

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

CONTRACT BETWEEN THE UNITED STATES AND  
THE KENNETH L. WALLACE LIVING TRUST,  
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
SETTLING WATER RIGHTS DISPUTES AND PROVIDING FOR PROJECT WATER

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10 SETTLING WATER RIGHTS DISPUTES AND PROVIDING FOR PROJECT WATER

11 THIS CONTRACT, hereinafter referred to as "Settlement Contract," is entered into  
12 by THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, made  
13 this 27 day of March, 2006, pursuant to the applicable authority granted to  
14 it generally in the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary  
15 thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and  
16 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, including but not  
17 limited to Sections 9 and 14 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68),  
18 October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title  
19 XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to  
20 as Federal Reclamation law, and THE KENNETH L. WALLACE LIVING TRUST, hereinafter  
21 referred to as the Contractor, acting pursuant to Sections 12003 and 12004 of the California  
22 Water Code, with its principal place of business in California;

23 WITNESSETH, that:

24 EXPLANATORY RECITALS

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

27 [2<sup>nd</sup>] WHEREAS, the Contractor has rights to divert, is diverting, and will continue to  
28 divert for reasonable beneficial use, water from the natural flow of the Sacramento River and  
29 tributaries thereto, that would have been flowing therein if the Central Valley Project were not in  
30 existence; and

31 [3<sup>rd</sup>] WHEREAS, the construction and operation of the integrated and coordinated  
32 Central Valley Project has changed and will further change the regimen of the Sacramento,  
33 American, San Joaquin, and Trinity Rivers and the Sacramento-San Joaquin Delta from  
34 unregulated flow to regulated flow; and

35 [4<sup>th</sup>] WHEREAS, the United States has rights to divert, is diverting, and will continue  
36 to divert waters from said Rivers and said Delta in connection with the operation of said Central  
37 Valley Project; and

38 [5<sup>th</sup>] WHEREAS, the Contractor's predecessor-in-interest, Emile Furlan and Simone  
39 Furlan and the United States had a dispute over the respective rights of the parties to divert and  
40 use water from the regulated flow of the Sacramento River which threatened to result in  
41 litigation, and as a means to settle that dispute entered into Contract No. 14-06-200-1175A, as  
42 amended, hereinafter referred to as the Existing Contract, which established terms for the  
43 delivery to the Contractor's predecessor-in-interest of Central Valley Project Water, and the  
44 quantities of Base Supply the United States and the Contractor's predecessor-in-interest agreed  
45 may be diverted by the Contractor's predecessor-in-interest from the Sacramento River pursuant  
46 to such contract; and

47 [6<sup>th</sup>] WHEREAS, the Contractor purchased a portion of the land to which the Existing  
48 Contract was appurtenant and also received an assignment of a portion of the water covered by  
49 the Existing Contract; and

50 [7<sup>th</sup>] WHEREAS, the United States and the Contractor disagree with respect to the  
51 authority of the United States to change the quantities of Base Supply and/or Project Water  
52 specified as available for diversion in this Settlement Contract from the quantities specified in  
53 the Existing Contract, and other issues related thereto. That dispute was the subject of litigation  
54 in a lawsuit entitled *Glenn-Colusa Irrigation District, et al. v. United States, et al.*  
55 [Civ. No. S-01-1816 GEB/JFM (E.D. Cal.)], but that litigation was dismissed, without prejudice,  
56 pursuant to a stipulation of dismissal filed by the parties thereto on August 29, 2002.  
57 Notwithstanding that dismissal, the Contractor and the United States enter into this Settlement  
58 Contract to renew the Existing Contract, pursuant to the terms of the Existing Contract, Federal  
59 Reclamation law, and the laws of the State of California; and

60 [8<sup>th</sup>] WHEREAS, notwithstanding the facts contained in the previous recital, the U.S.  
61 and the Contractor have agreed to adjust the amount of water under this Settlement Contract to  
62 reflect the sale of land and partial assignment of contract referenced in the 6<sup>th</sup> Recital; and

63 [9<sup>th</sup>] WHEREAS, to assure the Contractor of the enjoyment and use of the regulated  
64 flow of the said Rivers and the Delta, and to provide for the economical operation of the Central  
65 Valley Project by, and the reimbursement to, the United States for expenditures made for said  
66 Project;

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

69 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

112                   (g)     Omitted;

113                   (h)     Omitted;

114                   (i)     Omitted;

115                   (j)     Omitted;

116                   (k)     Omitted;

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

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

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

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

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

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

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

137 TERM OF SETTLEMENT CONTRACT

138 2. (a) This Settlement Contract shall become effective April 1, 2006, and shall remain in  
139 effect until and including March 31, 2046; Provided, that under terms and conditions mutually

140 agreeable to the parties hereto, renewals may be made for successive periods not to exceed 40  
141 years each. The terms and conditions of each renewal shall be agreed upon not later than one  
142 year prior to the expiration of the then existing Settlement Contract.

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

157 WATER TO BE FURNISHED TO CONTRACTOR

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

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

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

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

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

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

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

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

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

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

203 RETURN FLOW

204 4. Nothing herein shall be construed as an abandonment or a relinquishment by the United  
205 States of any right it may have to the use of waste, seepage, and return flow water derived from  
206 water diverted by the Contractor hereunder and which escapes or is discharged beyond the  
207 boundaries of the lands shown on Exhibit B; Provided, that this shall not be construed as

208 claiming for the United States any right to such water which is recovered by the Contractor  
209 pursuant to California law from within the boundaries of the lands shown on Exhibit B, and  
210 which is being used pursuant to this Settlement Contract for surface irrigation or underground  
211 storage for the benefit of the lands shown on Exhibit B by the Contractor.

212 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

215 (b) Divert from the Sacramento River not in excess of 75 percent of the Contract

216 Total shown on Exhibit A, subject to the installation of measurement equipment satisfactory to

217 the Contracting Officer. The Contractor shall install, operate, and maintain this equipment at the

218 Contractor's expense. The Contractor shall submit, by April 1 of that Critical Year, a written

219 schedule to the Contracting Officer indicating the Contract Total to be diverted by the Contractor

220 during each month of that Critical Year under this Settlement Contract.

221 (c) The amount of any overpayment by the Contractor shall, at its option, be refunded

222 or credited upon amounts to become due to the United States from the Contractor under the

223 provisions hereof in the ensuing Year. To the extent of such deficiency such adjustment of

224 overpayment shall constitute the sole remedy of the Contractor.

225 INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

226 6. The Contractor and United States desire to work together to maximize the reasonable

227 beneficial use of water for their mutual benefit. As a consequence, the United States and the

228 Contractor will work in partnership and with others within the Sacramento Valley, including

229 other contractors, to facilitate the better integration within the Sacramento Valley of all water

230 supplies including, but not limited to, the better management and integration of surface water and

231 groundwater, the development and better utilization of surface water storage, the effective  
232 utilization of waste, seepage and return flow water, and other operational and management  
233 options that may be identified in the future.

234 USE OF WATER FURNISHED TO CONTRACTOR

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

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

252 RATE AND METHOD OF PAYMENT FOR WATER

253 8. (a) The Contractor shall make payments to the United States as provided in this  
254 Article for each acre of land irrigated from April 1, through October 31 each Year. Such  
255 payments shall be at Rates and Charges established in accordance with: (i) the Secretary's then  
256 current ratesetting policies for the Project; and (ii) applicable Reclamation law and associated  
257 rules and regulations, or policies; Provided, that if the Contractor desires to use Project Water for  
258 other than agricultural purposes the Rates and Charges set forth above will be adjusted by the  
259 Contracting Officer to the applicable Rates and Charges for such purposes. The Rates and  
260 Charges applicable to the Contractor upon execution of this Settlement Contract are set forth in  
261 Exhibit D, as may be revised annually. The Secretary's ratesetting policies for the Project shall  
262 be amended, modified, or superseded only through a public notice and comment procedure.

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

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

272 (2) Prior to October 1 of each Year, the Contracting Officer shall make  
273 available to the Contractor an estimate of the Rates for Project Water for the following Year and  
274 the computations and cost allocations upon which those Rates are based. The Contractor shall be

275 allowed not less than two months to review and comment on such computations and cost  
276 allocations. By December 31 of each Year, the Contracting Officer shall provide the Contractor  
277 with the final Rates to be in effect for the upcoming Year, and such notification shall revise  
278 Exhibit D.

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

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

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

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

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

294 (d) Payments to be made by the Contractor to the United States under this Settlement  
295 Contract may be paid from any revenues available to the Contractor. All revenues received by  
296 the United States from the Contractor relating to the delivery of Project Water or the delivery of  
297 non-Project Water through Project facilities shall be allocated and applied in accordance with

298 Federal Reclamation law and the associated rules or regulations, and the then current Project  
299 ratesetting policies for irrigation water.

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

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

315 (g) For the term of this Settlement Contract, Rates under the respective ratesetting  
316 policies for the Project will be established to recover only reimbursable operation and  
317 maintenance (including any deficits) and capital costs of the Project, as those terms are used in  
318 the then-current Project ratesetting policies, and interest, where appropriate, except in instances  
319 where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy.  
320 Proposed changes of significance in practices which implement the ratesetting policies for the

321 Project will not be implemented until the Contracting Officer has provided the Contractor an  
322 opportunity to discuss the nature, need, and impact of the proposed change. The Contractor  
323 retains all rights to challenge the validity of Rates and Charges imposed pursuant to this  
324 Settlement Contract, including but not limited to operation and maintenance expenses and  
325 operation and maintenance deficits, in an appropriate administrative or judicial proceeding.

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

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

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

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

349 AGREEMENT ON WATER QUANTITIES

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

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

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

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

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

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

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

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

410

MEASUREMENT OF WATER

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

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

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

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

429

RULES AND REGULATIONS

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

433 and supplemented, and the rules and regulations promulgated by the Secretary of the Interior  
434 under Federal Reclamation law.

435 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

449 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

467

QUALITY OF WATER

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

473

WATER AND AIR POLLUTION CONTROL

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

478

EQUAL OPPORTUNITY

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

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

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

493 (c) The Contractor will send to each labor union or representative of workers with  
494 which it has a collective bargaining agreement or other contract or understanding, a notice, to be  
495 provided by the Contracting Officer, advising the said labor union or workers' representative of  
496 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,

497 1965, and shall post copies of the notice in conspicuous places available to employees and  
498 applicants for employment.

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

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

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

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

523 17. Omitted.

524 18. Omitted.

525 BOOKS, RECORDS, AND REPORTS

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

535

CHANGE OF PLACE OF USE

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

538 21. Omitted.

539

NOTICES

540 22. Any notice, demand, or request authorized or required by this Settlement Contract shall  
541 be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
542 delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation, 16349  
543 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when  
544 mailed, postage prepaid, or delivered to The Kenneth L. Wallace Living Trust, 1604 Baylor Ct,  
545 Woodland, CA 95695-5158. The designation of the addressee or the address may be changed by  
546 notice given in the same manner as provided in this Article for other notices.

547

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

OFFICIALS NOT TO BENEFIT

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

559 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

565

CONFIRMATION OF SETTLEMENT CONTRACT

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

573 27. Omitted.

574

PRIVACY ACT COMPLIANCE

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

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

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

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

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

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

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

(c) At five-year intervals, the Contractor shall revise its water conservation plan to reflect the then current conservation and efficiency criteria for evaluating water conservation

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

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

629 OPINIONS AND DETERMINATIONS

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

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

645 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

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

660 WAIVER OF DEFAULT

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

665 CONTRACT ASSIGNMENT OR TERMINATION UPON TRANSFER OF LAND

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

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

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

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

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

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

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

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

691 TERMINATION

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

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

696

THE UNITED STATES OF AMERICA

697

APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY

698

*James E. Turner*  
OFFICE OF REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR

699

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

700 (SEAL)

701

THE KENNETH L. WALLACE LIVING TRUST

702

703

*Kenneth L. Wallace*  
Trustee

## Exhibit A

THE KENNETH L. WALLACE LIVING TRUST  
Sacramento RiverSCHEDULE OF MONTHLY DIVERSIONS OF WATER

	Base Supply (AF)	Project Water (AF)	Contract Total (AF)
April	49	00	49
May	171	00	171
June	144	08	152
July	53	113	166
August	05	183	188
September	120	16	136
October	05	00	05
<i>Total</i>	<b>547</b>	<b>320</b>	<b>867</b>

Irrigable Acres: 171

Points of Diversion: 33.2L

Dated: 03-15-2006



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

## The Kenneth L. Wallace Living Trust

Contract No. 14-06-200-1175A-X  
Exhibit B



Contractor's Service Area



Point of Diversion

0 0.5 1 Miles



725-202-146

Exhibit C

Omitted

## Exhibit D

THE KENNETH L. WALLACE LIVING TRUST  
Sacramento River

2006 Water Rates and Charges per Irrigated Acre

	Irrigation
<b>Cost of Service Rate</b>	\$33.94
<b>Full Cost Rates</b>	
<i>Section 202(3) Rate</i>	\$43.17
Applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981	
<i>Section 205(a)(3) Rate</i>	\$47.49
Applicable to a Limited Recipient who did not receive irrigation water on or before October 1, 1981.	
<b>Charges Under P.L. 102-575 To The Restoration Fund<sup>1</sup></b>	\$14.79
Restoration Payments (3407(d)(2)(A))	

<sup>1</sup> 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).

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA )

COUNTY OF Yolo )

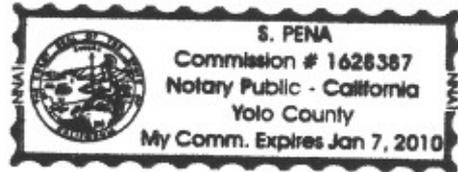
On March 27, 2006 before me, S. Peña  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared, Kenneth L. Wallace

personally known to me (or 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.

S. Peña (SEAL)  
NOTARY PUBLIC SIGNATURE



OPTIONAL INFORMATION

THIS OPTIONAL INFORMATION SECTION IS NOT REQUIRED BY LAW BUT MAY BE BENEFICIAL TO PERSONS RELYING ON THIS NOTARIZED DOCUMENT.

TITLE OR TYPE OF DOCUMENT Contract 14-06-208-1175A-X

DATE OF DOCUMENT 3-27-06 NUMBER OF PAGES \_\_\_\_\_

SIGNER(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

SIGNER'S NAME \_\_\_\_\_ SIGNER'S NAME \_\_\_\_\_

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CERTIFICATION OF TRUST  
(California Probate Code § 18100.5)

I, KENNETH L. WALLACE, hereby certify and confirm the following:

1. Existing Trust: The Kenneth L. Wallace Living Trust is an existing trust created by a written Declaration of Trust executed on and dated June 20, 2001.

2. Settlor and Current Trustee: The settlor of the trust is and the currently acting trustee of the trust is KENNETH L. WALLACE.

3. Powers of Trustees: The powers of the trustee(s) of the trust are all those existing under the California Probate Code and the following additional powers which are expressly set forth in the aforesaid Declaration of Trust:

See Exhibit "A" attached hereto.

4. Revocable Trust: The trust is revocable and KENNETH L. WALLACE holds the power to revoke the trust.

5. Exercise of Powers:

A. All of the currently acting trustees are required to sign in order to exercise any transactions involving the transfer or conveyance of real property.

B. One of the currently acting trustees is sufficient to sign in order to exercise any and all other powers of the trustee other than transactions involving the transfer or conveyance of real property.

6. Trust Identification Number: The trust's taxpayer identification number (social security number/employer identification number) is 569-68-1150.

7. Title: Title to trust assets should be taken as follows:

Kenneth L. Wallace, Trustee of the  
Kenneth L. Wallace Living Trust  
dated June 20, 2001

8. No Amendment: The trust has not been revoked, modified, or amended in any manner which would cause the representations contained in this Certification of Trust to be incorrect.

9. All Trustees: This Certification of Trust is signed by all of the currently acting trustees of the trust.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

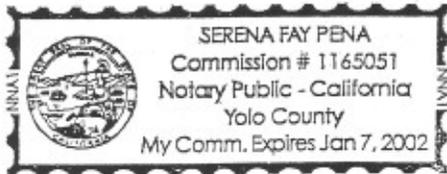
Dated: June 20, 2001

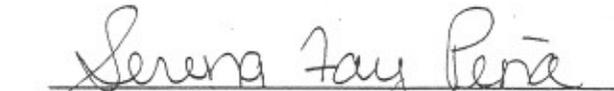
  
KENNETH L. WALLACE

STATE OF CALIFORNIA)  
COUNTY OF YOLO ) ss.

On June 20, 2001, before me, the undersigned, a notary public, personally appeared KENNETH L. WALLACE, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his 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.



  
NOTARY PUBLIC

# EXHIBIT A

## ARTICLE V.

### Trustee's Powers

A. Powers: The trustee shall have the full power to sell, borrow, encumber, convey, exchange, invest, reinvest, partition, divide, improve, and repair the property constituting the trust estate from time to time, and the trustee shall have all powers conferred on the trustee by law and all powers contained in California Probate Code Sections 16200, et seq., and any successor statute. The enumeration of certain powers in this instrument shall not limit the trustee's general powers, and the trustee shall have all the rights, powers, and privileges that an absolute owner of the same property would have, subject to the trustee's fiduciary obligations and to any limitations stated elsewhere in this instrument.

To carry out the provisions of the trusts created by this instrument, the trustee shall have the following powers, besides those now or later conferred by law:

1. Broad Investment Powers, Diversification Not Required. To invest and reinvest all or any part of the trust estate in any common or preferred stocks, shares of investment trusts and investment companies, mutual funds, including without limitation market funds and index funds, bonds, debentures,

mortgages, deeds of trust, mortgage participations, notes, real estate, or other property the trustee in the trustee's discretion selects. The trustee may continue to hold in the form in which received (or the form to which changed by reorganization, split-up dividend, or other like occurrence) any securities or other property the trustee may at any time acquire under this trust, it being the settlor's express desire and intention that the trustee shall have full power to invest and reinvest the trust funds in the manner that, under the circumstances then prevailing (specifically including, but not limited to, the general economic conditions and the anticipated needs of the trust and its beneficiaries), persons of skill, prudence, and diligence acting in a similar capacity and familiar with those matters would use in the conduct of an enterprise of a similar character and with similar aims, to attain the goals of the settlor under this instrument without being restricted to forms of investment that the trustee may otherwise be permitted to make by law; to consider individual investments as part of an overall investment strategy. The investments need not be diversified.

2. Power to Retain Property. To continue to hold any property, including any shares of the trustee's own stock, and to operate at the risk of the trust estate any business that the trustee receives or acquires under the trust as long as the trustee considers advisable.

3. Power to Purchase Bonds at Premium. To purchase bonds and to pay any premiums connected with the purchase that the trustee in the trustee's discretion considers advisable, provided, however, each premium is repaid periodically to principal from the interest on the bond in a reasonable manner as the trustee determines and, to the extent necessary, from the proceeds on the sale or other disposition of the bond.

4. Power to Purchase Bonds at Discount. To purchase bonds at a discount as the trustee in the trustee's discretion consider advisable. If, however, the trustee determines in the trustee's discretion that the current yield on the bonds is materially less than the rate of return that the trust could otherwise obtain with equivalent safety, all or a portion of the discount shall be credited periodically to income of the trust in a reasonable manner as the trustee determines and, to the extent necessary, paid from the proceeds on the sale or other disposition of the bond or from principal.

5. Power to Retain or Purchase Unproductive Property. To retain, purchase, or otherwise acquire unproductive property.

6. Power to Manage Securities. To have all the rights, powers, and privileges of an owner of the securities held in trust, including, but not limited to, the powers to vote, give proxies, and pay assessments; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidation,

mergers, and liquidations and, incident to such participation, to deposit securities with and transfer title to any protective or other committee on any terms the trustee considers advisable; and to exercise or sell stock subscription or conversion rights.

7. Power to Hold Securities in Nominee's Name. To hold securities or other property in the trustee's name as trustee under this trust, in the trustee's own name or in a nominee's name, or to hold securities unregistered in such condition that ownership will pass by delivery.

8. Power to Sell, Exchange, Repair. To manage, control, grant options on, sell (for cash or on deferred payments), convey, exchange, partition, divide, improve, and repair trust property.

9. Power to Lease, Including Oil and Mineral Development. To lease trust property for terms within or beyond the term of the trust for any purpose, including exploration for and removal of gas, oil, and other minerals; and to enter in community oil leases, pooling, and unitization agreements.

10. Power to Lend to Settlor's Probate Estate. To lend money to any person, including the probate estate of the settlor, provided any such loan shall be adequately secured and shall bear a reasonable rate of interest.

11. Power to Purchase Property from Settlor's Probate Estate. To purchase property at its fair market value, as determined by the trustee in the trustee's discretion, from the probate estate of the settlor.

12. Trustee's Power to Loan to, Buy from, and Sell to Trust Individually. To loan or advance the trustee's own funds to the trust for any trust purpose, with interest at current rates; to receive security for such loans in the form of a mortgage, pledge, deed of trust, or other encumbrance of any assets of the trust; to purchase assets of the trust at their fair market value as determined by an independent appraisal of those assets; and to sell property to the trust at a price not in excess of its fair market value as determined by an independent appraisal.

13. Professionals. To employ any custodian, attorney, accountant, corporate fiduciary, or any other agent or agents to assist the trustee in the administration of this trust and to rely on the advice given by these agents. Reasonable compensation for all services performed by this agent shall be paid from the trust estate from either income or principal as the trustee in the trustee's discretion determines and shall not decrease the compensation to which the trustee is entitled.

14. Release of Powers. The trustee shall have the power to release or to restrict the scope of any power that the

trustee may hold in connection with the trust created under this instrument, whether this power is expressly granted in this instrument or implied by law. The trustee shall exercise this power in a written instrument specifying the powers to be released or restricted and the nature of any restriction.

15. Power to Adjust for Tax Consequences. To take any action and to make any election, in the trustee's discretion, to minimize the tax liabilities of this trust and its beneficiaries. The trustee shall have the power to allocate the benefits among the various beneficiaries, and shall have the power to make adjustments in the rights of any beneficiaries, or between the income and principal accounts to compensate for the consequences of any tax election that the trustee believes has had the effect of directly or indirectly preferring one beneficiary or group of beneficiaries over others.

16. Power to Borrow. To borrow money and to encumber trust property by mortgage, deed of trust, pledge, or otherwise, for the debts of the trust or the joint debts of the trust and a co-owner of the property in which the trust has an instrument, or for the settlor's debts; to guarantee the settlor's debts.

17. Power to Initiate or Defend Litigation and to Compromise. To initiate or defend, at the expense of the trust, any litigation relating to the trust or any property of the trust estate the trustee considers advisable, and to compromise or otherwise adjust any claims or litigation against or in favor of the trust.

18. Power to Insure. To carry insurance of the kinds and in the amounts the trustee considers advisable, at the expense of the trust, to protect the trust estate and the trustee personally against any hazard.

19. Power to Withhold Payment if Conflicting Claims Arise. To withhold from distribution, in the trustee's discretion, at the time for distribution of any property in any trust without the payment of interest, all or any part of the property, if the trustee determines in the trustee's discretion that the property may be subject to conflicting claims, to tax deficiencies, or to liabilities contingent or otherwise.

20. Power to Purchase Treasury Bonds. To purchase in the trustee's discretion at less than par obligations of the United States of America that are redeemable at par in payment of any federal estate tax liability of settlor in the amounts the trustee considers advisable. The trustee may exercise the trustee's discretion and purchase these obligations if the trustee believes that the settlor is in substantial danger of death and may borrow funds and give security for that purpose. The trustee shall resolve any doubt concerning the desirability of making the purchase and its amount in favor of making the

purchase and in purchasing a larger, even though somewhat excessive, amount. The trustee shall not be liable to the settlor, any heir of the settlor, or any beneficiary of this trust for losses resulting from purchases made in good faith. Notwithstanding anything in this instrument to the contrary, the trustee is directed to pay the federal estate tax due on the settlor's death in an amount not less than the par value plus accrued interest of the obligations that are eligible for redemption to pay the settlor's federal estate taxes, without apportionment or charge against any beneficiary of the trust estate or transferee of property passing outside the trust estate. The legal representative of the settlor's estate, or if none was appointed, the trustee acting under this instrument, shall select the redemption date of these obligations.

21. Broad Powers of Distribution. To partition, allot, and distribute the trust estate on any division or partial or final distribution of the trust estate, in undivided interests or in kind, or partly in money and partly in kind, at valuations determined by the trustee, and to sell any property the trustee considers necessary for division or distribution. In making any division or partial or final distribution of the trust estate, the trustee is not obligated to make a prorata division or to distribute the same assets to beneficiaries similarly situated. The trustee may, in the trustee's discretion, make a nonprorata division between trusts or shares and nonprorata distributions to the beneficiaries if the respective assets allocated to separate trusts or shares, or distributed to the beneficiaries, have equivalent or proportionate fair market value.

22. Tax Base. The income tax bases of assets allocated or distributed nonprorata need not be equivalent and may vary to a greater or lesser amount, as determined by the trustee in the trustee's discretion, and the trustee shall not be required to make any adjustment to compensate for any difference in bases, or the trustee may make any adjustment that he/she considers reasonable.

23. Abandonment. The trustee is authorized to abandon any property or interest in property belonging to the trust when, in trustee's discretion, the abandonment is in the best interest of the trust and its beneficiaries.

B. No Bond. No bond shall be required of any person named in this instrument as trustee or of any person appointed as the trustee in the manner specified in this instrument for the faithful performance of his or her duties as trustee.

C. Additions to Trust. Other property acceptable to the trustee may be added to this trust by any person, by the wills or codicils of settlor, by the proceeds of any life insurance, or otherwise.

D. Payments from Trust. The settlor may at any time direct the trustee in writing to pay single sums or periodic payments out of the trust estate to any other person or organization. The settlor's powers to so direct the trustee shall be personal to the settlor, except that this power may be exercised by a settlor's conservator to the extent that payments to one or more persons qualify for the annual federal gift tax exclusion.