



United States Department of the Interior

BUREAU OF RECLAMATION
PACIFIC NORTHWEST REGION
FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043-550 WEST FORT STREET
BOISE, IDAHO 83724

IN REPLY
REFER TO: PN 440
840.

APR 28 1985

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Gibousek*
barbo
RECEIVED
MAY 30 1985
WATER RESOURCES DEPT
SALEM, OREGON

Mr. Walter F. Hafner
18464 Silver Falls Highway Southeast
Sublimity, Oregon 97385

Dear Mr. Hafner:

Enclosed for your records is a fully executed original of Contract No. 5-07-10-W0539, dated May 20, 1985, which provides you an irrigation water supply from the Willamette Basin Project.

If you have not yet contacted the Oregon State Water Resources Department for your Permit to Divert, we suggest you do so. We are furnishing that agency a conformed copy of the contract so they will be in a position to proceed with issuing the required permit to divert water.

If there are any questions regarding the terms or conditions set forth in the contract, please feel free to contact this office.

Sincerely yours,

ROBERT A. BARBO

Regional Supervisor of
Water, Power and Lands

Enclosure

cc: Director, Oregon Water Resources Department
555 13th Street NE.
Salem, Oregon 97310
(with copy of enclosure)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Willamette Basin Project, Oregon

CONTRACT FOR WATER SERVICE

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1 3. WHEREAS, The Contractor owns land or provides water service
2 to the owners of lands hereinafter described, for which a water supply
3 is desired to be secured from the United States;

4 NOW, THEREFORE, in consideration of the premises and the
5 payment by the Contractor to the United States of the charges in the
6 manner hereinafter provided, it is agreed:

7 Lands for Which Water is Furnished: Limitations on Deliveries

8 4. The United States shall make available each year to the
9 Contractor during the irrigation season from April 1 to September 30,
10 inclusive, water from the Willamette Basin Project for the irrigation
11 of land owned by or served by the Contractor described as follows:

12 1 acre SW1/4SE1/4 and 7 acres SE1/4SE1/4, Section 18;

13 10 acres NE1/4NE1/4 and 2 acres NW1/4NE1/4, Section 19;

14 T. 9S., R. 2E, W.M.

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16
17
18
19 Of the land described, not more than 20.0 acres are to be irrigated.

20 The amount of water to be made available hereunder shall be that
21 quantity which may be applied beneficially in accordance with good usage
22 in the irrigation of the land above described, but in no event shall it
23 exceed a total diversion of 20.0 acre-feet annually, measured at the
24 point of delivery of said water.

1 payment for any portion of the 30-day period of delinquency. In the
2 case of partial late payments, the amount received will first be applied
3 to the late charge on the overdue payment and then to the overdue
4 payment.

5 Furnishing of Water

6 7. (a) Upon payment of the minimum charge specified in sub-
7 article 5(a) above, the United States will furnish a maximum of 20.0
8 acre-feet of water to the Contractor from the Willamette Basin Project.
9 No water shall be furnished if the Contractor is delinquent in payment
10 of the required minimum charge.

11 (b) Water for the purposes hereof shall be made available and
12 measured at the following point(s) of diversion:

13 1900 feet East and 625 feet North of S1/4 Corner of Section 18,
14 T. 9 S., R. 2E, W.M.

15
16
17
18
19 The Contractor shall receive said water at the point of diversion and
20 shall be wholly responsible for securing said water at that point and
21 diverting, conveying, and utilizing it. The water to be delivered
22 hereunder shall be measured by means of measuring or controlling
23 devices satisfactory to the Contracting Officer. Such devices shall
24 be furnished, installed, and maintained by and at the expense of the
25 Contractor, but they shall be and remain at all times under the control
26 of the United States or of an appropriate State-appointed watermaster
27 whose representative may at all times have access to them over any

1 lands of the Contractor. All losses of water from seepage, evaporation,
2 or other cause, below said point of measurement, shall be borne by the
3 Contractor.

4 (c) The monthly supply of water hereunder diverted in any
5 one month of the irrigation season shall not exceed 35 percent of the
6 total maximum annual diversion set forth in subarticle 7(a) above. The
7 Contractor shall, to the extent practicable, submit to the Contracting
8 Officer an advance schedule as to the precise time of water deliveries.
9 Changes in such schedule may be made only upon sufficient advance
10 notice to the Contracting Officer to allow him to adjust releases to
11 meet the new schedules. Upon the appointment of a State watermaster
12 to govern diversions from the stream concerned, the Contractor shall
13 be required to conform its diversions and releases to the control of
14 the stream as established by the watermaster.

15 (d) The Contractor and all other entities heretofore or
16 hereafter contracting with the United States for a right to use water
17 from the Willamette Basin Project shall, to the extent of their base
18 entitlement, have equal priority to the use of water from such project
19 so far as that may be physically practicable and legally possible,
20 without regard to the date of their respective contracts.

21 Special Conditions

22 8. (a) It is the responsibility of the Contractor to comply with
23 the laws of the State of Oregon regarding the obtaining and perfecting of
24 permits to divert water to the lands described in Article 4. Prior to
25 executing this contract, the Contractor shall secure any easements from
26 the Corps of Engineers which may be required for constructing facilities

1 to divert and convey the stored water and provide written verification of
2 such agreements to the Contracting Officer. The obligation of the
3 United States to deliver water under this contract is subject to an
4 operating plan for the Willamette Basin Project determined in accordance
5 with the law governing the project.

6 (b) In the event the Contractor is not now a member of an
7 irrigation district, water supply company, or other water user organiza-
8 tion, this contract shall be terminated and water service hereunder
9 shall cease automatically when water is made available to the lands
10 described in Article 4 by such an organization to serve these and other
11 lands presently irrigated or planned for irrigation in future years
12 from the Willamette Basin Project.

13 Term of Contract

14 9. This contract shall become effective as of the date first above
15 written and will continue in force for 40 years unless sooner terminated
16 in accordance with Articles 8 or 10 or by agreement of the parties
17 hereto.

18 Termination of Contract

19 10. This contract may be terminated and water service hereunder
20 shall cease at the option of the United States at any time if the Con-
21 tractor is delinquent in payment of the water service charge for a
22 period of 30 days or upon failure of the Contractor to abide by any
23 notice, order, rule, or regulation of the United States or the State of
24 Oregon now or hereafter established affecting water service hereunder.

1 United States Not Liable for Water Shortages--Adjustments

2 11. On account of drought or uncontrollable forces, there may occur
3 a shortage in the total quantity of water available for furnishing to the
4 Contractor by the United States pursuant to this contract. In no event
5 shall any liability accrue against the United States or any of its
6 officers, agents, or employees for any damage direct or indirect arising
7 from such shortages. If such a shortage occurs, the United States will
8 apportion the available water supply among the Contractor and others
9 entitled by existing and future contracts to receive water from the
10 Willamette Basin Project.

11 Disclaimer

12 12. No provision of this contract, nor of any renewal thereof, nor
13 the furnishing of water hereunder will be construed to bind the United
14 States after the expiration of this contract as the basis of a permanent
15 water right. Because of possible fluctuations in reservoir surface
16 elevations and downstream flows associated with the Willamette Basin
17 Project, the United States does not guarantee the availability of water
18 at the point of the Contractor's diversion facilities as they may now
19 be constructed or constructed hereafter. Further, the United States
20 will not be held responsible for any acts or omissions of the
21 Contractor's agents or of persons to whom water is furnished.

22 Notices

23 13. Any notice, demand, or request authorized or required by this
24 contract shall be deemed to have been given, on behalf of the Contractor,
25 when mailed, postage prepaid, or delivered to the Regional Director,
26 Pacific Northwest Region, Bureau of Reclamation, Box 043, 550 West Fort
27 Street, Boise, Idaho 83724, and on behalf of the United States, when
28 mailed, postage prepaid, or delivered to Walter R. Hafner, 18464 Silver Falls,
29 Hwy. SE, Sublimity, Oregon 97385 . The designation of the addressee
30 or the address may be changed by notice given in the same manner as
31 provided in this article for other notices.

Articles 11, 12, 13

STATE OF IDAHO)
 : ss
County of Ada)

On this 20th day of May, 1985, personally

appeared before me John W. Keys III, to me known to be the official of the United States of America that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

Diana L. Jacobs
Notary Public in and for the
State of Idaho
Residing at Boise

My commission expires: May 23, 1988

* * * * *

STATE OF OREGON)
 : ss
County of Marion)

On this 18th day of April, 1985, before me,

Deborah A. Sieg, a Notary Public, personally appeared

Walter J. Hedman, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

Deborah A. Sieg
Notary Public in and for the
State of Oregon
Residing at Clayton

My commission expires: 4-5-88

GENERAL PROVISIONS--WILLAMETTE BASIN PROJECT, OREGON

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

a. 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 the Congress to appropriate funds or the absence of any allotment of funds shall not relieve the Contractor from any obligations under this contract. No liability shall accrue to the United States in case such funds are not appropriated or allotted.

WATER AND AIR POLLUTION CONTROL

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

QUALITY OF WATER

c. The operation and maintenance of project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. The United States does not warrant the quality of water and is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water.

EQUAL OPPORTUNITY

c. 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, color, religion, sex, or national origin. The Contractor 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 Contractor 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.

(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 discrimination because of race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the said labor union or workers' representative of the Contractor'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.

(4) The Contractor 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.

(5) The Contractor 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.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the such rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor 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.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the 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 Contractor 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 a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

RULES, REGULATIONS, AND DETERMINATIONS

e. (1) The Contracting Officer shall have the right to make, after an opportunity has been offered to the Contractor for consultation, rules and regulations consistent with the provisions of this contract, the laws of the United States and the State of Oregon to add 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 Contractor shall observe such rules and regulations.

(2) 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 to be conclusive, 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 Contractor questions any factual determination made by the Contracting Officer, the findings as to the facts shall be made by the Secretary only after consultation with the Contractor and shall be conclusive upon the parties.

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

f. The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any part or interest therein shall be valid until approved by the Contracting Officer.

OFFICIALS NOT TO BENEFIT

g. (1) 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.

(2) No official of the Contractor shall receive any benefit that may arise by reason of this contract other than as a landowner within the project and in the same manner as other landowners within the project.

TITLE VI, CIVIL RIGHTS ACT OF 1964

h. (1) The Contractor 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 Contractor receives financial assistance from the United States and hereby gives assurance that it will immediately take any measures to effectuate this agreement.

(2) If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Contractor by the United States, this assurance obligates the Contractor, 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 Contractor for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Contractor for the period during which the Federal financial assistance is extended to it by the United States.

(3) 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 Contractor 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 Contractor 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 Contractor, its successors, transferees, and assignees.

WATER CONSERVATION PROGRAM

i. (1) While the contents and standards of a given water conservation program are primarily matters of State and local determination, there is a strong Federal interest in developing an effective water conservation program because of this contract. The Contractor shall develop and implement an effective water conservation program for all uses of water which is provided from, or conveyed through, Federally constructed or Federally financed facilities. That water conservation program shall contain definite goals, appropriate water conservation measures, and time schedules for meeting the water conservation objectives.

(2) A water conservation program, acceptable to the Contracting Officer, shall be in existence prior to one or all of the following: (1) service of Federally stored/conveyed water; (2) transfer of operation and maintenance of the project facilities to the Contractor; or (3) transfer of the project to an operation and maintenance status. The distribution and use of Federally stored/conveyed water and/or the operation of project facilities transferred to the Contractor shall be consistent with the adopted water conservation program. Following execution of this contract, and at subsequent 5-year intervals, the Contractor shall resubmit the water conservation plan to the Contracting Officer for review and approval. After review of the results of the previous 5 years and after consultation with the Contractor, the Contracting Officer may require modifications in the water conservation program to better achieve program goals.