

EXHIBIT
46

CONTRACT AND AGREEMENT

BETWEEN

HENRY MILLER, ET AL.

AND

JAMES B. HAGGIN, ET AL.

CONTRACT AND AGREEMENT

BETWEEN

HENRY MILLER

And others of the first part,

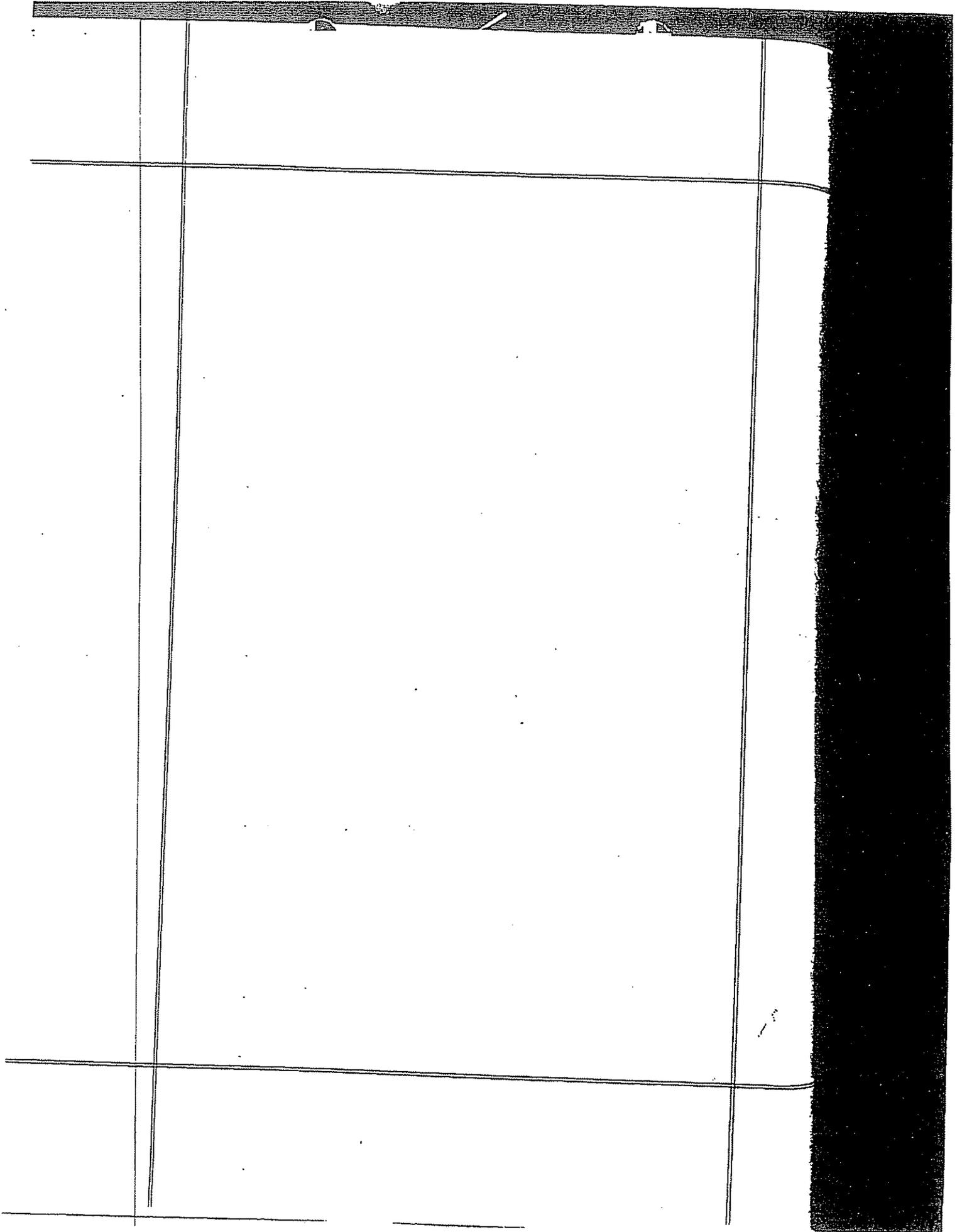
AND

JAMES B. HAGGIN

And others of the second part.

(Indorsed)

Recorded at request of
R. E. Houghton,
October 13th, 1888,
At 50 Min. past 4 P. M.
In Book Vol. 2, Contracts and Agreements,
Page 40 Records Kern
County. N. R. PACKARD,
County Clerk.
By T. J. PACKARD, Deputy.



Contract and Agreement between Henry Miller
and others of the first part,

— AND —

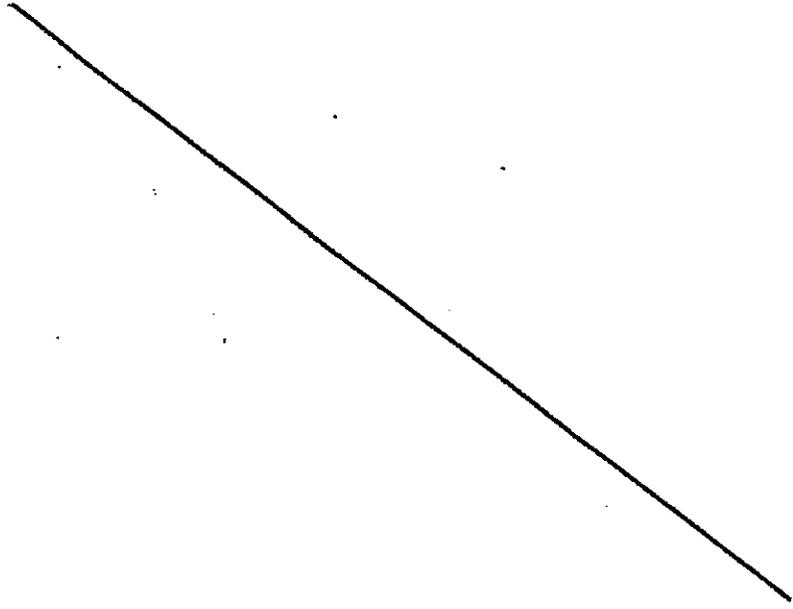
James B. Haggin and others of the second part.

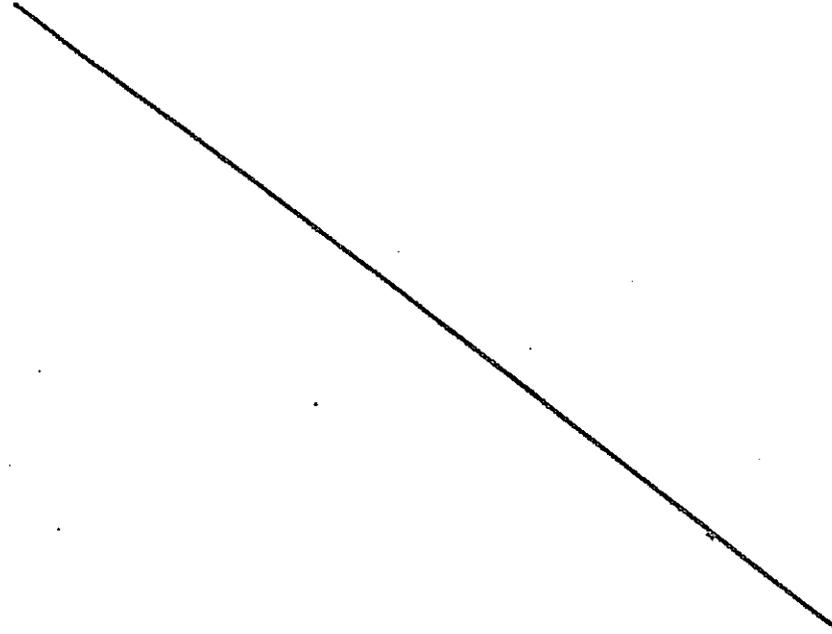
WHEREAS, the following named persons and corporations, viz :

Henry Miller, Frederick Cox, C. W. Clarke, George N. Cornwell, Horatio Stebbins, Henry Miller, the surviving partner of the late firm of Miller & Lux; Henry Miller, Jesse Sheldon Potter and Miranda Wilmarth Lux, Executors and Executrix of the Last Will and Testament of Charles Lux, deceased; Miranda Wilmarth Lux, Philip Lux, Barbara Lux, Dorothea Roehrig, formerly Dorothea Lux, wife of Henry Roehrig, George Lux, Henry Lux, Charles H. Lux, Lizzie M. Lux, Lena B. Lux, Jesse Sheldon Potter, devisees under the will and heirs of Charles Lux, deceased;

The Kern Valley Water Company;
The Kern River Land and Canal Company;
The Kern River Water and Irrigating Company;
The Stine Canal Company;
The Anderson Canal Company;
The Gates Canal Company;
The Buena Vista Canal Company;
The James Canal Company;
The Plunkett Canal Company;
The Meacham Irrigating Canal Company (unincorporated);
The Goose Lake Canal Company;
The Pioneer Canal Company;
The James & Dixon Canal Company;
The Joyce Canal Company;
The Kern Island Irrigating Canal Company;
The Farmers' Canal Company;
James B. Haggin, Lloyd Tevis, William B. Carr;
The Johnson Ditch or Canal (unincorporated);
The Rail Road Canal (unincorporated);
The Wible Canal (unincorporated);

Warren Olney;	E. J. Wareham;
R. E. Houghton;	George C. Smart;
G. P. Laird;	Edwd. Gray Stetson;
F. J. Laird;	C. C. Stockton;
John M. Keith;	Geo. Daggett;
S. A. Pindar;	I. N. King;
P. D. Jewett;	Charles Kerr;
R. McDonald;	John E. Bailey;
J. C. Roberts;	D. G. McLean;
W. W. Frazier;	Frank Howell;
Peter McCaffrey;	H. A. Blodget;
M. W. Morris;	Isaac Jameson;
Rosetta Bull;	D. B. Hurlbut;
Samuel B. Kingsley;	C. E. Coughran;
S. W. Wible;	J. J. Darnul;
C. W. Duvall;	A. P. Bernard;
T. E. Owens;	
I. D. Thronsen, Administratrix of the Estate of Otto Thronsen, Deceased;	
Jennie D. Jewett;	





—each of the companies above named being a corporation, created and existing under and pursuant to the laws of the State of California—own, or claim to own, certain lands or interests in lands situated in Kern County, State of California, and all of which lands so owned or claimed, or in which an interest is owned or claimed, are either bordering on or along the watercourse known as Kern River and at its lower end known as Buena Vista Slough, or bordering on Kern and Buena Vista Lakes, or on one of said Lakes, or on the Slough connecting said Lakes, all in said County, or are irrigated from said River, Lakes and Sloughs, or some thereof, or have, or claim to have, certain rights and properties in and to the waters of said River, Lakes and Sloughs, or some thereof, or have, or claim to have, the right to divert, take out, use and consume said waters, or some thereof, or have, or claim to have, the right to furnish and supply to said and other lands, or to the owners, claimants, holders or possessors thereof, for use thereon for irrigation and other purposes, water from said River, Lakes and Sloughs, or some thereof;

AND WHEREAS, all of the aforesaid owners of and claimants in said lands claim to have in connection with or as appurtenant to, or as a part and parcel of said lands, certain riparian or other rights to the waters of said River, Sloughs or Lakes, or some thereof;

AND WHEREAS, Henry Miller, Frederick Cox, C. W. Clarke, George N. Cornwell, Horatio Stebbins, Henry Miller, surviving partner of the late firm of Miller & Lux; Henry Miller, Jesse Sheldon Potter and Miranda Wilmarth Lux, Executors and Executrix of the Last Will and Testament of Charles Lux, deceased; Miranda Wilmarth Lux, Philip Lux, Barbara Lux, Dorothea Roehrig, formerly Dorothea Lux, wife of Henry Roehrig, George Lux, Henry Lux, Charles H. Lux, Lizzie M. Lux, Lena B. Lux and Jesse Sheldon Potter, devisees under the will and heirs of Charles Lux, deceased, and each of them, and James B. Haggin, and others of the above named parties, own land bordering upon Kern River, Buena Vista Slough, Kern Lake or Buena Vista Lake, or the Slough connecting said Lakes, or on one or more of them, and as to such lands are entitled to riparian property rights in or upon said Kern River, Buena Vista Slough, Kern Lake and Buena Vista Lake, or on the Slough connecting said Lakes and the waters thereof, or in or upon some one or more of them, or in or to the waters thereof;

AND WHEREAS, the above named persons and corporations, or some thereof, have acquired and now hold valid and vested rights by appropriation in and to certain portions of the waters of said River, Lakes and Sloughs, at points thereon below the point on said river hereinafter fixed and designated as the First Point of Measurement, and have also made and acquired and now hold by appropriation other valid and vested rights against all the world, except as against said above mentioned riparian proprietors, in and to all the waters of said River, Lakes and Sloughs at every point thereon below said First Point of Measurement;

The said Henry Miller, Frederick Cox, C. W. Clarke, George N. Cornwell, Horatio Stebbins, Henry Miller, the surviving partner of the late firm of Miller & Lux; Henry Miller, Jesse Sheldon Potter and Miranda Wilmarth Lux, Executors and Executrix of the Last Will and Testament of Charles Lux, deceased; Miranda Wilmarth Lux, Philip Lux, Barbara Lux, Dorothea Roehrig, formerly Dorothea Lux, wife of Henry Roehrig, George Lux, Henry Lux, Charles H. Lux, Lizzie M. Lux, Lena B. Lux, Jesse Sheldon Potter, devisees under the will and heirs of Charles Lux, deceased; and the Kern Valley Water Company,

will be hereinafter designated as the parties of the first part herein, and all other parties to this agreement will be hereinafter designated as the parties of the second part;

AND WHEREAS, of the parties of the first part, Henry Miller, and of the parties of the second part, James B. Haggin, own, hold and control the larger interests in the lands and waters mentioned in this agreement, and are more affected by its terms and provisions than the others of said respective parties;

AND WHEREAS, the parties of the first part, or some of them, have instituted or now control and are directly or indirectly interested in the result of sundry suits, actions and other proceedings at law or in equity against James B. Haggin, Lloyd Tevis, William B. Carr and others, corporations and individuals taking out and using the waters of said river at points on said river above the lands of the parties of the first part, and also above the point where the Canal of the Kern Valley Water Company takes its water from Buena Vista Slough:

NOW FOR THE PURPOSE of settling and finally terminating such litigation, suits, actions and proceedings at law and in equity, relative to the waters of Kern River, Buena Vista Slough, Kern and Buena Vista Lakes, and the Slough connecting said Lakes, or any thereof, or the obstructions, diversions, consumption and use thereof, and of amicably adjusting, compromising and settling all conflicting interests directly or indirectly involved in or affected by such suits, actions and other proceedings, and also all the rights of the parties of the first part, their heirs, executors, administrators and assigns, and of the parties of the second part, their heirs, executors, administrators and assigns, in and to the waters of Kern River, Buena Vista Slough, and Kern and Buena Vista Lakes, and the Slough connecting said Lakes, and to the use thereof, as between said parties of the first part, their heirs, executors, administrators and assigns, and said parties of the second part, their heirs, executors, administrators and assigns, and also that all of the said lands owned or claimed by the parties hereto, and all lands supplied or contemplated to be supplied with water by the said respective Canal Companies Corporations, situated in the townships hereinafter described, may be supplied with water for irrigation and other purposes, and thereby be benefited and made more valuable by reason of receiving such water for such purposes:

IT IS HEREBY MUTUALLY AGREED by and between the parties hereto—

FIRST.

The waters flowing in Kern River shall be measured and ascertained from time to time during the months of March, April, May, June, July and August of each year, and as often as may be necessary, or as Henry Miller or James B. Haggin may request, or as a majority in interest of

the parties of the first part or a majority in interest of the parties of the second part may demand, but not more than once each day, by the Superintendent hereinafter mentioned or by some other competent and disinterested person appointed therefor by Henry Miller and James B. Haggin, or by the parties of the first part and the parties of the second part, at some convenient point above the head of the Canal of the Kern River Water and Irrigating Company, known as the Beardsley Ditch or Canal, which point shall be known as the *First Point of Measurement*. Such point of measurement to be at the point in Section two (2), in Township twenty-nine (29) south, Range twenty-eight (28) east, Mount Diablo base and meridian, at which Walter James and S. W. Wible have recently made a cross-section of Kern River and established gauges for ascertaining the amount of water flowing in said river, until some other point is agreed upon by said Henry Miller and James B. Haggin, or by a majority in interest of the parties of the first part and a majority in interest of the parties of the second part.

SECOND.

During said months of March, April, May, June, July and August of each and every year, the water flowing in Kern River shall also be measured at the weirs across the Kern River at the head of what is known as the Joyce Canal, on Section twenty-three (23), in Township thirty-one (31) south, Range twenty-five (25) east, Mount Diablo base and meridian. Such measurement to be made on the same day and as soon as practicable after the measurement is made at the *First Point of Measurement*, and by said Superintendent or by some other competent and disinterested person, appointed therefor by said Henry Miller and James B. Haggin, or by a majority in interest of the parties of the first part and a majority in interest of the parties of the second part. The point of measurement at the head of the Joyce Canal shall be known as the *Second Point of Measurement*.

If by reason of the washing out of or damage to the levees or weirs at the *Second Point of Measurement*, the water flowing in Kern River cannot be measured at said *Second Point of Measurement* at any time during said months of March, April, May, June, July and August, then and in that event the measurements shall be made at some point below said *Second Point of Measurement*, to be selected by said Henry Miller and James B. Haggin, or by the Superintendent provided for in this contract, or by a majority in interest of the parties of the first part and a majority in interest of the parties of the second part, until such levees or weirs can be repaired and replaced so that the measurement can be made at such designated *Second Point of Measurement*.

A. T. L. (30)

A. T. L.

THIRD.

During the months of March, April, May, June, July and August of each and every year, from and after March 1st, 1888, the waters flowing in Kern River shall be divided and apportioned between the parties of the first part, their heirs, executors, administrators and assigns, and the parties of the second part, their heirs, executors, administrators and assigns, as follows, that is to say:

When the amount of said waters flowing at said First Point of Measurement does not exceed three hundred (300) cubic feet flowing per second, the Kern Island Irrigating Canal Company, one of the parties of the second part, its successors and assigns, shall be entitled to all thereof.

When the amount of said waters flowing at said First Point of Measurement during said months of March, April, May, June, July and August exceeds three hundred (300) cubic feet flowing per second, then of the amount thereof over and in excess of said first three hundred (300) cubic feet per second, the parties of the first part, their heirs, executors, administrators and assigns, shall be entitled to one-third ($\frac{1}{3}$), and the parties of the second part, their heirs, executors, administrators and assigns, shall be entitled to two-thirds ($\frac{2}{3}$); and the parties of the first part, their heirs, executors, administrators and assigns, shall be entitled to receive their full one-third at the Second Point of Measurement, without diminution by reason of percolation or seepage or any interference whatsoever of or by the parties of the second part, their heirs, executors, administrators or assigns, to be used and disposed of by them in any manner, at any place and for any purpose they may think proper, or arrange or agree upon among themselves. The water allotted to the parties of the second part, other than the three hundred (300) cubic feet flowing per second, above specifically allotted to the Kern Island Irrigating Canal Company, in addition to its other rights as one of the parties of the second part, to be taken out, used and disposed of by them in any manner, at any place and for any purpose they may think proper, or arrange or agree upon among themselves. Said three hundred (300) cubic feet of water flowing per second, so specifically allotted to said Kern Island Irrigating Canal Company, to be by it taken out, used and disposed of in any manner, at any place and for any purpose it may think proper.

During the months of January, February, September, October, November and December of each and every year, the Kern Island Irrigating Canal Company, its successors and assigns, as to the first three hundred (300) cubic feet flowing per second, and the parties of the second part, their heirs, executors, administrators and assigns, as to all over and above said first three hundred (300) cubic feet flowing per second,

shall be entitled to all the water flowing in said Kern River at any point above said Second Point of Measurement, and may intercept, divert, take out, use and consume the same in such manner, and at such points and places, and for such purposes, as they may desire. Any and all water to which the parties of the second part are entitled hereunder, which shall not have been diverted by the parties of the second part, their heirs, executors, administrators or assigns, or some of them, before reaching said Second Point of Measurement, shall, upon and after passing said Second Point of Measurement, belong to the parties of the first part, their heirs, executors, administrators and assigns, to be used and enjoyed by them as the other waters which they shall receive as hereinabove provided.

And the parties hereto of the second part, and each of them, hereby acknowledge the right of the parties of the first part as riparian proprietors in Kern River, Buena Vista Slough, Kern and Buena Vista Lakes, and on the Slough connecting said Lakes, to the proportion of water flowing in Kern River, hereinbefore agreed upon, and that as such riparian proprietors they shall, at all times, be entitled to receive at the Second Point of Measurement, during the months of March, April, May, June, July and August, of each year, the amount of water they are so entitled to.

And the parties hereto of the first and second parts hereby agree that in the event of any party or parties, corporation or corporations, not parties to this contract, shall at any time divert any water from Kern River at any point between the said First and Second Points of Measurement, then and in that event the loss occasioned to the parties hereto by such diversion shall be borne, one-third by the parties of the first part, and two-thirds by the parties of the second part.

FOURTH.

THE PARTIES HERETO HEREBY FURTHER AGREE, that they will construct or cause to be constructed about Buena Vista Lake a levee so that such Lake shall become a reservoir for storing water to be used for irrigating the lands of the parties of the first part hereto. Said levee to be constructed on or as nearly on the following line as practicable: Commencing at a point on the range line between Ranges twenty-five (25) and twenty-six (26) east, on or about Section thirteen (13), in Township thirty-two (32) south, Range twenty-five (25) east; thence running north along said range line to the northeast corner of Section thirty-six (36), Township thirty-one (31) south, Range twenty-five (25) east; thence running west along the north line of said Section thirty-six (36) to the northwest corner thereof; thence running northwesterly along the clear water

line of said Buena Vista Lake to the east side of Buena Vista Slough, at or near the north line of Section seventeen (17), Township thirty-one (31) south, Range twenty-five (25) east. ALSO, a levee from a point on the west side of Buena Vista Slough on or near the north line of said Section seventeen (17), and running westerly by the shortest and most practicable line to the high land or bluff northwesterly of Buena Vista Lake. Such levees to be constructed to an uniform height of four (4) feet above the level of the segregation line dividing the Swamp and Overflowed Land from the high land, to be twelve (12) feet wide on the top, and with an inner slope of four (4) to one (1) and outer slope of three (3) to one (1); together with necessary gates and other works necessary to regulate and control water running into and taken out of such reservoir. All such levees and other works to be constructed in accordance with plans prepared by Walter James and F. P. McCray, in October, 1885.

All such levees and other works to be constructed under the supervision of a Civil Engineer to be selected and changed at pleasure by James B. Haggin and Henry Miller. Said Haggin and Miller may also change the plans and locations of such levees and other works in such manner and to such extent as they may mutually deem advisable. They may also provide for the construction thereof in any way or manner they may deem most expedient.

The expense of constructing, repairing and maintaining all such levees and other works to be paid, one-half by the parties of the first part, their heirs, executors, administrators and assigns, and one-half by the parties of the second part, their heirs, executors, administrators and assigns.

It IS FURTHER AGREED, in consideration of the sum of eight thousand five hundred dollars (\$8500) by the parties of the second part to the parties of the first part in hand paid, the receipt whereof is hereby acknowledged, that the parties of the first part will protect and save harmless the said parties of the second part, their heirs, executors, administrators and assigns, and each of them, from any and all suits, claims and demands for damages resulting from the flooding or damaging any lands not belonging to any of the parties to this agreement by reason of such reservoir, levees and other works.

It IS FURTHER AGREED, that any and all lands which may be purchased to avoid paying damages for flooding the same by such reservoir, levees and other works, shall be paid for by the parties of the first part, their heirs, executors, administrators and assigns, and that all suits and proceedings which may be instituted to hinder or prevent the construction or maintenance of such reservoir, levees and other works, brought by the owners, holders or claimants of or of any interest in any lands to the

westward or to the southward of such levees, or either of them, shall be defended by and at the cost and expense of the parties of the first part, their heirs, executors, administrators and assigns, and without cost or charge to the parties of the second part, their heirs, executors, administrators or assigns; any other suits or proceedings brought by other parties to restrain or prevent the construction or maintenance of such levees and other works, shall be defended by the parties hereto, and the expenses thereof, including attorney's fees, shall be paid, one-half by the parties of the first part, their heirs, executors, administrators and assigns, and one-half by the parties of the second part, their heirs, executors, administrators and assigns.

But it is expressly understood and agreed, that no party to this contract will claim any damage resulting from the breaking of such reservoir, levees or other works.

IT IS ALSO AGREED, that if in the future, after said reservoir, levees and other works shall have been constructed, they shall break and cause injury to the lands of others not parties to this contract, nor the heirs, executors, administrators or assigns, of any of said parties, such damages as may be recovered therefor, shall be paid, one-half by the parties of the first part, their heirs, executors, administrators and assigns, and one-half by the parties of the second part, their heirs, executors, administrators and assigns; and all expenses of defending suits (including attorneys' fees), which may be brought to recover damages for such injuries, shall be paid by the same persons and in the same proportions.

Said reservoir being for the purpose of storing water for the benefit of the parties of the first part, the said parties of the first part for themselves, their heirs, executors, administrators and assigns, covenant and agree that said reservoir shall not at any time be filled or stored with water to any point therein higher than one foot from the top of said levees.

FIFTH.

THE PARTIES HERETO FURTHER AGREE to construct and maintain and repair such levees, weirs or other works as may be necessary to enable a correct measurement of water to be made at the two points of measurement above mentioned. The expenses thereof to be paid, one-half by the parties of the first part, their heirs, executors, administrators and assigns, and one-half by the parties of the second part, their heirs, executors, administrators and assigns.

All such levees, weirs and other works to be constructed under the supervision of some Civil Engineer to be selected by Henry Miller and

James B. Haggin; such Engineer, however, may be changed from time to time by said Miller and Haggin, as they deem advisable. Said Miller and Haggin may also change the plans or location of such works in such manner and to such extent as they mutually deem advisable. They may also provide for the construction thereof in any way or manner they deem expedient.

SIXTH.

THE PARTIES HERETO FURTHER AGREE to construct such levees as may be necessary to control the flow of water to the natural channel of Kern River, below the Second Point of Measurement, into Buena Vista Slough and Buena Vista Lake; together with such gates, weirs and other works as may be necessary to regulate and control the flow of such water into and out of Buena Vista Lake.

All such levees and other works to be constructed under the supervision and according to the plans of a Civil Engineer to be selected, and whose plans shall be approved by Messrs. James B. Haggin and Henry Miller; such Engineer, however, may be changed from time to time by Messrs. Haggin and Miller, as they deem advisable. The said Henry Miller and James B. Haggin may also change the plans of such canals, levees and other works in such manner and to such extent as they mutually deem advisable. They may also provide for the construction thereof in any way or manner they deem most expedient. They may also, if they so deem advisable, straighten out or deflect the course of said River, below said Second Point of Measurement, or change the same as they see proper.

The expenses of constructing and maintaining such levees and other works to be paid as follows: One-half by the parties of the first part, their heirs, executors, administrators and assigns, and one-half by the parties of the second part, their heirs, executors, administrators and assigns.

SEVENTH.

THE PARTIES HERETO FURTHER AGREE to dig and construct a canal from Buena Vista Lake to the head of the Canal of the Kern Valley Water Company, in Section fourteen (14), Township thirty (30) south, Range twenty-four (24) east, such canal to be fifty (50) feet wide on the bottom, side slopes of three (3) to one (1) with the bottom grade of the canal where it leaves Buena Vista Lake to be five (5) feet below the level of the segregation line of Swamp and Overflowed Land, and to be constructed with necessary head-gates and waste-gates, and in accordance with a survey made and plans and specifications prepared by Walter James and F. P. McCray, in October, 1885.

All of such canals, gates and other works to be constructed under the supervision of a Civil Engineer to be selected by Messrs. James B. Haggin and Henry Miller; such Engineer, however, may be changed from time to time by Messrs. Haggin and Miller, as they deem advisable. The said Henry Miller and James B. Haggin may also change the plans of such canals, levees and other works in such manner and to such extent as they mutually deem advisable. They may also provide for the construction thereof in any way or manner they deem most expedient.

The expenses of constructing such canals and other works to be paid as follows: One-half by the parties of the first part, their heirs, executors, administrators and assigns; and one-half by the parties of the second part, their heirs, executors, administrators and assigns.

The expenses of maintaining all such levees, canals and other works to be paid by the parties of the first part, their heirs, executors, administrators and assigns.

EIGHTH.

IT IS UNDERSTOOD AND AGREED, that no party to this agreement shall make any claim for payment for any right of way through his or their lands for any of the canals, levees or other works hereinabove agreed to be constructed by the parties hereto. ALSO, that the parties who are to maintain the same shall have the right of access thereto to inspect and keep the same in repair.

NINTH.

A competent Superintendent shall be employed to take charge of measuring the water at the First and at the Second Points of Measurement, and whose duties it shall also be to see that all the levees, canals and other works, except the canal from Buena Vista Lake to the head of the canal of the Kern Valley Water Company, are kept in good condition and repair, and whose duty it shall also be to see that the parties of the first part, their heirs, executors, administrators and assigns, receive at the Second Point of Measurement the amount of water they are entitled to under the provisions of this contract, during the months of March, April, May, June, July and August. Such Superintendent, and all other agents and attorneys (one of such attorneys to be selected by Henry Miller and one by James B. Haggin), employed under the provisions of this contract, may be selected, changed and removed, and their salaries, compensations and expenses fixed by Messrs. Henry Miller and James B. Haggin, or by a majority in interest of the parties of the first part, and a majority in interest of the parties of the second part, and such salaries, compensations and expenses shall be paid, one-half by the parties

of the first part, their heirs, executors, administrators and assigns, and one-half by the parties of the second part, their heirs, executors, administrators and assigns.

TENTH.

IT IS FURTHER AGREED, that the construction of the canal, levees and head-gates and other necessary works provided for in this agreement, to convey water from Buena Vista Lake to the Head of the Canal of the Kern Valley Water Company, shall be commenced on or before September 1st, 1888, and completed before the first day of March, 1889.

ELEVENTH.

IT IS FURTHER AGREED, that the construction of the levees along Kern River and Buena Vista Slough, provided by this agreement to be constructed to control the water below the Second Point of Measurement, and lead it into Buena Vista Slough and Buena Vista Lake, and the necessary gates, weirs and other works, shall be commenced on or before the first day of September, 1888, and completed on or before the first day of March, 1889.

TWELFTH.

IT IS FURTHER AGREED, that the construction of the levees and other works provided by this agreement, to be constructed around Buena Vista Lake, shall be commenced upon not less than three (3) months' notice of a desire to have such levees constructed. Such notice may be given at any time after June 1st, 1889, by Henry Miller to James B. Haggin, or by James B. Haggin to Henry Miller, or by those of the parties of the one part who represent the majority of the acreage of the land affected by this contract held by the parties of such part to those of the parties of the other part, who represent the majority of the acreage of the lands affected by this contract, held by the parties of such other part. Said notice, however, may be waived by mutual consent of Henry Miller and James B. Haggin, or of the parties by and to whom it is provided to be given. When commenced, pursuant to such notice, the construction of said levees shall be prosecuted diligently to completion.

THIRTEENTE.

IT IS HEREBY FURTHER AGREED, that when and so long as, during the construction of the canals, levees and other works above provided to be constructed, and during the time necessary to repair any break thereof occurring subsequent to their construction, the water channels below the Second Point of Measurement, cannot be used to carry the water to which the parties of the first part would, during the months of March, April, May, June, July and August, be entitled under this agreement,

the parties of the first part may take such water to the extent of the capacity of the canals through which taken, through some one or more of the following named canals, to wit:

The Goose Lake Canal,
The Wible Canal,
The Railroad Canal,
The Pioneer Canal,
The James and Dixon or Johnson Canal,
The Joyce Canal,

as the owners thereof may arrange or agree upon between themselves, or in default thereof, as the above mentioned Superintendent may equitably regulate; *provided, however,* that no more than two of said canals shall be so used at any one time without the express consent of the owners of the other canal or canals, which the said parties of the first part may desire to so use.

IT IS ALSO AGREED, that such use of said canals by the parties of the first part shall be at no expense to the owners of said canals, and that the canal or canals so used by the parties of the first part, shall be by them kept in repair, at their own expense, during the time they are used by them for such purpose; and that if any extensions of said canals so used by said parties of the first part be necessary to enable them to convey their water to the place of use, such extension may be made by and at the expense of said parties of the first part.

But it is distinctly understood, that nothing herein shall in any manner or at any time be held or construed to give or create any vested or property rights to or in said parties of the first part, or any of them, in or to such canals, or any thereof.

FOURTEENTH.

IT IS FURTHER EXPRESSLY AGREED, by the parties of the first part, that upon the due execution of this agreement by all of the parties hereto, and upon its delivery, they, the parties of the first part, will cause to be dismissed all of the suits now pending in the Superior Court of Kern County, in the Superior Court of Tulare County, in the Superior Court of Napa County, and in the Superior Court of the City and County of San Francisco, brought by any of the parties of the first part, and also all suits brought by John H. Redington, and now pending in said Courts, or in any thereof, which in any manner relate to or affect the rights of any party or parties to this agreement, in or to the water or the use of the water flowing in Kern River, Buena Vista Slough, or in Kern and Buena

Vista Lakes, or the slough connecting said lakes, but such dismissal shall be made only as to the parties who may be defendants in such suits, and who shall sign this agreement, without costs to either side.

FIFTEENTH.

IT IS HEREBY FURTHER AGREED, that if any person or persons, corporation or corporations, shall divert any water from Kern River at any point above the Second Point of Measurement, then and in that event the parties of the first part, for themselves, their heirs, executors, administrators or assigns, and the parties of the second part, for themselves, their heirs, executors, administrators or assigns, agree that they will unite in such suits or proceedings as may be necessary to prevent such diversion of the water of Kern River, and that they will pay the expenses of such suits or proceedings, including necessary attorneys' fees, as follows: The parties of the first part, their heirs, executors, administrators and assigns one-half; and the parties of the second part, their heirs, executors, administrators and assigns, one-half. And in the event that any person or persons, corporation or corporations, shall commence any suit or proceeding to prevent the construction of the weirs and other works above provided to be constructed for the purpose of obtaining correct measurements of water at the points of measurement above fixed, or the levee and other works to control the flow of water from the Second Point of Measurement to Buena Vista Slough and Buena Vista Lake above provided to be constructed, or the canal above provided to be constructed from Buena Vista Lake to the head of the Kern Valley Water Company's Canal, then and in that event such suits shall be defended by all of the parties to this contract, their heirs, executors, administrators and assigns, and the expense of such defense, including necessary attorneys' fees, shall be paid, one-half by the parties of the first part, their heirs, executors, administrators and assigns, and one-half by the parties of the second part, their heirs, executors, administrators and assigns.

SIXTEENTH.

BUT IT IS UNDERSTOOD AND AGREED, that the rights of the parties of the first part hereto, in or to any of the canals or ditches taking water from Kern River between the First and Second Points of Measurement, are in no manner affected by this agreement; that as to such rights in such canals or ditches, they shall remain the same as though this agreement had not been made, except in so far as the rights of such canals and ditches may be affected by the fact that the amount of water they are entitled to take from Kern River is reduced by reason of the parties of the first part being conceded a fixed amount of water during six (6)

months of each year—the intent hereof being that the rights in this paragraph mentioned shall be diminished in the same way and to the same extent as is provided concerning the rights of the parties of the second part in Paragraph Twenty of this Agreement.

SEVENTEENTH.

IT IS FURTHER MUTUALLY AGREED between the parties hereto that this agreement shall be perpetual, and shall at all times be construed as a covenant running with all the land owned or claimed by any of the parties hereto, which is situated in the following townships or portions of townships, and that any and all transfers, leases or contracts, of any kind or nature, made by any of the parties to this contract, their heirs, executors, administrators or assigns, affecting said land or any of it, shall be subject to all the provisions of this agreement.

The said townships and portions of townships are, to wit:

Township twenty-five (25) south, Ranges twenty-two (22), twenty-three (23) and twenty-four (24) east; and all of Township twenty-five (25) south, Range twenty-one (21) east, lying east of the segregation line dividing the swamp and overflowed land from the high land.

Township twenty-six (26) south, Ranges twenty-two (22), twenty-three (23), twenty-four (24) and twenty-five (25) east; and all of Township twenty-six (26) south, Range twenty-one (21) east, lying east of the segregation line dividing the swamp and overflowed land from the high land.

Township twenty-seven (27) south, Ranges twenty-two (22), twenty-three (23), twenty-four (24) and twenty-five (25) east; all of Township twenty-seven (27) south, Range twenty-six (26) east, west of the road of the Southern Pacific Railroad.

Township twenty-eight (28) south, Ranges twenty-two (22), twenty-three (23), twenty-four (24) and twenty-five (25) east; and all of Township twenty-eight (28) south, Range twenty-six (26) east, west and southwesterly of the road of the Southern Pacific Railroad.

Township twenty-nine (29) south, Ranges twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27) and twenty-eight (28) east; and all of Sections one (1), two (2), three (3), ten (10), eleven (11) and twelve (12), in Township twenty-nine (29) south, Range twenty-two (22) east.

Township thirty (30) south, Ranges twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27) and twenty-eight (28) east; and all of Sections one (1), two (2), eleven (11) and twelve (12), in Township thirty (30) south, Range twenty-three (23) east.

Township thirty-one (31) south, Ranges twenty-five (25), twenty-six

(26), twenty-seven (27) and twenty-eight (28) east; and all of Sections one (1), twelve (12), thirteen (13), twenty-four (24), twenty-five (25) and thirty-six (36), in Township thirty-one (31) south, Range twenty-four (24) east.

All of Sections one (1) and twelve (12), in Township thirty-two (32) south, Range twenty-four (24) east; all of Township thirty-two (32) south, Range twenty-five (25) east, north of the segregation line dividing the swamp and overflowed land from the high land; all of Township thirty-two (32) south, Range twenty-six (26) east, north of the segregation line dividing the swamp and overflowed land from the high land; all of Township thirty-two (32) south, Range twenty-seven (27) east, north of the segregation line dividing the swamp and overflowed land from the high land; all of Sections four (4), five (5), six (6), seven (7), eight (8), nine (9), seventeen (17), eighteen (18) and nineteen (19), in Township thirty-two (32) south, Range twenty-eight (28) east.

All of the Mount Diablo base and meridian.

EIGHTEENTH.

And in consideration of the premises and of five dollars to them in hand this day paid by the said parties of the second part, the said parties of the first part, for themselves, their heirs, executors, administrators and assigns, do hereby grant and convey unto the said parties of the second part, their heirs, executors, administrators and assigns, all and singular the waters, water rights, privileges and easements, to which said parties of the second part are respectively, by Paragraph Third of this Instrument, declared entitled, or which are or are intended to be, by said Paragraph, apportioned to them respectively: To have and to hold the same to the said parties of the second part, their heirs, executors, administrators and assigns, as between themselves, in the manner and to the extent provided in Paragraph Twenty of this Instrument.

NINETEENTH.

And in consideration of the premises and of five dollars to them in hand this day paid by the said parties of the first part, the said parties of the second part, for themselves, their heirs, executors, administrators and assigns, do hereby grant and convey unto the said parties of the first part, their heirs, executors, administrators and assigns, all and singular the waters, water rights, privileges and easements, to which said parties of the first part are respectively, by Paragraph Third of this Instrument, declared entitled, which are or are intended to be, by said Paragraph, apportioned to them respectively: To have and to hold the same to the said parties of the first part, their heirs, executors, administrators or assigns, forever.

TWENTIETH.

AND THE SAID PARTIES OF THE SECOND PART, in consideration of the premises, and of five dollars by each to the other of them this day paid, and for divers other good and sufficient considerations, do hereby mutually covenant, grant and agree, each to and with the other, and by and for their respective heirs, executors, administrators and assigns, that with the exception of the three hundred (300) cubic feet specifically allotted to the Kern Island Irrigating Canal Company, all the water, water rights, privileges and easements assured to the parties of the second part by Paragraph Three of this Instrument, shall vest in, belong to and be held by them respectively in the same manner and proportions, and with the same priorities, as they now own and hold the waters of Kern River, and all water rights and privileges therein or connected therewith. That is to say, that the present rights of each of said parties shall be respectively and proportionately, and without regard to priority, diminished so as to make each contribute pro rata to the amount by this Instrument allotted to the parties of the first part; and to the said three hundred (300) cubic feet allotted to the Kern Island Irrigating Canal Company. The true intent and meaning of this clause being that whenever there is not enough water to supply to said parties of the second part the amounts to which they would be respectively entitled if there were no rights to the waters of said river except the rights of said parties of the second part, as they existed prior to this agreement, and also to supply to the parties of the first part all the water by this Instrument allotted to them, and to supply the said three hundred (300) cubic feet allotted to the Kern Island Irrigating Canal Company, then the rights to said water of said parties of the second part shall severally and respectively be diminished so that the aggregate diminution shall exceed by three hundred (300) cubic feet the amount necessary to supply said parties of the first part; and so that the rights of said parties of the second part shall each be diminished in the proportion that the amount of water to which each would have been entitled but for this agreement, and in the absence of any other rights but theirs to said waters, bears to the aggregate amount of water to which all said parties of the second part would have been so entitled.

TWENTY-FIRST.

IT IS FURTHER AGREED, between the parties hereto, that the part or proportion of all original outlays and expenses for constructing, and for four years next after the date hereof, maintaining the levees and other works in this agreement above provided to be paid by the parties of the first part, shall be advanced and paid for and on account of said parties of the first part by said Henry Miller.

TWENTY-SECOND.

IT IS FURTHER AGREED, between the parties hereto, and especially between the parties of the second part, that the part or proportion of all original outlays and expenses of constructing, and for four years next after the date hereof, maintaining the levees and other works in this agreement above provided to be paid by the parties of the second part, shall be advanced and paid for and on account of said parties of the second part by said James B. Haggin, one of the parties of the second part; and each of the others of the said parties of the second part for himself, his heirs, executors, administrators and assigns, hereby severally and expressly covenants and agrees with said Haggin, that in consideration of said Haggin's undertaking to advance such sums of money for and on his account, he will reimburse and repay to the said Haggin, his heirs, executors, administrators and assigns, on demand, his full part and proportion of all sums so advanced, together with legal interest on each several amount so advanced or paid out, from the date thereof until paid. The said proportion of such advances to be so repaid to said Haggin by said several and respective parties of the second part, to be estimated and computed as follows, to wit: As the rights to or interests in the waters of Kern River of each such party of the parties of the second part respectively are to the whole or aggregate of the rights or interests of all the parties of the second part in and to the waters of said river, so shall the part or proportion to be repaid said Haggin be to the whole amount paid out by said Haggin for or on account of the parties of the second part.

TWENTY-THIRD.

IT IS FURTHER DISTINCTLY UNDERSTOOD AND AGREED, by and between the parties hereto, that whereas, by Paragraph Seventeen above, the terms, covenants and conditions of this agreement are expressly declared to run with the lands in said Paragraph described, all personal liability hereunder imposed, shall be deemed and held the liability of the persons owning, holding or claiming said lands or interest therein at the time such liability shall accrue; and any party hereto parting with his ownership of or interest in said lands, or any thereof, shall thenceforth and forever thereafter be freed, released and discharged from all and every liability thereafter to accrue, to the extent and in the proportion that the lands or interests in lands so parted with by him bear to the whole amount of such lands or interests in lands theretofore owned, held or claimed by him.

TWENTY-FOURTH.

IT IS FURTHER AGREED, between the parties hereto, that wheresoever above in this agreement, any discretion, power or authority is given or

conferred upon Henry Miller, for and on account of the parties of the first part, such and the same discretion, power and authority, and to the same extent and for the same purposes, may, in the event of the death of said Henry Miller, or in the event that the said Henry Miller shall cease to be the largest owner or holder amongst said parties of the first part of the lands and interests in lands affected by this agreement, be used and exercised by such other of the said parties of the first part who shall for the time being be the largest owner or holder amongst said parties of the first part of said lands and interests in lands affected by this agreement.

TWENTY-FIFTH.

IT IS FURTHER AGREED, between the parties hereto, that wheresoever above in this agreement, any discretion, power or authority is given or conferred upon James B. Haggin, for and on account of the parties of the second part, such and the same discretion, power and authority, and to the same extent and for the same purposes, may, in the event of the death of said Haggin, or in the event that said Haggin shall cease to be the largest owner or holder amongst said parties of the second part of the lands and interests in lands affected by this agreement, be used and exercised by such other of the said parties of the second part who shall for the time being be the largest owner or holder amongst said parties of the second part of said lands and interests in lands affected by this agreement.

TWENTY-SIXTH.

IT IS AGREED, by and between the parties hereto, that when and as the parties of the first part shall sign or cause to be signed this agreement, they shall place the same, so signed, in the hands of Henry Miller, to be by him, for and on behalf of said parties of the first part, delivered to the parties of the second part, whensoever said Miller shall himself sign and deliver such agreement for and on his own behalf. Such delivery may be made to and received by James B. Haggin, for and on behalf of said parties of the second part. Also, that when and as the parties of the second part shall sign or cause to be signed this agreement, they shall place the same, so signed, in the hands of James B. Haggin, to be by him, for and on behalf of said parties of the second part, delivered to the parties of the first part, whensoever said Haggin shall himself sign and deliver such agreement for and on his own behalf. Such delivery may be made to and received by Henry Miller, for and on behalf of said parties of the first part.

IN WITNESS WHEREOF, the parties hereto of the first and second parts, other than the corporations above named, have hereunto set their hands and seals, this twenty-eighth day of July, A. D. 1888. And the said corporations, parties hereto, have each respectively, on said last mentioned date, caused their corporate names to be hereunto subscribed and their corporate seals to be hereunto affixed by their respective Presidents and Secretaries, thereunto first duly authorized; all done in duplicate.

Kern Valley Water Company,

By Jesse S. Potter, President,

By C. Z. Merritt, Secretary;

(Corporate Seal)

Kern River Land and Canal Company,

A. E. Davis, President,

Irwin C. Stump, Secretary;

(Corporate Seal)

Stine Canal Company,

By F. H. Colton, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Kern River Water and Irrigating Company,

Sol. Jewett, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Anderson Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary

(Corporate Seal)

Gates Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Buena Vista Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary;

(Corporate Seal)

James Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Plunket Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Goose Lake Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Pioneer Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary;

(Corporate Seal)

James and Dixon Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Joyce Canal Company,

By L. Crusoe, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Farmers' Canal Company,

By Geo. G. Carr, President,

By Alex. Mills, Secretary;

(Corporate Seal)

Kern Island Irrigating Canal Company,

By Geo. G. Carr, President,

By Alex. Mills, Secretary;

(Corporate Seal)

G. N. Cornwell (Seal)

Frederick Cox (Seal)

Horatio Stebbins (Seal)

Jesse S. Potter (Seal)

C. W. Clarke (Seal)

Henry Miller, surviving partner

of the late firm of Miller & Lux (Seal)

Miranda W. Lux (Seal)

By her Attorney in fact Jesse S. Potter

Bloomfield Land Association, (Seal)

J. M. Rothchild, President,

L. Slessinger, Scty.

Philipp Lux (Seal)

By his Attorney in fact Henry Lux

Barbara Lux (Seal)

By her Attorney in fact Henry Lux

Dorothea Roehrig (formerly Lux) (Seal)

By her Attorney in fact Henry Lux

Georg Lux (Seal)

By his Attorney in fact Henry Lux

Henry Lux (Seal)

Chas. H. Lux (Seal)

Lizzie M. Lux (Seal)

Lena B. Lux (Seal)

Henry Miller (Seal)

Jesse S. Potter (Seal)

Executors of the Last Will of and Testament of

Charles Lux, deceased

Philo Jewett (Seal)

By S. Jewett, Atty. in fact

F. H. Colton (Seal)

E. M. Roberts (Seal)

Geo. G. Carr (Seal)

W. B. Carr (Seal)

H. L. Borgwardt, Jr. (Seal)

Alex. Mills (Seal)

L. S. Rogers (Seal)

A. Tyler (Seal)

R. N. Ferguson (Seal)

H. F. Laird (Seal)

W. L. Dixon (Seal)

H. H. Fish (Seal)

M. S. Nelson (Seal)

C. C. Pierce (Seal)

F. D. Nelson (Seal)

G. W. Pierce (Seal)

Chas. Beuterbaugh (Seal)

E. Eccleston (Seal)

I. W. Harbaugh (Seal)

Susan Pensinger (Seal)

Administratrix of the Estate of

Jerry Pensinger, Deceased

John A. Fry (Seal) W. E. Houghton (Seal)

Ezra Chaffee (Seal) Warren Olney (Seal)

E. J. Wareham (Seal) R. E. Houghton (Seal)

Geo. C. Smart (Seal) G. P. Laird (Seal)

Edwd. Gray Stetson (Seal) F. J. Laird (Seal)

C. C. Stockton (Seal)

John M. Keith (Seal)

Geo. Daggett (Seal)

S. A. Pindar (Seal)

S. Jewett (Seal)

Kern Valley Bank (Corporate Seal)

By S. Jewett, its President

I. N. King (Seal) P. D. Jewett (Seal)

Charles Kerr (Seal)

R. McDonald (Seal)

John E. Bailey (Seal)

J. C. Roberts (Seal) D. G. McLean (Seal)

W. W. Frazier (Seal) Frank Howell (Seal)

Peter McCaffry (Seal)

H. A. Blodget (Seal)

M. W. Morris (Seal)

Isaac Jameson (Seal)

Rosetta Bull (Seal)

D. B. Hurlbut (Seal)

Samuel B. Kingsley (Seal)

C. E. Coughran (Seal)

S. W. Wible (Seal)

J. J. Darnul (Seal)

C. W. Duvall (Seal)

A. P. Bernard (Seal)

T. E. Owens (Seal)

I. D. Throssen (Seal) Administratrix of the
Estate of Otto Throssen, Deceased

Henry Miller (Seal)

J. B. Haggin (Seal)

Lloyd Tevis (Seal)

Jennie D. Jewett (Seal)

STATE OF CALIFORNIA, }
County of Kern, } ss

On this twenty-eighth day of July, one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public, in and for the said County of Kern, personally appeared L. Crusoe, President of each of the following named Corporations:

The Anderson Canal Company, the Gates Canal Company, the Buena Vista Canal Company, the James Canal Company, the Plunkett Canal Company, the Goose Lake Canal Company, the Pioneer Canal Company, the James & Dixon Canal Company, the Joyce Canal Company, and also Alex. Mills, Secretary of each of said foregoing named corporations, personally known to me to be the President and Secretary respectively of the Corporations above named that executed the within Instrument, and acknowledged to me that such Corporations and each of them executed the same.

Also on the same day before me, A. T. LIGHTNER, a Notary Public in and for the County of Kern, personally appeared George G. Carr, President of the Kern Island Irrigating Canal Company and of the Farmers' Canal Company, and also Alex. Mills, Secretary of each of said Companies, personally known to me to be the President and Secretary respectively, of the said Corporations, the Kern Island Irrigating Canal Company and the Farmers Canal Company that executed the within Instrument, and acknowledged to me that such Corporations, and each of them, executed the same.

Also on the same day before me, A. T. LIGHTNER, a Notary Public in and for the County of Kern, personally appeared F. H. Colton, President of the Stine Canal Company, and also Alex. Mills, Secretary of said Company, personally known to me to be the President and Secretary respectively of the said Corporation, the Stine Canal Company, that executed the within Instrument, and acknowledged to me that such Corporation executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, the day and year in this certificate first above written.*

A. T. LIGHTNER,
Notary Public

STATE OF CALIFORNIA,
City and County of San Francisco. } ss

On this thirty-first day of August, one thousand eight hundred and eighty-eight, before me, JAMES MASON, a Notary Public in and for said City and County of San Francisco, personally appeared Jesse S. Potter, President, and C. Z. Merritt, Secretary of the Kern Valley Water Company, a Corporation, personally known to me to be the President and Secretary of said 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, the day and year
in this certificate first above written.*

(Seal)

JAMES MASON,
Notary Public.

STATE OF CALIFORNIA.
City and County of San Francisco. } ss

On this tenth day of August, one thousand eight hundred and eighty-eight, before me, JAMES MASON, a Notary Public in and for said City and County of San Francisco, personally appeared A. E. Davis, President, and Irwin C. Stump, Secretary of the Kern River Land and Canal Company, a Corporation, personally known to me to be the President and Secretary of said 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, the day and year
in this certificate first above written.*

(Seal)

JAMES MASON,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this 30th day of July, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared F. H. Colton, Geo. G. Carr, H. L. Borgwardt, Jr., L. S. Rogers, E. M. Roberts, W. B. Carr and Alex. Mills, known to me to be the persons described in, whose names are, subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Kern, the day and year in this certificate first above written.

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this 31st day of July, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared A. Tyler, R. N. Ferguson, John A. Fry, C. C. Stockton, John M. Keith, J. C. Roberts, W. W. Frazier, Peter McCaffery, H. A. Blodget, S. Jewett and I. N. King, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Kern, the day and year in this certificate first above written.

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this second day of August, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared M. W. Morris, Charles Kerr, Isaac Jameson, Geo. Daggett, R. McDonald and John E. Bailey, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Kern the day and year in this certificate first above written.*

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this third day of August, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared S. W. Wible, J. J. Darnul and C. W. Duvall, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Kern, the day and year in this Certificate first above written.*

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this thirty-first day of July, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said County of Kern, personally appeared Solomon Jewett, President of the Kern Valley Bank, a corporation, personally known to me to be the President of said corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

(Seal) *In Witness Whereof I have hereunto set my hand
and affixed my Official Seal, the day and year
in this Certificate first above written.*

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
City and County of San Francisco.

On this 31st day of August, one thousand eight hundred and eighty-eight, before me, SAM ROSENHEIM, a Notary Public in and for said City and County of San Francisco, personally appeared J. M. Rothchild, President, and L. Slessinger, Secretary of the Bloomfield Land Association, a Corporation, personally known to me to be the President and Secretary of said Corporation that executed the within instrument, and acknowledged to me that such Corporation executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand
and affixed my Official Seal, the day and year
in this certificate first above written.*

SAM ROSENHEIM,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this thirtieth day of July, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said County of Kern, personally appeared S. Jewett, known to me to be the person whose name is subscribed to the within instrument as the Attorney-in-fact of Philo Jewett, and acknowledged to me that he subscribed the name of Philo Jewett thereto as principal, and his own name as Attorney-in-fact.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, the day and year in this certificate first above written.

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this third day of August, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said County of Kern, personally appeared Rosetta Bull, known to me to be the person whose name is subscribed in the within instrument, described as a married woman; and upon examination without the hearing of her husband I made her acquainted with the contents of said instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, the day and year in this Certificate first above written.

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, }
County of Kern. } ss

On this fourth day of August, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared Ezra Chaffee, E. J. Wareham and H. F. Laird, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Kern, the day and year in this Certificate first above written.

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, }
County of Kern. } ss

On this 13th day of August, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared H. H. Fish and W. E. Houghton, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Kern, the day and year in this Certificate first above written.

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, }
County of Kern. } 55

On this 14th day of August, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared W. L. Dixon, F. D. Nelson and D. B. Hurlbut, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the County of Kern, the day and year in this Certificate first above written.*

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, }
County of Kern. } 55

On this 18th day of August, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared A. P. Bernard, C. C. Pierce, G. W. Pierce, Chas. Beuterbaugh, T. E. Owens and S. A. Pindar, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the County of Kern, the day and year in this Certificate first above written.*

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA,
City and County of San Francisco. } ss

On this Fifth day of September, in the year one thousand eight hundred and eighty-eight, before me, JAMES MASON, a Notary Public in and for said City and County of San Francisco, personally appeared Henry Miller, known to me to be the person whose name is subscribed to the within instrument, as the surviving partner of the late firm of Miller & Lux, and acknowledged to me that he, as such surviving partner of said firm of Miller & Lux, executed the same.

*In Witness Whereof, I have hereunto set my hand
and affixed my Official Seal, the day and year
in this certificate first above written.*

(Seal)

JAMES MASON,
Notary Public.

STATE OF CALIFORNIA,
City and County of San Francisco. } ss

On this Fifth day of September, in the year one thousand eight hundred and eighty-eight, before me, JAMES MASON, a Notary Public in and for said City and County of San Francisco, personally appeared Jesse S. Potter, known to me to be the person whose name is subscribed to the within instrument, as the attorney in fact of Miranda Wilmarth Lux, and acknowledged to me that he subscribed the name of Miranda Wilmarth Lux thereto as principal and his own name as attorney in fact.

*In Witness Whereof, I have hereunto set my hand
and affixed my Official Seal, the day and year
in this certificate first above written.*

(Seal)

JAMES MASON,
Notary Public.

STATE OF CALIFORNIA, }
County of Santa Clara. } ss

On this seventh day of September, in the year one thousand eight hundred and eighty-eight, before me, KARL KLEIN, a Notary Public in and for said County of Santa Clara, personally appeared Henry Lux, known to me to be the person whose name is subscribed to the within instrument, as the attorney in fact of Philipp Lux, Barbara Lux, Dorothea Roehrig and Georg Lux, and acknowledged to me that he subscribed the names of Philipp Lux, Barbara Lux, Dorothea Roehrig and Georg Lux thereto as principals and his own name as attorney in fact.

*In Witness Whereof, I have hereunto set my hand
and affixed my Official Seal, the day and year
in this certificate first above written.*

(Seal)

KARL KLEIN,
Notary Public.

STATE OF CALIFORNIA, }
City and County of San Francisco. } ss

On this fifth day of September, in the year one thousand eight hundred and eighty-eight, before me, JAMES MASON, a Notary Public in and for said City and County of San Francisco, personally appeared Henry Miller and Jesse S. Potter, known to me to be the persons whose names are subscribed to the within instrument, as the Executors of the Last Will and Testament of Charles Lux, deceased, and they acknowledged to me that they, as such Executors of the Last Will and Testament of Charles Lux, deceased, executed the same.

*In Witness Whereof, I have hereunto set my hand
and affixed my Official Seal, the day and year
in this certificate first above written.*

(Seal)

JAMES MASON,
Notary Public.

STATE OF CALIFORNIA, }
City and County of San Francisco. } ss

On this eleventh day of August, in the year one thousand eight hundred and eighty-eight, before me, JAMES MASON, a Notary Public in and for said City and County, residing therein, duly commissioned and sworn, personally appeared G. N. Cornwell, Frederick Cox, Horatio Stebbins, Jesse S. Potter, R. E. Houghton, Warren Olney, George C. Smart, and Edward Gray Stetson, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

(Seal) *In Witness Whereof, I have hereto set my hand and affixed my Official Seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.*

JAMES MASON,
Notary Public.

STATE OF CALIFORNIA, }
County of Santa Clara. } ss

On this seventh day of September, in the year one thousand eight hundred and eighty-eight, before me, KARL KLEIN, a Notary Public in and for said Santa Clara County, residing therein, duly commissioned and sworn, personally appeared Henry Lux, Charles H. Lux, Lizzie M. Lux, a feme sole, and Lena B. Lux, a feme sole, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they each acknowledged to me that they executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Santa Clara, the day and year in this Certificate first above written.*

KARL KLEIN,
Notary Public.

STATE OF CALIFORNIA,
City and County of San Francisco. } ss

On this first day of September, in the year one thousand eight hundred and eighty-eight, before me, JAMES MASON, a Notary Public in and for said City and County, residing therein, duly commissioned and sworn, personally appeared P. D. Jewett, G. P. Laird, F. J. Laird, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

In Witness Whereof, I have hereto set my hand and affixed my Official Seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.

(Seal)

JAMES MASON,
Notary Public.

STATE OF CALIFORNIA,
City and County of San Francisco. } ss

On this third day of October, in the year one thousand eight hundred and eighty-eight, before me, JAMES MASON, a Notary Public in and for said City and County, residing therein, duly commissioned and sworn, personally appeared Henry Miller, Lloyd Tevis and J. B. Haggin, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

In Witness Whereof, I have hereto set my hand and affixed my Official Seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.

(Seal)

JAMES MASON,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this fourteenth day of August, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said County of Kern, personally appeared M. S. Nelson, known to me to be the person whose name is subscribed to the within instrument, described as a married woman; and upon examination without the hearing of her husband I made her acquainted with the contents of said instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

(Seal) *In Witness Whereof I have hereunto set my hand and affixed my Official Seal, the day and year in this Certificate first above written.*

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this thirtieth day of July, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said County of Kern, personally appeared Sol Jewett, President, and Alex Mills, Secretary of the Kern River Water and Irrigating Company, a Corporation, personally known to me to be the President and Secretary of said Corporation that executed the within instrument and acknowledged to me that such Corporation executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, the day and year in this certificate first above written.*

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this 12th day of October, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said County of Kern, personally appeared Susan Pensinger, known to me to be the person whose name is subscribed to the within instrument as the administratrix of the estate of Jerry Pensinger, deceased, and acknowledged to me that she as the administratrix of the estate of Jerry Pensinger, deceased, executed the same.

*In Witness Whereof, I have hereunto set my hand
and affixed my Official Seal, the day and year
in this certificate first above written.*

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, } ss
County of Kern.

On this 25th day of March, in the year one thousand eight hundred and eighty-nine, before me, A. T. LIGHTNER, a Notary Public in and for said County of Kern, personally appeared Jennie D. Jewett, known to me to be the person whose name is subscribed to the within instrument, described as a married woman; and upon examination without the hearing of her husband I made her acquainted with the contents of said instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

*In Witness Whereof I have hereunto set my hand
and affixed my Official Seal, the day and year
in this Certificate first above written.*

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, }
County of Kern. } ss

On this 14th day of September, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared Samuel B. Kingsley, C. E. Coughran, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Kern, the day and year in this Certificate first above written.

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, }
County of Kern. } ss

On this 13th day of October, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said Kern County, residing therein, duly commissioned and sworn, personally appeared I. W. Harbaugh and E. Eccleston, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office in the said County of Kern, the day and year in this Certificate first above written.

(Seal)

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, }
City and County of San Francisco. } ss

On this twentieth day of February, in the year one thousand eight hundred and eighty-eight, before me, CHAS. D. WHEAT, a Notary Public in and for said City and County, residing therein, duly commissioned and sworn, personally appeared C. W. Clarke, known to me to be the person described in, whose name is subscribed to and who executed the within instrument, and he acknowledged to me that he executed the same.

(Seal) *In Witness Whereof, I have hereto set my hand and affixed my Official Seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.*
CHAS. D. WHEAT,
Notary Public.

STATE OF CALIFORNIA, }
County of . } ss

On this day of, in the year one thousand eight hundred and eighty-eight, before me, a Notary Public in and for said County, residing therein, duly commissioned and sworn, personally appeared known to me to be the person.. described in, whose name.. subscribed to and who executed the within instrument, and acknowledged to me that ..he.. executed the same.

In Witness Whereof, I have hitherto set my hand and affixed my Official Seal, at my office in the County of, the day and year in this Certificate first above written..

.....,
Notary Public.

STATE OF CALIFORNIA, }
County of Kern. } ss

On this thirteenth day of October, in the year one thousand eight hundred and eighty-eight, before me, A. T. LIGHTNER, a Notary Public in and for said County of Kern, personally appeared I. D. Thronsen, known to me to be the person whose name is subscribed to the within instrument, as the Administratrix of the Estate of Otto Thronsen, deceased, and she acknowledged to me that she, as such Administratrix of the Estate of Otto Thronsen, deceased, executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand
and affixed my official seal the day and year
in this certificate first above written.*

A. T. LIGHTNER,
Notary Public.

STATE OF CALIFORNIA, }
County of Merced. } ss

On this 12th day of October, in the year one thousand eight hundred and eighty-eight, before me, JOHN H. SIMONSON, a Notary Public in and for said County, residing therein, duly commissioned and sworn; personally appeared D. G. McLean and Frank Howell, known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and they acknowledged to me that they executed the same.

(Seal) *In Witness Whereof, I have hereunto set my hand
and affixed my official seal the day and year in
this certificate first above written.*

JNO. H. SIMONSON,
Notary Public.

The supplemental agreement between Henry Miller and J. B. Haggin, dated November 30, 1889, which follows, has never been recorded.

UNDER AND IN PURSUANCE of the powers vested in them by that certain contract and agreement, relative to waters and water rights in Kern County, State of California, made and entered into between Henry Miller and others, of the first part, and James B. Haggin and others, of the second part, on and under date of July 28th, 1888, the said HENRY MILLER and the said JAMES B. HAGGIN, now mutually deeming it advisable to change in the manner and to the extent hereinafter agreed, the plans and locations of the levees, canals and other works mentioned in Articles "Fourth," "Seventh" and "Twelfth" of said contract, and the height to which water may be raised against said levees, do hereby agree to and do make the changes here following—that is to say:

First. The Canal provided for in said Article "Seventh," being now in course of construction, with a bottom grade at the point where it leaves Buena Vista Lake of, according to the plans mentioned in said Article, an elevation of 14.85 feet, but with a width of only 30 feet, shall be completed at said width of 30 feet in the form and in the manner in which it is now being constructed; and the gate now being put therein, on or about Sec. 30, T. 30, R. 25, shall be completed according to the plans and specifications made therefor, but the floor of said gate shall be placed six feet below the present established elevation or level of the bed of said Canal at the point where it leaves Buena Vista Lake. And when so completed, with said established grade and said width of 30 feet, said parties of the first part shall thenceforth have and own the dredger now being used upon said Canal, and the said parties of the second part shall pay over to said Henry Miller, for the said parties of the first part, the sum of Five Thousand Dollars U. S. Gold Coin in full for any and all work thereafter, under the original terms of said contract, to be done or performed by or in behalf of said parties of the second part upon said Canal, and thereupon the said Canal so constructed shall be deemed, held and accepted as full and complete compliance with the terms and requirements of said Article "Seventh" of said contract;

Provided, however, and with the understanding, that should the aforementioned parties of the first part to said contract, at any time after the aforesaid completion of said Canal, desire to deepen said Canal to a level with the bottom of Buena Vista Lake, or to widen it to the originally proposed width, they may, at their own cost and expense, do either or both, but without any cost, charge or expense to the aforementioned parties of the second part to said contract, or any of them.

Second. In lieu of the levees and other works provided for in Article "Fourth" of said contract, the levee now being constructed along the Range Line between Ranges 25 and 26 East, M. D. B. & M., shall be prolonged and extended Northward and Southward along said Range

Line to high ground on either side, and increased to a uniform height of 14 feet above the bottom grade of the Canal hereinabove mentioned, at the point where it leaves Buena Vista Lake, established at an elevation of 14.85 feet, according to its said plans, and immediately constructed 12 feet wide on the top, with an inner slope of 4 to 1 and an outer slope of 3 to 1; and thereupon, at any time after August 1st, 1891, upon 30 days' notice from either party to the other, or from said Miller to said Haggin, or said Haggin to said Miller, a second levee shall be commenced and prosecuted diligently to completion, of uniform height with the top of said last-mentioned levee, 12 feet wide on the top, with an inside slope of 4 to 1 and an outside slope of 3 to 1 from the point where said Range Line crosses the Segregation Line, dividing the Swamp and Overflowed Land from the High or Government Land at the Southeast corner of Section 24, T. 31, R. 25, M. D. B. & M.; thence Northwesterly following said Segregation Line to the point where it intersects the left or Easterly Bank of the Inlet Canal now constructed in Section 16, T. 31, R. 25; and also commencing at the point where the North line of said Section 16 crosses the right or Westerly Bank of said Inlet Canal, and thence Westerly along the North line of Sections 16 and 17, Township 31 South, Range 25 East, to high ground on the West of the aforesaid Canal leading out of Buena Vista Lake, with a gate as part of said levee at the point where it crosses said last-mentioned Canal of similar size and dimensions as the gate above provided to be placed in said Canal on or about Section 30, Township 30 South, Range 25 East;

Provided, however, that the said parties of the first part may, when said last-mentioned levees, to wit: those Westward of said Range Line, are about to be constructed, elect to construct such levees with a top width and elevation and side slopes, as above provided, on a line to the south of said Segregation Line; and *provided, further,* that in the event said parties of the first part should decide to construct such levee and gate on a line South of said Segregation Line, then and in that event the said parties of the second part shall have the right and option, which may be exercised in their behalf by said James B. Haggin, to pay over to said parties of the first part, or to said Henry Miller, the sum of Seven Thousand Five Hundred Dollars in full for the share or proportion of the work to be done by or on behalf of said parties of the second part in constructing said levees Westward of said Range Line on whatsoever line or lines they may be built, including all gates and other structures which may be built therein or in connection therewith; and thereupon, such payment of \$7500, if made, shall be deemed, held and accepted as full and complete compliance by and on the part of the said parties of the second part, with the terms and requirements of said Article "Fourth" of said contract, so far as the construction of levees and

other works therein provided for are concerned; and the said parties of the first part shall thereupon construct said levees Westward of said Range Line to the height and elevation and with the top width and slope of sides above provided.

In the event the parties hereto shall decide to construct such levee along said Segregation Line and along the North line of Sections 16 and 17, as aforesaid, the parties of the first part shall so draw off and lower the water in the reservoir as to permit of the work being done and the levee constructed free from mud or water; and then, the notice of thirty days herein provided for having been given, the construction of said levee and gate shall, upon the demand of either the said Miller or the said Haggin, be let out on contract to the lowest responsible bidder, or, if said Miller and said Haggin so agree, shall be done by said parties of the first part and said parties of the second part jointly. *Provided*, if it be so agreed to do such work jointly, then, and in such event, should either the said parties of the first part or the said parties of the second part fail, for a period of forty-five days after such thirty days' notice is given, to enter upon the construction of such levee and gate, either the said Miller or said Haggin may proceed and construct all of such levee and gate, and the party so failing to aid in its construction shall pay to the party doing such work one-half of the cost of constructing and completing such levee and gate, according to the provisions of this contract.

In view of the fact that the engineers under whose plans and in whose charge said levees and other works are being constructed assert and maintain that it would endanger said levees and other works to raise, place or store water in the reservoir formed by said levees higher than to a point four feet below the top of said levees; it is hereby, by said Miller and said Haggin, mutually deemed advisable, and is understood and agreed as part of, and as one of the considerations for this agreement, that the said parties of the first part to said contract, their heirs, executors, administrators and assigns, shall not and will not at any time turn into or permit to remain in said reservoir water which would or does raise the water level therein higher than a point or elevation four feet below the top of said levees.

It is further understood and agreed that the aforementioned levees shall always be kept and maintained at the height to which they are by this contract required to be constructed.

Dated November 30, 1889.

Witness as to signature of
J. B. Haggin,
LOUIS T. HAGGIN.

HENRY MILLER,
J. B. HAGGIN.

STATE OF CALIFORNIA,
City and County of San Francisco. } ss

On this fourteenth day of May, in the year one thousand eight hundred and ninety, before me, HENRY C. DROGER, a Notary Public in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and qualified, personally appeared Henry Miller and J. B. Haggin, known to me to be the persons described in, whose names are subscribed to and who executed the annexed instrument, and they acknowledged to me that they executed the same.

In Witness Whereof I have hereunto set my hand and affixed my Official Seal at my office in said City and County of San Francisco the day and year in this Certificate first above written.

(Seal)

HENRY C. DROGER,
Notary Public.