



# United States Department of the Interior

BUREAU OF RECLAMATION  
Pacific Northwest Regional Office  
1150 North Curtis Road, Suite 100  
Boise, ID 83706-1234

RECEIVED

JUL 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON

IN REPLY REFER TO:  
PN-3324  
WTR-4.00

JUL - 5 2011

CERTIFIED - RETURN RECEIPT REQUESTED

S-71590 3  
Replace 207-10-W1213 3 APPROPRIATE

Mr. Delmar Mathews  
38127 McKenzie Highway  
Springfield, OR 97478

Subject: Conditions Impacting the Continued Release of Water, Under Water Service Contract  
No. 8-07-10-W1213, Willamette River Basin Project, Oregon

Dear Mr. Mathews:

This letter is to notify you of the current compliance status of your irrigation water diversion described in your contract with the Bureau of Reclamation regarding fish screening and passage requirements stemming from the 2008 Biological Opinion for the Willamette River Basin Project.

We have been informed that your diversion failed the screening and passage assessment, which was completed by the Oregon Water Resources Department, for fish protective devices that did not comply with National Marine Fisheries Service (NMFS) design criteria. Therefore, Reclamation is required to place a hold on the release of storage water under your contract and asks you to refrain from diverting water under the subject contract, beginning with the 2012 irrigation season, until your diversion meets NMFS fish passage criteria and passes a re-assessment.

The Oregon Water Resources Department has informed us that you are, or have expressed interest in, working with them to rectify the issues with your fish screen. Please notify us when your fish screen has been re-assessed by them and is found to be in compliance with NMFS fish passage criteria.

If you have any questions regarding this action, please contact Mr. Bill Parks, Economist, at the above address or by telephone at 208-378-5344.

Sincerely,

Acting For

Karl E. Wirkus  
Regional Director

cc: Water Rights Division  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

U.S. Army Corps of Engineers  
Attention: CENWP-EC-HR  
P.O. Box 2946  
Portland, OR 97208-2946



# United States Department of the Interior

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

**MAR 19 2004**

IN REPLY  
 REFER TO:

PN-3322  
 WTR-4.00

Delmar Mathews and Mathews Farms  
 c/o Mr. Delmar Mathews  
 38127 McKenzie Highway  
 Springfield, OR 97478

Subject: Successors in Interest to Water Service Contract No. 8-07-10-W1213, Willamette Basin Project, Oregon

Dear Mr. Mathews:

Enclosed for your records is a fully executed copy of the document for the subject contract recognizing Delmar Mathews and Mathews Farms as the successors in interest to Contract No. 8-07-10-W1213, formerly with McKenzie River Dairy.

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

Sincerely,

Ryan M. Patterson  
 Program Manager  
 Lands and Repayment

Enclosure

cc: Water Rights Division  
 Oregon Water Resources Department  
 725 Summer Street N.E., Suite A  
 Salem, OR 97301-1271

US Army Corps of Engineers  
 Attention: CENWP-EC-HR  
 P.O. Box 2946  
 Portland, OR 97208-2946

Mr. Michael Mattick  
 District 2 Watermaster  
 Central Lane Justice Court  
 220 N Fifth  
 Springfield, OR 97477  
 (ea w/encl)

**RECEIVED**

**MAR 24 2004**

WATER RESOURCES DEPT  
 SALEM, OREGON

**RECOGNITION OF SUCCESSORS IN INTEREST TO WILLAMETTE BASIN PROJECT**  
**WATER SERVICE CONTRACT NO. 8-07-10-W1213**

WHEREAS, the United States of America entered into a contract on June 15, 1998, Contract No. 8-07-10-W1213, with McKenzie River Dairy for an irrigation water supply from the Willamette Basin Project for use on lands owned by the Contractor; and

WHEREAS, Delmar Mathews and Mathews Farms state that they now own the land to which water was to be provided under said contract and request that they be recognized as the successors in interest to this contract (at mailing address: 38127 McKenzie Highway, Springfield, OR 97478);

NOW, THEREFORE, all right, title, and interest in Contract No. 8-07-10-W1213 dated June 15, 1998, for an irrigation water supply not to exceed 131.25 acre-feet annually is hereby recognized to be held by Delmar Mathews and Mathews Farms. This contract action is effective only upon the approval thereof by the United States of America as provided in General Provisions, Article 16.f. of said June 15, 1998, contract.

Delmar L. Mathews Date: 2-21-04  
Delmar Mathews

MATHEWS FARMS

By: David Mathews

Title: mgr. partner

Attest:

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

The above contract action is hereby approved:

Ryan M. Patterson

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

RECEIVED

MAR 24 2004

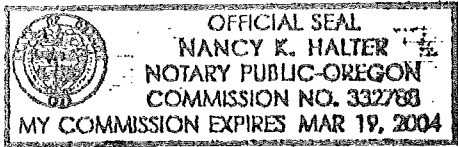
WATER RESOURCES DEP.  
SALEM, OREGON

**RECOGNITION OF SUCCESSORS IN INTEREST TO WILLAMETTE BASIN PROJECT**  
**WATER SERVICE CONTRACT NO. 8-07-10-W1213**

STATE OF Oregon )  
: ss  
County of Lane )

On this 21 day of Feb., 2004, before me, a notary public, personally appeared Delmar L Mathews and Randy A. Mathews known to me to be the representative(s) of MATHEWS FARMS that executed the foregoing instrument and acknowledged that MATHEWS FARMS is a legal owner of the property for which a water supply is to be provided under the June 15, 1998, contract and has executed this contract document as its free and voluntary act and deed and on oath stated that he/she/they (*circle one*) is/are (*circle one*) 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)

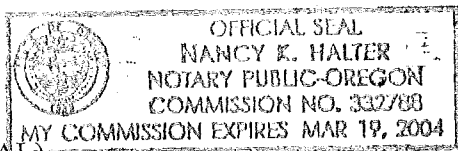
[Signature]  
Notary Public in and for the  
State of Oregon  
Residing at: 5703 Main St., Springfield, OR  
My commission expires: 3-19-04

\*\*\*\*\*

STATE OF Oregon )  
: ss  
County of Lane )

On this 21 day of Feb, 2004, before me, a notary public, personally appeared Delmar L. Mathews, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he is a legal owner of the property for which a water supply is to be provided under the June 15, 1998, contract and has executed this contract document as his free and voluntary act and deed.

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



(SEAL)

[Signature]  
Notary Public in and for the  
State of Oregon  
Residing at: 5703 main st., Springfield, OR  
My commission expires: 3-19-04

RECEIVED

MAR 24 2004

WATER RESOURCES DEPT  
SALEM, OREGON



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Willamette Basin Project, Oregon

**RECEIVED**

JUN 25 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

CONTRACT FOR WATER SERVICE

Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
1	Preamble .....	1
2-4	Explanatory Recitals .....	1-2
5	Lands for Which Water is Furnished: Limitations on Deliveries .....	2
6	Payments for Water .....	2-4
7	Contract Preparation Assignment Fee .....	4
8	Charges for Delinquent Payments .....	4
9	Furnishing of Water .....	5-6
10	Special Conditions .....	6-7
11	Term of Contract .....	7
12	Termination of Contract .....	7
13	United States Not Liable for Water Shortages--Adjustments .....	8
14	Disclaimer .....	8
15	Notices .....	8
16	General Provisions .....	9
	Signatures .....	10
	Acknowledgments .....	11
	Exhibit A	

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Willamette Basin Project, Oregon

CONTRACT FOR WATER SERVICE

THIS CONTRACT, made this 15th day of June, 1998, pursuant to section 9(e) of the Act of August 4, 1939 (53 Stat. 1187), and section 8 of the Act of December 22, 1944 (58 Stat. 887, 891), (which acts are commonly known and referred to as the Reclamation Laws), the Flood Control Act of 1938 (52 Stat. 1222), and the Flood Control Act of 1950 (64 Stat. 170), between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the Contracting Officer executing this contract, and McKenzie River Dairy, 38127 McKenzie Highway, Springfield, Oregon 97478, hereinafter referred to as the Contractor;

WITNESSETH, THAT:

Explanatory Recitals

2. WHEREAS, The United States has constructed and operates a system of multipurpose reservoirs in the Willamette Basin, Oregon, herein styled the Willamette Basin Project, from which there is a flow of stored water that can be used for irrigation of land and other beneficial uses, which flow, as it has been 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 owns land hereinafter described, for which a water supply is desired to be secured from the United States; and

4. WHEREAS, existing Contract No. 2-07-10-W0905, dated June 26, 1992, as may have been amended, is hereby terminated upon execution of this contract;

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

Lands for Which Water is Furnished: Limitations on Deliveries

5. The United States shall make available each year to the Contractor during the irrigation season from March 1 to October 31, inclusive, stored water from the Willamette Basin Project for the irrigation of land owned by the Contractor described as follows:

- 11.0 acres, NE1/4 NW1/4, Sec. 31, T. 17 S., R. 1 W., W.M.
- 36.4 acres, NW1/4 NE1/4, Sec. 31, T. 17 S., R. 1 W., W.M.
- 1.3 acres, SW1/4 NE1/4, Sec. 31, T. 17 S., R. 1 W., W.M.
- 0.7 acres, SW1/4 SE1/4, Sec. 30, T. 17 S., R. 1 W., W.M.
- 3.1 acres, SE1/4 SE1/4, Sec. 30, T. 17 S., R. 1 W., W.M.

Of the land described, not more than 52.5 acres are to be irrigated. The amount of stored 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 not to exceed a maximum diversion of 131.25 acre-feet of stored water annually, measured at the point of delivery of said water.

Payments for Water

6. (a) An annual payment of \$1,050 for the first irrigation season has been made to the United States, and subsequent annual payments of \$1,050 will be due on or before March 1 of each succeeding irrigation season in advance of water use. This payment will entitle the Contractor



to receive not to exceed 131.25 acre-feet of stored water, hereinafter referred to as the base entitlement, for irrigation of the lands described in Article 5 of this contract. The Contracting Officer will consider adjusting the water service payment downward from the base entitlement based on information received from the Contractor, the State of Oregon, or other reliable sources as to the actual amount of stored water delivered each month to the Contractor during the irrigation season and on other factors in addition to the amount of stored water actually delivered, as deemed appropriate by the Contracting Officer. Any such adjustment will be determined and subtracted to the payment for the next year by the Contracting Officer; Provided, that in order for an adjustment to be made, information on the amounts of water and stored water delivered each month must be received by the Contracting Officer by December 1 of that year.

(b) The annual payment set forth in (a) above is based on an initial rate of \$8 per acre-foot of stored water; Provided, that such annual payment shall as a minimum be the greater of either the product of \$2 multiplied by the number of acres described in Article 5 of this contract or \$50. From time to time, but not less often than once every 5 years, the rate per acre-foot of stored water and the minimum payment shall be reviewed by the Contracting Officer and revised, if necessary, by the United States for the irrigation water marketing program of the Willamette Basin Project. Any revision by the Contracting Officer will apply only to future payments and shall be announced by written notice to the Contractor at least 3 months prior to the beginning of the irrigation season to which the new rate would be applicable.

(c) All payments from the Contractor to the United States under this contract shall be made by the medium requested by the United States. The required medium of payment

may include checks, wire transfers, or other types of payment specified by the United States.

Except when otherwise specified by the United States, all payments shall be made by check.

(d) Payments required hereunder shall be made to the Bureau of Reclamation at the location described in Article 15 of this contract.

#### Contract Preparation Assignment Fee

7. (a) Upon execution of this contract, a \$100 fee for the preparation of this contract is due and payable by the Contractor to the United States.

(b) All future contract actions, including new contracts, contract amendments, supplements, and assignments will be charged a \$100 fee: Provided, That the fee shall be reviewed by the Contracting Officer and revised from time to time to cover costs to the United States.

#### Charges for Delinquent Payments

8. (a) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month prescribed by section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

### Furnishing of Water

9. (a) Upon payment of the annual payment specified in subarticle 6(a) above, the United States will furnish water to the Contractor from the Willamette Basin Project pursuant to this contract. No water shall be furnished if the Contractor is delinquent in payment of the required annual payment.

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

220 feet north and 810 feet west of the south quarter corner of Sec. 29, T. 17 S., R. 1 W., W.M.

The Contractor shall receive said water at the point of diversion and shall be wholly responsible for securing said water at that point and diverting, conveying, and utilizing it. The water to be delivered hereunder shall be measured by means of measuring or controlling devices 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 available for reading and monitoring by the United States or an appropriate State-appointed watermaster whose representative may at 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.

(c) The Contractor shall, to the extent practicable, submit to the Contracting Officer an advance schedule as to the 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 State watermaster to govern diversions from

the stream concerned, the Contractor shall be required to conform its diversions and releases to the control of the stream as established by the watermaster.

(d) 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 base entitlement, 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.

#### Special Conditions

10. (a) 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 5. Prior to executing this contract, the Contractor shall secure any easements from the Corps of Engineers which may be required for constructing facilities to divert and convey the stored water and provide written verification of such agreements to the Contracting Officer. 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) In the event the Contractor is not now a member of an irrigation district, water supply company, or other water user organization, this contract shall be terminated and water service hereunder shall cease automatically when stored water is made available to the lands described in Article 5 by such an organization to serve these and other lands presently irrigated or planned for irrigation in future years from the Willamette Basin Project.

(c) In the interest of conservation and protection of environmental resources, from time to time, but not less often than once every 5 years, this contract shall be reviewed by the

Contracting Officer. The terms and conditions of this contract may be modified, if deemed necessary by the Contracting Officer, to avoid or minimize impacts to candidate, listed or proposed threatened and endangered species, or other valuable natural resources. Any modification by the Contracting Officer shall be announced by written notice to the Contractor.

#### Term of Contract

11. (a) This contract shall become effective as of the date first above written and will have a term of not to exceed 10 years; Provided; that this contract will automatically renew for a term of not to exceed 10 years at the end of 10, 20, and 30 years from the date first above written unless sooner terminated in accordance with Articles 10 or 12, or by agreement of the parties hereto, or unilaterally as set forth in (b) below, Provided however; that this contract does not qualify as a long-term contract under the Act of July 2, 1956 (70 Stat. 483) and in no event shall this contract be in effect beyond 40 years through automatic renewals.

(b) Either the Contracting Officer or the Contractor may terminate this contract unilaterally following the first ten-year term or any year thereafter, provided the terminating party has given at least two years advance notice in writing to the other party.

#### Termination of Contract

12. This contract may be terminated and water service hereunder shall cease at the option of the United States at any time if the Contractor is delinquent in payment of the water service payment for a period of 90 days or upon failure of the Contractor to abide by any notice, order, rule, or regulation of the United States or the State of Oregon now or hereafter established affecting water service hereunder.

### United States Not Liable for Water Shortages--Adjustments

13. On account of drought or uncontrollable forces, there may occur a shortage in the total quantity of water available for furnishing to the Contractor by the United States pursuant to this contract. 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 from such shortages. If such a shortage occurs, the United States will apportion the available water supply among the Contractor and others entitled by existing and future contracts to receive water from the Willamette Basin Project.

### Disclaimer

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

### Notices

15. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Program Manager, Lands and Repayment, Pacific Northwest Region, Bureau of Reclamation, 1150 N. Curtis Road, Boise, Idaho 83706-1234, and on behalf of the United States, when mailed, postage prepaid, or delivered to McKenzie River Dairy, 38127 McKenzie Highway, Springfield, Oregon 97478. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

### General Provisions

16. The general provisions applicable to this contract are listed below. The full text of these general provisions is attached as Exhibit A and is hereby made a part of this contract.

- a. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS
- b. WATER AND AIR POLLUTION CONTROL
- c. QUALITY OF WATER
- d. EQUAL OPPORTUNITY
- e. COMPLIANCE WITH RECLAMATION LAWS
- f. ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED
- g. OFFICIALS NOT TO BENEFIT
- h. WATER CONSERVATION
- i. HAZARDOUS MATERIALS

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

CONTRACTOR

Delores L. Matthews

UNITED STATES OF AMERICA

Al Reiners  
ACTING FOR Program Manager, Lands and Repayment  
PN Region  
Bureau of Reclamation  
1150 N. Curtis Road  
Boise ID 83706-1234



STATE OF Oregon )  
 : ss  
County of Lane )

On this 7 day of May, 1998, before me, a notary public, personally appeared Delmar L Mathews, known to me to be the official of McKENZIE RIVER DAIRY that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said McKenzie River Dairy, 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.

Karen D. Barker  
Notary Public in and for the  
State of Oregon  
Residing at: Springfield  
My commission expires: 8-6-2001



\*\*\*\*\*

STATE OF IDAHO )  
 : ss  
County of Ada )

On this 15<sup>th</sup> day of June, 1998, personally appeared before me Al Reiners, 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.

Kraig R. Howe  
Notary Public in and for the  
State of IDAHO  
Residing at: Boise  
My commission expires: 12/21/2001

