

Appendix C
Contracts between U.S. Bureau of Reclamation and
Sacramento River Settlement Contractors

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 _____, 2004, 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 Federal Reclamation law, and _____, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in California;
[may change depending on contracting entity]

WITNESSETH, that:

EXPLANATORY RECITALS

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

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

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

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

[5th] WHEREAS, the Contractor and the United States had a dispute over the respective rights of the parties to divert and use water from the regulated flow of the Sacramento River which threatened to result in litigation, and as a means to settle that dispute entered into Contract No. _____, as amended, hereinafter referred to as the Existing Contract, which established terms for the delivery to the Contractor of Central Valley Project Water, and the quantities of Base Supply the United States and the Contractor agreed may be diverted by the Contractor from the Sacramento River pursuant to such contract; and

1 Sacramento River each month during the period April through October of each Year
2 without payment to the United States for such quantities diverted;

3 (b) "Basin-Wide Water Management Plan" shall mean the mutually
4 agreeable Sacramento River Basinwide Water Management Plan, dated _____,
5 developed by Glenn-Colusa Irrigation District, Maxwell Irrigation District, Natomas
6 Central Mutual Water Company, Pelger Mutual Water Company, Princeton-Codora-
7 Glenn Irrigation District, Provident Irrigation District, Reclamation District 108, Sutter
8 Mutual Water Company, Anderson-Cottonwood Irrigation District, M&T, Inc., Meridian
9 Farms Water Company, Reclamation District 1004 and the U.S. Bureau of Reclamation.

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

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

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

20 (1) The forecasted full natural inflow to Shasta Lake for the
21 current Water Year, as such forecast is made by the United States on or before February
22 15 and reviewed as frequently thereafter as conditions and information warrant, is equal
23 to or less than 3.2 million acre-feet; or

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

5 For the purpose of determining a Critical Year, the computation of inflow
6 to Shasta Lake shall be performed in a manner that considers the extent of upstream
7 development above Shasta Lake during the year in question, and shall be used as the full
8 natural flow to Shasta Lake. In the event that major construction has occurred or occurs
9 above Shasta Lake after September 1, 1963 and which has materially altered or alters the
10 regimen of the stream systems contributing to Shasta Lake, the computed inflow to
11 Shasta Lake used to define a Critical Year will be adjusted to eliminate the effect of such
12 material alterations. After consultation with the State of California, the National Weather
13 Service, and other recognized forecasting agencies, the Contracting Officer will select the
14 forecast to be used and will make the details of it available to the Contractor. The same
15 forecasts used by the United States for the operation of the Project shall be used to make
16 the forecasts hereunder;

17 (f) “CVPIA” shall mean the Central Valley Project Improvement Act,
18 Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

19 (g) “Eligible Lands” shall mean all lands to which Project Water may
20 be delivered in accordance with Section 204 of the Reclamation Reform Act of October
21 12, 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

1 (h) “Excess Lands” shall mean all lands in excess of the limitations
2 contained in Section 204 of the RRA, other than those lands exempt from acreage
3 limitation under Federal Reclamation law;

4 (i) “Full Cost Rate” shall mean that water rate described in Sections
5 205(a)(3) or 202(3) of the RRA, whichever is applicable;

6 (j) “Ineligible Lands” shall mean all lands to which Project Water
7 may not be delivered in accordance with Section 204 of the RRA;

8 (k) “Landholder” shall mean a party that directly or indirectly owns or
9 leases nonexempt land, as provided in 43 CFR 426.2;

10 (l) “Project” shall mean the Central Valley Project owned by the
11 United States and managed by the Department of the Interior, Bureau of Reclamation;

12 (m) “Project Water” shall mean all Surface Water diverted or
13 scheduled to be diverted each month during the period April through October of each
14 Year by the Contractor from the Sacramento River which is in excess of the Base Supply.
15 The United States recognizes the right of the Contractor to make arrangements for
16 acquisition of water from projects of others than the United States for delivery through
17 the Sacramento River and tributaries subject to written agreement between Contractor
18 and the United States as to identification of such water which water when so identified
19 shall not be deemed Project Water under this Settlement Contract;

20 (n) “Rates” shall mean the payments for Project Water determined
21 annually by the Contracting Officer in accordance with the then current applicable water
22 ratesetting policies for the Project, as described in subdivision (a) of Article 8 of this
23 Settlement Contract;

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

4 (p) "Surface Water" shall mean only those waters that are considered
5 as surface water under California law;

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

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

9 TERM OF SETTLEMENT CONTRACT

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

16 (b) With respect to Project Water and the portions of this Settlement
17 Contract pertaining thereto, upon written request by the Contractor of the Secretary made
18 not later than one year prior to the expiration of this Settlement Contract, whenever,
19 account being taken of the amount then credited to the costs of construction of water
20 supply works, the remaining amount of construction costs of water supply work which is
21 properly assignable for ultimate return by the Contractor as established by the Secretary
22 of the Interior pursuant to (3) of Section 1 of Public Law 643 (70 Stat. 483), probably can
23 be repaid to the United States within the term of a contract under subsection 9(d) of the

1 1939 Reclamation Project Act (53 Stat. 1187), the relevant portions of this Settlement
2 Contract may be converted to a contract under said subsection 9(d) upon terms and
3 conditions mutually agreeable to the United States and the Contractor. The Secretary
4 shall make a determination 10 years after the date of execution of this Settlement
5 Contract, and every five years thereafter, of whether a conversion to a contract under said
6 subsection 9(d) can be accomplished pursuant to Public Law 643. Notwithstanding any
7 provision of this Settlement Contract, the Contractor reserves and shall have all rights and
8 benefits under Public Law 643.

9 WATER TO BE FURNISHED TO CONTRACTOR

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

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

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

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

19 (1) that for the quantity of Base Supply diverted in excess of
20 the monthly quantity shown in Exhibit A, and as may be reduced in accordance with
21 Article 5(a), during June, July, August, September, or October of any Water Year, the
22 Contractor shall be charged a rescheduling fee equal to 50% of the sum of the storage

1 operations and maintenance rate and the storage capital rate components of the Project
2 ratesetting policy.

3 (2) that in no event shall the total quantity scheduled for
4 diversion by the Contractor from the Sacramento River:

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

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

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

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

1 complete written proposal. For a proposal to be deemed complete by the Contracting
2 Officer, it must comply with all provisions required by State and Federal law, including
3 information sufficient to enable the Contracting Officer to comply with the National
4 Environmental Policy Act, the Endangered Species Act, and applicable rules or
5 regulations then in effect; Provided that, such consent does not authorize the use of
6 Federal facilities to facilitate or effectuate the sale, transfer, exchange or other disposal of
7 Base Supply. Such use of Federal facilities will be the subject of a separate agreement to
8 be entered into between the Contractor and Reclamation.

9 (f) For the purpose of determining whether section 3405(a)(1)(M) of
10 the CVPIA applies to the Contractor as a transferor or transferee of Project Water, the
11 Contracting Officer acknowledges that the Contractor is within a county, watershed or
12 other area of origin, as those terms are utilized under California law.

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

17 (h) The United States assumes no responsibility for and neither it nor
18 its 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;

20 (2) The control, carriage, handling, use, disposal, or

21 distribution of water diverted by the Contractor outside the facilities constructed and then
22 being operated and maintained by or on behalf of the United States;

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

6 INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

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

17 USE OF WATER FURNISHED TO CONTRACTOR

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

1 Reclamation law and associated rules and regulations, or policies: Provided, that if the
2 Contractor desires to use Project Water for other than agricultural use the Rates and
3 Charges set forth above will be adjusted by the Contracting Officer to the applicable
4 Rates and Charges for such use. The Rates and Charges applicable to the Contractor
5 upon execution of this Settlement Contract are set forth in Exhibit D, as may be revised
6 annually. The Secretary's ratesetting policies for the Project shall be amended, modified,
7 or superseded only through a public notice and comment procedure. The Contracting
8 Officer shall adjust the amount of Project Water for which payment is required to the
9 extent of any reduction in diversions of Project Water made in accordance with the water
10 conservation provisions of Article 29(e).

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

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

21 (2) Prior to October 1 of each Year, the Contracting Officer
22 shall make available to the Contractor an estimate of the Rates for Project Water for the
23 following Year and the computations and cost allocations upon which those Rates are

1 based. The Contractor shall be allowed not less than two months to review and comment
2 on such computations and cost allocations. By December 31 of each Year, the
3 Contracting Officer shall provide the Contractor with the final Rates to be in effect for
4 the upcoming Year, and such notification shall revise Exhibit D.

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

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

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

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

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

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

17 (f) The parties acknowledge and agree that the efficient administration
18 of this Settlement Contract is their mutual goal. Recognizing that experience has
19 demonstrated that mechanisms, policies, and procedures used for establishing Rates and
20 Charges and/or for making and allocating payments, other than those set forth in this
21 Article may be in the mutual best interest of the parties, it is expressly agreed that the
22 parties may enter into agreements to modify the mechanisms, policies, and procedures for

1 any of those purposes while this Settlement Contract is in effect without amendment of
2 this Settlement Contract.

3 (g) For the term of this Settlement Contract, Rates under the respective
4 ratesetting policies for the Project will be established to recover only reimbursable
5 operation and maintenance (including any deficits) and capital costs of the Project, as
6 those terms are used in the then current Project ratesetting policies, and interest, where
7 appropriate, except in instances where a minimum Rate is applicable in accordance with
8 the relevant Project ratesetting policy. Proposed changes of significance in practices
9 which implement the ratesetting policies for the Project will not be implemented until the
10 Contracting Officer has provided the Contractor an opportunity to discuss the nature,
11 need, and impact of the proposed change. The Contractor retains all rights to challenge
12 the validity of Rates and Charges imposed pursuant to this Settlement Contract, including
13 but not limited to operation and maintenance expenses and operation and maintenance
14 deficits, in an appropriate administrative or judicial proceeding.

15 (h) Except as provided in subsection 3405(a)(1)(B) of the CVPIA, the
16 Rates for Project Water transferred, exchanged, or otherwise disposed of, by the
17 Contractor shall be the Contractor's Rates adjusted upward or downward to reflect the
18 changed costs of delivery (if any) of the transferred, exchanged, or otherwise disposed of
19 Project Water to the transferee's point of delivery in accordance with the then-current
20 ratesetting policies for the Project. Except as provided in subsection 3407(d)(2)(A) of the
21 CVPIA, the Charges for Project Water transferred, exchanged, or otherwise disposed of,
22 by the Contractor shall be the Contractor's Charges specified in Exhibit D. If the
23 Contractor is receiving lower Rates and Charges because of inability to pay and is

1 transferring, exchanging, or otherwise disposing of Project Water to another entity whose
2 Rates and Charges are not adjusted due to inability to pay, the Rates and Charges for
3 transferred, exchanged, or otherwise disposed of Project Water shall be the Contractor's
4 Rates and Charges unadjusted for ability to pay.

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

8 (j) Each payment to be made pursuant to subdivisions (a) and (b) of
9 this Article shall be made at the office of the Bureau of Reclamation, Mid-Pacific Region,
10 File No. 11546, P.O. Box 6000, San Francisco, California, 94160-1546, or at such other
11 place as the United States may designate in a written notice to the said Contractor.
12 Payments shall be made by cash transaction, wire, or any other mechanism as may be
13 agreed to in writing by the Contractor and the Contracting Officer. In the event there
14 should be a default in the payment of the amount due, the delinquent payment provisions
15 of Article 13 shall apply. The Contractor shall not be relieved of the whole or any part of
16 its said obligation by, on account of, or notwithstanding, as the case may be:

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

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

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

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

4 AGREEMENT ON WATER QUANTITIES

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

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

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

15 (b) Nothing herein contained is intended to or does limit rights of the
16 Contractor against others than the United States or of the United States against any
17 person other than the Contractor: Provided, however, that in the event the Contractor, the
18 United States, or any other person shall become a party to a general adjudication of rights
19 to the use of water of the Sacramento River system, this Settlement Contract shall not
20 jeopardize the rights or position of either party hereto or of any other person and the
21 rights of all such persons in respect to the use of such water shall be determined in such
22 proceedings the same as if this Settlement Contract had not been entered into, and if final
23 judgment in any such general adjudication shall determine that the rights of the parties

1 hereto are different from the rights as assumed herein, the parties shall negotiate an
2 amendment to give effect to such judgment. In the event the parties are unable to agree
3 on an appropriate amendment they shall, within 60 days of determining that there is an
4 impasse, employ the services of a neutral mediator, experienced in resolving water rights
5 disputes, to assist in resolving the impasse. The cost of the mediation will be shared
6 equally. A failure to reach agreement on an amendment within 60 days of the end of
7 mediation will cause the immediate termination of this Settlement Contract.

8 (c) In the event that the California State Water Resources Control
9 Board or a court of competent jurisdiction issues a final decision or order modifying the
10 terms and conditions of the water rights of either party to this Settlement Contract in
11 order to impose Bay-Delta water quality obligations, the Contractor and the United States
12 shall promptly meet to determine whether or not to modify any of the terms of this
13 Settlement Contract to comply with the final decision or order, including, but not limited
14 to, the applicability of the rescheduling charge in Article 3(c)(1) of this Settlement
15 Contract. If within 60 days of the date of the issuance of the final decision or order the
16 parties are not able to reach agreement regarding either the need to modify this
17 Settlement Contract or the manner in which this Settlement Contract is to be modified,
18 the parties shall promptly retain a neutral mediator, experienced in resolving water right
19 disputes, to assist the parties in resolving their dispute. The cost of the mediator shall be
20 shared equally. In the event that either of the parties to this Settlement Contract
21 determines that the parties will not be able to develop mutually-agreeable modification(s)
22 to this Settlement Contract even with the assistance of a mediator, either of the parties to
23 this Settlement Contract may attempt to resolve the impasse by seeking appropriate

1 judicial relief including, but not limited to, filing a general adjudication of the rights to
2 the use of water in the Sacramento River system. The foregoing provisions of this sub-
3 article shall only apply to the incremental obligations contained within a final decision or
4 order of the State Water Resources Control Board that reflects a modification to the
5 obligations imposed in State Water Resources Control Board Revised Water Rights
6 Decision 1641 dated March 15, 2000, and its associated 1995 Water Quality Control Plan
7 which, taken together, will be considered the baseline for the application of the
8 provisions of this sub-article.

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

1 from the Contractor be construed as an admission that any part of the water used by the
2 Contractor during the term of this Settlement Contract was in fact water to which it
3 would have been entitled under water rights owned by it.

4 MEASUREMENT OF WATER

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

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

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

22 (d) The Contractor shall not modify, alter, remove, or replace
23 diversion facilities or do any other act which would alter the effectiveness or accuracy of

1 the measuring equipment installed by the United States or its representatives unless and
2 until the Contracting Officer has been notified with due diligence and has been given an
3 opportunity to modify such measuring equipment in such manner as may be necessary or
4 appropriate. In the event of an emergency the Contractor shall notify the United States
5 within a reasonable time thereafter as to the existence of the emergency and the nature
6 and extent of such modification, alteration, removal, or replacement of diversion
7 facilities.

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

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

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

19 RULES AND REGULATIONS

20 11. The parties agree that the delivery of Project Water for irrigation use or
21 use of Federal facilities pursuant to this Settlement Contract is subject to Federal
22 Reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43

1 U.S.C. 390aa et seq.), as amended and supplemented, and the rules and regulations
2 promulgated by the Secretary of the Interior under Federal Reclamation law.

3 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT
4

5 12. (a) The obligation of the Contractor to pay the United States as
6 provided in this Settlement Contract is a general obligation of the Contractor
7 notwithstanding the manner in which the obligation may be distributed among the
8 Contractor's water users and notwithstanding the default of individual water users in their
9 obligations to the Contractor.

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

18
19 (c) With respect to subdivision (b) of this Article, the Contractor shall
20 have no obligation to require advance payment for water Rates which it levies.

21
22 CHARGES FOR DELINQUENT PAYMENTS
23

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

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

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41 (c) When a partial payment on a delinquent account is received, the
42 amount received shall be applied, first to the penalty, second to the administrative
43 charges, third 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 consideration for employment without discrimination because of race, color, religion, sex, or national origin.

1 (c) The Contractor will send to each labor union or representative of
2 workers with which it has a collective bargaining agreement or other contract or
3 understanding, a notice, to be provided by the Contracting Officer, advising the said labor
4 union or workers' representative of the Contractor's commitments under Section 202 of
5 Executive Order No. 11246 of September 24, 1965, as amended, and shall post copies of
6 the notice in conspicuous places available to employees and applicants for employment.
7

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

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

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

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

38 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
39 *(For Districts Only)*
40

41 17. (a) The Contractor shall comply with Title VI of the Civil Rights Act
42 of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112,
43 as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other
44 applicable civil rights laws, as well as with their respective implementing regulations and
45 guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.
46

1 (b) These statutes require that no person in the United States shall, on
2 the grounds of race, color, national origin, handicap, or age, be excluded from
3 participation in, be denied the benefits of, or be otherwise subjected to discrimination
4 under any program or activity receiving financial assistance from the Bureau of
5 Reclamation. By executing this Settlement Contract, the Contractor agrees to
6 immediately take any measures necessary to implement this obligation, including
7 permitting officials of the United States to inspect premises, programs, and documents.
8

9 (c) The Contractor makes this agreement in consideration of and for
10 the purpose of obtaining any and all Federal grants, loans, contracts, property discounts,
11 or other Federal financial assistance extended after the date hereof to the Contractor by
12 the Bureau of Reclamation, including installment payments after such date on account of
13 arrangements for Federal financial assistance which were approved before such date.
14 The Contractor recognizes and agrees that such Federal assistance will be extended in
15 reliance on the representations and agreements made in this Article, and that the United
16 States reserves the right to seek judicial enforcement thereof.
17

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

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

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

1 ownership, land-leasing and water use data; and other matters that the Contracting
2 Officer may require. Reports thereon shall be furnished to the Contracting Officer in
3 such form and on such date or dates as the Contracting Officer may require. Subject to
4 applicable Federal laws and regulations, each party to this Settlement Contract shall have
5 the right during office hours to examine and make copies of each other's books and
6 official records relating to matters covered by this Settlement Contract.

7
8 CHANGE OF PLACE OF USE OR ORGANIZATION

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

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

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

21 CONSOLIDATION OF CONTRACTING ENTITIES

22
23 21. Consolidation of Contractors may be approved by the Contracting Officer
24 provided: (i) the Contracting Officer approves the form and organization of the resulting
25 entity and the utilization by it of the Contract Total; and (ii) the obligations of the
26 Contractors are assumed by such entity.

27 No such consolidation shall be valid unless and until approved by the Contracting
28 Officer.

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NOTICES

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

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

OFFICIALS NOT TO BENEFIT

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

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

CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

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CONFIRMATION OF SETTLEMENT CONTRACT

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

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

1 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to
2 their own records.

3
4 (e) The Contractor shall forward promptly to the System Manager
5 each proposed denial of access under 43 CFR 2.64; and each request for amendment of
6 records filed under 43 CFR 2.71; notify the requester accordingly of such referral; and
7 provide the System Manager with information and records necessary to prepare an
8 appropriate response to the requester. These requirements do not apply to individuals
9 seeking access to their own certification and reporting forms filed with the Contractor
10 pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy Act as a basis
11 for the request.

12
13 WATER CONSERVATION

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

1 thereafter the Contractor immediately begins implementing its water conservation and
2 efficiency program in accordance with the time schedules therein.

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

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

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

16 (e) In order to provide incentives for water conservation, the
17 Contractor may reduce the amount of Project Water for which payment is required under
18 Article 8(a) in accordance with the provisions of this Article 29(e).

19 (1) On or before February 15 of any Water Year, the
20 Contractor may file with Reclamation an offer to reduce Project Water use, hereinafter
21 referred to as Offer. The Offer shall specify the maximum quantity of Project Water to
22 be diverted by the Contractor for each month that Project Water is available for that
23 Water Year under this Settlement Contract. The Contracting Officer shall provide the

1 Contractor with a decision, in writing, to the Offer on or before March 15 of that Water
2 Year. The dates specified in this Article 29(e)(1) can be changed if mutually agreed to, in
3 writing, by the Contractor and Contracting Officer.

4 (2) If Reclamation accepts the Offer, the Contractor's payment
5 obligation under Article 8(a)(1) shall be reduced to the maximum quantity of Project
6 Water to be diverted by the Contractor as specified in the Offer. The Contractor shall not
7 divert Project Water in excess of the quantities set forth in the Offer: Provided, however,
8 if the Contractor's diversions of Project Water exceed the quantities set forth in the Offer,
9 the Contractor shall pay to Reclamation the applicable Rates and Charges plus an amount
10 equal to the applicable Rates and Charges, unadjusted for ability to pay, for each acre-
11 foot of Project Water diverted in excess of the quantities set forth in the Offer.

12 (3) If Reclamation decides not to accept the Offer, the
13 Contractor's payment obligation will remain as specified in Article 8(a)(1).

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

17 OPINIONS AND DETERMINATIONS

18 30. (a) Where the terms of this Settlement Contract provide for actions to
19 be based upon the opinion or determination of either party to this Settlement Contract,
20 said terms shall not be construed as permitting such action to be predicated upon
21 arbitrary, capricious, or unreasonable opinions or determinations. Both parties,
22 notwithstanding any other provisions of this Settlement Contract, expressly reserve the
23 right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
24

1 unreasonable opinion or determination. Each opinion or determination by either party
2 shall be provided in a timely manner. Nothing in subdivision (a) of Article 30 of this
3 Settlement Contract is intended to or shall affect or alter the standard of judicial review
4 applicable under Federal law to any opinion or determination implementing a specific
5 provision of Federal law embodied in statute or regulation.

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

12 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

22 (b) All advances for miscellaneous costs incurred for work requested
23 by the Contractor pursuant to Article 31 of this Settlement Contract shall be adjusted to

1 reflect the actual costs when the work has been completed. If the advances exceed the
2 actual costs incurred, the difference will be refunded to the Contractor. If the actual costs
3 exceed the Contractor's advances, the Contractor will be billed for the additional costs
4 pursuant to Article 31 of this Settlement Contract.

5 WAIVER OF DEFAULT

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

**2003 Water Rates and Charges for Contract No. ##-##-###-#####
Contractor Name - Sacramento River**

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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
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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).

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 PROVIDING
FOR PROJECT WATER SERVICE AND AGREEMENT ON DIVERSION OF
WATER

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1 EXPLANATORY RECITALS

2 WHEREAS, the United States has constructed and is operating the Central Valley
3 Project, California, for diversion, storage, carriage, distribution and beneficial use, for
4 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation,
5 protection and restoration, generation and distribution of electric energy, salinity control,
6 navigation and other beneficial uses, of waters of the Sacramento River, the American
7 River, the Trinity River, and the San Joaquin River and their tributaries; and

8 WHEREAS, the Contractor asserts that it has rights to divert, is diverting, and
9 will continue to divert for reasonable beneficial use, water from the natural flow of the
10 Sacramento River and tributaries thereto, that would have been flowing therein if the
11 Central Valley Project were not in existence; and

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

16 WHEREAS, the United States asserts that it has rights to divert, is diverting, and
17 will continue to divert waters from said Rivers and said Delta in connection with the
18 operation of said Central Valley Project, and

19 WHEREAS, the Contractor and the United States entered into Contract No.
20 _____, as amended, hereinafter referred to as the Existing Contract, which
21 established terms for the delivery to the Contractor of Central Valley Project Water and
22 the quantities of Base Supply the Contractor may divert from the Sacramento River from
23 _____ through _____; and

1 (d) "Critical Year" shall mean any Year in which either of the following
2 eventualities exists:

3 (1) The forecasted full natural inflow to Shasta Lake for the current Water
4 Year, as such forecast is made by the United States on or before February 15 and
5 reviewed as frequently thereafter as conditions and information warrant, is equal to or
6 less than three million two hundred thousand (3,200,000) acre-feet; or

7 (2) The total accumulated actual deficiencies below four million
8 (4,000,000) acre-feet in the immediately prior Water Year or series of successive prior
9 Water Years each of which had inflows of less than four million (4,000,000) acre-feet,
10 together with the forecasted deficiency for the current Water Year, exceed eight hundred
11 thousand (800,000) acre-feet. For the purpose of determining a Critical Year the
12 computed inflow to Shasta Lake under present upstream development above Shasta Lake
13 shall be used as the full natural inflow to Shasta Lake. In the event that major
14 construction occurs above Shasta Lake after April 1, 2004, which materially alters the
15 present regimen of the stream systems contributing to Shasta Lake, the computed inflow
16 to Shasta Lake used to define a Critical Year will, be adjusted to eliminate the effect of
17 such material alterations. After consultation with the State of California, the National
18 Weather Service, and other recognized forecasting agencies, the Contracting Officer will
19 select the forecast to be used and will make the details of it available to the Contractor.
20 The same forecasts used by the United States for the operation of the Project shall be
21 used to make the forecasts hereunder;

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

1 (f) "Eligible Lands" shall mean all lands to which Project Water may be
2 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12,
3 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

4 (g) "Excess Lands" shall mean all lands in excess of the limitations contained
5 in Section 204 of the RRA, other than those lands exempt from acreage limitation under
6 Federal Reclamation law;

7 (h) "Full Cost Rate" shall mean that water rate described in Sections
8 205(a)(3) or 202(3) of the RRA, whichever is applicable;

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

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

13 (k) "Project" shall mean the Central Valley Project owned by the United
14 States and managed by the Department of the Interior, Bureau of Reclamation;

15 (l) "Project Water" shall mean all water diverted or scheduled to be diverted
16 each month during the period April through October of each Year by the Contractor from
17 the Sacramento River which is in excess of the Base Supply. The United States
18 recognizes the right of the Contractor to make arrangements for acquisition of water from
19 projects of others than the United States for delivery through the Sacramento River and
20 tributaries subject to written agreement between Contractor and the United States as to
21 identification of such water which water when so identified shall not be deemed Project
22 Water under this contract;

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

5 (n) "Secretary" or "Contracting Officer" shall mean the Secretary of the
6 Interior, a duly appointed successor, or an authorized representative acting pursuant to
7 any authority of the Secretary and through any agency of the Department of the Interior;

8 (o) "Water Year" shall mean the period commencing with October 1 of one
9 year and extending through September 30 of the next; and

10 (p) "Year" shall mean a calendar year.

11 TERM OF CONTRACT

12 2. This contract shall become effective April 1, 2004, and shall remain in effect
13 until and including March 31, 2044: Provided, That under terms and conditions mutually
14 agreeable to the parties hereto, renewals may be made for successive periods not to
15 exceed forty (40) years each. The terms and conditions of each renewal shall be agreed
16 upon not later than one (1) year prior to the expiration of the then existing contract:
17 Provided further, That upon written request by the Contractor of the Secretary made not
18 later than one (1) year prior to the expiration of this contract, whenever, account being
19 taken of the amount then credited to the costs of construction of water supply works, the
20 remaining amount of construction costs of water supply work which is properly
21 assignable for ultimate return by the Contractor as established by the Secretary of the
22 Interior pursuant to (3) of Section 1 of Public Law 643 (70 Stat. 483), probably can be
23 repaid to the United States within the term of a contract under subsection (d), Section 9 of

1 the 1939 Reclamation Project Act (53 Stat. 1187), this contract may be converted to a
2 contract under said subsection (d) upon terms and conditions mutually agreeable to the
3 United States and the Contractor. Notwithstanding any provision of this contract, the
4 Contractor reserves and shall have all rights and benefits under Public Law 643.

5 WATER TO BE FURNISHED TO CONTRACTOR

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

16 (b) The United States recognizes the need of the Contractor to vary from time
17 to time its monthly diversions of water from the quantities shown in Exhibit A, or any
18 revision thereof. Before April 1 of each Year the Contractor shall submit a written
19 schedule to the Contracting Officer indicating the Contract Total to be diverted by the
20 Contractor during each month. The United States shall furnish water to the Contractor in
21 accordance with the monthly operating schedule or any revisions thereof: Provided, That
22 in no event shall the total quantity scheduled for diversion by the Contractor from the
23 Sacramento River:

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

3 (2) During the period July through September exceed the aggregate of the
4 Contract Total for those months shown in Exhibit A or any revision thereof; and

5 Provided, further, That with the prior written approval of the Contracting Officer, water
6 to be diverted in April, May, or June may be diverted in September or October, or vice
7 versa. The Contractor shall be charged a fee based upon the appropriate components of
8 the water ratesetting policy for the Project for the Base Supply scheduled for diversion in
9 April, May, or June that is diverted in September or October, or vice versa.

10 (c) In the event conditions warrant, the Contracting Officer reserves the right
11 to require the Contractor to submit, at least seventy-two (72) hours prior to the beginning
12 of each weekly period, its estimate of daily diversion requirements for each such period
13 from the Sacramento River: Provided, however, That changes during any such period
14 may be made upon the giving of seventy-two (72) hours' notice thereof to the
15 Contracting Officer.

16 (d) No sale, transfer, exchange, or other disposal of any water or the right to
17 the use thereof for use on land other than that shown on Exhibit B shall be made by the
18 Contractor without:

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

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

1 (e) Nothing herein contained shall prevent the Contractor from diverting
2 water during the months of November through March for beneficial use on the land
3 shown on Exhibit B to the extent authorized under the laws of the State of California.

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

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

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

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

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

17 RETURN FLOW

18 4. The United States reserves the right to the use of all waste, seepage, and return
19 flow water derived from water diverted by the Contractor hereunder and which escapes
20 or is discharged beyond the boundaries of the lands shown on Exhibit B. Nothing herein
21 shall be construed as an abandonment or a relinquishment by the United States of the
22 right to the use of any such water; Provided, That this shall not be construed as claiming
23 for the United States any right to such water which is recovered by the Contractor

1 pursuant to California law from within the boundaries of the lands shown on Exhibit B,
2 and which is being used pursuant to this contract for surface irrigation or underground
3 storage on the lands shown on Exhibit B by the Contractor. (*Colusa Basin Drain*
4 *language may be required*)

5 CONSTRAINTS ON THE AVAILABILITY OF WATER

6 5. (a) In any Water Year that (1) the forecasted full natural inflow to Shasta Lake
7 for the current Water Year, as such forecast is made by the United States on or before
8 February 15 and reviewed as frequently thereafter as conditions and information warrant,
9 is equal to or less than three million eight hundred thousand (3,800,000) acre-feet; or

10 (2) If the total accumulated actual deficiencies in the full natural inflow to Shasta
11 Lake in the immediately prior Water Year or series of successive prior Water Years, each
12 of which had inflows of less than four million (4,000,000) acre-feet, together with the
13 forecasted deficiency for the current Water Year, are between 200,000 acre-feet and
14 800,000 acre-feet, then the following reductions in the Contractor's monthly Contract
15 Total shall be imposed:

<u>Deficiency (acre-feet)</u>	<u>Reduction</u>
200,000 – 400,000	10 percent
400,001 – 600,000	15 percent
600,001 – 800,000	20 percent

21 (b) In a Critical Year, the Contractor's Base Supply and Project Water agreed
22 to be diverted during the period April through October of the Year in which the principal
23 portion of the Critical Year occurs and, each monthly quantity of said period shall be
24 reduced by twenty-five percent (25%).

25 (c) The amount of any overpayment by the Contractor shall, at its option, be
26 refunded or credited upon amounts to become due to the United States from the

1 Contractor under the provisions hereof in the ensuing Year. To the extent of such
2 deficiency such adjustment of overpayment shall constitute the sole remedy of the
3 Contractor.

4 USE OF WATER FURNISHED TO CONTRACTOR

5 6. (a) Project Water furnished to the Contractor pursuant to this contract shall not
6 be delivered or furnished by the Contractor for any purposes other than agricultural
7 purposes, including, but not restricted to, the watering of livestock, incidental domestic
8 use, or underground water replenishment without written consent of the Contracting
9 Officer.

10 (b) The Contractor shall comply with requirements applicable to the
11 Contractor in biological opinion(s) prepared as a result of a consultation regarding the
12 execution of this Contract undertaken pursuant to Section 7 of the Endangered Species
13 Act of 1973, as amended, that are within the Contractor's legal authority to implement.
14 The Contractor shall comply with the limitations or requirements imposed by
15 environmental documentation applicable to the Contractor and within its legal authority
16 to implement regarding specific activities, including conversion of Irrigation Water to
17 M&I Water. Nothing herein shall be construed to prevent the Contractor from
18 challenging or seeking judicial relief in a court of competent jurisdiction with respect to
19 any biological opinion or other environmental documentation referred to in this Article.

20 RATE AND METHOD OF PAYMENT FOR WATER

21 7. (a) The Contractor shall make payments to the United States as provided in
22 this Article for all Project Water shown in Exhibit A of this contract at Rates and Charges
23 established in accordance with: (i) the Secretary's then-current ratesetting policies for the

1 Project; and (ii) applicable Reclamation law and associated rules and regulations, or
2 policies: Provided, That if the Contractor desires to use Project Water for other than
3 agricultural use the Rates and Charges set forth above will be adjusted by the Contracting
4 Officer to the applicable Rates and Charges for such use. The Rates and Charges
5 applicable to the Contractor upon execution of this Contract are set forth in Exhibit “D”,
6 as may be revised annually. The Secretary’s ratesetting policies for the Project shall be
7 amended, modified, or superseded only through a public notice and comment procedure.

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

10 (1) Prior to July 1 of each Year, the Contracting Officer shall provide the
11 Contractor an estimate of the Charges for Project Water that will be applied to the period
12 October 1, of the current Year, through September 30, of the following Year, and the
13 basis for such estimate. The Contractor shall be allowed not less than two (2) months to
14 review and comment on such estimates. On or before September 15 of each Year, the
15 Contracting Officer shall notify the Contractor in writing of the Charges to be in effect
16 during the period October 1 of the current Year, through September 30, of the following
17 Year, and such notification shall revise Exhibit “D.”

18 (2) Prior to October 1 of each Year, the Contracting Officer shall make
19 available to the Contractor an estimate of the Rates for Project Water for the following
20 Year and the computations and cost allocations upon which those Rates are based. The
21 Contractor shall be allowed not less than two (2) months to review and comment on such
22 computations and cost allocations. By December 31 of each Year, the Contracting

1 Officer shall provide the Contractor with the final Rates to be in effect for the upcoming
2 Year, and such notification shall revise Exhibit “D”.

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

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

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

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

1 (d1) (*Contractor Specific*) All revenues received by the United States from
2 the Contractor relating to the delivery of Project Water or the delivery of non-Project
3 water through Project facilities shall be allocated and applied in accordance with Federal
4 Reclamation law and the associated rules or regulations, and the then current Project
5 ratesetting policies for Irrigation Water.

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

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

22 (g) For the term of this contract, Rates under the respective ratesetting
23 policies for the Project will be established to recover only reimbursable operation and

1 maintenance (including any deficits) and capital costs of the Project, as those terms are
2 used in the then-current Project ratesetting policies, and interest, where appropriate,
3 except in instances where a minimum Rate is applicable in accordance with the relevant
4 Project ratesetting policy. Proposed changes of significance in practices which
5 implement the ratesetting policies for the Project will not be implemented until the
6 Contracting Officer has provided the Contractor an opportunity to discuss the nature,
7 need, and impact of the proposed change.

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

19 (i) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting
20 Officer is authorized to adjust determinations of ability to pay every five (5) years.

21 (j) Each payment to be made pursuant to subdivisions (a) and (b) of this
22 Article shall be made at the office of the Bureau of Reclamation, Mid-Pacific Region,
23 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 12 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 the quantity of Project Water as
8 hereinabove provided;

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 Contract is irregular, void, or ineffectual; or

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

16 AGREEMENT ON WATER QUANTITIES

17 8. (a) During the term of this contract and any renewals thereof:

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

1 (2) The Contractor shall not claim any right against the United States in
2 conflict with the provisions 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,
6 the United States, or any other person shall become a party to a general adjudication of
7 rights to the use of water of the Sacramento River system, this 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 contract had not been entered into, and if final judgment
11 in any such general adjudication shall determine that the rights of the parties hereto are
12 different from the rights as assumed herein, the United States shall submit it to the
13 Contractor an amendment to give effect to such judgment and the contract shall be
14 deemed to have been amended accordingly unless within sixty (60) days after submission
15 of such amendment to the Contractor, the Contractor elects to terminate the contract or
16 within the same period of time the parties agree upon mutually satisfactory amendments
17 to give effect to such judgment: Provided, further, That if, during the term of this
18 Contract, the Contractor's or the United States' water rights are adjusted or affected, or
19 the responsibility to meet flow, water quality and/or environmental requirements under
20 those water rights is modified (e.g., changes to the Delta Water Quality Control Plan and
21 associated water right actions), by or through any final administrative or judicial
22 proceeding, the Contractor and the United States shall negotiate appropriate adjustments
23 to this contract.

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

18 MEASUREMENT OF WATER

19 9. (a) All water diverted by the Contractor from Sacramento River will be
20 diverted at the existing point or points of diversion shown on Exhibit A or at such other
21 points as may be mutually agreed upon in writing by the Contracting Officer and the
22 Contractor.

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

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

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

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

4 (f) (*Contractor Specific*) By _____[DATE] _____, the
5 Contractor shall ensure that, unless the Contractor establishes an alternative measurement
6 program satisfactory to the Contracting Officer, all surface water delivered for irrigation
7 purposes on the lands delineated on Exhibit B is measured at each agricultural turnout.
8 The water measuring devices or water measuring methods of comparable effectiveness
9 must be acceptable to the Contracting Officer. The Contractor shall be responsible for
10 installing, operating, and maintaining and repairing all such measuring devices and
11 implementing all such water measuring methods at no cost to the United States. The
12 Contractor shall inform the Contracting Officer in writing by April 30 of each Year of the
13 monthly volume of surface water delivered to the lands delineated on Exhibit B during
14 the previous Year. This information will be used by Reclamation to satisfy the water
15 measurement requirements of the Contractor's water conservation plan, as set forth in
16 Article 28 of this Contract.

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

20 RULES AND REGULATIONS

21 10. The parties agree that the delivery of Project Water for irrigation use or use of
22 Federal facilities pursuant to this Contract is subject to Federal Reclamation law,
23 including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C.390aa et

1 seq.), as amended and supplemented, and the rules and regulations promulgated by the
2 Secretary of the Interior under Federal Reclamation law.

3 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT
4

5 11. (a) The obligation of the Contractor to pay the United States as provided in
6 this Contract is a general obligation of the Contractor notwithstanding the manner in
7 which the obligation may be distributed among the Contractor's water users and
8 notwithstanding the default of individual water users in their obligations to the
9 Contractor.

10
11 (b) The payment of charges becoming due hereunder is a condition precedent
12 to receiving benefits under this Contract. The United States shall not make water
13 available to the Contractor through Project facilities during any period in which the
14 Contractor may be in arrears in the advance payment of water rates due the United States.
15 The Contractor shall not furnish water made available pursuant to this Contract for lands
16 or parties which are in arrears in the advance payment of water rates levied or established
17 by the Contractor.

18
19 (c) With respect to subdivision (b) of this Article, the Contractor shall have
20 no obligation to require advance payment for water rates which it levies.
21

22 CHARGES FOR DELINQUENT PAYMENTS
23

24 12. (a) The Contractor shall be subject to interest, administrative and penalty
25 charges on delinquent installments or payments. When a payment is not received by the
26 due date, the Contractor shall pay an interest charge for each day the payment is
27 delinquent beyond the due date. When a payment becomes sixty (60) days delinquent,
28 the Contractor shall pay an administrative charge to cover additional costs of billing and
29 processing the delinquent payment. When a payment is delinquent ninety (90) days or
30 more, the Contractor shall pay an additional penalty charge of six (6%) percent per year
31 for each day the payment is delinquent beyond the due date. Further, the Contractor shall
32 pay any fees incurred for debt collection services associated with a delinquent payment.
33

34 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
35 in the Federal Register by the Department of the Treasury for application to overdue
36 payments, or the interest rate of one-half of one (0.5%) percent per month prescribed by
37 Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest
38 charge rate shall be determined as of the due date and remain fixed for the duration of the
39 delinquent period.
40

41 (c) When a partial payment on a delinquent account is received, the amount
42 received shall be applied, first to the penalty, second to the administrative charges, third
43 to the accrued interest, and finally to the overdue payment.
44

1 QUALITY OF WATER

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

8 WATER AND AIR POLLUTION CONTROL

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

13 EQUAL OPPORTUNITY

14
15 15. During the performance of this Contract, the Contractor agrees as follows:
16

17 (a) The Contractor will not discriminate against any employee or applicant
18 for employment because of race, color, religion, sex, or national origin. The Contractor
19 will take affirmative action to ensure that applicants are employed, and that employees
20 are treated during employment, without regard to their race, color, religion, sex, or
21 national origin. Such action shall include, but not be limited to, the following:
22 Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising;
23 layoff or termination, rates of payment or other forms of compensation; and selection for
24 training, including apprenticeship. The Contractor agrees to post in conspicuous places,
25 available to employees and applicants for employment, notices to be provided by the
26 Contracting Officer setting forth the provisions of this nondiscrimination clause.
27

28 (b) The Contractor will, in all solicitations or advertisements for employees
29 placed by or on behalf of the Contractor, state that all qualified applicants will receive
30 consideration for employment without discrimination because of race, color, religion,
31 sex, or national origin.
32

33 (c) The Contractor will send to each labor union or representative of workers
34 with which it has a collective bargaining agreement or other contract or understanding, a

1 notice, to be provided by the Contracting Officer, advising the said labor union or
2 workers' representative of the Contractor's commitments under Section 202 of Executive
3 Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous
4 places available to employees and applicants for employment.
5

6 (d) The Contractor will comply with all provisions of Executive Order No.
7 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant
8 orders of the Secretary of Labor.
9

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

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

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

35 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
36 *(For Districts Only)*
37

38 16. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
39 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as
40 amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other
41 applicable civil rights laws, as well as with their respective implementing regulations and
42 guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.
43

44 (b) These statutes require that no person in the United States shall, on the
45 grounds of race, color, national origin, handicap, or age, be excluded from participation
46 in, be denied the benefits of, or be otherwise subjected to discrimination under any

1 program or activity receiving financial assistance from the Bureau of Reclamation. By
2 executing this Contract, the Contractor agrees to immediately take any measures
3 necessary to implement this obligation, including permitting officials of the United States
4 to inspect premises, programs, and documents.

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

14
15 MINGLING OF CONTRACTOR'S PROJECT AND NON-PROJECT WATER

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

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

29 (c) The Contractor will not be considered in violation of the requirement that
30 Project Water be delivered only to Eligible Lands during any month of the irrigation

1 season that the water requirement for beneficial use on Eligible Lands for that month is
2 equal to or in excess of the Project Water for that month as shown on Exhibit A or any
3 revision thereof pursuant to subdivision (b) of Article 3. The water requirement for
4 beneficial use on Eligible Lands will be determined by multiplying:

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

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

19 **BOOKS, RECORDS, AND REPORTS**

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

1 examine and make copies of each other's books and official records relating to matters
2 covered by this Contract.

3
4 CHANGE OF PLACE OF USE OR ORGANIZATION

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

7 (b) While this contract is in effect, no change shall be made in the area of the
8 Contractor as shown on its Exhibit B, by inclusion or exclusion of lands, by dissolution,
9 consolidation, or merger or otherwise, except upon the Contracting Officer's written
10 assent thereto.

11 (c) In the event lands are excluded from the area of the Contractor, as
12 provided herein, the quantity of Project Water to be diverted may be decreased pursuant
13 to a supplemental agreement to be executed in respect thereto.

14 CONSOLIDATION OF CONTRACTING ENTITIES

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

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

22 NOTICES

23 21. Any notice, demand, or request authorized or required by this Contract shall
24 be deemed to have been given, on behalf of the Contractor, when mailed, postage
25 prepaid, or delivered to the Area Manager, Northern California Area Office, Bureau of
26 Reclamation, 16349 Shasta Dam Blvd., Shasta Lake, California, 96019, and on behalf of
27 the United States, when mailed, postage prepaid, or delivered to the Board of Directors
28 /City Council of the _____ . The designation of the addressee or

1 the address may be changed by notice given in the same manner as provided in this
2 Article for other notices.

3
4 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

5
6 22. (a) The provisions of this Contract shall apply to and bind the successors
7 and assigns of the parties hereto, but no assignment or transfer of this Contract or any
8 right or interest therein shall be valid until approved in writing by the Contracting
9 Officer.

10
11 (b) The assignment of any right or interest in this Contract by either party
12 shall not interfere with the rights or obligations of the other party to this Contract absent
13 the written concurrence of said other party.

14
15 (c) The Contracting Officer shall not unreasonably condition or withhold his
16 approval of any proposed assignment.

17
18 OFFICIALS NOT TO BENEFIT

19
20 23. (a) No Member of or Delegate to Congress, Resident Commissioner, or
21 official of the Contractor shall benefit from this Contract other than as a water user or
22 landowner in the same manner as other water users or landowners.

23
24 (b) No officer or member of the governing board of the Contractor shall
25 receive any benefit that may arise by reason of this contract other than as a landowner
26 within the Contractor's service area and in the same manner as other landowners within
27 the said service area.

28
29 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

30
31 24. The expenditure or advance of any money or the performance of any
32 obligation of the United States under this Contract shall be contingent upon appropriation
33 or allotment of funds. Absence of appropriation or allotment of funds shall not relieve
34 the Contractor from any obligations under this Contract. No liability shall accrue to the
35 United States in case funds are not appropriated or allotted.

36
37 CONFIRMATION OF CONTRACT

38 25. The Contractor, after the execution of this Contract, shall promptly seek to
39 secure a decree of a court of competent jurisdiction of the State of California, if
40 appropriate, confirming the execution of this contract. The Contractor shall furnish the
41 United States a certified copy of the final decree, the validation proceedings, and all
42 pertinent supporting records of the court approving and confirming this Contract, and
43 decreeing and adjudging it to be lawful, valid, and binding on the Contractor. This
44 Contract shall not be binding on the United States until such final decree has been
45 secured.

1 UNAVOIDABLE GROUNDWATER PERCOLATION

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

6 PRIVACY ACT COMPLIANCE

7
8 27. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C.
9 552a) (the Act) and the Department of the Interior rules and regulations under the Act (43
10 CFR 2.45 et seq.) in maintaining Landholder acreage certification and reporting records,
11 required to be submitted to the Contractor for compliance with Sections 206 and 228 of
12 the Reclamation Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

13
14 (b) With respect to the application and administration of the criminal penalty
15 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees
16 responsible for maintaining the certification and reporting records referenced in (a) above
17 are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

18
19 (c) The Contracting Officer or a designated representative shall provide the
20 Contractor with current copies of the Interior Department Privacy Act regulations and the
21 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Acreage
22 Limitation--Interior, Reclamation-31) which govern the maintenance, safeguarding, and
23 disclosure of information contained in the Landholder's certification and reporting
24 records.

25
26 (d) The Contracting Officer shall designate a full-time employee of the
27 Bureau of Reclamation to be the System Manager who shall be responsible for making
28 decisions on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to
29 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to
30 their own records.

31
32 (e) The Contractor shall forward promptly to the System Manager each
33 proposed denial of access under 43 CFR 2.64; and each request for amendment of records
34 filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide
35 the System Manager with information and records necessary to prepare an appropriate
36 response to the requester. These requirements do not apply to individuals seeking access
37 to their own certification and reporting forms filed with the Contractor pursuant to 43
38 CFR 426.18, unless the requester elects to cite the Privacy Act as a basis for the request.
39

WATER CONSERVATION

1
2 28. (a) Prior to the diversion of Project Water, the Contractor shall be
3 implementing an effective water conservation and efficiency program based on the
4 Contractor's water conservation plan that has been determined by the Contracting Officer
5 to meet the conservation and efficiency criteria for evaluating water conservation plans
6 established under Federal law. The water conservation and efficiency program shall
7 contain definite water conservation objectives, appropriate economically feasible water
8 conservation measures, and time schedules for meeting those objectives. Continued
9 diversion of Project Water pursuant to this Contract shall be contingent upon the
10 Contractor's continued implementation of such water conservation program. In the event
11 the Contractor's water conservation plan or any revised water conservation plan
12 completed pursuant to subdivision (c) of Article 28 of this Contract have not yet been
13 determined by the Contracting Officer to meet such criteria, due to circumstances which
14 the Contracting Officer determines are beyond the control of the Contractor, Project
15 Water deliveries shall be made under this Contract so long as the Contractor diligently
16 works with the Contracting Officer to obtain such determination at the earliest practicable
17 date, and thereafter the Contractor immediately begins implementing its water
18 conservation and efficiency program in accordance with the time schedules therein.

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

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

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

10 OPINIONS AND DETERMINATIONS

11
12 29. (a) Where the terms of this Contract provide for actions to be based upon the
13 opinion or determination of either party to this Contract, said terms shall not be construed
14 as permitting such action to be predicated upon arbitrary, capricious, or unreasonable
15 opinions or determinations. Both parties, notwithstanding any other provisions of this
16 Contract, expressly reserve the right to seek relief from and appropriate adjustment for
17 any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion
18 or determination by either party shall be provided in a timely manner. Nothing in
19 subdivision (a) of Article 29 of this Contract is intended to or shall affect or alter the
20 standard of judicial review applicable under federal law to any opinion or determination
21 implementing a specific provision of federal law embodied in statute or regulation.

22 (b) The Contracting Officer shall have the right to make determinations
23 necessary to administer this Contract that are consistent with the provisions of this
24 Contract, the laws of the United States and of the State of California, and the rules and

1 regulations promulgated by the Secretary of the Interior. Such determinations shall be
2 made in consultation with the Contractor to the extent reasonably practicable.

3 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

13 (b) All advances for miscellaneous costs incurred for work requested by the
14 Contractor pursuant to Article 30 of this Contract shall be adjusted to reflect the actual
15 costs when the work has been completed. If the advances exceed the actual costs
16 incurred, the difference will be refunded to the Contractor. If the actual costs exceed the
17 Contractor's advances, the Contractor will be billed for the additional costs pursuant to
18 Article 30 of this Contract.

19 WAIVER OF DEFAULT

20 31. The waiver by either party to this contract as to any default shall not be
21 construed as a waiver of any other default or as authority of the other party to continue
22 such default or to make, do, or perform, or not to make, do, or perform, as the case may
23 be, any act or thing which would constitute a default.

1 IN WITNESS WHEREOF, the parties hereto have executed this contract as of
2 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
13 (SEAL)

14
15
16 (Contractor)

17
18
19 By: _____
20 President

21
22 ATTEST:

23
24
25
26 _____
27 Secretary

28
29
30 (I:\sac river renewal\Sac R Long Form Draft.doc)

31

R.O. Draft 05/15-2002

Contract No.
Standard Irrigation District Form
SRSC Draft 05/22/02
SRSC Draft 05/31/02

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

WATER RIGHTS SETTLEMENT CONTRACT BETWEEN THE UNITED STATES
AND

DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES PROVIDING
FOR PROJECT WATER SERVICE AND AGREEMENT ON DIVERSION OF
WATER

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R.O. Draft 05/15-2002
Contract No.
Standard Irrigation District Form
SRSC Draft 05/02/02
SRSC Draft 05/22/02
SRSC Draft 05/31/02

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

WATER RIGHTS SETTLEMENT CONTRACT BETWEEN THE UNITED STATES
AND

DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES ~~PROVIDING~~
~~FOR PROJECT WATER SERVICE AND AGREEMENT ON DIVERSION OF~~
WATER

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, ~~in pursuance~~ pursuant to the applicable authority granted to it generally ~~of~~ 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 Section 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 Federal Reclamation law, ~~between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States,~~ and _____, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and

1 acting pursuant to the laws thereof, with its principal place of business in California;
2 (*may change depending on contracting entity*)

3 WITNESSETH, ~~That~~ that:

4 EXPLANATORY RECITALS

5 WHEREAS, the United States has constructed and is operating the Central Valley
6 Project, California, ~~for diversion, storage, carriage, distribution and beneficial use, for~~
7 ~~flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation,~~
8 ~~protection and restoration, generation and distribution of electric energy, salinity control,~~
9 ~~navigation and other beneficial uses, of waters of the Sacramento River, the American~~
10 ~~River, the Trinity River, and the San Joaquin River and their tributaries; and~~

11 WHEREAS, the Contractor ~~asserts that it~~ has rights to divert, is diverting, and
12 will continue to divert for reasonable beneficial use, water from the natural flow of the
13 Sacramento River and tributaries thereto, that would have been flowing therein if the
14 Central Valley Project were not in existence; and

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

19 WHEREAS, the United States ~~asserts that it~~ has rights to divert, is diverting, and
20 will continue to divert waters from said Rivers and said Delta in connection with the
21 operation of said Central Valley Project, and

22 WHEREAS, the Contractor and the United States had a dispute over the nature,
23 extent and relative priority of their respective water rights which threatened to result in

1 the initiation of an adjudication of the relevant stream systems and as a means to settle
2 that dispute entered into Contract No. _____, as amended, hereinafter referred
3 to 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 Contractor ~~may~~ has a
5 right to divert from the Sacramento River from _____ through
6 _____; and

7 WHEREAS, the United States and the Contractor have a current dispute over the
8 meaning and intent of Articles 9 and 5 of the Existing Contract, including litigation, but
9 nonetheless without prejudicing the respective parties' positions with respect to that
10 litigation ~~has requested~~ desire to enter into the long-term renewal of the Existing
11 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and
12 the laws of the State of California, and the ~~United States has determined that the~~
13 ~~Contractor has~~ Parties have fulfilled all of ~~its~~ their respective obligations under the
14 Existing Contract; and

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

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

21 DEFINITIONS

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

1 (a) "Base Supply" shall mean the quantity of water established in Articles 3
2 and 5 ~~which the United States agrees may be diverted by~~ that the Contractor has a right to
3 divert from the Sacramento River each month during the period April through October of
4 each Year without payment to the United States for such quantities diverted;

5 (b) "Charges" shall mean the payments for Project Water ~~required by Federal~~
6 Reclamation law agreed to pursuant to this Settlement Contract in addition to the "Rates"
7 specified in this Contract. The nature and extent of Charges as well as categories of
8 Charges is specified in the attached Exhibit "D" as determined annually by the
9 Contracting Officer pursuant to this Contract;

10 (c) "Contract Total" shall mean the sum of the Base Supply and Project
11 Water available for diversion by the Contractor for the period April 1 through October
12 31;

13 (d) "Critical Year" shall mean any Year in which either of the following
14 eventualities exists:

15 (1) The forecasted full natural inflow to Shasta Lake for the current Water
16 Year, as such forecast is made by the United States on or before February 15 and
17 reviewed as frequently thereafter as conditions and information warrant, is equal to or
18 less than ~~three million two hundred thousand (3,200,000)~~ acre-feet; or

19 (2) The total accumulated actual deficiencies below ~~four million~~
20 ~~(4,000,000)~~ acre-feet in the immediately prior Water Year or series of successive prior
21 Water Years each of which had inflows of less than ~~four million (4,000,000)~~ acre-feet,
22 together with the forecasted deficiency for the current Water Year, exceed ~~eight hundred~~
23 ~~thousand (800,000)~~ acre-feet. For the purpose of determining a Critical Year the

1 computed inflow to Shasta Lake as it would have existed under ~~present~~ upstream
2 development above Shasta Lake as of September 1, 1963 shall be used as the full natural
3 inflow to Shasta Lake. ~~In the event that major construction occurs above Shasta Lake~~
4 ~~after April 1, 2004, which materially alters the present regimen of the stream systems~~
5 ~~contributing to Shasta Lake, the computed inflow to Shasta Lake used to define a Critical~~
6 ~~Year will, be adjusted to eliminate the effect of such material alterations.~~ After
7 consultation with the State of California, the National Weather Service, and other
8 recognized forecasting agencies, the Contracting Officer will select the forecast to be
9 used and will make the details of it available to the Contractor. The same forecasts used
10 by the United States for the operation of the Project shall be used to make the forecasts
11 hereunder;

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

14 (f) "Eligible Lands" shall mean all lands to which Project Water may be
15 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12,
16 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

17 (g) "Excess Lands" shall mean all lands in excess of the limitations contained
18 in Section 204 of the RRA, other than those lands exempt from acreage limitation under
19 Federal Reclamation law;

20 (h) "Full Cost Rate" shall mean that water rate described in Sections
21 205(a)(3) or 202(3) of the RRA, whichever is applicable;

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

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

3 (k) "Project" shall mean the Central Valley Project owned by the United
4 States and managed by the Department of the Interior, Bureau of Reclamation;

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

13 (m) "Rates" shall mean the payments for Project Water determined annually
14 by the Contracting Officer in accordance with the then current applicable water
15 ratesetting policies for the Project, as described in subdivision (a) of Article 8 of this
16 Settlement Contract;

17 (n) "Secretary" or "Contracting Officer" shall mean the Secretary of the
18 Interior, a duly appointed successor, or an authorized representative acting pursuant to
19 any authority of the Secretary and through any agency of the Department of the Interior;

20 (o) "Water Year" shall mean the period commencing with October 1 of one
21 year and extending through September 30 of the next; and

22 (p) "Year" shall mean a calendar year.

1 TERM OF SETTLEMENT CONTRACT

2 2. This ~~contract~~ Settlement Contract shall become effective April 1, 2004, and
3 shall remain in effect until and including March 31, 2044: Provided, That that under
4 terms and conditions mutually agreeable to the parties hereto, renewals may be made for
5 successive periods not to exceed forty (40) years each. The terms and conditions of each
6 renewal shall be agreed upon not later than one (1) year prior to the expiration of the then
7 existing ~~contract~~ Settlement Contract: Provided further, That that, with respect to Project
8 Water and the portions of this Settlement Contract pertaining thereto, upon written
9 request by the Contractor of the Secretary made not later than one (1) year prior to the
10 expiration of this ~~contract~~ Settlement Contract, whenever, account being taken of the
11 amount then credited to the costs of construction of water supply works, the remaining
12 amount of construction costs of water supply work which is properly assignable for
13 ultimate return by the Contractor as established by the Secretary of the Interior pursuant
14 to (3) of Section 1 of Public Law 643 (70 Stat. 483), probably can be repaid to the United
15 States within the term of a contract under subsection 9(d), ~~Section 9~~ of the 1939
16 Reclamation Project Act (53 Stat. 1187), the relevant portions of this ~~contract~~ Settlement
17 Contract may be converted to a contract under said subsection 9(d) upon terms and
18 conditions mutually agreeable to the United States and the Contractor. Notwithstanding
19 any provision of this ~~contract~~ Settlement Contract, the Contractor reserves and shall have
20 all rights and benefits under Public Law 643.

21 WATER TO BE FURNISHED TO CONTRACTOR

22 3. (a) Subject to the conditions, limitations, and provisions hereinafter expressed,
23 the Contractor is hereby entitled and authorized to divert from the Sacramento River at

1 the locations ~~shown in~~ identified on Exhibit A and shown on Exhibit B, for beneficial use
2 within the area delineated on Exhibit B, (both Exhibits are attached hereto and made a
3 part hereof), the Contract Total designated in Exhibit A, or any revision thereof, in
4 accordance with the monthly operating schedule required by Article 3(b) of this ~~contract~~
5 Settlement Contract. The quantity of any surface water diverted under this Settlement
6 Contract from the Sacramento River for use on any lands delineated on Exhibit B, by the
7 owner of such lands or otherwise shall constitute a part of the Contract Total as shown on
8 Exhibit A and shall be subject to all the provisions of this ~~contract~~ Settlement Contract
9 relating to such Contract Total as if such diversion were made by the Contractor.

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

12 (b) The United States recognizes the need of the Contractor to vary from time
13 to time its monthly diversions of water from the quantities shown in Exhibit A, or any
14 revision thereof. Before April 1 of each Year the Contractor shall submit a written
15 schedule to the Contracting Officer indicating the Contract Total to be diverted by the
16 Contractor during each month. The United States shall furnish water to the Contractor in
17 accordance with the monthly operating schedule or any revisions thereof: Provided, That
18 that in no event shall the total quantity scheduled for diversion by the Contractor from the
19 Sacramento River:

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

22 (2) During the period July through September exceed the aggregate of the
23 Contract Total for those months shown in Exhibit A or any revision thereof; and

1 Provided, further, That that with the prior written approval of the Contracting Officer,
2 water to be diverted in April, May, or June may be diverted in September or October, or
3 vice versa. ~~The Contractor shall be charged a fee based upon the appropriate components~~
4 ~~of the water ratesetting policy for the Project for the Base Supply scheduled for diversion~~
5 ~~in April, May, or June that is diverted in September or October, or vice versa.~~

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

12 (d) No sale, transfer, exchange, or other disposal of any ~~water~~ Project Water
13 or the right to the use thereof for use on land other than that shown on Exhibit B shall be
14 made by the Contractor without:

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

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

19 (e) The sale, transfer, exchange, or other disposal of any Base Supply or the
20 right to the use thereof for use on land other than that shown on Exhibit B shall be made
21 by the Contractor in compliance with all applicable State laws.

22 (e f) Nothing herein contained shall prevent the Contractor from diverting
23 water ~~during the months of November through March~~ for beneficial use on the land

1 shown on Exhibit B or elsewhere to the extent authorized under the laws of the State of
2 California.

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

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

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

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

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

16 RETURN FLOW

17 4. The United States reserves the right to the use of all waste, seepage, and return
18 flow water derived from ~~water~~ Project Water diverted by the Contractor hereunder and
19 which escapes or is discharged beyond the boundaries of the lands shown on Exhibit B.
20 Nothing herein shall be construed as an abandonment or a relinquishment by the United
21 States of the right to the use of any such ~~water~~ Project Water; Provided, That that this
22 shall not be construed as claiming for the United States any right to such ~~water~~ Project
23 Water which is recovered by the Contractor pursuant to California law from within the

1 boundaries of the lands shown on Exhibit B, and which is being used pursuant to this
 2 ~~contract~~ Settlement Contract for surface irrigation or underground storage on the lands
 3 shown on Exhibit B by the Contractor, nor is it intended to apply to waste, seepage, and
 4 return flow water derived from Base Supply or other non-Project Water diverted or
 5 otherwise obtained by Contractor. (*Colusa Basin Drain language may be required*)

6 CONSTRAINTS ON THE AVAILABILITY OF WATER

7 5. (a) In any Water Year that (1) the forecasted full natural inflow to Shasta Lake
 8 for the current Water Year, as such forecast is made by the United States on or before
 9 February 15 and reviewed as frequently thereafter as conditions and information warrant,
 10 is equal to or less than ~~three million eight hundred thousand (3,800,000)~~ acre-feet; or
 11 (2) If the total accumulated actual deficiencies in the full natural inflow to Shasta Lake in
 12 the immediately prior Water Year or series of successive prior Water Years, each of
 13 which had inflows of less than ~~four million (4,000,000)~~ acre-feet, together with the
 14 forecasted deficiency for the current Water Year, are between 200,000 acre-feet and
 15 800,000 acre-feet, then the following reductions in the Contractor's monthly Contract
 16 Total shall be imposed:

<u>Deficiency (acre-feet)</u>	<u>Reduction</u>
200,000 – 400,000	10 percent
400,001 – 600,000	15 percent
600,001 – 800,000	20 percent

21
 22 (b) In consideration for the reductions in the Contractor's monthly Contract
 23 Total imposed pursuant to the provisions of Article 5(a) above, the United States shall
 24 pay Contractor as follows:

<u>Reduction</u>	<u>Per Acre-Foot Compensation</u>
26 <u>10 percent</u>	<u>\$ X</u>

1 and re-use of water within the Colusa Basin Drain, and the Basin-Wide Water
2 Management Plan process.

3 USE OF WATER FURNISHED TO CONTRACTOR

4 ~~6~~ 7. (a) Project Water furnished to the Contractor pursuant to this ~~contract~~
5 Settlement Contract shall not be delivered or furnished by the Contractor for any
6 purposes other than agricultural purposes without the written consent of the Contracting
7 Officer. ~~, including.~~ For purposes of this contract, “agricultural purposes” includes, but is
8 not restricted to, the watering of livestock, incidental domestic use including landscape
9 irrigation, or underground water replenishment without written consent of the
10 Contracting Officer.

11 (b) Assuming a base-line that includes in excess of 40 years of diversions for
12 agricultural uses of the quantities of water provided for in Article 3, the Contractor shall
13 comply with requirements applicable to the Contractor in biological opinion(s) prepared
14 as a result of a consultation regarding the execution of this Settlement Contract
15 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended,
16 that are within the Contractor’s legal authority to implement. The Contractor shall
17 comply with the limitations or requirements imposed by environmental documentation
18 applicable to the Contractor and within its legal authority to implement regarding specific
19 activities, including conversion of Irrigation Water to M&I Water. Nothing herein shall
20 be construed to prevent the Contractor from challenging or seeking judicial relief in a
21 court of competent jurisdiction with respect to any biological opinion or other
22 environmental documentation referred to in this Article.

23

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

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

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

18 (2) With respect to Charges, the Contractor shall also make a payment to
19 the United States, in addition to the Rate(s) in subdivision (c)(1) of this Article, at the
20 Charges then in effect, before the end of the month following the month of delivery or
21 transfer. The payments shall be consistent with the quantities of Project Water delivered
22 or transferred. Adjustment for overpayment or underpayment of Charges shall be made
23 through the adjustment of payments due to the United States for Charges for the next

1 month. Any amount to be paid for past due payment of Charges shall be computed
2 pursuant to Article 12 of this ~~contract~~ Settlement Contract.

3 (d) Payments to be made by the Contractor to the United States under this
4 ~~contract~~ Settlement Contract may be paid from any revenues available to the Contractor.

5 ~~(d1) (Contractor Specific) All revenues received by the United States from~~
6 ~~the Contractor relating to the delivery of Project Water or the delivery of non-Project~~
7 ~~water through Project facilities shall be allocated and applied in accordance with Federal~~
8 ~~Reclamation law and the associated rules or regulations, and the then current Project~~
9 ~~ratesetting policies for Irrigation Water.~~

10 (e) In order to allow Contractor to monitor the development of Rates and
11 Charges, the Contracting Officer shall keep its accounts pertaining to the administration
12 of the financial terms and conditions of its long-term water service and Settlement
13 Contracts, in accordance with applicable Federal standards, so as to reflect the application
14 of Project costs and revenues. The Contracting Officer shall, each Year upon request of
15 the Contractor, provide to the Contractor a detailed accounting of all Project and
16 Contractor expense allocations, the disposition of all Project and Contractor revenues,
17 and a summary of all water delivery information. The Contracting Officer and the
18 Contractor shall enter into good faith negotiations to resolve any discrepancies or
19 disputes relating to accountings, reports, or information.

20 (f) The parties acknowledge and agree that the efficient administration of this
21 Settlement Contract is their mutual goal. Recognizing that experience has demonstrated
22 that mechanisms, policies, and procedures used for establishing Rates and Charges and/or
23 for making and allocating payments, other than those set forth in this Article may be in

1 the mutual best interest of the parties, it is expressly agreed that the parties may enter into
2 agreements to modify the mechanisms, policies, and procedures for any of those purposes
3 while this Settlement Contract is in effect without amendment of this Settlement
4 Contract.

5 (g) For the term of this ~~contract~~ Settlement Contract, Rates under the
6 respective ratesetting policies for the Project will be established to recover only
7 reimbursable operation and maintenance (including any deficits) and capital costs of the
8 Project, as those terms are used in the then-current Project ratesetting policies, and
9 interest, where appropriate, except in instances where a minimum Rate is applicable in
10 accordance with the relevant Project ratesetting policy. Proposed changes of significance
11 in practices which implement the ratesetting policies for the Project will not be
12 implemented until the Contracting Officer has provided the Contractor an opportunity to
13 discuss the nature, need, and impact of the proposed change.

14 (h) Except as provided in subsections [3405(a)(1)(B) and 3405(f)] of the
15 CVPIA, the Rates for Project Water transferred, exchanged, or otherwise disposed of, by
16 the Contractor shall be the Contractor's Rates adjusted upward or downward to reflect the
17 changed costs of delivery (if any) of the transferred, exchanged, or otherwise disposed of
18 Project Water to the transferee's point of delivery in accordance with the then-current
19 ratesetting policies for the Project. If the Contractor is receiving lower Rates and
20 Charges because of inability to pay and is transferring, exchanging, or otherwise
21 disposing of Project Water to another entity whose Rates and Charges are not adjusted
22 due to inability to pay, the Rates and Charges for transferred, exchanged, or otherwise

1 disposed of Project Water shall be the Contractor's Rates and Charges unadjusted for
2 ability to pay.

3 (i) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting
4 Officer is authorized to adjust determinations of ability to pay every five ~~(5)~~ years.

5 (j) Each payment to be made pursuant to subdivisions (a) and (b) of this
6 Article shall be made at the office of the Bureau of Reclamation, Mid-Pacific Region,
7 File No. 11546, P.O Box 6000, San Francisco, California, 94160-1546, or at such other
8 place as the United States may designate in a written notice to the said Contractor.

9 Payments shall be made by cash transaction, wire, or any other mechanism as may be
10 agreed to in writing by the Contractor and the Contracting Officer. In event there should
11 be a default in the payment of the amount due, the delinquent payment provisions of
12 Article 12 shall apply. The Contractor shall not be relieved of the whole or any part of its
13 said obligation by, on account of, or notwithstanding, as the case may be:

14 (1) Its failure, refusal, or neglect to divert the quantity of Project Water as
15 hereinabove provided;

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

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

21 (4) Any injunctive process enjoining or restraining the Contractor from
22 making or collecting any such assessment, toll, or other charge referred to in subsection
23 8(c)(2) of this Settlement Contract.

1 AGREEMENT ON WATER QUANTITIES

2 § 9. (a) During the term of this ~~contract~~ Settlement Contract and any renewals
3 thereof:

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

10 (2) The Contractor shall not claim any right against the United States in
11 conflict with the provisions hereof, nor shall the United States claim any right against the
12 Contractor in conflict with the provisions hereof.

13 (b) Nothing herein contained is intended to or does limit rights of the
14 Contractor against others than the United States or of the United States against any
15 person other than the Contractor: Provided, however, That that in the event the
16 Contractor, the United States, or any other person shall become a party to a general
17 adjudication of rights to the use of water of the Sacramento River system, this ~~contract~~
18 Settlement Contract shall not jeopardize the rights or position of either party hereto or of
19 any other person and the rights of all such persons in respect to the use of such water
20 shall be determined in such proceedings the same as if this ~~contract~~ Settlement Contract
21 had not been entered into, and if final judgment in any such general adjudication shall
22 determine that the rights of the parties hereto are different from the rights as assumed
23 herein, the ~~United States shall submit it to the Contractor~~ parties shall negotiate an

1 amendment to give effect to such judgment. In the event the parties are unable to agree
2 on an appropriate amendment they shall, within 60 days of determining that there is an
3 impasse, employ the services of a neutral mediator to assist in resolving the impasse. The
4 cost of the mediation will be shared equally. A failure to reach agreement on an
5 amendment within 60 days of the end of mediation will cause the immediate termination
6 of this Settlement Contract. ~~and the contract shall be deemed to have been amended~~
7 ~~accordingly unless within sixty (60) days after submission of such amendment to the~~
8 ~~Contractor, the Contractor elects to terminate the contract or within the same period of~~
9 ~~time the parties agree upon mutually satisfactory amendments to give effect to such~~
10 ~~judgment: Provided, further, That if, during the term of this Contract, the Contractor's or~~
11 ~~the United States' water rights are adjusted or affected, or the responsibility to meet flow,~~
12 ~~water quality and/or environmental requirements under those water rights is modified~~
13 ~~(e.g., changes to the Delta Water Quality Control Plan and associated water right~~
14 ~~actions), by or through any final administrative or judicial proceeding, the Contractor and~~
15 ~~the United States shall negotiate appropriate adjustments to this contract.~~

16 (c) In the event this ~~contract~~ Settlement Contract terminates, the rights of the
17 parties to thereafter divert and use water shall exist as if this ~~contract~~ Settlement Contract
18 had not been entered into; and the fact that as a compromise settlement of a controversy
19 as to the respective rights of the parties to divert and use water and the yield of such
20 rights during the term hereof, this ~~contract~~ Settlement Contract places a limit on the
21 Contract Total to be diverted annually by the Contractor during the ~~contract~~ Settlement
22 Contract term and segregates it into Base Supply and Project Water shall not jeopardize
23 the rights or position of either party with respect to its water rights or the yield thereof at

1 all times after the ~~contract~~ Settlement Contract terminates. It is further agreed that the
2 Contractor at all times will first use water to the use of which it is entitled by virtue of its
3 own water rights, and neither the provisions of this ~~contract~~ Settlement Contract, action
4 taken thereunder, nor payments made thereunder to the United States by the Contractor
5 shall be construed as an admission that any part of the water used by the Contractor
6 during the term of this ~~contract~~ Settlement Contract was in fact water to which it would
7 not have been entitled under water rights owned by it nor shall receipt of payments
8 thereunder by the United States from the Contractor be construed as an admission that
9 any part of the water used by the Contractor during the term of this ~~contract~~ Settlement
10 Contract was in fact water to which it would have been entitled under water rights owned
11 by it.

12 MEASUREMENT OF WATER

13 9 10. (a) All water diverted by the Contractor from Sacramento River will be
14 diverted at the existing point or points of diversion shown on Exhibit A or at such other
15 points as may be mutually agreed upon in writing by the Contracting Officer and the
16 Contractor.

17 (b) All water diverted from the Sacramento River pursuant to this ~~contract~~
18 Settlement Contract will be measured or caused to be measured by the United States at
19 each point of diversion with existing equipment or equipment to be installed, operated,
20 and maintained by the United States, and/or others, under contract with and at the option
21 of the United States. The equipment and methods used to make such measurement shall
22 be in accordance with sound engineering practices. Upon request of the Contractor, the

1 accuracy of such measurements will be investigated by the Contracting Officer and any
2 errors appearing therein will be corrected.

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

8 (d) The Contractor shall not modify, alter, remove, or replace diversion
9 facilities or do any other act which would alter the effectiveness or accuracy of the
10 measuring equipment installed by the United States or its representatives unless and until
11 the Contracting Officer has been notified with due diligence and has been given an
12 opportunity to modify such measuring equipment in such manner as may be necessary or
13 appropriate. In the event of an emergency the Contractor shall notify the United States
14 within a reasonable time thereafter as to the existence of the emergency and the nature
15 and extent of such modification, alteration, removal, or replacement of diversion
16 facilities.

17 (e) Unless the Contractor has itself already incurred the relevant expenses, the
18 Contractor shall pay the United States for the costs to repair, relocate, or replace
19 measurement equipment when the Contractor modifies, alters, removes, or replaces
20 diversion or carriage facilities.

21 (f) ~~(Contractor Specific)~~ By _____ [DATE] _____, the
22 Contractor shall ensure that, unless the Contractor establishes an alternative measurement
23 program satisfactory to the Contracting Officer, all surface water delivered for irrigation

1 ~~purposes on the lands delineated on Exhibit B is measured at each agricultural turnout.~~
2 ~~The water measuring devices or water measuring methods of comparable effectiveness~~
3 ~~must be acceptable to the Contracting Officer. The Contractor shall be responsible for~~
4 ~~installing, operating, and maintaining and repairing all such measuring devices and~~
5 ~~implementing all such water measuring methods at no cost to the United States. The~~
6 ~~Contractor shall inform the Contracting Officer in writing by April 30 of each Year of the~~
7 ~~monthly volume of surface water delivered to the lands delineated on Exhibit B during~~
8 ~~the previous Year. This information will be used by Reclamation to satisfy the water~~
9 ~~measurement requirements of the Contractor's water conservation plan, as set forth in~~
10 ~~Article 28 of this Contract.~~

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
16 use of Federal facilities pursuant to this Settlement Contract is subject to Federal
17 Reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43
18 U.S.C.390aa et seq.), as amended and supplemented, and the rules and regulations
19 promulgated by the 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
23 in this Settlement Contract is a general obligation of the Contractor notwithstanding the
24 manner in which the obligation may be distributed among the Contractor's water users
25 and notwithstanding the default of individual water users in their obligations to the
26 Contractor.
27

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

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

12 CHARGES FOR DELINQUENT PAYMENTS

13
14 ~~12~~ 13. (a) The Contractor shall be subject to interest, administrative and penalty
15 charges on delinquent installments or payments. When a payment is not received by the
16 due date, the Contractor shall pay an interest charge for each day the payment is
17 delinquent beyond the due date. When a payment becomes ~~sixty (60)~~ days delinquent,
18 the Contractor shall pay an administrative charge to cover additional costs of billing and
19 processing the delinquent payment. When a payment is delinquent ~~ninety (90)~~ days or
20 more, the Contractor shall pay an additional penalty charge of six ~~(6%)~~ percent per year
21 for each day the payment is delinquent beyond the due date. Further, the Contractor shall
22 pay any fees incurred for debt collection services associated with a delinquent payment.
23

24 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
25 in the Federal Register by the Department of the Treasury for application to overdue
26 payments, or the interest rate of ~~one-half of one (0.5%)~~ percent per month prescribed by
27 Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest
28 charge rate shall be determined as of the due date and remain fixed for the duration of the
29 delinquent period.
30

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

35 QUALITY OF WATER

36 ~~13~~ 14. The operation and maintenance of Project facilities shall be performed in
37 such manner as is practicable to maintain the quality of raw water made available through
38 such facilities at the highest level reasonably attainable as determined by the Contracting
39 Officer. The United States does not warrant the quality of water and is under no

1 obligation to construct or furnish water treatment facilities to maintain or better the
2 quality of water.

3 WATER AND AIR POLLUTION CONTROL

4 ~~14~~ 15. The Contractor, in carrying out this Settlement Contract, shall comply
5 with all applicable water and air pollution laws and regulations of the United States and
6 the State of California, and shall obtain all required permits or licenses from the
7 appropriate Federal, State, or local authorities.

8 EQUAL OPPORTUNITY

9

10 ~~15~~ 16. During the performance of this Settlement Contract, the Contractor agrees
11 as 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

36 (d) The Contractor will comply with all provisions of Executive Order No.
37 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant
38 orders of the Secretary of Labor.

39

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

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

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

26 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
27 *(For Districts Only)*
28

29 17. (a) The Contractor shall comply with Title VI of the Civil Rights Act of
30 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as
31 amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other
32 applicable civil rights laws, as well as with their respective implementing regulations and
33 guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.
34

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

43 (c) The Contractor makes this agreement in consideration of and for the
44 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or
45 other Federal financial assistance extended after the date hereof to the Contractor by the
46 Bureau of Reclamation, including installment payments after such date on account of

1 arrangements for Federal financial assistance which were approved before such date.
2 The Contractor recognizes and agrees that such Federal assistance will be extended in
3 reliance on the representations and agreements made in this Article, and that the United
4 States reserves the right to seek judicial enforcement thereof.

5
6 MINGLING OF CONTRACTOR'S PROJECT AND NON-PROJECT WATER

7 ~~17~~ 18. (a) Project Water must of necessity be transported by the Contractor to its
8 water users by means of the same works and channels used for the transport of its non-
9 Project Water including Base Supply. Notwithstanding such mingling of water, the
10 provisions of Article 11 hereof shall be applicable only to Project Water, and such
11 mingling of water shall not in any manner subject to the provisions of Article 11 hereof
12 the Contractor's non-Project water including Base Supply.

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

20 (c) The Contractor will not be considered in violation of the requirement that
21 Project Water be delivered only to Eligible Lands during any month of the irrigation
22 season that the water requirement for beneficial use on Eligible Lands for that month is
23 equal to or in excess of the Project Water for that month as shown on Exhibit A or any
24 revision thereof pursuant to subdivision (b) of Article 3. The water requirement for
25 beneficial use on Eligible Lands will be determined by multiplying:

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

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

15 BOOKS, RECORDS, AND REPORTS

16 ~~18~~ 19. The Contractor shall establish and maintain accounts and other books and
17 records pertaining to administration of the terms and conditions of this Settlement
18 Contract, including: the Contractor's financial transactions, water supply data, and
19 Project land and right-of-way agreements; the water users' land-use (crop census), land
20 ownership, land-leasing and water use data; and other matters that the Contracting
21 Officer may require. Reports thereon shall be furnished to the Contracting Officer in
22 such form and on such date or dates as the Contracting Officer may require. Subject to
23 applicable Federal laws and regulations, each party to this Settlement Contract shall have
24 the right during office hours to examine and make copies of each other's books and
25 official records relating to matters covered by this Settlement Contract.

26
27 CHANGE OF PLACE OF USE OR ORGANIZATION

28 ~~19~~ 20. (a) Unless the ~~written consent of the~~ United States is first ~~obtained~~
29 consulted no change shall be made in the place of water use shown on Exhibit B.

1 (b) While this ~~contract~~ Settlement Contract is in effect, no change shall be
2 made in the area of the Contractor as shown on its Exhibit B, by inclusion or exclusion of
3 lands, by dissolution, consolidation, or merger or otherwise, ~~except upon~~ unless the
4 Contracting Officer's ~~written assent thereto~~ Officer is first consulted.

5 (c) In the event lands are excluded from the area of the Contractor, as
6 provided herein, the quantity of Project Water to be diverted may be decreased pursuant
7 to a supplemental agreement to be executed in respect thereto.

8 CONSOLIDATION OF CONTRACTING ENTITIES

9
10 ~~20~~ 21. Consolidation of Contractors ~~may~~ will be approved by the Contracting
11 Officer upon request provided: ~~(i) the Contracting Officer approves the form and~~
12 ~~organization of the resulting entity and the utilization by it of the Contract Total; and (ii)~~
13 the obligations of the Contractors ~~are~~ assumed by ~~such~~ the resulting entity.

14 ~~No such consolidation shall be valid unless and until approved by the Contracting~~
15 ~~Officer.~~

16 NOTICES

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

25
26 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

27
28 ~~22~~ 23. (a) The provisions of this Settlement Contract shall apply to and bind the
29 successors and assigns of the parties hereto, but no assignment or transfer of this
30 Settlement Contract or any right or interest therein shall be valid until approved in writing
31 by the Contracting Officer.
32

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 ~~23~~ 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 ~~contract~~ Settlement Contract other
16 than as a 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 ~~24~~ 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 ~~25~~ 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 ~~contract~~ Settlement Contract.
31 The 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.
36

37 UNAVOIDABLE GROUNDWATER PERCOLATION

38 ~~26~~ 27. To the extent applicable, the Contractor shall not be deemed to have
39 delivered Project Water to Excess Lands or Ineligible Lands if such lands are irrigated
40 with groundwater that reaches the underground strata as an unavoidable result of the
41 delivery of Project Water by the Contractor to Eligible Lands.

PRIVACY ACT COMPLIANCE

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

WATER CONSERVATION

~~28 29. [TO BE REPLACED]. (a) Prior to the diversion of Project Water, the Contractor shall be implementing an effective water conservation and efficiency program based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency~~

1 ~~program shall contain definite water conservation objectives, appropriate economically~~
2 ~~feasible water conservation measures, and time schedules for meeting those objectives.~~
3 ~~Continued diversion of Project Water pursuant to this Settlement Contract shall be~~
4 ~~contingent upon the Contractor's continued implementation of such water conservation~~
5 ~~program. In the event the Contractor's water conservation plan or any revised water~~
6 ~~conservation plan completed pursuant to subdivision (c) of Article 28 of this Settlement~~
7 ~~Contract have not yet been determined by the Contracting Officer to meet such criteria,~~
8 ~~due to circumstances which the Contracting Officer determines are beyond the control of~~
9 ~~the Contractor, Project Water deliveries shall be made under this Settlement Contract so~~
10 ~~long as the Contractor diligently works with the Contracting Officer to obtain such~~
11 ~~determination at the earliest practicable date, and thereafter the Contractor immediately~~
12 ~~begins implementing its water conservation and efficiency program in accordance with~~
13 ~~the time schedules therein.~~

14 ~~(b) The Contractor shall submit to the Contracting Officer a report on the~~
15 ~~status of its implementation of the water conservation plan on the reporting dates~~
16 ~~specified in the then existing conservation and efficiency criteria established under~~
17 ~~Federal law.~~

18 ~~(c) At five (5) year intervals, the Contractor shall revise its water~~
19 ~~conservation plan to reflect the then current conservation and efficiency criteria for~~
20 ~~evaluating water conservation plans established under Federal law and submit such~~
21 ~~revised water management plan to the Contracting Officer for review and evaluation.~~
22 ~~The Contracting Officer will then determine if the water conservation plan meets~~

1 ~~Reclamation's then current conservation and efficiency criteria for evaluating water~~
2 ~~conservation plans established under Federal law.~~

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

5 OPINIONS AND DETERMINATIONS

6
7 ~~29~~ 30. (a) Where the terms of this Settlement Contract provide for actions to be
8 based upon the opinion or determination of either party to this Settlement Contract, said
9 terms shall not be construed as permitting such action to be predicated upon arbitrary,
10 capricious, or unreasonable opinions or determinations. Both parties, notwithstanding
11 any other provisions of this Settlement Contract, expressly reserve the right to seek relief
12 from and appropriate adjustment for any such arbitrary, capricious, or unreasonable
13 opinion or determination. Each opinion or determination by either party shall be
14 provided in a timely manner. Nothing in subdivision (a) of Article 29 of this Settlement
15 Contract is intended to or shall affect or alter the standard of judicial review applicable
16 under federal law to any opinion or determination implementing a specific provision of
17 federal law embodied in statute or regulation.

18 (b) The Contracting Officer shall have the right to make determinations
19 necessary to administer this Settlement Contract that are consistent with the provisions of
20 this Settlement Contract, the laws of the United States and of the State of California, and
21 the rules and regulations promulgated by the Secretary of the Interior. Such
22 determinations shall be made in consultation with the Contractor to the extent reasonably
23 practicable.

1 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

2 30 31. (a) In addition to all other payments to be made by the Contractor
3 pursuant to this Settlement Contract, the Contractor shall pay to the United States, within
4 ~~sixty (60)~~ days after receipt of a bill and detailed statement submitted by the Contracting
5 Officer to the Contractor for such specific items of direct cost incurred by the United
6 States for work requested by the Contractor associated with this Settlement Contract plus
7 indirect costs in accordance with applicable Bureau of Reclamation policies and
8 procedures. All such amounts referred to in this Article shall not exceed the amount
9 agreed to in writing in advance by the Contractor. This Article shall not apply to costs
10 for routine ~~contract~~ Settlement Contract administration.

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

17 WAIVER OF DEFAULT

18 31 32. The waiver by either party to this ~~contract~~ Settlement Contract as to any
19 default shall not be construed as a waiver of any other default or as authority of the other
20 party to continue such default or to make, do, or perform, or not to make, do, or perform,
21 as the case may be, any act or thing which would constitute a default.

22

1 IN WITNESS WHEREOF, the parties hereto have executed this ~~contract~~
2 Settlement 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
13 (SEAL)

14
15
16 (Contractor)

17
18
19 By: _____
20 President

21
22
23 ATTEST:

24
25
26 _____
27 Secretary

28
29
30 (I:\sac river renewal\Sac R Long Form Draft.doc)

31