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DECEMBER 15 1986
SIEBSON ENGINEERS
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AGREEMENT OF 1922 BETWEEN THE UNITED STATES OF AMERICA
ACTING THROUGH THE SECRETARY OF INTERIOR AND THE SOUTH TULE
DITCH COMPANY

This AGREEMENT, made and entered into the 3rd day of May, 1922, by the Secretary of the Interior of the United States, acting for and in behalf of the Indians of the Tule River Indian Reservation, party of the first part, and the South Tule Independent Ditch Company, a corporation organized and existing under and by virtue of the laws of the State of California, party of the second part;
WITNESSETH:

THAT WHEREAS, the party of the second part is the owner of certain water rights in the South Fork of Tule River in Tulare County, California, said rights having been initiated at various times between the years 1854 and 1872, and said rights having been adjudicated and fixed by a judgment of the Superior Court of Tulare County in the case of the Poplar Irrigation Company vs. A. A. Howard et. al., in which said case said South Tule Independent Ditch Company was one of the defendants, dated September 11, 1916, and being No. 7004 on the docket of said Court.

AND WHEREAS, the Indians of said Tule River Indian Reservation, which is situated upon said South Fork of Tule River above the lands and points of diversion of the party of the second part, have diverted and made beneficial and continuous use of certain portions of the water of said River since the establishment of said reservation by Executive Order dated January 9, 1873, and continuously used same without protest for about 46 years.

AND WHEREAS, the Indians of said reservation were not included as defendants in said adjudication nor were their water rights nor the water rights appertaining to said reservation considered or passed on therein, and said Indians have received no formal allocation of water rights from this stream by decree or otherwise, and while continuing to use water have at times done so in a wasteful manner to the detriment and under the protest, during recent years, of the party of the second part, thereby, as is alleged, causing much annoyance and uncertainty and alleged loss of water at critical periods to the party of the second part;

AND WHEREAS, the party of the second part is desirous of initiating, financing and making certain improvements to its irrigation system, by the construction of a storage dam and lined canals, on account of which it becomes desirable to determine and fix the rights of said Indians in the waters of the South Fork of Tule River as between the parties hereto;

AND WHEREAS, the party of the first part, in order that he may adopt suitable plans for the development of the Indian lands and that the Indians may avoid future controversy and enjoy the advantages of a permanent water right, is desirous of having the amount of water which may legally be diverted by said party of the second part definitely fixed for all time as between the parties hereto;

NOW THEREFORE, in consideration of the waiver by the party of the second part of any and all claim or claims to any right, title or interest whatsoever in those certain quantities hereinafter described of the waters naturally flowing in the South Fork of Tule River, and in further consideration of the waiver by said first party during the life of this contract of any claim or claims against said second party to the water described herein, or any part thereof, other or further than to those quantities hereinafter set forth, and in further consideration of the material advantages to be derived from having the rights of the respective parties definitely determined, and in further consideration of the mutual promises and forbearances of the respective parties hereto.

IT IS HEREBY CONTRACTED AND AGREED, that the said first party will permit the remainder of the natural flow of said river, over and above the quantities hereinafter set forth, to flow down the natural channel thereof, for the use and benefit of said party of the second part;

IT IS FURTHER AGREED, that the Indians of the Tule River Indian Reservation are and shall hereafter be entitled and permitted to divert for their unrestricted use from the waters naturally flowing in the South Fork of Tule River on the Tule River Indian Reservation, the following described quantities or amounts:

FIRST, when the total amount of water flowing in said stream immediately above the present intake of the South Tule Independent Ditch Company's canal near the Section line between Sections 10 and 15 of Township 22 South, Range 29 East, Mount Diablo Base and Meridian, is 10 second feet or more (500 inches), the Indians are entitled to and may take any amount desired;

SECOND, when the total flow at said point is 5 second feet (250 inches) or more, but less than 10 second feet, (500 inches), the Indians are entitled to and may take 2 second feet; (100 inches)

THIRD, when the total flow at said point is 3 second feet (150 inches) or more, but less than 5 second feet, (250 inches), the Indians are entitled to and may take 1-1/2 second feet, (75 inches)

FOURTH, when the total flow at said point is less than 3 second feet (150 inches) the Indians are entitled to and may take 1 second foot (50 inches)

IT IS FURTHER AGREED, that in determining the above described amounts which the Indians are entitled to divert at any time, the total flow at said point shall be the mean flow for the preceding 24 hours instead of the flow as determined by a single measurement, also that by total flow is meant the total amount of water flowing at said point including any water to which prior or superior existing rights have been established in favor of any persons or parties other than the parties to this agreements:

IT IS FURTHER AGREED, that in order that the total amount of water naturally flowing in the river at said point may be accurately determined, the measuring weir already constructed in the South Tule Independent Ditch Company's canal, immediately below said point, shall be maintained at all times in good condition by the party of the second part and to the amount of water diverted into said canal and measured at said weir shall be added the amount of water escaping diversion and measured opposite to said weir, provided, that, if a storage dam shall at any time be constructed by the party of the second part at this point or above, said party of the second part shall thereupon, install and maintain an accurate measuring device at a new point immediately above the flow line of the reservoir and that thereafter, the amount of water flowing in the stream shall be measured at the new point instead of at the line between Sections 10 and 15 above-described. The party of the first part and his agents and representatives shall be permitted free access at all times to said measuring devices for the purpose of determining the amount of water flowing;

IT IS FURTHER AGREED, that the party of the first part will limit and restrict the diversion and use of water upon the reservation to the above amounts and in the above manner and that suitable and accurate measuring and regulating devices will be installed and maintained by the party of the first part upon all ditches through which

water may be diverted from the river, and that the party of the second part and its agents and representatives will be permitted free access thereto at all times for the purpose of determining the amount of water being diverted and used. Nothing herein shall be construed to restrict the reasonable and economical use of water for domestic and stock purposes upon the reservation.

IT IS FURTHER AGREED, that this instrument shall be and become of full force and effect immediately upon its execution by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first herein-above written.

THE UNITED STATES OF AMERICA

WITNESSES:

Name, Guy Knupp
Address, Porterville, Calif.
Name, Mami Eastwood
Address, Porterville, Calif.

By _____
Secretary of the Interior
SOUTH TULE INDEPENDENT DITCH
COMPANY
By Edwin A. Fisher
President
and Mrs. John Hickle, Secretary

State of California) ss
County of Tulare)

(SEAL)

On this 3rd day of May in the year nineteen hundred and twenty-two, A. D., before me Guy Knupp, a Notary Public in and for the County of Tulare, State of California, residing therein, duly commissioned and sworn, personally appeared Edwin A. Fisher, known to me to be the President and Mrs. John Hickle, known to me to be the Secretary of THE SOUTH TULE INDEPENDENT DITCH COMPANY, the corporation which executed the above instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said County the day and year in this certificate first above written.

GUY KNUPP

(SEAL)

Notary Public in and for the
County of Tulare, State of
California.

My commission expires April 3, 1923.

SECRETARY'S CERTIFICATE

Mrs. John Hickle, hereby certifies and declares: That she is the Secretary of the SOUTH TULE INDEPENDENT DITCH COMPANY, a corporation, and was secretary of the corporation on the 28th day of April, 1922; that a meeting of the Board of Directors of said corporation was held on said date at which a quorum of said Board was present; that said meeting was duly and regularly called in the manner prescribed by the By-Laws of said corporation and was legally held; that at said meeting the following resolution was passed and adopted by the affirmative vote of all the directors present:

BE IT RESOLVED: that this corporation will and does hereby give and grant unto the Secretary of the Interior of the United States of America, for and in behalf of the Indians of the Tule River Indian Reservation, the right to divert from the South Fork of Tule River the amounts of water and in the manner set forth in the proposed agreement to be executed between this corporation and the Secretary of the Interior as presented and read to the Board at this meeting, a copy of which is hereby directed to be set out in full in the minutes of this meeting; and the President and Secretary of this corporation are hereby authorized and directed to execute and deliver said agreement to the Secretary of the Interior of the United States of America as the act and deed of this corporation.

The undersigned further certifies that the foregoing resolution has not been revoked and is in full force and effect on this 3rd day of May, 1922.

Dated the 3rd day of May, 1922

Mrs. John Hickle
Secretary

(SEAL)