

GEORGE F. ROCK, RECORDER

293-154

A G R E E M E N T

THIS AGREEMENT, made and entered into as of May first, 1940, by and between the various parties signatory hereto as if the same had been made separately between each of them and each of the others, WITNESSETH:

WHEREAS, it is and has been for many years the practice enforced and confirmed by the office of the State Engineer in Colorado that streambed reservoirs are not charged with any liability on account of seepage or evaporation losses therefrom;

WHEREAS, the City and County of Denver for many years has owned and operated Cheesman and Antero Reservoirs, and other smaller impounding basins, upon natural streambeds and in accordance with the practice hereinabove mentioned, and has recently placed in operation a new large streambed reservoir known as Eleven Mile Canon Reservoir;

WHEREAS, objections have been made that the streambed reservoirs of said City and County have created an improper burden upon the natural waters of the State of Colorado and appropriators of water therefrom; and,

WHEREAS, it is desired by this agreement to adjust, settle and determine all differences between the parties hereto respecting seepage and evaporation from streambed reservoirs of the City and County of Denver now in existence;

NOW, THEREFORE, for and in consideration of the premises and of the mutual promises and agreements hereinafter

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set forth, the parties hereto hereby agree as follows:

1. Commencing thirty days after the effective date of this agreement, Eleven Mile Canon Reservoir shall be operated without reference to gauge height and solely upon the measurement of water in and out of the reservoir through measuring flumes located one above the reservoir and one below so that the same amount of water shall thereafter be discharged from said reservoir by measurement as measured into it, provided that when the reservoir shall be storing, or withdrawing from storage, storage shall be measured upon the basis of water passing over the upper weir, and withdrawal, to the extent of water remaining in storage, shall be measured over the lower weir. Over-storage and under-storage shall be adjusted as soon as reasonably possible under all operating conditions and the City and County of Denver represents that its facilities are such that in ordinary times such discrepancies can be accounted for within any twenty-four hour period. It is intended hereby to provide, through the measurements herein provided for, that the natural flow of the stream shall be interfered with as little as possible by the presence of said reservoir.

2. The two measuring flumes mentioned in the paragraph next above shall be Parshall weirs with Automatic self-registering gauges (or similar approved measuring devices) and shall be constructed and maintained by the City

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and County of Denver under the supervision and direction of the State Engineer who shall keep and preserve the automatic charts thereof as a part of the records in his office. If necessary to accomplish the regulation contemplated by this agreement, the automatic register on the weir above the reservoir shall be equipped with an electrical device so that the inflow shall register upon a chart at the outlet of the dam.

3. All streambed reservoirs now owned or operated by the City and County of Denver other than Eleven Mile Canon Reservoir shall be operated according to the practice used since their inception, that is on the basis of gauge-height. They also shall be operated in a manner that will interfere as little as possible with the natural flow of the stream properly passing through them, over-storage or under-storage shall be adjusted as quickly as reasonably possible.

4. It is understood and agreed that the City and County of Denver may make or permit any nonconsumptive use of water to create electric power, to dilute sewage, or the like while such water is on its way to its place of principal and ultimate beneficial use; and the City agrees that it will not use or attempt to use or lease any water, irrespective of source, which shall have been once used through its municipal water system and such water shall be allowed to become part of the nearest convenient natural water course.

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5. The effective date of this agreement shall be a time to be determined by the President and Secretary of Consolidated Ditches of Water District No. 2, by the Board of Water Commissioners of the City and County of Denver and the State Engineer of the State of Colorado, when this agreement shall have been executed by a sufficient number of those substantially interested herein to indicate that operation under this agreement will be successful.

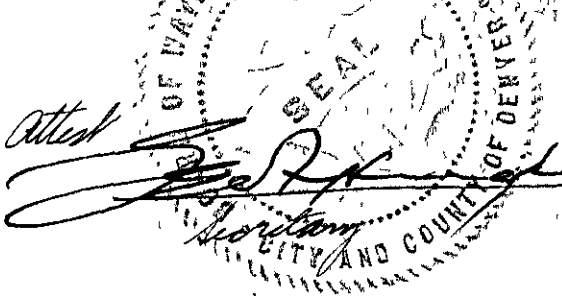
6. If any substantial part of this agreement shall become impossible of performance by reason of enforceable order of governmental authority, the entire agreement shall then terminate and, as of that date, all parties be restored to their former status exactly as if the agreement had never been made.

IN WITNESS WHEREOF, this instrument has been executed as of the day and year first above written; the officers who have executed the same having represented that they have now or will obtain prior to the effective date hereof, authority or ratification of authority for their execution hereof on behalf of their principal in each case.

FORM APPROVED:

MALCOLM LINDSEY, Attorney
City and County of Denver,

By *[Signature]*
Assistant City Attorney



City and County of Denver
acting by and through its
Board of Water Commissioners
by *[Signature]*
President

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Western Mutual Ditch Co.

attest
Dessie Little
 Secretary

by J. L. Behrens
 President

The Farmers Independent Ditch Co.

attest
J. J. Wilson
 Secretary

by C. L. Volkmann
 President

The Meadow Island Irrigation Co. No 1

attest
Irvin Thompson
 Secretary

by C. W. Lutz
 President

The Lupton Bottom Ditch Co.

attest
Belle Watson
 Secretary

by J. W. McHenry
 President

The Lupton Meadows Ditch Co.

attest
Belle Watson
 Secretary

by J. H. Weber
 President

The Beerman Ditch and Milling Co.

attest
J. F. Vosmea
 Secretary

by Wm J. Birrell
 President

The Brighton Ditch Co.

attest
Wm J. Birrell
 Secretary

by Frank Stieber
 President

attest

W. D. Gunt
Secretary

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The Fulton Irrigating Ditch Co

by W. M. Gunt
President

attest

J. L. Carpenter
Secretary

New Buckers Ditch Co

by Chris Lorenz
President

attest

F. M. Rupp
Secretary

The Platte Valley Irrigating Co

by Fred Rupp
President

attest

L. C. Camp
Secretary

The Platteville Milling & Irrigation Co

by Chas. Kungur
President

attest

Harry R. Brown
Secretary

The New Brantner Extension Ditch Co.

by Geo. Stieber
President

attest

Frances G. Lage
Secretary

The Lower Latham Ditch Co.

by E. W. Johnson
President

attest

Chas. O. Behrens
Secretary

The Union Ditch Co.

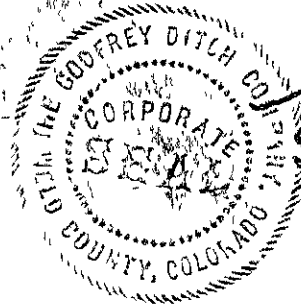
by James A. Stewart
President


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Attest

The Godfrey Ditch Co

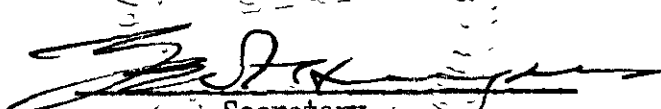
George S. Bauen by Roy Werning
Secretary President




REGISTERED AND COUNTERSIGNED

Auditor City and County of Denver

It is hereby determined and declared that January 1, 1941, shall
be the effective date of the written agreement as therein defined.

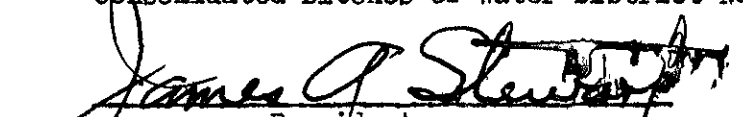

ATTEST:



Secretary

City and County of Denver,
acting by and through its
Board of Water Commissioners

By 
President

Consolidated Ditches of Water District No. 2


President

Secretary


State Engineer of the State of Colorado