

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

CONTRACT BETWEEN THE UNITED STATES AND  
CARTER MUTUAL WATER COMPANY,  
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
SETTLING WATER RIGHTS DISPUTES AND  
PROVIDING FOR PROJECT WATER

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3 UNITED STATES  
4 DEPARTMENT OF THE INTERIOR  
5 BUREAU OF RECLAMATION  
6 Central Valley Project, California

7 CONTRACT BETWEEN THE UNITED STATES AND  
8 CARTER MUTUAL WATER COMPANY,  
9 DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
10 SETTLING WATER RIGHTS DISPUTES AND  
11 PROVIDING FOR PROJECT WATER

12 THIS CONTRACT, hereinafter referred to as "Settlement Contract," is entered into  
13 by THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, made  
14 this 31<sup>st</sup> day of March, 2005, pursuant to the applicable authority granted  
15 to it generally in the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary  
16 thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and  
17 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, including, but not  
18 limited to, Sections 9 and 14 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68),  
19 October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title  
20 XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to  
21 as Federal Reclamation law, and CARTER MUTUAL WATER COMPANY, hereinafter  
22 referred to as the Contractor, a corporation, acting pursuant to Sections 12003 and 12004 of the  
23 California Water Code, with its principal place of business in California;

24 WITNESSETH, that:

25

EXPLANATORY RECITALS

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[1<sup>st</sup>] 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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[2<sup>nd</sup>] 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;

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[3<sup>rd</sup>] 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

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unregulated flow to regulated flow; and

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

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

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Valley Project; and

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[5<sup>th</sup>] WHEREAS, the Contractor and the United States had a dispute over the

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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. 14-06-200-2401A, as revised, hereinafter referred to as the Existing Contract,

43

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

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

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Contractor from the Sacramento River pursuant to such contract; and

46

[5.1] WHEREAS, the Contractor's shareholders entered into Sacramento River

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Contract Nos. 14-06-200-2042A, and 14-06-200-4617A, and the Contractor desires to merge

48 Contract Nos. 14-06-200-2401A, 14-06-200-2042A, and 14-06-200-4617A into a single contract  
49 identified as Contract No. 14-06-200-2401A-R-1; and

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

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

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

66 DEFINITIONS

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

69 (a) "Base Supply" shall mean the quantity of Surface Water established in  
70 Articles 3 and 5 which may be diverted by the Contractor from the Sacramento River each month

71 during the period April through October of each Year without payment to the United States for  
72 such quantities diverted;

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

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

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

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

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

92 (2) The total accumulated actual deficiencies below 4 million acre-feet  
93 in the immediately prior Water Year or series of successive prior Water Years each of which had

94 inflows of less than 4 million acre-feet, together with the forecasted deficiency for the current  
95 Water Year, exceed 800,000 acre-feet.

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

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

109 (g) "Eligible Lands" shall mean all lands to which Project Water may be  
110 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982  
111 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

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

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

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

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

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

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

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

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

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



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

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

142 TERM OF SETTLEMENT CONTRACT

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

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

WATER TO BE FURNISHED TO CONTRACTOR

162  
163           3.     (a)     Subject to the conditions, limitations, and provisions hereinafter  
164 expressed, the Contractor is hereby entitled and authorized to divert from the Sacramento River  
165 at the locations shown in Exhibit A, for beneficial use within the area delineated on Exhibit B,  
166 (both Exhibits are attached hereto and made a part hereof), the Contract Total designated in  
167 Exhibit A, or any revision thereof, in accordance with the monthly operating schedule required  
168 by Article 3(c) of this Settlement Contract. The quantity of any water diverted under this  
169 Settlement Contract from the Sacramento River, during the period April through October, for use  
170 on any lands delineated on Exhibit B, by the owner of such lands or otherwise shall constitute a  
171 part of the Contract Total as shown on Exhibit A and shall be subject to all the provisions of this  
172 Settlement Contract relating to such Contract Total as if such diversion were made by the  
173 Contractor.

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

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

191 (1) that for the quantity of Base Supply diverted in excess of the  
192 monthly quantity shown in Exhibit A, and as may be reduced in accordance with Article 5(a),  
193 during June, July, August, September, or October of any Water Year, the Contractor shall be  
194 charged a rescheduling fee equal to 50 percent of the sum of the storage operations and  
195 maintenance rate and the storage capital rate components of the Project ratesetting policy.

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

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

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

204 (d) In the event conditions warrant, the Contracting Officer reserves the right  
205 to require the Contractor to submit, at least 72 hours prior to the beginning of each weekly  
206 period, its estimate of daily diversion requirements for each such period from the Sacramento

207 River; Provided, however, that changes during any such period may be made upon the giving of  
208 72 hours' notice thereof to the Contracting Officer.

209 (e) No sale, transfer, exchange, or other disposal of any of the Contract Total  
210 designated in Exhibit A or the right to the use thereof for use on land other than that shown on  
211 Exhibit B shall be made by the Contractor without first obtaining the written consent of the  
212 Contracting Officer. Such consent will not be unreasonably withheld and a decision will be  
213 rendered in a timely manner. For short-term actions that will occur within one year or less, the  
214 decision will be rendered within 30 days after receipt of a complete written proposal. For long-  
215 term actions that will occur in a period longer than one year, the decision will be rendered within  
216 90 days after receipt of a complete written proposal. For a proposal to be deemed complete by  
217 the Contracting Officer, it must comply with all provisions required by State and Federal law,  
218 including information sufficient to enable the Contracting Officer to comply with the National  
219 Environmental Policy Act, the Endangered Species Act, and applicable rules or regulations then  
220 in effect; Provided, that such consent does not authorize the use of Federal facilities to facilitate  
221 or effectuate the sale, transfer, exchange, or other disposal of Base Supply. Such use of Federal  
222 facilities will be the subject of a separate agreement to be entered into between the Contractor  
223 and Reclamation.

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

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

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

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

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

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

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

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

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RETURN FLOW

4. Nothing herein shall be construed as an abandonment or a relinquishment by the United States of any right it may have to the use of waste, seepage, and return flow water derived from water diverted by the Contractor hereunder and which escapes or is discharged beyond the boundaries of the lands shown on Exhibit B; Provided, that this shall not be construed as claiming for the United States any right to such water which is recovered by the Contractor pursuant to California law from within the boundaries of the lands shown on Exhibit B, and which is being used pursuant to this Settlement Contract for surface irrigation or underground storage for the benefit of the lands shown on Exhibit B by the Contractor.

CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

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

272 water supplies including, but not limited to, the better management and integration of surface  
273 water and groundwater, the development and better utilization of surface water storage, the  
274 effective utilization of waste, seepage and return flow water, and other operational and  
275 management options that may be identified in the future.

276 USE OF WATER FURNISHED TO CONTRACTOR

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

283 (b) The Contractor shall comply with requirements applicable to the  
284 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
285 of this Settlement Contract undertaken pursuant to Section 7 of the Endangered Species Act of  
286 1973, as amended, that are within the Contractor's legal authority to implement. The Existing  
287 Contract, which evidences in excess of 40 years of diversions, for agricultural uses, of the  
288 quantities of water provided for in Article 3, and the underlying water rights of the Contractor  
289 will be considered in developing an appropriate base-line for the Biological Assessment prepared  
290 pursuant to the Endangered Species Act, and in any other needed environmental review.  
291 Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial  
292 relief in a court of competent jurisdiction with respect to any biological opinion or other  
293 environmental documentation referred to in this Article.

294 RATE AND METHOD OF PAYMENT FOR WATER

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

297 (1) 75 percent of the amount shown as Project Water shall be paid for  
298 by the Contractor in each Year; and in addition

299 (2) the Contractor shall pay for Project Water actually diverted in  
300 excess of 75 percent of the amount shown as Project Water.

301 Such payments shall be at Rates and Charges established in accordance with: (i) the  
302 Secretary's then-current ratesetting policies for the Project; and (ii) applicable Reclamation law  
303 and associated rules and regulations, or policies; Provided, that if the Contractor desires to use  
304 Project Water for other than agricultural purposes the Rates and Charges set forth above will be  
305 adjusted by the Contracting Officer to the applicable Rates and Charges for such purposes. The  
306 Rates and Charges applicable to the Contractor upon execution of this Settlement Contract are  
307 set forth in Exhibit D, as may be revised annually. The Secretary's ratesetting policies for the  
308 Project shall be amended, modified, or superseded only through a public notice and comment  
309 procedure. The Contracting Officer shall adjust the amount of Project Water for which payment  
310 is required to the extent of any reduction in diversions of Project Water made in accordance with  
311 the water conservation provisions of Article 29(e).

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

314 (1) Prior to July 1 of each Year, the Contracting Officer shall provide  
315 the Contractor an estimate of the Charges for Project Water that will be applied to the period  
316 October 1, of the current Year, through September 30, of the following Year, and the basis for



317 such estimate. The Contractor shall be allowed not less than two months to review and comment  
318 on such estimates. On or before September 15 of each Year, the Contracting Officer shall notify  
319 the Contractor in writing of the Charges to be in effect during the period October 1 of the current  
320 Year, through September 30, of the following Year, and such notification shall revise Exhibit D.

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

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

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

337 (2) With respect to Charges, the Contractor shall also make a payment  
338 to the United States, in addition to the Rate(s) in subdivision (c)(1) of this Article, at the Charges  
339 then in effect, before the end of the month following the month of delivery or transfer. The

340 payments shall be consistent with the quantities of Project Water delivered or transferred.  
341 Adjustment for overpayment or underpayment of Charges shall be made through the adjustment  
342 of payments due to the United States for Charges for the next month. Any amount to be paid for  
343 past due payment of Charges shall be computed pursuant to Article 13 of this Settlement  
344 Contract.

345 (d) Payments to be made by the Contractor to the United States under this  
346 Settlement Contract may be paid from any revenues available to the Contractor. All revenues  
347 received by the United States from the Contractor relating to the delivery of Project Water or the  
348 delivery of non-Project Water through Project facilities shall be allocated and applied in  
349 accordance with Federal Reclamation law and the associated rules or regulations, and the then  
350 current Project ratesetting policies for irrigation water.

351 (e) The Contracting Officer shall keep its accounts pertaining to the  
352 administration of the financial terms and conditions of its long-term water service and Settlement  
353 Contracts, in accordance with applicable Federal standards, so as to reflect the application of  
354 Project costs and revenues. The Contracting Officer shall, each Year upon request of the  
355 Contractor, provide to the Contractor a detailed accounting of all Project and Contractor expense  
356 allocations, the disposition of all Project and Contractor revenues, and a summary of all water  
357 delivery information. The Contracting Officer and the Contractor shall enter into good faith  
358 negotiations to resolve any discrepancies or disputes relating to accountings, reports, or  
359 information.

360 (f) The parties acknowledge and agree that the efficient administration of this  
361 Settlement Contract is their mutual goal. Recognizing that experience has demonstrated that  
362 mechanisms, policies, and procedures used for establishing Rates and Charges and/or for making

363 and allocating payments, other than those set forth in this Article may be in the mutual best  
364 interest of the parties, it is expressly agreed that the parties may enter into agreements to modify  
365 the mechanisms, policies, and procedures for any of those purposes while this Settlement  
366 Contract is in effect without amendment of this Settlement Contract.

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

378 (h) Except as provided in subsection 3405(a)(1)(B) of the CVPIA, the Rates  
379 for Project Water transferred, exchanged, or otherwise disposed of, by the Contractor shall be the  
380 Contractor's Rates adjusted upward or downward to reflect the changed costs of delivery (if any)  
381 of the transferred, exchanged, or otherwise disposed of Project Water to the transferee's point of  
382 delivery in accordance with the then-current ratesetting policies for the Project. Except as  
383 provided in subsection 3407(d)(2)(A) of the CVPIA, the Charges for Project Water transferred,  
384 exchanged, or otherwise disposed of, by the Contractor shall be the Contractor's Charges  
385 specified in Exhibit D. If the Contractor is receiving lower Rates and Charges because of

386 inability to pay and is transferring, exchanging, or otherwise disposing of Project Water to  
387 another entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and  
388 Charges for transferred, exchanged, or otherwise disposed of Project Water shall be the  
389 Contractor's Rates and Charges unadjusted for ability to pay.

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

392 (j) Each payment to be made pursuant to subdivisions (a) and (c) of this  
393 Article shall be made at the office of the Bureau of Reclamation, MP Region: Mid-Pacific,  
394 P.O. Box 894242, Los Angeles, CA 90189-4242, or at such other place as the United States may  
395 designate in a written notice to the said Contractor. Payments shall be made by cash transaction,  
396 wire, or any other mechanism as may be agreed to in writing by the Contractor and the  
397 Contracting Officer. In the event there should be a default in the payment of the amount due, the  
398 delinquent payment provisions of Article 13 shall apply. The Contractor shall not be relieved of  
399 the whole or any part of its said obligation by, on account of, or notwithstanding, as the case may  
400 be:

401 (1) Its failure, refusal, or neglect to divert 75 percent of the quantity of  
402 Project Water shown on Exhibit A;

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

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

408 (4) Any injunctive process enjoining or restraining the Contractor  
409 from making or collecting any such assessment, toll, or other charge referred to in subsection  
410 8(c)(2) of this Settlement Contract.

411 AGREEMENT ON WATER QUANTITIES

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

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

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

421 (b) Nothing herein contained is intended to or does limit rights of the  
422 Contractor against others than the United States or of the United States against any person other  
423 than the Contractor; Provided, however, that in the event the Contractor, the United States, or  
424 any other person shall become a party to a general adjudication of rights to the use of water of  
425 the Sacramento River system, this Settlement Contract shall not jeopardize the rights or position  
426 of either party hereto or of any other person and the rights of all such persons in respect to the  
427 use of such water shall be determined in such proceedings the same as if this Settlement Contract  
428 had not been entered into, and if final judgment in any such general adjudication shall determine  
429 that the rights of the parties hereto are different from the rights as assumed herein, the parties  
430 shall negotiate an amendment to give effect to such judgment. In the event the parties are unable

431 to agree on an appropriate amendment they shall, within 60 days of determining that there is an  
432 impasse, employ the services of a neutral mediator, experienced in resolving water rights  
433 disputes, to assist in resolving the impasse. The cost of the mediation will be shared equally. A  
434 failure to reach agreement on an amendment within 60 days of the end of mediation will cause  
435 the immediate termination of this Settlement Contract.

436 (c) In the event that the California State Water Resources Control Board or a  
437 court of competent jurisdiction issues a final decision or order modifying the terms and  
438 conditions of the water rights of either party to this Settlement Contract in order to impose Bay-  
439 Delta water quality obligations, the Contractor and the United States shall promptly meet to  
440 determine whether or not to modify any of the terms of this Settlement Contract to comply with  
441 the final decision or order, including, but not limited to, the applicability of the rescheduling  
442 charge in Article 3(c)(1) of this Settlement Contract. If within 60 days of the date of the issuance  
443 of the final decision or order the parties are not able to reach agreement regarding either the need  
444 to modify this Settlement Contract or the manner in which this Settlement Contract is to be  
445 modified, the parties shall promptly retain a neutral mediator, experienced in resolving water  
446 right disputes, to assist the parties in resolving their dispute. The cost of the mediator shall be  
447 shared equally. In the event that either of the parties to this Settlement Contract determines that  
448 the parties will not be able to develop mutually-agreeable modification(s) to this Settlement  
449 Contract even with the assistance of a mediator, either of the parties to this Settlement Contract  
450 may attempt to resolve the impasse by seeking appropriate judicial relief including, but not  
451 limited to, filing a general adjudication of the rights to the use of water in the Sacramento River  
452 system. The foregoing provisions of this sub-article shall only apply to the incremental  
453 obligations contained within a final decision or order of the State Water Resources Control

454 Board that reflects a modification to the obligations imposed in State Water Resources Control  
455 Board Revised Water Rights Decision 1641 dated March 15, 2000, and its associated 1995 Water  
456 Quality Control Plan which, taken together, will be considered the baseline for the application of  
457 the provisions of this sub-article.

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

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MEASUREMENT OF WATER

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

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

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

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



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

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

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

507 RULES AND REGULATIONS

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

513 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

527 CHARGES FOR DELINQUENT PAYMENTS

528 13. (a) The Contractor shall be subject to interest, administrative and penalty  
529 charges on delinquent installments or payments. When a payment is not received by the due  
530 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond  
531 the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an  
532 administrative charge to cover additional costs of billing and processing the delinquent payment.  
533 When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty  
534 charge of six percent per year for each day the payment is delinquent beyond the due date.  
535 Further, the Contractor shall pay any fees incurred for debt collection services associated with a  
536 delinquent payment.

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

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

545 QUALITY OF WATER

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

551 WATER AND AIR POLLUTION CONTROL

552 15. The Contractor, in carrying out this Settlement Contract, shall comply with all  
553 applicable water and air pollution laws and regulations of the United States and the State of

554 California, and shall obtain all required permits or licenses from the appropriate Federal, State,  
555 or local authorities.

556 EQUAL OPPORTUNITY

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

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

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

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

579 (d) The Contractor will comply with all provisions of Executive Order No.  
580 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of  
581 the Secretary of Labor.

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

587 (f) In the event of the Contractor's noncompliance with the nondiscrimination  
588 clauses of this Settlement Contract or with any of the said rules, regulations, or orders, this  
589 Settlement Contract may be canceled, terminated, or suspended, in whole or in part, and the  
590 Contractor may be declared ineligible for further Government contracts in accordance with

591 procedures authorized in said amended Executive Order, and such other sanctions may be  
 592 imposed and remedies invoked as provided in said Executive Order, or by rule, regulation, or  
 593 order of the Secretary of Labor, or as otherwise provided by law.

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

### 603 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

604 17. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
 605 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the  
 606 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights  
 607 laws, as well as with their respective implementing regulations and guidelines imposed by the  
 608 U.S. Department of the Interior and/or Bureau of Reclamation.

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

616 (c) The Contractor makes this agreement in consideration of and for the  
 617 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
 618 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of  
 619 Reclamation, including installment payments after such date on account of arrangements for  
 620 Federal financial assistance which were approved before such date. The Contractor recognizes  
 621 and agrees that such Federal assistance will be extended in reliance on the representations and  
 622 agreements made in this Article, and that the United States reserves the right to seek judicial  
 623 enforcement thereof.

### 624 MINGLING OF CONTRACTOR'S PROJECT AND NON-PROJECT WATER

625 18. (a) Project Water must of necessity be transported by the Contractor to its  
 626 water users by means of the same works and channels used for the transport of its non-Project  
 627 Water including Base Supply. Notwithstanding such mingling of water, the provisions of

628 Article 11 hereof shall be applicable only to Project Water, and such mingling of water shall not  
629 in any manner subject to the provisions of Article 11 hereof the Contractor's non-Project Water  
630 including Base Supply.

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

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

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

646 (2) the Unit Duties as set forth in Exhibit C attached hereto and made  
647 a part hereof, or by such other Unit Duties mutually agreed upon by the Contractor and the  
648 Contracting Officer. In order to make the computation of the water requirement for Eligible  
649 Lands, on April 1 of each Year and concurrently with its order for water for the irrigation season,  
650 the Contractor shall designate the acreage of and type of crops to be grown on its Eligible Lands

651 that irrigation season. During any month the water requirement as above determined for crops  
652 growing on Eligible Lands during such month is equal to or in excess of the Project Water for  
653 that month as provided herein the Contractor shall not be required to measure the water delivered  
654 to Excess Lands. Any month the said water requirement is less than the amount of Project Water  
655 as provided herein, the Contractor will be required to measure water delivered to excess land in  
656 accordance with subdivision (b) hereof.

657 BOOKS, RECORDS, AND REPORTS

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

667 CHANGE OF PLACE OF USE OR ORGANIZATION

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

670 (b) While this Settlement Contract is in effect, no change shall be made in the  
671 area of the Contractor as shown on its Exhibit B, by inclusion, exclusion, annexation, or  
672 detachment of lands, by dissolution, consolidation, or merger or otherwise, except upon the  
673 Contracting Officer's written consent thereto. Such consent will not be unreasonably withheld  
674 and a decision will be provided in a timely manner.

675 (c) In the event lands are annexed to or detached from the area of the  
676 Contractor, as provided herein, the quantity of Project Water to be diverted may be increased or

677 decreased, as may be appropriate, pursuant to a supplemental agreement to be executed in  
678 respect thereto.

679 CONSOLIDATION OF CONTRACTING ENTITIES

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

684 No such consolidation shall be valid unless and until approved by the Contracting  
685 Officer.

686 NOTICES

687 22. Any notice, demand, or request authorized or required by this Settlement Contract  
688 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,  
689 or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation,  
690 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United  
691 States, when mailed, postage prepaid, or delivered to the Board of Directors of the Carter Mutual  
692 Water Company, 4746 River Road, Colusa, California 95932-4200. The designation of the  
693 addressee or the address may be changed by notice given in the same manner as provided in this  
694 Article for other notices.

695 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

696  
697 23. (a) The provisions of this Settlement Contract shall apply to and bind the  
698 successors and assigns of the parties hereto, but no assignment or transfer of this Settlement  
699 Contract or any right or interest therein shall be valid until approved in writing by the  
700 Contracting Officer.

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

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

706

OFFICIALS NOT TO BENEFIT

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

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

714

CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

720

CONFIRMATION OF SETTLEMENT CONTRACT

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

728

UNAVOIDABLE GROUNDWATER PERCOLATION

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

733

PRIVACY ACT COMPLIANCE

734 28. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)  
735 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et  
736 seq.) in maintaining Landholder acreage certification and reporting records, required to be



737 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation  
738 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

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

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

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

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

759 WATER CONSERVATION

760 29. (a) Prior to the diversion of Project Water, the Contractor shall be  
761 implementing an effective water conservation and efficiency program based on the Basin-Wide  
762 Water Management Plan and/or Contractor's water conservation plan that has been determined  
763 by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water  
764 conservation plans established under Federal law. The water conservation and efficiency  
765 program shall contain definite water conservation objectives, appropriate economically feasible  
766 water conservation measures, and time schedules for meeting those objectives. Continued  
767 diversion of Project Water pursuant to this Settlement Contract shall be contingent upon the  
768 Contractor's continued implementation of such water conservation program. In the event the

769 Contractor's water conservation plan or any revised water conservation plan completed pursuant  
770 to subdivision (c) of Article 29 of this Settlement Contract have not yet been determined by the  
771 Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer  
772 determines are beyond the control of the Contractor, Project Water deliveries shall be made  
773 under this Settlement Contract so long as the Contractor diligently works with the Contracting  
774 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
775 immediately begins implementing its water conservation and efficiency program in accordance  
776 with the time schedules therein.

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

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

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

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

791 (1) On or before February 15 of any Water Year, the Contractor may  
792 file with Reclamation an offer to reduce Project Water use, hereinafter referred to as Offer. The  
793 Offer shall specify the maximum quantity of Project Water to be diverted by the Contractor for  
794 each month that Project Water is available for that Water Year under this Settlement Contract.  
795 The Contracting Officer shall provide the Contractor with a decision, in writing, to the Offer on  
796 or before March 15 of that Water Year. The dates specified in this Article 29(e)(1) can be  
797 changed if mutually agreed to, in writing, by the Contractor and Contracting Officer.

798 (2) If Reclamation accepts the Offer, the Contractor's payment  
799 obligation under Article 8(a)(1) shall be reduced to the maximum quantity of Project Water to be  
800 diverted by the Contractor as specified in the Offer. The Contractor shall not divert Project  
801 Water in excess of the quantities set forth in the Offer; Provided, however, if the Contractor's  
802 diversions of Project Water exceed the quantities set forth in the Offer, the Contractor shall pay  
803 to Reclamation the applicable Rates and Charges plus an amount equal to the applicable Rates  
804 and Charges, unadjusted for ability to pay, for each acre-foot of Project Water diverted in excess  
805 of the quantities set forth in the Offer.

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

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

811 OPINIONS AND DETERMINATIONS

812 30. (a) Where the terms of this Settlement Contract provide for actions to be  
813 based upon the opinion or determination of either party to this Settlement Contract, said terms

814 shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or  
815 unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of  
816 this Settlement Contract, expressly reserve the right to seek relief from and appropriate  
817 adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each  
818 opinion or determination by either party shall be provided in a timely manner. Nothing in  
819 subdivision (a) of Article 30 of this Settlement Contract is intended to or shall affect or alter the  
820 standard of judicial review applicable under Federal law to any opinion or determination  
821 implementing a specific provision of Federal law embodied in statute or regulation.

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

827 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

836 (b) All advances for miscellaneous costs incurred for work requested by the  
837 Contractor pursuant to Article 31 of this Settlement Contract shall be adjusted to reflect the  
838 actual costs when the work has been completed. If the advances exceed the actual costs incurred,  
839 the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's  
840 advances, the Contractor will be billed for the additional costs pursuant to Article 31 of this  
841 Settlement Contract.

842 WAIVER OF DEFAULT

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

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

849 THE UNITED STATES OF AMERICA

850 APPROVED AS TO LEGAL  
851 FORM AND SUFFICIENCY  
852 OFFICE OF REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR  
*James E. [Signature]*

By: *[Signature]*  
Regional Director, Mid-Pacific Region  
Bureau of Reclamation

853 (SEAL)

854 CARTER MUTUAL WATER COMPANY

855 By: *[Signature]*  
856 President

857 By: *[Signature]*  
858 Vice-President

859 ATTEST:  
860 *[Signature]*  
861 Secretary

862 (H:\public\Sac River Final LTRC's\2005-01-31 Carter MWC Final Draft with exhibits.doc)

**CARTER MUTUAL WATER COMPANY**

**SPECIAL MEETING OF THE BOARD OF DIRECTORS AND SHAREHOLDERS**  
Colusa, California  
Friday, March 4, 2005

**MINUTES**

The meeting was called to order by President Jane Foster Carter on March 4, 2005 at 9:00 a.m.

Roll call: Present: Jane Carter (sole shareholder)  
Ben Carter  
Absent: Ann Carter

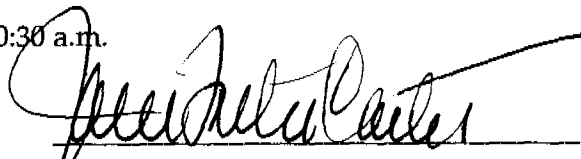
The President announced that the meeting was called to approve a change in the Long-term Renewal Contract No.14-06-200-2401A-R-1 between the United States and the Carter Mutual Water Company, (Company) Diverter of Water from Sacramento River Sources, Settling Water Rights Disputes and providing for Project Water – Central Valley Project, California.

The change to the long-term renewal contract proposed by the United States is stated in the addition to Article 3, subdivision (i) of the new contract, which provides that the United States shall have no liability in the event of a shortage of Project Water arising from actions taken by the Contracting Officer to meet legal obligations.

After discussion, it was moved by Director Ben Carter to approve the contract with this addition and authorize the officers of the Carter Mutual Water Company to execute the three original contracts and forward them to the Regional Director of the Mid-Pacific Region of the Bureau of Reclamation for final execution.

Second by Director Jane Carter; Motion approved, all ayes.

The meeting was adjourned at 10:30 a.m.

  
\_\_\_\_\_  
JANE FOSTER CARTER, President

  
\_\_\_\_\_  
BENJAMIN F. CARTER, Secretary

## Exhibit A

CARTER MUTUAL WATER COMPANY  
Sacramento RiverSCHEDULE 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>560</u>	<u>0</u>	<u>560</u>
May	<u>1,960</u>	<u>0</u>	<u>1,960</u>
June	<u>1,610</u>	<u>0</u>	<u>1,610</u>
July	<u>850</u>	<u>304</u>	<u>1,154</u>
August	<u>530</u>	<u>288</u>	<u>818</u>
September	<u>730</u>	<u>80</u>	<u>810</u>
October	<u>210</u>	<u>0</u>	<u>210</u>
Total	<u>6,450</u>	<u>672</u>	<u>7,122</u>

Point of Diversion: 99.25L, 101.8L, 102.9L

Dated: 01-31-2005

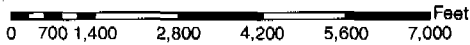




Carter Mutual Water Company  
Contract # 14-06-200-2401A  
Exhibit B



1:24,000



Revision Date: 4/19/2004  
Map No.: 602-237-10174

Filename: 60205FZ.pdf

Exhibit C

CARTER MUTUAL WATER COMPANY  
Sacramento River

UNIT DUTY

(In Acre-Feet Per Acre)

	<u>Rice</u>	<u>Alfalfa and Irrigated Pasture</u>	<u>General Crops</u>
June	1.90	0.80	0.60
July	2.10	1.00	0.70
August	2.00	0.80	0.70
September	0.50	0.60	0.40

Dated: 01-31-2005

## Exhibit D

CARTER MUTUAL WATER COMPANY  
Sacramento River  
2005 Water Rates and Charges per Acre-Foot

<u>COST OF SERVICE RATES:</u>	<u>Irrigation</u>
Capital Rates	
Storage	\$ 3.61
O&M Rates:	
Water Marketing	\$ 6.61
Storage	\$ 5.93
Deficit Rates:	
Interest Bearing	\$ 1.11
CFO/PFR Adjustment Rate 1/	<u>\$ 1.47</u>
TOTAL	<u>\$18.73</u>
<u>RESCHEDULING FEE:</u>	<u>\$5.11</u>
<u>FULL-COST RATES:</u>	
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	<u>\$23.14</u>
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	<u>\$25.11</u>
<u>CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 2/</u>	
Restoration Payments (3407(d)(2)(A))	<u>\$ 7.93</u>

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).