

Uintah Water Case No. 18

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL UTAH PROJECT, UTAH
VERNAL UNIT

CONTRACT BETWEEN THE UNITED STATES
AND THE ISLAND DITCH COMPANY
RELATING TO EXCHANGE AND ADJUSTMENT OF WATER RIGHTS

THIS CONTRACT, made this 12th day of September 1958, in pursuance of the Act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, particularly the Act of April 11, 1956, (70 Stat. 105), between THE UNITED STATES OF AMERICA, herein styled the United States, acting in this behalf by the Regional Director, Region 4, Bureau of Reclamation, Department of the Interior, hereinafter referred to as the Regional Director, and THE ISLAND DITCH COMPANY, a corporation organized under the laws of the State of Utah with its place of business at Vernal, Utah, herein styled the Company:

WITNESSETH, That:

2. WHEREAS, the United States is planning the construction of the Vernal unit as part of the Central Utah Project, which unit is hereinafter referred to as the project, including facilities which will be used, among other purposes, to deliver water into the Company canal, commonly known as the Island Ditch, permitting an exchange of Company water as hereinafter described for project water delivered from the proposed Stanaker Reservoir.

3. WHEREAS, the Company has certain water rights in the flow of Ashley Creek as referred to in that certain decree entered by Judge Warren H. Dusenberry on November 17, 1897, Uintah County Case No. 18, and

4. WHEREAS, in order that there will be adequate water supply for the project, it is necessary to establish the amount of water that the Company will receive under the above-mentioned decree when said project is constructed and in operation.

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

6. Pursuant to and by virtue of continued diversions under and in accordance with the above-mentioned decree, the Company claims 7.6 percent of the flow of Ashley Creek at USGS Gaging Station "Sign of the Maine" corrected for diversions to Stanaker Ditch and the Vernal City pipeline for its water users and the Company agrees with respect to its water right as follows:

a. The irrigation season is from April 1 to October 31 of each year. The irrigated land served by the Company canal is 825 acres, and the annual irrigation demand for such land as it applies to decreed water, is 4.0 acre-feet per acre for April and May and 3.7 acre-feet for the remaining months of the irrigation season, measured at the Company's headgate diversion point. During the nonirrigation season the Company's use for domestic and stock watering purposes is 6 acre-feet.

b. Under project operation and within the limits of its decreed right in Ashley Creek, the Company must call for its water according to the following schedule:

- (1) during April, not to exceed 4.8 percent of its annual irrigation demand,
- (2) during May, not to exceed 17.0 percent of its annual irrigation demand,
- (3) during June, not to exceed 20.2 percent of its annual irrigation demand,
- (4) during July through October, not to exceed its decreed water rights in Ashley Creek,
- (5) during the nonirrigation season (November through March), not to exceed 0.028 c.f.s. of the flow of Ashley Creek.

c. It is understood that the above amounts of water have been established on the assumption that the United States will construct as part of the project, a nonirrigation season water-savings pipe system, or as otherwise may be agreed upon, so that the stockholders of the Company can run connections therefrom to their property to receive Company water during the nonirrigation season.

d. The amount of water that the Company will call for as provided above is hereinafter called Company water and the Company hereby quitclaims to the United States its right to amounts of water in excess thereof and agrees that such excess water will become part of the project water supply, and further agrees to execute any appropriate conveyance or assignment to the United States of its water rights representing such excess water.

7. The Company hereby grants the United States the right and the United States agrees without expense to the Company, to construct facilities as part of the project, to deliver Company water through the water-savings pipe system. The Company agrees

to acquire and donate to the United States by appropriate deed of conveyance, all right-of-way needed for the water-savings pipe system. The United States agrees that during construction of the above-mentioned facilities there shall be a minimum of interference with the delivery of Company water.

8. The United States agrees in the operation of the project to deliver Company non-irrigation season water through the water-savings pipeline constructed by the United States as provided in Article 6(c).

9. The United States shall install a measuring device to regulate and measure the flow of water into the said Company canal and into the water-savings pipe system.

10. It is understood and agreed by the parties hereto that certain actions will have to be taken as follows:

a. The Company shall make application to the State Engineer of Utah for a change in the point of diversion of its Ashley Creek Water as may be necessitated by the construction of the facilities by the United States. The United States will furnish the engineering information and detail necessary for the application.

b. The United States will make application to the State Engineer of Utah for exchange of project water for Company water.

c. The Company will accept delivery of project water in exchange for Company water that may be diverted and used on project lands above the Stanaker Service Canal at such times as such project water of equal quality and quantity can be delivered at the same locations as its Company water.

d. Upon completion of the construction of the facilities to serve the Company and after the action described in subarticles a. and b. above have been taken, the United States and the Company will advise the Water Commissioner of all actions taken and furnish him operating criteria to be followed in satisfying the Company's rights, and the exchange to be made pursuant to this contract.

11. The Company canal may need some rehabilitation and lining. The extent of such rehabilitation and lining shall be determined by the United States after consultation with the board of directors of the Company and shall be performed without expense to the Company. Should it be necessary to convey the title of the Company's canal to the United States in order to undertake the rehabilitation and lining, the Company agrees to make such conveyance, provided, however, that the Company shall operate and maintain such canal at its own expense after such rehabilitation work has been performed.

12. The liability of the United States under this contract is contingent on the necessary appropriation and reservation of funds being made therefor.

13. It is understood that the covenants and agreements herein are made in anticipation of, and are conditional upon, the completion of the construction of the project.

14. The Company warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Company for

the purpose of securing business. For breach or violation of this warranty the United States shall have the right to annul this contract without liability or in its discretion to require the Company to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, or contingent fee.

15. In connection with the performance of work under this contract, the Company agrees not to discriminate against any employee or applicant for employment because of race, religion, color or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Company agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the United States setting forth the provisions of the non-discrimination clause. The Company further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

16. 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 herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

17. 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 thereof, or interest therein shall be valid until approved by the United States.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their proper officers thereunto duly authorized, the day and year first above written.

THE UNITED STATES OF AMERICA

Appd. Sol. Off.

McMaster

By

E. O. Lamm
Regional Director
Bureau of Reclamation

ISLAND DITCH COMPANY

By

Stan B. B. B.
President

ATTEST:

H. I. Havens
Secretary

RESOLUTION

BE IT, AND IT IS HEREBY RESOLVED by the Board of Directors of the Island Ditch Company that the President and Secretary be, and they hereby are, empowered and authorized to make and execute that certain contract with the United States of America, designated Dated September - 12, 1958, relating to exchange and adjustment of water rights.

CERTIFICATE

I, W. C. Havens, Secretary of the Island Ditch Company, do hereby certify that the foregoing is a full, true and correct copy of a resolution passed by the Board of Directors of the Island Ditch Company at a meeting held on the 12 day of September, 1958.

I further certify that at said meeting three directors were present; that three directors voted in favor of said resolution, and that no directors voted against said resolution.

I further certify that the total number directors of said Island Ditch Company is three.

Dated this 12th day of September, 1958.

(SEAL)

W. C. Havens
Secretary