

[APPENDIX 13]

BOULDER CANYON PROJECT
ALL-AMERICAN CANAL

UNITED STATES
AND
IMPERIAL IRRIGATION DISTRICT
DECEMBER 1, 1932

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ALL-AMERICAN CANAL—CONTRACT FOR CONSTRUCTION OF DIVERSION DAM, MAIN CANAL AND APPURTENANT STRUCTURES AND FOR DELIVERY OF WATER

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ALL-AMERICAN CANAL

CONTRACT FOR CONSTRUCTION OF DIVERSION DAM, MAIN CANAL, AND APPURTENANT STRUCTURES AND FOR DELIVERY OF WATER

ARTICLE 1. This contract, made this 1st day of December, nineteen hundred thirty-two, pursuant to the act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the reclamation law, and particularly pursuant to the act of Congress approved December 21, 1928 (45 Stat. 1057), designated the Boulder Canyon project act, between the United States of America, hereinafter referred to as the United States, acting for this purpose by Ray Lyman Wilbur, Secretary of the Interior, hereinafter styled the Secretary, and Imperial Irrigation District, an irrigation district created, organized, and existing under and by virtue of the laws of the State of California, with its principal place of business at El Centro, Imperial County, Calif., hereinafter referred to as the district.

Witnesseth:

EXPLANATORY RECITALS

ART. 2. Whereas, for the purpose of controlling the floods, improving navigation, and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters for reclamation of public lands and other beneficial uses exclusively within the United States, the Secretary, subject to the terms of the Colorado River compact, is authorized to construct, operate, and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon, adequate to create a storage reservoir of a capacity of not less than twenty million acre-feet of water, and a main canal and appurtenant structures located entirely within the United States connecting the Laguna Dam, or other suitable diversion dam, which the Secretary is also authorized to construct if deemed necessary or advisable by him upon engineering or economic considerations, with the Imperial and Coachella Valleys in California, the expenditures for said main canal and appurtenant structures to be reimbursable as provided in the reclamation law; and

ART. 3. Whereas, after full consideration of the advantages of both the Black Canyon and Boulder Canyon Dam sites, the Secretary has determined upon Black Canyon as the site of the aforesaid dam, hereinafter styled the Hoover Dam, creating thereby a reservoir to be hereinafter styled the Boulder Canyon Reservoir; and

ART. 4. Whereas, there are included within the boundaries of the district areas of private and public lands, and additional private and public lands will by appropriate proceedings be included within the district, and the district is desirous of entering into a contract for the construction of a suitable diversion dam and main canal and appurtenant structures, hereinafter respectively styled Imperial Dam and All-American Canal, located entirely within the United States connecting with the Imperial and Coachella Valleys, and for the delivery to the district of stored water from Boulder Canyon Reservoir; and

ART. 5. Whereas, the Secretary has determined, upon engineering and economic considerations, that it is advisable to provide for the construction of such diversion dam and main canal and appurtenant structures, and has determined that the revenues provided for by this contract are adequate in his judgment to insure payment of all expenses of construction, operation, and maintenance of the said diversion dam, main canal, and appurtenant structures in the manner provided in the reclamation law;

ART. 6. Now therefore, in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to wit:

CONSTRUCTION BY UNITED STATES

ART. 7. The United States will construct the Imperial Dam in the main stream of the Colorado River at the approximate location indicated on the map marked Exhibit A attached hereto and by this reference made a part hereof, and will also construct the All-American Canal and appurtenant structures to the Imperial and Coachella Valleys, the approximate location of said canal to be as shown on the aforesaid Exhibit A. Said canal shall be constructed to a designed capacity of fifteen thousand (15,000) cubic feet of water per second from and including the diversion and desilting works at said dam to Syphon Drop; thirteen thousand (13,000) cubic feet of water per second from Syphon Drop to Pilot Knob, and ten thousand (10,000) cubic feet of water per second westerly from Pilot Knob to Engineer Station nineteen hundred and seven as said Engineer Station is indicated on said Exhibit A. Other portions of said canal shall be constructed with such capacities as the Secretary may conclusively determine to be necessary or advisable upon engineering or economic considerations to accomplish the ends contemplated by this contract; provided, however, that changes in capacities, locations, lengths, and alignments may be made during the progress of the work as may, in the opinion of the Secretary, whose opinion shall be final and binding upon the parties hereto, be expedient, economical, necessary, or advisable, except the capacities above indicated from and including the diversion and desilting works at Imperial Dam to Engineer Station nineteen hundred and seven as hereinabove in this article referred to, which capacities may be changed only by mutual agreement between the Secretary and the district. The ultimate cost to the district of the aforesaid works shall in no event exceed the aggregate sum of thirty-eight million five hundred thousand dollars (\$38,500,000). Such cost shall include all expenses of whatsoever kind heretofore or hereafter incurred by the United States from the reclamation fund or the Colorado River Dam fund in connection with, growing out of, or resulting from the construction of said diversion dam, main canal, and appurtenant structures, including but not limited to the cost of labor, materials, equipment, engineering, legal work, superintendence, administration, overhead, any and all costs arising from operation and maintenance of said dam, main canal, and appurtenant structures prior to the time that said costs are assumed by the district, damage of all kinds and character and rights of way as hereinafter provided. The district hereby agrees to repay to the United States expenditures incurred on account of any and all damages due to the existence, operation, or maintenance of the diversion dam and main canal, the incurrence of which increases expenditures

by the United States beyond said sum of \$38,500,000. The United States will invoke all legal and valid reservations of rights of way under acts of Congress, or otherwise reserved or held by it, without cost to the district, except that the United States reserves the right where rights of way are thus acquired to reimburse the owners of such lands for the value of improvements which may be destroyed, and the district agrees that the United States may include such disbursements in the cost of the work to be performed hereunder. If rights of way are required over an existing project of the Bureau of Reclamation, such sum or sums as may be necessary to reimburse the United States on account of the construction charges allocated to irrigable areas absorbed in such rights of way shall also be considered as a part of and be included with other costs of the work to be performed hereunder. The district agrees to convey to the United States without cost, unencumbered fee simple title to any and all lands now owned by it which, in the opinion of the Secretary, may be required for right of way purposes for the aforesaid diversion dam, main canal, and appurtenant structures. Where rights of way within the State of California are required for the construction of works herein provided for, and such rights of way are not reserved to the United States under acts of Congress, or otherwise, or the lands over which such rights of way are required are not then owned by the district, the district agrees that it will, upon request of the Secretary, acquire title to such lands, and in turn convey unencumbered fee simple title thereto to the United States at the actual cost thereof to the district, subject to the approval of such cost by the Secretary.

ASSUMPTION OF OPERATION AND MAINTENANCE BY DISTRICT

ART. 8. Upon sixty (60) days' written notice from the Secretary of the completion of construction of the aforesaid diversion dam, main canal, and appurtenant structures, or of any major unit thereof useful to the district as determined by the Secretary, whose determination thereof shall be final and binding upon the parties hereto, the district shall assume the care, operation, and maintenance of said diversion dam, main canal, and appurtenant structures, or major units thereof, including Laguna Dam, and thereafter the district shall at its own cost and without expense to the United States care for, operate, and maintain the same in such manner that such works shall remain in as good and efficient condition and of equal capacity for the diversion, transportation, and distribution of water as when received from the United States, reasonable wear and damage by the elements excepted. Operation and maintenance of Imperial Dam by the district is a part of the obligation undertaken under this contract by the district for the transportation and delivery of water to public and Indian lands of the United States, and shall not interfere with the control of such dam by the United States. The United States may from time to time in the discretion of the Secretary, resume operation and maintenance of said dam upon not less than 60 days' written notice and require reassumption thereof by the district on like notice. During such times, after completion, as the dam is operated and maintained by the United States, the district shall on March 1 of each year advance to the United States the estimated cost of operation and maintenance for the following twelve months, upon estimates furnished therefor on or before September 1 next preceding. After the

care, operation, and maintenance of the aforesaid works have been assumed by the district, the district shall save the United States, its officers, agents, and employees harmless as to any and all injury and damage to persons and property which may arise out of the care, operation, and maintenance thereof. In the event the United States fails to complete the works herein contemplated and the district fails to elect to make use of the works theretofore partially or wholly constructed, the district shall be fully relieved of any and all responsibility for any further operation and maintenance of the works theretofore taken over by the district for that purpose and thereupon the district shall no longer be responsible for said maintenance or operation or damage to person or property which may arise therefrom.

KEEPING DIVERSION DAM, MAIN CANAL, AND APPURTENANT
STRUCTURES IN REPAIR

ART. 9. Except in case of emergency no substantial change in any of the works to be constructed by the United States and transferred to the district under the provisions hereof shall be made by the district without first having had and obtained the written consent of the Secretary and the Secretary's opinion as to whether any change in any such works is or is not substantial shall be conclusive and binding upon the parties hereto. The district shall promptly make any and all repairs to and replacements of all works constructed hereunder or transferred to it under the terms and conditions hereof, which in the opinion of the Secretary are deemed necessary for the proper operation and maintenance of such works. In case of neglect or failure of the district to make such repairs, the United States may, at its option after reasonable notice to the district, cause such repairs to be made and charge the actual cost thereof plus fifteen per centum (15%) to cover overhead and general expense to the district. On or before September 1 of each calendar year the United States shall give written notice to the district of the amount expended by the United States for repairs under this article during the twelve-month period immediately preceding. Such cost plus overhead and general expense as stated above shall be repaid by the district on March 1 immediately succeeding.

AGREEMENT BY DISTRICT TO PAY FOR WORKS CONSTRUCTED
BY THE UNITED STATES

ART. 10. (a) The district agrees to pay the United States the actual cost, not exceeding thirty-eight million five hundred thousand dollars (\$38,500,000), incurred by the United States on account of the aforesaid works, subject, however, to the provisions of article seven (7) hereof; provided, that should Congress fail to make necessary appropriations to complete the work herein provided for, then the Secretary may, at such reasonable time as he may consider advisable, after Congress shall have failed for five consecutive years to make the necessary appropriations which shall have been annually requested by the Secretary, give the district notice of the termination of work by the United States and furnish a statement of the amount actually expended by the United States thereon. Upon the receipt of such notice by the district the district shall be given two years from and after such receipt of notice to elect whether it will utilize said works theretofore constructed, or some particular part thereof. Such elec-

tion on the part of the district shall be expressed by resolution of the board of directors submitted to the electorate of the district for approval or rejection in the manner provided by law for submission of contracts with the United States. If the district elects not to utilize, or fails within said two-year period to elect to utilize said works or some portion thereof, then the district shall have no further rights therein and no obligations therefor. If the district elects to utilize said works or a portion thereof, then the reasonable value to the district of the works so utilized not exceeding the actual cost thereof to the United States shall be paid by the district under the terms of this contract; the first payment to be due and payable on the first day of March following the first day of September next succeeding the final determination of the reasonable value to the district of such works, in case no further work is done by the district. Should the district elect to complete the work contemplated by this contract, or some portion thereof, the first payment shall be due and payable on the first day of March following the first day of September next succeeding the date of final completion of the work by the district as determined by the Secretary. In determining the value of such works to the district there shall be taken into account, among other things, the method of financing required and cost of money, so that in no event shall all of the works contemplated by this contract cost the district more than they would have cost the district had they all been constructed by the United States under the terms of this contract. In the event of failure of the parties to agree as to the reasonable value to the district of the works which the district elects to use, the same shall be determined as provided in article twenty-seven (27) hereof.

(b) The district as a whole is obligated to pay to the United States the full amount herein agreed upon regardless of the default or failure of any tract in the district, or of any landowner in the district, in the payment of the assessments levied by the district against such tract or landowner, and the district shall, when necessary, levy and collect appropriate assessments to make up for the default or delinquency of any tract of land or of any landowner in the payment of assessments, so that in any event, and regardless of any defaults or delinquencies in the payment of any assessment or assessments, the amounts due or to become due the United States shall be paid to the United States by the district when due.

(c) The district shall be divided into units by the board of directors of the district. Said units shall be named, commencing with Imperial Unit, which unit shall comprise the lands of the district as of July 1, 1931. Each of the other units shall be as determined by the board of directors of the district and shall be described by legal description of the lands embraced therein or by designation of exterior boundaries or otherwise suitable for identification. Additional lands may be added to any unit herein or hereafter designated.

(d) The lands within each unit as hereinabove provided for will be benefited by the works to be constructed under this contract in the proportion that the area within such unit bears to the total area of the district and the costs of the said works, construction, and otherwise, shall be apportioned to and paid by the lands within each unit in that proportion. In levying assessments or other charges to meet the cost of the said works, the board of directors of the district shall take into

consideration payments to be made under this contract, with proper allowance for existing and anticipated delinquencies and redemptions, in order to provide sufficient funds to meet such payments as same become due and said board shall also take into account all sums expended or to be expended under the contract of October 23, 1918, for the right to connect with the Laguna Dam, the cost of all surveys and investigations and other expenditures properly chargeable as a part of the cost of the said works but which are not included as a part of the construction cost thereof reimbursable to the United States under this contract. While the cost of the said works and other expenditures above mentioned shall be apportioned to the various units according to their respective areas, it is understood that the assessments or other charges to be imposed upon the lands within each respective unit shall be on an ad valorem or other basis as now or may hereafter be provided by law for assessment or imposition of other charges upon lands within irrigation districts. Rates of assessment or schedule in the various units from year to year or from time to time may be different or unequal as between the various units. If the amount collected from the lands in any unit in any year shall be less than the amount apportioned to such unit for that year for such purpose, the deficit shall nevertheless be charged to that unit and any fund or funds of the district from which money may be taken to make up such deficit in order to provide for the payment in full of the obligations of the district, shall be entitled to reimbursement for such money from subsequent collections of unpaid assessments or charges in said unit or from the amounts received for the redemption of lands sold for delinquent assessments or charges, or from subsequent or additional levies made on the lands within that unit to provide for such reimbursement.

(e) In the event lands now or hereafter within Coachella Valley County Water District, a county water district organized and existing under the laws of the State of California, are included within Imperial Irrigation District, the said Coachella Valley County Water District shall have the privilege at its option, if, as, and when authorized to do so by law, to pay to Imperial Irrigation District the total amount of any annual and/or special assessments levied by the last-named district upon said lands or any installment of such assessments or any of the several individual assessments or installments thereof, in any case as the same become due and payable. The regular and lawful proceedings, rights, and remedies of the last-named district shall be in no manner impaired or affected by the provisions of this subarticle. The agreement in this subarticle contained is made expressly for the benefit of said Coachella Valley County Water District.

(f) If for any reason only a part of the works herein contemplated is constructed either by the United States or by the district, then the board of directors of the district shall, after public hearing, determine whether or not all of the lands in the district are benefited by the works constructed. If the board shall find and declare that any certain lands within the district are not benefited by such construction, then no assessments shall thereafter be levied upon such lands for the purpose of meeting the obligations under this contract; and, for the purpose of this subarticle, no land shall be regarded as benefited by the construction of such works until the works contemplated by this contract, as indicated on said Exhibit A, from which water would reasonably be obtained for such lands shall have been constructed.

(g) The district shall have the right to refuse water service to any lands within the district which may at any time be delinquent in the payment of any assessment levied for the purpose of carrying out the provisions of this contract.

CHANGES IN DISTRICT BOUNDARIES

ART. 11. After the date of this contract no change shall be made in the boundaries of the district, and the board of directors shall make no order changing the boundaries of the district unless and until the Secretary shall assent to such change in writing, and such assent shall have been filed with the board of directors of the district; provided, however, that such assent is hereby given for the inclusion of all of the lands indicated on Exhibit A referred to in article 34 hereof.

TERMS OF PAYMENT

ART. 12. The amount herein agreed to be paid to the United States shall be due and payable in not more than forty (40) annual installments, commencing with the calendar year next succeeding the year when notice of completion of all work provided for herein is given to the district or under the provisions of article 10 (a) hereof upon termination of work through failure of Congress to make necessary appropriations therefor. The first five of such annual installments shall each be one per centum (1%) of the amount herein agreed to be paid to the United States; the next ten of such installments shall each be two per centum (2%) of the amount herein agreed to be paid to the United States; and the remainder of such annual installments shall each be three per centum (3%) of the amount herein agreed to be paid to the United States. The sums payable annually as set forth above shall be divided into two equal semiannual payments, payable on March 1 and September 1 of each year; provided, however, that if notice of the completion of work is given to the district subsequent to September 1 of any year the first semiannual installment of charges hereunder shall be due and payable on March 1 of the second succeeding year.

OPERATION AND MAINTENANCE COSTS

ART. 13. Each agency other than the district for which capacity is provided in the works to be constructed hereunder shall bear such proportionate part of the cost of operation and maintenance (including repairs and replacements) of the component parts thereof and of the Laguna Dam as may be determined by the Secretary to be equitable and just, but not less than an amount in proportion to the total amount as are the relative capacities provided in each component part for such agency and for all other agencies, including the district. Each agency shall advance to the district, on or before January 1 of each year, its proportionate share of the estimated cost for that year of operation and maintenance in accordance with a notice to be issued by the district; provided, that payment shall in no event be due until thirty days after receipt of notice. Prior to March 1 of each year the district shall provide each agency with a statement showing in detail the costs for the previous year for operation and maintenance of the works on account of which such agency has made advances. Differences between actual costs and estimated costs shall be adjusted in next succeeding notices. Upon request of any agency both the ad-

vance notice of estimated costs and the subsequent statement of actual costs for each year shall be reviewed by the Secretary and his determination of proper charges shall be final. Such review shall not change the due date for advance payments as herein provided, and the cost of such review shall be borne equally by the requesting agency and the district. The district may, at its option, withhold the delivery of water from any agency until its proportionate share of the costs of operation and maintenance have been advanced or paid as in this article provided.

POWER POSSIBILITIES

ART. 14. As one of the considerations for the partial termination of the contract of October 23, 1918, as provided for in article sixteen (16) hereof, the power possibilities on the All-American Canal down to and including Syphon Drop with water carried for the benefit of the Yuma project as provided for in article fifteen (15) hereof, are hereby reserved to the United States. Subject to the foregoing provisions of this article and the participation by other agencies as provided for in article twenty-one (21) hereof, the district shall have the privilege at any time of utilizing by contract or otherwise such power possibilities as may exist upon said canal. The net proceeds as hereinafter defined in article thirty-two (32) hereof and as determined by the Secretary for each calendar year from any such power development shall be paid into the Colorado River Dam fund on March 1 of the next succeeding calendar year and be credited to the district on this contract until the district shall have paid thereby and/or otherwise an amount of money equivalent to that herein agreed to be paid to the United States. Thereafter such net power proceeds shall belong to the district. It is agreed that in the event the net power proceeds in any calendar year, creditable to the district, shall exceed the annual installment of charges payable under this contract during the then current calendar year, the excess of such net power proceeds shall be credited on the next succeeding unpaid installment to become due from the district under this contract.

DIVERSION AND DELIVERY OF WATER FOR YUMA PROJECT

ART. 15. As a further consideration for the partial termination of the contract of October 23, 1918, as provided in article sixteen (16) hereof, the district hereby agrees to divert at the Imperial Dam, and to transport and deliver at Syphon Drop and/or such intermediate points as may be designated by the Secretary, the available water to which the Yuma project (situated entirely within the United States and not exceeding in area 120,000 acres plus lands lying between the project levees and the Colorado River as such levees are located in 1931) is entitled, not exceeding two thousand (2,000) second-feet of water in the aggregate, or such part thereof as the Secretary may direct, for the use and benefit of said project, including the development of power at Syphon Drop, such water to be diverted, transported, and delivered continuously in so far as reasonable diligence will permit; provided, however, that water shall not be diverted, transported, or delivered for the Yuma project when the Secretary notifies the district that said project for any reason may not be entitled thereto; provided further, that the district shall divert, transport, and deliver such water in excess of requirements for irrigation or

potable purposes, as determined by the Secretary, on the Yuma project as so limited, only when such water is not required by the district for irrigation or potable purposes. The diversion, transportation, and delivery of water for the Yuma project as aforesaid shall be without expense to the United States or its successors in control of said project, as to capital investment required to provide facilities for such diversion and transportation of water, except such checks, turnouts and other structures required for delivery from said canal.

CONTRACT OF OCTOBER 23, 1918

ART. 16. That certain contract between the United States of America and the district, bearing date of October 23, 1918, providing for a connection with Laguna Dam is hereby terminated except as to the provisions of article nine (9) thereof, and as one of the considerations for the partial termination of said contract by the United States, the district hereby promises and agrees to make full payment to the United States of all unpaid installments of charges as provided in article nine (9) of said agreement, anything in said contract to the contrary notwithstanding. As an additional consideration for the partial termination of said contract of October 23, 1918, the district hereby promises and agrees to furnish to the United States or its successors in interest in the control, operation, and maintenance of the Yuma project, from any power development on the All-American Canal at or near Pilot Knob, up to but not to exceed four thousand horsepower of electrical energy for use by the agency in charge of project operations for irrigation and drainage pumping purposes and necessary incidental use on said Yuma project, such power to be furnished at cost (including overhead and general expense) plus ten per cent; provided, however, that the district shall not be required to furnish such power at or near Pilot Knob except at such times as all power feasible of development at Syphon Drop or developed elsewhere within a radius of 40 miles from the city of Yuma for the benefit of the Yuma project is being used for project operations as in this article specified.

DELIVERY OF WATER BY UNITED STATES

ART. 17. The United States shall, from storage available in the reservoir created by Hoover Dam, deliver to the district each year at a point in the Colorado River immediately above Imperial Dam, so much water as may be necessary to supply the district a total quantity, including all other waters diverted for use within the district from the Colorado River, in the amounts and with priorities in accordance with the recommendation of the Chief of the Division of Water Resources of the State of California, as follows (subject to availability thereof for use in California under the Colorado River compact and the Boulder Canyon project act):

The waters of the Colorado River available for use within the State of California under the Colorado River compact and the Boulder Canyon project act shall be apportioned to the respective interests below named and in amounts and with priorities therein named and set forth, as follows:

SECTION 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said district as it now exists and upon lands between said district and the Colorado River, aggre-

gating (within and without said district) a gross area of 104,500 acres, such waters as may be required by said lands.

SEC. 2. A second priority to Yuma project of the United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land located in said project in California, such waters as may be required by said lands.

SEC. 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa," adjacent to Palo Verde Irrigation District for beneficial consumptive use, 3,850,000 acre-feet of water per annum less the beneficial consumptive use under the priorities designated in sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in sections 1, 2, and 3 of this article shall not exceed 3,850,000 acre-feet of water per annum.

SEC. 4. A fourth priority to the Metropolitan Water District of Southern California and/or the City of Los Angeles for beneficial consumptive use, by themselves and/or others, on the coastal plain of Southern California, 550,000 acre-feet of water per annum.

SEC. 5. A fifth priority (a) to the Metropolitan Water District of Southern California and/or the City of Los Angeles for beneficial consumptive use by themselves and/or others, on the coastal plain of Southern California, 550,000 acre-feet of water per annum and (b) to the City of San Diego and/or County of San Diego for beneficial consumptive use, 112,000 acre-feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

SEC. 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa," adjacent to Palo Verde Irrigation District for beneficial consumptive use, 300,000 acre-feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

SEC. 7. A seventh priority of all remaining water available for use within California for agricultural use in the Colorado River Basin in California, as said basin is designated on map No. 23000 of the Department of the Interior, Bureau of Reclamation.

SEC. 8. So far as the rights of the allottees named above are concerned, the Metropolitan Water District of Southern California and/or the City of Los Angeles shall have the exclusive right to withdraw and divert into its aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said district and/or said city (not exceeding at any one time 4,750,000 acre-feet in the aggregate) by reason of reduced diversions by said district and/or said city; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release, and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between said district and/or said city and such users resulting therefrom.

SEC 9. In addition, so far as the rights of the allottees named above are concerned, the City of San Diego and/or County of San Diego shall have the exclusive right to withdraw and divert into an aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said city and/or said county (not exceeding at any one time 250,000 acre-feet in the aggregate) by reason of reduced diversions by said city and/or said county; provided, that accumulations shall be subject to such conditions as to accumulations, retention, release, and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between the said city and/or said county and such users resulting therefrom.

SEC. 10. In no event shall the amounts allotted in this agreement to the Metropolitan Water District of Southern California and/or the City of Los Angeles be increased on account of inclusion of a supply for both said district and said city, and either or both may use said apportionments as may be agreed by and between said district and said city.

SEC. 11. In no event shall the amounts allotted in this agreement to the City of San Diego and/or to the County of San Diego be increased on account of inclusion of a supply for both said city and said county, and either or both may use said apportionments as may be agreed by and between said city and said county.

SEC. 12. The priorities hereinbefore set forth shall be in no wise affected by the relative dates of water contracts executed by the Secretary of the Interior with the various parties.

The Secretary reserves the right to, and the district agrees that he may, contract with any of the allottees above named in accordance with the above-stated recommendation, or, in the event that such recommendation as to Palo Verde Irrigation District is superseded by an agreement between all the above allottees or by a final judicial determination, to contract with the Palo Verde Irrigation District in accordance with such agreement or determination; provided, that priorities numbered fourth and fifth shall not thereby be disturbed.

As far as reasonable diligence will permit, said water shall be delivered as ordered by the district, and as reasonably required for potable and irrigation purposes within the boundaries of the district in the Imperial and Coachella Valleys in California. This contract is for permanent water services but is subject to the condition that Hoover Dam and Boulder Canyon Reservoir shall be used, first, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and satisfaction of perfected rights in pursuance of Article VIII of the Colorado River compact; and, third, for power. This contract is made upon the express condition and with the express covenant that the district and the United States shall observe and be subject to and controlled by said Colorado River compact in the construction, management, and operation of Hoover Dam, Imperial Dam, All-American Canal, and other works, and the storage, diversion, delivery, and use of water for the generation of power, irrigation, and other purposes. The United States reserves the right to temporarily discontinue or reduce the amount

of water to be delivered for the purpose of investigation, inspection, maintenance, repairs, replacements, or installation of equipment and/or machinery at Hoover Dam, but as far as feasible the United States will give the district reasonable notice in advance of such temporary discontinuance or reduction. The United States, its officers, agents, and employees shall not be liable for damages when, for any reason whatsoever, suspension or reductions in delivery of water occur. This contract is without prejudice to any other or additional rights which the district may now have not inconsistent with the foregoing provisions of this article, or may hereafter acquire in or to the waters of the Colorado River. Nothing in this contract shall be construed to prevent the district from diverting water to the full capacity of the All-American Canal if and when water over and above the quantity apportioned to it hereunder is available, and no power development at Imperial and/or Laguna Dam shall be permitted to interfere with such diversion by the district, but, except as provided in article twenty-one (21), water shall not be diverted, transported, or carried by or through the works to be constructed hereunder for any agency other than the district, except by written consent of the Secretary.

MEASUREMENT OF WATER

ART. 18. The water which the district receives under the apportionment as provided in article seventeen (17) hereof shall be measured at such point or points on the canal as may be designated by the Secretary. Measuring and controlling devices shall be furnished and installed by the United States as a part of the work provided for herein, but shall be operated and maintained by and at the expense of the district. They shall be and remain at all times under the complete control of the United States, whose authorized representatives may at all times have access to them over the lands and rights of way of the district.

RECORD OF WATER DIVERTED

ART. 19. The district shall make full and complete written reports as directed by the Secretary, on forms to be supplied by the United States, of all water diverted from the Colorado River, and the disposition thereof. The records and data from which such reports are made shall be accessible to the United States on demand of the Secretary.

REFUSAL OF WATER IN CASE OF DEFAULT

ART. 20. The United States reserves the right to refuse to deliver water to the district in the event of default for a period of more than twelve (12) months in any payment due the United States under this contract, or, in the discretion of the Secretary, to reduce deliveries in such proportion as the amount in default by the district bears to the total amount due. It is understood, however, that the provisions of this article shall not relieve the district of its obligation to divert, transport, and deliver water for the use and benefit of the Yuma project as herein elsewhere provided, nor shall it relieve the district of its obligation hereunder to divert, transport, and deliver water for the use and benefit of other agencies with whom the United States may contract for the diversion, transportation, and delivery of water

through or by the works to be constructed under the terms hereof. The United States further reserves the right to forthwith assume control of all or any part of the works to be constructed hereunder and to care for, operate, and maintain the same, so long as the Secretary deems necessary or advisable, if, in his opinion, which shall be final and binding upon the parties hereto, the district does not carry out the terms and conditions of this contract to their full extent and meaning. In such event, the district's pro rata share of the actual cost of such care, operation, and maintenance by the United States shall be repaid to the United States, plus fifteen per centum (15%) to cover overhead and general expense, on March 1 of each year immediately succeeding the calendar year during which the works to be constructed hereunder are operated and maintained by the United States. Nothing herein contained shall relieve the district of the obligation to pay in any event all installments and penalties provided in this contract.

USE OF WORKS BY THE UNITED STATES AND OTHERS

ART. 21. The United States also reserves the right to, and the district agrees that it may, at any time prior to the transfer of constructed works to the district for operation and maintenance, increase the capacity of the said works and contract for such increased capacity with other agencies for the delivery of water for use in the United States; provided, however, that such other agencies shall not thereby be entitled to participate in power development on said All-American Canal, except at points where and to the extent that the water diverted and/or carried for them contributes to the development of power. In the event other agencies thus contract with the United States, each of such agencies shall assume such proportion of the total cost of said works to be used jointly by such agency and the district, including Laguna Dam, as the Secretary may determine to be equitable and just, but not less than the proportion that the capacity provided for such agency in such works bears to the total capacity thereof (except in that part thereof above Syphon Drop including Laguna Dam, in which part the proportion which such other agency shall assume shall be not less than the proportion that the capacity provided for such agency therein bears to the total capacity thereof less the capacity to be provided hereunder without cost to and for the Yuma project) and the district's financial obligations under this contract shall be adjusted accordingly. In no event shall construction costs chargeable to the district be increased by reason of additional capacity being provided for any such agency or agencies or contract or contracts having been made with same. Any such agency thus contracting shall also be required to reimburse the district in such amounts and at such times as the Secretary may determine to be equitable and just for payments theretofore made by the district for the right to use Laguna Dam.

TITLE TO REMAIN IN THE UNITED STATES

ART. 22. Title to the aforesaid Imperial Dam and All-American Canal to be constructed by the United States under the terms and conditions hereof shall be and remain in the United States notwithstanding transfer of the care, operation, and maintenance thereof to the district; provided, however, that the Secretary may, in his

discretion, when repayments to the United States of all moneys advanced shall have been made, transfer the title to said main canal and appurtenant structures, except the diversion dam and the main canal and appurtenant structures, down to and including Syphon Drop, to the district or other agencies of the United States having a beneficial interest therein in proportion to their respective capital investments under such form or organization as may be acceptable to him.

ASSESSMENT OF PUBLIC LAND

ART. 23. The following lands are hereby designated as subject to the provisions of the act of August 11, 1916 (39 Stat. 506), and the act of May 15, 1922 (42 Stat. 541):

(a) All unentered public lands and entered lands for which no final certificate has been issued, situate within the district at the date hereof; and when included within the district, unentered public lands and entered lands for which no final certificate has been issued, hereafter to be included within the district pursuant to this contract, all described in a statement marked Exhibit B attached hereto and by reference thereto made a part hereof; and

(b) Unentered public lands and entered lands for which no final certificate has been issued not so described but hereafter annexed to the district, upon the Secretary's consenting, in the case of such lands hereafter annexed to the district, to assessment hereunder of such added lands, which consent will be requested by resolution of the board of directors of the district and will be manifested by letter filed with the district, a copy of such letter to be filed also with the General Land Office, and a copy with the proper local land office.

Within a reasonable time, to be determined by the Secretary, from the date water is available for and can be delivered to any public lands within the boundaries of the district, such lands shall be opened to entry.

RULES AND REGULATIONS

ART. 24. There is reserved to the Secretary the right to prescribe and enforce rules and regulations not inconsistent with this contract, governing the diversion and delivery of water hereunder to the district and to other contractors. Such rules and regulations may be modified, revised, and/or extended from time to time after notice to the district and opportunity for it to be heard, as may be deemed proper, necessary or desirable by the Secretary to carry out the true intent and meaning of the law and of this contract, or amendments thereof, or to protect the interests of the United States. The district hereby agrees that in the operation and maintenance of the Imperial Dam and All-American Canal, all such rules and regulations will be fully adhered to.

INSPECTION BY THE UNITED STATES

ART. 25. The Secretary may cause to be made from time to time a reasonable inspection of the works constructed by the United States under the terms hereof to the end that he may ascertain whether the terms of this contract are being satisfactorily executed by the district. The actual expense of such inspection in any calendar year, as found by the Secretary, shall be paid by the district to the United States on March 1 of each year immediately following the year in which such inspection is made, and upon statement to be furnished by the

Secretary. The Secretary or his representative shall at all times have the right of ingress to and egress from all works of the district for the purpose of inspection, repairs, and maintenance of works of the United States, and for all other purposes.

ACCESS TO BOOKS AND RECORDS

ART. 26. The officials or designated representatives of the district shall have full and free access to the books and records of the United States, so far as they relate to the matters covered by this contract, with the right at any time during office hours to make copies of and from the same; and the Secretary shall have the same right in respect of the books and records of the district.

DISPUTES OR DISAGREEMENTS

ART. 27. Disputes or disagreements as to the interpretation or performance of the provisions of this contract, except as otherwise provided herein, shall be determined either by arbitration or court proceedings, the Secretary being authorized to act for the United States in such proceedings. Whenever a controversy arises out of this contract, and the parties hereto agree to submit the matter to arbitration, the district shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators, within thirty (30) days after their first meeting, such arbitrators not so elected, shall be named by the senior judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

INTEREST AND PENALTIES

ART. 28. No interest shall be charged on any installments of charges due from the district hereunder except that on all such installments or any part thereof, which may remain unpaid by the district to the United States after the same become due, there shall be added to the amount unpaid a penalty of one-half of one per centum ($\frac{1}{2}\%$) and a like penalty of one-half of one per centum ($\frac{1}{2}\%$) of the amount unpaid shall be added on the first day of each month thereafter so long as such default shall continue.

AGREEMENT SUBJECT TO COLORADO RIVER COMPACT

ART. 29. This contract is made upon the express condition and with the express understanding that all rights based upon this contract shall be subject to and controlled by the Colorado River compact, being the compact or agreement signed at Santa Fe, N. Mex., November 24, 1922, pursuant to act of Congress approved August 19, 1921, entitled "An act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes," which compact was approved by the Boulder Canyon project act.

APPLICATION OF RECLAMATION LAW

ART. 30. Except as provided by the Boulder Canyon project act, the reclamation law shall govern the construction, operation, and maintenance of the works to be constructed hereunder.

CONTRACT TO BE AUTHORIZED BY ELECTION AND
CONFIRMED BY COURT

ART. 31. The execution of this contract by the district shall be authorized by the qualified electors of the district at an election held for that purpose. Thereafter, without delay, the district shall prosecute to judgment proceedings in court for a judicial confirmation of the authorization and validity of this contract. The United States shall not be in any manner bound under the terms and conditions of this contract unless and until a confirmatory final judgment in such proceedings shall have been rendered, including final decision, or pending appellate action if ground for appeal be laid. The district shall without delay and at its own cost and expense furnish the United States for its files, copies of all proceedings relating to the election upon this contract and the confirmation proceedings in connection therewith, which said copies shall be properly certified by the clerk of the court in which confirmatory judgment is obtained.

METHOD OF DETERMINING NET POWER PROCEEDS

ART. 32. In determining the net proceeds for each calendar year from any power development on the All-American Canal, to be paid into the Colorado River Dam fund as provided in article fourteen (14) hereof, there shall be taken into consideration all items of cost of production of power, including but not necessarily limited to amortization of and interest on capital investment in power development, replacements, improvements, and operation and maintenance, if any. Any other proper factor of cost not here expressly enumerated may be taken into account in determining the net proceeds.

CONTINGENT UPON APPROPRIATIONS

ART. 33. This contract is subject to appropriations being made by Congress from year to year of moneys sufficient to do the work provided for herein, and to there being sufficient moneys available in the Colorado River Dam fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents, or employees, by reason of sufficient moneys not being so appropriated nor on account of there not being sufficient moneys in the Colorado River Dam fund to permit of said allotments. If more than three years elapse after this contract becomes effective and before appropriations are available to permit the United States to make expenditures hereunder, the district may, at its option, upon giving sixty (60) days written notice to the Secretary, cancel this contract. Such option shall be expressed by vote of the electors of the district with the same formalities as required for the authorization of contracts with the United States.

INCLUSION OF LANDS

ART. 34. (a) In this article where the words "area to be included" are used such words shall be understood to mean those certain areas shown on Exhibit A and bounded by the lines indicated thereon as "Boundary of additional areas in proposed enlarged Imperial Irrigation District."

(b) The district agrees to change its boundaries within a reasonable time after the execution of this contract, in the manner provided by law, so as to include within the district the public lands of the United States in Imperial County lying south of the northerly boundary line of township eleven (11) south of the San Bernardino base line, and within the area to be included.

(c) The district further agrees to change its boundaries, if lawful petition or petitions therefor be presented to its board of directors prior to the first day of January, 1940, so as to include within the district any privately owned and/or entered lands for which final certificate has not been issued, in Imperial County, lying south of the northerly boundary line of township eleven (11) south of the San Bernardino base line, and within the area to be included.

(d) The district further agrees to change its boundaries, in the manner provided by law, so as to include within the district the lands lying north of the northerly boundary line of township eleven (11) south of the San Bernardino base line, and within the area to be included, if lawful petition or petitions sufficient in all respects for such inclusion be presented to its board of directors at any time prior to the expiration of thirty days from and after the date on which a confirmatory judgment, as required by article 31 hereof, declaring this contract in all respects valid and duly authorized, shall have become final; provided, however, that the district shall not change its boundaries so as to include any of said lands lying north of the northerly boundary line of said township eleven (11) south, unless the said petition or petitions so filed shall be sufficient to lawfully include in the aggregate not less than ninety (90%) per centum (the areas to be approved by the Secretary) of the said lands, exclusive of the Dos Palmas area and exclusive of Indian lands and public lands of the United States. Within a reasonable time after the inclusion of such lands pursuant to said petition or petitions the district further agrees to change its boundaries, in the manner provided by law, so as to also include within the district the public lands of the United States within the area to be included and lying north of the northerly boundary line of said township eleven (11) south.

(e) Whenever any of the lands within the area to be included are included within the district the inclusion thereof shall be made upon conditions substantially as hereinafter contained (filling blank spaces with appropriate unit names as may be required and other proper designations), and the Secretary, on behalf of the United States, hereby consents to such inclusion and conditions, which conditions are as follows:

CONDITION No. 1.—*Definitions*

In the following conditions, the word "district" shall mean Imperial Irrigation District; the word "board" shall mean the board of directors of Imperial Irrigation District; the words "All-American Canal Contract" shall mean that certain contract between the United States of America by Ray Lyman Wilbur, Secretary of the Interior, and Imperial Irrigation District, dated -----, and

(Date of this contract)

entitled "Contract for construction of diversion dam, main canal, and appurtenant structures and for delivery of water," authorized by the electors of Imperial Irrigation District at an election held-----;

(Date of this contract authorized)

and the words "distribution system" shall mean the secondary main canal and lateral system or systems, including all canals, pipe lines, structures, pumping plants, machinery, and incidental works necessary or convenient under the rules and regulations of Imperial Irrigation District for delivery of water for irrigation and domestic purposes from the All-American Canal, as the same is shown on Exhibit A attached to and made a part of said All-American Canal contract, to lands in ----- unit as such unit is hereinafter defined.

(Name)

CONDITION No. 2.—*Division into units*

For the purposes of these conditions and in compliance with the terms of the All-American Canal contract, the district shall be divided into units, commencing with Imperial unit, which unit shall comprise the lands within the district as of July 1, 1931, and such other lands as may at any time or from time to time be added thereto in the discretion of the board.

----- unit shall comprise -----
(Name)

(Here shall follow description or other designation of the unit involved as provided by article 10 (c) of the All-American Canal contract)

CONDITION No. 3.—*All-American Canal contract*

The lands within ----- unit shall be, in all respects, bound by all of the terms and conditions of the All-American Canal contract and particularly by article 10 thereof, and shall pay, as a unit obligation, the several amounts and in the manner and at the times provided for in said contract, as the board may determine; provided, that said lands in -----

(Name)

unit shall pay to the district, as a unit obligation, that proportion of the total sum paid by the district to the United States under that certain contract of October 23, 1918, between the United States and the district for the right to connect with Laguna Dam, prior to the payment of the first installment on said contract of October 23, 1918, for which said land shall be assessed, that the total area of ----- unit bears to the total area of the district at the

(Name)

date notice of completion of all work provided for in the All-American Canal contract shall be given, pursuant to article 12 thereof, to the district. Said sum shall be divided into ten annual installments, as nearly equal as may be practicable, and paid, commencing with the calendar year next succeeding the calendar year when such notice of completion shall be so given.

CONDITION No. 4.—*Distribution system*

The lands within ----- unit shall pay, as a unit obligation, the total capital cost of any distribution system which may be constructed by or under authority of the district, to serve the lands within said -----

(Name)

unit or any part thereof. When said distribution system, or any part thereof, is constructed, or an obligation therefor is incurred, said lands shall pay annually such sum or sums as may be necessary to meet the then current obligation therefor, whether for principal or interest or both, or otherwise. Said distribution system shall at all times be and remain the exclusive property of the district unless the district shall provide otherwise, in the discretion of the board. When funds for the construction of said distribution system are made available, the district shall construct or authorize the same to be constructed as the board may determine.

(Name)

CONDITION No. 5.—*Pumping costs*

The board shall provide by rule for the payment by the lands served of the cost of power required to pump water to or for the use of such lands.

CONDITION No. 6.—*Charges to be part of assessment*

Any and all charges against or upon the lands within -----
 unit provided for by the foregoing conditions unless otherwise collected from -----
 the lands within ----- unit shall be a part of, but in addition
 to, the annual assessment upon the said lands for other district purposes and
 payable in installments accordingly, and shall constitute an additional annual
 charge upon the land, and the board shall levy such assessment upon the said
 lands upon an ad valorem or other basis as now or hereafter provided by law, in
 an amount or in amounts sufficient to raise the several sums provided for from
 the said lands within ----- unit; provided, that for the pro-
 tection of the interests and security of the United States, pending completion of
 construction of the All-American Canal to such extent that water is available
 in said canal for use in ----- unit, the annual assessment upon
 the lands within said unit for district purposes shall be limited to raise only the
 just proportion chargeable to said unit for expenditures connected with or apply-
 ing to the All-American Canal and/or arising from expenditures made in or on
 behalf of said unit.

(f) In the event petition or petitions for inclusion, pursuant to this article, of any privately owned lands, or entered lands for which no final certificate has at the time been issued, lying south of the northerly boundary line of township eleven (11) south of the San Bernardino base line, and within the area to be included, be presented subsequent to the expiration of thirty days from and after the date on which a confirmatory judgment, as required by article 31 hereof, declaring this contract in all respects valid and duly authorized, shall have become final, then the district may, in the discretion of the board of directors, require, as a condition precedent to the granting of said petition or petitions and in addition to the other conditions above named, that the petitioners shall pay to the district such respective sums, as nearly as the same can be estimated (the amounts to be determined by the board), as the holders of title, or evidence of title, to the several parcels of land involved in said petition or petitions, and their grantors would have been required to pay to the district as assessments had such lands been included within the district at the expiration of said thirty-day period, or such portion of said sum as the board of directors may at the time determine. The provisions of this subarticle shall also apply to all lands lying north of the northerly boundary line of said township eleven (11) south, and within the area to be included, provided the ninety per centum (90%) petition required by subarticle (d) of this article is filed prior to the expiration of said thirty-day period.

(g) In the event the petition or petitions for inclusion of the said lands lying north of the northerly boundary line of said township eleven (11) south of the San Bernardino base line, as in subarticle (d) above provided are not made and filed with the board of directors of the district prior to the expiration of thirty days from and after the date on which a confirmatory judgment, as required by article 31 hereof, declaring this contract in all respects valid and duly authorized, shall have become final, as hereinabove provided, then said lands shall not thereafter be included within the district under the provisions of this contract and the works referred to in this contract north of the northerly boundary line of said township eleven (11) south of the San Bernardino base line shall not be constructed under this contract, and the district shall be relieved from all responsibility therefor,

anything in this contract to the contrary notwithstanding, and the capacities in the works to be constructed under this contract shall be reduced accordingly.

(h) Nothing contained in this contract shall impair any right or remedy of any person entitled to object or protest against the inclusion within the district of any particular tract or tracts of land, or the conditions imposed by the board of directors of the district on the inclusion of any particular tract or tracts, nor impair the power of the board to hear and determine any such objections or protests, but if in the opinion of the Secretary such determination by the board substantially impairs the interests of, or security otherwise available to, the United States under this contract, then and in such event the United States shall be under no obligation to proceed further under this contract. In the event any petition or petitions be filed for the inclusion within the district of any lands within the area to be included and, after the conditions set out in subarticle (e) of this article or conditions less burdensome, are imposed thereon, a sufficient majority statement or statements in writing be filed objecting to the inclusion of such lands with the conditions imposed thereon, so that the board of directors is required to dismiss such petition or petitions, then it shall be regarded as if such petition or petitions had not been filed.

PRIORITY OF CLAIMS OF THE UNITED STATES

ART. 36. Claims of the United States arising out of this contract shall have priority over all others, secured and unsecured.

RIGHTS RESERVED UNDER SECTION 3737 REVISED STATUTES

ART. 36. 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.

REMEDIES UNDER CONTRACT NOT EXCLUSIVE

ART. 37. Nothing contained in this contract shall be construed as in any manner abridging, limiting, or depriving the United States or the district of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have. The waiver of a breach of any of the provisions of this contract shall not be deemed to be a waiver of any other provision hereof or of a subsequent breach of such provision.

INTEREST IN CONTRACT NOT TRANSFERABLE

ART. 38. No interest in this contract is transferable by the district to any other party, and any such attempted transfer shall cause this contract to become subject to annulment at the option of the United States.

MEMBER OF CONGRESS CLAUSE

ART. 39. 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. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In witness whereof the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA,
Attest: By RAY LYMAN WILBUR,
NORTHCUTT ELY. *Secretary of the Interior.*
ELWOOD MEAD.

IMPERIAL IRRIGATION DISTRICT,
By JOHN L. DUBOIS,
President.