

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

CONTRACT BETWEEN THE UNITED STATES AND  
DRISCOLL STRAWBERRY ASSOCIATES, INCORPORATED,  
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
SETTLING WATER RIGHTS DISPUTES AND  
PROVIDING FOR PROJECT WATER

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4 BUREAU OF RECLAMATION  
5 Central Valley Project, California

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9 SETTLING WATER RIGHTS DISPUTES AND  
10 PROVIDING FOR PROJECT WATER

11 THIS CONTRACT, hereinafter referred to as "Settlement Contract," is entered  
12 into by THE UNITED STATES OF AMERICA, hereinafter referred to as the United States,  
13 made this \_\_\_\_ day of \_\_\_\_\_, 2004, pursuant to the applicable authority  
14 granted to it generally in the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or  
15 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844),  
16 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,  
17 including but not limited to Sections 9 and 14 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963  
18 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended,  
19 and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter  
20 referred to as Federal Reclamation law, and DRISCOLL STRAWBERRY ASSOCIATES,  
21 INCORPORATED, hereinafter referred to as the Contractor, a corporation, acting pursuant to  
22 Sections 12003 and 12004 of the California Water Code, with its principal place of business in  
23 California;

24 WITNESSETH, that:

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EXPLANATORY RECITALS

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

[2<sup>nd</sup>] 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

[3<sup>rd</sup>] 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

[4<sup>th</sup>] 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

[5<sup>th</sup>] 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. 14-06-200-4736A, 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

[6<sup>th</sup>] WHEREAS, the United States and the Contractor disagree with respect to the authority of the United States to change the quantities of Base Supply and/or Project Water

48 specified as available for diversion in this Settlement Contract from the quantities specified in  
49 the Existing Contract, and other issues related thereto. That dispute was the subject of litigation  
50 in a lawsuit entitled *Glenn-Colusa Irrigation District, et al. v. United States, et al.* [Civ. No. S-  
51 01-1816 GEB/JFM (E.D. Cal.)], but that litigation was dismissed, without prejudice, pursuant to  
52 a stipulation of dismissal filed by the parties thereto on August 29, 2002. Notwithstanding that  
53 dismissal, the Contractor and the United States enter into this Settlement Contract to renew the  
54 Existing Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and  
55 the laws of the State of California; and

56 [7<sup>th</sup>] WHEREAS, to assure the Contractor of the enjoyment and use of the regulated  
57 flow of the said Rivers and the Delta, and to provide for the economical operation of the Central  
58 Valley Project by, and the reimbursement to, the United States for expenditures made for said  
59 Project.

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

62 DEFINITIONS

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

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

69 (b) “Basin-Wide Water Management Plan” shall mean the mutually agreeable  
70 Sacramento River Basinwide Water Management Plan, dated \_\_\_\_\_, developed by

71 Glenn-Colusa Irrigation District, Maxwell Irrigation District, Natomas Central Mutual Water  
72 Company, Pelger Mutual Water Company, Princeton-Codora Glenn Irrigation District, Provident  
73 Irrigation District, Reclamation District 108, Sutter Mutual Water Company, Anderson-  
74 Cottonwood Irrigation District, Meridian Farms Water Company, Reclamation District 1004, and  
75 the U.S. Bureau of Reclamation;

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

80 (d) “Contract Total” shall mean the sum of the Base Supply and Project Water  
81 available for diversion by the Contractor for the period April 1 through October 31;

82 (e) “Critical Year” shall mean any Year in which either of the following  
83 eventualities exists:

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

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

92 For the purpose of determining a Critical Year, the computation of inflow to  
93 Shasta Lake shall be performed in a manner that considers the extent of upstream development

94 above Shasta Lake during the year in question, and shall be used as the full natural flow to  
95 Shasta Lake. In the event that major construction has occurred or occurs above Shasta Lake after  
96 September 1, 1963, and which has materially altered or alters the regimen of the stream systems  
97 contributing to Shasta Lake, the computed inflow to Shasta Lake used to define a Critical Year  
98 will be adjusted to eliminate the effect of such material alterations. After consultation with the  
99 State of California, the National Weather Service, and other recognized forecasting agencies, the  
100 Contracting Officer will select the forecast to be used and will make the details of it available to  
101 the Contractor. The same forecasts used by the United States for the operation of the Project  
102 shall be used to make the forecasts hereunder;

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

105 (g) “Eligible Lands” shall mean all lands to which Project Water may be  
106 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982  
107 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

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

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

113 (j) Omitted;

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

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

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

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

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

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

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

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



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TERM OF SETTLEMENT CONTRACT

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

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

WATER TO BE FURNISHED TO CONTRACTOR

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

160 at the locations shown in Exhibit A, for beneficial use within the area delineated on Exhibit B,  
161 (both Exhibits are attached hereto and made a part hereof), the Contract Total designated in  
162 Exhibit A, or any revision thereof.

163 (b) No sale, transfer, exchange, or other disposal of any of the Contract Total  
164 designated in Exhibit A or the right to the use thereof for use on land other than that shown on  
165 Exhibit B shall be made by the Contractor without first obtaining the written consent of the  
166 Contracting Officer. Such consent will not be unreasonably withheld and a decision will be  
167 rendered in a timely manner. For short-term actions that will occur within 1 year or less, the  
168 decision will be rendered within 30 days after receipt of a complete written proposal. For long-  
169 term actions that will occur in a period longer than 1 year, the decision will be rendered within  
170 90 days after receipt of a complete written proposal. For a proposal to be deemed complete by  
171 the Contracting Officer, it must comply with all provisions required by State and Federal law,  
172 including information sufficient to enable the Contracting Officer to comply with the National  
173 Environmental Policy Act, the Endangered Species Act, and applicable rules or regulations then  
174 in effect; Provided that, such consent does not authorize the use of Federal facilities to facilitate  
175 or effectuate the sale, transfer, exchange or other disposal of Base Supply. Such use of Federal  
176 facilities will be the subject of a separate agreement to be entered into between the Contractor  
177 and Reclamation.

178 (c) For the purpose of determining whether Section 3405(a)(1)(M) of the  
179 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting  
180 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin,  
181 as those terms are utilized under California law, of water that constitutes the natural flow of the

182 Sacramento River and its tributaries above the confluence of the American and Sacramento  
183 Rivers.

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

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

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

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

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

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

200 RETURN FLOW

201 4. Nothing herein shall be construed as an abandonment or a relinquishment by the  
202 United States of any right it may have to the use of waste, seepage, and return flow water derived  
203 from water diverted by the Contractor hereunder and which escapes or is discharged beyond the  
204 boundaries of the lands shown on Exhibit B; Provided, that this shall not be construed as

205 claiming for the United States any right to such water which is recovered by the Contractor  
206 pursuant to California law from within the boundaries of the lands shown on Exhibit B, and  
207 which is being used pursuant to this Settlement Contract for surface irrigation or underground  
208 storage for the benefit of the lands shown on Exhibit B by the Contractor.

209 CONSTRAINTS ON THE AVAILABILITY OF WATER

210 5. In a Critical Year, the Contractor shall have the option to:

211 (a) Irrigate not in excess of 75 percent of their irrigable acreage shown on  
212 Exhibit A; or

213 (b) Divert from the Sacramento River not in excess of 75 percent of the  
214 Contract Total shown on Exhibit A, subject to the installation of measurement equipment  
215 satisfactory to the Contracting Officer. The Contractor shall install, operate, and maintain this  
216 equipment at the Contractor's expense. The Contractor shall submit, by April 1 of that Critical  
217 Year, a written schedule to the Contracting Officer indicating the Contract Total to be diverted  
218 by the Contractor during each month of that Critical Year under this Settlement Contract.

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

223 INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

224 6. The Contractor and United States desire to work together to maximize the  
225 reasonable beneficial use of water for their mutual benefit. As a consequence, the United States  
226 and the Contractor will work in partnership and with others within the Sacramento Valley,  
227 including other Contractors, to facilitate the better integration within the Sacramento Valley of

228 all water supplies including, but not limited to, the better management and integration of surface  
229 water and groundwater, the development and better utilization of surface water storage, the  
230 effective utilization of waste, seepage and return flow water, and other operational and  
231 management options that may be identified in the future.

232 USE OF WATER FURNISHED TO CONTRACTOR

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

239 (b) The Contractor shall comply with requirements applicable to the  
240 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
241 of this Settlement Contract undertaken pursuant to Section 7 of the Endangered Species Act of  
242 1973, as amended, that are within the Contractor’s legal authority to implement. The Contractor  
243 shall comply with the limitations or requirements imposed by environmental documentation  
244 applicable to the Contractor and within its legal authority to implement. The Existing Contract,  
245 which evidences in excess of 40 years of diversions, for agricultural uses, of the quantities of  
246 water provided for in Article 3, and the underlying water rights of the Contractor will be  
247 considered in developing an appropriate base-line for the Biological Assessment prepared  
248 pursuant to the Endangered Species Act, and in any other needed environmental review.

249 Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial

250 relief in a court of competent jurisdiction with respect to any biological opinion or other  
251 environmental documentation referred to in this Article.

252 RATE AND METHOD OF PAYMENT FOR WATER

253 8. (a) The Contractor shall make payments to the United States as provided in  
254 this Article for each acre of land irrigated in each Year.

255 Such payments shall be at Rates and Charges established in accordance with: (i)  
256 the Secretary's then current ratesetting policies for the Project; and (ii) applicable Reclamation  
257 law and associated rules and regulations, or policies: Provided, that if the Contractor desires to  
258 use Project Water for other than agricultural use the Rates and Charges set forth above will be  
259 adjusted by the Contracting Officer to the applicable Rates and Charges for such use. The Rates  
260 and Charges applicable to the Contractor upon execution of this Settlement Contract are set forth  
261 in Exhibit D, as may be revised annually. The Secretary's ratesetting policies for the Project  
262 shall be amended, modified, or superseded only through a public notice and comment procedure.

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

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

272 (2) Prior to October 1 of each Year, the Contracting Officer shall make  
273 available to the Contractor an estimate of the Rates for Project Water for the following Year and  
274 the computations and cost allocations upon which those Rates are based. The Contractor shall be  
275 allowed not less than 2 months to review and comment on such computations and cost  
276 allocations. By December 31 of each Year, the Contracting Officer shall provide the Contractor  
277 with the final Rates to be in effect for the upcoming Year, and such notification shall revise  
278 Exhibit D.

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

281 (1) With respect to Rates and Charges, on or before May 1 of each  
282 Year, the Contractor shall pay the United States one-half the total amount payable pursuant to  
283 subdivision (a) of this Article and the remainder shall be paid on or before July 1 or such later  
284 date or dates as may be specified by the United States in a written notice to the Contractor.

285 (2) The amount to be paid on or before May 1 of each Year shall be  
286 based on a written estimate, provided to the Contracting Officer by the Contractor on or before  
287 April 1 of each Year, of the total area to be irrigated during the ensuing irrigation season.

288 (3) The amount to be paid on or before July 1 shall be equal to the  
289 difference between the amount paid on May 1 and the total amount due for the Year, based on  
290 the total area actually irrigated prior to July 1.

291 (4) If additional areas are placed under irrigation on or after July 1,  
292 additional payment shall be made in advance of such additional irrigation at the Rates and  
293 Charges shown in Exhibit D for each additional acre placed under irrigation.

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

296 (1) All revenues received by the United States from the Contractor  
297 relating to the delivery of Project Water or the delivery of non-Project Water through Project  
298 facilities shall be allocated and applied in accordance with Federal Reclamation law and the  
299 associated rules or regulations, and the then current Project ratesetting policies for irrigation  
300 water.

301 (e) The Contracting Officer shall keep its accounts pertaining to the  
302 administration of the financial terms and conditions of its long-term water service and Settlement  
303 Contracts, in accordance with applicable Federal standards, so as to reflect the application of  
304 Project costs and revenues. The Contracting Officer shall, each Year upon request of the  
305 Contractor, provide to the Contractor a detailed accounting of all Project and Contractor expense  
306 allocations, the disposition of all Project and Contractor revenues, and a summary of all water  
307 delivery information. The Contracting Officer and the Contractor shall enter into good faith  
308 negotiations to resolve any discrepancies or disputes relating to accountings, reports, or  
309 information.

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



317 (g) For the term of this Settlement Contract, Rates under the respective  
318 ratesetting policies for the Project will be established to recover only reimbursable operation and  
319 maintenance (including any deficits) and capital costs of the Project, as those terms are used in  
320 the then-current Project ratesetting policies, and interest, where appropriate, except in instances  
321 where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy.  
322 Proposed changes of significance in practices which implement the ratesetting policies for the  
323 Project will not be implemented until the Contracting Officer has provided the Contractor an  
324 opportunity to discuss the nature, need, and impact of the proposed change. The Contractor  
325 retains all rights to challenge the validity of Rates and Charges imposed pursuant to this  
326 Settlement Contract, including but not limited to operation and maintenance expenses and  
327 operation and maintenance deficits, in an appropriate administrative or judicial proceeding.

328 (h) Except as provided in subsection 3405(a)(1)(B) of the CVPIA, the Rates  
329 for Project Water transferred, exchanged, or otherwise disposed of, by the Contractor shall be the  
330 Contractor's Rates adjusted upward or downward to reflect the changed costs of delivery (if any)  
331 of the transferred, exchanged, or otherwise disposed of Project Water to the transferee's point of  
332 delivery in accordance with the then-current ratesetting policies for the Project. Except as  
333 provided in subsection 3407(d)(2)(A) of the CVPIA, the Charges for Project Water transferred,  
334 exchanged, or otherwise disposed of, by the Contractor shall be the Contractor's Charges  
335 specified in Exhibit D. If the Contractor is receiving lower Rates and Charges because of  
336 inability to pay and is transferring, exchanging, or otherwise disposing of Project Water to  
337 another entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and  
338 Charges for transferred, exchanged, or otherwise disposed of Project Water shall be the  
339 Contractor's Rates and Charges unadjusted for ability to pay.

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

342 (j) Each payment to be made pursuant to subdivisions (a) and (b) of this  
343 Article shall be made at the office of the Bureau of Reclamation, Mid-Pacific Region, File No.  
344 11546, P.O. Box 6000, San Francisco, California 94160-1546, or at such other place as the  
345 United States may designate in a written notice to the said Contractor. Payments shall be made  
346 by cash transaction, wire, or any other mechanism as may be agreed to in writing by the  
347 Contractor and the Contracting Officer. In event there should be a default in the payment of the  
348 amount due, the delinquent payment provisions of Article 13 shall apply. The Contractor shall  
349 not be relieved of the whole or any part of its said obligation by, on account of, or  
350 notwithstanding, as the case may be its failure, refusal, or neglect to divert the quantity of Project  
351 Water shown on Exhibit A.

352 AGREEMENT ON WATER QUANTITIES

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

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

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

361 (b) Nothing herein contained is intended to or does limit rights of the  
362 Contractor against others than the United States or of the United States against any person other

363 than the Contractor: Provided, however, that in the event the Contractor, the United States, or  
364 any other person shall become a party to a general adjudication of rights to the use of water of  
365 the Sacramento River system, this Settlement Contract shall not jeopardize the rights or position  
366 of either party hereto or of any other person and the rights of all such persons in respect to the  
367 use of such water shall be determined in such proceedings the same as if this Settlement Contract  
368 had not been entered into, and if final judgment in any such general adjudication shall determine  
369 that the rights of the parties hereto are different from the rights as assumed herein, the parties  
370 shall negotiate an amendment to give effect to such judgment. In the event the parties are unable  
371 to agree on an appropriate amendment they shall, within 60 days of determining that there is an  
372 impasse, employ the services of a neutral mediator, experienced in resolving water rights  
373 disputes, to assist in resolving the impasse. The cost of the mediation will be shared equally. A  
374 failure to reach agreement on an amendment within 60 days of the end of mediation will cause  
375 the immediate termination of this Settlement Contract.

376 (c) In the event that the California State Water Resources Control Board or a  
377 court of competent jurisdiction issues a final decision or order modifying the terms and  
378 conditions of the water rights of either party to this Settlement Contract in order to impose Bay-  
379 Delta water quality obligations, the Contractor and the United States shall promptly meet to  
380 determine whether or not to modify any of the terms of this Settlement Contract to comply with  
381 the final decision or order, including, but not limited to, the applicability of the rescheduling  
382 charge in Article 3(c)(1) of this Settlement Contract. If within 60 days of the date of the issuance  
383 of the final decision or order the parties are not able to reach agreement regarding either the need  
384 to modify this Settlement Contract or the manner in which this Settlement Contract is to be  
385 modified, the parties shall promptly retain a neutral mediator, experienced in resolving water

386 right disputes, to assist the parties in resolving their dispute. The cost of the mediator shall be  
387 shared equally. In the event that either of the parties to this Settlement Contract determines that  
388 the parties will not be able to develop mutually-agreeable modification(s) to this Settlement  
389 Contract even with the assistance of a mediator, either of the parties to this Settlement Contract  
390 may attempt to resolve the impasse by seeking appropriate judicial relief including, but not  
391 limited to, filing a general adjudication of the rights to the use of water in the Sacramento River  
392 system. The foregoing provisions of this sub-article shall only apply to the incremental  
393 obligations contained within a final decision or order of the State Water Resources Control  
394 Board that reflects a modification to the obligations imposed in State Water Resources Control  
395 Board Revised Water Rights Decision 1641 dated March 15, 2000, and its associated 1995 Water  
396 Quality Control Plan which, taken together, will be considered the baseline for the application of  
397 the provisions of this sub-article.

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

409 of the water used by the Contractor during the term of this Settlement Contract was in fact water  
410 to which it would not have been entitled under water rights owned by it nor shall receipt of  
411 payments thereunder by the United States from the Contractor be construed as an admission that  
412 any part of the water used by the Contractor during the term of this Settlement Contract was in  
413 fact water to which it would have been entitled under water rights owned by it.

414 MEASUREMENT OF WATER

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

418 (b) The right of ingress to and egress from all points of diversion is hereby  
419 granted to all authorized employees of the United States. The Contractor also hereby grants to  
420 the United States the right to install, operate, maintain, and replace measuring equipment on  
421 diversion or carriage facilities at each point of diversion as the Contracting Officer deems  
422 necessary.

423 (c) The Contractor shall not modify, alter, remove, or replace diversion  
424 facilities or do any other act which would alter the effectiveness or accuracy of the measuring  
425 equipment installed by the United States or its representatives unless and until the Contracting  
426 Officer has been notified with due diligence and has been given an opportunity to modify such  
427 measuring equipment in such manner as may be necessary or appropriate. In the event of an  
428 emergency the Contractor shall notify the United States within a reasonable time thereafter as to  
429 the existence of the emergency and the nature and extent of such modification, alteration,  
430 removal, or replacement of diversion facilities.

431 (d) The Contractor shall pay the United States for the costs to repair, relocate,  
432 or replace measurement equipment when the Contractor modifies, alters, removes, or replaces  
433 diversion or carriage facilities.

434 RULES AND REGULATIONS

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

440 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

445 (b) The payment of Charges becoming due hereunder is a condition precedent  
446 to receiving benefits under this Settlement Contract. The United States shall not make water  
447 available to the Contractor through Project facilities during any period in which the Contractor  
448 may be in arrears in the advance payment of water Rates due the United States. The Contractor  
449 shall not furnish water made available pursuant to this Settlement Contract for lands or parties  
450 which are in arrears in the advance payment of water rates levied or established by the  
451 Contractor.

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

454 CHARGES FOR DELINQUENT PAYMENTS

455 13. (a) The Contractor shall be subject to interest, administrative and penalty  
456 charges on delinquent installments or payments. When a payment is not received by the due  
457 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond  
458 the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an  
459 administrative charge to cover additional costs of billing and processing the delinquent payment.  
460 When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty  
461 charge of six percent per year for each day the payment is delinquent beyond the due date.

462 Further, the Contractor shall pay any fees incurred for debt collection services associated with a  
463 delinquent payment.

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

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

472 QUALITY OF WATER

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

478 WATER AND AIR POLLUTION CONTROL

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

483 EQUAL OPPORTUNITY

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

486 (a) The Contractor will not discriminate against any employee or applicant for  
487 employment because of race, color, religion, sex, or national origin. The Contractor will take  
488 affirmative action to ensure that applicants are employed, and that employees are treated during  
489 employment, without regard to their race, color, religion, sex, or national origin. Such action  
490 shall include, but not be limited to, the following: Employment, upgrading, demotion, or  
491 transfer; recruitment or recruitment advertising; layoff or termination, rates of payment or other

492 forms of compensation; and selection for training, including apprenticeship. The Contractor  
493 agrees to post in conspicuous places, available to employees and applicants for employment,  
494 notices to be provided by the Contracting Officer setting forth the provisions of this  
495 nondiscrimination clause.

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

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

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

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

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

521 (g) The Contractor will include the provisions of paragraphs (a) through (g) in  
522 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
523 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such  
524 provisions will be binding upon each subcontractor or vendor. The Contractor will take such  
525 action with respect to any subcontract or purchase order as may be directed by the Secretary of  
526 Labor as a means of enforcing such provisions, including sanctions for noncompliance:  
527 Provided, however, that in the event the Contractor becomes involved in, or is threatened with,  
528 litigation with a subcontractor or vendor as a result of such direction, the Contractor may request  
529 the United States to enter into such litigation to protect the interests of the United States.



530 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

531 17. Omitted.

532 MINGLING OF CONTRACTOR’S PROJECT AND NON-PROJECT WATER

533 18. Omitted.

534 BOOKS, RECORDS, AND REPORTS

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

544 CHANGE OF PLACE OF USE

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

547 CONSOLIDATION OF CONTRACTING ENTITIES

548 21. Omitted

549 NOTICES

550 22. Any notice, demand, or request authorized or required by this Settlement Contract  
551 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,  
552 or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation,  
553 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United  
554 States, when mailed, postage prepaid, or delivered to Mr. Don Roberts, Driscoll Strawberry  
555 Associates, Incorporated, 345 Hemsted Drive, Suite B, Redding, California 96002. The  
556 designation of the addressee or the address may be changed by notice given in the same manner  
557 as provided in this Article for other notices.

558 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

559 23. (a) The provisions of this Settlement Contract shall apply to and bind the  
560 successors and assigns of the parties hereto, but no assignment or transfer of this Settlement

561 Contract or any right or interest therein shall be valid until approved in writing by the  
562 Contracting Officer.

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

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

568 OFFICIALS NOT TO BENEFIT

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

572 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

578 CONFIRMATION OF SETTLEMENT CONTRACT

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

586 UNAVOIDABLE GROUNDWATER PERCOLATION

587 27. Omitted

588 PRIVACY ACT COMPLIANCE

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

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

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

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

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

614 WATER CONSERVATION

615 29. (a) Prior to the diversion of Project Water, the Contractor shall be  
616 implementing an effective water conservation and efficiency program based on the Basin-Wide  
617 Water Management Plan and/or Contractor's water conservation plan that has been determined  
618 by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water  
619 conservation plans established under Federal law. The water conservation and efficiency  
620 program shall contain definite water conservation objectives, appropriate economically feasible  
621 water conservation measures, and time schedules for meeting those objectives. Continued  
622 diversion of Project Water pursuant to this Settlement Contract shall be contingent upon the  
623 Contractor's continued implementation of such water conservation program. In the event the  
624 Contractor's water conservation plan or any revised water conservation plan completed pursuant

625 to subdivision (d) of Article 29 of this Settlement Contract have not yet been determined by the  
626 Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer  
627 determines are beyond the control of the Contractor, Project Water deliveries shall be made  
628 under this Settlement Contract so long as the Contractor diligently works with the Contracting  
629 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
630 immediately begins implementing its water conservation and efficiency program in accordance  
631 with the time schedules therein.

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

635 (c) At 5-year intervals, the Contractor shall revise its water conservation plan  
636 to reflect the then current conservation and efficiency criteria for evaluating water conservation  
637 plans established under Federal law and submit such revised water management plan to the  
638 Contracting Officer for review and evaluation. The Contracting Officer will then determine if  
639 the water conservation plan meets Reclamation's then current conservation and efficiency  
640 criteria for evaluating water conservation plans established under Federal law.

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

643 OPINIONS AND DETERMINATIONS

644 30. (a) Where the terms of this Settlement Contract provide for actions to be  
645 based upon the opinion or determination of either party to this Settlement Contract, said terms  
646 shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or  
647 unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of

648 this Settlement Contract, expressly reserve the right to seek relief from and appropriate  
649 adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each  
650 opinion or determination by either party shall be provided in a timely manner. Nothing in  
651 subdivision (a) of Article 30 of this Settlement Contract is intended to or shall affect or alter the  
652 standard of judicial review applicable under Federal law to any opinion or determination  
653 implementing a specific provision of Federal law embodied in statute or regulation.

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

659 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

668 (b) All advances for miscellaneous costs incurred for work requested by the  
669 Contractor pursuant to Article 31 of this Settlement Contract shall be adjusted to reflect the  
670 actual costs when the work has been completed. If the advances exceed the actual costs incurred,

671 the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's  
672 advances, the Contractor will be billed for the additional costs pursuant to Article 31 of this  
673 Settlement Contract.

674 WAIVER OF DEFAULT

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

679 CONTRACT ASSIGNMENT OR TERMINATION UPON TRANSFER OF LAND

680 33. (a) The rights and obligations of the Contractors may be transferred in  
681 connection with the transfer of title to the land or any portion thereof delineated on Exhibit B on  
682 the following terms and conditions:

683 (1) A voluntary inter vivos transfer may be made, upon mutual  
684 agreement of the United States and the Contractors, to a person eligible to hold title to the land as  
685 a nonexcess landowner; and

686 (2) In the event the title of the Contractors to such land, or any portion  
687 thereof, is transferred by operation of law, such as by conveyance in satisfaction of a mortgage,  
688 by inheritance, or by device, the rights and obligations of the Contractors shall pass with the title  
689 and the land shall be subject to provisions of Reclamation law pertaining to such transfers. Any  
690 transfer of the rights and obligations of this Settlement Contract by the person acquiring title by  
691 operation of law shall be in accordance with provisions of subsection (1) above.

692 (b) The Contractors shall notify the Contracting Officer in writing of any  
693 proposed transfer of this Settlement Contract. In addition, in the case of a partial assignment the  
694 Contractors shall:

695 (1) Designate the proportionate quantities of Base Supply and Project  
696 Water which they desire to assign; and

697 (2) Furnish the United States with a copy of the deed transferring title.

698 (c) No transfer of this Settlement Contract shall be effective unless and until  
699 approved by the Contracting Officer, and, if approved, shall be effective from the date of such  
700 approval.

701 (d) Upon mutual agreement between the United States and the Contractor, this  
702 Settlement Contract or a portion thereof may be terminated and the new landowner will have the  
703 privilege of entering into a Settlement Contract for water service for a proportionate share of the  
704 Contract Total provided he is duly qualified to receive water for such land.

705 TERMINATION

706 34. This Settlement Contract will terminate upon mutual agreement of the parties  
707 prior to the end of the term or any renewal thereof.

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

710   THE UNITED STATES OF AMERICA

711   By: \_\_\_\_\_  
712   Regional Director, Mid-Pacific Region  
713   Bureau of Reclamation

714 (SEAL)  
715   DRISCOLL STRAWBERRY ASSOCIATES, INC.

716   By: \_\_\_\_\_  
717   Title: \_\_\_\_\_

718 (I:\10-06-03 Driscoll Strawberry Associates, Inc., Final Draft Contract with exhibits.doc)



Exhibit A

Driscoll Strawberry Associates, Incorporated  
Sacramento River

SCHEDULE OF MONTHLY DIVERSIONS OF WATER

	<u>Base Supply</u> (acre-feet)	<u>Project Water</u> (acre-feet)	<u>Contract Total</u> (acre-feet)
April	<u>80</u>	<u>0</u>	<u>80</u>
May	<u>130</u>	<u>0</u>	<u>130</u>
June	<u>170</u>	<u>60</u>	<u>130</u>
July	<u>0</u>	<u>170</u>	<u>170</u>
August	<u>0</u>	<u>150</u>	<u>150</u>
September	<u>0</u>	<u>110</u>	<u>110</u>
October	<u>50</u>	<u>0</u>	<u>50</u>
Total	<u>330</u>	<u>490</u>	<u>820</u>

Irrigable Acres: 160

Points of Diversion: 207.3L and 207.5L

Dated:

Exhibit B

(Map to be inserted to identify area covered by contract)

Driscoll Strawberry Associates, Incorporated  
Sacramento River

Exhibit C

Omitted

Exhibit D

Driscoll Strawberry Associates, Incorporated  
 Sacramento River  
WATER RATES AND CHARGES

*Note: Rates and Charges shown are 2003 rates. This exhibit will be updated prior to execution of the contract to reflect the Rates and Charges for 2004*

COST OF SERVICE RATES:	<u>Per Irrigated Acre</u>
Capital Rates	
Storage	\$10.42
O&M Rates:	
Water Marketing	\$19.23
Storage	\$17.06
Deficit Rates:	
Interest Bearing	\$4.81
CFO/PFR Adjustment Rate 1/	\$63.88
<b>TOTAL</b>	<b>\$115.40</b>

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. \$132.02

Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981. \$139.96

CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 2/

Restoration Payments (3407(d)(2)(A)) \$23.55

1/ Chief Financial Officer (CFO) adjustment and Provision for Replacement (PFR) expense is being distributed over a 5-year period beginning in FY 2003 for those contractors that requested those costs be deferred.

2/ 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).