Rio Grande mainstem responsibility for satisfying the schedule of deliveries set out in the second table of Article III of the Rio Grande Compact;

WHEREAS, the Colorado General Assembly has expressed its desire that the Reservoir be utilized to the fullest extent possible to conserve water for the use of Colorado citizens;

WHEREAS, the Colorado General Assembly has appropriated the sum of \$619,500 to the Colorado Water Conservation Board construction fund for disbursement by its agency, the Colorado Water Conservation Board (the "Board") toward the rehabilitation of the Reservoir;

PAID IN FULL

WHEREAS, the Colorado General Assembly has provided that no funds from this nonreimbursable appropriation shall be expended until the District and the State Engineer, by an Operating Agreement, fix the terms and conditions by which the Reservoir shall be utilized in aid of meeting the State of Colorado's obligations under the Compact and Stay;

NOW THEREFORE, in consideration of the promises mutually exchanged and of these presents, the State Engineer and the District agree as follows:

1. Provision of Storage Space

The District agrees to provide storage space for the term and to the extent hereafter provided in the Reservoir to the State of Colorado, acting through the State Engineer, for waters which otherwise the State Engineer would cause to

be delivered at the Colorado-New Mexico state line towards the satisfaction of obligations of the State of Colorado under Article III of the Rio Grande Compact, C.R.S. 1973 § 37-66-101. Waters placed in storage by the State Engineer pursuant to this agreement are hereafter referred to as "Compact Waters."

2. Control of Compact Waters

Compact Waters shall be held in storage by the District subject to the direction and control of the State Engineer during the year such waters are impounded. The State Engineer may determine in such year that Compact Waters are required for delivery at the Colorado-New Mexico state line in order to meet Colorado's obligations as set forth in Article III of the Rio Grande Compact under the Compact and Stay. If the State Engineer determines that Compact Waters are needed to fulfill Colorado's obligations under the Compact and Stay, the District shall forthwith release Compact Waters in the amounts and at the rates of flow directed by the State Engineer. If the State Engineer determines that Compact Waters are not required for interstate delivery, he shall by written notice to the District and the Rio Grande Water Users Association relinquish control of the Compact Waters to beneficial uses in Colorado in accordance with the plan of distribution later provided for in this Agreement. Compact Waters for which the State Engineer has made no order of release or relinquishment by December 31 of any year shall automatically be deemed relinquished for beneficial uses in Colorado in the following year in accordance with the plan of distribution.

3. Plan of Distribution

The plan of distribution of Compact Waters relinquished for use in Colorado shall be as follows:

- (a) one-half of the Compact Waters shall on relinquishment pass to the District for its use or disposition;



- (b) one-half of the Compact Waters shall on relinquishment be held by the District for release in the irrigation season in the year following storage of such waters to the direct flow rights of Rio Grande River pursuant to the instructions of the Board of Directors of the Rio Grande Water Users Association. The Rio Grande Water Users Association has, by the Agreement attached hereto as Exhibit A, approved a procedure for Compact Storage and allocation of any Compact Waters accruing to the benefit of water users on the Rio Grande mainstem. The District, and the State Engineer mutually agree to honor that procedure.

4. District's Retained Right of Storage

Notwithstanding any right of the State of Colorado or the beneficiaries of relinquished Compact Waters to occupy storage space at the Reservoir, the District's right to first use of the Reservoir's capacity for storage of waters impounded under exercise of decreed water rights of the District shall be paramount. The right of the State Engineer and of beneficiaries of relinquished waters to use storage space at the Reservoir is subordinate to the prior right of the District to utilize the Reservoir's capacity. To this end, Compact Waters, including such water relinquished to Colorado beneficiaries other than the District, shall be deemed to overlay waters of the District, and shall be deemed the first water spilled from the Reservoir, or evacuated from the Reservoir should public safety require lowering the water level in the Reservoir.

5. Ordinary Operation and Maintenance Costs

The District shall bear the ordinary costs of operation and maintenance of the Reservoir.

6. District as Operator

The District shall be the operator of the Reservoir. The District shall co-operate with the water commissioner for Former Water District 20 in maintaining appropriate records of Compact Waters stored pursuant to this Agreement.

7. Remedies

In addition to any other remedy available at law or in equity, the right to use of reservoir space for Compact Storage as contemplated by this Agreement shall be specifically enforceable by the parties hereto.

8. Term

This Agreement shall have a term of 99 years.

9. Covenant Running with Real Property

The terms and conditions of this Agreement shall constitute a covenant and charge running with the real property of the District which is described on Exhibit B attached hereto.

DATED this 2 day of June, 1982.

**PAID IN FULL**

SAN LUIS VALLEY IRRIGATION  
DISTRICT

By Bill V. Koppman

ATTEST:

L. Ruth Clark

COLORADO STATE ENGINEER

By Jim A. Mainline

ATTEST:

Paula J. Racey



APPENDIX D

RECEIVED

JUN 16 1982

WATER RESOURCES  
DIVISION

AGREEMENT

WHEREAS, the members of the Rio Grande Water Users Association (the "Water Users") have suffered large curtailments in diversions by reason of administration to assure compliance with the Rio Grande Compact;

WHEREAS, the Water Users recognize that the State of Colorado has a difficult task in administering the Rio Grande and its tributaries so as to meet the obligation imposed by the Rio Grande Compact and by the additional burden of the terms of the Motion for Continuance and Stay of Proceedings in Texas and New Mexico v. Colorado ("Motion and Stay");

WHEREAS, the State of Colorado's ability to minimize Compact over-deliveries depends on the use of pre-compact reservoirs to regulate flows of the Rio Grande at the Del Norte and Lobatos gauging stations;

WHEREAS, the Water Users have in past years requested the State Engineer of Colorado ("State Engineer") to utilize vacant storage space in Rio Grande, Santa Maria, and Continental Reservoirs (the "Pre-Compact Reservoirs") for storage of waters which otherwise the State Engineer would cause to be delivered at the Colorado-New Mexico state line towards satisfaction of obligations of the State of Colorado under the Rio Grande Compact and the Motion for Continuance and Stay in Texas and New Mexico v. Colorado;

WHEREAS, storage of such waters aids the State Engineer in minimizing over-deliveries under the Compact and Stay, and correspondingly allows for the maximum delivery of water to the Water Users;

WHEREAS, for the years 1979, 1980, and 1981, use of the Pre-Compact Reservoirs saved for beneficial uses in Colorado an average annual volume of water of 28,000 acre feet;

WHEREAS, the Water Users desire to provide for the continued use of the Pre-Compact Reservoirs on the headwaters of the Rio Grande in aid of minimizing Compact over-deliveries by the Rio Grande mainstem and maximizing beneficial uses of Compact-allotted waters in Colorado;

WHEREAS, the Water Users and the owners of the Pre-Compact Reservoirs, namely the San Luis Valley Irrigation District and the Santa Maria Reservoir Company, (the "Owners") desire to fix a procedure for distribution of water which may be stored in Pre-Compact Reservoirs under an account denominated "Compact Waters".

NOW THEREFORE, it is agreed by the Water Users and Owners that:

1. The State Engineer shall maximize the use of the Pre-Compact Reservoirs for the purpose of storing waters which would otherwise be delivered during the irrigation season to New Mexico and Texas, as a means to minimize Compact over-deliveries from the Rio Grande mainstem and to maximize the ultimate volume of deliveries of Rio Grande water to the Water Users.

2. Compact Waters shall be held in storage by the Owners subject to the direction and control of the State Engineer during the year such waters are impounded. The State Engineer may determine in such year that Compact Waters are required for delivery at the Colorado-New Mexico state line in order to meet the obligation imposed on Colorado under Article III of the Rio Grande Compact. If the State Engineer so determines that Compact Waters are required to fulfill Compact obligations, the Owners and the Water Users agree to co-operate to insure releases of Compact Waters in the amounts and at the rates of flow directed by the State Engineer.



3. If the State Engineer determines in writing to the Owners and the Water Users that Compact waters are not required for interstate delivery in the year of storage, such waters are thereby relinquished to beneficial uses in Colorado in accordance with this Agreement. Compact Waters for which the State Engineer has made no order of relinquishment by December 31 in any year shall automatically be deemed available for beneficial uses in Colorado in the following year in accordance with the following plan of distribution.

4. Upon any determination by the State Engineer that Compact Waters are not required for interstate delivery in the year of capture, Compact Waters then in storage shall be divided in two equal shares for distribution as follows:

- a) one-half to the Owners of the Pre-Compact Reservoirs, and
- b) one-half to the direct flow rights on the Rio Grande mainstem.

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Irrespective of which reservoir actually impounds Compact Waters, Compact Water that passes to the Owners under this plan of distribution shall be divided equally between the San Luis Valley Irrigation District and the Santa Maria Reservoir Company. The Owners shall be entitled to use and dispose of the water so allocated to them as if such water were stored under exercise of their own priorities.

The one-half interest held for the direct flow rights on the Rio Grande mainstem shall be released pursuant to call by the Board of Directors of the Water Users, it being intended to allocate such waters in the irrigation season following the year in which Compact Waters are impounded in three separate releases, with:

- a) the first release commencing at a time generally benefitting those junior direct flow rights diverting water when the River flow is estimated by the Board to have reached its annual peak and water can be beneficially used,

- b) the second release generally benefitting those middle-ranking direct flow rights diverting water when the River flow is estimated by the Board to be at its mid-stage in the declining hydrograph, and
- c) the third release generally benefitting those senior direct flow rights drawing water when the River flow is estimated by the Board to be at its low flow stage in the declining hydrograph.

Provided, however, that any Compact Waters not released by the direct flow beneficiaries within the year following its impoundment shall pass to the Owners' storage account in the Reservoirs.

5. The right of the Owners of the Pre-Compact Reservoirs to first use of such Reservoirs' capacity for storage of waters impounded under their own decrees is acknowledged to be paramount. The right to store Compact waters at the Pre-Compact Reservoirs is subordinate to the prior rights of the Owners to utilize their respective reservoirs' capacity. To this end, Compact Waters, including water relinquished by the State Engineer to direct flow users on the Rio Grande mainstem shall be deemed to overlay waters of the Owners, and shall be deemed the first water spilled from the Reservoirs, or the first water evacuated from the Reservoirs should evacuation be necessary for public safety.

6. The Owners shall bear the ordinary costs of operation and maintenance of the Reservoirs.

7. The Owners shall operate the Reservoirs. The Owners shall cooperate with the water commissioner for Former Water District 20 in maintaining appropriate records of Compact Waters, including those relinquished for beneficial uses in Colorado, pursuant to this Agreement.

8. When Compact water is released from Pre-Compact Reservoirs, for beneficial uses in Colorado, such water shall be deducted from the measured flow at the Del Norte



gauge prior to the accounting calculation made by the state water officials of the portion of index flow held for delivery to satisfy Compact obligations and the portion of index flow to be distributed to decree holders on the Rio Grande River.

EXAMPLE:

Reservoir Release: 500 c.f.s.

Del Norte Index (including the above Reservoir Release less assumed 10% carriage charge on reservoir water) 2,900 c.f.s.

Water to be Distributed to Reservoir Owners or Direct Flow Users per Paragraph 3 or 4 above 450 c.f.s.

Adjusted Del Norte Index For Calculating Compact Delivery and Delivery to Appropriators 2,450 c.f.s.

Compact Curtailment (30% assumed) 735 c.f.s.

Delivery to Appropriators 1,715 c.f.s.

Dated this 2nd day of June, 1952.

RIO GRANDE WATER USERS ASSOCIATION  
"Water Users"

By Bill V. Koppman  
President

ATTEST:

L. Ruth Clark

SANTA MARIA RESERVOIR COMPANY  
"Owner"

By Richard J. Mink

ATTEST:

Barry D. Nelson

SAN LUIS VALLEY IRRIGATION DISTRICT  
"Owner"

By Bill V. Koppner

ATTEST:

L. Ruth Clark

APPROVED:

Eric A. Davidson  
COLORADO STATE ENGINEER

PAID IN FULL