

R.O. Draft 05/15-2002
Contract No.
Standard Irrigation District Form
SRSC Draft 05/31/02
R.O. Draft 07/11-2002
SRSC Draft 08/16/02
SRSC Draft 10/01/02(w/ USBR's
and SRSC's further revisions
discussed during 10/7/02 and
10/21/02 Negotiation Sessions)

SRSC Draft 10/31/02
(Unshaded provisions have been
tentatively agreed to)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES AND

DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES
SETTLING WATER RIGHTS DISPUTES AND
PROVIDING FOR PROJECT WATER

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THIS CONTRACT, hereinafter referred to as "Settlement Contract," is entered into by THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, made this ____ day of _____, 2002, pursuant to the applicable authority granted to it generally in the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, including but not limited to Sections 9 and 14 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as

1 Federal Reclamation law, and _____, hereinafter referred to as the
2 Contractor, a public agency of the State of California, duly organized, existing, and
3 acting pursuant to the laws thereof, with its principal place of business in California;
4 (*may change depending on contracting entity*)

5 WITNESSETH, that:

6 EXPLANATORY RECITALS

7 [1st] WHEREAS, the United States has constructed and is operating the Central
8 Valley Project, California, for multiple purposes pursuant to its statutory authority; and

9 [2nd] WHEREAS, the Contractor has rights to divert, is diverting, and will
10 continue to divert for reasonable beneficial use, water from the natural flow of the
11 Sacramento River and tributaries thereto, that would have been flowing therein if the
12 Central Valley Project were not in existence; and [Contractor Specific – “Other” Rights”]

13 [3rd] WHEREAS, the construction and operation of the integrated and
14 coordinated Central Valley Project has changed and will further change the regimen of
15 the Sacramento, American, San Joaquin, and Trinity Rivers and the Sacramento-San
16 Joaquin Delta from unregulated flow to regulated flow; and

17 [4th] WHEREAS, the United States has rights to divert, is diverting, and will
18 continue to divert waters from said Rivers and said Delta in connection with the operation
19 of said Central Valley Project, and

20 [5th] WHEREAS, the Contractor and the United States had a dispute over the
21 respective rights of the parties to divert and use water from the regulated flow of the

1 Sacramento River which threatened to result in litigation, and as a means to settle that
2 dispute entered into Contract No. _____, as amended, hereinafter referred to
3 as the Existing Contract, which established terms for the delivery to the Contractor of
4 Central Valley Project Water, and the quantities of Base Supply the United States and the
5 Contractor agreed may be diverted by the Contractor from the Sacramento River pursuant
6 to such contract; and

7 [6th] WHEREAS, the United States and the Contractor disagree with respect to
8 the authority of the United States to change the quantities of Base Supply and/or Project
9 Water specified as available for diversion in this Settlement Contract from the quantities
10 specified in the Existing Contract, and other issues related thereto. That dispute was the
11 subject of litigation in a lawsuit entitled *Glenn-Colusa Irrigation District, et al. v. United*
12 *States, et al.* (Civ. No. S-01-1816 GEB/JFM (E.D. Cal.), but that litigation was dismissed,
13 without prejudice, pursuant to a stipulation of dismissal filed by the parties thereto on
14 August 29, 2002. Notwithstanding that dismissal, the Contractor and the United States
15 enter into this Settlement Contract to renew the Existing Contract, pursuant to the terms
16 of the Existing Contract, Federal Reclamation law, and the laws of the State of California

17 7th WHEREAS, to assure the Contractor of the enjoyment and use of the
18 regulated flow of the said Rivers and the Delta, and to provide for the economical
19 operation of the Central Valley Project by, and the reimbursement to, the United States
20 for expenditures made for said Project;

1 (d) "Contract Total" shall mean the sum of the Base Supply and Project
2 Water available for diversion by the Contractor for the period April 1 through
3 October 31;

4 (e) "Critical Year" shall mean any Year in which either of the following
5 eventualities exists:

6 (1) The forecasted full natural inflow to Shasta Lake for the current Water
7 Year, as such forecast is made by the United States on or before February 15 and
8 reviewed as frequently thereafter as conditions and information warrant, is equal to or
9 less than 3.2 million acre-feet; or

10 (2) The total accumulated actual deficiencies below 4 million acre-feet in
11 the immediately prior Water Year or series of successive prior Water Years each of
12 which had inflows of less than 4 million acre-feet, together with the forecasted deficiency
13 for the current Water Year, exceed 800,000 acre-feet.

14 For the purpose of determining a Critical Year, the computation of inflow
15 to Shasta Lake shall be performed in a manner that considers the extent of upstream
16 development above Shasta Lake during the year in question, and shall be used as the full
17 natural flow to Shasta Lake. In the event that major construction has occurred or occurs
18 above Shasta Lake after September 1, 1963 and which has materially altered or alters the
19 regimen of the stream systems contributing to Shasta Lake, the computed inflow to
20 Shasta Lake used to define a Critical Year will, be adjusted to eliminate the effect of such
21 material alterations. After consultation with the State of California, the National Weather

1 Service, and other recognized forecasting agencies, the Contracting Officer will select the
2 forecast to be used and will make the details of it available to the Contractor. The same
3 forecasts used by the United States for the operation of the Project shall be used to make
4 the forecasts hereunder;

5 (f) "CVPIA" shall mean the Central Valley Project Improvement Act,
6 Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

7 (g) "Eligible Lands" shall mean all lands to which Project Water may be
8 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12,
9 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

10 (h) "Excess Lands" shall mean all lands in excess of the limitations contained
11 in Section 204 of the RRA, other than those lands exempt from acreage limitation under
12 Federal Reclamation law;

13 (i) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)
14 or 202(3) of the RRA, whichever is applicable;

15 (j) "Ineligible Lands" shall mean all lands to which Project Water may not be
16 delivered in accordance with Section 204 of the RRA;

17 (k) "Landholder" shall mean a party that directly or indirectly owns or leases
18 nonexempt land, as provided in 43 CFR 426.2;

19 (l) "Project" shall mean the Central Valley Project owned by the United
20 States and managed by the Department of the Interior, Bureau of Reclamation;

1 (m) "Project Water" shall mean all Surface Water diverted or scheduled to be
2 diverted each month during the period April through October of each Year by the
3 Contractor from the Sacramento River which is in excess of the Base Supply. The United
4 States recognizes the right of the Contractor to make arrangements for acquisition of
5 water from projects of others than the United States for delivery through the Sacramento
6 River and tributaries subject to written agreement between Contractor and the United
7 States as to identification of such water which water when so identified shall not be
8 deemed Project Water under this Settlement Contract;

9 (n) "Rates" shall mean the payments for Project Water determined annually
10 by the Contracting Officer in accordance with the then current applicable water
11 ratesetting policies for the Project, as described in subdivision (a) of Article 8 of this
12 Settlement Contract;

13 (o) "Secretary" or "Contracting Officer" shall mean the Secretary of the
14 Interior, a duly appointed successor, or an authorized representative acting pursuant to
15 any authority of the Secretary and through any agency of the Department of the Interior;

16 (p) "Surface Water" shall mean only those waters that are considered as
17 surface water under California law.

18 (q) ~~"Term 91" shall mean that standard term included in water right permits~~
19 ~~issued by the California State Water Resources Control Board (SWRCB) established by~~
20 ~~Decision 1594 and identified as Term 91, as may be modified or revised by the SWRCB;~~

1 determination 10 years after the date of execution of this Contract, and every five years
2 thereafter, of whether a conversion to a contract under said subsection 9(d) can be
3 accomplished pursuant to Public Law 643. Notwithstanding any provision of this
4 Settlement Contract, the Contractor reserves and shall have all rights and benefits under
5 Public Law 643.

6 WATER TO BE FURNISHED TO CONTRACTOR

7 3. (a) Subject to the conditions, limitations, and provisions hereinafter expressed,
8 the Contractor is hereby entitled and authorized to divert from the Sacramento River at
9 the locations shown in Exhibit A, for beneficial use within the area delineated on
10 Exhibit B, (both Exhibits are attached hereto and made a part hereof), the Contract Total
11 designated in Exhibit A, or any revision thereof, in accordance with the monthly
12 operating schedule required by Article 3(c) of this Settlement Contract. The quantity of
13 any water diverted under this Settlement Contract from the Sacramento River, during the
14 period April through October, for use on any lands delineated on Exhibit B, by the owner
15 of such lands or otherwise shall constitute a part of the Contract Total as shown on
16 Exhibit A and shall be subject to all the provisions of this Settlement Contract relating to
17 such Contract Total as if such diversion were made by the Contractor.

18 **[NOTE: contractor-specific language dealing with individual water rights may**
19 **be needed.]**

20 (b) The Contractor may have acquired rights to divert water from the
21 Sacramento River during the period April through October, that were obtained after the

1 date of execution of the Existing Contract, or the Contractor may acquire such rights in
2 the future. All diversions made from the Sacramento River, pursuant to such rights,
3 during the period April through October, shall not be considered a part of the quantity of
4 Base Supply and Project Water specified in Exhibit A; Provided, that the quantities
5 diverted pursuant to the above rights shall be identified on the schedule submitted
6 pursuant to Article 3(c) below, and shall not be substituted for any Base Supply or Project
7 Water; Provided, further, that any such identified quantities of other acquired rights may
8 be diverted by the Contractor before incurring any fee pursuant to Article 3(c)(1), below.

9 (c) Before April 1 and before the first day of each month thereafter when a
10 revision is needed, the Contractor shall submit a written schedule to the Contracting
11 Officer indicating the Contract Total to be diverted by the Contractor during each month
12 under this Settlement Contract. The United States shall furnish water to the Contractor in
13 accordance with the monthly operating schedule or any revisions thereof. However, the
14 United States recognizes the need of the Contractor to change from time to time its
15 monthly diversions of water from the quantities shown in Exhibit A; the Contractor may
16 make such changes, provided:

17 ~~(1) that for the quantity of Base Supply diverted in October in excess of the~~
18 ~~monthly quantity shown on Exhibit A for October, the Contractor shall be charged a~~
19 ~~rescheduling fee equal to 10% of the sum of the storage operations and maintenance rate~~
20 ~~and the storage capital rate components of the Project ratesetting policy.~~

1 ~~(1) that for the quantity of Base Supply diverted in excess of the monthly~~
2 ~~quantity shown in Exhibit A during any month in which Term 91 is in effect, the~~
3 ~~Contractor shall be charged a fee equal to the sum of the storage operation and~~
4 ~~maintenance rate and the storage capital rate components of the Project ratesetting policy.~~
5 ~~In those months in which Term 91 is in effect for less than the entire month, the fee shall~~
6 ~~be computed on a pro rata basis.~~

7 ~~(1) that for the quantity of Base Supply diverted in excess of the monthly~~
8 ~~quantity shown in Exhibit A, and as may be reduced in accordance with Article 5(a),~~
9 ~~during June, July, or August of any Critical Year, the Contractor shall be charged a~~
10 ~~rescheduling fee equal to 50% of the sum of the storage operations and maintenance rate~~
11 ~~and the storage capital rate components of the Project ratesetting policy, as adjusted for~~
12 ~~ability to pay.~~

13 ~~(1) that for the quantity of Base Supply diverted in excess of the monthly~~
14 ~~quantity shown in Exhibit A, and as may be reduced in accordance with Article 5(a),~~
15 ~~during June, July, or August of any Water Year, the Contractor shall be charged a~~
16 ~~rescheduling fee equal to 50% of the sum of the storage operations and maintenance rate~~
17 ~~and the storage capital rate components of the Project ratesetting policy.~~

18 ~~(2) such changes that the Contractor is aware of in advance shall be subject to~~
19 ~~the prior written approval of the Contracting Officer.~~

20 ~~(2) any changes to the written schedule for any upcoming months of the Year~~
21 ~~shall be subject to the prior written approval of the Contracting Officer.~~

1 (32) Provided, that in no event shall the total quantity scheduled for diversion
2 by the Contractor from the Sacramento River:

3 (i) During the period April through October exceed the aggregate of the
4 Contract Total for that period shown in Exhibit A or any revision thereof;

5 (ii) During the period July through September exceed the aggregate of the
6 Contract Total for that period shown in Exhibit A or any revision thereof.

7 (d) In the event conditions warrant, the Contracting Officer reserves the right
8 to require the Contractor to submit, at least 72 hours prior to the beginning of each
9 weekly period, its estimate of daily diversion requirements for each such period from the
10 Sacramento River: Provided, however, that changes during any such period may be
11 made upon the giving of 72 hours' notice thereof to the Contracting Officer.

12 (e) No sale, transfer, exchange, or other disposal of any of the Contract Total
13 designated in Exhibit A or the right to the use thereof for use on land other than that
14 shown on Exhibit B shall be made by the Contractor without first obtaining the written
15 consent of the Contracting Officer. Such consent will not be unreasonably withheld and
16 a decision will be rendered in a timely manner. For short-term actions that will occur
17 within one year or less, the decision will be rendered within 30 days after receipt of a
18 complete written proposal. For long-term actions that will occur in a period longer than
19 one year, the decision will be rendered within 90 days after receipt of a complete written
20 proposal. For a proposal to be deemed complete by the Contracting Officer, it must
21 comply with all provisions required by State and Federal law, including information

1 sufficient to enable the Contracting Officer to comply with the National Environmental
2 Policy Act, the Endangered Species Act, and applicable rules or regulations then in
3 effect; Provided that, such consent does not authorize the use of Federal facilities to
4 facilitate or effectuate the sale, transfer, exchange or other disposal of Base Supply. Such
5 use of Federal facilities will be the subject of a separate agreement to be entered into
6 between the Contractor and Reclamation.

7 (f) For the purpose of determining whether section 3405(a)(1)(M) of the
8 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the
9 Contracting Officer acknowledges that the Contractor is within a county, watershed or
10 other area of origin, as those terms are utilized under California law, of water that
11 constitutes the natural flow of the Sacramento River and its tributaries above the
12 confluence of the American and Sacramento Rivers.

13 (fg) Nothing herein contained shall prevent the Contractor from diverting
14 water during the months of November through March for beneficial use on the land
15 shown on Exhibit B or elsewhere to the extent authorized under the laws of the State of
16 California.

17 (gh) The United States assumes no responsibility for and neither it nor its
18 officers, agents, or employees shall have any liability for or on account of:

19 (1) The quality of water to be diverted by the Contractor;

1

CONSTRAINTS ON THE AVAILABILITY OF WATER

2

5. (a) In a Critical Year, the Contractor's Base Supply and Project Water agreed to be diverted during the period April through October of the Year in which the principal portion of the Critical Year occurs and, each monthly quantity of said period shall be reduced by twenty-five percent.

6

(b) The amount of any overpayment by the Contractor shall, at its option, be refunded or credited upon amounts to become due to the United States from the Contractor under the provisions hereof in the ensuing Year. To the extent of such deficiency such adjustment of overpayment shall constitute the sole remedy of the Contractor.

10

11

INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

12

6. The Contractor and United States desire to work together to maximize the reasonable beneficial use of water for their mutual benefit. As a consequence, the United States and the Contractor will work in partnership and with others within the Sacramento Valley, including other Contractors, to facilitate the better integration within the Sacramento Valley of all water supplies including, but not limited to, the better management and integration of surface water and groundwater, the development and better utilization of surface water storage, the effective utilization of waste, seepage and return flow water, and other operational and management options that may be identified in the future. **[Language cross-referencing other related agreement will be added as appropriate to the individual Settlement Contracts.]**

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USE OF WATER FURNISHED TO CONTRACTOR

7. (a) Project Water furnished to the Contractor pursuant to this Settlement Contract shall not be delivered or furnished by the Contractor for any purposes other than agricultural purposes without the written consent of the Contracting Officer. For purposes of this Settlement Contract, “agricultural purposes” includes, but is not restricted to, the watering of livestock, incidental domestic use including related landscape irrigation, or underground water replenishment.

(b) The Contractor shall comply with requirements applicable to the Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution of this Settlement Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within the Contractor’s legal authority to implement. The Contractor shall comply with the limitations or requirements imposed by environmental documentation applicable to the Contractor and within its legal authority to implement. The Existing Contract, which evidences in excess of 40 years of diversions, for agricultural uses, of the quantities of water provided for in Article 3, and the underlying water rights of the Contractor will be considered in developing an appropriate base-line for the Biological Assessment prepared pursuant to the Endangered Species Act, and in any other needed environmental review. Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with respect to any biological opinion or other environmental documentation referred to in this Article.

1 RATE AND METHOD OF PAYMENT FOR WATER

2 8. (a) The Contractor shall make payments to the United States as provided in
3 this Article for all Project Water shown in Exhibit A as follows:

4 (1) seventy-five percent of the amount shown as Project Water shall be
5 paid for by the Contractor in each Year; and in addition

6 (2) the Contractor shall pay for Project Water actually diverted in excess
7 of seventy-five percent of the amount shown as Project Water.

8 Such payments shall be at Rates and Charges established in accordance with:

9 (i) the Secretary's then-current ratesetting policies for the Project; and (ii) applicable

10 Reclamation law and associated rules and regulations, or policies: Provided, that if the

11 Contractor desires to use Project Water for other than agricultural use the Rates and

12 Charges set forth above will be adjusted by the Contracting Officer to the applicable

13 Rates and Charges for such use. The Rates and Charges applicable to the Contractor

14 upon execution of this Settlement Contract are set forth in Exhibit "D", as may be revised

15 annually. The Secretary's ratesetting policies for the Project shall be amended, modified,

16 or superseded only through a public notice and comment procedure. The Contracting

17 Officer shall adjust the amount of Project Water for which payment is required to the

18 extent of any reduction in diversions of Project Water made in accordance with the water

19 conservation provisions of Article 29(a).

20 (b) The Contracting Officer shall notify the Contractor of the Rates and

21 Charges as follows:

1 (1) Prior to July 1 of each Year, the Contracting Officer shall provide the
2 Contractor an estimate of the Charges for Project Water that will be applied to the period
3 October 1, of the current Year, through September 30, of the following Year, and the
4 basis for such estimate. The Contractor shall be allowed not less than two months to
5 review and comment on such estimates. On or before September 15 of each Year, the
6 Contracting Officer shall notify the Contractor in writing of the Charges to be in effect
7 during the period October 1 of the current Year, through September 30, of the following
8 Year, and such notification shall revise Exhibit "D."

9 (2) Prior to October 1 of each Year, the Contracting Officer shall make
10 available to the Contractor an estimate of the Rates for Project Water for the following
11 Year and the computations and cost allocations upon which those Rates are based. The
12 Contractor shall be allowed not less than two months to review and comment on such
13 computations and cost allocations. By December 31 of each Year, the Contracting
14 Officer shall provide the Contractor with the final Rates to be in effect for the upcoming
15 Year, and such notification shall revise Exhibit "D".

16 (c) The Contractor shall pay the United States for Project Water in the
17 following manner:

18 (1) With respect to Rates, prior to May 1 of each Year, the Contractor
19 shall pay the United States one-half the total amount payable pursuant to subdivision (a)
20 of this Article and the remainder shall be paid prior to July 1 or such later date or dates as
21 may be specified by the United States in a written notice to the Contractor: Provided,

1 however, that if at any time during the Year the amount of Project Water diverted by the
2 Contractor shall equal the amount for which payment has been made, the Contractor shall
3 pay for the remaining amount of such water as shown in Exhibit A in advance of any
4 further diversion of Project Water.

5 (2) With respect to Charges, the Contractor shall also make a payment to
6 the United States, in addition to the Rate(s) in subdivision (c)(1) of this Article, at the
7 Charges then in effect, before the end of the month following the month of delivery or
8 transfer. The payments shall be consistent with the quantities of Project Water delivered
9 or transferred. Adjustment for overpayment or underpayment of Charges shall be made
10 through the adjustment of payments due to the United States for Charges for the next
11 month. Any amount to be paid for past due payment of Charges shall be computed
12 pursuant to Article 13 of this Settlement Contract.

13 (d) Payments to be made by the Contractor to the United States under this
14 Settlement Contract may be paid from any revenues available to the Contractor.

15 (1) All revenues received by the United States from the Contractor
16 relating to the delivery of Project Water or the delivery of non-Project water through
17 Project facilities shall be allocated and applied in accordance with Federal Reclamation
18 law and the associated rules or regulations, and the then current Project ratesetting
19 policies for Irrigation Water.

20 (e) The Contracting Officer shall keep its accounts pertaining to the
21 administration of the financial terms and conditions of its long-term water service and

1 Settlement Contracts, in accordance with applicable Federal standards, so as to reflect the
2 application of Project costs and revenues. The Contracting Officer shall, each Year upon
3 request of the Contractor, provide to the Contractor a detailed accounting of all Project
4 and Contractor expense allocations, the disposition of all Project and Contractor
5 revenues, and a summary of all water delivery information. The Contracting Officer and
6 the Contractor shall enter into good faith negotiations to resolve any discrepancies or
7 disputes relating to accountings, reports, or information.

8 (f) The parties acknowledge and agree that the efficient administration of this
9 Settlement Contract is their mutual goal. Recognizing that experience has demonstrated
10 that mechanisms, policies, and procedures used for establishing Rates and Charges and/or
11 for making and allocating payments, other than those set forth in this Article may be in
12 the mutual best interest of the parties, it is expressly agreed that the parties may enter into
13 agreements to modify the mechanisms, policies, and procedures for any of those purposes
14 while this Settlement Contract is in effect without amendment of this Settlement
15 Contract.

16 (g) For the term of this Settlement Contract, Rates under the respective
17 ratesetting policies for the Project will be established to recover only reimbursable
18 operation and maintenance (including any deficits) and capital costs of the Project, as
19 those terms are used in the then-current Project ratesetting policies, and interest, where
20 appropriate, except in instances where a minimum Rate is applicable in accordance with
21 the relevant Project ratesetting policy. Proposed changes of significance in practices

1 which implement the ratesetting policies for the Project will not be implemented until the
2 Contracting Officer has provided the Contractor an opportunity to discuss the nature,
3 need, and impact of the proposed change.

4 (h) Except as provided in subsection 3405(a)(1)(B) of the CVPIA, the Rates
5 for Project Water transferred, exchanged, or otherwise disposed of, by the Contractor
6 shall be the Contractor's Rates adjusted upward or downward to reflect the changed costs
7 of delivery (if any) of the transferred, exchanged, or otherwise disposed of Project Water
8 to the transferee's point of delivery in accordance with the then-current ratesetting
9 policies for the Project. Except as provided in subsection 3407(d)(2)(A) of the CVPIA,
10 the Charges for Project Water transferred, exchanged, or otherwise disposed of, by the
11 Contractor shall be the Contractor's Charges specified in Exhibit D. If the Contractor is
12 receiving lower Rates and Charges because of inability to pay and is transferring,
13 exchanging, or otherwise disposing of Project Water to another entity whose Rates and
14 Charges are not adjusted due to inability to pay, the Rates and Charges for transferred,
15 exchanged, or otherwise disposed of Project Water shall be the Contractor's Rates and
16 Charges unadjusted for ability to pay.

17 (i) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting
18 Officer is authorized to adjust determinations of ability to pay every five years.

19 (j) Each payment to be made pursuant to subdivisions (a) and (b) of this
20 Article shall be made at the office of the Bureau of Reclamation, Mid-Pacific Region,
21 File No. 11546, P.O. Box 6000, San Francisco, California, 94160-1546, or at such other

1 place as the United States may designate in a written notice to the said Contractor.
2 Payments shall be made by cash transaction, wire, or any other mechanism as may be
3 agreed to in writing by the Contractor and the Contracting Officer. In event there should
4 be a default in the payment of the amount due, the delinquent payment provisions of
5 Article 13 shall apply. The Contractor shall not be relieved of the whole or any part of its
6 said obligation by, on account of, or notwithstanding, as the case may be:

7 (1) Its failure, refusal, or neglect to divert seventy-five percent of the
8 quantity of Project Water shown on Exhibit A;

9 (2) The default in payment to it by any water user of assessments, tolls, or
10 other charges levied by or owing to said Contractor;

11 (3) Any judicial determination that any assessment, toll, or other charge
12 referred to in subsection 8(c)(2) of this Settlement Contract is irregular, void, or
13 ineffectual; or

14 (4) Any injunctive process enjoining or restraining the Contractor from
15 making or collecting any such assessment, toll, or other charge referred to in
16 subsection 8(c)(2) of this Settlement Contract.

17 AGREEMENT ON WATER QUANTITIES

18 9. (a) During the term of this Settlement Contract and any renewals thereof:

19 (1) It shall constitute full agreement as between the United States and the
20 Contractor as to the quantities of water and the allocation thereof between Base Supply
21 and Project Water which may be diverted by the Contractor from the Sacramento River

1 for beneficial use on the land shown on Exhibit B which said diversion, use, and
2 allocation shall not be disturbed so long as the Contractor shall fulfill all of its obligations
3 hereunder;

4 (2) Neither party shall claim any right against the other in conflict with
5 the provisions of Article 9(a)(1) hereof.

6 (b) Nothing herein contained is intended to or does limit rights of the
7 Contractor against others than the United States or of the United States against any
8 person other than the Contractor: Provided, however, that in the event the Contractor, the
9 United States, or any other person shall become a party to a general adjudication of rights
10 to the use of water of the Sacramento River system, this Settlement Contract shall not
11 jeopardize the rights or position of either party hereto or of any other person and the
12 rights of all such persons in respect to the use of such water shall be determined in such
13 proceedings the same as if this Settlement Contract had not been entered into, and if final
14 judgment in any such general adjudication shall determine that the rights of the parties
15 hereto are different from the rights as assumed herein, the parties shall negotiate an
16 amendment to give effect to such judgment. In the event the parties are unable to agree
17 on an appropriate amendment they shall, within 60 days of determining that there is an
18 impasse, employ the services of a neutral mediator, experienced in resolving water rights
19 disputes, to assist in resolving the impasse. The cost of the mediation will be shared
20 equally. A failure to reach agreement on an amendment within 60 days of the end of
21 mediation will cause the immediate termination of this Settlement Contract. Provided,

1 further, That if, during the term of this Contract, the Contractor's or the United States'
2 water rights are adjusted or affected, or the responsibility to meet flow, water quality
3 and/or environmental requirements under those water rights is modified (e.g., changes to
4 the Delta Water Quality Control Plan and associated water right actions), by or through
5 any final administrative or judicial proceeding, the Contractor and the United States shall
6 negotiate appropriate adjustments to this contract. In the event the parties are unable to
7 agree on an appropriate amendment they shall, within 60 days of determining that there is
8 an impasse, employ the services of a neutral mediator to assist in resolving the impasse.
9 The cost of the mediation will be shared equally. A failure to reach agreement on an
10 amendment within 60 days of the end of mediation will cause the immediate termination
11 of this Settlement Contract.

12 Provided, further, that if the California State Water Resources Control Board
13 or a court of competent jurisdiction issues a decision modifying the terms and conditions
14 of the water rights of either party to this Settlement Contract, the Contractor and the
15 United States shall promptly meet to determine whether or not to modify any of the terms
16 of this Settlement Contract to comply with such final decision. If within 60 days of the
17 date of the issuance of such final decision the parties are not able to reach agreement
18 regarding either the need to modify this Settlement Contract or the manner in which this
19 Settlement Contract is to be modified, the parties shall promptly retain a neutral mediator,
20 experienced in resolving water rights disputes, to assist the parties in resolving their
21 dispute. The cost of the mediator shall be shared equally. In the event that either of the

1 ~~parties to this Settlement Contract determines that the parties will not be able to develop~~
2 ~~mutually agreeable modification(s) to this Settlement Contract even with the assistance~~
3 ~~of a mediator, either of the parties to this Settlement Contract may attempt to resolve the~~
4 ~~impasse by seeking appropriate judicial relief including, but not limited to filing a general~~
5 ~~adjudication of the rights to the use of water in the Sacramento River system, or may~~
6 ~~provide notice to the other party of that party's intent to terminate this Settlement~~
7 ~~Contract effective the following October 31st, if said notice is given during the period~~
8 ~~April 1 through August 31, or 60 days from the date the notice is given between~~
9 ~~September 1 and March 31; Provided, further That the immediately preceding proviso~~
10 ~~shall not apply if a final decision of the California State Water Resources Control Board~~
11 ~~or a court of competent jurisdiction requires the United States to continue to implement~~
12 ~~the State Water Resources Control Board's Revised Water Right Decision 1641, dated~~
13 ~~March 15, 2000 or its associated 1995 Water Quality Control Plan, as they are currently~~
14 ~~written.~~

15 Provided, further, that the Parties recognize the significance of meeting water
16 quality obligations within the Bay-Delta and, as a consequence, if the California State
17 Water Resources Control Board or a court of competent jurisdiction issues a final
18 decision or order modifying the terms and conditions of the water rights of either Party
19 to this Settlement Contract that would materially affect the ability of that Party to meet its
20 water quality obligations within the Bay-Delta, if any, the Contractor and the United
21 States shall promptly meet to determine whether or not to modify any of the terms of this

1 Settlement Contract to comply with such final decision. In this regard, the Parties agree
2 to utilize their best efforts to reach agreement on this important matter. If within 60 days
3 of the date of the issuance of such final decision the parties are not able to reach
4 agreement regarding either the need to modify this Settlement Contract or the manner in
5 which this Settlement Contract is to be modified the parties shall promptly retain a
6 neutral mediator, experienced in resolving water right disputes, to assist the parties in
7 resolving their dispute. The cost of the mediator shall be shared equally. In the event that
8 either of the parties to this Settlement Contract determines that the parties will not be
9 able to develop mutually-agreeable modification(s) to this Settlement Contract even with
10 the assistance of a mediator, either of the parties to this Settlement Contract may attempt
11 to resolve the impasse by seeking appropriate judicial relief through the filing of a
12 general adjudication of the rights to the use of water in the Sacramento River system. If
13 neither party elects to initiate such adjudication, then the quantities of water and the
14 allocation thereof between Base Supply and Project Water which may be diverted by the
15 Contractor from the Sacramento River and its tributaries under this Settlement Contract
16 shall not change; Provided, further, that the preceding proviso shall not apply to any
17 obligations imposed with respect to the implementation of the State Water Resources
18 Control Board's Revised Water Right Decision 1641 dated March 15, 2000, or its
19 associated 1995 Water Quality Control Plan.
20 [SLS to Insert New Provisos]

1 points as may be mutually agreed upon in writing by the Contracting Officer and the
2 Contractor.

3 (b) All water diverted from the Sacramento River pursuant to this Settlement
4 Contract will be measured or caused to be measured by the United States at each point of
5 diversion with existing equipment or equipment to be installed, operated, and maintained
6 by the United States, and/or others, under contract with and at the option of the United
7 States. The equipment and methods used to make such measurement shall be in
8 accordance with sound engineering practices. Upon request of the Contractor, the
9 accuracy of such measurements will be investigated by the Contracting Officer and any
10 errors appearing therein will be corrected.

11 (c) The right of ingress to and egress from all points of diversion is hereby
12 granted to all authorized employees of the United States. The Contractor also hereby
13 grants to the United States the right to install, operate, maintain and replace such
14 equipment on diversion or carriage facilities at each point of diversion as the Contracting
15 Officer deems necessary.

16 (d) The Contractor shall not modify, alter, remove, or replace diversion
17 facilities or do any other act which would alter the effectiveness or accuracy of the
18 measuring equipment installed by the United States or its representatives unless and until
19 the Contracting Officer has been notified with due diligence and has been given an
20 opportunity to modify such measuring equipment in such manner as may be necessary or
21 appropriate. In the event of an emergency the Contractor shall notify the United States

1 within a reasonable time thereafter as to the existence of the emergency and the nature
2 and extent of such modification, alteration, removal, or replacement of diversion
3 facilities.

4 (e) The Contractor shall pay the United States for the costs to repair, relocate,
5 or replace measurement equipment when the Contractor modifies, alters, removes, or
6 replaces diversion or carriage facilities.

7 (f) Contractor and Contracting Officer shall develop a mutually agreeable
8 surface water delivery water measurement program which shall be implemented by
9 Contractor, and such measurement program shall be consistent with the conservation and
10 efficiency criteria for evaluating water conservation plans as provided in Article 29(a).

11 (g) All new surface water delivery systems installed within the lands
12 delineated on Exhibit B after the effective date of this Contract shall also comply with the
13 measurement provisions described in this Article.

14 RULES AND REGULATIONS

15 11. The parties agree that the delivery of Project Water for irrigation use or use of
16 Federal facilities pursuant to this Settlement Contract is subject to Federal Reclamation
17 law, including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C.390aa
18 et seq.), as amended and supplemented, and the rules and regulations promulgated by the
19 Secretary of the Interior under Federal Reclamation law.

20 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

21
22 12. (a) The obligation of the Contractor to pay the United States as provided in
23 this Settlement Contract is a general obligation of the Contractor notwithstanding the

1 manner in which the obligation may be distributed among the Contractor's water users
2 and notwithstanding the default of individual water users in their obligations to the
3 Contractor.

4
5 (b) The payment of Charges becoming due hereunder is a condition precedent
6 to receiving benefits under this Settlement Contract. The United States shall not make
7 water available to the Contractor through Project facilities during any period in which the
8 Contractor may be in arrears in the advance payment of water Rates due the United
9 States. The Contractor shall not furnish water made available pursuant to this Settlement
10 Contract for lands or parties which are in arrears in the advance payment of water rates
11 levied or established by the Contractor.

12
13 (c) With respect to subdivision (b) of this Article, the Contractor shall have
14 no obligation to require advance payment for water Rates which it levies.

15
16 CHARGES FOR DELINQUENT PAYMENTS

17
18 13. (a) The Contractor shall be subject to interest, administrative and penalty
19 charges on delinquent installments or payments. When a payment is not received by the
20 due date, the Contractor shall pay an interest charge for each day the payment is
21 delinquent beyond the due date. When a payment becomes 60 days delinquent, the
22 Contractor shall pay an administrative charge to cover additional costs of billing and
23 processing the delinquent payment. When a payment is delinquent 90 days or more, the
24 Contractor shall pay an additional penalty charge of six percent per year for each day the
25 payment is delinquent beyond the due date. Further, the Contractor shall pay any fees
26 incurred for debt collection services associated with a delinquent payment.

27
28 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
29 in the Federal Register by the Department of the Treasury for application to overdue
30 payments, or the interest rate of one-half of one percent per month prescribed by
31 Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest
32 charge rate shall be determined as of the due date and remain fixed for the duration of the
33 delinquent period.

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

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QUALITY OF WATER

14. The operation and maintenance of Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. The United States does not warrant the quality of water and is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water.

WATER AND AIR POLLUTION CONTROL

15. The Contractor, in carrying out this Settlement Contract, shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California, and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

EQUAL OPPORTUNITY

16. During the performance of this Settlement Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive

1 consideration for employment without discrimination because of race, color, religion,
2 sex, or national origin.
3

4 (c) The Contractor will send to each labor union or representative of workers
5 with which it has a collective bargaining agreement or other contract or understanding, a
6 notice, to be provided by the Contracting Officer, advising the said labor union or
7 workers' representative of the Contractor's commitments under Section 202 of Executive
8 Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous
9 places available to employees and applicants for employment.

10
11 (d) The Contractor will comply with all provisions of Executive Order
12 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant
13 orders of the Secretary of Labor.

14
15 (e) The Contractor will furnish all information and reports required by said
16 amended Executive Order and by the rules, regulations, and orders of the Secretary of
17 Labor, or pursuant thereto, and will permit access to its books, records, and accounts by
18 the Contracting Officer and the Secretary of Labor for purposes of investigation to
19 ascertain compliance with such rules, regulations, and orders.
20

21 (f) In the event of the Contractor's noncompliance with the nondiscrimination
22 clauses of this Settlement Contract or with any of the said rules, regulations, or orders,
23 this Settlement Contract may be canceled, terminated, or suspended, in whole or in part,
24 and the Contractor may be declared ineligible for further Government contracts in
25 accordance with procedures authorized in said amended Executive Order, and such other
26 sanctions may be imposed and remedies invoked as provided in said Executive Order, or
27 by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
28

29 (g) The Contractor will include the provisions of paragraphs (a) through (g)
30 in every subcontract or purchase order unless exempted by the rules, regulations, or
31 orders of the Secretary of Labor issued pursuant to Section 204 of said amended
32 Executive Order, so that such provisions will be binding upon each subcontractor or
33 vendor. The Contractor will take such action with respect to any subcontract or purchase
34 order as may be directed by the Secretary of Labor as a means of enforcing such
35 provisions, including sanctions for noncompliance: Provided, however, that in the event
36 the Contractor becomes involved in, or is threatened with, litigation with a subcontractor
37 or vendor as a result of such direction, the Contractor may request the United States to
38 enter into such litigation to protect the interests of the United States.
39

1 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
2 *(For Districts Only)*
3

4 17. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
5 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as
6 amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other
7 applicable civil rights laws, as well as with their respective implementing regulations and
8 guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.
9

10 (b) These statutes require that no person in the United States shall, on the
11 grounds of race, color, national origin, handicap, or age, be excluded from participation
12 in, be denied the benefits of, or be otherwise subjected to discrimination under any
13 program or activity receiving financial assistance from the Bureau of Reclamation. By
14 executing this Settlement Contract, the Contractor agrees to immediately take any
15 measures necessary to implement this obligation, including permitting officials of the
16 United States to inspect premises, programs, and documents.
17

18 (c) The Contractor makes this agreement in consideration of and for the
19 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or
20 other Federal financial assistance extended after the date hereof to the Contractor by the
21 Bureau of Reclamation, including installment payments after such date on account of
22 arrangements for Federal financial assistance which were approved before such date.
23 The Contractor recognizes and agrees that such Federal assistance will be extended in
24 reliance on the representations and agreements made in this Article, and that the United
25 States reserves the right to seek judicial enforcement thereof.
26

27 MINGLING OF CONTRACTOR'S PROJECT AND NON-PROJECT WATER

28 18. (a) Project Water must of necessity be transported by the Contractor to its
29 water users by means of the same works and channels used for the transport of its non-
30 Project Water including Base Supply. Notwithstanding such mingling of water, the
31 provisions of Article 11 hereof shall be applicable only to Project Water, and such
32 mingling of water shall not in any manner subject to the provisions of Article 11 hereof
33 the Contractor's non-Project water including Base Supply.

1 (b) If required in accordance with subdivision (c) of this Article, the
2 Contractor shall install and maintain such measuring equipment and distribution facilities
3 and maintain such records as may be necessary to determine the amounts of water
4 delivered to Excess Lands served by the Contractor. The Contractor shall not within any
5 month deliver to Ineligible Lands water in excess of the non-Project Water, including
6 Base Supply, for that month. The Contracting Officer or authorized representative shall
7 have the right at all reasonable times to inspect such records and measuring equipment.

8 (c) The Contractor will not be considered in violation of the requirement that
9 Project Water be delivered only to Eligible Lands during any month of the irrigation
10 season that the water requirement for beneficial use on Eligible Lands for that month is
11 equal to or in excess of the Project Water for that month as shown on Exhibit A or any
12 revision thereof pursuant to subdivision (c) of Article 3. The water requirement for
13 beneficial use on Eligible Lands will be determined by multiplying:

14 (1) the number of irrigable acres of the particular types of crops grown in
15 that year on the acreage designated as eligible by

16 (2) the Unit Duties as set forth in Exhibit C attached hereto and made a
17 part hereof, or by such other Unit Duties mutually agreed upon by the Contractor and the
18 Contracting Officer. In order to make the computation of the water requirement for
19 Eligible Lands, on April 1 of each Year and concurrently with its order for water for the
20 irrigation season, the Contractor shall designate the acreage of and type of crops to be
21 grown on its Eligible Lands that irrigation season. During any month the water

1 requirement as above determined for crops growing on Eligible Lands during such month
2 is equal to or in excess of the Project Water for that month as provided herein the
3 Contractor shall not be required to measure the water delivered to Excess Lands. Any
4 month the said water requirement is less than the amount of Project Water as provided
5 herein, the Contractor will be required to measure water delivered to excess land in
6 accordance with subdivision (b) hereof.

7 BOOKS, RECORDS, AND REPORTS

8 19. The Contractor shall establish and maintain accounts and other books and
9 records pertaining to administration of the terms and conditions of this Settlement
10 Contract, including: the Contractor's financial transactions, water supply data, and
11 Project land and right-of-way agreements; the water users' land-use (crop census), land
12 ownership, land-leasing and water use data; and other matters that the Contracting
13 Officer may require. Reports thereon shall be furnished to the Contracting Officer in
14 such form and on such date or dates as the Contracting Officer may require. Subject to
15 applicable Federal laws and regulations, each party to this Settlement Contract shall have
16 the right during office hours to examine and make copies of each other's books and
17 official records relating to matters covered by this Settlement Contract.

18
19 CHANGE OF PLACE OF USE OR ORGANIZATION

20 20. (a) Unless the written consent of the United States is first obtained no change
21 shall be made in the place of water use shown on Exhibit B.

22 (b) While this Settlement Contract is in effect, no change shall be made in the
23 area of the Contractor as shown on its Exhibit B, by inclusion, exclusion, annexation or
24 detachment of lands, by dissolution, consolidation, or merger or otherwise, except upon
25 the Contracting Officer's written consent thereto. Such consent will not be unreasonably
26 withheld and a decision will be provided in a timely manner. **[There may need to be**
27 **Contractor specific language added.]**

1 (c) In the event lands are annexed to or detached from the area of the
2 Contractor, as provided herein, the quantity of Project Water to be diverted may be
3 increased or decreased, as may be appropriate, pursuant to a supplemental agreement to
4 be executed in respect thereto.

5 CONSOLIDATION OF CONTRACTING ENTITIES
6

7 21. Consolidation of Contractors may be approved by the Contracting Officer
8 provided: (i) the Contracting Officer approves the form and organization of the resulting
9 entity and the utilization by it of the Contract Total; and (ii) the obligations of the
10 Contractors are assumed by such entity.

11 No such consolidation shall be valid unless and until approved by the Contracting
12 Officer.

13 NOTICES

14 22. Any notice, demand, or request authorized or required by this Settlement
15 Contract shall be deemed to have been given, on behalf of the Contractor, when mailed,
16 postage prepaid, or delivered to the Area Manager, Northern California Area Office,
17 Bureau of Reclamation, 16349 Shasta Dam Blvd., Shasta Lake, California, 96019, and on
18 behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
19 Directors /City Council of the _____. The designation of the
20 addressee or the address may be changed by notice given in the same manner as provided
21 in this Article for other notices.
22

23 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED
24

25 23. (a) The provisions of this Settlement Contract shall apply to and bind the
26 successors and assigns of the parties hereto, but no assignment or transfer of this
27 Settlement Contract or any right or interest therein shall be valid until approved in writing
28 by the Contracting Officer.
29

1 (b) The assignment of any right or interest in this Settlement Contract by
2 either party shall not interfere with the rights or obligations of the other party to this
3 Settlement Contract absent the written concurrence of said other party.

4
5 (c) The Contracting Officer shall not unreasonably condition or withhold his
6 approval of any proposed assignment.

7
8 OFFICIALS NOT TO BENEFIT
9

10 24. (a) No Member of or Delegate to Congress, Resident Commissioner, or
11 official of the Contractor shall benefit from this Settlement Contract other than as a water
12 user or landowner in the same manner as other water users or landowners.

13
14 (b) No officer or member of the governing board of the Contractor shall
15 receive any benefit that may arise by reason of this Settlement Contract other than as a
16 landowner within the Contractor's service area and in the same manner as other
17 landowners within the said service area.

18
19 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS
20

21 25. The expenditure or advance of any money or the performance of any
22 obligation of the United States under this Settlement Contract shall be contingent upon
23 appropriation or allotment of funds. Absence of appropriation or allotment of funds shall
24 not relieve the Contractor from any obligations under this Settlement Contract. No
25 liability shall accrue to the United States in case funds are not appropriated or allotted.

26
27 CONFIRMATION OF SETTLEMENT CONTRACT

28 26. The Contractor, after the execution of this Settlement Contract, shall
29 promptly seek to secure a decree of a court of competent jurisdiction of the State of
30 California, if appropriate, confirming the execution of this Settlement Contract. The
31 Contractor shall furnish the United States a certified copy of the final decree, the
32 validation proceedings, and all pertinent supporting records of the court approving and
33 confirming this Settlement Contract, and decreeing and adjudging it to be lawful, valid,
34 and binding on the Contractor. This Settlement Contract shall not be binding on the
35 United States until such final decree has been secured.

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UNAVOIDABLE GROUNDWATER PERCOLATION

27. To the extent applicable, the Contractor shall not be deemed to have delivered Project Water to Excess Lands or Ineligible Lands if such lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of the delivery of Project Water by the Contractor to Eligible Lands.

PRIVACY ACT COMPLIANCE

28. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in maintaining Landholder acreage certification and reporting records, required to be submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

(b) With respect to the application and administration of the criminal penalty provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible for maintaining the certification and reporting records referenced in (a) above are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

(c) The Contracting Officer or a designated representative shall provide the Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information contained in the Landholder's certification and reporting records.

(d) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager who shall be responsible for making decisions on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(e) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access

1 to their own certification and reporting forms filed with the Contractor pursuant to 43
2 CFR 426.18, unless the requester elects to cite the Privacy Act as a basis for the request.

3
4
5 WATER CONSERVATION

6 29. (a) In order to provide further incentives for water conservation, the
7 Contractor may reduce the amount of Project Water in any Water Year for which
8 payment is required under Article 8(a) in accordance with the provisions of this Article
9 29(a).

10 (1) On or before _____ of any Water Year, the Contractor may file
11 with Reclamation a Request for Reduction in Project Water Use, which shall specify the
12 maximum quantity of Project Water to be diverted by the Contractor for that Water Year.
13 The Request for Reduction in Project Water Use shall further specify the maximum
14 quantity of Project Water to be diverted by the Contractor for each month that Project
15 Water is available under this Settlement Contract.

16 (2) The Contracting Officer shall take action upon the Request for
17 Reduction in Project Water Use within 30 days after receipt of the Request. If the
18 Contracting Officer denies the Request in whole or in part, the Contracting Officer shall
19 provide to the Contractor a written statement of the reasons for denial. Upon approval by
20 the Contracting Officer of a reduction in Project Water use for the Water Year below
21 seventy-five percent of the Project Water shown in Exhibit A, the Contractor's payment
22 obligation for that Water Year shall be based on the revised maximum quantity of Project
23 Water to be diverted, as established by the Contracting Officer.

1 (3) The Contractor shall limit diversions of Project Water to the revised
2 maximum quantity of Project Water to be diverted for the Water Year, as approved by the
3 Contracting Officer. If the Contractor's diversions of Project Water exceed the revised
4 maximum quantity of Project Water as approved by the Contracting Officer, the
5 Contractor shall pay to Reclamation a penalty assessment in the amount of \$ _____ per acre-
6 foot of Project Water diverted in excess of the approved quantity in addition to the
7 payment obligation established under Article 8.

8 (4) The provisions of this Article 29(a) shall be in addition to and shall not
9 affect the provisions of Article 3(e) pertaining to the sale, transfer, exchange or other
10 disposal of the Contract Total designated in Exhibit A.

11 (ab) Prior to the diversion of Project Water, the Contractor shall be
12 implementing an effective water conservation and efficiency program based on the
13 Basin-Wide Water Management Plan and/or Contractor's water conservation plan that
14 has been determined by the Contracting Officer to meet the conservation and efficiency
15 criteria for evaluating water conservation plans established under Federal law. The water
16 conservation and efficiency program shall contain definite water conservation objectives,
17 appropriate economically feasible water conservation measures, and time schedules for
18 meeting those objectives. Continued diversion of Project Water pursuant to this
19 Settlement Contract shall be contingent upon the Contractor's continued implementation
20 of such water conservation program. In the event the Contractor's water conservation
21 plan or any revised water conservation plan completed pursuant to subdivision (c) of

1 Article 29 of this Settlement Contract have not yet been determined by the Contracting
2 Officer to meet such criteria, due to circumstances which the Contracting Officer
3 determines are beyond the control of the Contractor, Project Water deliveries shall be
4 made under this Settlement Contract so long as the Contractor diligently works with the
5 Contracting Officer to obtain such determination at the earliest practicable date, and
6 thereafter the Contractor immediately begins implementing its water conservation and
7 efficiency program in accordance with the time schedules therein.

8 (bc) The Contractor shall submit to the Contracting Officer a report on the
9 status of its implementation of the water conservation plan on the reporting dates
10 specified in the then existing conservation and efficiency criteria established under
11 Federal law.

12 (ed) At five (5)-year intervals, the Contractor shall revise its water
13 conservation plan to reflect the then current conservation and efficiency criteria for
14 evaluating water conservation plans established under Federal law and submit such
15 revised water management plan to the Contracting Officer for review and evaluation.
16 The Contracting Officer will then determine if the water conservation plan meets
17 Reclamation's then current conservation and efficiency criteria for evaluating water
18 conservation plans established under Federal law.

19 (de) If the Contractor is engaged in direct ground-water recharge, such
20 activity shall be described in the Contractor's water conservation plan.

21 OPINIONS AND DETERMINATIONS
22

1 30. (a) Where the terms of this Settlement Contract provide for actions to be
2 based upon the opinion or determination of either party to this Settlement Contract, said
3 terms shall not be construed as permitting such action to be predicated upon arbitrary,
4 capricious, or unreasonable opinions or determinations. Both parties, notwithstanding
5 any other provisions of this Settlement Contract, expressly reserve the right to seek relief
6 from and appropriate adjustment for any such arbitrary, capricious, or unreasonable
7 opinion or determination. Each opinion or determination by either party shall be
8 provided in a timely manner. Nothing in subdivision (a) of Article 30 of this Settlement
9 Contract is intended to or shall affect or alter the standard of judicial review applicable
10 under federal law to any opinion or determination implementing a specific provision of
11 federal law embodied in statute or regulation.

12 (b) The Contracting Officer shall have the right to make determinations
13 necessary to administer this Settlement Contract that are consistent with the provisions of
14 this Settlement Contract, the laws of the United States and of the State of California, and
15 the rules and regulations promulgated by the Secretary of the Interior. Such
16 determinations shall be made in consultation with the Contractor to the extent reasonably
17 practicable.

18 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

19 31. (a) In addition to all other payments to be made by the Contractor pursuant to
20 this Settlement Contract, the Contractor shall pay to the United States, within 60 days
21 after receipt of a bill and detailed statement submitted by the Contracting Officer to the

1 Contractor for such specific items of direct cost incurred by the United States for work
2 requested by the Contractor associated with this Settlement Contract plus indirect costs in
3 accordance with applicable Bureau of Reclamation policies and procedures. All such
4 amounts referred to in this Article shall not exceed the amount agreed to in writing in
5 advance by the Contractor. This Article shall not apply to costs for routine contract
6 administration.

7 (b) All advances for miscellaneous costs incurred for work requested by the
8 Contractor pursuant to Article 30 of this Settlement Contract shall be adjusted to reflect
9 the actual costs when the work has been completed. If the advances exceed the actual
10 costs incurred, the difference will be refunded to the Contractor. If the actual costs
11 exceed the Contractor's advances, the Contractor will be billed for the additional costs
12 pursuant to Article 31 of this Settlement Contract.

13 WAIVER OF DEFAULT

14 32. The waiver by either party to this Settlement Contract as to any default shall
15 not be construed as a waiver of any other default or as authority of the other party to
16 continue such default or to make, do, or perform, or not to make, do, or perform, as the
17 case may be, any act or thing which would constitute a default.

18

R.O. Draft 05/15-2002
SRSC Draft 05/31/02
R.O. Draft 07/11-2002
SRSC Draft 08/16/02
SRSC Draft 10/01/02
SRSC Draft 10/31/02

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IN WITNESS WHEREOF, the parties hereto have executed this Settlement
Contract as of the day and year first hereinabove written.

THE UNITED STATES OF AMERICA

By: _____
Regional Director, Mid-Pacific Region
Bureau of Reclamation

(SEAL)

(Contractor)

By: _____
President

ATTEST:

Secretary

(I:\sac river renewal\Sac R Std Form 7-10.doc)

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**2002 Water Rates and Charges for Contract No. ##-##-###-#####
 Contractor Name - Sacramento River**

	<u>Per Acre-Foot</u>
COST OF SERVICE RATES:	
Capital Rates	\$4.24
O&M Rates:	
Water Marketing	\$5.66
Storage	\$4.87
Deficit Rates:	
Interest Bearing	\$3.34
TOTAL	\$18.11
FULL-COST RATES:	
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$22.12
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$24.47
CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 1/	
Restoration Payments (3407(d)(2)(A))	\$7.54

R.O. Draft 05/15-2002
SRSC Draft 05/31/02
R.O. Draft 07/11-2002
SRSC Draft 08/16/02
SRSC Draft 10/01/02
SRSC Draft 10/31/02

- 1 *1/ Restoration fund charges are payments in addition to the water rates and were*
- 2 *determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund charges*
- 3 *are on a fiscal year basis (10/1 - 9/30).*