

Entry No. 127686 Book M 69
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Division of Water Resources
WANDA Y. SPRIGGS, SUMMIT CO. RECORDER
DH By Wanda Y. Spriggs AGREEMENT
INDEXED ABSTRACT

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This Agreement entered into this 20th day of May, 1975, by and between the State of Utah, acting through the BOARD OF WATER RESOURCES, First Party, sometimes referred to herein as the STATE, and the BEAVER AND SHINGLE CREEK IRRIGATION COMPANY, a corporation, organized under the Laws of the State of Utah, Second Party, sometimes referred to herein as the WATER COMPANY:

W I T N E S S E T H

THAT WHEREAS, the STATE desires to promote a water conservation project consisting of an irrigation well 365 feet deep and 12 and 16-inches in diameter, and furnishing and installing a pump and electric motor, switch box, transmission line, pump house and water discharge box structure, located in Section 16, T2S, R6E, SLB&M, in Summit County, Utah.

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 this Agreement and make the following Assignments:

1. 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 and rights-of-way 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 facilities in the distribution system, located in Sections 8, 9, 16, 17, 20, 21, and 22, T2S, R6E, SLB&M.

2. 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 the use of the water which shall be developed or conveyed through the use of the aforesaid project, and particularly Right Nos. 852, 862, 863, 880, and 925 of Civil No. 7487, in the District Court of the Second Judicial District Court of the State of Utah, in and for Weber County, Plain City Irrigation Company, vs., Hooper Irrigation Company and North Ogden Irrigation Company, dated June 2, 1937, by Lester A. Wade, District Judge. Also, Exchange Application No. 840 (Area 35) to divert water from the well for water purchased from the Weber Basin Water Conservancy District in Rockport Reservoir.

3. The WATER COMPANY recognizes as valid the conveyance of easements and rights-of-way executed by various owners of the land to the STATE, and agrees that all performance by the WATER COMPANY under this contract shall be subservient to, and in recognition of, the aforesaid rights of the STATE in and to the aforesaid easements and rights-of-way.

4. The WATER COMPANY agrees to supply the necessary manpower and facilities and agrees to complete the construction of the aforesaid project at a cost in accordance with plans, specifications, and work items, a copy of which is hereby incorporated by reference and made a part hereof.

5. The STATE agrees to pay to the WATER COMPANY up to Eighteen Thousand Two Hundred Eighty Dollars (\$18,280.00) and the WATER COMPANY shall itself pay for all costs in excess of the amount paid by the STATE. The WATER COMPANY agrees and undertakes to construct to completion as designed and specified the aforesaid project in all events, regardless of unforeseen contingencies and agrees to pay all costs in excess of the aforesaid amount paid by the STATE.

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6. It is further agreed that the STATE shall pay Ninety Percent (90%) of the amount payable by the STATE to the WATER COMPANY upon the presentation by the WATER COMPANY to the STATE of a certified statement of the payment requirement which shall be in the nature of a partial estimate of the work completed to date by the WATER COMPANY on each work item. The Ten Percent (10%) withheld as above set forth will become due and payable to the WATER COMPANY with, and as a part of, the final payment to be made by the STATE upon completion of the project, and its inspection and acceptance by an engineer designated by the STATE.

7. It is further agreed that the WATER COMPANY shall complete the construction of the project on or before December 1, 1975, and that title to the entire project, including all appurtenant facilities and water rights shall immediately vest in the STATE. It is also agreed that this contract shall not become binding upon the STATE until it has been signed by all persons and agencies required by law, and that the STATE shall not become liable to the WATER COMPANY for any commitments made by the WATER COMPANY until this contract has been completed.

8. The STATE agrees to sell, and the WATER COMPANY agrees to purchase, the land, easements, rights-of-way, water rights, the constructed works, and all appurtenant facilities acquired by the STATE in this Agreement and Assignments at a total purchase price defined to be the combined total of all funds paid by the STATE to the WATER COMPANY for the construction of the project, but not to exceed Eighteen Thousand Two Hundred Eighty Dollars (\$18,280.00) plus all expense incurred by the STATE for the investigation, engineering, and inspection of the project, and to be determined by the STATE upon completion of the project. The purchase price shall be payable at a rate of Sixteen Hundred Dollars (\$1,600.00), or more per year, of the total purchase price as defined above, without interest.

9. The first annual installment of Sixteen Hundred Dollars (\$1,600.00) or more, of the total purchase price, as defined above, shall become due and payable on the First day of December, 1976, and a like sum, or more, shall be due and payable on the First day of December of each and every year thereafter until the full purchase price, as defined above, shall have been paid in full; said sums shall be payable at the office of the DIVISION OF WATER RESOURCES and the first monies received by the STATE under the terms of this contract will be applied against the indebtedness incurred by the STATE for investigation, engineering, and inspection until fully paid, and any residue will be applied to funds paid by the STATE for the construction of the project. Delinquent payments shall bear interest at a rate of Ten Percent (10%) per annum.

10. All payments made by the STATE to the WATER COMPANY under this Agreement shall be made payable to BEAVER AND SHINGLE CREEK IRRIGATION COMPANY, and mailed to Douglas T. Simpson, President, Kamas, Utah, 84036, or such person as may hereafter be designated by the WATER COMPANY.

11. During the period of such purchase under this contract, provided the WATER COMPANY is not delinquent in any manner, the WATER COMPANY shall have and is hereby given the right to use the STATE'S water rights, and all facilities constructed thereunder. During the life of this Agreement, the WATER COMPANY agrees to assume, at the WATER COMPANY'S expense, the full and complete obligation of maintaining the constructed works, and other facilities, and of protecting all water rights from forfeiture.

12. In order to secure the payment of the aforesaid purchase price, it is hereby expressly agreed that the STATE may require the WATER COMPANY to assess all outstanding shares of their stock for the full amount of any delinquencies in the aforesaid purchase installments. It is further agreed by the WATER COMPANY that it will not incur any mortgages or encumbrances, other than those already acquired by it, on any of its property, real or personal, without first securing the written consent of the STATE. It is further agreed that the WATER COMPANY will not incur any indebtedness whatsoever for a principal sum in excess of Fifteen Thousand Dollars (\$15,000.00) without first procuring the written consent of the STATE. The remedies herein provided shall be deemed cumulative, and not exclusive.

13. The WATER COMPANY hereby warrants the STATE that the construction of the project will not interfere with existing water rights. If the project herein described shall give rise to a claim, or cause of action to any holder of any water rights because of the interference with such rights by the operation of the aforesaid project, then the WATER COMPANY hereby agrees to indemnify the STATE to the extent of such claim or cause of action.

14. If either party to the contract violates any of the conditions or covenants made herein, the other may give written notice of such breach or failure, and if the same shall not be cured within Ninety (90) days after such notice, the other may declare the contract forfeited and may proceed to its remedies at law for such breach.

15. The WATER COMPANY hereby agrees to assume the full obligation for any claim or liability for any injury or death of persons, or for any property loss or damage that may arise from the construction and from the operation of this project for the STATE; and further, the WATER COMPANY agrees to hold the STATE immune for all such claims for damages, injury, or death of persons during the life of this Agreement.

16. After the WATER COMPANY shall have paid in full the purchase price as defined above, the STATE shall execute such deeds and bills of sale as will be necessary to vest the same title to the aforesaid property and water rights in the WATER COMPANY.

17. This Agreement, or any part thereof, or the benefits to be received under this Agreement, may not be the subject of any assignment to any person, firm or corporation, by the said WATER COMPANY, without first having secured the written consent of the STATE to any such proposed assignment or disposition of this Agreement.

IN WITNESS WHEREOF, the State of Utah, acting through the BOARD OF WATER RESOURCES, Party of the First Part, has caused these presents to be signed by the Chairman and Director of the Said BOARD OF WATER RESOURCES by authority of a resolution of said Board; and the BEAVER AND SHINGLE CREEK IRRIGATION COMPANY, Party of the Second Part, has caused these presents to be signed and executed on its behalf by Douglas T. Simpson, its President, and J. Lindsay Holt, its Secretary, by a resolution of its stockholders at a meeting held September 21, 1974.

APPROVED:
BOARD OF EXAMINERS--STATE OF UTAH

Donna Hampton
Governor
George L. Miller
Secretary of State
Attorney General

BOARD OF WATER RESOURCES

Winston Oleson
Chairman
Janet F. Lawrence
Director

BEAVER AND SHINGLE CREEK IRRIGATION COMPANY

APPROVED
AS TO AVAILABILITY OF FUNDS:

W. Hansen

JUN 4
Date

1975 APPROVED AS TO FORM:

J. Lindsay Holt
Secretary
Douglas T. Simpson
President
Assistant Attorney General

APPROVED:

Kenneth J. Hansen
Director of Finance

APPROVED
BOARD OF EXAMINERS
Howard R. Clinton
JUN 3 1975 CLERK

STATE OF UTAH : ss.
County of

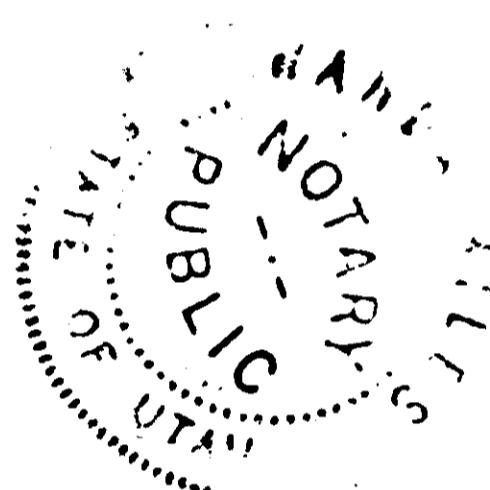
On the 27 day of May, 1975, personally appeared before
me Douglas T. Simpson and J. Lindsay Holt, who being by me duly sworn, did say
that they are the President and Secretary, respectively, of the BEAVER AND SHINGLE
CREEK IRRIGATION COMPANY, and that the said instrument was signed in behalf of
said corporation by authority of a resolution of its stockholders, and said
Douglas T. Simpson and J. Lindsay Holt acknowledged to me that said corporation
executed the same.

Wanda Hule

Notary Public

Residing at: Kanarr, Utah

My Commission Expires: Sept 27 1976



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