

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

CONTRACT BETWEEN THE UNITED STATES AND
MITSUE OJI FAMILY PARTNERSHIP; IRENE R. BENNINGFIELD, TRUSTEE OF THE
IRENE R. BENNINGFIELD TRUST DATED OCTOBER 22, 1995;
BARBARA L. SARMENTO, TRUSTEE OF THE BARBARA L. SARMENTO TRUST
DATED OCTOBER 22, 1995; AND JOHN OJI, TRUSTEE OF THE JOHN OJI FAMILY
REVOCABLE TRUST DATED JUNE 13, 1990,
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,
SETTLING WATER RIGHTS DISPUTES AND
PROVIDING FOR PROJECT WATER

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THIS CONTRACT, hereinafter referred to as "Settlement Contract," is entered into by THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, made this 4th day of March, 2005, pursuant to the applicable authority granted to it generally in the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, including, but not limited to, Sections 9 and 14 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal Reclamation law, and MITISUE OJI FAMILY PARTNERSHIP; IRENE R. BENNINGFIELD, TRUSTEE OF THE IRENE R. BENNINGFIELD TRUST DATED OCTOBER 22, 1995; BARBARA L. SARMENTO, TRUSTEE OF THE BARBARA L. SARMENTO TRUST DATED OCTOBER 22, 1995; AND JOHN OJI, TRUSTEE OF THE JOHN OJI FAMILY REVOCABLE TRUST DATED JUNE 13, 1990, hereinafter referred to as

30 the Contractor, acting pursuant to Sections 12003 and 12004 of the California Water Code, with
31 its principal place of business in California;

32 WITNESSETH, that:

33 EXPLANATORY RECITALS

34 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
35 Project, California, for multiple purposes pursuant to its statutory authority; and

36 [2nd] WHEREAS, the Contractor has rights to divert, is diverting, and will continue to
37 divert for reasonable beneficial use, water from the natural flow of the Sacramento River and
38 tributaries thereto, that would have been flowing therein if the Central Valley Project were not in
39 existence;

40 [3rd] WHEREAS, the construction and operation of the integrated and coordinated
41 Central Valley Project has changed and will further change the regimen of the Sacramento,
42 American, San Joaquin, and Trinity Rivers and the Sacramento-San Joaquin Delta from
43 unregulated flow to regulated flow; and

44 [4th] WHEREAS, the United States has rights to divert, is diverting, and will continue
45 to divert waters from said Rivers and said Delta in connection with the operation of said Central
46 Valley Project; and

47 [5th] WHEREAS, the Contractor and the United States had a dispute over the
48 respective rights of the parties to divert and use water from the regulated flow of the Sacramento
49 River which threatened to result in litigation, and as a means to settle that dispute entered into
50 Contract No. 14-06-200-2427A, as amended, hereinafter referred to as the Existing Contract,
51 which established terms for the delivery to the Contractor of Central Valley Project Water, and

52 the quantities of Base Supply the United States and the Contractor agreed may be diverted by the
53 Contractor from the Sacramento River pursuant to such contract; and

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

64 [7th] WHEREAS, to assure the Contractor of the enjoyment and use of the regulated
65 flow of the said Rivers and the Delta, and to provide for the economical operation of the Central
66 Valley Project by, and the reimbursement to, the United States for expenditures made for said
67 Project.

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

70 DEFINITIONS

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

73 (a) "Base Supply" shall mean the quantity of Surface Water established in

74 Articles 3 and 5 which may be diverted by the Contractor from the Sacramento River each month

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

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

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

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

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

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

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

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

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

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

113 (g) "Eligible Lands" shall mean all lands to which Project Water may be
114 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
115 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

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

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

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

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

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

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

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

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

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

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

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

146 TERM OF SETTLEMENT CONTRACT

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

152 (b) With respect to Project Water and the portions of this Settlement Contract
153 pertaining thereto, upon written request by the Contractor of the Secretary made not later than
154 one year prior to the expiration of this Settlement Contract, whenever, account being taken of the
155 amount then credited to the costs of construction of water supply works, the remaining amount of
156 construction costs of water supply work which is properly assignable for ultimate return by the
157 Contractor as established by the Secretary of the Interior pursuant to (3) of Section 1 of Public
158 Law 643 (70 Stat. 483), probably can be repaid to the United States within the term of a contract
159 under subsection 9(d) of the 1939 Reclamation Project Act (53 Stat. 1187), the relevant portions
160 of this Settlement Contract may be converted to a contract under said subsection 9(d) upon terms
161 and conditions mutually agreeable to the United States and the Contractor. The Secretary shall
162 make a determination ten years after the date of execution of this Settlement Contract, and every
163 five years thereafter, of whether a conversion to a contract under said subsection 9(d) can be
164 accomplished pursuant to Public Law 643. Notwithstanding any provision of this Settlement
165 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

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at the locations shown in Exhibit A, for beneficial use within the area delineated on Exhibit B,

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(both Exhibits are attached hereto and made a part hereof), the Contract Total designated in

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Exhibit A, or any revision thereof, in accordance with the monthly operating schedule required

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by Article 3(c) of this Settlement Contract. The quantity of any water diverted under this

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Settlement Contract from the Sacramento River, during the period April through October, for use

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on any lands delineated on Exhibit B, by the owner of such lands or otherwise shall constitute a

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part of the Contract Total as shown on Exhibit A and shall be subject to all the provisions of this

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Settlement Contract relating to such Contract Total as if such diversion were made by the

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Contractor.

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(b) The Contractor may have acquired rights to divert water from the

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Sacramento River during the period April through October, that were obtained after the date of

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execution of the Existing Contract, or the Contractor may acquire such rights in the future. All

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diversions made from the Sacramento River, pursuant to such rights, during the period April

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through October, shall not be considered a part of the quantity of Base Supply and Project Water

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specified in Exhibit A; Provided, that the quantities diverted pursuant to the above rights shall be

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identified on the schedule submitted pursuant to Article 3(c) below, and shall not be substituted

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for any Base Supply or Project Water; Provided, further, that any such identified quantities of

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other acquired rights may be diverted by the Contractor before incurring any fee pursuant to

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Article 3(c)(1), below.

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

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

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

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

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

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

211 River; Provided, however, that changes during any such period may be made upon the giving of
212 72 hours' notice thereof to the Contracting Officer.

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

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

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

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

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

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

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

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

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

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RETURN FLOW

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

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CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

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INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

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

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

280 USE OF WATER FURNISHED TO CONTRACTOR

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

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

298 RATE AND METHOD OF PAYMENT FOR WATER

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

301 (1) 75 percent of the amount shown as Project Water shall be paid for
302 by the Contractor in each Year; and in addition

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

412 (4) Any injunctive process enjoining or restraining the Contractor
413 from making or collecting any such assessment, toll, or other charge referred to in subsection
414 8(c)(2) of this Settlement Contract.

415 AGREEMENT ON WATER QUANTITIES

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

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

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

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

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

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

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

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

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MEASUREMENT OF WATER

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

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

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

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

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

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

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

511 RULES AND REGULATIONS

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

517 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

531 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

549 QUALITY OF WATER

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

555 WATER AND AIR POLLUTION CONTROL

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

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

560 EQUAL OPPORTUNITY

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

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

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

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

583 (d) The Contractor will comply with all provisions of Executive Order No.
584 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of
585 the Secretary of Labor.

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

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

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

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

607 17. Omitted.

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

609 18. (a) Project Water must of necessity be transported by the Contractor to its
610 water users by means of the same works and channels used for the transport of its non-Project
611 Water including Base Supply. Notwithstanding such mingling of water, the provisions of Article
612 11 hereof shall be applicable only to Project Water, and such mingling of water shall not in any
613 manner subject to the provisions of Article 11 hereof the Contractor's non-Project Water
614 including Base Supply.

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

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

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

630 (2) the Unit Duties as set forth in Exhibit C attached hereto and made
631 a part hereof, or by such other Unit Duties mutually agreed upon by the Contractor and the
632 Contracting Officer. In order to make the computation of the water requirement for Eligible
633 Lands, on April 1 of each Year and concurrently with its order for water for the irrigation season,
634 the Contractor shall designate the acreage of and type of crops to be grown on its Eligible Lands
635 that irrigation season. During any month the water requirement as above determined for crops
636 growing on Eligible Lands during such month is equal to or in excess of the Project Water for
637 that month as provided herein the Contractor shall not be required to measure the water delivered
638 to Excess Lands. Any month the said water requirement is less than the amount of Project Water
639 as provided herein, the Contractor will be required to measure water delivered to excess land in
640 accordance with subdivision (b) hereof.

641 BOOKS, RECORDS, AND REPORTS

642 19. The Contractor shall establish and maintain accounts and other books and records
643 pertaining to administration of the terms and conditions of this Settlement Contract, including:
644 the Contractor's financial transactions, water supply data, and Project land and right-of-way
645 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
646 data; and other matters that the Contracting Officer may require. Reports thereon shall be
647 furnished to the Contracting Officer in such form and on such date or dates as the Contracting

648 Officer may require. Subject to applicable Federal laws and regulations, each party to this
649 Settlement Contract shall have the right during office hours to examine and make copies of each
650 other's books and official records relating to matters covered by this Settlement Contract.

651 CHANGE OF PLACE OF USE OR ORGANIZATION

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

654 CONSOLIDATION OF CONTRACTING ENTITIES

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

659 No such consolidation shall be valid unless and until approved by the Contracting
660 Officer.

661 NOTICES

662 22. Any notice, demand, or request authorized or required by this Settlement Contract
663 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,
664 or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation,
665 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United
666 States, when mailed, postage prepaid, or delivered to Mr. John Oji, Mitsue Oji Family
667 Partnership, 8547 Sawtelle Avenue, Yuba City, California 95991-9533. The designation of the
668 addressee or the address may be changed by notice given in the same manner as provided in this
669 Article for other notices.

670 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

680 OFFICIALS NOT TO BENEFIT

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

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

688 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

694 CONFIRMATION OF SETTLEMENT CONTRACT

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

702 UNAVOIDABLE GROUNDWATER PERCOLATION

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

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PRIVACY ACT COMPLIANCE

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

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

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

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

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

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WATER CONSERVATION

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29. (a) Prior to the diversion of Project Water, the Contractor shall be implementing an effective water conservation and efficiency program based on the Basin-Wide Water Management Plan and/or Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible

740 water conservation measures, and time schedules for meeting those objectives. Continued
741 diversion of Project Water pursuant to this Settlement Contract shall be contingent upon the
742 Contractor's continued implementation of such water conservation program. In the event the
743 Contractor's water conservation plan or any revised water conservation plan completed pursuant
744 to subdivision (c) of Article 29 of this Settlement Contract have not yet been determined by the
745 Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer
746 determines are beyond the control of the Contractor, Project Water deliveries shall be made
747 under this Settlement Contract so long as the Contractor diligently works with the Contracting
748 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
749 immediately begins implementing its water conservation and efficiency program in accordance
750 with the time schedules therein.

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

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

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

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

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

772 (2) If Reclamation accepts the Offer, the Contractor's payment
773 obligation under Article 8(a)(1) shall be reduced to the maximum quantity of Project Water to be
774 diverted by the Contractor as specified in the Offer. The Contractor shall not divert Project
775 Water in excess of the quantities set forth in the Offer; Provided, however, if the Contractor's
776 diversions of Project Water exceed the quantities set forth in the Offer, the Contractor shall pay
777 to Reclamation the applicable Rates and Charges plus an amount equal to the applicable Rates
778 and Charges, unadjusted for ability to pay, for each acre-foot of Project Water diverted in excess
779 of the quantities set forth in the Offer.

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

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

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OPINIONS AND DETERMINATIONS

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30. (a) Where the terms of this Settlement Contract provide for actions to be

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based upon the opinion or determination of either party to this Settlement Contract, said terms

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shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or

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unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of

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this Settlement Contract, expressly reserve the right to seek relief from and appropriate

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adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each

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opinion or determination by either party shall be provided in a timely manner. Nothing in

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subdivision (a) of Article 30 of this Settlement Contract is intended to or shall affect or alter the

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standard of judicial review applicable under Federal law to any opinion or determination

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implementing a specific provision of Federal law embodied in statute or regulation.

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(b) The Contracting Officer shall have the right to make determinations

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necessary to administer this Settlement Contract that are consistent with the provisions of this

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Settlement Contract, the laws of the United States and of the State of California, and the rules

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and regulations promulgated by the Secretary of the Interior. Such determinations shall be made

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in consultation with the Contractor to the extent reasonably practicable.

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CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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31. (a) In addition to all other payments to be made by the Contractor pursuant to

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this Settlement Contract, the Contractor shall pay to the United States, within 60 days after

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receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for

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such specific items of direct cost incurred by the United States for work requested by the

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Contractor associated with this Settlement Contract plus indirect costs in accordance with

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applicable Bureau of Reclamation policies and procedures. All such amounts referred to in this

808 Article shall not exceed the amount agreed to in writing in advance by the Contractor. This

809 Article shall not apply to costs for routine contract administration.

810 (b) All advances for miscellaneous costs incurred for work requested by the
811 Contractor pursuant to Article 31 of this Settlement Contract shall be adjusted to reflect the
812 actual costs when the work has been completed. If the advances exceed the actual costs incurred,
813 the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
814 advances, the Contractor will be billed for the additional costs pursuant to Article 31 of this
815 Settlement Contract.

816 WAIVER OF DEFAULT

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

821 CONTRACT ASSIGNMENT OR TERMINATION UPON TRANSFER OF LAND

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

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

828 (2) A voluntary inter vivos transfer may be made to a person ineligible
829 to hold title to the land as a nonexcess landowner provided that no Project Water may thereafter

830 be used on Excess Lands and the assignee shall not be privileged to obtain such use of Project
831 Water on Excess Lands.

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

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

841 (1) Designate the proportionate quantities of Base Supply and Project
842 Water which it desires to assign;

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

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

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

851

TERMINATION

852

34. This Settlement Contract will terminate upon mutual agreement of the parties

853

prior to the end of the term or any renewal thereof.

854

IN WITNESS WHEREOF, the parties hereto have executed this

855

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

856

THE UNITED STATES OF AMERICA

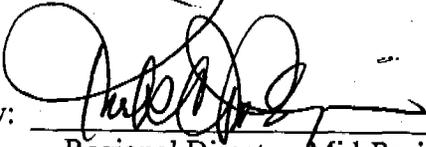
857

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

858

859

Clumantur Bisi
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

By: 

Regional Director, Mid-Pacific Region
Bureau of Reclamation

860

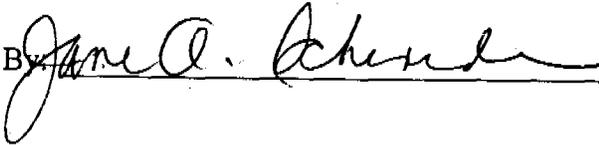
(SEAL)

861

mitsue OJI FAMILY PARTNERSHIP

862

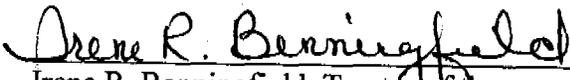
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By: 

864

865

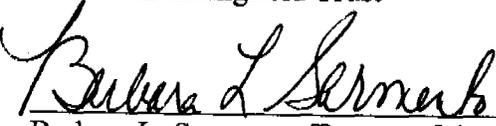
866


Irene R. Benningfield, Trustee of the
Irene R. Benningfield Trust

867

868

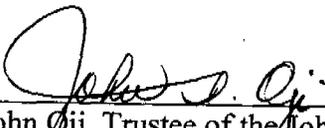
869


Barbara L. Sarmento, Trustee of the
Barbara L. Sarmento Trust

870

871

872


John Oji, Trustee of the John Oji Family
Revocable Trust

873

(H:\public\Sac River Final LTRC's - 01\2005-01-31 Oji, Mitsue Family Partnership Final Draft
Contract with exhibits.doc)

874

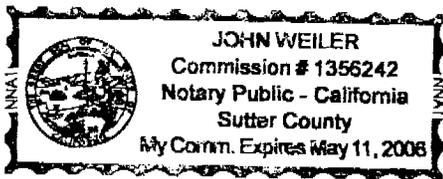
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of SUTTER } ss.

On 3-2-5, before me, JOHN WEILER
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared JOHN I. OJI
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

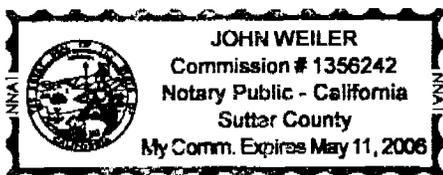


CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
 County of SUTTER } ss.

On 3-2-5, before me, JOHN WEILER,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
 personally appeared IRENE BENNINGFIELD,
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]
 Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

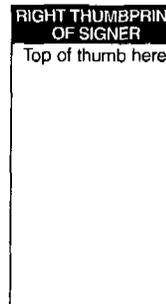
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

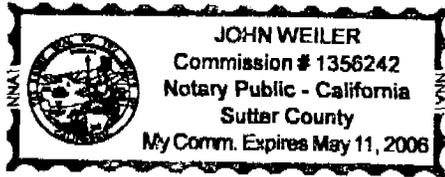


CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of SUTTER } ss.

On 3-2-5, before me, JOHN WEILER,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared BARBARA SARMENTO,
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person whose name is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity ~~(ies)~~, and that by ~~his/her/their~~ signature on the instrument the person , or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

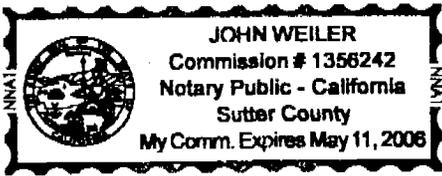
County of SUTTER

} SS.

On 3-2-5, before me, JOHN WEILER,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared JANE SCHROEDER,
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person whose name is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity ~~(ies)~~, and that by ~~his/her/their~~ signature ~~(s)~~ on the instrument the person , or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

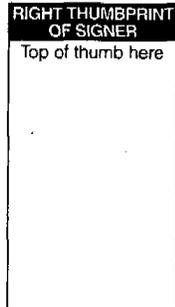


Exhibit A

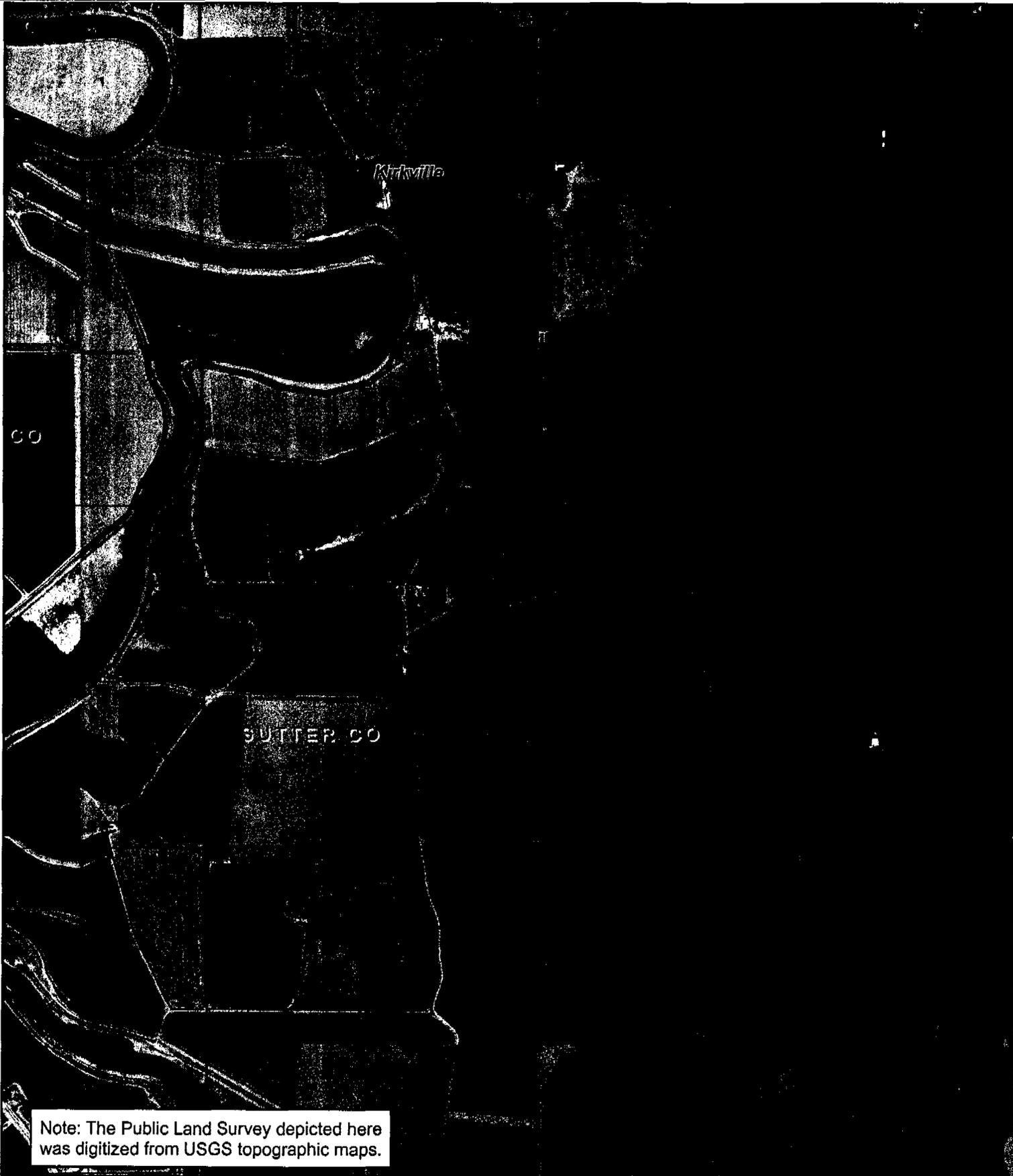
MITSUE OJI FAMILY PARTNERSHIP;
 IRENE R. BENNINGFIELD, TRUSTEE of the IRENE R. BENNINGFIELD TRUST DATED
 OCTOBER 22, 1995; BARBARA L. SARMENTO, TRUSTEE of the BARBARA L. SARMENTO
 TRUST DATED OCTOBER 22, 1995; and JOHN OJI, TRUSTEE of the JOHN OJI FAMILY
 REVOCABLE TRUST DATED JUNE 13, 1990
 Sacramento 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>590</u>	<u>0</u>	<u>590</u>
May	<u>920</u>	<u>0</u>	<u>920</u>
June	<u>820</u>	<u>90</u>	<u>910</u>
July	<u>380</u>	<u>530</u>	<u>910</u>
August	<u>200</u>	<u>530</u>	<u>730</u>
September	<u>520</u>	<u>160</u>	<u>680</u>
October	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>3,430</u>	<u>1,310</u>	<u>4,740</u>

Point of Diversion: 48.7L

Dated: 01-31-2005



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

Oji, Mitsue Family Partnership

Contract No. 14-06-200-2427A-R-1

Exhibit B



Contractor's Service Area



Point of Diversion

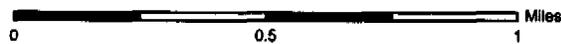


Exhibit C

MITSUE OJI FAMILY PARTNERSHIP;
IRENE R. BENNINGFIELD, TRUSTEE of the IRENE R. BENNINGFIELD TRUST DATED
OCTOBER 22, 1995; BARBARA L. SARMENTO, TRUSTEE of the BARBARA L. SARMENTO
TRUST DATED OCTOBER 22, 1995; and JOHN OJI, TRUSTEE of the JOHN OJI FAMILY
REVOCABLE TRUST DATED JUNE 13, 1990
Sacramento River

UNIT DUTY

(In Acre-Feet Per Acre)

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

Dated: 01-31-2005

Exhibit D

MITSUE OJI FAMILY PARTNERSHIP;
 IRENE R. BENNINGFIELD, TRUSTEE of the IRENE R. BENNINGFIELD TRUST DATED
 OCTOBER 22, 1995; BARBARA L. SARMENTO, TRUSTEE of the BARBARA L. SARMENTO
 TRUST DATED OCTOBER 22, 1995; and JOHN OJI, TRUSTEE of the JOHN OJI FAMILY
 REVOCABLE TRUST DATED JUNE 13, 1990
 Sacramento River

2005 Water Rates and Charges per Acre-Foot

<u>COST OF SERVICE RATES:</u>	<u>Irrigation</u>
Capital Rates	
Storage	\$ 4.70
O&M Rates:	
Water Marketing	\$ 6.61
Storage	\$ 5.93
Deficit Rates:	
Interest Bearing	\$ 0.00
CFO/PFR Adjustment Rate 1/	\$ 1.21
TOTAL	<u>\$18.45</u>
<u>RESCHEDULING FEE:</u>	<u>\$5.66</u>
<u>FULL-COST RATES:</u>	
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	<u>\$23.17</u>
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	<u>\$25.73</u>
<u>CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 2/</u>	
Restoration Payments (3407(d)(2)(A))	<u>\$ 7.93</u>

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

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