

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

CONTRACT BETWEEN THE UNITED STATES AND
BUTTE CREEK FARMS, INCORPORATED,
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,
SETTLING WATER RIGHTS DISPUTES AND
PROVIDING FOR PROJECT WATER

Table of Contents

<u>Article</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	2-3
1	Definitions.....	3-6
2	Term of Settlement Contract.....	6-7
3	Water to be Furnished to Contractor.....	7-9
4	Return Flow	9
5	Constraints on the Availability of Water	9-10
6	Integrated Water Management and Partnerships	10
7	Use of Water Furnished to Contractor	11
8	Rate and Method of Payment for Water	11-16
9	Agreement on Water Quantities.....	16-18
10	Measurement of Water.....	19
11	Rules and Regulations.....	19-20
12	General Obligation – Benefits Conditioned Upon Payment.....	20
13	Charges for Delinquent Payments	20
14	Quality of Water	21
15	Water and Air Pollution Control.....	21
16	Equal Opportunity.....	21-22
17	Omitted	22
18	Omitted	22
19	Books, Records, and Reports	22-23
20	Change of Place of Use or Organization.....	23

Table of Contents - continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
21	Omitted	23
22	Notices	23
23	Assignment Limited – Successors and Assigns Obligated	23
24	Officials Not to Benefit.....	23
25	Contingent Upon Appropriation or Allotment of Funds	23-24
26	Confirmation of Settlement Contract.....	24
27	Omitted	24
28	Privacy Act Compliance	24-25
29	Water Conservation	25-26
30	Opinions and Determinations	26-27
31	Contractor to Pay Certain Miscellaneous Costs.....	27
32	Waiver of Default	27
33	Contract Assignment or Termination Upon Transfer of Land.....	28-29
34	Termination.....	29
	Signature Page	30
Exhibit A	Schedule of Monthly Diversions of Water	
Exhibit B	Map of Contractor's Ownership	
Exhibit C	Omitted	
Exhibit D	Water Rates and Charges	

1
2
3
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12 PROVIDING FOR PROJECT WATER

13 THIS CONTRACT, hereinafter referred to as "Settlement Contract," is entered into
14 by THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, made
15 this 9th day of March, 2005, pursuant to the applicable authority
16 granted to it generally in the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
17 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844),
18 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
19 including but not limited to Sections 9 and 14 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963
20 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended,
21 and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter
22 referred to as Federal Reclamation law, and BUTTE CREEK FARMS, INCORPORATED,
23 hereinafter referred to as the Contractor, acting pursuant to Sections 12003 and 12004 of the
24 California Water Code, with its principal place of business in California;

25 WITNESSETH, that:

26

EXPLANATORY RECITALS

27

[1st] WHEREAS, the United States has constructed and is operating the Central Valley

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Project, California, for multiple purposes pursuant to its statutory authority; and

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[2nd] WHEREAS, the Contractor has rights to divert, is diverting, and will continue to

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divert for reasonable beneficial use, water from the natural flow of the Sacramento River and

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tributaries thereto, that would have been flowing therein if the Central Valley Project were not in

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existence; and

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[3rd] WHEREAS, the construction and operation of the integrated and coordinated

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Central Valley Project has changed and will further change the regimen of the Sacramento,

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American, San Joaquin, and Trinity Rivers and the Sacramento-San Joaquin Delta from

36

unregulated flow to regulated flow; and

37

[4th] WHEREAS, the United States has rights to divert, is diverting, and will continue

38

to divert waters from said Rivers and said Delta in connection with the operation of said Central

39

Valley Project; and

40

[5th] WHEREAS, the Contractor and the United States had a dispute over the

41

respective rights of the parties to divert and use water from the regulated flow of the Sacramento

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River which threatened to result in litigation, and as a means to settle that dispute entered into

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Contract No. 14-06-200-1976A, as amended, hereinafter referred to as the Existing Contract,

44

which established terms for the delivery to the Contractor of Central Valley Project Water, and

45

the quantities of Base Supply the United States and the Contractor agreed may be diverted by the

46

Contractor from the Sacramento River pursuant to such contract; and

47

[5.1] WHEREAS, Butte Creek Farms, Inc., is a successor in interest to Mayfair Farms,

48

Inc.; and

49 [6th] WHEREAS, the United States and the Contractor disagree with respect to the
50 authority of the United States to change the quantities of Base Supply and/or Project Water
51 specified as available for diversion in this Settlement Contract from the quantities specified in
52 the Existing Contract, and other issues related thereto. That dispute was the subject of litigation
53 in a lawsuit entitled *Glenn-Colusa Irrigation District, et al. v. United States, et al.* [Civ.
54 No. S-01-1816 GEB/JFM (E.D. Cal.)], but that litigation was dismissed, without prejudice,
55 pursuant to a stipulation of dismissal filed by the parties thereto on August 29, 2002.
56 Notwithstanding that dismissal, the Contractor and the United States enter into this Settlement
57 Contract to renew the Existing Contract, pursuant to the terms of the Existing Contract, Federal
58 Reclamation law, and the laws of the State of California; and

59 [7th] WHEREAS, to assure the Contractor of the enjoyment and use of the regulated
60 flow of the said Rivers and the Delta, and to provide for the economical operation of the Central
61 Valley Project by, and the reimbursement to, the United States for expenditures made for said
62 Project;

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

65 DEFINITIONS

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

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

72 (b) "Basin-Wide Water Management Plan" shall mean the mutually agreeable
73 Sacramento River Basinwide Water Management Plan, dated October 11, 2004, developed by
74 Glenn- Colusa Irrigation District, Maxwell Irrigation District, Natomas Central Mutual Water
75 Company, Pelger Mutual Water Company, Princeton-Codora Glenn Irrigation District, Provident
76 Irrigation District, Reclamation District 108, Sutter Mutual Water Company, Anderson-
77 Cottonwood Irrigation District, Meridian Farms Water Company, Reclamation District 1004, and
78 the U.S. Bureau of Reclamation;

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

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

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

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

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

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

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

108 (g) Omitted;

109 (h) Omitted;

110 (i) Omitted;

111 (j) Omitted;

112 (k) Omitted;

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

115 (m) "Project Water" shall mean all Surface Water diverted or scheduled to be
116 diverted each month during the period April through October of each Year by the Contractor
117 from the Sacramento River which is in excess of the Base Supply. The United States recognizes

118 the right of the Contractor to make arrangements for acquisition of water from projects of others
119 than the United States for delivery through the Sacramento River and tributaries subject to
120 written agreement between Contractor and the United States as to identification of such water,
121 which water, when so identified, shall not be deemed Project Water under this Settlement
122 Contract;

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

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

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

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

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

134 TERM OF SETTLEMENT CONTRACT

135 2. (a) This Settlement Contract shall become effective April 1, 2005, and shall
136 remain in effect until and including March 31, 2045; Provided, that under terms and conditions
137 mutually agreeable to the parties hereto, renewals may be made for successive periods not to
138 exceed 40 years each. The terms and conditions of each renewal shall be agreed upon not later
139 than one year prior to the expiration of the then existing Settlement Contract.

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

154 WATER TO BE FURNISHED TO CONTRACTOR

155 3. (a) Subject to the conditions, limitations, and provisions hereinafter
156 expressed, the Contractor is hereby entitled and authorized to divert from the Sacramento River
157 at the locations shown in Exhibit A, for beneficial use within the area delineated on Exhibit B,
158 (both Exhibits are attached hereto and made a part hereof), the Contract Total designated in
159 Exhibit A, or any revision thereof.

160 (b) No sale, transfer, exchange, or other disposal of any of the Contract Total
161 designated in Exhibit A or the right to the use thereof for use on land other than that shown on
162 Exhibit B shall be made by the Contractor without first obtaining the written consent of the

163 Contracting Officer. Such consent will not be unreasonably withheld and a decision will be
164 rendered in a timely manner. For short-term actions that will occur within one year or less, the
165 decision will be rendered within 30 days after receipt of a complete written proposal. For long-
166 term actions that will occur in a period longer than one year, the decision will be rendered within
167 90 days after receipt of a complete written proposal. For a proposal to be deemed complete by
168 the Contracting Officer, it must comply with all provisions required by State and Federal law,
169 including information sufficient to enable the Contracting Officer to comply with the National
170 Environmental Policy Act, the Endangered Species Act, and applicable rules or regulations then
171 in effect; Provided, that such consent does not authorize the use of Federal facilities to facilitate
172 or effectuate the sale, transfer, exchange or other disposal of Base Supply. Such use of Federal
173 facilities will be the subject of a separate agreement to be entered into between the Contractor
174 and Reclamation.

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

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

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

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

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

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

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

195 (f) In addition to the provisions of subdivision (e) of Article 3 of this
196 Contract, if there is a shortage of Project Water because of actions taken by the Contracting
197 Officer to meet legal obligations then, except as provided in subdivision (a) of Article 30 of this
198 Contract, no liability shall accrue against the United States or any of its officers, agents, or
199 employees for any damage, direct or indirect, arising therefrom.

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 its 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 all
228 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,
238 and 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 Existing
243 Contract, which evidences in excess of 40 years of diversions, for agricultural uses, of the
244 quantities of water provided for in Article 3, and the underlying water rights of the Contractor
245 will be considered in developing an appropriate base-line for the Biological Assessment prepared
246 pursuant to the Endangered Species Act, and in any other needed environmental review.

247 Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial
248 relief in a court of competent jurisdiction with respect to any biological opinion or other
249 environmental documentation referred to in this Article.

250 RATE AND METHOD OF PAYMENT FOR WATER

251 8. (a) The Contractor shall make payments to the United States as provided in
252 this Article for each acre of land irrigated from April 1 through October 31 each Year.

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

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

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

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

276 with the final Rates to be in effect for the upcoming Year, and such notification shall revise
277 Exhibit D.

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

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

284 (2) The amount to be paid on or before May 1 of each Year shall be
285 based on a written estimate, provided to the Contracting Officer by the Contractor on or before
286 April 1 of each Year, of the total area to be irrigated between April 1 and October 31 of that
287 Year.

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 between April 1 and July 1.

291 (4) If additional areas are placed under irrigation on or after July 1, but
292 before October 31, additional payment shall be made in advance of such additional irrigation at
293 the Rates and 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. All revenues
296 received by the United States from the Contractor relating to the delivery of Project Water or the
297 delivery of non-Project Water through Project facilities shall be allocated and applied in

298 accordance with Federal Reclamation law and the associated rules or regulations, and the then
299 current Project ratesetting policies for irrigation water.

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

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

316 (g) For the term of this Settlement Contract, Rates under the respective
317 ratesetting policies for the Project will be established to recover only reimbursable operation and
318 maintenance (including any deficits) and capital costs of the Project, as those terms are used in
319 the then-current Project ratesetting policies, and interest, where appropriate, except in instances
320 where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy.

321 Proposed changes of significance in practices which implement the ratesetting policies for the
322 Project will not be implemented until the Contracting Officer has provided the Contractor an
323 opportunity to discuss the nature, need, and impact of the proposed change. The Contractor
324 retains all rights to challenge the validity of Rates and Charges imposed pursuant to this
325 Settlement Contract, including but not limited to operation and maintenance expenses and
326 operation and maintenance deficits, in an appropriate administrative or judicial proceeding.

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

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

341 (j) Each payment to be made pursuant to subdivisions (a) and (c) of this
342 Article shall be made at the office of the Bureau of Reclamation, MP Region: Mid-Pacific,

343 P.O. Box 894242, Los Angeles, CA 90189-4242, or at such other place as the United States may
344 designate in a written notice to the said Contractor. Payments shall be made by cash transaction,
345 wire, or any other mechanism as may be agreed to in writing by the Contractor and the
346 Contracting Officer. In event there should be a default in the payment of the amount due, the
347 delinquent payment provisions of Article 13 shall apply. The Contractor shall not be relieved of
348 the whole or any part of its said obligation by, on account of, or notwithstanding, as the case may
349 be its failure, refusal, or neglect to divert the quantity of Project Water shown on Exhibit A.

350 AGREEMENT ON WATER QUANTITIES

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

352 (1) It shall constitute full agreement as between the United States and
353 the Contractor as to the quantities of water and the allocation thereof between Base Supply and
354 Project Water which may be diverted by the Contractor from the Sacramento River for beneficial
355 use on the land shown on Exhibit B from April 1 through October 31, which said diversion, use,
356 and allocation shall not be disturbed so long as the Contractor shall fulfill all of its obligations
357 hereunder;

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

360 (b) Nothing herein contained is intended to or does limit rights of the
361 Contractor against others than the United States or of the United States against any person other
362 than the Contractor; Provided, however, that in the event the Contractor, the United States, or
363 any other person shall become a party to a general adjudication of rights to the use of water of
364 the Sacramento River system, this Settlement Contract shall not jeopardize the rights or position
365 of either party hereto or of any other person and the rights of all such persons in respect to the

366 use of such water shall be determined in such proceedings the same as if this Settlement Contract
367 had not been entered into, and if final judgment in any such general adjudication shall determine
368 that the rights of the parties hereto are different from the rights as assumed herein, the parties
369 shall negotiate an amendment to give effect to such judgment. In the event the parties are unable
370 to agree on an appropriate amendment they shall, within 60 days of determining that there is an
371 impasse, employ the services of a neutral mediator, experienced in resolving water rights
372 disputes, to assist in resolving the impasse. The cost of the mediation will be shared equally. A
373 failure to reach agreement on an amendment within 60 days of the end of mediation will cause
374 the immediate termination of this Settlement Contract.

375 (c) In the event that the California State Water Resources Control Board or a
376 court of competent jurisdiction issues a final decision or order modifying the terms and
377 conditions of the water rights of either party to this Settlement Contract in order to impose Bay-
378 Delta water quality obligations, the Contractor and the United States shall promptly meet to
379 determine whether or not to modify any of the terms of this Settlement Contract to comply with
380 the final decision or order. If within 60 days of the date of the issuance of the final decision or
381 order the parties are not able to reach agreement regarding either the need to modify this
382 Settlement Contract or the manner in which this Settlement Contract is to be modified, the
383 parties shall promptly retain a neutral mediator, experienced in resolving water right disputes, to
384 assist the parties in resolving their dispute. The cost of the mediator shall be shared equally. In
- 385 the event that either of the parties to this Settlement Contract determines that the parties will not
386 be able to develop mutually-agreeable modification(s) to this Settlement Contract even with the
387 assistance of a mediator, either of the parties to this Settlement Contract may attempt to resolve
388 the impasse by seeking appropriate judicial relief including, but not limited to, filing a general

389 adjudication of the rights to the use of water in the Sacramento River system. The foregoing
390 provisions of this sub-article shall only apply to the incremental obligations contained within a
391 final decision or order of the State Water Resources Control Board that reflects a modification to
392 the obligations imposed in State Water Resources Control Board Revised Water Rights Decision
393 1641 dated March 15, 2000, and its associated 1995 Water Quality Control Plan which, taken
394 together, will be considered the baseline for the application of the provisions of this sub-article.

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

411

MEASUREMENT OF WATER

412

10. (a) All water diverted by the Contractor from the Sacramento River will be

413

diverted at the existing point or points of diversion shown on Exhibit A or at such other points as

414

may be mutually agreed upon in writing by the Contracting Officer and the Contractor.

415

(b) The right of ingress to and egress from all points of diversion is hereby

416

granted to all authorized employees of the United States. The Contractor also hereby grants to

417

the United States the right to install, operate, maintain, and replace measuring equipment on

418

diversion or carriage facilities at each point of diversion as the Contracting Officer deems

419

necessary.

420

(c) The Contractor shall not modify, alter, remove, or replace diversion

421

facilities or do any other act which would alter the effectiveness or accuracy of the measuring

422

equipment installed by the United States or its representatives unless and until the Contracting

423

Officer has been notified with due diligence and has been given an opportunity to modify such

424

measuring equipment in such manner as may be necessary or appropriate. In the event of an

425

emergency the Contractor shall notify the United States within a reasonable time thereafter as to

426

the existence of the emergency and the nature and extent of such modification, alteration,

427

removal, or replacement of diversion facilities.

428

(d) The Contractor shall pay the United States for the costs to repair, relocate,

429

or replace measurement equipment when the Contractor modifies, alters, removes, or replaces

430

diversion or carriage facilities.

431

RULES AND REGULATIONS

432

11. The parties agree that the delivery of Project Water for irrigation use or use of

433

Federal facilities pursuant to this Settlement Contract is subject to Federal Reclamation law,

434 including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C.390aa et seq.), as
 435 amended and supplemented, and the rules and regulations promulgated by the Secretary of the
 436 Interior under Federal Reclamation law.

437 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

451 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

469

QUALITY OF WATER

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

475

WATER AND AIR POLLUTION CONTROL

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

480

EQUAL OPPORTUNITY

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

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

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

497 (c) The Contractor will send to each labor union or representative of workers
498 with which it has a collective bargaining agreement or other contract or understanding, a notice,
499 to be provided by the Contracting Officer, advising the said labor union or workers'

500 representative of the Contractor's commitments under Section 202 of Executive Order 11246 of
 501 September 24, 1965, and shall post copies of the notice in conspicuous places available to
 502 employees and applicants for employment.

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

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

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

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

527 17. Omitted.

528 18. Omitted.

529 BOOKS, RECORDS, AND REPORTS

530 19. The Contractor shall establish and maintain accounts and other books and records
 531 pertaining to administration of the terms and conditions of this Settlement Contract, including:
 532 the Contractor's financial transactions, water supply data, and Project land and right-of-way
 533 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
 534 data; and other matters that the Contracting Officer may require. Reports thereon shall be
 535 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
 536 Officer may require. Subject to applicable Federal laws and regulations, each party to this

537 Settlement Contract shall have the right during office hours to examine and make copies of each
538 other's books and official records relating to matters covered by this Settlement Contract.

539 CHANGE OF PLACE OF USE

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

542 21. Omitted.

543 NOTICES

544 22. Any notice, demand, or request authorized or required by this Settlement Contract
545 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,
546 or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation,
547 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United
548 States, when mailed, postage prepaid, or delivered to Butte Creek Farms, 50 Sunrise Boulevard,
549 Colusa, California 95932. The designation of the addressee or the address may be changed by
550 notice given in the same manner as provided in this Article for other notices.

551 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

561 OFFICIALS NOT TO BENEFIT

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

565 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

566 25. The expenditure or advance of any money or the performance of any obligation of
567 the United States under this Settlement Contract shall be contingent upon appropriation or

568 allotment of funds. Absence of appropriation or allotment of funds shall not relieve the
 569 Contractor from any obligations under this Settlement Contract. No liability shall accrue to the
 570 United States in case funds are not appropriated or allotted.

571 CONFIRMATION OF SETTLEMENT CONTRACT

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

579 27. Omitted.

580 PRIVACY ACT COMPLIANCE

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

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

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

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

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

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

606 WATER CONSERVATION

607 29. (a) Prior to the diversion of Project Water, the Contractor shall be
608 implementing an effective water conservation and efficiency program based on the Basin-Wide
609 Water Management Plan and/or Contractor's water conservation plan that has been determined
610 by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water
611 conservation plans established under Federal law. The water conservation and efficiency
612 program shall contain definite water conservation objectives, appropriate economically feasible
613 water conservation measures, and time schedules for meeting those objectives. Continued
614 diversion of Project Water pursuant to this Settlement Contract shall be contingent upon the
615 Contractor's continued implementation of such water conservation program. In the event the
616 Contractor's water conservation plan or any revised water conservation plan completed pursuant
617 to subdivision (d) of Article 29 of this Settlement Contract have not yet been determined by the
618 Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer
619 determines are beyond the control of the Contractor, Project Water deliveries shall be made
620 under this Settlement Contract so long as the Contractor diligently works with the Contracting
621 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
622 immediately begins implementing its water conservation and efficiency program in accordance
623 with the time schedules therein.

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

627 (c) At five-year intervals, the Contractor shall revise its water conservation
628 plan to reflect the then current conservation and efficiency criteria for evaluating water
629 conservation plans established under Federal law and submit such revised water management
630 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then
631 determine if the water conservation plan meets Reclamation's then current conservation and
632 efficiency criteria for evaluating water conservation plans established under Federal law.

633 (d) If the Contractor is engaged in direct groundwater recharge, such activity
634 shall be described in the Contractor's water conservation plan.

635 OPINIONS AND DETERMINATIONS

636 30. (a) Where the terms of this Settlement Contract provide for actions to be
637 based upon the opinion or determination of either party to this Settlement Contract, said terms
638 shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or
639 unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of
640 this Settlement Contract, expressly reserve the right to seek relief from and appropriate
641 adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each
642 opinion or determination by either party shall be provided in a timely manner. Nothing in
643 subdivision (a) of Article 30 of this Settlement Contract is intended to or shall affect or alter the
644 standard of judicial review applicable under Federal law to any opinion or determination
645 implementing a specific provision of Federal law embodied in statute or regulation.

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

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

651 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

660 (b) All advances for miscellaneous costs incurred for work requested by the
661 Contractor pursuant to Article 31 of this Settlement Contract shall be adjusted to reflect the
662 actual costs when the work has been completed. If the advances exceed the actual costs incurred,
663 the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
664 advances, the Contractor will be billed for the additional costs pursuant to Article 31 of this
665 Settlement Contract.

666 WAIVER OF DEFAULT

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

671 CONTRACT ASSIGNMENT OR TERMINATION UPON TRANSFER OF LAND

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

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

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

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

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

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

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

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

697

TERMINATION

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

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

702

THE UNITED STATES OF AMERICA

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

James E. Turner

OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

703

704

705

By:

[Signature]

Regional Director, Mid-Pacific Region
Bureau of Reclamation

706 (SEAL)

707

708

BUTTE CREEK FARMS, INCORPORATED

709

710

By:

Ed Halbert

Vice President

1st Ed Halbert

711 ATTEST:

712

713

Secretary

714 (H:\PUBLIC\Sac River Final LTRC's-01\2005-01-31ButteCreekFarmsInc.1976A-R-
715 1FinalDraftCont.DOC)

Exhibit A

BUTTE CREEK FARMS, 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>18</u>	<u>0</u>	<u>18</u>
May	<u>47</u>	<u>0</u>	<u>47</u>
June	<u>51</u>	<u>4</u>	<u>55</u>
July	<u>47</u>	<u>4</u>	<u>51</u>
August	<u>0</u>	<u>0</u>	<u>0</u>
September	<u>0</u>	<u>0</u>	<u>0</u>
October	<u>33</u>	<u>0</u>	<u>33</u>
Total	<u>196</u>	<u>8</u>	<u>204</u>

Irrigable Acres: 83

Points of Diversion: 88.7L

Dated: 01-31-2005



Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

-  Contractor's Service Area
-  Point of Diversion

Butte Creek Farms, Inc.
Contract No. 14-06-200-1976A-R-1
Exhibit B

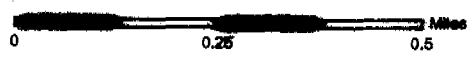


Exhibit C

Omitted

Exhibit D

BUTTE CREEK FARMS, INCORPORATED
 Sacramento River
2005 Water Rates and Charges per Irrigated Acre

IrrigationCOST OF SERVICE RATE:\$1.70FULL-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.

\$2.26

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

\$2.49

CHARGES UNDER P.L. 102-575 TO THE
 RESTORATION FUND 1/

Restoration Payments (3407(d)(2)(A))

\$0.76

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).

BUTTE CREEK FARMS

50 Sunrise Blvd. • Colusa, California 95932

Office Phone: (530) 458-2118

Fax: (530) 458-2110

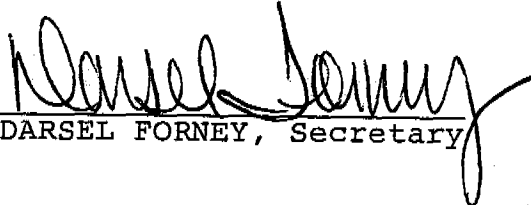
March 8, 2005

RESOLUTION

Be it resolved, that the vice president of Butte Creek Farms, Edwin Hulbert, is hereby authorized to sign the long term Water Contracts Nos: 14-06-200-1976A, 14-06-200-7744X, 14-06-200-5206A and 14-06-200-2851A between the United States and Butte Creek Farms.

I hereby certify the foregoing to be a true and correct copy of the resolution adopted by the Board of Directors of Butte Creek Farms at their February 22, 2005 board of directors meeting.

Dated: March 8, 2005


DARSEL FORNEY, Secretary

Ayes: Bert Otterson, Didi Otterson Flint, Helen Rodde,
L. A. Otterson

Nos: None

Absent: None