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Water Resource Division

JACKSON VALLEY, SANPETE COUNTY, RECORDER

Free

DEPUTY GRANITE

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11-14-92-11

1-12-5E-1 1-12-5E-1

1-14-92-13 1-14-5E-2

AGREEMENT

This agreement entered into this 28th day of June, 1967, in original and three copies, by and between the State of Utah, acting through the UTAH WATER AND POWER BOARD, First Party, sometimes referred to herein as the STATE, and the COTTONWOOD-GOOSEBERRY IRRIGATION COMPANY, a corporation, organized under the laws of the State of Utah, Second Party, sometimes referred to as the WATER COMPANY.

WITNESSETH

THAT WHEREAS, the State desires to promote a water conservation project consisting of a diverting canal and control works, an entrance channel, 3300 feet of tunnel and the placement of a 42" pipeline in said tunnel, and a discharge channel at the outlet portal situated in Secs. 24 and 25, T13S, R5E, SLB&M, near Fairview, Sanpete County, State of Utah, and in addition, the necessary measuring and control devices, which works are referred to in this instrument as "project works."

WHEREAS, it is the desire of the WATER COMPANY to enter into a contract with the STATE, for a consideration to be hereinafter provided, and to use the water developed by the aforesaid project, and as the WATER COMPANY has the available manpower and facilities necessary to construct the aforesaid project, and is ready, willing and able to enter into a contract for such purpose.

NOW, THEREFORE, the Parties hereto enter into the following agreement and make the following assignments:

1. The WATER COMPANY hereby agrees to convey, assign and warrant to the STATE all right, title and interest which it has or may have, to the right to use of water which shall be saved or conveyed through the use of the aforesaid project, and particularly:

- a. All rights evidenced by Diligence Right No. 197 as modified by Change Application No. a-4448 for water in Boulder Creek and Gooseberry Creek as adjudicated by the decree dated the 7th day of March, 1966, in the case of Carbon Canal Company against Cottonwood-Gooseberry Irrigation Company, et al, Civil No. 5357, entered by the Honorable Maurice Harding, sitting as Judge of the District Court of Sanpete County, hereinafter referred to as the "Harding Decree."
- b. Rights to the use of the waters of Cottonwood Creek awarded to the Cottonwood-Gooseberry Irrigation Company and the Fairview-Cottonwood Irrigation Company set out in the court decree, commonly known as the "Cox Decree", Case No. 843, made and entered by the Fifth Judicial District Court of the State of Utah in and for Millard County, said rights being described on pages 78 and 79 of said decree.

Such water rights shall be conveyed free and clear of all liens, judgments and encumbrances.

2. The WATER COMPANY hereby agrees to convey, grant and warrant to the STATE, title, in fee simple, as required to the real estate upon which the structures are to be constructed; and further agrees to convey, grant and warrant to the STATE, title to such easements, rights-of-way and forest permits as shall be necessary to enable the STATE to construct, maintain and operate said project; and further agrees to grant and convey to the STATE an easement to use any and all of the WATER COMPANY'S distribution system located in Secs. 24, 25, 30, 31, 36, T13S, R5E; Secs. 1, 12, 25, 36, T13S, R4E; Secs. 2, 11, 14, T14S, R4E; Secs. 6 & 7, T14S, R5E, SLB&M. This shall include