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AGREEMENT NUMBER 353311

AGREEMENT BETWEEN
BYRON-BETHANY IRRIGATION DISTRICT
AND THE
STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

THIS AGREEMENT, made and entered into by and between the BYRON-BETHANY IRRIGATION DISTRICT, hereinafter referred to as the "District," and the STATE OF CALIFORNIA acting by and through its Department of Water Resources, hereinafter referred to as the "State;"

W I T N E S S E T H:

WHEREAS, the State proposes to construct, as a part of state water development operations an intake channel in the vicinity of Byron; and

WHEREAS, said intake channel will cross District's S45 lateral canal and destroy a portion of said canal; and

WHEREAS, the District desires to relocate its pumping facilities to said intake channel in lieu of accepting a flume which the State has proposed to construct, at no cost to the District, to replace the portion of said S45 lateral canal which will be destroyed by the intake channel;

NOW, THEREFORE, it is mutually agreed as follows:

1. In lieu of constructing a flume for District and in exchange for that portion of District's S45 canal which will be destroyed by State's intake channel, State will pay to the District the sum of $120,000. Such payment to District shall be made as soon after execution of this agreement as State's fiscal procedure will permit and shall relieve State of any obligation to provide

any temporary or permanent facilities or permissions relating to District's S45 canal other than the permanent and perpetual easement required for District's pumping plants on the intake channel as provided for herein and permission for the construction and temporary use of a bypass canal and siphon facilities as hereinafter described.

2. Upon execution of this agreement, State grants to District permission to construct, operate and maintain a temporary bypass canal substantially as shown on State's Drawing No. 151-1-H-23, attached hereto, marked Exhibit "A" and by this reference made a part hereof. Said construction, operation and maintenance shall be performed by and at the expense of District and District agrees to terminate use of said temporary canal and make it available to State, at no cost to State, not later than November 1, 1965, so that State may complete excavation and construction of State's intake channel.

3. State will make District's temporary siphon and permanent pump sites, located as shown on Byron-Bethany Irrigation District Drawing No. W26.06-1 attached hereto, marked Exhibit "B" and by this reference made a part hereof, available to District, without cost to District and without any preparation required solely for District's purposes, as soon as reasonably possible, but in no event later than December 1, 1965. Upon the availability of such sites, District may proceed with the construction and operation of District's proposed temporary siphon system. All construction, operation and maintenance of such siphon system shall be performed by and at the expense of District. Additionally, District may proceed with the construction of its contemplated permanent pumping

facilities, such construction to be by and at the expense of District. District shall not, however, undertake any construction until it has submitted its plans and specifications to State and has obtained State's approval thereof. State shall not unreasonably withhold or delay such approval. District will, not later than November 1, 1966, complete any of its work which would interfere with the flow of water in the intake channel, but shall not divert water from said channel prior to March 1, 1968. District will, prior to September 1, 1968, remove its temporary siphon from State's intake channel, such removal to be at District's sole cost and expense.

4. The relocation of District's pumping plants and points of diversion to the location shown on Exhibit "B" is being made pursuant to Section 1706 of the Water Code of the State of California and State hereby consents to said change in points of diversion to said locations, but to no other. It is further understood that District's rights to quantity and quality of water may or may not be undetermined at the present time. Nothing contained in this agreement nor in State's consent to change in District's points of diversion shall either enlarge or restrict District's present water rights. No charge shall hereafter be made by State to District for water pumped by District solely by reason of District's pumping from State's intake channel, irrespective of the source of water in said channel.

5. State and District, their agents, contractors and suppliers, shall cooperate with and shall not unreasonably restrict or interfere with the operations of each other's contractors working in the general area.

6. District, in the performance of its work contemplated herein, is acting on its own behalf and not as the agent, employer or contractor of State. State assumes no liability other than that expressly provided for herein for the actions of District in the performance of such work.

7. State hereby consents to the permanent and perpetual use by District, without cost, of State's facilities and of that portion of its right of way required for the construction, operation and maintenance of District's permanent facilities as provided for herein and located as shown on Exhibit "B" attached hereto, together with the right to use State's operating roads for access purposes.

8. Within 30 days following payment to District by State as provided for in paragraph 1 of this agreement, District will convey to State all of District's right, title and interest in that portion of its present easement, lying within State's intake channel, which will no longer be occupied by District's S45 canal or District's permanent facilities.

9. District reserves the right, at District's sole cost, expense and responsibility and as long as it does not interfere with State's facilities or conflict with any of the provisions of this agreement, to revert back at any time to its original pumping site and points of diversion. Such reversion shall not reconstitute the District's right of way across State's intake channel.

10. The waiver of a breach of any of the provisions of this agreement shall not be deemed to be a waiver of any other provisions hereof, or of a subsequent breach of such provisions.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the 4th day of May, 1964.

BYRON-BETHANY IRRIGATION DISTRICT

By _____
President, Board of Directors

By _____
Secretary

FORM | POLICY | BUDGET
Department of General Services
APPROVED
JUN 11 1964
BY _____
Director

Approved as to legal form and sufficiency:

_____
Chief Counsel for the Department of Water Resources

APPROVED BY
_____
For Department of Finance
Disbursement from

STATE OF CALIFORNIA
Department of Water Resources

By _____
DEPUTY DIRECTOR ADMINISTRATION