

DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
WASHINGTON, D. C.

OFFICE OF THE COMMISSIONER

PTFF'S. EX. FOR IDEN. -----

PTFF'S. EX. FOR RECORD -----

*J. C. Page*

C E R T I F I C A T E

PURSUANT to the provisions of the Act of  
Congress approved August 24, 1912 (37 Stat., 497),  
I HEREBY CERTIFY that the annexed copy of contract  
dated November 6, 1905, between the United States  
and the Klamath Water Users Association,

constitutes a full, true, and literal exemplification  
of said contract contained in the official  
files in the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my  
hand and caused the seal of the Bureau of Reclamation  
to be affixed, this *31<sup>st</sup>* day of December, A. D. 19 40.



*John C. Page*  
-----  
Commissioner,  
Bureau of Reclamation.

# Agreement Between United States and Klamath Water Users Association

These Articles of Agreement, Made and entered into this 16<sup>th</sup> day of November, 1905, by and between the United States of America, acting in this behalf by E. A. Hitchcock, Secretary of the Interior, party of the first part, and the Klamath Water Users Association, a corporation duly organized and existing under the laws of the State of Oregon, party of the second part, their successors and assigns, to wit:

That whereas the Klamath Water Users Association is a corporation organized and existing under the laws of the State of Oregon, for the purposes mentioned in its articles of incorporation, and has lawfully adopted certain by-laws, a copy of which said articles of incorporation and by-laws is appended to this agreement, and is, for all purposes of the interpretation, construction and consideration of this agreement and of the rights thereunder, to be deemed, held, read and considered as if fully written out or printed herein, and deemed as a part hereof; and any change or amendment of said articles of incorporation or by-laws hereafter made under the authority or approval of the Secretary of the Interior will be deemed, held and considered to such extent a change or modification of, or addition to, the terms of this contract, authorized and agreed to by both parties to this contract; and

Whereas, the territory within which the lands to be irrigated by the works hereinafter described, includes all lands within the boundaries described as follows: Such portion of Klamath County, Oregon, and Modoc and Siskiyou Counties, California, as may be included in the Government Reclamation Project as surveyed and outlined and finally approved by the Secretary of the Interior and known as the Klamath Project; and the said lands are in part naturally arid or semi-arid and incapable of proper cultivation without irrigation; and the lands above described, or a greater part thereof, will remain in such condition unless the waters of Upper Klamath Lake in Oregon and Clear Lake in California and their tributaries and outlet streams be utilized and the flow thereof regulated and controlled; and

Whereas, the Secretary of the Interior contemplates the construction of certain irrigation works under the provisions of an Act of Congress entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, for the irrigation and reclamation of the lands described in the said articles; and

Whereas, the incorporators and shareholders of said Klamath Water Users Association are, and under the provisions of its by-laws must be, owners and occupants of lands in said area, and in some cases are appropriators of water for the irrigation thereof, and in addition thereto such incorporators and shareholders and their successors and assigns must initiate rights to the use of water from the said proposed irrigation works, to be constructed by the Secretary of the Interior, as soon as such rights may be initiated, and thereafter complete the acquisition thereof in the manner and upon the terms and conditions to be prescribed therefor by the Secretary of the Interior, which rights shall be, and thereafter continue to be, forever appurtenant to designated lands owned by such shareholders; and

Whereas, neither the relative priority nor the extent of the individual appropriation of such water which may have heretofore been made by said incorporators and shareholders for the lands described in said articles or by-laws, and which are now vested rights, have been ascertained or determined, but said incorporators and shareholders have agreed among themselves, by the terms and provisions of said articles of incorporation and by-laws, upon the rules and principles by and upon which the relative priority and extent of their several appropriations and vested rights to the use of such waters shall be determined in case such appropriations or rights should be hereafter recognized:

Therefore, it is agreed and understood by and between the parties hereto:

1. That if the Secretary of the Interior shall authorize and shall cause the construction of said irrigation works, then in the determination of the relative rights of the shareholders of the said Association, and of their respective rights to the use of water acquired from the Government under said Act of Congress, the rules and principles set out in said by-laws, for such determination, shall be deemed the established rules and principles for that purpose.

2. That only those who are or who may become members of said Association, under the provisions of its said articles and by-laws, shall be accepted as applicants for rights to the use of water available by means of said proposed irrigation works.

3. That the aggregate amount of such rights to be issued shall, in no event, exceed the number of acres of land capable of irrigation by the total amount of water available for the purpose, being (1) the amount now appropriated by the shareholders of said Association; and (2) the amount to be delivered from all sources in excess of the water now appropriated; and that the Secretary of the Interior shall determine the number of acres so capable of such irrigation as aforesaid, his determination to be made upon due and expert consideration of all available data, and to be based upon and measured and limited by the beneficial use of water.

4. That the payments for the water rights to be issued to the shareholders of said Association, under the provisions of said Act of Congress, shall be divided into not less than ten equal annual payments, the first whereof shall be payable when the water is first delivered to said works, or within a reasonable time thereafter, and after due notice thereof by the Secretary of the Interior to the Association, and the cost of said proposed irrigation works shall be apportioned equally per acre among those acquiring such rights; provided, however, that the Secretary of the Interior shall hereafter determine, in order to make an equitable distribution of the cost of the project, to classify irrigable lands hereinafter described according to the expense of reclamation and apportion to each class its proportional share of such expense, then it is understood and agreed that the cost of said proposed reclamation works for each class shall be apportioned equally per acre among those, under such class, acquiring such above described rights.

5. That the said Klamath Water Users Association hereby guarantees the payments for that part of the cost of the irrigation work which shall be apportioned by the Secretary of the Interior to each shareholder, and will promptly collect or require prompt payment therefor in such manner as the Secretary of the Interior may direct; that it will promptly pay the sums collected by it to the receiver of the local land office for the district in which said lands are situate; that it will promptly employ the means provided and authorized by the said by-laws for the enforcement of such collections, and will not change, alter or amend its by-laws in any manner whereby such means of collection, or the lien given to it by the shareholders to secure the payment thereof, or of any assessments contemplated or authorized thereby, shall be impaired, diminished, or rendered less effective, without the consent of the Secretary of the Interior.

6. That the United States shall in no manner be responsible for the sums collected by said Association until they have been paid in full to the hands of the receiver of the local land office, as provided by law, and in accordance with such regulations as may be prescribed by the Secretary of the Interior.

7. That for the purpose of enforcing said collections, the Association will adopt and enforce proper by-laws, subject to the approval of the Secretary of the Interior, and not change them so as to in anywise impair their efficiency for said purpose, and will otherwise do any and all things it is authorized and empowered to do in the premises.

8. That the Association will adopt and enforce such rules and regulations as it is authorized by its articles of incorporation and by-laws to adopt and enforce, concerning the use of water by its shareholders and concerning the administration of the affairs of the Association, to effectually carry out and promote the purposes of its organization, within the provisions of said articles of incorporation and by-laws, which rules and regulations shall be subject to the approval of the Secretary of the Interior, and that if the Association fail to make and adopt such rules and regulations, then the Secretary of the Interior may prescribe them; but in such event the Secretary of the Interior shall impose no rule or regulation interfering with any vested right of the shareholders of the Association, as defined or modified by said by-laws.

9. That persons who are not now members of the Association, but who may be owners or occupants of land to be irrigated, as described in its by-laws, or of added lands as therein provided for and to whom rights to the use of water from the proposed irrigation works may be issued by the United States, may, at the designation of the Secretary of the Interior, become members of the Association upon subscribing to the stock thereof, and upon compliance with the other conditions prescribed for such membership.

10. That in all the relations between the United States and this Association and the members of the Association, the rights of the members of the Association to the use of water where the same have vested, are to be defined, determined and enjoyed in accordance with the provisions of said act of Congress and of other acts of Congress on the subject of the acquisition and enjoyment of the rights to use water, and also by the laws of the States of Oregon and California where not inconsistent therewith, modified, if modified at all, by the provisions of the articles of incorporation and by-laws of said Association.

11. That nothing contained in this agreement, or to be implied from the fact of its execution, shall be construed, held or deemed to constitute an approval by the Secretary of the Interior, nor an adoption by him, of the articles of incorporation or by-laws of said Association, or their details as the form of organization of water users contemplated and authorized by Section 6 of said act of Congress of June 17, 1902; but such approval and adoption is expressly reserved until the conditions prescribed in said act authorizing such approval and adoption have been met; and that when the Secretary of the Interior shall make, approve and promulgate rules and regulations for the administration of the water to be supplied from said proposed irrigation works, such rules and regulations, and such modifications thereof as the Secretary of the Interior from time to time, approve and promulgate, shall be deemed and held to be obligatory upon this Association as fully and completely as if every intent and purpose, as if they were now made, approved, promulgated and written out in full in this agreement, and the same are to be so read and construed.

In witness whereof, the Secretary of the Interior for and in behalf of the United States has hereunto set his hand and seal, and the Klamath Water Users Association has hereunto set its corporate seal, and these presents to be subscribed by its president

Name of Shareholder.	No. of Shares.
De Lap, C. R.	382
Evans, V. R.	160
Ferguson, J. C.	318
Fountain, P. L.	400
Fitch, E. E.	160
Gardner, C. M.	320
Galarneau, M.	200
Graffis, Cyrus	160
Griffith, T. E.	100
Grigsby, B. S.	913
Harrison, Grant	161
Hill, C.	80
Hill, W. F.	360
Hoagland, C. H.	160
Jory, Jas. W.	1000
Jory, G. W.	160
Keck, Esau	160
Kester, F. B.	300
Koontz Jno.	80
Konzack, Gottfried	155
Laughlin, Robert	160
Marks, Albert	433
Martin, Thos.	240
Mason, Burge W.	40
McCumber, C. H.	440
Moore, E. H.	40
Moore, E. L.	120
Meyer, C. N.	80
Nichols, D. B.	160
Morine, S. F.	440
Nelson, F. T.	900
Neilson, L. P.	160
Newton, H. S.	80
Nichols, Jos.	320
Orr, M. F.	360
S. H. Patterson	440
Petersteiner, Peter	160
Pattee, Van Riper & McKindree	160
Rueck, Jacob	960
Ryan, Andrew	160
Steenen, Fred	40
Sherman, C. W. Sr.	160
Short, R. C.	80
Sims, J. H.	440
Slough, W. S.	320
W. T. Smith	1200
Stearns, O. A.	400
Stevenson, J. G.	249
Summers, S. T.	640
Van Meter, M. A.	162
Van Meter, F. P.	81
Ward, D. H.	120
Willits, L. F.	280
Whiteline, H. N.	392

The President then stated the object of the meeting as set forth in the notice.

The following resolution was then presented, which, on motion of

W. S. Slough, was unanimously adopted:-

BE IT RESOLVED, By the Stockholders of the Klamath Water Users Association, in special meeting duly called and assembled, that the Board of Directors of said corporation be, and they are hereby specially authorized and directed to enter into an agreement, on behalf of said corporation, with the United States of America in the words and figures as follows, to wit:-

These Articles of Agreement, made and entered into this.... day of ....., 1905, by and between the United States of America, acting in this behalf by E. A. Hitchcock, Secretary of the Interior, party of the first part, and the Klamath Water Users Association, a corporation duly organized and existing under the laws of the State of Oregon,, party of the second part, their successors and assigns; Witnesseth:

That Whereas, The Klamath Water Users Association is a corporation organized and existing under the laws of the State of Oregon, for the purposes mentioned in its Articles of Incorporation, and has lawfully adopted certain By-Laws, a copy of which said Articles of Incorporation and By-Laws is appended to this agreement, and is, for all purposes of the interpretation, construction and consideration of this agreement and of the rights thereunder, to be deemed, held, read and considered as if fully written out or printed herein, and deemed as a part hereof; and any change or amendment of said articles of incorporation or by-laws hereafter made under the authority or approval of the Secretary of the Interior will be deemed, held and considered to such an extent a change or modification of, or addition to, the terms of this contract, authorized and agreed to by both parties to this contract; and

Whereas, the territory within which the lands to be irrigated by the works hereinafter described, includes all lands within the boundaries described as follows: Such portion of Klamath County, Oregon, and Modoc and Siskiyou Counties, California, as may be included in the Government Reclamation Project as surveyed and outlined and finally approved by the Secretary of the Interior, and known as the Klamath Project; and the said lands are in part naturally arid or semi-arid and incapable of proper cultivation without irrigation; and the lands above described, or a greater part thereof, will remain in such condition unless the waters of Upper Klamath Lake in Oregon and Clear Lake in California and their tributaries and outlet streams be utilized and the flow thereof regulated and controled; and

Whereas, the Secretary of the Interior contemplates the construction of certain irrigation works under the provisions of an Act of Congress entitled, "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands", approved June 17, 1902 for the irrigation and reclamation of the lands described in the said articles, and

Whereas, The incorporators and Shareholders of said Klamath Water Users Association are, and under the provisions of its by-laws must be, owners and occupants of lands in said area, and in some cases are appropriators of water for the irrigation thereof, and in addition thereto such incorporators and shareholders and their successors and assigns must initiate rights to the use of water from the said proposed irrigation works, to be constructed by the Secretary of the Interior, as soon as such rights may be initiated, and thereafter complete the acquisition thereof in the manner and upon the terms and conditions to be prescribed therefor by the Secretary of the Interior, which rights shall be, and thereafter continue to be, forever appurtenant to designated lands owned by such shareholders; and

Whereas, Neither the relative priority nor the extent of the individual appropriation of such water which may have heretofore been made by said incorporators and shareholders for the lands described in said articles or by-laws, and which are now vested rights, have been ascertained or determined, but said incorporators and shareholders have agreed among themselves, by the terms and provisions of said articles of incorporation and by-laws, upon the rules and principles by and upon which the relative priority and extent of their several appropriations and vested rights to the use of said waters shall be determined in case such appropriations or rights shall be hereafter recognized:

Therefore it is Agreed and Understood by and between the parties hereto:

1. That if the Secretary of the Interior shall authorize and shall cause the construction of said irrigation works, then in the determination of the relative rights of the shareholders of the said Association and of their respective rights to the use of water acquired from the Government under said Act of Congress, the rules and principles set out in said by-laws, for such determination, shall be deemed the established rules and principles for that purpose.

2. That only those who are or who may become members of said Association, under the provisions of its said articles and by-laws, shall be accepted as applicants for rights to the use of water available by means of said proposed irrigation works.

3. That the aggregate amount of such rights to be issued shall in no event, exceed the number of acres of land capable of irrigation by the total amount of water available for the purpose, being (1) the amount now appropriated by the shareholders of said Association; and (2) the amount to be delivered from all sources in excess of the water now appropriated; and that the Secretary of the Interior shall determine the number of acres so capable of such irrigation as aforesaid, his determination to be made upon due and expert consideration of all available data, and to be based upon and measured and limited by the beneficial use of water.

4. That the payments for the water rights to be issued to the shareholders of said Association, under the provisions of said Act of Congress, shall be divided into not less than ten equal annual payments the first whereof shall be payable when the water is first delivered from said works, or within a reasonable time thereafter, and after due notice thereof by the Secretary of the Interior to the Association, and that the cost of said proposed irrigation works shall be apportioned equally per acre among those acquiring such rights; provided, however, that if the Secretary of the Interior shall hereafter determine, in order to make an equitable distribution of the cost of the project, to classify the irrigable lands hereinbefore described according to the expense of reclamation and apportion to each class its proportional share of such expense, then it is understood and agreed that the cost of said proposed reclamation works for each class shall be apportioned equally per acre among those, under such class, acquiring such above described rights.

5. That the said Klamath Water Users Association hereby guarantees the payment for that part of the cost of the irrigation works which shall be apportioned by the Secretary of the Interior to each shareholder, and will promptly collect or require prompt payment thereof in such manner as the Secretary of the Interior may direct; that it will promptly pay the sums collected by it to the receiver of the local land office for the district in which said lands are situated; that it will promptly employ the means provided and authorized by said by-laws for the enforcement of such collections, and will not change, alter or amend its by-laws in any manner whereby such means of collection, or the lien given to it by the shareholders to secure the payment thereof, or of any assessments contemplated or authorized thereby, shall be impaired, diminished, or rendered less effective, without the consent of the

Secretary of the Interior.

6. That the United States shall in no manner be responsible for the sums collected by said Association until they have been paid into the hands of the receiver of the local land office, as provided by law, and in accordance with such regulations as may be prescribed by the Secretary of the Interior.

7. That for the purpose of enforcing said collections, the Association will adopt and enforce proper by-laws, subject to the approval of the Secretary of the Interior, and not change them so as to in anywise impair their efficiency for said purpose, and will otherwise do any and all things it is authorized and empowered to do in the premises.

8. That the Association will adopt and enforce such rules and regulations as is authorized by its articles of incorporation and by-laws to adopt and enforce, concerning the use of water by its shareholders and concerning the administration of the affairs of the Association, to effectually carry out and promote the purposes of its organization, within the provisions of said articles of incorporation and by-laws, which rules and regulations shall be subject to the approval of the Secretary of the Interior, and that if the Association fail to make and adopt such rules and regulations then the Secretary of the Interior may prescribe them; but in such event the Secretary of the Interior shall impose no rule or regulation interfering with any vested right of the shareholders of the Association, as defined or modified by said by-laws.

9. That persons who are not now members of the Association, but who may be owners or occupants of land to be irrigated, as described in its by-laws, or of added lands as therein provided for and to whom rights to the use of water from the proposed irrigation works may be issued by the United States, may, at the designation of the Secretary of the Interior, become members of the Association upon subscribing to the stock thereof, and upon compliance with the other conditions prescribed for such membership.

10. That in all the relations between the United States and this Association and the members of the Association, the rights of the members of the Association to the use of water where the same have vested, are to be defined, determined and enjoyed in accordance with the provisions of said act of Congress and of other acts of Congress on the subject of the acquisition and enjoyment of the right to use water; and also by the laws of the states of Oregon and California where not inconsistent therewith, modified, if modified at all, by the provisions of the articles of incorporation and by-laws of said Association.

11. That nothing contained in this agreement, or to be implied from the fact of its execution, shall be construed, held or deemed to be an approval by the Secretary of the Interior, nor an adoption by him, of the articles of incorporation or by-laws of said Association in all their details as the form of organization of water users contemplated and authorized by Section 6 of said Act of Congress of June 17th, 1902; but such approval and adoption is expressly reserved until the conditions prescribed in said Act authorizing such approval shall have risen; and that when the Secretary of the Interior shall make, approve and promulgate rules and regulations for the administration of the water to be supplied from said proposed irrigation works, such rules and regulations, and such modifications thereof as the Secretary may, from time to time, approve and promulgate, shall be deemed and held to be obligatory upon this Association as fully and completely and to every intent and purpose, as if they were now made, approved, promulgated and written out in full in this agreement, and the same are to be so read and construed.

In Witness Whereof, The Secretary of the Interior for and in behalf of the United States has hereunto set his hand and seal, and the Klamath Water Users Association has caused its corporate seal to be affixed hereto and these presents to be subscribed by its president and secretary, this ..... day of....., 1905.

Secretary of the Interior for and in behalf of the United States, Party of the First Part.

Witnesses:

KLAMATH WATER USERS ASSOCIATION, Party of the Second Part.

By ..... President.

Attest: ..... Secretary.

And we, the said Stockholders, hereby consent to each and all of the matters hereinabove set forth, and hereby ratify and confirm the same and all else that said Board of Directors shall do in the premises.

The next order of business being the ratification or rejection of the agreement and contract between the Klamath Water Users Association and the United States embodied in the foregoing resolution, the President directed that the election proceed at once for that purpose, under the inspection of the Board of Directors of the Klamath Water Users Association.

The following members of said Board of Directors were present and acted as such inspectors: E. I. Applegate, J. P. Churchill, P. L. Fountain, B. S. Grigsby, W. F. Hill, M. F. Orr, Jacob Rueck, O. A. Stearns.

Whereupon the President appointed P. L. Fountain and Jacob Rueck tellers and instructed them to distribute ballots.

Sufficient time being given for the marking of the same, and having asked whether or not there were any present entitled to vote who had not voted, and there being no response, he thereupon directed the tellers to proceed to count the same under the inspection of the Board of Directors of the Klamath Water Users Association.

During the counting of the ballots, the following resolution was presented, which, on motion of E. I. Applegate, was adopted by unanimous vote:- BE IT RESOLVED, By the Stockholders of the Klamath Water Users Association, in meeting assembled;

That we fully appreciate the splendid efforts and accomplishments of the United States Reclamation Service in meeting and solving the many difficulties confronting the prosecution of the Klamath Project, making possible the recent announcement that bids for the initial work will be opened on December 29th of this year.

That we publically thank Mr. F. H. Newell, Chief Engineer of the Service, for the interest he has shown in this country and this Project.

That we thank Mr. J. B. Lippincott, Supervising Engineer, for his loyal devotion of his energies and recognized engineering abilities, to the best interests of the Service; and for the manifest results of his untiring efforts as exemplified in this Project.

That we thank Mr. T. H. Humphreys, Project Engineer, for his intelligent, efficient, honest and successful work, realizing that his business-like administration of project affairs is in the interest of every

and future landowner under the project.

The tellers having completed the count of the ballots, reported the following result:- Total vote for the ratification and adoption of the contract between the Klamath Water Users Association and the United States, 8598; total vote against said ratification and adoption, nothing.

Thereupon the President declared that the said contract and agreement was ratified and adopted by unanimous vote.

There being no further business before the meeting, the president then declared the meeting adjourned.

Dated November third, 1905.

Attest:

E. I. Applegate Secretary. Jerome P. Churchill President.

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