

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

CONTRACT BETWEEN THE UNITED STATES AND  
LAKE CALIFORNIA PROPERTY OWNERS ASSOCIATION, INC.,  
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
SETTLING WATER RIGHTS DISPUTES AND  
PROVIDING FOR PROJECT WATER

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7 Central Valley Project, California

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9 LAKE CALIFORNIA PROPERTY OWNERS ASSOCIATION, INC.,  
10 DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
11 SETTLING WATER RIGHTS DISPUTES AND  
12 PROVIDING FOR PROJECT WATER

13 THIS CONTRACT, hereinafter referred to as "Settlement Contract," is entered into by  
14 THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, made this \_\_\_\_  
15 day of \_\_\_\_\_, 2003, pursuant to the applicable authority granted to it generally in  
16 the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but  
17 not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4,  
18 1939 (53 Stat. 1187), as amended and supplemented, including but not limited to Sections 9 and 14  
19 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262),  
20 October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992  
21 (106 Stat. 4706), all collectively hereinafter referred to as Federal Reclamation law, and LAKE  
22 CALIFORNIA PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the  
23 Contractor, a corporation, acting pursuant to Sections 12003 and 12004 of the California Water Code,  
24 with its principal place of business in California;

25 WITNESSETH, that:

EXPLANATORY RECITALS

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

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

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

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

[5<sup>th</sup>] WHEREAS, the Contractor and the United States had a dispute over the respective rights of the parties to divert and use water from the regulated flow of the Sacramento River which threatened to result in litigation, and as a means to settle that dispute entered into Contract No. 14-06-200-4961A, as amended, hereinafter referred to as the Existing Contract, which established terms for the delivery to the Contractor of Central Valley Project Water, and the quantities of Base Supply the United States and the Contractor agreed may be diverted by the Contractor from the Sacramento River pursuant to such contract; and

[6<sup>th</sup>] WHEREAS, the United States and the Contractor disagree with respect to the authority of the United States to change the quantities of Base Supply and/or Project Water specified as available for diversion in this Settlement Contract from the quantities specified in the Existing

1 Contract, and other issues related thereto. That dispute was the subject of litigation in a lawsuit  
2 entitled *Glenn-Colusa Irrigation District, et al. v. United States, et al.* [Civ. No. S-01-1816 GEB/JFM  
3 (E.D. Cal.)], but that litigation was dismissed, without prejudice, pursuant to a stipulation of  
4 dismissal filed by the parties thereto on August 29, 2002. Notwithstanding that dismissal, the  
5 Contractor and the United States enter into this Settlement Contract to renew the Existing Contract,  
6 pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the State of  
7 California; and

8 [7<sup>th</sup>] WHEREAS, to assure the Contractor of the enjoyment and use of the regulated flow  
9 of the said Rivers and the Delta, and to provide for the economical operation of the Central Valley  
10 Project by, and the reimbursement to, the United States for expenditures made for said Project.

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

13 DEFINITIONS

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

16 (a) “Base Supply” shall mean the quantity of Surface Water established in Articles  
17 3 and 5 which may be diverted by the Contractor from the Sacramento River each month during the  
18 period April through October of each Year without payment to the United States for such quantities  
19 diverted;

20 (b) “Basin-Wide Water Management Plan” shall mean the mutually agreeable  
21 Sacramento River Basinwide Water Management Plan, dated \_\_\_\_\_, developed by Glenn Colusa  
22 Irrigation District, Maxwell Irrigation District, Natomas Central Mutual Water Company, Pelger  
23 Mutual Water Company, Princeton-Codora Glenn Irrigation District, Provident Irrigation District,

1 Reclamation District 108, Sutter Mutual Water Company, Anderson-Cottonwood Irrigation District,  
2 Meridian Farms Water Company, Reclamation District 1004, and the U.S. Bureau of Reclamation;

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

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

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

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

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

19 For the purpose of determining a Critical Year, the computation of inflow to Shasta  
20 Lake shall be performed in a manner that considers the extent of upstream development above Shasta  
21 Lake during the year in question, and shall be used as the full natural flow to Shasta Lake. In the  
22 event that major construction has occurred or occurs above Shasta Lake after September 1, 1963, and  
23 which has materially altered or alters the regimen of the stream systems contributing to Shasta Lake,  
24 the computed inflow to Shasta Lake used to define a Critical Year will be adjusted to eliminate the

1 effect of such material alterations. After consultation with the State of California, the National  
2 Weather Service, and other recognized forecasting agencies, the Contracting Officer will select the  
3 forecast to be used and will make the details of it available to the Contractor. The same forecasts  
4 used by the United States for the operation of the Project shall be used to make the forecasts  
5 hereunder;

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

8 (g) “Lake” shall mean the artificial recreational lake within the service area of the  
9 Contractor having a storage capacity of about 985 acre-feet and a surface area of about 105 acres,  
10 generally as shown on Exhibit B attached hereto and made a part hereof;

11 (h) “Project” shall mean the Central Valley Project owned by the United States  
12 and managed by the Department of the Interior, Bureau of Reclamation;

13 (i) “Project Water” shall mean all Surface Water diverted or scheduled to be  
14 diverted each month during the period April through October of each Year by the Contractor from the  
15 Sacramento River which is in excess of the Base Supply. The United States recognizes the right of  
16 the Contractor to make arrangements for acquisition of water from projects of others than the United  
17 States for delivery through the Sacramento River and tributaries subject to written agreement between  
18 Contractor and the United States as to identification of such water, which water, when so identified,  
19 shall not be deemed Project Water under this Settlement Contract;

20 (j) “Rates” shall mean the payments for Project Water determined annually by the  
21 Contracting Officer in accordance with the then current applicable water ratesetting policies for the  
22 Project, as described in subdivision (a) of Article 8 of this Settlement Contract;

1 (k) "Secretary" or "Contracting Officer" shall mean the Secretary of the Interior, a  
2 duly appointed successor, or an authorized representative acting pursuant to any authority of the  
3 Secretary and through any agency of the Department of the Interior;

4 (l) "Storage Season" shall mean the period commencing with September 1 of 1  
5 year and extending through June 14 of the next year;

6 (m) "Surface Water" shall mean only those waters that are considered as surface  
7 water under California law;

8 (n) "Water-use Season" shall mean the period commencing with June 15 and  
9 extending through August 31 of the same year;

10 (o) "Water Year" shall mean the period commencing with October 1 of 1 year and  
11 extending through September 30 of the next; and

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

13 TERM OF SETTLEMENT CONTRACT

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

19 (b) With respect to Project Water and the portions of this Settlement Contract  
20 pertaining thereto, upon written request by the Contractor of the Secretary made not later than 1 year  
21 prior to the expiration of this Settlement Contract, whenever, account being taken of the amount then  
22 credited to the costs of construction of water supply works, the remaining amount of construction  
23 costs of water supply work which is properly assignable for ultimate return by the Contractor as  
24 established by the Secretary of the Interior pursuant to (3) of Section 1 of Public Law 643 (70 Stat.

1 483), probably can be repaid to the United States within the term of a contract under subsection 9(d)  
2 of the 1939 Reclamation Project Act (53 Stat. 1187), the relevant portions of this Settlement Contract  
3 may be converted to a contract under said subsection 9(d) upon terms and conditions mutually  
4 agreeable to the United States and the Contractor. The Secretary shall make a determination 10 years  
5 after the date of execution of this Settlement Contract, and every 5 years thereafter, of whether a  
6 conversion to a contract under said subsection 9(d) can be accomplished pursuant to Public Law 643.  
7 Notwithstanding any provision of this Settlement Contract, the Contractor reserves and shall have all  
8 rights and benefits under Public Law 643.

9 WATER TO BE FURNISHED TO CONTRACTOR

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

15 (b) The Contractor may divert water from the Sacramento River at a rate not to  
16 exceed 25 cubic feet per second from the Sacramento River into and through the Lake and back to the  
17 Sacramento River for purposes of maintaining satisfactory water quality and temperature for  
18 offsetting evaporation losses in order to keep the Lake full for maximum recreational and fish culture  
19 purposes, and for refilling the Lake during the Storage Season if emptied for emergency or for  
20 maintenance purposes. During the Storage Season, all of such diversions shall be deemed to  
21 constitute Base Supply. During the Water-use Season, there shall be no increase in storage of the  
22 Lake, and it shall be deemed the quantity of water diverted but not returned to the Sacramento River,  
23 and thus lost by evaporation from the Lake, is Project Water in the quantity of 200 acre-feet per  
24 Water-use Season.

1           (c)     Project Water furnished by the United States under this Settlement Contract  
2 shall be used by the Contractor only for offsetting evaporation losses from the Lake unless the  
3 Contractor finds it desirable to fill the Lake initially during the Water-use Season. In this event the  
4 water diverted to fill or refill the Lake shall be considered to be Project Water: Provided, that any  
5 such diversion for storage during the Water-use Season shall be subject to prior, written approval by  
6 the Contracting Officer.

7           (d)     No sale, transfer, exchange, or other disposal of any of the Contract Total  
8 designated in Exhibit A or the right to the use thereof for use on land other than that shown on  
9 Exhibit B shall be made by the Contractor without first obtaining the written consent of the  
10 Contracting Officer. Such consent will not be unreasonably withheld and a decision will be rendered  
11 in a timely manner. For short-term actions that will occur within 1 year or less, the decision will be  
12 rendered within 30 days after receipt of a complete written proposal. For long-term actions that will  
13 occur in a period longer than 1 year, the decision will be rendered within 90 days after receipt of a  
14 complete written proposal. For a proposal to be deemed complete by the Contracting Officer, it must  
15 comply with all provisions required by State and Federal law, including information sufficient to  
16 enable the Contracting Officer to comply with the National Environmental Policy Act, the  
17 Endangered Species Act, and applicable rules or regulations then in effect; Provided that, such  
18 consent does not authorize the use of Federal facilities to facilitate or effectuate the sale, transfer,  
19 exchange or other disposal of Base Supply. Such use of Federal facilities will be the subject of a  
20 separate agreement to be entered into between the Contractor and Reclamation.

21           (e)     For the purpose of determining whether Section 3405(a)(1)(M) of the CVPIA  
22 applies to the Contractor as a transferor or transferee of Project Water, the Contracting Officer  
23 acknowledges that the Contractor is within a county, watershed, or other area of origin, as those terms

1 are utilized under California law, of water that constitutes the natural flow of the Sacramento River  
2 and its tributaries above the confluence of the American and Sacramento Rivers.

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

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

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

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

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

16 RETURN FLOW

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





1 The Secretary's ratesetting policies for the Project shall be amended, modified, or superseded only  
2 through a public notice and comment procedure.

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

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

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

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

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

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

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

7                   (4)     In the event of initial filling or of refilling the Lake during the  
8 Water-use Season as provided in Article 3(c), the Project Water diverted to fill or refill the Lake  
9 shall be paid for in advance of such diversion at the Rates and Charges shown in Exhibit D.

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

12                  (1)     All revenues received by the United States from the Contractor relating  
13 to the delivery of Project Water or the delivery of non-Project Water through Project facilities shall  
14 be allocated and applied in accordance with Federal Reclamation law and the associated rules or  
15 regulations, and the then current Project ratesetting policies for municipal, industrial and domestic  
16 water.

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

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

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

19           (h)     Except as provided in subsection 3405(a)(1)(B) of the CVPIA, the Rates for  
20 Project Water transferred, exchanged, or otherwise disposed of, by the Contractor shall be the  
21 Contractor's Rates adjusted upward or downward to reflect the changed costs of delivery (if any) of  
22 the transferred, exchanged, or otherwise disposed of Project Water to the transferee's point of  
23 delivery in accordance with the then-current ratesetting policies for the Project. Except as provided  
24 in subsection 3407(d)(2)(A) of the CVPIA, the Charges for Project Water transferred, exchanged, or

1 otherwise disposed of, by the Contractor shall be the Contractor's Charges specified in Exhibit D. If  
2 the Contractor is receiving lower Rates and Charges because of inability to pay and is transferring,  
3 exchanging, or otherwise disposing of Project Water to another entity whose Rates and Charges are  
4 not adjusted due to inability to pay, the Rates and Charges for transferred, exchanged, or otherwise  
5 disposed of Project Water shall be the Contractor's Rates and Charges unadjusted for ability to pay.

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

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

17 AGREEMENT ON WATER QUANTITIES

18 (a) During the term of this Settlement Contract and any renewals thereof:

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

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

3                   (b)     Nothing herein contained is intended to or does limit rights of the Contractor  
4 against others than the United States or of the United States against any person other than the  
5 Contractor: Provided, however, that in the event the Contractor, the United States, or any other  
6 person shall become a party to a general adjudication of rights to the use of water of the Sacramento  
7 River system, this Settlement Contract shall not jeopardize the rights or position of either party hereto  
8 or of any other person and the rights of all such persons in respect to the use of such water shall be  
9 determined in such proceedings the same as if this Settlement Contract had not been entered into, and  
10 if final judgment in any such general adjudication shall determine that the rights of the parties hereto  
11 are different from the rights as assumed herein, the parties shall negotiate an amendment to give  
12 effect to such judgment. In the event the parties are unable to agree on an appropriate amendment  
13 they shall, within 60 days of determining that there is an impasse, employ the services of a neutral  
14 mediator, experienced in resolving water rights disputes, to assist in resolving the impasse. The cost  
15 of the mediation will be shared equally. A failure to reach agreement on an amendment within 60  
16 days of the end of mediation will cause the immediate termination of this Settlement Contract.

17                   (c)     In the event that the California State Water Resources Control Board or a court  
18 of competent jurisdiction issues a final decision or order modifying the terms and conditions of the  
19 water rights of either party to this Settlement Contract in order to impose Bay-Delta water quality  
20 obligations, the Contractor and the United States shall promptly meet to determine whether or not to  
21 modify any of the terms of this Settlement Contract to comply with the final decision or order,  
22 including, but not limited to, the applicability of the rescheduling charge in Article 3(c)(1) of this  
23 Settlement Contract. If within 60 days of the date of the issuance of the final decision or order the  
24 parties are not able to reach agreement regarding either the need to modify this Settlement Contract

1 or the manner in which this Settlement Contract is to be modified, the parties shall promptly retain a  
2 neutral mediator, experienced in resolving water right disputes, to assist the parties in resolving their  
3 dispute. The cost of the mediator shall be shared equally. In the event that either of the parties to this  
4 Settlement Contract determines that the parties will not be able to develop mutually-agreeable  
5 modification(s) to this Settlement Contract even with the assistance of a mediator, either of the  
6 parties to this Settlement Contract may attempt to resolve the impasse by seeking appropriate judicial  
7 relief including, but not limited to, filing a general adjudication of the rights to the use of water in the  
8 Sacramento River system. The foregoing provisions of this sub-article shall only apply to the  
9 incremental obligations contained within a final decision or order of the State Water Resources  
10 Control Board that reflects a modification to the obligations imposed in State Water Resources  
11 Control Board Revised Water Rights Decision 1641 dated March 15, 2000, and its associated 1995  
12 Water Quality Control Plan which, taken together, will be considered the baseline for the application  
13 of the provisions of this sub-article.

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

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

6 MEASUREMENT OF WATER

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

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

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

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

1 RULES AND REGULATIONS

2 11. The parties agree that the delivery of Project Water for municipal and industrial use or  
3 use of Federal facilities pursuant to this Settlement Contract is subject to Federal Reclamation law,  
4 and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation  
5 law.

6 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

19 CHARGES FOR DELINQUENT PAYMENTS

20 13. (a) The Contractor shall be subject to interest, administrative and penalty charges  
21 on delinquent installments or payments. When a payment is not received by the due date, the  
22 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.  
23 When a payment becomes 60 days delinquent, the Contractor shall pay an administrative charge to  
24 cover additional costs of billing and processing the delinquent payment. When a payment is  
25 delinquent 90 days or more, the Contractor shall pay an additional penalty charge of six percent per  
26 year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay  
27 any fees incurred for debt collection services associated with a delinquent payment.

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

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

1 QUALITY OF WATER

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

7 WATER AND AIR POLLUTION CONTROL

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

12 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

25 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

26 17. Omitted.

27 MINGLING OF CONTRACTOR'S PROJECT AND NON-PROJECT WATER

28 18. Omitted.

29 BOOKS, RECORDS, AND REPORTS

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

1 CHANGE OF PLACE OF USE

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

4 CONSOLIDATION OF CONTRACTING ENTITIES

5 21. Omitted

6 NOTICES

7 22. Any notice, demand, or request authorized or required by this Settlement Contract  
8 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
9 delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation, 16349  
10 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when  
11 mailed, postage prepaid, or delivered to the Board of Directors, Lake California Property Owners  
12 Association, Inc., P. O. Box 5067, Cottonwood, California 96022. The designation of the addressee  
13 or the address may be changed by notice given in the same manner as provided in this Article for  
14 other notices.

15 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

24 OFFICIALS NOT TO BENEFIT

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

28 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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



WATER CONSERVATION

1  
2           29.   (a)       Prior to the diversion of Project Water, the Contractor shall be implementing  
3 an effective water conservation and efficiency program based on the Basin-Wide Water Management  
4 Plan and/or Contractor's water conservation plan that has been determined by the Contracting Officer  
5 to meet the conservation and efficiency criteria for evaluating water conservation plans established  
6 under Federal law. The water conservation and efficiency program shall contain definite water  
7 conservation objectives, appropriate economically feasible water conservation measures, and time  
8 schedules for meeting those objectives. Continued diversion of Project Water pursuant to this  
9 Settlement Contract shall be contingent upon the Contractor's continued implementation of such  
10 water conservation program. In the event the Contractor's water conservation plan or any revised  
11 water conservation plan completed pursuant to subdivision (d) of Article 29 of this Settlement  
12 Contract have not yet been determined by the Contracting Officer to meet such criteria, due to  
13 circumstances which the Contracting Officer determines are beyond the control of the Contractor,  
14 Project Water deliveries shall be made under this Settlement Contract so long as the Contractor  
15 diligently works with the Contracting Officer to obtain such determination at the earliest practicable  
16 date, and thereafter the Contractor immediately begins implementing its water conservation and  
17 efficiency program in accordance with the time schedules therein.

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

21                   (c)       At 5-year intervals, the Contractor shall revise its water conservation plan to  
22 reflect the then current conservation and efficiency criteria for evaluating water conservation plans  
23 established under Federal law and submit such revised water management plan to the Contracting  
24 Officer for review and evaluation. The Contracting Officer will then determine if the water

1 conservation plan meets Reclamation's then current conservation and efficiency criteria for  
2 evaluating water conservation plans established under Federal law.

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

5 OPINIONS AND DETERMINATIONS

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

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

21 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

22 31. (a) In addition to all other payments to be made by the Contractor pursuant to this  
23 Settlement Contract, the Contractor shall pay to the United States, within 60 days after receipt of a  
24 bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific

1 items of direct cost incurred by the United States for work requested by the Contractor associated  
2 with this Settlement Contract plus indirect costs in accordance with applicable Bureau of  
3 Reclamation policies and procedures. All such amounts referred to in this Article shall not exceed  
4 the amount agreed to in writing in advance by the Contractor. This Article shall not apply to costs for  
5 routine contract administration.

6 (b) All advances for miscellaneous costs incurred for work requested by the  
7 Contractor pursuant to Article 31 of this Settlement Contract shall be adjusted to reflect the actual  
8 costs when the work has been completed. If the advances exceed the actual costs incurred, the  
9 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances,  
10 the Contractor will be billed for the additional costs pursuant to Article 31 of this Settlement  
11 Contract.

12 WAIVER OF DEFAULT

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

17 CONTRACT ASSIGNMENT OR TERMINATION UPON TRANSFER OF LAND

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

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

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



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

3                   THE UNITED STATES OF AMERICA

4                   By: \_\_\_\_\_  
5                                   Regional Director, Mid-Pacific Region  
6                                   Bureau of Reclamation

7 (SEAL)

8                   LAKE CALIFORNIA PROPERTY OWNERS  
9                   ASSOCIATION, INC.

10                   By \_\_\_\_\_  
11                                   \_\_\_\_\_  
12                                   Title

13 ATTEST:

14 \_\_\_\_\_  
15                   Secretary

16 (I:\Sac River Drafts\12-15-03 Lake California Property Owners Assn., Inc., Final Draft with  
17 exhibits.doc)

Exhibit A

Lake California Property Owners Association, 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>60</u>	<u>0</u>	<u>60</u>
May	<u>100</u>	<u>0</u>	<u>100</u>
June	<u>130</u>	<u>20</u>	<u>150</u>
July	<u>90</u>	<u>80</u>	<u>170</u>
August	<u>60</u>	<u>80</u>	<u>140</u>
September	<u>90</u>	<u>20</u>	<u>110</u>
October	<u>50</u>	<u>0</u>	<u>50</u>
Total	<u>580</u>	<u>200</u>	<u>780</u>

Points of Diversion: 221.0R

Dated:

Exhibit B

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

Lake California Property Owners Association, Inc.  
Sacramento River

Exhibit C

Lake California Property Owners Association, Inc.  
Sacramento River

Omitted

Exhibit D  
 Lake California Property Owners Association, Inc.  
 Sacramento River

WATER RATES AND CHARGES

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

COST OF SERVICE RATES:	<u>Per Acre Foot</u>
Capital Rates	
Storage	\$4.99
O&M Rates:	
Water Marketing	\$3.68
Storage	\$5.78
Deficit Rates:	
Interest Bearing	\$1.09
CFO/PFR Adjustment Rate 1/	<u>\$2.33</u>
TOTAL RATES	<u>\$17.87</u>
CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 2/	
Restoration Payments (3407(d)(2)(A))	<u>\$15.38</u>
TOTAL RATES AND CHARGES	<u>\$33.25</u>

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

2/ Restoration fund charges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund charges are on a fiscal year basis (10/1 - 9/30).