

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

CONTRACT BETWEEN THE UNITED STATES AND  
THE COUNTY OF SACRAMENTO,  
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 THE COUNTY OF SACRAMENTO,  
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 by  
13 THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, made this  
14 31<sup>st</sup> day of March, 2005, pursuant to the applicable authority granted to  
15 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 the COUNTY OF SACRAMENTO, hereinafter referred to as  
22 the Contractor, a political subdivision of the State of California, duly organized, existing, and  
23 acting pursuant to the laws thereof, with its principal place of business in California;

24 WITNESSETH, that:

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EXPLANATORY RECITALS

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

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

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

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

[5<sup>th</sup>] WHEREAS, the Contractor's predecessors (Fong Sacramento Fruit Ranch) and the United States had a dispute over the respective rights of the parties to divert and use water from the regulated flow of the Sacramento River which threatened to result in litigation, and as a means to settle that dispute entered into Contract No. 14-06-200-2404A, as amended, hereinafter referred to as the Existing Contract, which established terms for the delivery to said predecessors of Central Valley Project Water, and the quantities of Base Supply the United States and said predecessors agreed may be diverted by said predecessors from the Sacramento River pursuant to such contract. In 1986, Contractor purchased and obtained fee title to the lands owned by Fong Sacramento Fruit Ranch and as depicted in Exhibit B hereto. In 1991, the Contractor

48 assumed and agreed to be bound by and perform all of the terms and conditions of the Existing  
49 Contract, and in 1993, the Contracting Officer issued its written consent to the Contractor's said  
50 assumption of the Existing Contract; and

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

58 Notwithstanding that dismissal, the Contractor and the United States enter into this Settlement  
59 Contract to renew the Existing Contract, pursuant to the terms of the Existing Contract, Federal  
60 Reclamation law, and the laws of the State of California; and

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

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

67 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

110                               (g)     Omitted;

111                               (h)     Omitted;

112                               (i)     Omitted;

113                               (j)     Omitted;

114                               (k)     Omitted;

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

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

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

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

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

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

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



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TERM OF SETTLEMENT CONTRACT

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2. (a) This Settlement Contract shall become effective April 1, 2005, and shall

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remain in effect until and including March 31, 2045; Provided, that under terms and conditions

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mutually agreeable to the parties hereto, renewals may be made for successive periods not to

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exceed 40 years each. The terms and conditions of each renewal shall be agreed upon not later

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than one year prior to the expiration of the then existing Settlement Contract.

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(b) With respect to Project Water and the portions of this Settlement Contract

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pertaining thereto, upon written request by the Contractor of the Secretary made not later than

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one year prior to the expiration of this Settlement Contract, whenever, account being taken of the

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amount then credited to the costs of construction of water supply works, the remaining amount of

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construction costs of water supply work which is properly assignable for ultimate return by the

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Contractor as established by the Secretary of the Interior pursuant to (3) of Section 1 of Public

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Law 643 (70 Stat. 483), probably can be repaid to the United States within the term of a contract

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under subsection 9(d) of the 1939 Reclamation Project Act (53 Stat. 1187), the relevant portions

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of this Settlement Contract may be converted to a contract under said subsection 9(d) upon terms

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and conditions mutually agreeable to the United States and the Contractor. The Secretary shall

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make a determination ten years after the date of execution of this Settlement Contract, and every

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five years thereafter, of whether a conversion to a contract under said subsection 9(d) can be

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accomplished pursuant to Public Law 643. Notwithstanding any provision of this Settlement

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Contract, the Contractor reserves and shall have all rights and benefits under Public Law 643.

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WATER TO BE FURNISHED TO CONTRACTOR

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3. (a) Subject to the conditions, limitations, and provisions hereinafter

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expressed, the Contractor is hereby entitled and authorized to divert from the Sacramento River

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

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

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

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

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

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

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

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

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

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

202

RETURN FLOW

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

211

CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

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

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

INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

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

USE OF WATER FURNISHED TO CONTRACTOR

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

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

248 pursuant to the Endangered Species Act, and in any other needed environmental review.  
249 Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial  
250 relief in a court of competent jurisdiction with respect to any biological opinion or other  
251 environmental documentation referred to in this Article.

252 RATE AND METHOD OF PAYMENT FOR WATER

253 8. (a) The Contractor shall make payments to the United States as provided in  
254 this Article for each acre of land irrigated between April 1 and October 31 each Year.

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

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

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

271 the Contractor in writing of the Charges to be in effect during the period October 1 of the current  
272 Year, through September 30, of the following Year, and such notification shall revise Exhibit D.

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

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

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

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

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

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

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

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

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



316 the mechanisms, policies, and procedures for any of those purposes while this Settlement  
317 Contract is in effect without amendment of this Settlement Contract.

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

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

339 Charges for transferred, exchanged, or otherwise disposed of Project Water shall be the  
340 Contractor's Rates and Charges unadjusted for ability to pay.

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

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

352 AGREEMENT ON WATER QUANTITIES

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

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

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

362 (b) Nothing herein contained is intended to or does limit rights of the  
363 Contractor against others than the United States or of the United States against any person other  
364 than the Contractor; Provided, however, that in the event the Contractor, the United States, or  
365 any other person shall become a party to a general adjudication of rights to the use of water of  
366 the Sacramento River system, this Settlement Contract shall not jeopardize the rights or position  
367 of either party hereto or of any other person and the rights of all such persons in respect to the  
368 use of such water shall be determined in such proceedings the same as if this Settlement Contract  
369 had not been entered into, and if final judgment in any such general adjudication shall determine  
370 that the rights of the parties hereto are different from the rights as assumed herein, the parties  
371 shall negotiate an amendment to give effect to such judgment. In the event the parties are unable  
372 to agree on an appropriate amendment they shall, within 60 days of determining that there is an  
373 impasse, employ the services of a neutral mediator, experienced in resolving water rights  
374 disputes, to assist in resolving the impasse. The cost of the mediation will be shared equally. A  
375 failure to reach agreement on an amendment within 60 days of the end of mediation will cause  
376 the immediate termination of this Settlement Contract.

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

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

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

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

413 MEASUREMENT OF WATER

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

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

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

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

433 RULES AND REGULATIONS

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

439 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

453 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

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

471 QUALITY OF WATER

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

477 WATER AND AIR POLLUTION CONTROL

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

482 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

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

529 17. Omitted.



530 18. Omitted.

531 BOOKS, RECORDS, AND REPORTS

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

541 CHANGE OF PLACE OF USE

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

544 21. Omitted.

545 NOTICES

546 22. Any notice, demand, or request authorized or required by this Settlement Contract  
547 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,  
548 or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation,  
549 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States,  
550 when mailed, postage prepaid, or delivered to Sacramento, County of - Real Estate Division,  
551 10545 Armstrong Avenue, Suite 202D, Mather, California 95655. The designation of the  
552 addressee or the address may be changed by notice given in the same manner as provided in this  
553 Article for other notices.

554 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

564 OFFICIALS NOT TO BENEFIT

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

568 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

574 CONFIRMATION OF SETTLEMENT CONTRACT

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

582 27. Omitted.

583 PRIVACY ACT COMPLIANCE

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

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

593 (c) The Contracting Officer or a designated representative shall provide the  
594 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau  
595 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--

596 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of  
597 information contained in the Landholder's certification and reporting records.

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

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

609 WATER CONSERVATION

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

624 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
625 immediately begins implementing its water conservation and efficiency program in accordance  
626 with the time schedules therein.

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

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

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

638 OPINIONS AND DETERMINATIONS

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

647 standard of judicial review applicable under Federal law to any opinion or determination  
648 implementing a specific provision of Federal law embodied in statute or regulation.

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

654 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

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

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WAIVER OF DEFAULT

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

CONTRACT ASSIGNMENT OR TERMINATION UPON TRANSFER OF LAND

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

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

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

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

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

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

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

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

700 TERMINATION

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

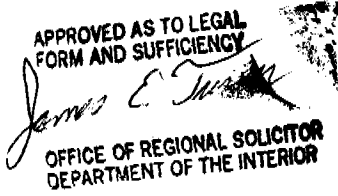
703 IN WITNESS WHEREOF, the parties hereto have executed this Settlement

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

705

THE UNITED STATES OF AMERICA

706



707

By: [Signature]

708

Regional Director, Mid-Pacific Region  
Bureau of Reclamation

709 (SEAL)

710

COUNTY OF SACRAMENTO

711

By: Cheryl Creson

712

Name: Cheryl Creson

713

Title: Administrator Municipal Services Agency

714 (H:\PUBLIC\Sac River Final LTRC's-01\2005-01-31SacramentoCountyofFinalDraftContractwithexh.DOC)

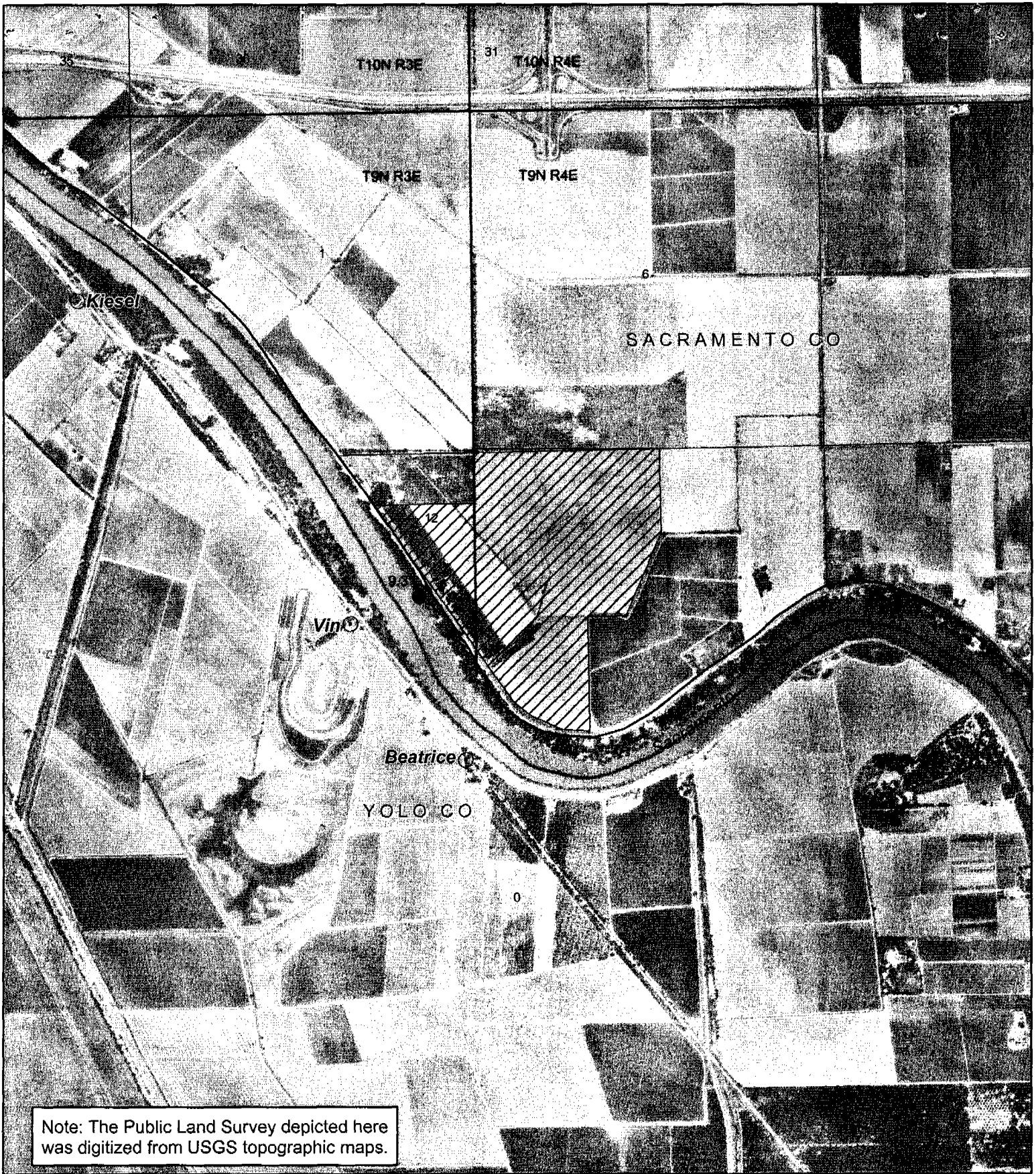


## Exhibit A



COUNTY OF SACRAMENTO  
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>20</u>	<u>0</u>	<u>20</u>
May	<u>100</u>	<u>0</u>	<u>100</u>
June	<u>160</u>	<u>20</u>	<u>180</u>
July	<u>120</u>	<u>100</u>	<u>220</u>
August	<u>70</u>	<u>60</u>	<u>130</u>
September	<u>50</u>	<u>50</u>	<u>100</u>
October	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>520</u>	<u>230</u>	<u>750</u>

Irrigable Acres: 250Points of Diversion: 9.3LDated: 01-31-2005



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

-  Contractor's Service Area
-  Point of Diversion

**Sacramento, County of**  
 Contract No. 14-06-200-2404A-R-1  
 Exhibit B

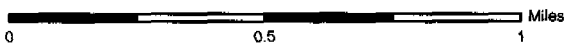


Exhibit C

Omitted

## Exhibit D

COUNTY OF SACRAMENTO  
Sacramento River  
2005 Water Rates and Charges per Irrigated Acre

IrrigationCOST OF SERVICE RATE:\$21.70FULL-COST RATES:

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

\$25.15

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

\$27.36

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

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

\$7.30

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).

**COUNTY OF SACRAMENTO**  
OFFICE OF THE COUNTY COUNSEL  
*Inter-Department Correspondence*

**18**

March 7, 2005

**To:** Chairperson and Members  
Board of Supervisors

**From:** John F. Whisenhunt  
Assistant County Counsel

**Subject:** Draft Renewal Sacramento River Settlement Contract  
With Bureau of Reclamation  
Agenda – March 15, 2005

**APPROVED**  
BOARD OF SUPERVISORS

2005-0293

MAR 15 2005

*Cindy A. Turner*  
Clerk of the Board

**RECOMMENDATION**

It is recommended that the Board of Supervisors adopt the attached resolution approving as to form and content the Renewal Sacramento River Settlement Contract ("Renewal Contract") between the County of Sacramento ("County") and the United States Bureau of Reclamation ("BOR"). It is further recommended that the Board recognize the exempt status of the Renewal Contract pursuant to the California Environmental Quality Act. The Board's approval of this resolution will also authorize the filing of a validation action as required by the Renewal Contract.

**DISCUSSION**

The Renewal Contract will provide for the renewal of an existing Sacramento River Settlement Contract consisting of a base supply of 520 acre feet annually ("afa") of agricultural water and another 230 afa of the BOR's Central Valley Project agricultural water. The County assumed the existing Settlement Contract when it purchased acquired property from the Fong Sacramento Fruit Ranch in 1986 to serve as a buffer for Sacramento International Airport. This water is currently used for agricultural irrigation on the former Fong Fruit Ranch property. The environmental document for the Renewal Contract is a notice of exemption which has been prepared by the Department of Environmental Review and Assessment (Attachment A).

*John F. Whisenhunt*  
JOHN F. WHISENHUNT

**Attachments**

cc: Terry Schutten  
Hardy Acree  
Rob Leonard  
Greg Rowe

w:\deptrans\airports\2005\board memo bor settlement contract renewal.doc

**BOARD OF SUPERVISORS OF THE  
COUNTY OF SACRAMENTO  
RESOLUTION 2005-0293**

**APPROVING EXECUTION AND RENEWAL OF  
SACRAMENTO RIVER SETTLEMENT CONTRACT  
BETWEEN THE COUNTY OF SACRAMENTO AND THE USBR**

WHEREAS, the County of Sacramento (the "County") previously adopted Resolution No. 2004-1235, which approved the form and content of the draft renewal Sacramento River Settlement Contract between the County and the United States Bureau of Reclamation ("USBR"), and which approved the USBR's release of the draft renewal contract for public review and comment; and

WHEREAS, all required public review and environmental review of said renewal contract have been completed, and the USBR has submitted to the County, for its approval, the final execution version of said contract entitled, "Contract Between the United States and the County of Sacramento, Diverter of Water From Sacramento River Sources, Settling Water Rights Disputes and Providing For Project Water" (Contract No. 14-06-200-2404A-R-1), a copy of which is attached hereto as Exhibit 1; and

WHEREAS, the County has carefully reviewed said renewal Settlement Contract and all other information relevant to the County's decision to execute said contract.

NOW, THEREFORE, BE IT RESOLVED that Cheryl Creson, Administrator of the Sacramento County Municipal Services Agency, is authorized and directed to execute said renewal Settlement Contract on behalf of the County and is further authorized and directed to take any other action necessary to implement the terms of said renewal Settlement Contract.

On a motion by Supervisor Collin, seconded by  
Supervisor Nottoli, the foregoing Resolution was passed and

**EXHIBIT 1**


adopted by the Board of Supervisors of the County of Sacramento, State of California,  
this 15<sup>th</sup> day of March 2005, by the following vote to wit:

Ayes: Supervisors Collin, MacGlashan, Nottoli, Peters, Dickinson  
Noes: Supervisors none  
Absent: Supervisors none  
Abstain: Supervisors none



Chair of the Board of Supervisors  
of the County of Sacramento,  
a Political Subdivision of the  
State of California



  
Clerk of the Board of Supervisors  
of the County of Sacramento

FILED

MAR 15 2005

BOARD OF DIRECTORS  
  
Clerk of the Board

In accordance with Section 25103 of the Government Code  
of the State of California a copy of the document has been  
delivered to the Chairman of the Board of Supervisors, County  
of Sacramento on MAR 15 2005

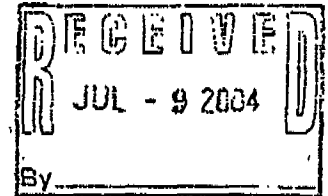
By   
Deputy Clerk, Board of Supervisors



RECORDING REQUESTED  
WHEN RECORDED MAIL TO:

County of Sacramento  
Department of Environmental  
Review and Assessment  
827 Seventh Street, Room 220  
Sacramento, CA 95814

CONTACT PERSON: Joyce Horizumi  
TELEPHONE: (916) 874-7914



SPACE ABOVE RESERVED FOR RECORDER'S USE

### NOTICE OF EXEMPTION

**Project Title:**

SACRAMENTO RIVER CONTRACT BETWEEN BUREAU OF RECLAMATION AND SACRAMENTO COUNTY

**Control Number:**

04-DAE-0440

**Project Location:**

The proposed project occurs on lands owned by Sacramento County at the Sacramento International Airport in northwest Sacramento County.

APN: N/A

**Description of Project:**

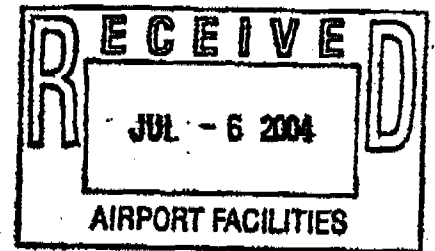
The proposed project consists of the renewal of the long-term Sacramento River Settlement Contract between the United States (Bureau of Reclamation) and Sacramento County as a diverter of water from Sacramento River sources. The renewal of the contract provides for continued delivery of CVP water to the same lands and for the same purposes. Water deliveries will be made through existing CVP facilities, with no new construction required. The water will be placed to beneficial use within CVP authorized places of use within the service area as prescribed by the existing contract. No change to the contract would result in impacts to the environment as a result of changed conditions.

**Name of public agency approving project:**

Sacramento County

**Name, address and phone number of person or agency carrying out project:**

Sacramento County  
Sacramento County Airport System  
6900 Airport Boulevard  
Sacramento, CA 95837  
(916) 874-0700



**Exempt Status:**

GENERAL RULE - Section 15061(b)(3)

**Reasons why project is exempt:**

It can be seen certainty that there is no possibility that the activity in question may have a significant impact on the environment and is therefore exempt from the provisions of CEQA.

Joyce Horizumi  
ENVIRONMENTAL COORDINATOR OF  
SACRAMENTO COUNTY, STATE OF CALIFORNIA

Copy To:  
County of Sacramento  
County Clerk  
600 Eighth Street, Room 101  
Sacramento, CA 95814

OPR:  
State Clearinghouse  
1400 Tenth Street  
Sacramento, CA 9581



**TABLE 2-1  
COMPARISON OF CONTRACT PROVISIONS UNDER THE EXISTING LONG-TERM CONTRACT AND PROPOSED  
LONG-TERM RENEWAL CONTRACT**

Provision	Existing Contract	Proposed Long-term Renewal Contract
Landholder	No similar definition	Party that owns or leases nonexempt land as provided under current regulations.
Project Water	Same as renewal contract	Water diverted during April through October by the contractor in excess of Base Supply.
Rates	No similar definition	Payments for Project Water.
Surface Water	No similar definition	Water that is considered surface water under California law
Term of Contract	40-year term with successive renewals for periods of 40 years	40-year term with successive renewals for periods of 40 years
Water to be Made Available and Delivered to the Contractor	Same as renewal contract	Secretary is to make a determination 10 years after date of contract execution and every 5 years thereafter of whether conversion to a contract under 9(d) can be accomplished
	No similar provision	Authorizes Contractor to divert water from the Sacramento River at a specified location for beneficial use in a specified area.
	Similar to renewal contract	Recognizes that contractors may have obtained rights to divert water from the Sacramento River after execution of the existing contract and identifies those quantities as not considered part of the Base Supply or Project Water.
	No similar provision	Requires contractor to submit written schedule showing monthly diversion amounts.
	Same as renewal contract	Requires payment of an annually adjusted fee for rescheduling Base Supply during the months of June through October. Fee is 50 percent of the sum of the storage O&M rate and storage capital rate.
	No similar provision	Allows sale, transfer, or exchange of water with written consent of Contracting Officers.
Return Flow	Assumes United States reserves right to return flows, seepage, and waste exiting contractor boundaries; assumes temporary reductions for operation, maintenance, and rehabilitation of facilities	In support of request for sale, transfer, or exchange, requires contractor to provide sufficient information to enable Contracting Officer to comply with applicable federal laws.
Constraints on Water Availability	Same as renewal contract	Assumes that execution of the contract does not relinquish any right the United States may have on return flow derived from water diverted by contractor, but also that it does not construe that the United States claims any right to return flow.
Need for More Water	Assumes Contracting Officer will strive to develop additional firm supplies	Specifies a 25 percent reduction in deliveries of total contract in critical years; requires and specifies monetary compensation to contractors for reductions in deliveries.
Integrated Water Management and Partnerships	No similar provision	Replaced with integrated Water Management and Partnerships provision.
		States that the contractors and United States will work together to maximize reasonable beneficial use of water to their mutual benefit.

**TABLE 2-1  
COMPARISON OF CONTRACT PROVISIONS UNDER THE EXISTING LONG-TERM CONTRACT AND PROPOSED LONG-TERM RENEWAL CONTRACT**

Provision	Existing Contract	Proposed Long-term Renewal Contract
Use of Water Furnished to Contractor	Assumes water will be put to reasonable and beneficial use required by state and federal law	Allows Project Water to be used for purposes other than agricultural only with written consent from the Contracting Officer. Revised language provides more complete definition of agricultural purposes.
Rate and Method of Payment for Water	No similar explicit requirement Requires contractors to pay for 100 percent of Project Water regardless of whether full amount is diverted Sets rates at \$2.00 per AF	Assumes contractors will comply with applicable Biological Opinions. Requires contractor to pay for 75 percent of the amount of Project Water each year and to pay for Project Water actually diverted in excess of 75 percent.
Agreement on Water Quantities	No similar provision Same as renewal contract No similar provision	Sets rate for Project Water as annually determined Cost of Service rate. Requires contractors to pay Restoration Fund Charge for Project Water actually diverted. Contracting Officer can adjust rates to applicable rates and charges if the contractor desires to use Project Water for other than agricultural use. Provides contractors the right to challenge the validity of rates and charges. States that contractor and United States agree on quantities of water to be diverted and allocated between Base Supply and Project Water.
Measurement of Water	Same as renewal contract No similar provision No similar provision	Adds that contractor and United States will meet to determine whether to modify terms of the Sacramento River Settlement Contract in case of a decision that modifies the terms and conditions of water rights of either party to impose Bay-Delta water quality obligations. Specifies that water will be diverted at existing points of diversion or other identified points of diversion. Requires measurement of water diverted at each point of diversion. Requires contractor to pay for measurement equipment if the contractor modifies, replaces or moves diversion or carriage facilities.
Rules and Regulations	No similar provision Assumes Project Water will be delivered in accordance with then-existing rules and regulations	Contractor and Contracting Officer will develop mutually agreeable surface water delivery water measurement program. Requires new surface water delivery systems to comply with measure provision. Assumes Project Water will be delivered in accordance with current rules and regulations. Cites the Reclamation Reform Act of 1982, which addresses acreage limitation provisions that apply to Project Water Replaces Article 14 Land not to Receive Project Water, Article 15 Ventracion of Sale of Excess Lands, Article 16 Excess Lands, and Article 17 Amendment of Reclamation Laws
General Obligation - Benefits Conditioned on Payment	Same as renewal contract	Assumes the CVP will operate in accordance with existing rules.
Charge for Delinquent Payments	Substantially similar to renewal contract	Further defines charges for delinquent payment.

Preliminary SRSC EIS

2-5

June 2004  
RD/D/08200310 (Administrative SA SRSC EIS.doc)

**TABLE 2-1  
COMPARISON OF CONTRACT PROVISIONS UNDER THE EXISTING LONG-TERM CONTRACT AND PROPOSED  
LONG-TERM RENEWAL CONTRACT**

Provision	Existing Contract	Proposed Long-term Renewal Contract
Quality of Water	Same as renewal contract	Assumes the CVP will be operated and maintained to maintain the quality of raw water made available to the contractors.
Water and Air Pollution	Substantially similar to renewal contract	Require contractor to comply with applicable water and air pollution laws.
Equal Opportunity	Same as renewal contract	Requires contractor to provide equal opportunity in employment.
Compliance with Civil Rights Laws and Regulations	Same as renewal contract	Requires contractor to comply with civil rights laws and regulations. This provision is not included in contracts where the contractor is the actual user of the water.
Mingling of Contractor's Project and non-Project Water	Substantially similar to renewal contract	Recognizes that Project Water must be transported through same facilities as non-Project Water. Specifies that Article 11 Rules and Regulations applies only to Project Water.
Books, Records, and Reports	Same as renewal contract	Specifies conditions under which contractor is required to maintain measuring devices to determine amount of water delivered to Excess Lands.
Change of Place of Use or Organization	Same as renewal contract	Requires contractor to maintain records of administration of terms and conditions of the contract.
Consolidation of Contracting Entities	Same as renewal contract	Requires written consent from Contracting Officer to change the place of water use. States that consent will not be unreasonably withheld, and a decision will be provided in a timely manner.
Notices	Same as renewal contract	Provides for an increase or decrease in water to be diverted in the event that lands are annexed or detached from the area of the Contractor pursuant to a supplemental agreement.
Assignment Limited	Same as renewal contract	Allows Contracting Officer to approve consolidation of contractors.
Officials Not to Benefit	Same as renewal contract	Assumes the CVP will be operated in accordance with existing rules.
Contingent on Appropriation or Allotment of Funds	Substantially similar to renewal contract	Requires written consent for assignments.
Confirmation of Contract	Same as renewal contract	Assumes the CVP will be operated in accordance with existing rules.
Unavoidable Groundwater Percolation	Same as renewal contract	Makes expenditure of money by United States for implementation of Sacramento River Settlement Contracts contingent on allotment of funds.
Privacy Act Compliance	No similar provision	Requires Court confirmation of contract.
		Assumes that some applied CVP water will percolate to groundwater.
		Requires contractor to comply with Privacy Act of 1974.

**TABLE 2-1  
COMPARISON OF CONTRACT PROVISIONS UNDER THE EXISTING LONG-TERM CONTRACT AND PROPOSED  
LONG-TERM RENEWAL CONTRACT**

Provision	Existing Contract	Proposed Long-term Renewal Contract
Water Conservation	No similar provision	For contractors with more than 2,000 AF of Project Water or more than 2,000 irrigated acres, prior to diversion of Project Water, requires contractor to be implementing a water conservation and efficiency program based on the BWMP and/or the contractor's water conservation plan that as been determined by the Contracting Officer to meet requirements under federal law.
Opinions and Determinations	No similar provision	Allows the contractor to reduce the amount of Project Water for which payment is required under Article 8(a).
Contractor to Pay Certain Miscellaneous Costs	Substantially similar to renewal contract	Provides right to seek relief. Subarticle that allowed Contractors who signed contracts in 1984 to take advantage of any new terms and conditions offered to those who signed at a later date. Because all renewal contracts will be signed at about the same time, this subarticle is no longer necessary.
Waiver of Default	No similar provision	Requires contractor to pay for specific items of direct cost incurred by the United States for work requested by the contractor associated with this Sacramento River Settlement Contract.
	Same as renewal contract	Assumes the CVP will be operated in accordance with existing rules.