

R.O. Draft 05/15-2002

Contract No.
Standard Irrigation District Form
SRSC Draft 05/31/02
R.O. Draft 07/11-2002 (w/ USBR's
and SRSC's further revisions
discussed during 8/14/02 Negotiation
Session)

SRSC Draft 08/16/02
(Shaded provisions are those
tentatively agreed to during 8/14/02
Negotiation Session)

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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15 UNITED STATES
16 DEPARTMENT OF THE INTERIOR
17 BUREAU OF RECLAMATION
18 Central Valley Project, California

19
20 CONTRACT BETWEEN THE UNITED STATES AND
21 _____
22 DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES
23 SETTLING WATER RIGHTS DISPUTES AND
24 PROVIDING FOR PROJECT WATER
25

26
27 THIS CONTRACT, hereinafter referred to as "Settlement Contract," is

28 entered into by THE UNITED STATES OF AMERICA, hereinafter referred to as the
29 United States, made this ____ day of _____, 2002, pursuant to the
30 applicable authority granted to it generally in the Act of June 17, 1902 (32 Stat. 388), and
31 acts amendatory or supplementary thereto, including, but not limited to, the Acts of
32 August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat.
33 1187), as amended and supplemented, including but not limited to Sections 9 and 14
34 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982
35 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the
36 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
22 Sacramento River which threatened to result in litigation, and as a means to settle that
23 dispute entered into Contract No. _____, as amended, hereinafter referred to

1 as the Existing Contract, which established terms for the delivery to the Contractor of
2 Central Valley Project Water, and the quantities of Base Supply the United States and the
3 Contractor agreed may be diverted by the Contractor from the Sacramento River pursuant
4 to such contract; and

5 ~~6th WHEREAS, the Contractor and the United States disagree with respect to the~~
6 ~~authority of the United States to change the quantities of Base Supply and/or Project~~
7 ~~water specified in this Contract from the quantities specified in the Existing Contract.~~
8 ~~That dispute is being litigated in a lawsuit entitled *GCID v. United States of America*,~~
9 ~~Civ. No. S-01-1816 GEB/JFM (E.D. CA). Both the Contractor and the United States are~~
10 ~~willing to agree to the dismissal of that lawsuit without waiving or otherwise prejudicing~~
11 ~~their respective right to assert whatever arguments and defenses either of them believe is~~
12 ~~appropriate if that issue is subsequently litigated and enter into this Settlement Contract,~~
13 ~~pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of~~
14 ~~the State of California, and~~ **[Reservation of rights recital to be added later with some**
15 **type of cross-reference to any settlement documents executed in the litigation.]**

16 7th WHEREAS, to assure the Contractor of the enjoyment and use of the
17 regulated flow of the said Rivers and the Delta, and to provide for the economical
18 operation of the Central Valley Project by, and the reimbursement to, the United States
19 for expenditures made for said Project;

20 NOW, THEREFORE, in consideration of the performance of the herein
21 contained provisions, conditions, and covenants, it is agreed as follows:

DEFINITIONS

1
2 1. When used herein, unless otherwise expressed or incompatible with the intent
3 hereof, the term:

4 (a) "Base Supply" shall mean the quantity of Surface Water established in
5 Articles 3 and 5 which may be diverted by the Contractor from the Sacramento River
6 each month during the period April through October of each Year without payment to the
7 United States for such quantities diverted;

8 (b) "Basin-Wide Water Management Plan" shall mean the mutually agreeable
9 basin-wide water management plan developed by the United States Bureau of
10 Reclamation and various Contractors in the Sacramento River watershed in accordance
11 with: (1) the agreement entitled "Memorandum of Understanding Between Named
12 Sacramento River Settlement Contractors and the United States of America For the
13 Preparation of Data in Aid of the Renewal of the Settlement Contracts," as executed by
14 the parties thereto in January 1997; and (2) the related agreement entitled "Cost Share
15 Agreement Between Participating Sacramento River Settlement Contractors and the U.S.
16 Bureau of Reclamation For Technical Studies in Preparation For Renewal of Settlement
17 Contracts," dated August 31, 1998.

18 (c) "Charges" shall mean the payments for Project Water that the Contractor
19 is required to pay to the United States in addition to the "Rates" specified in this
20 Contract. The Contracting Officer will, on an annual basis, determine the extent of these
21 Charges. The type and amount of each Charge shall be specified in Exhibit "D";

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
22 Service, and other recognized forecasting agencies, the Contracting Officer will select the
23 forecast to be used and will make the details of it available to the Contractor. The same

1 forecasts used by the United States for the operation of the Project shall be used to make
2 the forecasts hereunder;

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

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

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

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

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

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

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

19 (m) "Project Water" shall mean all Surface Water diverted or scheduled to be
20 diverted each month during the period April through October of each Year by the
21 Contractor from the Sacramento River which is in excess of the Base Supply. The United
22 States recognizes the right of the Contractor to make arrangements for acquisition of
23 water from projects of others than the United States for delivery through the Sacramento

1 River and tributaries subject to written agreement between Contractor and the United
2 States as to identification of such water which water when so identified shall not be
3 deemed Project Water under this Settlement Contract;

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

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

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

13 (q) "Water Year" shall mean the period commencing with October 1 of one
14 year and extending through September 30 of the next; and

15 (r) "Year" shall mean a calendar year.

16 TERM OF SETTLEMENT CONTRACT

17 2. (a) This Settlement Contract shall become effective April 1, 2004, and shall
18 remain in effect until and including March 31, 2044: Provided, that under terms and
19 conditions mutually agreeable to the parties hereto, renewals may be made for successive
20 periods not to exceed 40 years each. The terms and conditions of each renewal shall be
21 agreed upon not later than one year prior to the expiration of the then existing Settlement
22 Contract.

1 (b) With respect to Project Water and the portions of this Settlement Contract
2 pertaining thereto, upon written request by the Contractor of the Secretary made not later
3 than one year prior to the expiration of this Settlement Contract, whenever, account being
4 taken of the amount then credited to the costs of construction of water supply works, the
5 remaining amount of construction costs of water supply work which is properly
6 assignable for ultimate return by the Contractor as established by the Secretary of the
7 Interior pursuant to (3) of Section 1 of Public Law 643 (70 Stat. 483), probably can be
8 repaid to the United States within the term of a contract under subsection 9(d) of the 1939
9 Reclamation Project Act (53 Stat. 1187), the relevant portions of this Settlement Contract
10 may be converted to a contract under said subsection 9(d) upon terms and conditions
11 mutually agreeable to the United States and the Contractor. The Secretary shall make a
12 determination 10 years after the date of execution of this Contract, and every five years
13 thereafter, of whether a conversion to a contract under said subsection 9(d) can be
14 accomplished pursuant to Public Law 643. Notwithstanding any provision of this
15 Settlement Contract, the Contractor reserves and shall have all rights and benefits under
16 Public Law 643.

17 WATER TO BE FURNISHED TO CONTRACTOR

18 3. (a) Subject to the conditions, limitations, and provisions hereinafter expressed,
19 the Contractor is hereby entitled and authorized to divert from the Sacramento River at
20 the locations shown in Exhibit A, for beneficial use within the area delineated on
21 Exhibit B, (both Exhibits are attached hereto and made a part hereof), the Contract Total
22 designated in Exhibit A, or any revision thereof, in accordance with the monthly
23 operating schedule required by Article 3(c) of this Settlement Contract. The quantity of

1 any water diverted under this Settlement Contract from the Sacramento River, during the
2 period April through October, for use on any lands delineated on Exhibit B, by the owner
3 of such lands or otherwise shall constitute a part of the Contract Total as shown on
4 Exhibit A and shall be subject to all the provisions of this Settlement Contract relating to
5 such Contract Total as if such diversion were made by the Contractor.

6 [NOTE: contractor-specific language dealing with individual water rights may be
7 needed.]

8 (b) The Contractor may have acquired rights to divert water from the
9 Sacramento River during the period April through October, that were obtained after the
10 date of execution of the Existing Contract, or the Contractor may acquire such rights in
11 the future. All diversions made from the Sacramento River, pursuant to such rights,
12 during the period April through October, shall not be considered a part of the quantity of
13 Base Supply and Project Water specified in Exhibit A; Provided, that the quantities
14 diverted pursuant to the above rights shall be identified on the schedule submitted
15 pursuant to Article 3(c) below, ~~and shall not be substituted for any Base Supply or Project~~

16 ~~Water.~~ **[Discuss the need for a provision to clarify that Contractor may divert under**
17 **such other acquired rights before incurring any potential fee under Article 3(c)(1)**
18 **for the movement of Base Supply.]**

19 (c) Before April 1 and before the first day of each month thereafter when a
20 revision is needed, the Contractor shall submit a written schedule to the Contracting
21 Officer indicating the Contract Total to be diverted by the Contractor during each month
22 under this Settlement Contract. The United States shall furnish water to the Contractor in
23 accordance with the monthly operating schedule or any revisions thereof. However, the

1 United States recognizes the need of the Contractor to change from time to time its
2 monthly diversions of water from the quantities shown in Exhibit A; the Contractor may
3 make such changes, provided:

4 (1) that for the quantity of Base Supply diverted in excess of the monthly
5 quantity shown on Exhibit A, the Contractor shall be charged a fee based upon the
6 appropriate components of the Project ratesetting policy.

7 (2) Such changes that the Contractor is aware of in advance shall be subject to
8 the prior written approval of the Contracting Officer.

9 (3) Provided, that in no event shall the total quantity scheduled for diversion
10 by the Contractor from the Sacramento River:

11 (i) During the period April through October exceed the aggregate of the
12 Contract Total for those months shown in Exhibit A or any revision thereof;

13 (ii) During the period July through September exceed the aggregate of the
14 Contract Total for those months shown in Exhibit A or any revision thereof.

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

20 (e) No sale, transfer, exchange, or other disposal of any of the Contract Total
21 designated in Exhibit A or the right to the use thereof for use on land other than that
22 shown on Exhibit B shall be made by the Contractor without:

23 (1) First obtaining the written consent of the Contracting Officer; and

1 (2) Compliance with all applicable State and Federal laws, including but
2 not limited to the National Environmental Policy Act and the Endangered Species Act,
3 and applicable guidelines or regulations then in effect.

4 (f) Nothing herein contained shall prevent the Contractor from diverting
5 water during the months of November through March for beneficial use on the land
6 shown on Exhibit B or elsewhere to the extent authorized under the laws of the State of
7 California.

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

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

11 (2) The control, carriage, handling, use, disposal, or distribution of water
12 diverted by the Contractor outside the facilities constructed and then being operated and
13 maintained by or on behalf of the United States;

14 (3) Claims of damage of any nature whatsoever, including but not limited
15 to, property loss or damage, personal injury, or death arising out of or connected with the
16 control, carriage, handling, use, disposal, or distribution of said water outside of the
17 hereinabove referred to facilities; and

18 (4) Any damage whether direct or indirect arising out of or in any manner
19 caused by a shortage of water whether such shortage be on account of errors in operation,
20 drought, or unavoidable causes.

21 RETURN FLOW

22 4. Nothing herein shall be construed as an abandonment or a relinquishment by
23 the United States of any right it may have to the use of waste, seepage, and return flow

1 water derived from water diverted by the Contractor hereunder and which escapes or is
2 discharged beyond the boundaries of the lands shown on Exhibit B; Provided, that this
3 shall not be construed as claiming for the United States any right to such water which is
4 recovered by the Contractor pursuant to California law from within the boundaries of the
5 lands shown on Exhibit B, and which is being used pursuant to this Settlement Contract
6 for surface irrigation or underground storage for the benefit of the lands shown on
7 Exhibit B by the Contractor. (*Colusa Basin Drain language may be required*)

8 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

18 INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

19 6. The Contractor and United States desire to work together to maximize the
20 reasonable beneficial use of water for their mutual benefit. As a consequence, the United
21 States and the Contractor will work in partnership and with others within the Sacramento
22 Valley, including other Contractors, to facilitate the better integration within the
23 Sacramento Valley of all water supplies including, but not limited to, the better

1 management and integration of surface water and groundwater, the development and
2 better utilization of surface water storage, the effective utilization of waste, seepage and
3 return flow water, and other operational and management options that may be identified
4 in the future. **[Language cross-referencing other related agreement will be added as
5 appropriate to the individual Settlement Contracts.]**

6 USE OF WATER FURNISHED TO CONTRACTOR

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

13 (b) The Contractor shall comply with requirements applicable to the
14 Contractor in biological opinion(s) prepared as a result of a consultation regarding the
15 execution of this Settlement Contract undertaken pursuant to Section 7 of the Endangered
16 Species Act of 1973, as amended, that are within the Contractor’s legal authority to
17 implement. The Contractor shall comply with the limitations or requirements imposed by
18 environmental documentation applicable to the Contractor and within its legal authority
19 to implement. The Existing Contract, which evidences in excess of 40 years of
20 diversions, for agricultural uses, of the quantities of water provided for in Article 3, and
21 the underlying water rights of the Contractor will be considered in developing an
22 appropriate base-line for the Biological Assessment prepared pursuant to the Endangered
23 Species Act, and in any other needed environmental review. Nothing herein shall be

1 construed to prevent the Contractor from challenging or seeking judicial relief in a court
2 of competent jurisdiction with respect to any biological opinion or other environmental
3 documentation referred to in this Article.

4 RATE AND METHOD OF PAYMENT FOR WATER

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

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

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

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

12 (i) the Secretary's then-current ratesetting policies for the Project; and (ii) applicable
13 Reclamation law and associated rules and regulations, or policies: Provided, that if the
14 Contractor desires to use Project Water for other than agricultural use the Rates and
15 Charges set forth above will be adjusted by the Contracting Officer to the applicable
16 Rates and Charges for such use. The Rates and Charges applicable to the Contractor
17 upon execution of this Settlement Contract are set forth in Exhibit "D", as may be revised
18 annually. The Contractor may notify the Contracting Officer not later than [DATE]

19 , in any year, that it will not take all or a portion of its Project Water. In
20 that event, the amounts of Project Water on Exhibit "A" will be modified to reflect that
21 notification and Rates and Charges will be imposed based upon that modification. The
22 modification will be for a period of _____ years with an option on the part of the
23 Contractor to return to the full Exhibit A amounts of Project Water provided for in this

1 Settlement Contract at the end of this period. The Secretary's ratesetting policies for the
2 Project shall be amended, modified, or superseded only through a public notice and
3 comment procedure.

4 (b) The Contracting Officer shall notify the Contractor of the Rates and
5 Charges as follows:

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

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

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

1 (1) With respect to Rates, prior to May 1 of each Year, the Contractor
2 shall pay the United States one-half the total amount payable pursuant to subdivision (a)
3 of this Article and the remainder shall be paid prior to July 1 or such later date or dates as
4 may be specified by the United States in a written notice to the Contractor: Provided,
5 however, that if at any time during the Year the amount of Project Water diverted by the
6 Contractor shall equal the amount for which payment has been made, the Contractor shall
7 pay for the remaining amount of such water as shown in Exhibit A in advance of any
8 further diversion of Project Water.

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

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

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

1 (e) The Contracting Officer shall keep its accounts pertaining to the
2 administration of the financial terms and conditions of its long-term water service and
3 Settlement Contracts, in accordance with applicable Federal standards, so as to reflect the
4 application of Project costs and revenues. The Contracting Officer shall, each Year upon
5 request of the Contractor, provide to the Contractor a detailed accounting of all Project
6 and Contractor expense allocations, the disposition of all Project and Contractor
7 revenues, and a summary of all water delivery information. The Contracting Officer and
8 the Contractor shall enter into good faith negotiations to resolve any discrepancies or
9 disputes relating to accountings, reports, or information.

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

18 (g) For the term of this Settlement Contract, Rates under the respective
19 ratesetting policies for the Project will be established to recover only reimbursable
20 operation and maintenance (including any deficits) and capital costs of the Project, as
21 those terms are used in the then-current Project ratesetting policies, and interest, where
22 appropriate, except in instances where a minimum Rate is applicable in accordance with
23 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
22 place as the United States may designate in a written notice to the said Contractor.

23 Payments shall be made by cash transaction, wire, or any other mechanism as may be

1 agreed to in writing by the Contractor and the Contracting Officer. In event there should
2 be a default in the payment of the amount due, the delinquent payment provisions of
3 Article 13 shall apply. The Contractor shall not be relieved of the whole or any part of its
4 said obligation by, on account of, or notwithstanding, as the case may be:

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

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

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

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

15 AGREEMENT ON WATER QUANTITIES

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

17 (1) It shall constitute full agreement as between the United States and the
18 Contractor as to the quantities of water and the allocation thereof between Base Supply
19 and Project Water which may be diverted by the Contractor from the Sacramento River
20 for beneficial use on the land shown on Exhibit B which said diversion, use, and
21 allocation shall not be disturbed so long as the Contractor shall fulfill all of its obligations
22 hereunder;

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

3 (b) Nothing herein contained is intended to or does limit rights of the
4 Contractor against others than the United States or of the United States against any
5 person other than the Contractor: Provided, however, that in the event the Contractor, the
6 United States, or any other person shall become a party to a general adjudication of rights
7 to the use of water of the Sacramento River system, this Settlement Contract shall not
8 jeopardize the rights or position of either party hereto or of any other person and the
9 rights of all such persons in respect to the use of such water shall be determined in such
10 proceedings the same as if this Settlement Contract had not been entered into, and if final
11 judgment in any such general adjudication shall determine that the rights of the parties
12 hereto are different from the rights as assumed herein, the parties shall negotiate an
13 amendment to give effect to such judgment. In the event the parties are unable to agree
14 on an appropriate amendment they shall, within 60 days of determining that there is an
15 impasse, employ the services of a neutral mediator to assist in resolving the impasse. The
16 cost of the mediation will be shared equally. A failure to reach agreement on an
17 amendment within 60 days of the end of mediation will cause the immediate termination
18 of this Settlement Contract. ~~Provided, further, That if, during the term of this Contract,~~
19 ~~the Contractor's or the United States' water rights are adjusted or affected, or the~~
20 ~~responsibility to meet flow, water quality and/or environmental requirements under those~~
21 ~~water rights is modified (e.g., changes to the Delta Water Quality Control Plan and~~
22 ~~associated water right actions), by or through any final administrative or judicial~~
23 ~~proceeding, the Contractor and the United States shall negotiate appropriate adjustments~~

~~to this contract. In the event the parties are unable to agree on an appropriate amendment they shall, within 60 days of determining that there is an impasse, employ the services of a neutral mediator to assist in resolving the impasse. The cost of the mediation will be shared equally. A failure to reach agreement on an amendment within 60 days of the end of mediation will cause the immediate termination of this Settlement Contract.~~

(c) In the event this Settlement Contract terminates, the rights of the parties to thereafter divert and use water shall exist as if this Settlement Contract had not been entered into; and the fact that as a compromise settlement of a controversy as to the respective rights of the parties to divert and use water and the yield of such rights during the term hereof, this Settlement Contract places a limit on the Contract Total to be diverted annually by the Contractor during the Settlement Contract term and segregates it into Base Supply and Project Water shall not jeopardize the rights or position of either party with respect to its water rights or the yield thereof at all times after the Settlement Contract terminates. It is further agreed that the Contractor at all times will first use water to the use of which it is entitled by virtue of its own water rights, and neither the provisions of this Settlement Contract, action taken thereunder, nor payments made thereunder to the United States by the Contractor shall be construed as an admission that any part of the water used by the Contractor during the term of this Settlement Contract was in fact water to which it would not have been entitled under water rights owned by it nor shall receipt of payments thereunder by the United States from the Contractor be construed as an admission that any part of the water used by the Contractor during the term of this Settlement Contract was in fact water to which it would have been entitled under water rights owned by it.

MEASUREMENT OF WATER

1
2 10. (a) All water diverted by the Contractor from the Sacramento River will be
3 diverted at the existing point or points of diversion shown on Exhibit A or at such other
4 points as may be mutually agreed upon in writing by the Contracting Officer and the
5 Contractor.

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

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

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

1 appropriate. In the event of an emergency the Contractor shall notify the United States
2 within a reasonable time thereafter as to the existence of the emergency and the nature
3 and extent of such modification, alteration, removal, or replacement of diversion
4 facilities.

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

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

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

15 RULES AND REGULATIONS

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

21 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

22
23 12. (a) The obligation of the Contractor to pay the United States as provided in
24 this Settlement Contract is a general obligation of the Contractor notwithstanding the
25 manner in which the obligation may be distributed among the Contractor's water users

1 and notwithstanding the default of individual water users in their obligations to the
2 Contractor.

3
4 (b) The payment of Charges becoming due hereunder is a condition precedent
5 to receiving benefits under this Settlement Contract. The United States shall not make
6 water available to the Contractor through Project facilities during any period in which the
7 Contractor may be in arrears in the advance payment of water Rates due the United
8 States. The Contractor shall not furnish water made available pursuant to this Settlement
9 Contract for lands or parties which are in arrears in the advance payment of water rates
10 levied or established by the Contractor.

11
12 (c) With respect to subdivision (b) of this Article, the Contractor shall have
13 no obligation to require advance payment for water Rates which it levies.

14 CHARGES FOR DELINQUENT PAYMENTS

15
16
17 13. (a) The Contractor shall be subject to interest, administrative and penalty
18 charges on delinquent installments or payments. When a payment is not received by the
19 due date, the Contractor shall pay an interest charge for each day the payment is
20 delinquent beyond the due date. When a payment becomes 60 days delinquent, the
21 Contractor shall pay an administrative charge to cover additional costs of billing and
22 processing the delinquent payment. When a payment is delinquent 90 days or more, the
23 Contractor shall pay an additional penalty charge of six percent per year for each day the
24 payment is delinquent beyond the due date. Further, the Contractor shall pay any fees
25 incurred for debt collection services associated with a delinquent payment.

26
27 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
28 in the Federal Register by the Department of the Treasury for application to overdue
29 payments, or the interest rate of one-half of one percent per month prescribed by
30 Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest
31 charge rate shall be determined as of the due date and remain fixed for the duration of the
32 delinquent period.

33
34 (c) When a partial payment on a delinquent account is received, the amount
35 received shall be applied, first to the penalty, second to the administrative charges, third
36 to the accrued interest, and finally to the overdue payment.

37 QUALITY OF WATER

38
39 14. The operation and maintenance of Project facilities shall be performed in
40 such manner as is practicable to maintain the quality of raw water made available through
41 such facilities at the highest level reasonably attainable as determined by the Contracting

1 Officer. The United States does not warrant the quality of water and is under no
2 obligation to construct or furnish water treatment facilities to maintain or better the
3 quality of water.

4 WATER AND AIR POLLUTION CONTROL

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

9 EQUAL OPPORTUNITY

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

12
13 (a) The Contractor will not discriminate against any employee or applicant
14 for employment because of race, color, religion, sex, or national origin. The Contractor
15 will take affirmative action to ensure that applicants are employed, and that employees
16 are treated during employment, without regard to their race, color, religion, sex, or
17 national origin. Such action shall include, but not be limited to, the following:
18 Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising;
19 layoff or termination, rates of payment or other forms of compensation; and selection for
20 training, including apprenticeship. The Contractor agrees to post in conspicuous places,
21 available to employees and applicants for employment, notices to be provided by the
22 Contracting Officer setting forth the provisions of this nondiscrimination clause.

23
24 (b) The Contractor will, in all solicitations or advertisements for employees
25 placed by or on behalf of the Contractor, state that all qualified applicants will receive
26 consideration for employment without discrimination because of race, color, religion,
27 sex, or national origin.

28
29 (c) The Contractor will send to each labor union or representative of workers
30 with which it has a collective bargaining agreement or other contract or understanding, a
31 notice, to be provided by the Contracting Officer, advising the said labor union or
32 workers' representative of the Contractor's commitments under Section 202 of Executive
33 Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous
34 places available to employees and applicants for employment.

35

1 (d) The Contractor will comply with all provisions of Executive Order
2 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant
3 orders of the Secretary of Labor.
4

5 (e) The Contractor will furnish all information and reports required by said
6 amended Executive Order and by the rules, regulations, and orders of the Secretary of
7 Labor, or pursuant thereto, and will permit access to its books, records, and accounts by
8 the Contracting Officer and the Secretary of Labor for purposes of investigation to
9 ascertain compliance with such rules, regulations, and orders.
10

11 (f) In the event of the Contractor's noncompliance with the nondiscrimination
12 clauses of this Settlement Contract or with any of the said rules, regulations, or orders,
13 this Settlement Contract may be canceled, terminated, or suspended, in whole or in part,
14 and the Contractor may be declared ineligible for further Government contracts in
15 accordance with procedures authorized in said amended Executive Order, and such other
16 sanctions may be imposed and remedies invoked as provided in said Executive Order, or
17 by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
18

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

30 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
31 (For Districts Only)
32

33 17. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
34 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as
35 amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other
36 applicable civil rights laws, as well as with their respective implementing regulations and
37 guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.
38

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

1
2 (c) The Contractor makes this agreement in consideration of and for the
3 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or
4 other Federal financial assistance extended after the date hereof to the Contractor by the
5 Bureau of Reclamation, including installment payments after such date on account of
6 arrangements for Federal financial assistance which were approved before such date.
7 The Contractor recognizes and agrees that such Federal assistance will be extended in
8 reliance on the representations and agreements made in this Article, and that the United
9 States reserves the right to seek judicial enforcement thereof.

10
11 MINGLING OF CONTRACTOR'S PROJECT AND NON-PROJECT WATER

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

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

25 (c) The Contractor will not be considered in violation of the requirement that
26 Project Water be delivered only to Eligible Lands during any month of the irrigation
27 season that the water requirement for beneficial use on Eligible Lands for that month is
28 equal to or in excess of the Project Water for that month as shown on Exhibit A or any

1 revision thereof pursuant to subdivision (b) of Article 3. The water requirement for
2 beneficial use on Eligible Lands will be determined by multiplying:

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

5 (2) the Unit Duties as set forth in Exhibit C attached hereto and made a
6 part hereof, or by such other Unit Duties mutually agreed upon by the Contractor and the
7 Contracting Officer. In order to make the computation of the water requirement for
8 Eligible Lands, on April 1 of each Year and concurrently with its order for water for the
9 irrigation season, the Contractor shall designate the acreage of and type of crops to be
10 grown on its Eligible Lands that irrigation season. During any month the water
11 requirement as above determined for crops growing on Eligible Lands during such month
12 is equal to or in excess of the Project Water for that month as provided herein the
13 Contractor shall not be required to measure the water delivered to Excess Lands. Any
14 month the said water requirement is less than the amount of Project Water as provided
15 herein, the Contractor will be required to measure water delivered to excess land in
16 accordance with subdivision (b) hereof.

17 **BOOKS, RECORDS, AND REPORTS**

18 19. The Contractor shall establish and maintain accounts and other books and
19 records pertaining to administration of the terms and conditions of this Settlement
20 Contract, including: the Contractor's financial transactions, water supply data, and
21 Project land and right-of-way agreements; the water users' land-use (crop census), land
22 ownership, land-leasing and water use data; and other matters that the Contracting
23 Officer may require. Reports thereon shall be furnished to the Contracting Officer in
24 such form and on such date or dates as the Contracting Officer may require. Subject to
25 applicable Federal laws and regulations, each party to this Settlement Contract shall have
26 the right during office hours to examine and make copies of each other's books and
27 official records relating to matters covered by this Settlement Contract.
28

1 CHANGE OF ~~PLACE OF USE OR~~ ORGANIZATION

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

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

10 (eb) In the event lands are annexed to or detached from the area of the
11 Contractor, as provided herein, the quantity of Project Water to be diverted may be
12 increased decreased, as may be appropriate, pursuant to a supplemental agreement to be
13 executed in respect thereto.

14 CONSOLIDATION OF CONTRACTING ENTITIES

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

19 No such consolidation shall be valid unless and until approved by the Contracting
20 Officer.

21 NOTICES

22 22. Any notice, demand, or request authorized or required by this Settlement
23 Contract shall be deemed to have been given, on behalf of the Contractor, when mailed,
24 postage prepaid, or delivered to the Area Manager, Northern California Area Office,
25

1 Bureau of Reclamation, 16349 Shasta Dam Blvd., Shasta Lake, California, 96019, and on
2 behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
3 Directors /City Council of the _____. The designation of the
4 addressee or the address may be changed by notice given in the same manner as provided
5 in this Article for other notices.

6
7 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

8
9 23. (a) The provisions of this Settlement Contract shall apply to and bind the
10 successors and assigns of the parties hereto, but no assignment or transfer of this
11 Settlement Contract or any right or interest therein shall be valid until approved in writing
12 by the Contracting Officer.

13
14 (b) The assignment of any right or interest in this Settlement Contract by
15 either party shall not interfere with the rights or obligations of the other party to this
16 Settlement Contract absent the written concurrence of said other party.

17
18 (c) The Contracting Officer shall not unreasonably condition or withhold his
19 approval of any proposed assignment.

20
21 OFFICIALS NOT TO BENEFIT

22
23 24. (a) No Member of or Delegate to Congress, Resident Commissioner, or
24 official of the Contractor shall benefit from this Settlement Contract other than as a water
25 user or landowner in the same manner as other water users or landowners.

26
27 (b) No officer or member of the governing board of the Contractor shall
28 receive any benefit that may arise by reason of this Settlement Contract other than as a
29 landowner within the Contractor's service area and in the same manner as other
30 landowners within the said service area.

31
32 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

33
34 25. The expenditure or advance of any money or the performance of any
35 obligation of the United States under this Settlement Contract shall be contingent upon
36 appropriation or allotment of funds. Absence of appropriation or allotment of funds shall
37 not relieve the Contractor from any obligations under this Settlement Contract. No
38 liability shall accrue to the United States in case funds are not appropriated or allotted.

39
40 CONFIRMATION OF SETTLEMENT CONTRACT

41 26. The Contractor, after the execution of this Settlement Contract, shall
42 promptly seek to secure a decree of a court of competent jurisdiction of the State of
43 California, if appropriate, confirming the execution of this Settlement Contract. The
44 Contractor shall furnish the United States a certified copy of the final decree, the

1 validation proceedings, and all pertinent supporting records of the court approving and
2 confirming this Settlement Contract, and decreeing and adjudging it to be lawful, valid,
3 and binding on the Contractor. This Settlement Contract shall not be binding on the
4 United States until such final decree has been secured. [The Contractors would like to
5 further discuss the necessity of this provision.]
6

7 UNAVOIDABLE GROUNDWATER PERCOLATION

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

12 PRIVACY ACT COMPLIANCE

13
14 28. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C.
15 552a) (the Act) and the Department of the Interior rules and regulations under the Act
16 (43 CFR 2.45 et seq.) in maintaining Landholder acreage certification and reporting
17 records, required to be submitted to the Contractor for compliance with Sections 206 and
18 228 of the Reclamation Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR
19 426.18.

20
21 (b) With respect to the application and administration of the criminal penalty
22 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees
23 responsible for maintaining the certification and reporting records referenced in (a) above
24 are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

25
26 (c) The Contracting Officer or a designated representative shall provide the
27 Contractor with current copies of the Interior Department Privacy Act regulations and the
28 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Acreage
29 Limitation--Interior, Reclamation-31) which govern the maintenance, safeguarding, and
30 disclosure of information contained in the Landholder's certification and reporting
31 records.

32
33 (d) The Contracting Officer shall designate a full-time employee of the
34 Bureau of Reclamation to be the System Manager who shall be responsible for making
35 decisions on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to
36 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to
37 their own records.

38
39 (e) The Contractor shall forward promptly to the System Manager each
40 proposed denial of access under 43 CFR 2.64; and each request for amendment of records

1 filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide
2 the System Manager with information and records necessary to prepare an appropriate
3 response to the requester. These requirements do not apply to individuals seeking access
4 to their own certification and reporting forms filed with the Contractor pursuant to 43
5 CFR 426.18, unless the requester elects to cite the Privacy Act as a basis for the request.
6
7

8 WATER CONSERVATION

9 29. (a) Prior to the diversion of Project Water, the Contractor shall be
10 implementing an effective water conservation and efficiency program based on the
11 Basin-Wide Water Management Plan and/or Contractor's water conservation plan that
12 has been determined by the Contracting Officer to meet the conservation and efficiency
13 criteria for evaluating water conservation plans established under Federal law. The water
14 conservation and efficiency program shall contain definite water conservation objectives,
15 appropriate economically feasible water conservation measures, and time schedules for
16 meeting those objectives. Continued diversion of Project Water pursuant to this
17 Settlement Contract shall be contingent upon the Contractor's continued implementation
18 of such water conservation program. In the event the Contractor's water conservation
19 plan or any revised water conservation plan completed pursuant to subdivision (c) of
20 Article 29 of this Settlement Contract have not yet been determined by the Contracting
21 Officer to meet such criteria, due to circumstances which the Contracting Officer
22 determines are beyond the control of the Contractor, Project Water deliveries shall be
23 made under this Settlement Contract so long as the Contractor diligently works with the
24 Contracting Officer to obtain such determination at the earliest practicable date, and
25 thereafter the Contractor immediately begins implementing its water conservation and
26 efficiency program in accordance with the time schedules therein.

1 (b) The Contractor shall submit to the Contracting Officer a report on the
2 status of its implementation of the water conservation plan on the reporting dates
3 specified in the then existing conservation and efficiency criteria established under
4 Federal law.

5 (c) At five (5)-year intervals, the Contractor shall revise its water
6 conservation plan to reflect the then current conservation and efficiency criteria for
7 evaluating water conservation plans established under Federal law and submit such
8 revised water management plan to the Contracting Officer for review and evaluation.
9 The Contracting Officer will then determine if the water conservation plan meets
10 Reclamation's then current conservation and efficiency criteria for evaluating water
11 conservation plans established under Federal law.

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

14 OPINIONS AND DETERMINATIONS

15 30. (a) Where the terms of this Settlement Contract provide for actions to be
16 based upon the opinion or determination of either party to this Settlement Contract, said
17 terms shall not be construed as permitting such action to be predicated upon arbitrary,
18 capricious, or unreasonable opinions or determinations. Both parties, notwithstanding
19 any other provisions of this Settlement Contract, expressly reserve the right to seek relief
20 from and appropriate adjustment for any such arbitrary, capricious, or unreasonable
21 opinion or determination. Each opinion or determination by either party shall be
22 provided in a timely manner. Nothing in subdivision (a) of Article 30 of this Settlement
23 Contract is intended to or shall affect or alter the standard of judicial review applicable
24

1 under federal law to any opinion or determination implementing a specific provision of
2 federal law embodied in statute or regulation.

3 (b) The Contracting Officer shall have the right to make determinations
4 necessary to administer this Settlement Contract that are consistent with the provisions of
5 this Settlement Contract, the laws of the United States and of the State of California, and
6 the rules and regulations promulgated by the Secretary of the Interior. Such
7 determinations shall be made in consultation with the Contractor to the extent reasonably
8 practicable.

9 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

10 31. (a) In addition to all other payments to be made by the Contractor pursuant to
11 this Settlement Contract, the Contractor shall pay to the United States, within 60 days
12 after receipt of a bill and detailed statement submitted by the Contracting Officer to the
13 Contractor for such specific items of direct cost incurred by the United States for work
14 requested by the Contractor associated with this Settlement Contract plus indirect costs in
15 accordance with applicable Bureau of Reclamation policies and procedures. All such
16 amounts referred to in this Article shall not exceed the amount agreed to in writing in
17 advance by the Contractor. This Article shall not apply to costs for routine contract
18 administration.

19 (b) All advances for miscellaneous costs incurred for work requested by the
20 Contractor pursuant to Article 30 of this Settlement Contract shall be adjusted to reflect
21 the actual costs when the work has been completed. If the advances exceed the actual
22 costs incurred, the difference will be refunded to the Contractor. If the actual costs

1 exceed the Contractor's advances, the Contractor will be billed for the additional costs
2 pursuant to Article 31 of this Settlement Contract.

3 **WAIVER OF DEFAULT**

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

8

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

3
4 THE UNITED STATES OF AMERICA

5
6
7
8 By: _____
9 Regional Director, Mid-Pacific Region
10 Bureau of Reclamation

11
12 (SEAL)

13
14
15
16 (Contractor)

17
18
19 By: _____
20 President

21
22
23 ATTEST:

24
25
26 _____
27 Secretary

28
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30 (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

Per Acre-Foot

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

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