

MEMORANDUM OF AGREEMENT

between

THE BUREAU OF RECLAMATION

and

THE NATIONAL PARK SERVICE

RELATING TO THE DEVELOPMENT AND ADMINISTRATION OF

THE YELLOWTAIL RESERVOIR AREA

THIS MEMORANDUM OF AGREEMENT, made and entered into this 31st day of December 1964 between the BUREAU OF RECLAMATION, hereinafter referred to as the Bureau, and the NATIONAL PARK SERVICE, hereinafter referred to as the Service, as agencies of the United States of America:

WITNESSETH THAT:

WHEREAS the Bureau is proceeding with the construction of the Yellowtail Unit as a part of the Missouri River Basin Project authorized by the Act of June 17, 1902 (32 Stat. 388) as amended, and the Act of December 22, 1944 (58 Stat. 887); and

WHEREAS lands are being acquired and public lands have been withdrawn for the purposes of the project, as authorized by the Act of June 17, 1902 (32 Stat. 388), and

WHEREAS a large number of persons are expected to use the lands and waters of such withdrawn area for the purposes of recreation; and

WHEREAS the Act of August 7, 1946 (60 Stat. 885) authorizes the use of appropriated funds by the Service for administration, protection,

improvement, and maintenance of areas under the jurisdiction of other agencies of the Government which are devoted to recreational use pursuant to cooperative agreements; and

WHEREAS the Service is experienced in administering areas devoted to recreational use:

NOW, THEREFORE, the Bureau and the Service do hereby mutually agree as follows:

## ARTICLE I

### GENERAL PROVISIONS

1. The Bureau shall retain complete authority over and responsibility for the construction, operation and maintenance of Yellowtail Dam and Reservoir for primary project purposes together with all engineering works in connection therewith. As directed by Congress, the Bureau shall administer the Fort Smith Village, Montana. Except for the area required by the Bureau for construction, operation and maintenance of the dam and the Fort Smith Village, the Service shall administer all lands and waters within the project area, providing for recreation therein. The agreed areas of authority between the Bureau and the Service include all those lands acquired withdrawn, or segregated by the Bureau for project purposes under the authority of the aforesaid Act of June 17, 1902. These lands are generally depicted on the enclosed drawing marked Exhibit "A" and numbered 459-600-60. This Exhibit may be revised at any time to illustrate changes in the project area as a result of land acquisition, or additional withdrawals.

2. The parties to this agreement acknowledge that as authorized by Congress each has an interest in the storage, release, and utilization of the water which is to be contained by the Yellowtail Dam, and that the Yellowtail Unit was authorized, and is being constructed, for the primary purposes of irrigation, flood control, and the generation of hydroelectric power and the incidental purposes of recreation, and fish and wildlife conservation. This agreement shall not be construed to conflict with the primary purposes of the project or to alter the Bureau's control over storage and release of water. However, to the extent permitted by the authorized primary purposes of said project the Bureau shall operate the dam and reservoir in keeping with Secretarial policy which provides for full consideration of public recreation and fish and wildlife on reservoir projects undertaken by the Federal Government. The Service shall determine optimum and minimum pool levels desirable for public recreational use and provide the Bureau with this information for consideration in carrying out the purposes of this paragraph.

3. Prior to making any new development or granting any concession, lease, license or permit which, because of its nature or location will affect the Bureau's activities at the Fort Smith Village or Yellowtail Dam, the Service shall obtain the concurrence of the Bureau. Before making any new development or granting any concession, lease, license, or permit at the Fort Smith Village or in the vicinity of the Yellowtail Dam which will affect the recreational and tourist facilities on the remainder of the project area, the Bureau shall obtain the concurrence of the Service.

If either party does not concur in such proposed development, concession, lease, license or permit the proposal shall be held in abeyance until agreement is reached by the Bureau and the Service or the Secretary has resolved any differences of opinion.

4. The parties to this agreement acknowledge and understand that the fulfillment of the agreement is contingent upon the availability of funds for the purposes thereof.

## ARTICLE II

### FUNCTIONS OF THE NATIONAL PARK SERVICE

Subject to the primary purposes of the project, area limitations, and other provisions contained in Article I hereof, the Service in its administration of the project area for recreation, shall be responsible for:

1. Preparation of plans for and the construction of recreational facilities, including roads and trails.
2. Advertising for, evaluating and approving or rejecting bids and negotiating contracts for the installation or construction of recreational facilities.
3. Negotiation and execution of contracts, with private individuals, partnerships or corporations for supplying necessary public services related to the recreational use of the project area, including, but not limited to, the use of the waters for boating, canoeing, bathing and sightseeing; and prescribing and enforcing reasonable rates and standards for the supplying of such services.

4. Establishing and enforcing policies regarding the recreational use of lands and waters in the project area. It is understood that grazing activities within that portion of the project area administered by the Service shall be controlled and supervised by the Service in consultation with the Bureau of Land Management.
5. Promulgating and enforcing such rules and regulations as are necessary or desirable for the conservation of any historic or archeological remains, and control of all archeological excavation and historical or archeological research, for the recreational use of the area and for the safety of visitors.
6. Establishment and maintenance of protective, interpretive, and other facilities and services as may be necessary for safe and full use and enjoyment of the area for recreational purposes. Public information activities and services shall be provided by the Service through coordination with other Interior agencies in order to facilitate public understanding of the interrelated programs of these agencies within the area.
7. Control of transportation in the area under its jurisdiction, whether by land, water, or air, to the extent consistent with Federal law, but such control shall not affect transportation the Bureau may require for the performance of its functions or transportation governed by Article III, paragraphs numbers 5 and 6.
8. Extending to the Bureau advice and counsel in connection with any recreational development within the limits of Fort Smith Village.

9. Extending to the Bureau and other agencies involved technical assistance in the planning and development of exhibits and interpretive devices oriented toward visitor understanding and enjoyment of the project and related resources.
10. Negotiation of agreements or coordination of activities with State and Federal wildlife agencies as desirable for the conservation, protection and interpretation of wildlife consistent with applicable law.
11. Such other functions as are reasonably related to, or necessary for, its administration of the project area.

### ARTICLE III

#### FUNCTIONS OF THE BUREAU OF RECLAMATION

Subject to the area limitations and provisions contained in Article I hereof, the Bureau shall be responsible for:

1. Construction, operation and maintenance of the Yellowtail Dam and Reservoir and all engineering works incidental thereto or in connection therewith, together with all appurtenances thereof for the proper storage, release, protection and utilization of water under the Federal Reclamation Laws.
2. Construction, operation and administration of Fort Smith Village as directed by Congress.
3. Consultation with the Service on matters involving the development or administration of recreational facilities or public information services in Fort Smith Village or at the Yellowtail Dam.

4. As authorized by the Congress, facilities in Fort Smith Village shall be maintained and provided by the Bureau to accommodate the Service's administrative offices, maintenance shops, and the housing needs of Service personnel located at the project area. If such facilities can not be supplied by the Bureau within structures now available, the Bureau shall—insofar as possible—make additional lands available at the village upon which the Service may provide facilities for administrative offices, maintenance shops and housing for its personnel.

5. Establishment and enforcement of rules and regulations governing public access to Yellowtail Dam and the engineering works appurtenant thereto, and the control of traffic on the roads providing immediate access to the dam and its appurtenant engineering works.

6. Establishment of and, in cooperation with the Service, enforcement of such limitations governing approach to the dam by water as may be necessary either for its efficient functioning or for the safety of the public.

7. Coordination and preparation of a reservoir management plan, in cooperation with the Service and other concerned Federal, State and local agencies, for management of project area.

ARTICLE IV

TERMINATION

This memorandum shall remain in force unless the parties thereto mutually agree to its termination or termination is directed by the Secretary of the Interior, or until enactment by the Congress of inconsistent or superseding legislation.

BUREAU OF RECLAMATION

Dated DEC 17 1964

By *Floyd R. Manning*

NATIONAL PARK SERVICE

Dated Dec 17 - 1964

By *George D. Hervey*

*cut off  
12/17/64*

*Conor*

Approved: DEC 31 1964

*Dean Rusk*

Secretary of the Interior