

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

AMENDATORY CONTRACT BETWEEN THE UNITED STATES
AND
CONAWAY PRESERVATION GROUP, LLC,
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,
SETTLING WATER RIGHTS DISPUTES AND
PROVIDING FOR PROJECT WATER

1 THIS AMENDATORY CONTRACT, made this ____ day of _____, 2013,
2 pursuant to the applicable authority granted to it generally in the Act of June 17, 1902 (32 Stat. 388),
3 and acts amendatory or supplementary thereto, including, but not limited to, the Acts of
4 August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as
5 amended and supplemented, including, but not limited to, Sections 9 and 14 thereto, July 2, 1956
6 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986
7 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706),
8 all collectively hereinafter referred to as Federal Reclamation law, and CONAWAY
9 PRESERVATION GROUP, LLC, hereinafter referred to as the Contractor, acting pursuant to
10 Sections 12003 and 12004 of the California Water Code, with its principal place of business
11 in California;

12 WITNESSETH, That:

13 EXPLANATORY RECITALS

14 [1st] WHEREAS, the Contractor holds post-1914 appropriative water rights under
15 water right Licenses 904, 905 and 5487, administered and enforced by the California State Water
16 Resources Control Board (hereinafter, SWRCB); and

17 [2nd] WHEREAS, water made available pursuant to the above water right licenses
18 allows the Contractor to divert water from the Sacramento River for irrigation of the Contractor's
19 lands; and

20 [3rd] WHEREAS, the terms and conditions for delivery of this supply of water are
21 described in "Contract Between the United States and Conaway Preservation Group, LLC,
22 Diverter of Water From Sacramento River Sources, Settling Water Rights Disputes and
23 Providing for Project Water", Contract No. 14-06-200-7422A-R-1, dated March 4, 2005,
24 (hereinafter, "Existing Contract"), which contract provides a Base Supply of 50,190 acre-feet
25 and a supplemental supply of 672 acre-feet of water annually from the Central Valley Project for
26 irrigation of the Contractor's lands delineated on Exhibit "B" of the Existing Contract; and

27 [4th] WHEREAS, on December 21, 2010, the Contractor entered into a Water
28 Agreement with the Woodland-Davis Clean Water Agency (hereinafter Agency) and Tri-City
29 Water and Farms, LLC to convey its interest in 10,000 acre-feet of water made available under
30 water right Licenses 904 and 5487; and

31 [5th] WHEREAS, on March 17, 2011, the Contractor petitioned the SWRCB to split
32 water right Licenses 904 and 5487, add an additional purpose of use and add an additional point
33 of diversion all for the purpose of assigning a portion of water right Licenses 904 and 5487 to the
34 Agency; and

35 [6th] WHEREAS, pursuant to SWRCB letter, dated November 21, 2012, as modified
36 by SWRCB letter dated December 21, 2012, the Contractor's petition for change was granted,
37 and Amended Licenses for Diversion and Use of Water, 904A and 5487A, were issued to the
38 Agency and Amended Licenses for Diversion and Use of Water, 904B and 5487B, were issued
39 to the Contractor, each subject to specific terms and conditions for its exercise; and

40 [7th] WHEREAS, in order to validly recognize these water right changes, this
41 amendment to the Existing Contract is necessary to modify the water quantities of the
42 Contractor, and authorize an additional purpose of use; and

43 [8th] WHEREAS, a new Sacramento River Water Right Settlement Contract will be
44 required to be executed between the United States and the Agency to recognize the assigned
45 water right from the Contractor; and

46 [9th] WHEREAS, it is the parties' intent that this amendment, consistent with the terms
47 and conditions herein, fully recognize and comport with the Petition for Change under Licenses
48 904 and 5487 approved by SWRCB letter dated November 21, 2012, as modified by SWRCB
49 letter dated December 21, 2012;

50 NOW, THEREFORE, in consideration of the mutual and dependent covenants
51 herein contained, it is hereby mutually agreed by the parties hereto as follows:

52 MODIFICATION TO EXISTING CONTRACT

53 1. (a) It is hereby agreed between the parties hereto that the terms and conditions
54 of the SWRCB approval of the Contractor's Petitions for Change under Licenses 904 and 5487,
55 as more completely set forth in SWRCB letters directed to Contractor dated November 21, 2012
56 and December 21, 2012 and in Amended Licenses 904B and 5487B are incorporated into the
57 Existing Contract as if fully set forth therein.

58 (b) It is further agreed that this Amendatory Contract shall become effective
59 upon the earlier of the Agency diverting the assigned water pursuant to Licenses 904A and
60 5487A or January 15 2016.

61 **2. Article 3 of the Existing Contract entitled WATER TO BE FURNISHED TO**
62 **CONTRACTOR is amended as follows:**

63 (a) **Subdivision (a) of Article 3 of the Existing Contract is amended to**
64 **provide for a change to Exhibit “B” without requiring amendment of the Existing**
65 **Contract:**

66 (a) Subject to the conditions, limitations, and provisions hereinafter
67 expressed, the Contractor is hereby entitled and authorized to divert from the Sacramento
68 River at the locations shown in Exhibit “A”, for beneficial use within the area delineated
69 on Exhibit “B”, (both Exhibits are attached hereto and made a part hereof), which
70 Exhibit “B” shall comport with the SWRCB places of use for Licenses 904B and 5487B,
71 as same may be amended from time to time by the SWRCB or as may be modified from
72 time to time in accordance with Article 20 of this Settlement Contract without
73 amendment of this Settlement Contract, the Contract Total designated in Exhibit “A”, or
74 any revision thereof, in accordance with the monthly operating schedule required by
75 Article 3(c) of this Settlement Contract. The quantity of any water diverted under this
76 Settlement Contract from the Sacramento River, during the period April through October,
77 for use on any lands delineated on Exhibit “B”, by the owner of such lands or otherwise
78 shall constitute a part of the Contract Total as shown on Exhibit “A” and shall be subject
79 to all the provisions of this Settlement Contract relating to such Contract Total as if such
80 diversion were made by the Contractor; *Provided, however,* That the Contractor reserves

81 the right to, and may at its option, divert water for beneficial use from Willow Slough,
82 under Permit No. 7559 issued on Application 12074, and from Cache Creek under
83 riparian right, to the extent permitted under California law for beneficial use within the
84 area delineated on Exhibit "B". The lawfulness of the Contractor's points of diversion
85 for said area from Willow Slough and Cache Creek will not be challenged by, or on
86 behalf of, the Bureau of Reclamation except in the case of a general adjudication as
87 provided in subdivisions (b) and (c) of Article 9.

88 **(b) Subdivision (c) of Article 3 of the Existing Contract is amended to**
89 **include municipal and industrial as a purpose of use:**

90 (c) Before April 1 and before the first day of each month thereafter
91 when a revision is needed, the Contractor shall submit a written schedule to the
92 Contracting Officer indicating the Contract Total to be diverted by the Contractor for
93 agricultural and municipal and industrial purposes during each month under this
94 Settlement Contract. The United States shall furnish water to the Contractor in
95 accordance with the monthly operating schedule or any revisions thereof. However, the
96 United States recognizes the need of the Contractor to change from time to time its
97 monthly diversions of water from the quantities shown in Exhibit "A"; the Contractor
98 may make such changes, provided:

99 (1) that for the quantity of Base Supply diverted in excess of
100 the monthly quantity shown in Exhibit "A", and as may be reduced in accordance
101 with Article 5(a), during June, July, August, September, or October of any Water
102 Year, the Contractor shall be charged a rescheduling fee equal to 50 percent of the

103 sum of the storage operations and maintenance rate and the storage capital rate
104 components of the Project ratesetting policy.

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

107 (i) During the period April through October exceed the
108 aggregate of the Contract Total for that period shown in Exhibit "A" or
109 any revision thereof;

110 (ii) During the period July through September exceed
111 the aggregate of the Contract Total for that period shown in Exhibit "A" or
112 any revision thereof.

113 (c) **Subdivision (f) of Article 3 of the Existing Contract is amended, and**
114 **redesignated as subdivision (f)(i) and subdivision (f)(ii) is added:**

115 (f)(ii) The Contractor shall only use groundwater pumped in accordance
116 with the terms and conditions of Licenses 904B and 5487B, or surface water transferred
117 to the Contractor pursuant to a separate Order of the State Water Resources Control
118 Board or obtained otherwise from others in a manner consistent with the requirements of
119 state law, to replace the water diverted under Licenses 904A and 5487A or to offset the
120 adverse effect, if any, resulting from in lieu groundwater pumping. The Contractor shall
121 not divert surface water under any other existing right, whether riparian, appropriative, or
122 other, to substitute for reductions in diversions under Licenses 904B and 5487B or to
123 offset any adverse effect, if any, from in lieu groundwater pumping. Furthermore,
124 notwithstanding any contrary provisions of law, specifically Section 3405(a)(1)(M) of the
125 CVPIA, any surface water transferred to the Contractor for the purpose of replacing any

126 of the water assigned to Licenses 904A and 5487A must meet the requirements of state
127 law and those of CVPIA, including, but not limited to, Sections 3405(a)(1)(A) and
128 3405(a)(1)(I).

129 **3. Article 4 of the Existing Contract entitled RETURN FLOW is amended to**
130 **add municipal and industrial as a purpose of use:**

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

140 **4. Article 7 of the Existing Contract entitled USE OF WATER FURNISHED**
141 **TO CONTRACTOR is amended as follows:**

142 (a) **Subdivision (a) of Article 7 of the Existing Contract is amended and**
143 **replaced in its entirety with the following new subdivision (a):**

144 (a) Base Supply and Project Water furnished to the Contractor
145 pursuant to this Settlement Contract may be delivered or furnished by the Contractor for
146 agricultural or municipal and industrial purposes. For purposes of this Settlement
147 Contract, "agricultural purposes" includes, but is not restricted to, the irrigation of crops,
148 the watering of livestock, incidental domestic use including landscape irrigation, and

149 underground water replenishment; and “municipal and industrial purposes” shall mean
150 fish and wildlife enhancement. The Contractor shall not deliver or furnish Base Supply
151 or Project Water for any other purpose without the approval of the Contracting Officer.

152 **(b) Subdivision (b) of Article 7 of the Existing Contract is amended and**
153 **redesignated as subdivision (b)(1), and subdivision (b)(2) is added:**

154 (b)(2) Consistent with the Contracting Officer’s protest dismissal
155 conditions included in Amended Licenses 904B and 5487B, the Contractor shall ensure
156 that preparation and approval of a Mitigation Plan and implementation of the mitigation
157 measures stipulated in the Mitigation Plan shall occur prior to and during the term of this
158 Contract.

159 **5. Article 8 of the Existing Contract entitled RATE AND METHOD OF**
160 **PAYMENT FOR WATER is amended as follows:**

161 **(a) Subdivision (a) of Article 8 of the Existing Contract is amended by**
162 **adding the following to the end of that subdivision:**

163 (a) *Provided further,* That to enable the Contracting Officer to
164 compute the applicable Rates and Charges for Project Water diverted by the Contractor
165 for municipal and industrial purposes, prior to initiating any such diversions, the
166 Contractor shall provide the Contracting Officer with an estimate of the annual quantities
167 of Project Water to be diverted or furnished for such purposes through the end of the
168 CVP repayment period as identified in the then-current ratesetting policies.

169 **(b) The first sentence in subdivision (j) of Article 8 of the Existing**
170 **Contract is amended and replaced with the following:**

171 (j) Each payment to be made pursuant to subdivisions (a) and (c) of
172 this Article shall be made to the office of the Bureau of Reclamation, Mid-Pacific
173 Region: Bureau of Reclamation, Mid-Pacific, P.O. Box 301502, Los Angeles, California
174 90030-1502, or at such other place as the United States may designate in a written notice
175 to the said Contractor.

176 **6. Article 10 of the Existing Contract entitled MEASUREMENT OF WATER is**
177 **amended by adding a new subdivision (h) at the end of that article:**

178 (h) The Contractor shall inform the Contracting Officer on or before the 10th
179 calendar day of each month of the quantity of Contract total diverted or furnished for agricultural
180 and municipal and industrial purposes during the preceding month.

181 **7. The first sentence of Article 22 of the Existing Contract entitled NOTICES is**
182 **amended and replaced with the following:**

183 Any notice, demand, or request authorized or required by this Settlement Contract
184 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,
185 or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation,
186 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United
187 States, when mailed, postage prepaid, or delivered to Conaway Preservation Group, LLC,
188 401 Watt Avenue, Suite 4, Sacramento, California 95864.

189 **8. Exhibit "A" to the Existing Contract, entitled Schedule of Monthly**
190 **Diversions of Water is hereby amended, dated _____, and attached hereto to reflect**
191 **reductions in Base Supply quantities and the addition of a new point of diversion.**

192 **9. Exhibit "B" to the Existing Contract, entitled Map of Contractor's**
193 **Ownership is hereby amended, dated February 12, 2013, and attached hereto to reflect the**
194 **addition of a new point of diversion.**

206 IN WITNESS WHEREOF, the parties hereto have executed this Amendatory

207 Contract as of the day and year first above written.

208 UNITED STATES OF AMERICA

209 By: _____
210 Regional Director, Mid-Pacific Region
211 Bureau of Reclamation

(SEAL)

212 CONAWAY PRESERVATION GROUP, LLC

213 By: _____

214 Name: _____

215 Title: _____

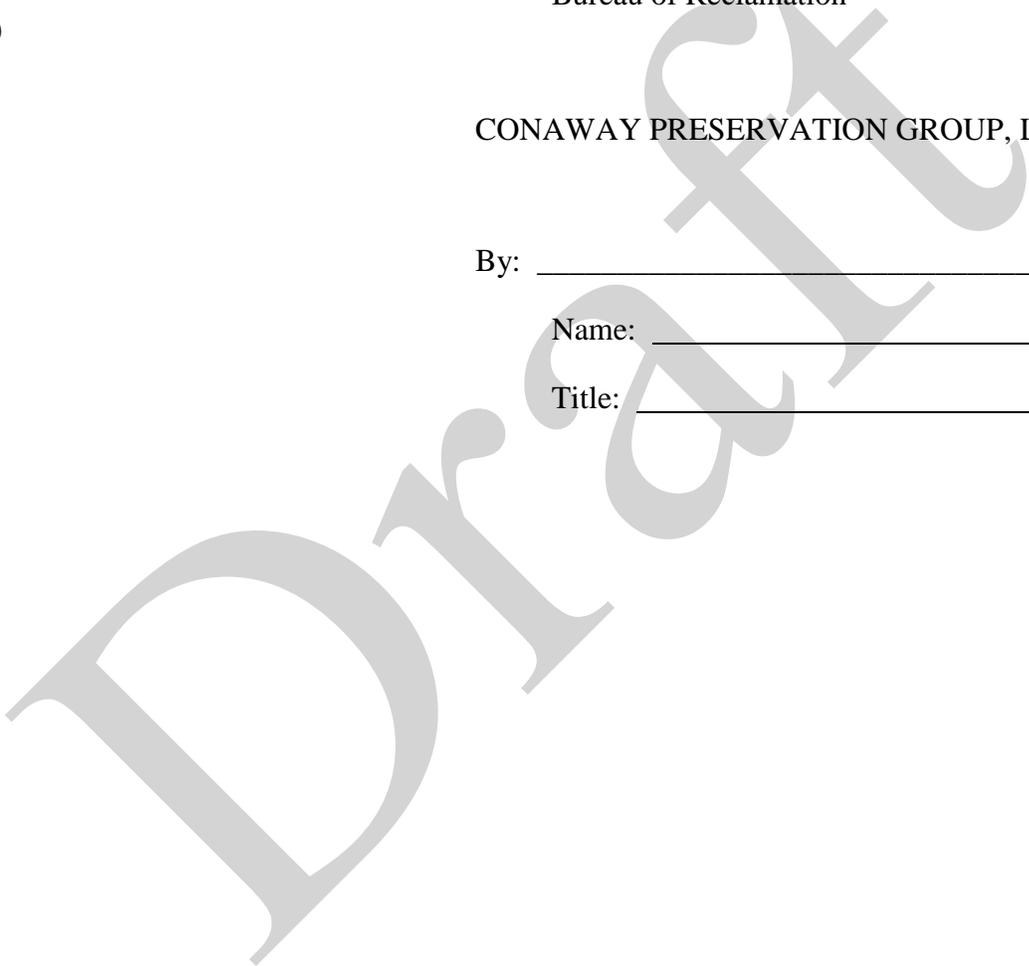


Exhibit A

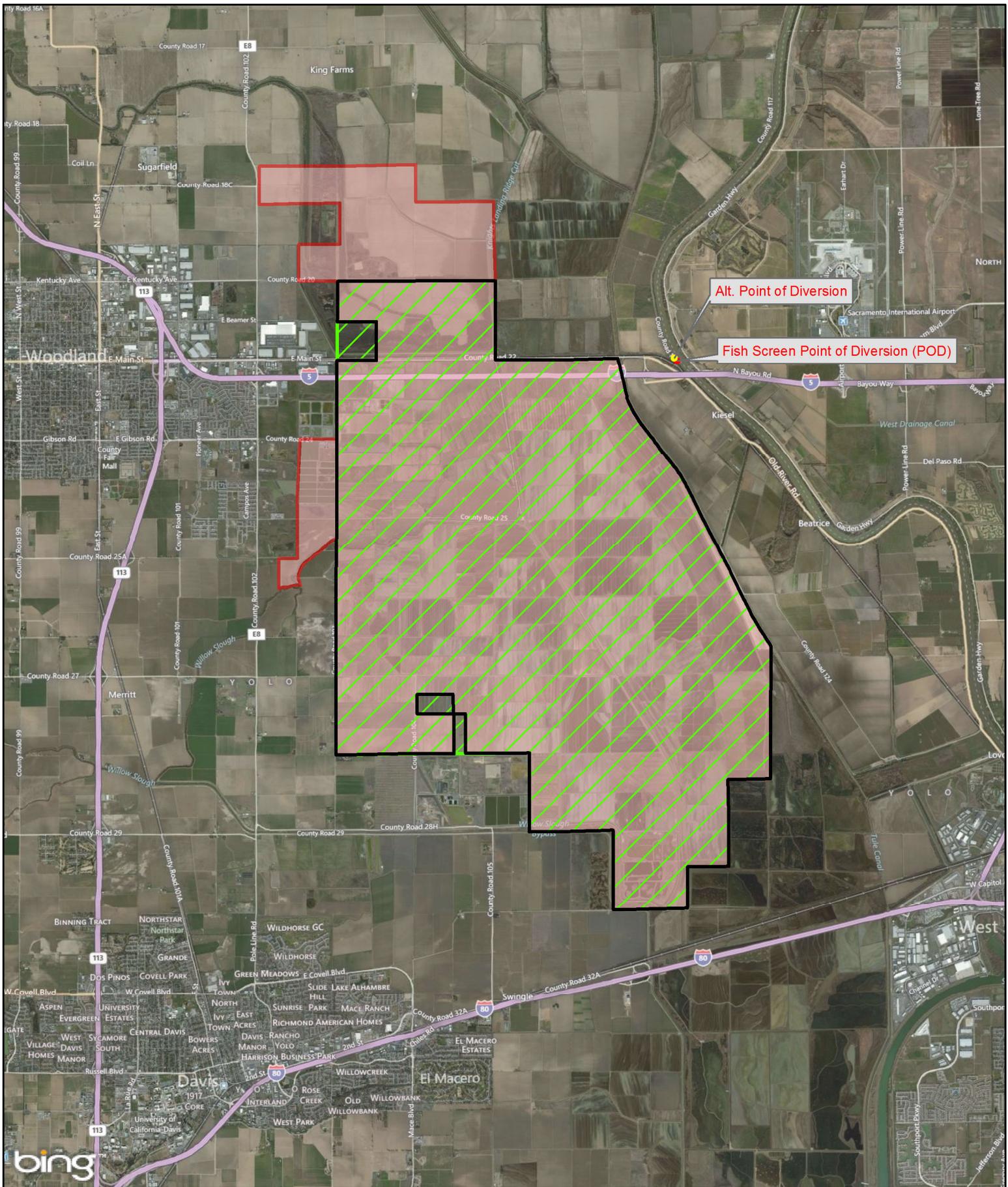
CONAWAY PRESERVATION GROUP, LLC
Sacramento River

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	6,890	0	6,890
May	13,970	0	13,970
June	12,190	0	12,190
July	1,570	304	1,874
August	480	288	768
September	3,230	80	3,310
October	1,860	0	1,860
Total	40,190	672	40,862

Points of Diversion: 12.0R. 11.9R

Dated: MM-DD-YYYY



- Served 4/1 - 9/30 (904B)
- Served 10/1 - 10/31 (5487B)
- Served 4/1 - 10/31 (904B & 5487B)

Conaway Preservation Group, LLC

Amendatory Contract 14-06-200-7422A-R-1

Exhibit B

RECLAMATION
Managing Water in the West

