

Orland

Project.



UNIT
ORLAND WATER USERS' ASSOCIATION

APRIL 3, 1909

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These articles of agreement, made and entered into this third day of April, 1909, by and between the United States of America, acting in this behalf by Richard A. Ballinger, Secretary of the Interior, party of the first part, and the Orland ^{Unit} Water Users' Association, a corporation duly organized and existing under the laws of the State of California, party of the second part, their successors and assigns, witnesseth:

That whereas the Orland Unit Water Users' Association is a corporation organized and existing under the laws of the State of California for the purposes mentioned in its articles of incorporation and by-laws, copies of which are appended to this agreement and are, for every purpose of the interpretation, construction, and consideration of this agreement and of the rights of the parties hereunder, to be deemed, held, read, and considered as if fully written out or printed herein, and deemed a part hereof; and

Whereas the lands embraced within the area proposed to be irrigated as described in said articles of incorporation or by-laws are naturally arid and incapable of proper cultivation without irrigation, and will to a greater or less extent remain unreclaimed, and uncultivated, in which condition they, or a great part thereof, now are, unless the waters of Stony Creek in California and its tributaries be impounded and the flow thereof otherwise regulated and controlled; and

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Orig. to G. v. D.
Feb. 2, 1928

Whereas the Secretary of the Interior contemplates the construction of certain irrigation works under the provisions of an act of Congress entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, for the irrigation and reclamation of the lands described in the said articles or by-laws; and

Whereas the incorporators and shareholders of said Orland Unit Water Users' Association are, and under the provisions of its articles of incorporation and by-laws must be, owners and occupants of lands in said area, and in some cases are appropriators of water for the irrigation thereof, and in addition thereto such incorporators and shareholders and their successors or assigns must initiate rights to the use of water from the said proposed irrigation works, to be constructed by the Secretary of the Interior as soon as such rights may be initiated, and thereafter complete the acquisition thereof in the manner and upon the terms and conditions to be prescribed therefor by the Secretary of the Interior, which rights shall be, and thereafter continue to be, forever appurtenant to designated lands owned by such shareholders; and

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Whereas neither the relative priority nor the extent of the individual appropriations of such water heretofore made by said incorporators and shareholders for the lands described in said articles or by-laws, and which are now vested rights, have been ascertained or determined, but said incorporators and shareholders have agreed, among themselves, by the terms and provisions of said articles of incorporation and by-laws, upon the rules and principles by and upon which the relative priority and extent of their several appropriations and vested rights to the use of such waters shall be determined:

Now, therefore, it is agreed and understood by and between the parties hereto-

1. That if the Secretary of the Interior shall authorize and cause the construction of said irrigation works, the said association will take prompt action to secure the determination by the courts of the relative rights of its shareholders to the use of water for said lands, and that in the determination of such rights and of their respective rights to the use of water acquired under said act of Congress the rules and principles set out in said articles of incorporation and by-laws, for such determination, shall be deemed the established rules and principles for that purpose.

2. That only those who are or who may become members

of said association, under the provisions of its articles of incorporation and by-laws, shall be accepted as applicants for rights to the use of water available by means of said proposed irrigation works.

3. That the aggregate amount of such rights to be issued shall, in no event, exceed the number of acres of land capable of irrigation by the total amount of water available for the purpose, being (1) the amount now appropriated by the shareholders of said association, and (2) the amount to be delivered from all sources in excess of the water now appropriated; and that the Secretary of the Interior shall determine the number of acres so capable of such irrigation as aforesaid, his determination to be made upon due and expert consideration of all available data, and to be based upon and measured and limited by the beneficial use of water.

4. That the payments for the water rights issued to the shareholders of said Association under the provisions of said Act of Congress shall be payable in ten annual instalments, the first of which shall be payable when the water is first delivered from said works, or within a reasonable time thereafter, and after due notice thereof by the Secretary to the Association, and that the cost of said proposed irrigation works shall be apportioned among those acquiring such rights: Provided, That in the discretion of the Secretary of

the Interior payments may be permitted to be made in less than ten years.

5. That the said Water Users' Association hereby guarantees the payment to the United States of the cost of the irrigation works as apportioned by the Secretary of the Interior against the lands of its shareholders and also of the cost of operation and maintenance as assessed from year to year by the Secretary of the Interior, and will promptly levy calls or assessments therefor and collect or require prompt payment thereof in such manner as the Secretary of the Interior may direct; that it will promptly pay the sums collected by it to the receiver of the local land office for the district in which said lands are situated; that it will promptly employ the means provided and authorized by the said articles of incorporation and by-laws for the enforcement of such collections; and will not change, alter, or amend its articles of incorporation or by-laws in any manner whereby such means of collection, or the lien given to it by the shareholders to secure the payment thereof, or of any assessments contemplated or authorized thereby, shall be impaired, diminished, or rendered less effective, without the consent of the Secretary of the Interior.

6. That the United States shall in no manner be responsible for the sums collected by said association until

they have been paid into the hands of the receiver of the local land office, as provided by the law, and in accordance with such regulations as may be prescribed by the Secretary of the Interior.

7. That for the purpose of enforcing said collections, the association will adopt and enforce proper by-laws, subject to the approval of the Secretary of the Interior, and not change them so as to in anywise impair their efficiency for said purpose, and will otherwise do any and all things it is authorized and empowered to do in the premises.

8. That the association will adopt and enforce such rules and regulations as it is authorized by its articles of incorporation and by-laws to adopt and enforce, concerning the use of water by its shareholders and concerning the administration of the affairs of the association, to effectually carry out and promote the purposes of its organization within the provisions of said articles of incorporation and by-laws, which rules and regulations shall be subject to the approval of the Secretary of the Interior, and that if the association fail to make and adopt such rules and regulations, then the Secretary of the Interior may prescribe them; but in such event the Secretary of the Interior shall impose no rule or regulation interfering with any vested right of the shareholders of the association,

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as defined or modified by said articles of incorporation and by-laws.

9. That persons who are not now members of the association, but who may be the owners or occupants of land to be irrigated, as described in its articles of incorporation or by-laws, or of added lands as therein provided for and to whom rights to the use of water from the proposed irrigation works may be issued by the United States, may, at the designation of the Secretary of the Interior, become members of the association upon subscribing to the stock thereof and upon compliance with the other conditions prescribed for such membership.

10. That in all the relations between the United States and this Association and the members of the association, the rights of the members of the association to the use of water where the same have vested, are to be defined, determined, and enjoyed in accordance with the provisions of the said act of Congress and of other acts of Congress on the subject of the acquisition and enjoyment of the rights to use water; and also by the laws of California, where not inconsistent therewith, modified, if modified at all, by the provisions of the articles of incorporation and by-laws of said association.

11. That nothing contained in this agreement, or to

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be implied from the fact of its execution, shall be construed, held, or deemed to be an approval by the Secretary of the Interior, nor an adoption by him of the articles of incorporation or by-laws of said association in all their details as the form of organization of water users contemplated and authorized by Section 6 of the said act of Congress of June 17, 1902; but such approval and adoption is expressly reserved until the conditions prescribed in said act authorizing such approval and adoption shall have arisen; and that when the Secretary of the Interior shall make, approve, and promulgate rules and regulations for the administration of the water to be supplied from said proposed irrigation works, such rules and regulations and such modifications thereof as the Secretary may, from time to time, approve and promulgate, shall be deemed and held to be obligatory upon this association as fully and completely, and to every intent and purpose as if they were now made, approved, promulgated, and written out in full in this agreement, and the same are to be so read and construed.

IN WITNESS WHEREOF the undersigned have hereunto subscribed their names and affixed their seals the day and year first herein written.

(seal)

Attest:

Frank S. Rogers
Secretary

R. A. Ballinger
Secretary of the Interior,
For and on behalf of the United States of
America,

PARTY OF THE FIRST PART.

ORLAND UNIT WATER USERS' ASSOCIATION.

By W. A. Greenwood

President.

PARTY OF THE SECOND PART.

STATE OF CALIFORNIA,)
) ss.
COUNTY OF GLENN,)

On this third day of April, in the year one thousand nine hundred and nine, before me, T. J. Hicks, a Notary Public in and for said Glenn County, residing therein, duly commissioned and sworn, personally appeared W. A. Greenwood, known to me to be the president, and Frank S. Reager, known to me to be the Secretary of the corporation that executed the within 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, at my office in the County of Glenn the day and year in this certificate first above written.

(SEAL)

T. J. Hicks
Notary Public.

My commission expires Nov. 7, 1910.

I, Frank S. Reager, Secretary of the Orland Unit Water Users' Association hereby certify that the copy of the Articles of Incorporation printed on pages, 9 to 14, inclusive, and the copy of the By-laws of said Association printed on pages 15 to 39, inclusive, of the booklet hereto attached, are full, true, and correct copies of the Articles of Incorporation and By-laws of said Orland Unit Water Users' Association, and that neither have been, in any way altered or amended, and that both are now in full force and effect.

Frank S. Reager

Secretary Orland Unit Water Users' Association.