



— BUREAU OF —
RECLAMATION

Metropolitan Water District of Salt Lake and Sandy Carriage Contract in Deer Creek Reservoir, Final Environmental Assessment and Finding of No Significant Impact

Wasatch County, Utah



PRO-EA-14-002
Interior Region 7 – Upper Colorado Basin
Provo Area Office
Provo, Utah

Mission Statements

Department of the Interior

The Department of the Interior conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper.

Bureau of Reclamation

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

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PRO-EA-14-002

**Upper Colorado Region
Provo Area Office
Provo, Utah**

Cover Photo: Reclamation

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**U.S. Department of the Interior
Bureau of Reclamation
Provo Area Office
Provo, Utah**

FINDING OF NO SIGNIFICANT IMPACT

**Metropolitan Water District of Salt Lake and Sandy
Carriage Contract in Deer Creek Reservoir
Provo River Project - Utah**

**FONSI-14-002
(Revised March 2021)**

Recommended by:

**PETER
CROOKSTON**

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Peter Crookston
Environmental Group Chief

Concur:

RICK BAXTER  Digitally signed by RICK BAXTER
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Rick Baxter
Water, Environmental, and Lands
Division Manager

Approved by:

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Kent Kofford
Area Manager, Provo Area Office

I. Introduction

In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), the U.S. Bureau of Reclamation (Reclamation), Provo Area Office conducted an Environmental Assessment (EA) (see attached) in 2015 to determine the potential effects to the human and natural environment of executing a five-year contract to allow the Metropolitan Water District of Salt Lake and Sandy (MWDSLS or District) the option of storing up to 4,000 acre-feet (AF) of Ontario Drain Tunnel (ODT) water in Deer Creek Reservoir, on a space-available basis. Deer Creek Reservoir is a carriage and storage facility that is part of the Provo River Project (PRP) and is owned by Reclamation and operated by the Provo River Water Users Association (PRWUA or Association). ODT is a carriage feature that is owned and maintained by the Jordanelle Special Service District (JSSD).

A final EA and Finding of No Significant Impact (FONSI) were published in May 2015. Reclamation then entered into contract No. 15-WC-40-568 in 2015 that authorized the carriage of the non-project water in Deer Creek Reservoir for a five-year term. Said contract expired in 2020 and two new contract actions are now proposed; a short-term contract to allow the MWDSLS to store up to 500 AF in Deer Creek for one year, and a long-term contract which would continue to allow the District storage of up to 4,000 AF of ODT water annually in Deer Creek Reservoir for up to forty (40) years.

The proposed long-term contract action was submitted to be published in the Federal Register in January 2021. As the requested action is for 40 years, a short-term contract does not require separate publication, because it falls within the same general action. Resolution No. 1914 to enter into a carriage contract with the United States was approved by the MWDSLS Board of Directors on January 25, 2021. On January 15, 2021, Reclamation received a letter from the Provo River Water Users Association approving the requested action for the District's carriage contract.

The purpose of this FONSI is to determine whether the new contracts meet the requirements of NEPA and are covered within the scope of the 2015 EA.

II. Alternatives

The EA analyzed two alternatives: the No Action and the Proposed Action.

No Action

Under the No Action Alternative, ODT water would be discharged into Jordanelle Reservoir and be delivered down the Provo River into Deer Creek and into the Salt Lake Aqueduct on a run-of-the-river basis, as has been occurring for many years prior to the original Proposed Action.

Proposed Action

The EA analyzed the Proposed Action which consisted of Reclamation issuing a five-year contract authorizing the storage of up to 4,000 acre-feet of ODT water in Deer Creek Reservoir, on a space-available basis, which it would deliver later in the year when runoff from the canyons east of Salt Lake has declined. The new contracts (i.e., the modified Proposed Action) include a short-term contract for the term of November 1, 2020 through October 31, 2021, to allow for the storage of up to 500 AF, and a long-term contract, beginning on November 1, 2021, for storing

up to 4,000 AF of ODT water in Deer Creek Reservoir. The full list of terms and conditions of the contract can be found in the attached draft contract.

The EA discussed the option of negotiating a long-term contract once the five-year contract had expired. Importantly, the modified Proposed Action does not include an increase in the total amount of water stored (up to 4,000 AF per year); instead, it allows what has been in practice for the previous five years to continue. Finally, the modified Proposed Action would not require modifying the existing outlet works, facilities, or system operations. There is no ground disturbance component to the Proposed Action or the modified Proposed Action, and no change in the use of project water would occur.

III. Environmental Commitments

Environmental commitments integral to the modified Proposed Action are as follows:

1. Protection of Water and Air Quality – The Association, without expense to the United States, will care for, operate and maintain transferred works in a manner that preserves the quality of the water at the highest feasible level as determined by the United States.

The Association will care for, operate and maintain reserved works in a manner that preserves the quality of the water at the highest feasible level as determined by the United States. The United States and the Association do not warrant the quality of the water delivered to the District and are under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the District.

The District will comply with all applicable water and air pollution laws and regulations of the United States and the State of Utah; and will obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the District; and will be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Association facilities or project water provided by the Association within its Project Water Service Area.

This article will not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

2. Contamination or Pollution of Federal Property – The Association and District shall not allow contamination or pollution of Federal project lands, project waters, or project works of the United States or administered by the United States and for which the Association has the responsibility for care, operation, and maintenance by its employees or agents. The Association and the District shall also take reasonable precautions to prevent such contamination or pollution by third parties. The Association and the District shall comply with all applicable Federal, State, and local laws and regulations and Reclamation policies and instructions existing, or

hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, released, or disposed of on or in Federal project lands, project waters, or project works.

“Hazardous material” means (1) any substance falling within the definition of “hazardous substance,” “pollutant or contaminant,” or “hazardous waste” under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601(14), (29), and (33)); (2) oil, as defined by the Clean Water Act (33 U.S.C. § 1321(a)) and the Oil Pollution Act (33 U.S.C. § 2701(23)); (3) thermal pollution, refuse, garbage, sewage effluent, industrial waste, mine or mill tailings, mineral salts, pesticides, and other solid waste, and (4) any other substance regulated as hazardous or toxic under Federal, State, local, or Tribal law.

Upon discovery of any event which may or does result in contamination or pollution of Federal project lands, project water, or project works, the Association shall immediately undertake all measures necessary to protect public health and the environment, including measures necessary to contain or abate any such contamination or pollution, and shall report such discovery with full details of the actions taken to the United States. Reporting shall be within a reasonable time period but shall not exceed 24 hours from the time of discovery if it is an emergency and the first working day following discovery in the event of a non-emergency.

If violation of the provisions of this Article occurs and the Association does not take immediate corrective action, as determined by the United States, the Association may be subject to remedies imposed by the United States, which may include termination of this contract.

The Association shall be liable for any response action or corrective measure necessary to protect public health and the environment or to restore Federal project lands, project waters, or project works that are adversely affected as a result of such violation, and for all costs, penalties or other sanctions that are imposed for violation of any Federal, State, local, or Tribal laws and regulations concerning hazardous material. At the discretion of the United States, the United States may also terminate this Contract as a result of such violation.

The Association shall defend, indemnify, protect and save the United States harmless from and against any costs, expenses, claims, damages, demands, or other liability arising from or relating to the Associations violation of this article.

Reclamation agrees to provide information necessary for the Association, using reasonable diligence, to comply with the provisions of this Article.

3. Clean Air and Water – The Association and the District agree as follows:

- a. To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. § 7414), and section 308 of the Clean Water Act (33 U.S.C. § 1318), relating to inspection, monitoring, entry, reports, and information, as

well as other requirements specified in those sections, and all applicable regulations and guidelines issued thereunder.

b. That no portion of the work required by this contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was executed unless and until the Environmental Protection Agency eliminates the name of such facility or facilities from such listing.

c. To use its best efforts to comply with clean air standards and clean water standards at the facility where the contract work is being performed.

d. To insert the substance of the provisions of this article into any nonexempt subcontract, including this subparagraph (a)(4).

The following definitions apply for purposes of this article:

a. The term “Clean Air Act” means the Act enacted by Pub. L. 88-206 of Dec. 17, 1963, and amendments thereto, as codified at 42 U.S.C. § 7401, et seq.

b. The term “Clean Water Act” means the Act enacted by Pub. L. 92- 500 of Oct. 18, 1972, and amendments thereto, as codified at 33 U.S.C. § 1251, et seq.

c. The term “clean air standards” refers to all enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, and other requirements which are contained in, issued under, or otherwise adopted pursuant to the Clean Air Act or Executive Order 11738, an applicable implementation plan as described in section 110 of the Clean Air Act (42 U.S.C. § 7410), an approved implementation procedure or plan under subsection 111(c) or subsection 111(d) of the Clean Air Act (42 U.S.C. § 7411(c) or (d)), or an approved implementation procedure under subsection 112(d) of the Clean Air Act (42 U.S.C. § 7412(d)).

d. The term “clean water standards” refers to all enforceable limitations, controls, conditions, prohibitions, standards, and other requirements which are promulgated pursuant to the Clean Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a state under an approved program, as authorized by section 402 of the Clean Water Act (33 U.S.C. § 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Clean Water Act (33 U.S.C. § 1317).

e. The term “comply” refers to compliance with clean air or water standards. It also refers to compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency in accordance with the requirements of the Clean Air Act or Clean Water Act and regulations issued pursuant thereto.

f. The term “facility” means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations owned, leased, or supervised by a District or subcontractor to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

4. Water Conservation – Prior to the deliver of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the District shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

IV. Decision

Based on the foregoing information, Reclamation determined that the modified Proposed Action fits within the scope analyzed in the 2015 final EA and therefore does not necessitate supplemental NEPA. It is Reclamation’s decision, therefore, to issue this revised FONSI pursuant to NEPA and implementing regulations at 40 CFR 1500-1508, and authorize the modified Proposed Action to be implemented as described in the draft contracts. This revised FONSI supersedes the FONSI issued in 2015.

Attachment
Draft Temporary Contract

1
2
3 TEMPORARY CONTRACT AMONG
4 THE UNITED STATES OF AMERICA,
5 THE METROPOLITAN WATER DISTRICT OF SALT LAKE & SANDY
6 AND
7 THE PROVO RIVER WATER USERS ASSOCIATION
8 FOR STORAGE OF NON-PROJECT WATER IN DEER CREEK RESERVOIR
9 PROVO RIVER PROJECT, UTAH
10

11 THIS TEMPORARY CONTRACT is among the METROPOLITAN WATER DISTRICT OF SALT LAKE &
12 SANDY (MWDSLS or District), a metropolitan water district organized and existing under the laws of the
13 State of Utah, the PROVO RIVER WATER USERS ASSOCIATION (PRWUA or Association), a Utah non-profit
14 corporation, and the UNITED STATES OF AMERICA, represented by the Department of the Interior,
15 Bureau of Reclamation (Reclamation or United States), acting pursuant to the Act of June 17, 1902 (32
16 Stat. 388), and acts amendatory thereof or supplementary thereto, particularly the Act of February 21,
17 1911 (36 Stat. 925, 43 U.S.C. §523), as supplemented by Section 2 of the Act of December 19, 2002 (P.L.
18 107-366), as well as the rules and regulations promulgated by the Secretary of the Interior (Secretary)
19 under Reclamation law.
20

21 **RECITALS**
22

23 WHEREAS, Reclamation constructed the Provo River Project (Project), including Deer Creek Dam
24 and Reservoir (Deer Creek), for the purpose of supplying water for irrigation and other uses (Project
25 Water) to the Association for use by its shareholders. MWDSLS is a majority PRWUA shareholder; and
26

27 WHEREAS, the Association, by Contract No. ILR-874 (Repayment Contract), dated June 27, 1936,
28 as amended and supplemented, agreed to repay the reimbursable Project costs to Reclamation and to
29 operate and maintain the facilities constructed for the Project (Project Works); and
30

31 WHEREAS, MWDSLS provides wholesale supplemental treated water to its member cities,
32 primarily Salt Lake City and Sandy City, as well as others. MWDSLS has access to water from the Ontario
33 Drain Tunnel (ODT), under water rights owned by MWDSLS and Salt Lake City (ODT Water). ODT Water
34 has flowed into the Provo River system since the 1880s. MWDSLS also has access to direct flows from
35 Little Cottonwood Creek and Bell Canyon Creek under water rights of MWDSLS, Salt Lake City, and Sandy
36 City; and
37

38 WHEREAS, in part because of differences in the hardness of the water from the different
39 sources, the chemicals used to treat straight Little Cottonwood Creek and Bell Canyon Creek water are
40 more expensive, and the process is more troublesome, than treating a mixture of canyon creek water
41 and Provo River system water. Therefore, if the ODT Water that is available to MWDSLS is not stored in
42 Deer Creek, ODT Water will be diverted at the Salt Lake Aqueduct and used in preference to Little
43 Cottonwood Creek and Bell Canyon Creek water. For this reason, the storage of ODT Water available to
44 MWDSLS will have no significant impact to Provo River system flows; and
45

46 WHEREAS, Reclamation has received a request from MWDSLS, which request is supported by
47 the Association, that during periods when space is available in Deer Creek that is not otherwise required
48 for the storage of Project Water or Central Utah Project Bonneville Unit water pursuant to the terms of

1 the Deer Creek/Jordanelle Operating Agreement (Contract No. 94-07-40-R1690), and the Provo
2 Reservoir Canal Enclosure Project Master Agreement of February 1, 2010, that MWDSLs be allowed to
3 use excess capacity for storage of non-project water on a space available basis. Reclamation is
4 authorized, pursuant to the authority of the Act of February 21, 1911 as supplemented by the Act of
5 December 19, 2002, to contract for the storage of non-Project water in Deer Creek for municipal and
6 industrial (M&I) uses; and
7

8 WHEREAS, MWDSLs has requested a long-term contract to store ODT Water in Deer Creek and
9 desires a temporary contract to meet its current needs prior to the execution of the long-term contract.
10 The UCB is working diligently to secure a delegation of authority from the commissioner of Reclamation
11 prior to this contract's termination date of October 31, 2021.
12

13 AGREEMENT

14
15 NOW, THEREFORE, it is mutually agreed between the parties hereto as follows:
16

17 1. Storage of ODT Water in Deer Creek. The Parties agree that if and when capacity is
18 available in Deer Creek that is not otherwise required for the storage of Project Water or Central Utah
19 Project Bonneville Unit water pursuant to the terms of the Deer Creek/Jordanelle Operating Agreement
20 (Contract No. 94-07-40-R1690), MWDSLs will be allowed to use the excess capacity for storage of its
21 ODT Water subject to the terms of this Contract and upon the following conditions:
22

23 (a) ODT Water to be stored under this Contract will not exceed 500 AF during this
24 Contract's term, as measured at the ODT and conveyed to Deer Creek Reservoir by the Provo River
25 Commissioner. Conveyance and storage of ODT Water will be subject to the standard conveyance losses
26 for the Provo River System.
27

28 (b) MWDSLs will, at its sole cost and expense, secure any and all state or federal
29 permits which may be required for the storage of ODT Water at Deer Creek, including the filing and
30 necessary approvals of any applications relative thereto.
31

32 (c) ODT Water stored in Deer Creek Reservoir will be charged appropriate
33 evaporation and seepage losses proportionate to the amount of water stored and the period of storage,
34 as determined by the Association or the Provo River Commissioner.
35

36 (d) Should MWDSLs fail to utilize any portion of the ODT Water stored in Deer
37 Creek on or before October 31, remaining ODT Water will convert to Project Water.
38

39 (e) Upon execution of this Contract, the District will submit to the Association and
40 the United States a written notice of its intent to store ODT Water in Deer Creek Reservoir pursuant to
41 this Contract and the maximum storage space it anticipates using. During each month, the District will
42 report the amounts of ODT Water stored in Deer Creek and delivered by the Association to the District
43 pursuant to this Contract.
44

45 (f) The District will pay directly to the Association a proportionate share of
46 operation, maintenance, and replacement costs associated with the carriage and storage of ODT Water
47 in Deer Creek, as determined by the PRWUA Board of Directors.

1
2 (g) The Association is authorized to suspend the storage of ODT Water in Deer
3 Creek under this Contract if the District, its agents or employees, violate any provisions of this Contract.
4

5 (h) The rights granted herein will be subject to the provisions of applicable federal
6 laws, rules, and regulations.
7

8 (i) The right to store ODT water in Deer Creek is junior to the right to store water
9 under the Deer Creek Reservoir / Jordanelle Reservoir Operating Agreement. When Deer Creek spills
10 (physically, on paper, or modifies its water right diversions to avoid spilling), stored ODT Water will
11 either physically spill or be provided to the Provo River Project and Bonneville Unit of the Central Utah
12 Project according to these projects' respective water rights and the Deer Creek Reservoir / Jordanelle
13 Reservoir Operating Agreement.
14

15 (j) If at any time ODT water does not meet federal or state water quality standards,
16 the District will not be able to store ODT water in Reclamation facilities under the terms and conditions
17 of this Contract.
18

19 2. Payment for Storage. MWDSLs will pay a storage charge to Reclamation in the amount
20 of \$3.50 per acre-foot for the ODT Water stored under this Contract. Such payments will be credited to
21 the Reclamation Fund as provided in Section 3 of the Act of February 21, 1911 (36 Stat 926, 43 U.S.C.
22 §525). Payment amounts may differ in future agreements.
23

24 Payments will be remitted to:

25
26 BOR- Upper Colorado Region
27 PO Box 301504
28 Los Angeles, CA 90030-1504
29

30 All payments will reference Contract No. 21-WC-40-879
31

32 3. Term. This Contract will be effective beginning **November 1, 2020**, and will be effective
33 until **October 31, 2021**. Upon execution of this Contract, the District will not retain any permanent right
34 to the use of Project facilities for the storage of ODT Water.
35

36 4. United States Not Liable. Neither the United States nor the Association will be
37 responsible for the control, care or distribution of the ODT Water before it is introduced into or after it is
38 discharged from the Project Works. It is specifically understood by the parties that the United States is
39 only providing storage capacity for the ODT Water and does not claim any interest in the acquisition or
40 use of the ODT Water beyond the terms specifically set forth in this Contract. The District will indemnify
41 and hold the United States and the Association and their respective officers, agents, and employees
42 harmless from every claim for legal liability for damages of any nature whatsoever arising out of any
43 actions or omissions of any of the parties and their respective officers, agents, and employees, resulting
44 from the performance of this Contract, including the manner or method in which ODT Water is
45 introduced and stored in Deer Creek. The District further releases the United States and the Association
46 and their respective officers, agents, or employees from every claim for damage to persons or property,
47 direct or indirect, resulting from the United States' or Association's determinations of the amount of

1 excess capacity available in Deer Creek for the storage of ODT Water.

2
3 5. This Contract is limited to ODT Water only and establishes no precedent for further
4 storage in either Deer Creek or Jordanelle reservoirs.

5
6 **STANDARD ARTICLES**

7
8 **6. CHARGES FOR DELINQUENT PAYMENTS**

9
10 (a) The District shall be subject to interest, administrative, and penalty charges on delinquent
11 payments. If a payment is not received by the due date, the District shall pay an interest charge on the
12 delinquent payment for each day the payment is delinquent beyond the due date. If a payment
13 becomes 60 days delinquent, the District shall pay, in addition to the interest charge, an administrative
14 charge to cover additional costs of billing and processing the delinquent payment. If a payment is
15 delinquent 90 days or more, the District shall pay, in addition to the interest and administrative charges,
16 a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining
17 balance of the payment due at the rate of 6 percent per year. The District shall also pay any fees
18 incurred for debt collection services associated with a delinquent payment.

19 (b) The interest rate charged shall be the greater of either the rate prescribed quarterly in the
20 Federal Register by the Department of the Treasury for application to overdue payments, or the interest
21 rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and
22 remain fixed for the duration of the delinquent period.

23 (c) When a partial payment on a delinquent account is received, the amount received shall be
24 applied first to the penalty charges, second to the administrative charges, third to the accrued interest,
25 and finally to the overdue payment.

26
27 **7. GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT**

28
29 (a) The obligation of the District to pay the United States as provided in this contract is a
30 general obligation of the District notwithstanding the manner in which the obligation may be distributed
31 among the District's water users and notwithstanding the default of individual water users in their
32 obligation to the District.

33 (b) The payment of charges becoming due pursuant to this contract is a condition precedent to
34 receiving benefits under this contract. The Association shall not make water available to the District
35 through Provo River Project facilities during any period in which the District is in arrears in the advance
36 payment of any charges due the United States or the Association. The District shall not deliver water
37 under the terms and conditions of this contract for lands or parties that are in arrears in the advance
38 payment of any charges levied or established by the Association.

39
40 **8. CONFIRMATION OF CONTRACT**

41
42 Promptly after the execution of this contract, the District will provide evidence to the United States
43 that, pursuant to the laws of the State of Utah, the District is a legally constituted entity and the contract
44 is lawful, valid, and binding on the District. This contract will not be binding on the United States until

1 the District provides evidence to the United States' satisfaction. In addition to other forms of evidence
2 to meet the requirements of this Article, the District may provide or the United States may require a
3 certified copy of a final decree of a court of competent jurisdiction in the State of Utah, confirming the
4 proceedings on the part of the District for the authorization of the execution of this contract.
5

6 **9. NOTICES**
7

8 Any notice, demand, or request authorized or required by this Contract will be deemed to have
9 been given, on behalf of the District, when mailed, postage prepaid, or delivered to the Regional
10 Director, Upper Colorado Basin Region, Bureau of Reclamation, 125 South State Street, Room 6107, Salt
11 Lake City, Utah 84138 and on behalf of the United States, when mailed, postage prepaid, or delivered to
12 the General Manager of the District, 3430 East Danish Road, Cottonwood Heights, Utah 84093. The
13 designation of the addressee or the address may be changed by notice given in the same manner as
14 provided in this article for other notices.
15

16 **10. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS**
17

18 The expenditure or advance of any money or the performance of any obligation of the United
19 States under this contract shall be contingent upon appropriation or allotment of funds. Absence of
20 appropriation or allotment of funds shall not relieve the District from any obligations under this
21 contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.
22

23 **11. OFFICIALS NOT TO BENEFIT**
24

25 No Member of or Delegate to the Congress, Resident Commissioner, or official of the District
26 shall benefit from this contract other than as a water user or landowner in the same manner as other
27 water users or landowners.
28

29 **12. CHANGES IN DISTRICT'S ORGANIZATION**
30

31 While this contract is in effect, no change may be made in the District's organization, by inclusion or
32 exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges,
33 and duties of either the United States or the District under this contract including, but not limited to,
34 dissolution, consolidation, or merger, except upon the United States' written consent.
35

36 **13. ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED**
37

38 The provisions of this contract shall apply to and bind the successors and assigns of the parties
39 hereto, but no assignment or transfer of this contract or any right or interest therein by either party
40 shall be valid until approved in writing by the other party.
41

42 **14. BOOKS, RECORDS, AND REPORTS**
43

44 The Association and the District shall establish and maintain accounts and other books and
45 records pertaining to administration of the terms and conditions of this contract, including financial
46 transactions; water supply data; project operation, maintenance, and replacement logs; project land and
47 rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing,
48

1 and water-use data; and other matters that the United States may require. Reports shall be furnished to
2 the United States in such form and on such date or dates as the United States may require. Subject to
3 applicable Federal laws and regulations, each party to this contract shall have the right during office
4 hours to examine and make copies of the other party's books and records relating to matters covered by
5 this contract.

6
7 **15. RULES, REGULATIONS, AND DETERMINATIONS**
8

9 (a) The parties agree that the delivery of water or the use of Federal facilities pursuant to this
10 contract is subject to Federal reclamation law, as amended and supplemented, and the rules and
11 regulations promulgated by the Secretary of the Interior under Federal reclamation law.

12 (b) The United States shall have the right to make determinations necessary to administer
13 this contract that are consistent with its expressed and implied provisions, the laws of the United States
14 and the State of Utah, and the rules and regulations promulgated by the Secretary of the Interior. Such
15 determinations shall be made in consultation with the Association.
16

17 **16. ADMINISTRATION OF FEDERAL PROJECT LANDS**
18

19 The lands and interests in lands acquired, withdrawn, or reserved and needed by the United
20 States for the purposes of care, operation, and maintenance of the Provo River Project works may be
21 used by the Association for such purposes. The Association shall ensure that no unauthorized
22 encroachment occurs on Federal project lands and rights-of-way. The Association does not have the
23 authority to issue any land-use agreement or grant that conveys an interest in Federal real property, nor
24 to lease or dispose of any interest of the United States.

25 The United States retains responsibility for compliance with the National Historic Preservation
26 Act of 1966 (NHPA), and the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA).
27 The Association will notify the United States and, only when on tribal land, also notify the appropriate
28 tribal official, immediately upon the discovery of any potential historic properties or Native American
29 human remains, funerary objects, sacred objects, or objects of cultural patrimony.
30

31 **17. PROTECTION OF WATER AND AIR QUALITY**
32

33 (a) The Association, without expense to the United States, will care for, operate and
34 maintain transferred works in a manner that preserves the quality of the water at the highest feasible
35 level as determined by the United States.

36 (b) The Association will care for, operate and maintain reserved works in a manner that
37 preserves the quality of the water at the highest feasible level as determined by the United States. The
38 United States and the Association do not warrant the quality of the water delivered to the District and
39 are under no obligation to furnish or construct water treatment facilities to maintain or improve the
40 quality of water delivered to the District.

41 (c) The District will comply with all applicable water and air pollution laws and regulations
42 of the United States and the State of Utah; and will obtain all required permits or licenses from the
43 appropriate Federal, State, or local authorities necessary for the delivery of water by the District; and
44 will be responsible for compliance with all Federal, State, and local water quality standards applicable to
45 surface and subsurface drainage and/or discharges generated through the use of Federal or Association

1 facilities or project water provided by the Association within its Project Water Service Area.

2 (d) This article will not affect or alter any legal obligations of the Secretary to provide
3 drainage or other discharge services.

4 18. CONTAMINATION OR POLLUTION OF FEDERAL PROPERTY
5

6 (a) The Association and District shall not allow contamination or pollution of Federal project
7 lands, project waters, or project works of the United States or administered by the United States and for
8 which the Association has the responsibility for care, operation, and maintenance by its employees or
9 agents. The Association and the District shall also take reasonable precautions to prevent such
10 contamination or pollution by third parties.

11 (b) The Association and the District shall comply with all applicable Federal, State, and local laws
12 and regulations and Reclamation policies and instructions existing, or hereafter enacted or promulgated,
13 concerning any hazardous material that will be used, produced, transported, stored, released, or
14 disposed of on or in Federal project lands, project waters, or project works.

15 (c) "Hazardous material" means (1) any substance falling within the definition of "hazardous
16 substance," "pollutant or contaminant," or "hazardous waste" under the Comprehensive Environmental
17 Response, Compensation and Liability Act (42 U.S.C. § 9601(14), (29), and (33)); (2) oil, as defined by the
18 Clean Water Act (33 U.S.C. § 1321(a)) and the Oil Pollution Act (33 U.S.C. § 2701(23)); (3) thermal
19 pollution, refuse, garbage, sewage effluent, industrial waste, mine or mill tailings, mineral salts,
20 pesticides, and other solid waste, and (4) any other substance regulated as hazardous or toxic under
21 Federal, State, local, or Tribal law.

22 (d) Upon discovery of any event which may or does result in contamination or pollution of
23 Federal project lands, project water, or project works, the Association shall immediately undertake all
24 measures necessary to protect public health and the environment, including measures necessary to
25 contain or abate any such contamination or pollution, and shall report such discovery with full details of
26 the actions taken to the United States. Reporting shall be within a reasonable time period but shall not
27 exceed 24 hours from the time of discovery if it is an emergency and the first working day following
28 discovery in the event of a non-emergency.

29 (e) If violation of the provisions of this Article occurs and the Association does not take
30 immediate corrective action, as determined by the United States, the Association may be subject to
31 remedies imposed by the United States, which may include termination of this contract.

32 (f) The Association shall be liable for any response action or corrective measure necessary to
33 protect public health and the environment or to restore Federal project lands, project waters, or project
34 works that are adversely affected as a result of such violation, and for all costs, penalties or other
35 sanctions that are imposed for violation of any Federal, State, local, or Tribal laws and regulations
36 concerning hazardous material. At the discretion of the United States, the United States may also
37 terminate this Contract as a result of such violation.

38 (g) The Association shall defend, indemnify, protect and save the United States harmless from
39 and against any costs, expenses, claims, damages, demands, or other liability arising from or relating to
40 the Associations violation of this article.

41 (h) Reclamation agrees to provide information necessary for the Association, using reasonable
42 diligence, to comply with the provisions of this Article.
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19. CLEAN AIR AND WATER

(a) The Association and the District agree as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. § 7414), and section 308 of the Clean Water Act (33 U.S.C. § 1318), relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in those sections, and all applicable regulations and guidelines issued thereunder.

(2) That no portion of the work required by this contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was executed unless and until the Environmental Protection Agency eliminates the name of such facility or facilities from such listing.

(3) To use its best efforts to comply with clean air standards and clean water standards at the facility where the contract work is being performed.

(4) To insert the substance of the provisions of this article into any nonexempt subcontract, including this subparagraph (a)(4).

(b) The following definitions apply for purposes of this article:

(1) The term "Clean Air Act" means the Act enacted by Pub. L. 88-206 of Dec. 17, 1963, and amendments thereto, as codified at 42 U.S.C. § 7401, et seq.

(2) The term "Clean Water Act" means the Act enacted by Pub. L. 92- 500 of Oct. 18, 1972, and amendments thereto, as codified at 33 U.S.C. § 1251, et seq.

(3) The term "clean air standards" refers to all enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, and other requirements which are contained in, issued under, or otherwise adopted pursuant to the Clean Air Act or Executive Order 11738, an applicable implementation plan as described in section 110 of the Clean Air Act (42 U.S.C. § 7410), an approved implementation procedure or plan under subsection 111(c) or subsection 111(d) of the Clean Air Act (42 U.S.C. § 7411(c) or (d)), or an approved implementation procedure under subsection 112(d) of the Clean Air Act (42 U.S.C. § 7412(d)).

(4) The term "clean water standards" refers to all enforceable limitations, controls, conditions, prohibitions, standards, and other requirements which are promulgated pursuant to the Clean Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a state under an approved program, as authorized by section 402 of the Clean Water Act (33 U.S.C. § 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Clean Water Act (33 U.S.C. § 1317).

(5) The term "comply" refers to compliance with clean air or water standards. It also refers to compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency in accordance with the requirements of the Clean Air Act or Clean Water Act and regulations issued pursuant thereto.

1 (6) The term "facility" means any building, plant, installation, structure, mine, vessel or other
2 floating craft, location, or site of operations owned, leased, or supervised by a District or subcontractor
3 to be utilized in the performance of a contract or subcontract. Where a location or site of operations
4 contains or includes more than one building, plant, installation, or structure, the entire location or site
5 shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental
6 Protection Agency, determines that independent facilities are collocated in one geographical area.
7

8 20. WATER CONSERVATION
9

10 Prior to the delivery of water provided from or conveyed through federally constructed or
11 federally financed facilities pursuant to this contract, the District shall develop a water conservation
12 plan, as required by subsection 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1
13 (Water Conservation Rules and Regulations).
14

15 21. EQUAL EMPLOYMENT OPPORTUNITY
16

17 During the performance of this contract, the District agrees as follows:

18 (1) The District will not discriminate against any employee or applicant for employment
19 because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The District
20 will take affirmative action to ensure that applicants are employed, and that employees are treated
21 during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity,
22 or national origin. Such action shall include, but not be limited to the following: employment,
23 upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of
24 pay or other forms of compensation; and selection for training, including apprenticeship. The District
25 agrees to post in conspicuous places, available to employees and applicants for employment, notices to
26 be provided by the United States setting forth the provisions of this nondiscrimination clause.

27 (2) The District will, in all solicitations or advancements for employees placed by or on behalf
28 of the District, state that all qualified applicants will receive consideration for employment without
29 regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

30 (3) The District will not discharge or in any other manner discriminate against any employee
31 or applicant for employment because such employee or applicant has inquired about, discussed, or
32 disclosed the compensation of the employee or applicant or another employee or applicant. This
33 provision shall not apply to instances in which an employee who has access to the compensation
34 information of other employees or applicants as a part of such employee's essential job functions
35 discloses the compensation of such other employees or applicants to individuals who do not otherwise
36 have access to such information, unless such disclosure is in response to a formal complaint or charge, in
37 furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by
38 the employer, or is consistent with the District's legal duty to furnish information.

39 (4) The District will send to each labor union or representative of workers with which he has
40 a collective bargaining agreement or other contract or understanding, a notice, to be provided by the
41 agency United States, advising the labor union or workers' representative of the District's commitments
42 under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the
43 notice in conspicuous places available to employees and applicants for employment.

1 (5) The District will comply with all provisions of Executive Order No. 11246 of Sept. 24,
2 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

3 (6) The District will furnish all information and reports required by Executive Order No.
4 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or
5 pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency
6 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,
7 regulations, and orders.

8 (7) In the event of the District's noncompliance with the nondiscrimination clauses of this
9 contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or
10 suspended in whole or in part and the District may be declared ineligible for further Government
11 contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and
12 such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246
13 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise
14 provided by law.

15 (8) The District will include the provisions of paragraphs (1) through (8) in every subcontract
16 or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued
17 pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions
18 will be binding upon each subcontract or vendor. The District will take such action with respect to any
19 subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing
20 such provisions, including sanctions for noncompliance: *Provided, however*, that in the event the District
21 becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such
22 direction, the District may request the United States to enter into such litigation to protect the interests
23 of the United States.

24 **22. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS**

25
26 (a) The District shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352;
27 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791,
28 et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. § 6101, et seq.), [Title II of
29 the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.)] [Title III of the
30 Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.)], and any other
31 applicable civil rights laws, and with the applicable implementing regulations and any guidelines
32 imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

33 (b) These statutes prohibit any person in the United States from being excluded from
34 participation in, being denied the benefits of, or being otherwise subjected to discrimination under any
35 program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of
36 race, color, national origin, disability, or age. By executing this contract, the District agrees to
37 immediately take any measures necessary to implement this obligation, including permitting officials of
38 the United States to inspect premises, programs, and documents.

39 (c) The District makes this agreement in consideration of and for the purpose of obtaining any
40 and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance
41 extended after the date hereof to the District by the Bureau of Reclamation, including installment
42 payments after such date on account of arrangements for Federal financial assistance which were
43 approved before such date. The District recognizes and agrees that such Federal assistance will be

1 extended in reliance on the representations and agreements made in this article and that the
2 United States reserves the right to seek judicial enforcement thereof.

3 (d) Complaints of discrimination against the District shall be investigated by the United States'
4 Office of Civil Rights.

6 23. CERTIFICATION OF NONSEGREGATED FACILITIES

7
8 The District hereby certifies that it does not maintain or provide for its employees any
9 segregated facilities at any of its establishments and that it does not permit its employees to perform
10 their services at any location under its control where segregated facilities are maintained. It certifies
11 further that it will not maintain or provide for its employees any segregated facilities at any of its
12 establishments and that it will not permit its employees to perform their services at any location under
13 its control where segregated facilities are maintained. The District agrees that a breach of this
14 certification is a violation of the Equal Employment Opportunity clause in this contract. As used in this
15 certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and
16 wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing
17 areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing
18 facilities provided for employees which are segregated by explicit directive or are in fact segregated on
19 the basis of race, creed, color, or national origin, because of habit, local custom, disability, or otherwise.
20 The District further agrees that (except where it has obtained identical certifications from proposed
21 subcontractors for specific time periods) it will obtain identical certifications from proposed
22 subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the
23 provisions of the Equal Employment Opportunity clause; that it will retain such certifications in its files;
24 and that it will forward the following notice to such proposed subcontractors (except where the
25 proposed subcontractors have submitted identical certifications for specific time periods):

26 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF 27 NONSEGREGATED FACILITIES

28 A Certification of Nonsegregated Facilities must be submitted prior to the award of a
29 subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment
30 Opportunity clause. The certification may be submitted either for each subcontract or for all
31 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for making
32 false statements in offers is prescribed in 18 U.S.C. § 1001.

34 24. PEST MANAGEMENT

35
36 (a) The Association is responsible for complying with applicable Federal, State, and local laws,
37 rules, and regulations related to pest management in performing its responsibilities under this contract.

38 (b) The Association is responsible for effectively avoiding the introduction and spread of, and
39 for otherwise controlling, undesirable plants and animals, as defined by the United States, on or in
40 Federal project lands, Federal project waters, and Federal project works for which and to the extent that
41 the District has operation and maintenance responsibility. The Association is responsible for exercising
42 the level of precaution necessary in meeting this responsibility, including inspecting its vehicles,
43 watercraft, and equipment for reproductive and vegetative parts, foreign soil, mud or other debris that
44 may cause the spread of weeds, invasive species and other pests, and removing such materials before
45 moving its vehicles, watercraft, and equipment onto any Federal land, into any Federal project facility
46 waters, or out of any area on Federal project land where work is performed.

1 (c) Where decontamination of the Association’s vehicles, watercraft, or equipment is required
2 prior to entering Federal project land or waters, the decontamination shall be performed by the
3 Association at the point of prior use, or at an approved offsite facility able to process generated cleaning
4 wastes, pursuant to applicable laws, rules, and regulations. Upon the completion of work, the
5 Association will perform any required decontamination within the work area before moving the
6 vehicles, watercraft, and equipment from Federal project lands and waters.

7 (d) Programs for the control of undesirable plants and animals on Federal project lands, and in
8 Federal project waters and Federal project works for which the Association has operation and
9 maintenance responsibility will incorporate Integrated Pest Management (IPM) concepts and practices.
10 IPM refers to a systematic and environmentally compatible program to maintain pest populations within
11 economically and environmentally tolerable levels. In implementing an IPM program, the Association
12 will adhere to applicable Federal and State laws and regulations and Department of the Interior and
13 Bureau of Reclamation policies, directives, guidelines, and manuals, including but not limited to, the
14 Department of the Interior Manual, Part 517 *Integrated Pest Management Policy* and Part 609 *Weed*
15 *Control Program*, the Plant Protection Act of June 20, 2000 (Pub. L. 106-224), and Executive Order 13112
16 of February 3, 1999.

17
18 **25. MEDIUM FOR TRANSMITTING PAYMENTS**
19

20 (a) All payments from the District to the United States under this contract shall be by the
21 medium requested by the United States on or before the date payment is due. The required method of
22 payment may include checks, wire transfers, or other types of payment specified by the United States.

23 (b) Upon execution of the contract, the District shall furnish the United States with the District’s
24 taxpayer’s identification number (TIN). The purpose for requiring the District’s TIN is for collecting and
25 reporting any delinquent amounts arising out of the District’s relationship with the United States.
26

27 **26. CONTRACT DRAFTING CONSIDERATIONS**
28

29 This Contract has been negotiated and reviewed by the parties hereto, each of whom is
30 sophisticated in the matters to which this Contract pertains. Articles 1 through 26 of this Contract have
31 been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have
32 drafted the stated articles.
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1 IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed for the
2 dates above written.

3
4 METROPOLITAN WATER DISTRICT OF
5 SALT LAKE & SANDY

PROVO RIVER WATER USERS
ASSOCIATION

6
7
8
9 By: _____
10 Michael Devries, General Manager

By: _____
G. Keith Denos, General Manager

11
12
13
14 APPROVED FOR LEGAL SUFFICIENCY:

BUREAU OF RECLAMATION

15
16
17
18 By: _____
19 Office of the Intermountain Regional
20 Solicitor

By: _____
Wayne G. Pullan
Regional Director, Upper Colorado Basin

DRAFT

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Background

The Provo River Project (Project) provides a supplemental water supply for irrigation of 48,156 acres of highly developed farmlands in Utah, Salt Lake, and Wasatch Counties, as well as an assured domestic water supply for the cities of Salt Lake City, Provo, Orem, Pleasant Grove, Lindon, American Fork, and Lehi, Utah. The key feature of the Project, Deer Creek Dam, is located on the Provo River east of the project lands. Other significant Project features are the Power Plant at Deer Creek Dam, the 42-mile Salt Lake Aqueduct and Terminal Reservoir, Weber-Provo Diversion Canal, Duchesne Tunnel, Murdock Diversion Dam, Provo Reservoir Canal Enlargement, Jordan Narrows Siphon and Pumping Plant, and the South Lateral. The Salt Lake Aqueduct and Terminal Reservoir make up the Aqueduct Division; all other features are included in the Deer Creek Division.

Deer Creek Reservoir stores Provo River floodwater, surplus water of the Weber River diverted by the enlarged Weber-Provo Diversion Canal, and surplus water from the headwaters of the Duchesne River diverted by the 6-mile Duchesne Tunnel.

Releases from the reservoir for the Aqueduct Division are diverted at the dam into the Salt Lake Aqueduct. The Salt Lake Aqueduct, a 69-inch-diameter concrete pipeline, is 42 miles long, and has a capacity of 150 cubic feet per second. The Salt Lake Aqueduct delivers water to Salt Lake City and is a critical supplement to the city's municipal and industrial (M&I) water supply. The Metropolitan Water District of Salt Lake and Sandy (District) operates and maintains the Aqueduct Division.

The District was established in 1935 by the Salt Lake City Commission. Salt Lake City is the founding member and Sandy City joined the District in 1990. The District's primary function is to create a firm water supply for its member cities. The District also provides water to other entities on a surplus basis.

The District receives its water supply from Little Cottonwood Canyon, Bell Canyon, the Provo River Project, the Ontario Drain Tunnel (ODT), Little Dell Reservoir, and the Central Utah Project. Through the Project, the District is a shareholder of the Provo River Water Users Association. The Project includes the Salt Lake Aqueduct, Deer Creek Dam, Provo Reservoir Canal, and the Weber-Provo Canal. The Central Utah Project includes Jordanelle Reservoir, Jordan Aqueduct, and the Jordan Valley Water Treatment Plant.

The carriage of non-project irrigation water in Bureau of Reclamation facilities is authorized by the Warren Act of February 21, 1911 (43 U.S.C. 523; 36 Stat. 925).

Carriage of M&I water in Reclamation facilities is not authorized by the Warren Act, but was authorized specifically for Provo River Project facilities by Section 2 of the Act of December 19, 2002 (Public Law 107-366).

Mining in the 1800s in the Park City area was often difficult and expensive due to the enormous amount of water encountered at depths of even 100 to 200 feet underground. Initial pumping efforts were met with huge costs and limited success. In 1881, the owners of the Ontario Mine in Ontario Canyon, completed one of the earliest drainage tunnels to removed water from the mine and divert it to the surface.

In 1888, a second tunnel of approximately 3 miles in length¹ was constructed to drain additional water from the mine, to allow for further extraction of valuable ores. This tunnel is called the ODT No. 2, and produces an average of 13,144 acre-feet of water annually into the Provo River drainage. Although ore extraction has ceased in the old Ontario Mine, the tunnel remains open due to the value of the water that is removed. ODT is operated and maintained by the Jordanelle Special Service District (JSSD), which also operates a water treatment facility below the tunnel outlet to remove heavy metals from the water, prior to its introduction into Jordanelle Reservoir (see Environmental Assessment for Jordanelle Reservoir Resource Management Plan p. 3-18). JSSD currently discharges the ODT water into Jordanelle Reservoir under Utah Pollutant Discharge Elimination System Permit (UPDES) No. 0022403 dated October 27, 2003. Documentation shows ODT water being discharged into the Provo River for nearly 130 years, with the accompanying water rights being adjudicated in the “Morris Decree” of 1921.

Description of Project Facilities

The Project includes 1 dam and reservoir, 4 diversion dams, about 84 miles of conveyance works including: tunnels, aqueducts, canals, and laterals, a power plant, a pumping plant, and a terminal reservoir. Construction of the Project began in May 1938, with the first water becoming available in 1941 upon the completion of Deer Creek Dam.

Construction of some features of the Project was severely hampered by wartime scarcities of manpower, materials, and funds. Work on the Duchesne Tunnel had to be stopped in 1942, although construction continued on a small scale on the canal system and Salt Lake Aqueduct.

¹ <http://utahrails.net/mining/park-city-drain-tunnels.php>

In 1947, full-scale construction was resumed. Construction of features of the Aqueduct Division was started in 1939 and completed in 1951.

The Deer Creek Power Plant was completed in 1958.

All features of the Deer Creek Division are operated and maintained by the Provo River Water Users Association. The District operates and maintains the aqueduct system along with two water treatment plants to meet the needs of its customers.

Purpose and Need for Action

The purpose of the proposed action is to allow the District the option of storing available ODT water in Deer Creek on a space-available basis over the next five years. After the temporary contract has expired in five years, a long-term contract may be negotiated on similar terms and conditions, upon approval by the Commissioner of Reclamation. Project water maintains full priority and cannot be negatively impacted by this action. Storage of ODT water in Deer Creek would allow the District to be more efficient in its operations and better meet the demands of its member cities. This Environmental Assessment (EA) analyzes the impacts resulting from the storage of ODT water in Deer Creek. The ability to store ODT water will allow the District to reduce chemical costs to treat its M&I water.

The District has requested the proposed action to promote the efficient use of its water resources, as this action has the potential to benefit the water users in the Salt Lake Valley. The carriage contract was written to have no detrimental effects to either the Central Utah or Provo River Projects.

Proposed Action

The District has the rights to approximately 5,000 acre-feet of water from the ODT which currently flows into Jordanelle Reservoir, down the Provo River into Deer Creek Reservoir, and then into the Salt Lake Aqueduct where it is delivered to Salt Lake County for M&I use. The District has requested that Reclamation issue a five year contract for the storage of up to 4,000 acre-feet of ODT water in Deer Creek Reservoir, on a space-available basis, which it would deliver later in the year when runoff from the canyons east of Salt Lake has declined.

The potential impacts of storing additional water in Deer Creek during the summer months has been evaluated by professional engineers at Reclamation and the Provo River Water Users Association, which operates Deer Creek. With a reservoir capacity of 152,570 AF, the 4,000 AF of requested storage would only

comprise 2.6 % of the volume of Deer Creek. In the event that Deer Creek Reservoir fills with Project water, the District's stored water would lose all privileges to remain in Deer Creek. The District would only be allowed to store ODT water in Deer Creek at the operator's discretion and when space were available, if Deer Creek fills with Reclamation Project water, Metro would lose all storage ability. The District would only store ODT water in Deer Creek until October 31 of each year. Maintaining additional water in Deer Creek during the summer months could possibly create an incidental benefit to local fish and wildlife populations. The proposed action would not accept new water into Reclamation facilities, it would only allow up to 4,000 AF of the District's ODT water to be stored temporarily in Deer Creek Reservoir, instead of being taken immediately at the Salt Lake Aqueduct as it enters the reservoir.

The Proposed Action would require no capital outlay or extra operation and maintenance expenditures because the action would demand no changes to project features or operations. The proposed action would not affect the operation of any reservoir or constructed facility within the Project. Release from upstream reservoirs and maintenance of flows for fish or other purposes would continue in accordance with past practice.

No Action Alternative

Under the No Action Alternative, ODT water would continue to be discharged into Jordanelle Reservoir and be delivered down the Provo River into Deer Creek and into the Salt Lake Aqueduct on a run-of-the-river basis, as has been occurring for many years. This would not meet the applicant's need, because stored water would not be available for late season use when natural water flows diminish and water demands peak.

As noted in the Background section above, the District acquired approximately 5,000 of the 13,144 acre-feet of ODT water in 2004 and this water is currently treated to drinking water standards by JSSD under a UPDES Permit before being released into Jordanelle Reservoir, where it is delivered through Deer Creek Reservoir and taken immediately to the Salt Lake Aqueduct below Deer Creek Dam, to be delivered to the Salt Lake Valley. If ODT water were to fall below federal and state water quality standards, it would no longer be allowed to be stored in Deer Creek Reservoir.

There are no anticipated impacts to any of the following resources as a result of the proposed action: threatened and endangered species, farmlands, flood plains, water quality, wetlands, wild and scenic rivers, hazardous or solid wastes, air quality, cultural resources, and Native American concerns. A no effect determination was made on each of the following environmental issues individually and cumulatively. Therefore, no further analysis is needed.

EVALUATION OF SIGNIFICANT CRITERIA		No	Yes	Uncertain
1	This action or group of actions would have a significant effect on the quality of the human environment.	X		
2.	This action or group of actions would involve unresolved conflicts concerning alternative uses of available resources.	X		
EVALUATION OF ENVIRONMENTAL ISSUES				
1.	This action would have significant adverse effects on public health or safety.	X		
2.	This action would have an adverse effect on unique geographical features such as: wetlands, Wild or Scenic Rivers, or Scenic Rivers, refuges, floodplains, rivers placed on the Nationwide River Inventory, or prime or unique farmlands.	X		
3.	This action will have highly controversial environmental effects.	X		
4.	This action will have highly uncertain environmental effects or involve unique or unknown environmental risk.	X		
5.	This action will establish a precedent for future actions.	X		
6.	This action is related to other actions with individually insignificant, but cumulatively significant effects.	X		
7.	This action will affect properties listed, or eligible for listing in the National Register of Historic Places.	X		
8.	This action will adversely affect a species listed, or proposed to be listed, as endangered or threatened.	X		
9.	This action threatens to violate Federal, state, local or tribal law, or requirements imposed for protection of the environment.	X		
10.	This action will affect Indian Trust Assets.	X		
11.	This action will not accommodate access to or allow ceremonial use of Indian sacred sites by Indian religious practitioners to the extent practicable. Neither will it avoid adversely affect, to any practicable extent, the physical integrity of such sacred sites (E.O. 13007).	X		
12.	This action will disproportionately affect minority or low-income populations (E.O. 12898).	X		