

SA-55568 Sp-41649  
C-54194



## United States Department of the Interior

BUREAU OF RECLAMATION  
Pacific Northwest Region  
1150 North Curtis Road, Suite 100  
Boise, Idaho 83706-1234

IN REPLY  
REFER TO:

PN-3322  
WTR-4.00

JUN 10 2002

Mr. Stephen A. Kirsch  
North Fourk, LLC  
15134 Old Mehama Road  
Stayton OR 97383

Subject: Successor in Interest to Water Service Contract No. 7-07-10-W0013, Willamette Basin Project, Oregon

Dear Mr. Kirsch:

Enclosed for your records is a fully executed copy of the document for the subject contract recognizing North Fourk, LLC as successor in interest to Contract No. 7-07-10-W0013, formerly with Augustin J. and Marie A. Kirsch.

Please provide your taxpayer identifying numbers in the enclosed postage-paid envelope. Section 31001.(i) of the Debt Collection Improvement Act of 1996 (Chapter 10 of Pub. L. 104-134) requires each contractor with an agency of the United States to furnish their taxpayer identifying number (social security number or employer identification number) and each agency to disclose to that contractor its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such contractor's relationship with the Government.

Thank you for completing the subject document. Should you have any contract questions, please contact Michael Cobell at the above address or telephone (208) 378-5223. Should you have any billing questions, please contact Nancy Catron at telephone (208) 378-5065.

Sincerely,

Ryan M. Patterson  
Program Manager  
Lands and Repayment

Enclosures - 2

RECEIVED  
JUN 12 2002  
WATER RESOURCES DEPT.  
SALEM, OREGON

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Mr. Stephen A. Kirsch  
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15134 Old Mehama Road  
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Subject: Successor in Interest to Water Service Contract No. 7-07-10-W0013, Willamette Basin Project, Oregon

Dear Mr. Kirsch:

Enclosed for your records is a fully executed copy of the document for the subject contract recognizing North Fourk, LLC as successor in interest to Contract No. 7-07-10-W0013, formerly with Augustin J. and Marie A. Kirsch.

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Enclosures - 2


RECEIVED  
JUN 12 2002  
WATER RESOURCES DEPT.  
SALEM, OREGON

**RECOGNITION OF SUCCESSOR IN INTEREST TO WILLAMETTE BASIN PROJECT  
WATER SERVICE CONTRACT NO. 7-07-10-W0013**

**WHEREAS**, the United States of America entered into a contract on April 25, 1977, Contract No. 7-07-10-W0013, with Augustin J. and Marie A. Kirsch for an irrigation water supply from the Willamette Basin Project for use on lands owned by the Contractor; and


**WHEREAS**, the Contractor's heirs have acquired the land to which water was to be provided under said contract and having organized as the North Fourk, LLC request recognition of North Fourk, LLC as the successor in interest to this contract (at mailing address: 15134 Old Mehama Road, Stayton OR 97383);

**NOW, THEREFORE**, all right, title, and interest in Contract No. 7-07-10-W0013 dated April 25, 1977, for an irrigation water supply not to exceed 144.05 acre-feet annually is hereby recognized to be held by North Fourk, LLC. This contract action is effective only upon the approval thereof by the United States of America as provided in General Provisions, Article 12.f. of said April 25, 1977, contract.

  
Stephen A. Kirsch, Managing Partner

5-10-02  
Date

The above contract action is hereby approved:

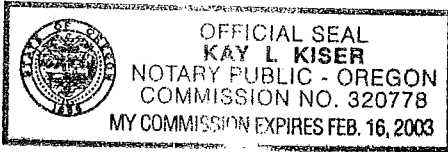
  
Program Manager  
Lands and Repayment  
PN Region  
Bureau of Reclamation  
1150 N Curtis Road, Suite 100  
Boise ID 83706-1234

**RECOGNITION OF SUCCESSOR IN INTEREST TO WILLAMETTE BASIN PROJECT  
WATER SERVICE CONTRACT NO. 7-07-10-W0013**

STATE OF Oregon )  
 : ss  
County of Marion )

On this 10<sup>th</sup> day of May, 2002, before me, a notary public, personally appeared Stephen A Kirsch, known to me to be the representative of North Fourk, LLC that executed the within and foregoing instrument and acknowledged that North Fourk, LLC is the legal owner of the property for which a water supply is to be provided under the April 25, 1977, contract, and has executed this contract document as its free and voluntary act and deed and on oath stated that he is authorized to execute said instrument on its behalf.

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



(SEAL)

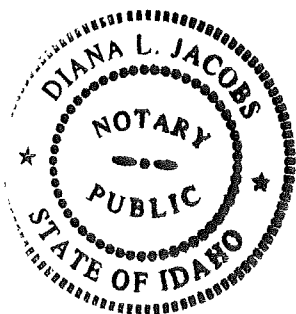
Kay L. Kiser  
Notary Public in and for the  
State of Oregon  
Residing at: Sublimity, Oregon  
My commission expires: Feb. 16, 2003

\*\*\*\*\*

STATE OF IDAHO )  
 : ss  
County of Ada )

On this 7 day of June, 2003, personally appeared before me Ryan M. Patterson, 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.



(SEAL)

Diana L. Jacobs  
Notary Public in and for the  
State of IDAHO  
Residing at: Boise  
My commission expires: 5-23-06

**RECEIVED**

APR 25 1977

WATER RESOURCES DEPT.  
ELEM, OREGON

PN Draft 4/11/77

Contract No.7-07-10-W0013

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Willamette Basin Project, Oregon

CONTRACT FOR WATER SERVICE

THIS CONTRACT, made this 25 day of April, 1977, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, including section 8 of the Act of December 22, 1944 (58 Stat. 887, 891), all of which acts are commonly known and referred to as the Federal Reclamation Laws, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the Contracting Officer executing this contract, and Augustin J. and Marie A. Kirsch  
(name)

15134 Old Mehama Road, S.E., Stayton, Oregon 97383,  
(address)  
hereinafter referred to as the Contractor;

WITNESSETH, THAT:

Explanatory Recitals

2. WHEREAS, because the United States is engaged in the construction and operation of a system of multipurpose reservoirs in the Willamette Basin, Oregon, herein styled the Willamette Basin Project, there will be a flow of water that can be used for irrigation of land, and other beneficial uses, which flow as it is developed or as it will be augmented, was appropriated by the United States pursuant to the laws of Oregon for beneficial use under the Federal Reclamation Laws; and

3. WHEREAS, the Contractor is the owner of land hereinafter described, for which a water supply is desired to be secured from the United States;

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

Arts. 2, 3

Water to be Provided by the United States

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

20.5 acres, NE $\frac{1}{4}$ SE $\frac{1}{4}$  sec. 12,  
9.0 acres, NW $\frac{1}{4}$ SE $\frac{1}{4}$  sec. 12,  
23.0 acres, SE $\frac{1}{4}$ SE $\frac{1}{4}$  sec. 12,  
14.5 acres, NE $\frac{1}{4}$ NE $\frac{1}{4}$  sec. 13, all in T. 9 S., R. 1 W., W.M.

Of the land described, 67.0 acres are to be irrigated. The quantity of water to be made available hereunder shall be that quantity which may be applied beneficially in accordance with good usage in the irrigation of the land above described, but in no event shall it exceed a total diversion of 144.05 acre-feet annually, measured at the point of delivery of said water.

Place of Delivery and Measurement of Water

5. Water for the purposes hereof shall be made available at the following described point of diversion:

1,651 feet west and 775 feet south of southeast corner of section 12, T. 9 S., R. 1 W. Tie to Joe A. and Patricia Koenig system (contracts 1136 & 1867) at: S. 27°24' E., 1,010.5 feet from southeast corner of section 12, T. 9 S., R. 1 W.

The Contractor shall receive said water at said point of diversion and shall be wholly responsible for taking said water at that point and diverting, conveying, and utilizing it. The water to be delivered hereunder shall be measured at: Point of diversion.

by means of a measuring device or controlling device to be satisfactory to the Contracting Officer. Such devices shall be furnished, installed, and maintained by and at the expense of the Contractor, but they shall be and remain at all times under the control of the United States or of an appropriate State-appointed watermaster whose representative may at

Arts. 4, 5

all times have access to them over any lands of the Contractor. All losses of water from seepage, evaporation, or other cause, below said point of measurement, shall be borne by the Contractor.

#### Rate of Delivery of Water

6. The monthly supply of water hereunder diverted in any one month of the irrigation season, beginning in April and ending on or before September 30, shall not exceed 35 percent of the total maximum annual diversion as hereinabove set forth. The Contractor shall, to the extent practicable, submit to the Contracting Officer an advance schedule as to the precise time of water deliveries. Changes in such schedule may be made only upon sufficient advance notice to the Contracting Officer to allow him to adjust releases to meet the new schedules. Upon the appointment of a watermaster to govern diversions from the stream concerned, the Contractor shall be required to conform his diversions and releases to the control of the stream as established by the watermaster.

#### Water Supply

7. (a) The Contractor and all other entities heretofore or hereafter contracting with the United States for a right to use water from the Willamette Basin Project shall, to the extent of their respective maximum contracted rights, have equal priority to the use of water from such project so far as that may be physically practicable and legally possible, without regard to the date of their respective contracts. It is the responsibility of the Contractor to comply with the laws of the State of Oregon regarding the obtaining and perfecting of permits to divert water to the lands described in Article 4. The obligation of the United States to deliver water under this contract is subject to an operating plan for the Willamette Basin Project determined in accordance with the law governing the project.

(b) On account of drought, inaccuracy in distribution, or other cause, there may occur at times a shortage in the water supply provided herein, and while the United States will use all reasonable means to guard against such shortages, in no event shall any liability accrue against the United States or any of its officers, agents or employees for any damage, direct or indirect, arising therefrom.

#### Water Charges

8. (a) The Contractor shall pay, for all supplies of water delivered under this contract, a minimum charge equal to the annual rate per acre-foot as established under (c) of this article times the

Arts. 6, 7, 8(a)

(b) This contract shall be terminated and water service hereunder shall cease automatically when water is made available to the lands involved through an agreement with an organized group or association for the benefit of the lands described in Article 4.

(c) If the Contractor fails to comply with any of the terms and conditions hereof, including payment of water charges, and the provisions with respect to the use of water on excess lands, and after written notice fails to remedy such default within 30 days, the United States may, at its option, terminate this contract.

#### Irrigable Area Limitation

10. Pursuant to the provisions of the Federal Reclamation Laws, water made available to the Contractor hereunder shall not be delivered to more than 160 irrigable acres in the ownership of any one person or other entity, nor more than 320 irrigable acres held by a husband and wife as community property, except that, if irrigable lands in excess thereof have been acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance or devise, water therefor may be furnished temporarily for a period not to exceed five years from the effective date of such acquisition, and except that delivery may be made to lands held in excess of this limitation if the excess lands are covered by a recordable contract made in accordance with the provisions of section 46 of the Act of May 25, 1926 (44 Stat. 649). In the event that the Congress of the United States repeals or amends the excess land provisions of the Federal Reclamation Laws, the United States agrees, at the option of the Contractor, to negotiate amendments of this article consistent with the provisions of such amendment.

#### Term of Contract

11. This contract shall become effective as of the date first above written after its execution on behalf of the United States, and shall remain effective for a term of 40 years from that date except as otherwise herein provided. At the expiration of the term, the contract may be extended by the Secretary of the Interior for additional terms of not to exceed 40 years each.

Arts. 9(b)(c), 10, 11



General Provisions

12. This contract is subject to the General Provisions attached hereto and by this reference made a part hereof.

UNITED STATES OF AMERICA

*Robert A. Barbo*

Regional Director, PN Region  
Bureau of Reclamation  
Box 043, 550 West Fort Street  
Boise, Idaho 83724

*Augustin J. Kirsch*

*Marie A. Kirsch*

Contractor

Art. 12

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 a 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

d. 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 Equal Opportunity 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, 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 labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, 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 Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the 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 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 the Contracting Officer may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Contracting Officer, 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 to or to modify them as may be deemed proper and necessary to carry out this contract, and to supply necessary details of its administration which are not covered by express provisions of this contract. The Contractor shall observe such rules and regulations.