

Appendix E

Herminghouse Agreement

36835

Contract No.
14-06-200-6221

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL VALLEY PROJECT, CALIFORNIA

CONTRACT BETWEEN THE UNITED STATES AND
FARMERS WATER DISTRICT

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Recorded at request of
United States of America
Vol. OFFICIAL RECORDS, Pg.
Book 745 Page 515
May 25, 1959
Madera County, California
/s/ George Kenney
County Recorder

By

Deputy Recorder

Compared

Recorded at request of
U. S. A.
at 5 min. past 9 A.M.
May 22, 1959
Book 4225 Page 170
Fresno County, California
J. L. Brown, County Recorder
/s/ G. Lockwood
By Deputy Recorder

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL VALLEY PROJECT, CALIFORNIA

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CONTRACT BETWEEN THE UNITED STATES AND
FARMERS WATER DISTRICT

THIS CONTRACT, made this 28th day of August,
1957, in pursuance generally of the Act of Congress of June 17, 1902
(32 Stat. 388), and acts amendatory thereof or supplementary thereto,
all collectively herein styled the Federal reclamation laws, between
THE UNITED STATES OF AMERICA, herein styled the United States, and
FARMERS WATER DISTRICT, a political subdivision of the State of
California, duly organized, existing, and acting pursuant to the laws
thereof, with its principal place of business in the City of Fresno,
State of California, herein styled the District;

WITNESSETH THAT:

EXPLANATORY RECITALS

WHEREAS, the United States is constructing the Central
Valley Project for diversion, storage, carriage, distribution and
beneficial use, for flood control, irrigation, municipal, domestic,
industrial, generation and distribution of electric energy, salinity
control, navigation and other purposes, of waters of the Sacramento
River, the American River, and the San Joaquin River and their
tributaries; and

WHEREAS, by virtue of a contract, dated September 5, 1944, between the United States and Edison Securities Company, and by virtue of certain other documents, which said contract and other documents were recorded on the 27th day of April 1945, in the office of the County Recorder of Fresno County in Book 2227 of Official Records at page 107, and in the office of the County Recorder of Madera County in Book 358 of Official Records at page 332; and by virtue of a certain deed executed pursuant to said contract in favor of the United States by the Edison Securities Company and recorded in the office of the County Recorder of Fresno County on the 8th day of June 1945 in Book 2249 of Official Records at page 202, and recorded in the office of the County Recorder of Madera County on the 15th day of June 1945 in Book 361 of Official Records at page 439, the United States acquired the right, as set forth in said documents, among others, to all water underlying those certain lands described in Schedule A of Exhibit I attached to said contract of September 5, 1944, and made a part thereof, except the right reserved by the vendor to pump said water for domestic use and the watering of livestock; and

WHEREAS, the District has acquired lands on the north side of the San Joaquin River and has established on said parcels of land certain wells, together with pumps located therein, which said wells and pumps are being used by District to supply irrigation water for the lands within the boundaries of said District; and

WHEREAS, said wells are constructed with a gravel envelope for the purpose of tapping certain underground water bearing stratum; and

WHEREAS, the water bearing stratum underlying the lands within the boundaries of said District and underlying the lands owned by said District, upon which said pumps and wells are located, generally consist of a free water table to a depth of approximately 70 feet and confined water bearing strata below the depth of approximately 70 feet; and

WHEREAS, the purchase by the United States of the rights of Edison Securities Company, as hereinbefore set forth, was to preserve for the United States the shallow, unconfined water bearing strata from depletion by pumping, so that the flow of the San Joaquin River adjacent to said lands and in the area of Mendota Pool and the storage of water in said Pool would not be affected; and

WHEREAS, it is the mutual desire of the parties hereto to enter into an agreement regarding the use of said wells now owned by District and any wells which may be constructed or acquired in the future by District, so as to protect the waters flowing in said upper, unconfined water bearing strata underlying said San Joaquin River and said Mendota Pool and to preserve the rights of the United States in and to said flow and to preserve the rights of District to acquire from underground sources sufficient quantity of water to irrigate the lands lying within its boundaries;

NOW, THEREFORE, IN CONSIDERATION of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DISTRICT NOT TO PUMP FROM
UPPER, UNCONFINED WATER BEARING STRATA

1. District hereby agrees that in its operation of any wells now in use or hereinafter to be constructed that District will not pump water from the upper, unconfined water bearing strata underlying the lands within the District boundaries or lands owned by District. The words "upper, unconfined water bearing strata" as used in this Agreement shall mean any and all water bearing strata from the surface of the earth to a depth of 70 feet.

CHANGES IN EXISTING WELLS TO BE MADE
BY DISTRICT

2. In order to make the existing six wells now in use by District conform to the terms of the provisions of Paragraph 1, as hereinbefore set forth, it is agreed by and between the parties hereto that the District shall do the following work in accordance with the following specifications. It is further agreed that upon completion of the following work, in accordance with the following specifications, that as to said six wells District will have complied with the terms of Paragraph 1, as hereinbefore set forth. The work and specifications to be done upon said six wells are as follows:

(1) Wells six inches in diameter will be drilled and cased adjacent to the existing irrigation wells to depths sufficient to reach clay or sandy clay strata indicated on well logs to be at the following depths:

Well E - 1	= 50 feet
Well E - 2	= 55 feet
Well E - 3	= 50 feet
Well W - 1	= 70 feet
Well W - 2	= 60 feet
Well W - 3	= 65 feet

(2) The bottom two feet of casing in each of the six inch wells to be drilled will be perforated before placing to allow grout to enter sand or gravel stratum just above the sandy clay strata as indicated in (1) above.

(3) A two inch diameter pipe approximately two feet shorter than the final depth of each of said six inch wells will be inserted in each six inch well. A steel collar one quarter (1/4) in thickness and eight inches in diameter will be welded around said two inch pipe to the six inch well casing to provide a seal at the top of each six inch well. The two inch pipe, with threads, will protrude sufficiently above the steel collar to allow connection of grouting equipment thereto.

(4) A mixture of thin grout will be pumped into said two inch pipes to the bottom of the six inch wells and thence through the perforations thereof into the sand or gravel

overlying said clay strata. A total of 13 sacks of cement shall be used at each well.

It is agreed between the parties hereto that performance of the foregoing work in the manner as set forth in the foregoing specifications will provide an adequate seal so that waters from the upper, unconfined water bearing strata cannot commingle with waters of the lower confined water bearing strata by means of the gravel envelope surrounding each of the said six irrigation wells now in existence.

TIME OF PERFORMANCE OF WORK

3. It is agreed between the parties hereto that the work to be performed by District as set forth in Paragraph 2 herein shall all be done at District's cost and expense and shall be performed by District at a time when the pumps in said wells are pulled for inspection or repair; provided, however, that District agrees to complete the performance of said work within two years from the date of execution of this Contract.

ADDITIONAL WELLS TO BE DRILLED IN THE FUTURE

4. District further agrees that in the event that it causes to be constructed or drilled additional wells upon land within the boundaries of the District or on lands owned by District that said wells will be so constructed and drilled that there shall be no perforations in the well casing above a depth of 100 feet from the surface of the ground. District further agrees that in the event that gravel envelopes are used in the construction of said wells that it will insert

in said gravel envelope at the time of construction a two inch pipe to a depth of 70 feet below the surface of the ground for the purpose of providing a grout seal in said gravel envelope. District agrees that after the stabilization of the gravel envelope in said newly constructed well, but not to exceed five years from the date of construction of said well, that District will pump into said two inch pipe grout consisting of five sacks of cement to provide a seal in said gravel envelope. It is agreed that by constructing such future wells in the manner as herein set forth and the pumping of said grout seal in any gravel envelope constructed in said well or wells as herein set forth and at the time and in the manner as herein set forth shall constitute compliance by the District of the provisions of Paragraph 1 hereof as to the use of said wells.

UNITED STATES NOT TO OBJECT TO PUMPING
WATER BY DISTRICT

5. It is agreed between the parties hereto that upon the performance of the work set forth in Paragraph 2 hereof by District in accordance with the plans and specifications thereof, as herein set forth, and that upon the construction of any future wells by District in the manner set forth in Paragraph 4 hereof that the United States will make no objection to the use by District of the waters pumped from any of said wells now constructed or to be drilled and constructed and does hereby for itself and on behalf of any person claiming by, through or under the United States expressly affirm that it claims no right, title or interest in or to the waters pumped by District from any

existing wells or wells to be drilled in the future: Provided, however, that should it be determined in the future that pumping by the District of such water should affect adversely the accretion to the Mendota Pool, then the United States reserves any and all remedies in law or in equity for any injury suffered thereby.

RETURN FLOW WATER

6. It is agreed by and between the parties hereto that the terms of this Agreement shall in no way prevent District from re-using return flow water, which it has created by means of its irrigation operations. It is further agreed that the use by District of said return flow shall not be construed as pumping water from the upper, unconfined water bearing strata, as hereinbefore defined in this Agreement and that said use of said return flow does not in any way damage the United States, the operations of the Central Valley Project or any persons claiming by, through or under the United States. The United States hereby agrees that it will not make any claims, demands or objections to the use of return flow water on the part of District and will hold District harmless from any claims, demands or objections by any third persons claiming by, through or under the United States to the use of said return flow water by District. "Return flow water" as used in this Agreement shall mean that water which has been applied to the land for irrigation, but which is not consumptively used by the plants and is available for re-use either from surface flow or by collecting in canals, drains or ditches.

OFFICIALS NOT TO BENEFIT

7. No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

NOTICES

8. Any notice or announcement which the provisions hereof contemplate shall be given to one of the parties hereto by the other shall be deemed to have been given if deposited in the United States Post Office, on the part of the United States in a franked envelope addressed to the District at its office and on the part of the District in a postage prepaid envelope addressed to the Bureau of Reclamation, Department of the Interior, Sacramento, California, or such other address as from time to time may be designated by the contracting officer in a written notice to the District; provided, however, that this article shall not preclude the effective service of any such notice or announcement by other means.

ASSIGNMENT PROHIBITED, SUCCESSORS AND
ASSIGNS OBLIGATED, AND DEFAULT

9. The provisions of this Agreement shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this contract or any part thereof or interest therein shall be valid until and unless approved by the United States.

Any waiver at any time by either party to this contract of its rights with respect to a default; or any other matter arising in connection with this contract, shall not be deemed to be a waiver with respect to any subsequent default or matter. All rights of action for breach of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States as amended (41 U.S.C. 15).

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their names the day and year hereinabove written.

THE UNITED STATES OF AMERICA

By /s/ C. H. SPENCER
Regional Director, Region 2
Bureau of Reclamation
United States Department of the Interior

FARMERS WATER DISTRICT

By /s/ F. A. YEAROUT
F. A. Yearout, President

(SEAL)
AFFIXED
Attest:

/s/ ROBERT L. YEAROUT
Robert L. Yearout, Secretary

