

Contract No.

14-06 200-3784

11-29-54

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Klamath Project, Oregon-California

AMENDATORY CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND THE KLAMATH IRRIGATION DISTRICT

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CERTIFIED COPY

THE BOARD OF SUPERVISORS of the Napa County Flood Control and Water Conservation District met Tuesday, April 24, 1962, at Ten O'clock A. M.

Present: N. D. Clark, Chairman
Supervisors Howard H. Dickenson
Julius Caiocca, Jr.

Absent: Supervisors Gordon Eby
Andrew G. Fagiani

Upon motion of Supervisor Dickenson, seconded by Supervisor Caiocca, a contract with the Department of the Interior and the Napa County Flood Control and Water Conservation District, for the purchase of water from March 1, 1962, through February 28, 1963, at a cost of \$15.00 per acre foot, is approved, and the Chairman and Clerk authorized to execute the same.

AYES: Dickenson, Caiocca and Clark
NOES: None
ABSENT: Eby and Fagiani

THE FOREGOING INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE

ATTEST

APR 25 1962

C. S. SHIPPY

COUNTY CLERK
OF SUPERVISORS
CALIFORNIA

OFFICE CLERK OF THE BOARD
OF SUPERVISORS
OF THE COUNTY OF NAPA STATE OF

By

DEPUTY.

CONTRACT NO. 14-06-200-3784

Regional Office Draft 8-1-54
(Revised W. O. 9-9-54)
Approved W. O. 9-17-54

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Klamath Project, Oregon-California

AMENDATORY CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND THE KLAMATH IRRIGATION DISTRICT

THIS AMENDATORY CONTRACT, made this 29th day of November, 1954, between THE UNITED STATES OF AMERICA, hereinafter called the United States, acting through the Secretary of the Interior, pursuant to the Federal reclamation laws, and the KLAMATH IRRIGATION DISTRICT, organized and existing under and by virtue of the laws of the State of Oregon, hereinafter called the District:

WITNESSETH, THAT:

EXPLANATORY RECITALS

WHEREAS, under authority of the Federal reclamation laws the United States has constructed and continues to construct the irrigation project in the States of Oregon and California, known as the Klamath Project, consisting of facilities for storing water in Upper Klamath Lake and Gerber Reservoir in Oregon, and Clear Lake Reservoir in California, together with works for delivering irrigation water therefrom to areas where it may be beneficially used; and

WHEREAS, the United States and the District, acting pursuant to the Federal reclamation laws and the laws of the State of Oregon, have previously entered into a contract dated July 6, 1918, as amended and supplemented by contracts dated June 28, 1920, April 10, 1922, June 25, 1927, November 24, 1928, April 1, 1938, and June 2, 1950, for the repayment of the costs of construction of certain of the Project works; and

WHEREAS, the District is obligated, among other things, to repay to the United States that part of the expenditures made by the United States in the construction of the Project which is properly allocable to the District; and

WHEREAS, the District, as the duly authorized representative of the water users within its geographic boundaries, desires to enter into an amendatory contract with the United States, which would provide for the District to take over the operation and maintenance of certain of the Project works;

NOW, THEREFORE, in consideration of the mutual and dependent covenants and stipulations herein contained, it is mutually agreed between the parties hereto as follows:

DEFINITIONS

1. The following terms, whenever used in this contract, shall have the following respective meanings:
 - (a) "District" shall mean the Klamath Irrigation District, except where indicated otherwise.
 - (b) "Secretary" shall mean the Secretary of the Interior or his duly authorized representative.
 - (c) "Federal reclamation laws" shall mean the Act of June 17, 1902 (32 Stat. 388), and all acts amendatory thereof or supplementary thereto.
 - (d) "Reserved works" shall mean all Project works located outside the District boundaries but within Klamath County, Oregon, and

Siskiyou and Modoc Counties, California, which contribute to the irrigation, drainage or flood protection of the District lands but will continue to be operated and maintained by the United States or by some agency other than the District, under contract with the United States, plus the following works located wholly or partly within the District:

(i) The entire "J" Canal and distribution system, including the headworks and Lower Lost River Diversion Dam.

(ii) All buildings at the Project headquarters, except those which may be transferred to the District under provisions of Article 4(e) of this contract.

(iii) Lost River Diversion Dam and the Lost River Diversion Channel, including all appurtenant control works.

(iv) The Project telephone system.

(v) Link River Dam.

(vi) Enterprise Hydroelectric Plant.

(e) "Transferred works" shall mean all of the irrigation works set forth in Article 4 and such other irrigation works constructed by the United States for the irrigation of the lands located within the geographic boundaries of the District which upon agreement between the United States Bureau of Reclamation and the District may hereafter be transferred to the District for operation and maintenance.

(f) "Operation and maintenance costs" shall mean all costs properly chargeable to operation and maintenance of the works in reference to which the term is used, including, without limitation by reason of

this enumeration, the costs of replacements and betterments of such works or any part thereof.

SCOPE OF CONTRACT

2. This contract supplements the previous contracts enumerated herein between the United States and the District. All provisions of such contracts not in conflict with this contract shall remain in full force and effect.

INDEBTEDNESS OF DISTRICT

3. The construction cost obligation of the District to the United States as established by previous contracts, or as said contracts may hereafter be amended, is not affected by this contract.

TRANSFERRED WORKS TURNED OVER TO DISTRICT

4. Effective January 1, 1955, there is transferred to the District for care and operation and maintenance the real and personal property listed below, used or useful for operative purposes of the Klamath Project, subject to the provisions of Article 5. Title to said property shall remain in the United States except as provided in Article 5.

(a) The entire Main or "A" Canal, and the "B", "C", "D", "E", "F" and "G" Canals, including the "C-G Cutoff," (but excluding the Enterprise Hydroelectric Plant) and all their related distribution systems;

(b) The entire drainage system within the District, including the Melhase-Ryan drainage pumping plant and the "J" Canal North Side

Parallel Drain and drainage works constructed pursuant to the agreement of November 24, 1928, as set forth in said agreement;

(c) All structures used in connection with the above canals, distribution and drainage works;

(d) The Adams and Miller Hill Pumping Plants;

(e) The residences, outbuildings, shops, warehouses, and office buildings designated by the District pursuant to the procedure set forth in Article 5 hereof;

(f) All equipment, records and supplies used in connection with the operation and maintenance of the transferred works which the United States desires to transfer with said works and which the District designates pursuant to the procedure set forth in Article 5 hereof.

SELECTION AND TRANSFER OF PROPERTY

5. Prior to the time that the transferred works are turned over to the District for care and operation and maintenance as provided in Article 4 hereof, the Board of Directors of the District shall determine which, if any, it desires of the Klamath Project residences, outbuildings, shops, offices, warehouses, or other structures to be used in connection with the operation of the District but which are not integral parts of the irrigation and drainage systems, and what equipment, records and supplies it wishes to accept, pursuant to Article 4 hereof. Upon making such determination, the Board shall submit to the Secretary a list of those structures, equipment, records and supplies, whereupon such

list shall be appended to and become part of this contract. Upon the transfer to the District of the operation and maintenance of the works as provided in Article 4, the items on said list shall be transferred to the District for use in connection with the care and operation and maintenance of said transferred works. Whenever, and to the extent, authorized by law, title to said structures, equipment, records and supplies shall be vested in the District.

OPERATION AND MAINTENANCE OF TRANSFERRED WORKS

6. The District accepts the care, operation, and maintenance of the transferred works and will care for, operate, and maintain the transferred works and deliver water therefrom in full compliance with the Federal reclamation laws as they now exist or hereafter may be amended, the regulations of the Secretary now in force or hereafter promulgated, and the terms of this contract and any other contract in force affecting the transferred works.

KEEPING TRANSFERRED WORKS IN REPAIR

7. (a) No substantial change in any of the transferred works shall be made by the District without first obtaining the written consent of the Secretary.

(b) The District shall promptly make any and all repairs to the transferred works which, in the opinion of the Secretary, are necessary for their proper preservation in as good condition as they were on the effective date of this contract. ✓

(c) In case of neglect or failure of the District for a period of one (1) year to make such repairs, the United States may, at the option of the Secretary, take back the care, operation and maintenance of the transferred works as provided in Article 21 hereof, or may cause suitable repairs to be made and charge the cost thereof to the District, which charge the District shall pay as provided in Article 16.

(d) In event of major disaster to, or failure of, the transferred works, or any part thereof, which results in damage of such severity or magnitude that immediate repairs to the transferred works are imperative, in the opinion of the Secretary, to protect against substantial hazard to life or property, and the District is then unable or unwilling to promptly accomplish such repairs, the United States may, at the option of the Secretary, immediately take and temporarily retain possession of the transferred works for such time as may be necessary to protect life and property and to prevent further damage to the transferred works. The District shall pay to the United States, as provided in Article 16, the cost of any emergency repairs made during such period of temporary possession by the United States.

INSTALLATION AND MAINTENANCE OF MEASURING DEVICES
AND REPORTING OF DATA

8. The District shall, at its expense, and in a manner satisfactory to the Secretary, maintain all water measuring and controlling devices and gages as have been constructed or installed by the United States or by the District in connection with the transferred works,

collect the data from such devices and gages, and furnish the United States with written reports of such data. If the District at any time fails to do so, the United States may replace or repair such devices and collect such data at the expense of the District, which charge the District shall pay in accordance with Article 16.

CROP CENSUS

9. The District shall, at its own expense, keep a reasonably accurate record of all crops raised, including agricultural and live-stock products produced on District lands, and furnish the Secretary on or before December 31 of each year a crop report, including the aforesaid data, in a form prescribed by the Secretary.

INSPECTION OF TRANSFERRED PROPERTY

10. The Secretary shall cause to be made from time to time a reasonable inspection of the transferred property to ascertain whether the terms of this contract are being satisfactorily executed by the District. Such inspection may include examinations of the transferred property and of the books, records, and papers of the District, together with examinations in the office of the District of all contracts, papers, plans, records and programs connected with the transferred property. The actual expense of such inspection as found by the Secretary shall be paid by the District to the United States as provided in Article 16, provided that the maximum cost for which the District shall be obligated for such inspection shall not exceed fifteen (15) man-days within any period of three (3) consecutive years, plus actual travel and per

diem expenses. The foregoing limitation shall not apply to inspections reasonably necessary to assure that repairs required pursuant to Article 7 have been satisfactorily completed. All inspections shall be held to the minimum necessary to protect the interests of the United States.

INSPECTION OF BOOKS AND RECORDS

11. Subject to applicable Federal laws and regulations, the proper officers or agents of the District shall have full and free access at all reasonable times to the Project account books and official records of the Bureau of Reclamation, insofar as the same pertain to the matters and things provided for in this contract, relating to the construction, acquisition, care, operation and maintenance of the transferred property, the status of individual accounts and the account of the District, and payments of operation and maintenance and construction charges, with the right at any time during office hours to make copies thereof, and the proper representative of the United States shall have similar rights in respect to the account books and records of the District.

OPERATION AND MAINTENANCE OF RESERVED WORKS

12. The reserved works shall be operated and maintained by the United States or by some other agency under contract with the United States. The District will pay to the United States its appropriate share of the cost of operating and maintaining the reserved works as provided in Article 16.

DELIVERY OF WATER SUPPLY AND ASSUMPTION BY DISTRICT OF
OUTSTANDING CONTRACT OBLIGATIONS OF THE UNITED STATES

13. (a) The District shall take the water supply for the lands within the limits of the District, as the same are now or hereafter defined, to be served by or through the transferred works, at the head-works of the main canal and other delivery locations now in existence or that may be constructed in the future, and shall distribute the same to the water users entitled thereto.

(b) The District hereby assumes and agrees to carry out, during the term of this contract, to the satisfaction of the Secretary, all the obligations imposed upon the United States by the contracts listed on Exhibit "A", or any amendments or supplements thereto, appended to and made a part of this contract, for the carriage and delivery of water, in force as of the effective date of this agreement, insofar as said contracts relate to the delivery and carriage of irrigation and drainage water through the transferred works.

(c) Upon execution by the United States of future water right contracts providing for carriage and delivery of irrigation and drainage water through the transferred works to serve the lands of the Pumping Division of the Klamath Project, or to serve the lands of individual water users which are outside the District but so located that they can be served through the transferred works, the District shall be notified thereof by the Secretary and the District shall thereupon assume the obligation of carriage and delivery thereunder the

same as if said contracts had been in existence at the time of execution hereof: Provided, however, That further contracts shall not be entered into by the United States for carriage or delivery of irrigation water through the transferred works which will require additions to or enlargements of the same unless the expense of said additions or enlargements is borne by the United States or by the contractors.

(d) During the life of this agreement the District shall be entitled to collect and retain for its own use, but the United States assumes no responsibility whatever for the payment or collection thereof, all revenues payable to the United States under the hereinabove mentioned contracts as annual operation and maintenance charges. The District shall have the right to withhold delivery of water to any contractor that fails to pay such charges in the amounts and at the time provided in its contract with the United States. All other provisions of said contracts shall remain unaffected hereby. The District shall not be responsible for collection of any revenues due the United States under said contracts which became due and payable before the effective date of this contract.

(e) The District shall deliver water to District lands at the points the United States is now delivering water. For lands outside the District boundaries, and served through the transferred works, water shall be delivered in the quantities, at the times and at the points of diversion from the transferred works as required from time to time by

contractors that have executed contracts with the United States in such manner as to meet obligations which the United States has assumed under said contracts. Responsibilities of the District for delivery of water outside its boundaries shall be limited to the contracts listed on Exhibit "A" hereto and such other contracts as the United States may henceforth execute with others for delivery of water through the transferred works, provided that the terms of such future contracts with others are not contrary to any of the terms of this contract.

(f) The District agrees that it will make no water deliveries under contracts mentioned in this article at times when notified by the Secretary that the contracting parties are not entitled to the delivery of irrigation water because of nonpayment of charges due the United States, or for other reasons.

(g) Within thirty (30) days after the effective date of this contract, the United States shall furnish to the District an itemized statement showing the status of fund accounts with the United States for the District, and for other contractors that receive water through the transferred works, and the status of stores and equipment accounts with the United States for the District. This statement will include the following items:

(i) Unexpended balances of funds advanced for operation and maintenance work, itemized by each contractor.

(ii) Book value of unused materials and supplies purchased with advanced funds.

(iii) Undepreciated value (book value at date of transfer) of equipment purchased with advanced funds.

If a credit balance exists in the fund account of the District, the amount of such balance will be refunded in accordance with Article 24. If a credit balance exists in the fund account of any other contractor, the United States will retain that balance on its books to be applied against the next succeeding payment or payments becoming due on obligations of the Klamath Irrigation District to the United States. In consideration of the total of all such credits being allowed the District, the District will likewise allow corresponding credits to the other contractors on its subsequent billings to those respective contractors. If a debit balance exists in the account of the District with the United States, the District shall pay to the United States the amount due on its own account within ninety (90) days after receipt of statement. Debit balances existing in the accounts of other contractors will be collected by the United States.

DELIVERY OF WATER TO TULE LAKE LANDS

14. (a) The United States retains for use in irrigating non-district lands, and will continue to maintain and operate, or will contract with another agency to maintain and operate, (1) the diversion dam and appurtenant works on Lost River at the heading of the "J" Canal, and (2) the "J" Canal, and the Project buildings at the headworks thereof, and laterals leading therefrom, and (3) the drainage system

below the "J" Canal as shown on map entitled Exhibit "B" which is appended to and made a part of this contract. The United States, or another agency acting under contract for the United States, will deliver irrigation water to the Tule Lake lands within the boundaries of the Klamath Irrigation District served by the said "J" Canal, lateral and drainage systems. The United States will charge the District annually for such service the amount per acre that is charged the Tule Lake lands in California served from the "J" Canal for operation and maintenance, to be paid to the United States in the manner stated in Article 16 hereof.

(b) The District shall maintain and operate for the United States the irrigation and drainage works serving lands lying between the "D" and "J" Canals and above the "D" Canal in California, as shown on map entitled Exhibit "B", and will deliver irrigation water through the "D" Canal to such of those lands in California served from the "D" Canal, as may be designated by the Secretary. For gravity delivery of water to lands which were served by the United States prior to the effective date of this contract, the District shall charge the United States annually the amount per acre of land irrigated that is charged to lands within the District in the State of Oregon for operation and maintenance, and the United States will credit said amount to the District annually upon any payments due hereunder, as provided in Article 16. For future delivery of water to additional lands not

previously served, the District shall charge such amount per acre as may be agreed upon by future supplement to this contract.

WATER FOR LANDS IN KLAMATH FALLS, MALIN AND MERRILL

15. The District shall deliver for use on non-district lands within or adjacent to the District, including but not limited to those within or near the corporate limits of the towns of Klamath Falls, Malin, and Merrill, the water supply which said lands are entitled to receive under existing water rental contracts, under water right applications of various individuals, and under public notices issued by the Secretary, as listed in Exhibit "C" attached to and made a part hereof, or under future public notices issued by the Secretary. The District shall likewise deliver water to any of said lands which may hereafter contract with the United States for a water supply. Water shall be delivered at the respective points where now received, or as may be agreed upon between the District and such water users. The District shall be entitled to collect and retain for its own use all revenues payable for such deliveries, in the same manner as for deliveries to other contractors under the provisions of Article 13 hereof and shall be entitled to withhold delivery of water if charges are not paid when due.

CHARGES TO BE PAID BY THE DISTRICT

16. (a) On or before February 1 of each calendar year during the term of this contract, the United States shall furnish to the District an itemized estimate of all costs expected to be incurred by the United

States under the provisions of this contract during that calendar year which are properly chargeable to the District and a statement of the differences between estimated and actual costs for the previous calendar year, with appropriate charges or credits to adjust the previous year's estimate to the total of actual costs for that previous year. The District shall pay to the United States the total of such estimated costs for the current calendar year, as adjusted by the reconciliation of actual and estimated costs for the previous calendar year, within sixty (60) days after receipt of said estimate and statement. Each such annual estimate and statement shall list separately the following types of costs:

(1) The estimated annual general expense, as determined by the Secretary, to be incurred by the United States and apportioned to the Main and Pumping Divisions of the Klamath Project. This estimate shall be itemized by office and by activity but shall not include the costs itemized under other subdivisions of this article. Such costs shall not exceed Five Thousand Dollars (\$5,000) per year during the first 5-year period following the transfer of operation and maintenance to the District. At the end of said 5-year period and at the end of other appropriate periods throughout the remainder of the term of this contract the Secretary shall analyze the services required to be performed by the United States, and upon the basis of such analysis will establish a similar limit of expenditure for each such period in the light of the then general cost index.

(ii) Estimated annual costs of any bookkeeping, accounting, engineering, legal, drafting, clerical or other technical or administrative services which the District has specifically requested from the United States in writing, or which are furnished by the United States pursuant to some mutual agreement in writing, which costs shall be itemized for each type of service.

(iii) An equitable proportion of the estimated annual costs of operating and maintaining the reserved works, except for the charges provided in subdivision (vii) hereof, as determined by the Secretary. The estimate for these costs shall show the basis on which total costs for operating and maintaining the reserved works are allocated between the District and other agencies.

(iv) Estimated cost of repairs to the transferred works, if any, expected to be made by the United States under the provisions of Article 7 hereof.

(v) Estimated cost of installations, repairs, or maintenance by the United States of measuring and controlling devices and gages, and collection of data, if any, expected to be performed by the United States under the provisions of Article 8 hereof.

(vi) Estimated cost of all inspections expected to be performed by the United States under the provisions of Article 10 hereof.

(vii) Estimated water rental charges or estimated costs of operation and maintenance for lands within the District supplied with water from the "J" Canal, in accordance with the provisions of Article 14 hereof.

(b) The District shall pay the United States any actual costs in excess of the previous year's estimate for work performed or services furnished by the United States during that calendar year under provisions of this contract, itemized by each of the preceding subdivisions (i) through (vii) of this article.

(c) The District shall be credited for any amounts by which the actual costs of work performed or services furnished by the United States during the previous calendar year under provisions of this contract were less than the amounts for such work shown in the previous year's estimate, itemized by subdivisions (i) through (vii) of this article.

(d) The District shall be credited for operation and maintenance charges due the District on lands in California served from the "D" Canal by the District, in accordance with Article 14 hereof.

GENERAL OBLIGATIONS OF THE DISTRICT

17. The obligations of the District under this contract shall be considered general repayment obligations and the District agrees to pay to the United States such obligations according to the terms stated in this contract, notwithstanding the individual default in payment by any of the individual water users of assessments or other charges. Notwithstanding any provisions of this contract, the United States reserves the right to pursue any and all remedies which it may have against the District for default in any payment due under the terms of this contract or under the terms of any contract which the District may have with the United States.

DISTRICT TO USE ALL POWERS TO COLLECT CHARGES

18. (a) The District agrees that it will cause to be made and collected all necessary assessments and charges to cover costs apportioned to it and will use all the authority and resources of the District including, without limitation by reason of this enumeration, its taxing power, the power to create liens in connection with its taxing power, and the power to withhold delivery of water, to meet the obligations of the District to the United States under this contract in full on or before the day such payments become due, and to meet the District's other obligations under this contract. The District is hereby granted the power to withhold delivery of water from any water users receiving water from the transferred works whose payments to the District are in arrears.

(b) The District shall make each year a reasonable estimate of probable delinquencies in collections based on past experience, and shall levy assessments or other charges sufficiently large against the lands in the District to meet the requirements stated in (a) of this article, notwithstanding any individual delinquency which may occur in the payment to the District of any District assessments, or other charges.

WATER RENTAL AGREEMENTS

19. The District may enter into water rental agreements, in a form approved by the Secretary, providing for the delivery of water from the transferred works to water users other than those holding water rights or those having executed contracts with the United States or the

District. The charges to be made for such water rentals shall be those stated in Public Notices of Water Charges for the Klamath Project issued by the Bureau of Reclamation: Provided, That if issuance of such Public Notices by the Bureau be discontinued, the charges to be made in water rental agreements by the District each calendar year shall be established in advance by the Board of Directors of the District. The District shall collect and retain for its own uses all revenues from water rental agreements executed after the effective date of this contract. Delivery of water to holders of water rental agreements shall be subordinate to deliveries to other water users, and the rental agreements shall so state.

 REFUSAL OF WATER TO DISTRICT IN CASE OF DEFAULT 

20. The United States reserves the right (in addition to the rights elsewhere herein reserved to the United States) to refuse to deliver water to the District in the event of the default of the District for a period of more than twelve (12) months in any payments due the United States under this contract. The provisions of this article are not exclusive, and shall not in any manner hinder the United States from exercising any other remedy to enforce collection of any amount due the United States hereunder.

RESUMPTION OF MANAGEMENT AND CONTROL IN EVENT OF DEFAULT

21. (a) In event of default by the District for a period of one (1) year on any payment to the United States provided by this contract, or failure of the District to perform necessary repairs for a period of one (1)

year as provided in Article 7, or of any other violation by the District of the terms of this contract, the United States may, at the option of the Secretary, resume operation and maintenance of the transferred works, or any part thereof, for the purpose of enforcing the provisions of this contract.

(b) Prior to resuming operation and maintenance, the Secretary shall give the District written notice of his intent to exercise such option, which notice shall inform the District of the specific provisions of this contract which have been violated or the obligations that are in default, shall describe the property and works to be returned to the custody of the United States and shall name the date on which return to the United States shall be effected, which date shall be not less than sixty (60) days after the date of notice sent to the District. The District agrees that if it fails to make payment of all sums in default, or to initiate measures that will correct the violations of contract provisions, prior to the date set by the Secretary in accordance with this article, it will upon that date relinquish to the United States the custody of Project works as specified by the Secretary, together with all equipment, records and supplies appurtenant to the operation and maintenance thereof.

(c) In event of resumption by the United States of the operation and maintenance of any or all of the transferred works, the United States shall, within ten (10) days after taking custody of such works, furnish to the District an estimate of cost for operation and maintenance of such works from the date of transfer of custody to the

United States until the end of the calendar year. Within thirty (30) days after receipt of such estimate, the District shall pay to the United States the amount thereof. If the amount so paid to the United States is insufficient to pay the costs of operation and maintenance to the end of the calendar year, the United States shall notify the District, within thirty (30) days after the end of such year, of the amount required to pay the balance of such costs and the District shall within ten (10) days after receipt of such notice pay such amount. Any balance of funds advanced by the District in excess of the amount necessary to pay such costs to the end of the calendar year shall be returned to the District or, at the option of the United States, credited to operation and maintenance costs for the following year.

(d) Operation and maintenance costs for any subsequent years in which the United States retains the operation and maintenance of said works shall be paid by the District in the manner and at the times provided in the existing contracts between the United States and the District and in contracts with other organizations and with individuals involved in operations under this contract.

(e) Any resumption of the management and control of said property and works by the United States, as herein provided for, shall not relieve the District of its obligations under this contract.

(f) Notwithstanding any such resumption of operation and maintenance by the United States all or any part of the Project works may, pursuant to this contract, at the election of the Secretary, be

retransferred by the United States to the District for operation and maintenance in accordance with the terms of this contract by giving sixty (60) days' written notice to the District of such election, of the property and works to be retransferred, and of the effective date of such retransfer. The District agrees to accept the retransfer of any property and works on the effective date of such retransfer, as specified in any such written notice.

(g) It is agreed that in the event the United States, its officers or employees, resume the operation and maintenance of the Project works, or any part thereof, as provided in this contract, neither the United States, nor its officers or employees, shall be liable for any damages resulting directly or indirectly from any such resumption, and the District agrees to hold the United States, its officers and employees, harmless from any and all claims for such damage.

PENALTY FOR DELINQUENCY

22. In the event the District defaults in the payment of any amount due the United States as provided in this contract, there shall be added to the amount unpaid a penalty of one-half (1/2) of one (1) per cent on the day following the due date, and there shall be added a like penalty of one-half (1/2) of one (1) per cent of the remaining unpaid amount on the first day of each calendar month thereafter so long as such default shall continue.

EXCESS-LAND PROVISIONS

23. Pursuant to the provisions of the Federal reclamation laws, water supplied to the District under the terms of this contract shall not be delivered to more than one hundred sixty (160) irrigable acres in the ownership of any one person or corporation, 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 two (2) 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). These limitations shall cease to operate when the construction charge obligation allocable to such land has been paid in full to the United States.

RESERVE FUND

24. (a) Commencing with the calendar year 1955, and continuing until all construction charge obligations to be paid to the United States are paid in full, the District shall include in the annual operation and maintenance assessments to be collected from its water users, amounts sufficient to accumulate and maintain a reserve fund which shall be available only for the purposes and in the circumstances hereinafter set forth.

(b) Said reserve fund shall be accumulated as follows:

The balance of advance operation and maintenance funds held by the United States for the credit of the District at the time of transfer of operation and maintenance to the District shall be refunded to the District and deposited in the reserve fund and become a part thereof; in addition thereto the District shall, commencing with the calendar year 1955, and continuing until all construction charge obligations to be paid to the United States are paid in full, include in the annual operation and maintenance assessments to be collected from its water users amounts sufficient to collect annually not less than Five Thousand Dollars (\$5,000) to be deposited in said reserve fund until the reserve fund thus accumulated shall total Seventy-five Thousand Dollars (\$75,000), which total sum shall be maintained thereafter:

Provided, That upon the depletion of the reserve fund for any of the purposes hereinafter set forth, the District shall not be required to replenish said reserve fund by an amount in excess of Five Thousand Dollars (\$5,000) in any one year.

(c) The reserve fund shall be used only for the purposes of meeting large, unforeseen costs of operation and maintenance, repairs and replacements of works transferred hereunder and for ordinary operation and maintenance costs when the District is otherwise unable to meet such costs.

(d) Such funds shall be maintained by the District apart from other of its funds and shall be deposited with such depository

or may be invested in such securities as are approved by the Secretary: Provided, however, That said funds may be left with the County Treasurer as provided by statute.

UNITED STATES HELD HARMLESS

25. After the transfer of the transferred works, as herein provided, the District shall hold the United States, its officers and agents, harmless as to any and all damages or claims for damages which may in any manner grow out of the care, operation and maintenance of the transferred works after the effective date of transfer.

UNITED STATES NOT LIABLE FOR WATER SHORTAGE

26. On account of drought or other causes, there may occur at times a shortage in the quantity of water available in Project reservoirs and, while the United States will use all reasonable means to guard against such shortage, 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 and the payments to the United States provided for herein shall not be reduced because of any such shortages.

UNCONTROLLABLE FORCES

27. Neither party shall be considered to be in default in respect to any obligation hereunder, if prevented from fulfilling such obligation by reason of an uncontrollable force. For the purpose of this contract the term "uncontrollable force" means any cause beyond

the control of the party affected, including, but not limited to, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority, which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid.

Either party rendered unable to fulfill any obligation by reason of an uncontrollable force shall exercise due diligence to remove such inability with all reasonable dispatch.

WASTE, SEEPAGE AND RETURN FLOW

28. The United States does not abandon or relinquish any of the waste, seepage, or return flow waters coming from the lands of the Project irrigated through works constructed by the United States, but the same are reserved and intended to be retained by the United States for the use and benefit of the Project. The District shall be entitled to use for irrigation all return flows available through the transferred works.

ASSURANCE RELATING TO VALIDITY OF CONTRACT

29. The execution of this contract shall be authorized by the qualified electors of the District at an election held for that purpose. The District, after the election and upon execution of this contract, shall file and prosecute to a final decree, (including any appeal therefrom to the highest court of the State of Oregon) in a court of competent jurisdiction a special proceeding for the judicial examination, approval, and confirmation of the proceedings leading up the making of this

contract. This contract shall not be binding upon the United States until the contract shall have been so confirmed by a court of competent jurisdiction or pending appellate action if ground for appeal be laid.

NOTICES

30. Any notice or announcement which the provisions hereof contemplate shall be given to one of the parties hereto by the other shall be deemed to have been given if deposited in the United States Post Office, on the part of the United States, in a postage-prepaid envelope addressed to the District at its office and, on the part of the District, in a postage-prepaid envelope addressed to the Bureau of Reclamation, Department of the Interior, P. O. Box 2511, Sacramento, California, or such other address as from time to time may be designated by the Secretary in a written notice to the District: Provided, however, That this article shall not preclude the effective service of any such notice or announcement by other means.

CHANGES IN DISTRICT ORGANIZATION

31. While this contract is in effect, no changes shall be made in the District, either by inclusion or exclusion of land, or by partial or total consolidation or merger with another District, or by proceeding to dissolve, or otherwise, except with the consent of the Secretary evidenced in writing.

SELECTION OF MANAGER OR SUPERINTENDENT

32. Until completion of payment to the United States of the construction charges against the lands in the District, the District

shall employ a competent and suitable District Manager or Superintendent to have charge of the transferred works while they are being operated and maintained by the District. The selection and continued employment of said person shall be subject to the mutual approval of the District and the Secretary: Provided, however, That such Manager or Superintendent may at any time be discharged by the District.

ADJUSTMENT OF DISPUTES

33. Should any dispute arise between the District and any of the parties receiving water from the works operated by the District, concerning the operation or management of the transferred works or any part thereof, in which dispute it is claimed that the transferred works are not being properly operated or maintained or that any party is not receiving water in the manner and amount to which such party is entitled under contract with the United States; and should the District and parties be unable to settle such dispute, the matter in dispute immediately shall be referred to the Secretary, who shall promptly render his decision on such disputed question. Said decision shall be accepted by all parties as final and conclusive, except that it may be subject to review by a court having jurisdiction over the matter in dispute. The District shall promptly comply with such decision, and shall operate in conformance with such decision until or unless the same is reversed or modified by the Secretary or by said court.

RIGHTS RESERVED UNDER SECTION 3737, REVISED STATUTES

34. All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States (U.S. Code, Title 41, Section 15), relating to assignment of contracts.

TERMINATION OF CONTRACT


35. (a) All obligations of the District to make payments to the United States under Article 16 hereof, except those required by subdivisions (iii) and (vii) of Article 16, shall terminate whenever all of the following have taken place:

(i) The United States has relinquished its title to the transferred works.

(ii) The District has notified the United States that it no longer has any foreseeable need for technical or administrative services from the United States, of the types mentioned in subdivision (ii) of Article 16 hereof.

(iii) All amounts of money owed by the District to the United States under provisions of this and other contracts have been paid in full.

(b) By such termination of payment obligations, the District shall permanently acquire from the United States all water rights then held by the United States pertaining to lands within the boundaries of the District: Provided, That such acquisition of water rights by the District shall be in no way contrary to the laws of the State of Oregon

as then existing, or to the provisions of any compact which may be then in effect between the State of Oregon and California with respect to water rights in the watershed drained by the Klamath River. 

DISCRIMINATION AGAINST EMPLOYEES OR APPLICANTS
FOR EMPLOYMENT PROHIBITED

36. The District shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and shall require an identical provision to be included in contracts relating to the performance of this contract. This provision, however, does not refer to, extend to, or cover the activities of the District which are not related to or involved in the performance of this contract.

OFFICIALS NOT TO BENEFIT

37. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

ASSIGNMENT LIMITED--SUCCESSORS AND
ASSIGNS OBLIGATED

38. The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any part or interest therein shall be valid until approved by the Secretary.

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

THE UNITED STATES OF AMERICA

By /s/ C. H. Spencer
Regional Director, Region 2
Bureau of Reclamation

KLAMATH IRRIGATION DISTRICT

By /s/ E. M. Hammond
President

(SEAL)
Affixed

Attest:

/s/ John L. Stewart Jr.
Secretary

EXHIBIT "A"

WARREN ACT CONTRACTORS ENTITLED TO WATER FROM DISTRIBUTION SYSTEM

<u>Contract Number</u>	<u>Contract Date</u>	<u>Water User</u>	<u>Acres</u>
Ilr-403	Dec. 21, 1918	Pine Grove Irrigation District	954.7
I8r-1065	Feb. 3, 1943	Van Brimmer Ditch Company	Excess Only
Ilr-399	Oct. 5, 1920	Enterprise Irrigation District	2980.8
Ilr-195	Sept. 9, 1922	Malin Irrigation District	3479.2
Ilr-1531	Aug. 20, 1948	Shasta View Irrigation District	3991.0
Ilr-401	Aug. 23, 1924	E. H. Johnson	20.0
Ilr-174	Oct. 24, 1922	Sunnyside Irrigation District	595.0
Ilr-143✓	May 16, 1927	Charles W. Lewis	52.9
Ilr-144✓	May 28, 1927	R. C. Burleigh	107.0
Ilr-144✓	May 28, 1927	Phelps Lewis	32.5
Ilr-145✓	May 18, 1927	L. Kandra	91.6
Ilr-146✓	May 21, 1927	I. C. Johnson	90.1
Ilr-147✓	May 16, 1927	Clyde M. Horsley	35.2
Ilr-147✓	May 16, 1927	Roy Hourck	12.6
Ilr-148✓	May 27, 1927	I. C. Johnson	61.9
Ilr-149	May 20, 1927	J. A. Carpenter	89.6
Ilr-149	May 20, 1927	J. A. Carpenter	46.8
Ilr-150✓	May 24, 1927	Charles B. Rice	16.0
Ilr-151✓	May 24, 1927	William F. Jinnette	60.2
Ilr-152✓	May 24, 1927	W. E. Hammond	50.4
Ilr-155✓	May 19, 1927	Myrtle Beasly	133.5
Ilr-156✓	May 19, 1927	Myrtle Beasly	45.1
Ilr-157✓	May 28, 1927	Hill Brothers	57.0
Ilr-159	May 26, 1927	J. A. Carpenter	37.2
Ilr-159	May 26, 1927	J. A. Carpenter	103.2
Ilr-161✓	June 11, 1927	James W. Dolan	70.5
Ilr-162✓	June 14, 1927	James Lacey	31.5
Ilr-163✓	June 16, 1927	Joe Meeker	80.0
Ilr-164✓	June 11, 1927	Elizabeth L. Stewart	73.7
Ilr-165✓	June 7, 1927	Roy F. Beasly	30.0
Ilr-166✓	June 9, 1927	Fred Peterson	10.0
Ilr-175	June 22, 1927	Anton Steyskal	5.1
Ilr-175	June 22, 1927	J. A. Carpenter	18.3
Ilr-248✓	Nov. 30, 1927	Karl F. Dehlinger	60.5
Ilr-304✓	May 26, 1928	Harry Kinney	45.4

INDIVIDUAL = 1567.8

EXHIBIT "A" (CONT'D.)

<u>Contract Number</u>	<u>Contract Date</u>	<u>Water User</u>	<u>Acres</u>
●I1r-316✓	June 6, 1928	June F. Grimes	131.1
I1r-329✓	June 8, 1928	M. J. Barnes	1.6
I1r-328	June 15, 1928	Harold E. Dehlinger	56.0
I1r-337✓	July 7, 1928	Cecil Drew	28.8
I1r-531✓	Feb. 13, 1929	G. W. Crew	25.4
I1r-582✓	Nov. 9, 1929	George E. Stevenson	63.0 ✓
I8r-375	Dec. 15, 1930	Neva Haskins	55.5
I8r-376✓	Dec. 15, 1930	Neva Haskins	25.4
I8r-377✓	Dec. 15, 1930	V. G. Reinmiller	20.4
I8r-374✓	Dec. 18, 1930	A. J. Manning	105.3
I8r-384✓	Feb. 24, 1931	George Chin	20.7
I8r-414✓	May 15, 1931	F. H. Hadley	35.0
I8r-414✓	May 15, 1931	F. H. Hadley	25.0
I8r-415✓	May 16, 1931	Robert J. Petrik	11.2
I8r-416✓	May 16, 1931	W. W. Ochs	29.4
I8r-418✓	May 16, 1931	J. W. Reeder	39.2
I8r-419✓	May 16, 1931	I. E. Icenbice	80.0
I8r-419✓	May 16, 1931	C. F. Icenbice	33.2
I8r-420✓	June 1, 1931	Geo. Retterath & Sons	23.5
I8r-421✓	May 29, 1931	Robert Petrik	40.1
I8r-426✓	June 17, 1931	F. H. Hadley	5.4
I8r-426✓	June 17, 1931	Bernace Wilson	67.6
I8r-508✓	July 7, 1931	C. Bruce Campbell	17.7
I8r-510✓	Dec. 26, 1931	Wilbur Robinette	30.1
I8r-511✓	Dec. 26, 1931	W. M. Williams	79.7
I8r-549✓	June 20, 1932	C. Bruce Campbell	13.8
I8r-592✓	June 14, 1933	Anna C. McConnell	34.4
I8r-626✓	May 15, 1934	William F. Jinnette	38.8
I8r-631✓	May 23, 1934	J. C. Wright	17.9
I8r-630✓	May 16, 1934	Lester Wilson	3.3
I8r-633✓	July 23, 1934	J. M. Walker	9.0
I8r-675✓	Dec. 18, 1935	Joseph Brandejsky	66.3
I8r-676✓	Dec. 18, 1935	Lloyd Davidson	15.5
I8r-677✓	Dec. 19, 1935	John A. Marshall	17.8
I8r-685✓	Dec. 28, 1935	Earl Mack	37.3
			1304.4

EXHIBIT "A" (CONT'D.)

<u>Contract Number</u>	<u>Contract Date</u>	<u>Water User</u>	<u>Acres</u>
I8r-688✓	Jan. 16, 1936	Joe Steele	51.0
I8r-689✓	Jan. 16, 1936	John D. O'Connor	155.9
I8r-696✓	May 11, 1936	C. L. Webber	41.0
I8r-701✓	June 22, 1936	L. W. George	33.7
I8r-702✓	June 23, 1936	Stanley F. Kendall	7.4
I8r-702✓	June 23, 1936	James Sexton	14.8
I8r-703✓	June 26, 1936	V. C. Jackson	37.0
I8r-704✓	June 29, 1936	Mary M. Johnson	10.2
I8r-705✓	July 2, 1936	Lulu Storey	71.6
I8r-793✓	Nov. 28, 1936	Emil Wells	31.2
I8r-818✓	May 28, 1937	Gerald D. West	36.0
I8r-820✓	May 28, 1937	Harold E. Dehlinger	22.9
I8r-821✓	May 28, 1937	Wilbur Reiling	45.5
I8r-823✓	June 12, 1937	W. M. Williams	35.6
I8r-824✓	June 18, 1937	Sam Wong	68.3
I8r-829✓	Aug. 5, 1937	Stanley C. Masten	36.4
I8r-830✓	Aug. 5, 1937	A. R. Dickson	15.2
I8r-848✓	March 5, 1938	M. D. Fiegi	29.0
I8r-865✓	June 21, 1938	Glen Stough	23.8
I8r-867✓	June 21, 1938	F. E. Gordon	21.4
I8r-864✓	June 21, 1938	William Gray	101.6
I8r-864✓	June 21, 1938	Kelley Robinette	37.9
I8r-866	June 21, 1938	John Lehto	6.9
I8r-896✓	March 10, 1939	W. M. Williams	28.0
I8r-927✓	Jan. 30, 1940	John Stirling	16.5
I8r-930✓	March 5, 1940	Mary M. Johnson	48.7
I8r-931✓	March 5, 1940	Charles R. Schmeiser	9.9
I8r-937✓	March 27, 1940	Don M. Smith	65.9
I8r-938✓	April 12, 1940	J. Leland Pope	123.4
I8r-939✓	April 16, 1940	Dale Bebbler	95.0
I8r-940✓	April 18, 1940	West & Lyons	48.3
I8r-941✓	April 22, 1940	Thomas Lacey	30.1
I8r-943✓	April 24, 1940	Harvey E. Wise	50.5
I8r-946✓	May 17, 1940	George Reiling	30.6
I8r-947✓	June 14, 1940	Otto Balin	85.6
I8r-977✓	June 24, 1941	Earl Mack	6.4
I8r-1035✓	March 10, 1942	L. W. George	13.0
I8r-1066✓	March 26, 1943	Cecil Drew	20.3
I8r-1085✓	May 10, 1944	George Reiling	20.4
I8r-1088✓	June 1, 1944	Leland Cheyne	153.1

TOTAL INDIVIDUAL CONT = 4652.20

1626.17
1780

EXHIBIT "C"

NON-DISTRICT LANDS IN OREGON TO BE SERVED THROUGH DISTRIBUTION SYSTEM

INDIVIDUAL WATER RIGHTS:

*INSIDE
CITY LIMITS *
GROUP E
CONTRACTS*

<u>Serial Number</u>	<u>Public Notice Date</u>	<u>Water User</u>	<u>Acres</u>
49-1 ✓	Nov. 18, 1908	C. J. Shuck	9.9 *
49-4 ✓	Nov. 18, 1908	Great Northern Railway	1.1
67-1 ✓	Nov. 18, 1908	C. J. Shuck	7.1 *
67-2 ✓	Nov. 18, 1908	Great Northern Railway	12.3
72 ✓	Nov. 18, 1908	William Hodges	3.0 *
80 ✓	Nov. 18, 1908	Sarah Hodges	5.8
123 ✓	Nov. 18, 1908	Neva Haskins	2.0
152 ✓	Nov. 18, 1908	John Turner	5.5
313 ✓	Nov. 18, 1908	C. J. Shuck	5.0
346 ✓	Nov. 18, 1908	Maurice O'Keefe	1.0
388 ✓	Nov. 18, 1908	Loyal Order of Moose	1.0
392 ✓	Nov. 18, 1908	David J. Dean	3.6
392-1 ✓	Nov. 18, 1908	City of Merrill	1.0
392-2 ✓	Nov. 18, 1908	Agnes Welshans	1.3
392-3 ✓	Nov. 18, 1908	Kenneth Caldwell	.1
483 ✓	Nov. 18, 1908	School District No. 22	2.0
511-1 ✓	Nov. 18, 1908	L. A. Geraghty	28.5
511-2 ✓	Nov. 18, 1908	Great Northern Railway	4.8
511-4 ✓	Nov. 18, 1908	Anton Suty	5.2
550 ✓	Nov. 18, 1908	Joe Meeker	1.9

LONG-TERM WATER RENTAL CONTRACTS:

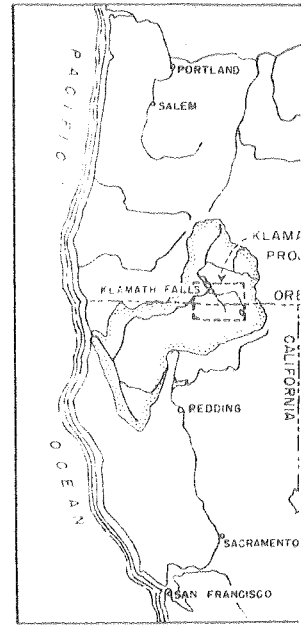
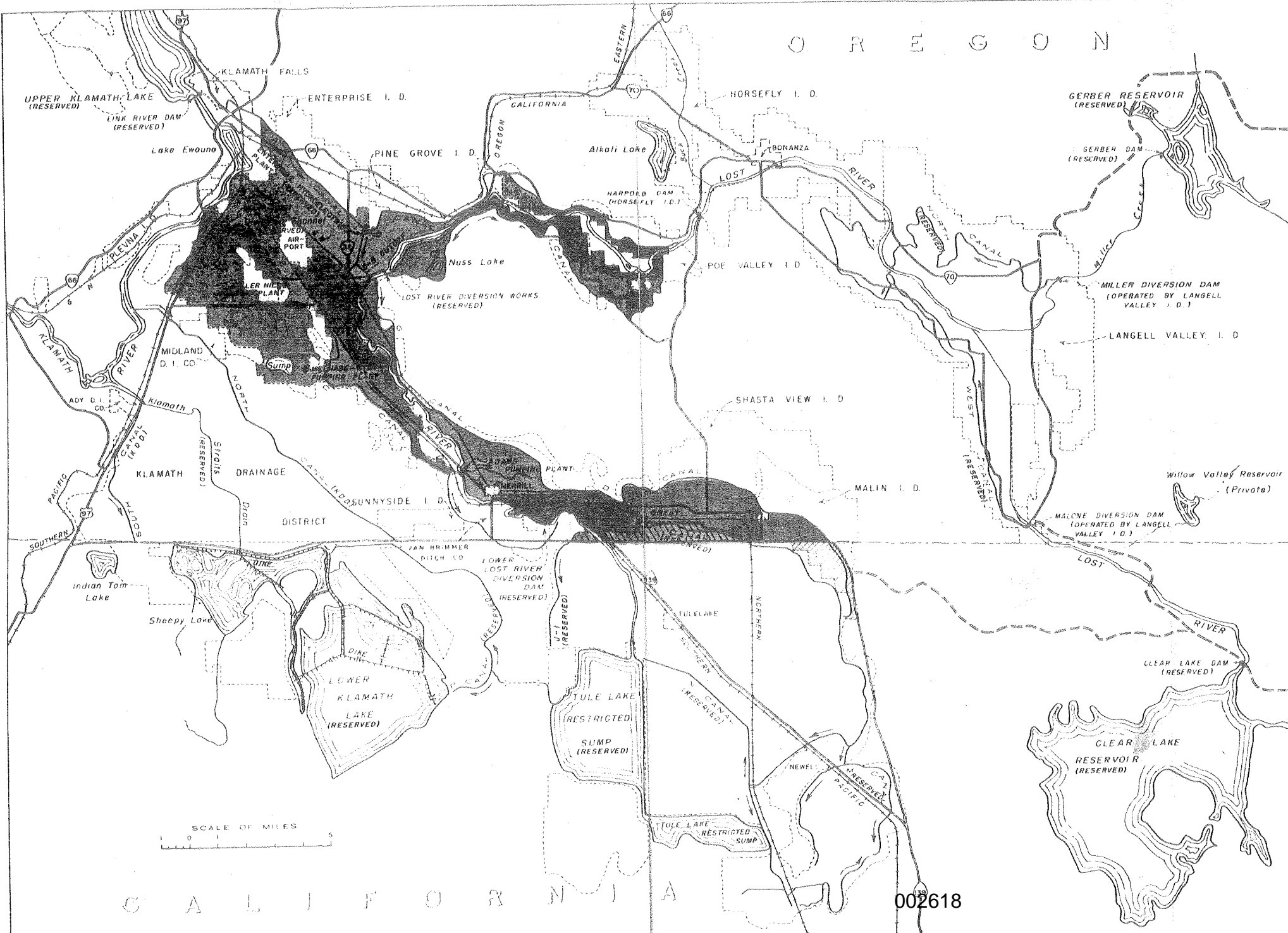
<u>Contract Date</u>	<u>Contract No.</u>	<u>Contractor</u>	<u>Area Served</u>	<u>Term of Contract</u>	<u>Acres</u>
May 23, 1938	I8r-860	Union High School District No. 2	Athletic Field	25*	6
Jan. 14, 1950	I8r-1371	City of Klamath Falls	North Entrance Park	25	10
Jan. 23, 1950	I8r-1372	City of Klamath Falls	Conger Field	25	7

CONTRACT FOR USE OF DRAINAGE SYSTEM FOR SEWAGE DISPOSAL:

<u>Contract No.</u>	<u>Contractor</u>	<u>Term</u>	<u>Acres</u>
May 10, 1939 I8r-905	City of Malin	**	--

*Option to renew for additional 25 years

**Indefinite - Either party may cancel on two years notice



EXPLANATION

- Klamath Irrigation District Land
- Oregon Lands Served by United States or another agency under Part (a), Art. 14 of Contract
- California Lands Served by Klamath Irrigation District under Part (b), Art. 14 of Contract

NOTE

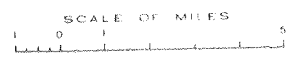
Project Features marked "res" will not be operated or maintained by Klamath Irrigation District.

ROADS

- Primary
- Secondary

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

K L A M A T H P R O J E C T
O R E G O N — C A L I F O R N I A
LANDS SERVED FROM WC
TRANSFERRED TO KLAMATH IRRIGATION
DISTRICT JANUARY 1, 1955



002618