

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

CONTRACT BETWEEN THE UNITED STATES AND
LEVIATHAN, INC.,
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,
SETTLING WATER RIGHTS DISPUTES AND
PROVIDING FOR PROJECT WATER

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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 10th day of May, 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 LEVIATHAN, INC, hereinafter referred to as the Contractor,
22 acting pursuant to Sections 12003 and 12004 of the California Water Code, with its principal
23 place of business in California;

24 WITNESSETH, that:

EXPLANATORY RECITALS

25
26 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
27 Project, California, for multiple purposes pursuant to its statutory authority; and

28 [2nd] WHEREAS, the Contractor has rights to divert, is diverting, and will continue to
29 divert for reasonable beneficial use, water from the natural flow of the Sacramento River and
30 tributaries thereto, that would have been flowing therein if the Central Valley Project were not in
31 existence; and

32 [3rd] WHEREAS, the construction and operation of the integrated and coordinated
33 Central Valley Project has changed and will further change the regimen of the Sacramento,
34 American, San Joaquin, and Trinity Rivers and the Sacramento-San Joaquin Delta from
35 unregulated flow to regulated flow; and

36 [4th] WHEREAS, the United States has rights to divert, is diverting, and will continue
37 to divert waters from said Rivers and said Delta in connection with the operation of said Central
38 Valley Project; and

39 [5th] WHEREAS, the Contractor and the United States had a dispute over the
40 respective rights of the parties to divert and use water from the regulated flow of the Sacramento
41 River which threatened to result in litigation, and as a means to settle that dispute entered into
42 Contract No. 14-06-200-7308A, as amended, hereinafter referred to as the Existing Contract,
43 which established terms for the delivery to the Contractor of Central Valley Project Water, and
44 the quantities of Base Supply the United States and the Contractor agreed may be diverted by the
45 Contractor from the Sacramento River pursuant to such contract; and

46 [6th] WHEREAS, the United States and the Contractor disagree with respect to the
47 authority of the United States to change the quantities of Base Supply and/or Project Water

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

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

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

62 DEFINITIONS

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

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

69 (b) "Basin-Wide Water Management Plan" shall mean the mutually agreeable
70 Sacramento River Basinwide Water Management Plan, dated October 11, 2004, developed by

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

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

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

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

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

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

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

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

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

105 (g) Omitted;

106 (h) Omitted;

107 (i) Omitted;

108 (j) Omitted;

109 (k) Omitted;

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

112 (m) "Project Water" shall mean all Surface Water diverted or scheduled to be
113 diverted each month during the period April through October of each Year by the Contractor
114 from the Sacramento River which is in excess of the Base Supply. The United States recognizes
115 the right of the Contractor to make arrangements for acquisition of water from projects of others
116 than the United States for delivery through the Sacramento River and tributaries subject to

117 written agreement between Contractor and the United States as to identification of such water,
118 which water, when so identified, shall not be deemed Project Water under this Settlement
119 Contract;

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

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

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

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

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

131 TERM OF SETTLEMENT CONTRACT

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

137 (b) With respect to Project Water and the portions of this Settlement Contract
138 pertaining thereto, upon written request by the Contractor of the Secretary made not later than
139 one year prior to the expiration of this Settlement Contract, whenever, account being taken of the

140 amount then credited to the costs of construction of water supply works, the remaining amount of
141 construction costs of water supply work which is properly assignable for ultimate return by the
142 Contractor as established by the Secretary of the Interior pursuant to (3) of Section 1 of Public
143 Law 643 (70 Stat. 483), probably can be repaid to the United States within the term of a contract
144 under subsection 9(d) of the 1939 Reclamation Project Act (53 Stat. 1187), the relevant portions
145 of this Settlement Contract may be converted to a contract under said subsection 9(d) upon terms
146 and conditions mutually agreeable to the United States and the Contractor. The Secretary shall
147 make a determination ten years after the date of execution of this Settlement Contract, and every
148 five years thereafter, of whether a conversion to a contract under said subsection 9(d) can be
149 accomplished pursuant to Public Law 643. Notwithstanding any provision of this Settlement
150 Contract, the Contractor reserves and shall have all rights and benefits under Public Law 643.

151 WATER TO BE FURNISHED TO CONTRACTOR

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

157 (b) No sale, transfer, exchange, or other disposal of any of the Contract Total
158 designated in Exhibit A or the right to the use thereof for use on land other than that shown on
159 Exhibit B shall be made by the Contractor without first obtaining the written consent of the
160 Contracting Officer. Such consent will not be unreasonably withheld and a decision will be
161 rendered in a timely manner. For short-term actions that will occur within one year or less, the
162 decision will be rendered within 30 days after receipt of a complete written proposal. For

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

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

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

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

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

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

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

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

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

197 RETURN FLOW

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

206 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

208 (a) Irrigate not in excess of 75 percent of its irrigable acreage shown on
209 Exhibit A; or

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

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

220 INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

221 6. The Contractor and United States desire to work together to maximize the
222 reasonable beneficial use of water for their mutual benefit. As a consequence, the United States
223 and the Contractor will work in partnership and with others within the Sacramento Valley,
224 including other contractors, to facilitate the better integration within the Sacramento Valley of all
225 water supplies including, but not limited to, the better management and integration of surface
226 water and groundwater, the development and better utilization of surface water storage, the
227 effective utilization of waste, seepage and return flow water, and other operational and
228 management options that may be identified in the future.

USE OF WATER FURNISHED TO CONTRACTOR

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

235 (b) The Contractor shall comply with requirements applicable to the
236 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
237 of this Settlement Contract undertaken pursuant to Section 7 of the Endangered Species Act of
238 1973, as amended that are within the Contractor's legal authority to implement. The Existing
239 Contract, which evidences in excess of 40 years of diversions, for agricultural uses, of the
240 quantities of water provided for in Article 3, and the underlying water rights of the Contractor
241 will be considered in developing an appropriate base-line for the Biological Assessment prepared
242 pursuant to the Endangered Species Act, and in any other needed environmental review.
243 Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial
244 relief in a court of competent jurisdiction with respect to any biological opinion or other
245 environmental documentation referred to in this Article.

246 RATE AND METHOD OF PAYMENT FOR WATER

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

249 Such payments shall be at Rates and Charges established in accordance with: (i)
250 the Secretary's then current ratesetting policies for the Project; and (ii) applicable Reclamation

251 law and associated rules and regulations, or policies; Provided, that if the Contractor desires to
252 use Project Water for other than agricultural purposes the Rates and Charges set forth above will
253 be adjusted by the Contracting Officer to the applicable Rates and Charges for such purposes.
254 The Rates and Charges applicable to the Contractor upon execution of this Settlement Contract
255 are set forth in Exhibit D, as may be revised annually. The Secretary's ratesetting policies for
256 the Project shall be amended, modified, or superseded only through a public notice and comment
257 procedure.

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

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

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

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

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

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

284 (3) The amount to be paid on or before July 1 shall be equal to the
285 difference between the amount paid on May 1 and the total amount due for the Year, based on
286 the total area actually irrigated between April 1 and July 1.

287 (4) If additional areas are placed under irrigation on or after July 1, but
288 before October 31, additional payment shall be made in advance of such additional irrigation at
289 the Rates and Charges shown in Exhibit D for each additional acre placed under irrigation.

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

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

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

312 (g) For the term of this Settlement Contract, Rates under the respective
313 ratesetting policies for the Project will be established to recover only reimbursable operation and
314 maintenance (including any deficits) and capital costs of the Project, as those terms are used in
315 the then-current Project ratesetting policies, and interest, where appropriate, except in instances
316 where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy.
317 Proposed changes of significance in practices which implement the ratesetting policies for the
318 Project will not be implemented until the Contracting Officer has provided the Contractor an

319 opportunity to discuss the nature, need, and impact of the proposed change. The Contractor
320 retains all rights to challenge the validity of Rates and Charges imposed pursuant to this
321 Settlement Contract, including but not limited to operation and maintenance expenses and
322 operation and maintenance deficits, in an appropriate administrative or judicial proceeding.

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

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

337 (j) Each payment to be made pursuant to subdivisions (a) and (c) of this
338 Article shall be made at the office of the Bureau of Reclamation, MP Region: Mid-Pacific,
339 P.O. Box 894242, Los Angeles, CA 90189-4242, or at such other place as the United States may
340 designate in a written notice to the said Contractor. Payments shall be made by cash transaction,
341 wire, or any other mechanism as may be agreed to in writing by the Contractor and the

342 Contracting Officer. In event there should be a default in the payment of the amount due, the
343 delinquent payment provisions of Article 13 shall apply. The Contractor shall not be relieved of
344 the whole or any part of its said obligation by, on account of, or notwithstanding, as the case may
345 be its failure, refusal, or neglect to divert the quantity of Project Water shown on Exhibit A.

346 AGREEMENT ON WATER QUANTITIES

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

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

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

356 (b) Nothing herein contained is intended to or does limit rights of the
357 Contractor against others than the United States or of the United States against any person other
358 than the Contractor; Provided, however, that in the event the Contractor, the United States, or
359 any other person shall become a party to a general adjudication of rights to the use of water of
360 the Sacramento River system, this Settlement Contract shall not jeopardize the rights or position
361 of either party hereto or of any other person and the rights of all such persons in respect to the
362 use of such water shall be determined in such proceedings the same as if this Settlement Contract
363 had not been entered into, and if final judgment in any such general adjudication shall determine
364 that the rights of the parties hereto are different from the rights as assumed herein, the parties

365 shall negotiate an amendment to give effect to such judgment. In the event the parties are unable
366 to agree on an appropriate amendment they shall, within 60 days of determining that there is an
367 impasse, employ the services of a neutral mediator, experienced in resolving water rights
368 disputes, to assist in resolving the impasse. The cost of the mediation will be shared equally. A
369 failure to reach agreement on an amendment within 60 days of the end of mediation will cause
370 the immediate termination of this Settlement Contract.

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

388 the obligations imposed in State Water Resources Control Board Revised Water Rights Decision
389 1641 dated March 15, 2000, and its associated 1995 Water Quality Control Plan which, taken
390 together, will be considered the baseline for the application of the provisions of this sub-article.

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

407 MEASUREMENT OF WATER

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

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

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

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

427 RULES AND REGULATIONS

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

433 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

447 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

466 QUALITY OF WATER

467 14. The operation and maintenance of Project facilities shall be performed in such
468 manner as is practicable to maintain the quality of raw water made available through such

469 facilities at the highest level reasonably attainable as determined by the Contracting Officer. The
470 United States does not warrant the quality of water and is under no obligation to construct or
471 furnish water treatment facilities to maintain or better the quality of water.

472 WATER AND AIR POLLUTION CONTROL

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

477 EQUAL OPPORTUNITY

478 16. During the performance of this Settlement Contract, the Contractor agrees as
479 follows:

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

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

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

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

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

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

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

524 17. Omitted.

525 18. Omitted.

526 BOOKS, RECORDS, AND REPORTS

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

536

CHANGE OF PLACE OF USE

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

539 21. Omitted.

540

NOTICES

541 22. Any notice, demand, or request authorized or required by this Settlement Contract
542 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,
543 or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation,
544 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United
545 States, when mailed, postage prepaid, or delivered to Suzanne Broughton, Leviathan, Inc., 2001
546 Bayadere Terrace, Corona Del Mar, California 92625. The designation of the addressee or the
547 address may be changed by notice given in the same manner as provided in this Article for other
548 notices.

549

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

559

OFFICIALS NOT TO BENEFIT

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

563

CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

564 25. The expenditure or advance of any money or the performance of any obligation of
565 the United States under this Settlement Contract shall be contingent upon appropriation or
566 allotment of funds. Absence of appropriation or allotment of funds shall not relieve the

567 Contractor from any obligations under this Settlement Contract. No liability shall accrue to the
568 United States in case funds are not appropriated or allotted.

569 CONFIRMATION OF SETTLEMENT CONTRACT

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

577 27. Omitted.

578 PRIVACY ACT COMPLIANCE

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

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

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

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

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

604

WATER CONSERVATION

605

29. (a) Prior to the diversion of Project Water, the Contractor shall be

606

implementing an effective water conservation and efficiency program based on the Basin-Wide

607

Water Management Plan and/or Contractor's water conservation plan that has been determined

608

by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water

609

conservation plans established under Federal law. The water conservation and efficiency

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program shall contain definite water conservation objectives, appropriate economically feasible

611

water conservation measures, and time schedules for meeting those objectives. Continued

612

diversion of Project Water pursuant to this Settlement Contract shall be contingent upon the

613

Contractor's continued implementation of such water conservation program. In the event the

614

Contractor's water conservation plan or any revised water conservation plan completed pursuant

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to subdivision (d) of Article 29 of this Settlement Contract have not yet been determined by the

616

Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer

617

determines are beyond the control of the Contractor, Project Water deliveries shall be made

618

under this Settlement Contract so long as the Contractor diligently works with the Contracting

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Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor

620

immediately begins implementing its water conservation and efficiency program in accordance

621

with the time schedules therein.

622

(b) The Contractor shall submit to the Contracting Officer a report on the

623

status of its implementation of the water conservation plan on the reporting dates specified in the

624

then existing conservation and efficiency criteria established under Federal law.

625

(c) At five-year intervals, the Contractor shall revise its water conservation

626

plan to reflect the then current conservation and efficiency criteria for evaluating water

627 conservation plans established under Federal law and submit such revised water management
628 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then
629 determine if the water conservation plan meets Reclamation's then current conservation and
630 efficiency criteria for evaluating water conservation plans established under Federal law.

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

633 OPINIONS AND DETERMINATIONS

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

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

649 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

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

664 WAIVER OF DEFAULT

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

669 CONTRACT ASSIGNMENT OR TERMINATION UPON TRANSFER OF LAND

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

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

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

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

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

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

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

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

695 TERMINATION

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

698 IN WITNESS WHEREOF, the parties hereto have executed this Settlement

699 Contract as of the day and year first hereinabove written.

700

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

James E. [Signature]

OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

701

702

703

THE UNITED STATES OF AMERICA

By:

[Signature]

Regional Director, Mid-Pacific Region
Bureau of Reclamation

704 (SEAL)

705

LEVIATHAN, INC.

706

707

By:

Suzanne [Signature]
President

Exhibit A

LEVIATHAN, INC.
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>55</u> | <u>0</u> | <u>55</u> |
| May | <u>65</u> | <u>0</u> | <u>65</u> |
| June | <u>95</u> | <u>40</u> | <u>135</u> |
| July | <u>20</u> | <u>135</u> | <u>155</u> |
| August | <u>0</u> | <u>120</u> | <u>120</u> |
| September | <u>60</u> | <u>50</u> | <u>110</u> |
| October | <u>60</u> | <u>0</u> | <u>60</u> |
| Total | <u>355</u> | <u>345</u> | <u>700</u> |

Irrigable Acres: 160

Points of Diversion: 221.0R

Dated: 01-31-2005



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

Leviathan, Inc.

Contract No. 14-06-200-7308A-R-1

Exhibit B



Contractor's Service Area



Point of Diversion

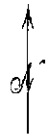
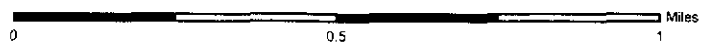


Exhibit C

Omitted

Exhibit D

LEVIATHAN, INC.
Sacramento River
2005 Water Rates and Charges per Irrigated Acre

Irrigation

COST OF SERVICE RATE: \$55.09

FULL-COST RATES:

Section 202(3) Rate is applicable to a
Qualified Recipient or to a Limited
Recipient receiving irrigation water
on or before October 1, 1981. \$58.84

Section 205(a)(3) Rate is
applicable to a Limited Recipient that
did not receive irrigation water on or
before October 1, 1981. \$64.47

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

Restoration Payments (3407(d)(2)(A)) \$17.10

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).

**ACTION BY WRITTEN CONSENT
OF
THE SOLE DIRECTOR
OF
LEVIATHAN, INC.,
a California corporation**

The undersigned, being the sole director of Leviathan, Inc. (the “Corporation”), acting pursuant to the authority vested in the undersigned by Section 307(b) of the California General Corporation Law and the Bylaws of the Corporation, hereby consents to and adopts the following recitals and resolutions by written consent in lieu of a special meeting of the Board of Directors of the Corporation, which recitals and resolutions shall be valid and effective as if adopted at a duly called, noticed and held special meeting of the Board of Directors.

APPROVAL OF AGREEMENT

WHEREAS, the sole director of the Corporation (the “Sole Director”) has determined that it is in the best interests of the Corporation that the Corporation enter into the certain agreement with the United States entitled Diverter of Water from Sacramento River Sources; Settling Water Rights Disputes and Providing for Project Water (14-06-200-7308-A-R-1) (“Agreement”)

NOW, THEREFORE, BE IT RESOLVED, that any officer of the Corporation is, and each of them hereby is, authorized and directed in the name and on behalf of the Corporation to execute, deliver and perform the Agreement; with such changes thereto as the officer executing and delivering the same may approve, such approval to be evidenced conclusively by the execution and delivery thereof;

GENERAL AUTHORITY

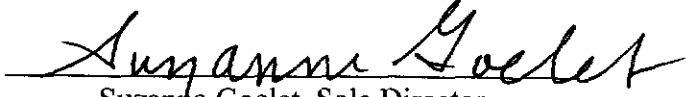
RESOLVED, that the officers of the Corporation are, and each of them hereby is, authorized and directed to take such actions and to execute such other agreements, documents and instruments as such officers or officer may deem necessary or advisable in order to effect the purposes and intentions of all of the foregoing resolutions;

RESOLVED FURTHER, that every act, action, agreement, document or instrument done, performed, made, executed or delivered by, on behalf of or in the name of the Corporation in order to carry out the purposes and intentions of the foregoing resolutions hereby is authorized, approved and ratified in all respects;

RESOLVED FURTHER, that the Secretary or any Assistant Secretary of the Corporation hereby is authorized to certify and deliver a copy of these resolutions, or any one or more of them, to such persons, corporations, entities or firms as such Secretary or Assistant Secretary may deem necessary or advisable;

RESOLVED FURTHER, that the Secretary or any Assistant Secretary of the Corporation hereby is authorized and directed to file this Action by Written Consent in Lieu of Special Meeting of the Sole Director of the Corporation in the Minute Book of the Corporation.

IN WITNESS WHEREOF, the undersigned, being the sole director of the Corporation, has executed this Action by Written Consent in Lieu of Special Meeting of the Sole Director of WalkStyles, Inc. to be effective as of the date set forth below.


Suzanne Goelet, Sole Director

Effective Date: 4/7/05