

MP-440
WTR-4.00

JUN 19 2001

Board of Directors
Lindsay-Strathmore Irrigation District
PO Box 846
Lindsay, California 93247

Subject: Correction of Contract Number for Long-Term Contract Between the United States and Lindsay-Strathmore Irrigation District - Central Valley Project, California

Dear Board Members:

The contract number on the above contract that Lindsay-Strathmore Irrigation District executed on February 6, 2001, for project water service is not correct. The contract number should be "I1r-1514," not I75r-1514. Please pen and ink through your original contract to show the corrected contract number. This correction will ensure that your previous contracts will be easily identified to your present long-term contract.

If there are further questions concerning the contract, please contact Jon Anderson, Repayment Specialist, at (559) 487-5041 (TDD 487-5933).

Sincerely,

(sgd) John F. Davis

John F. Davis
Regional Resources Manager

Irrigation and M&I

Contract No.

See ltr. dtl.

6/19/01 → IIR

~~175~~-1514-LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
LINDSAY-STRATHMORE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble.....	1
	Explanatory Recitals.....	1-5
1	Definitions.....	5-10
2	Term of Contract.....	10-13
3	Water to be Made Available and Delivered to the Contractor.....	13-19
4	Time for Delivery of Water.....	19-22
5	Point of Diversion and Responsibility for Distribution of Water.....	22-24
6	Measurement of Water Within the Service Area.....	24-26
7	Rates and Method of Payment for Water.....	26-32
8	Non-Interest Bearing Operation and Maintenance Deficits.....	32
9	Sales, Transfers, or Exchanges of Water.....	32-34
10	Application of Payments and Adjustments.....	34-35
11	Temporary Reductions--Return Flows.....	35-36
12	Constraints on the Availability of Water.....	36-39
13	Unavoidable Groundwater Percolation.....	39
14	Rules and Regulations.....	39-40
15	Water and Air Pollution Control.....	40
16	Quality of Water.....	40-41
17	Water Acquired by the Contractor Other Than From the United States.....	41-44
18	Opinions and Determinations.....	44
19	Coordination and Cooperation.....	44-46
20	Charges for Delinquent Payments.....	46-47
21	Equal Opportunity.....	47-48
22	General Obligation--Benefits Conditioned Upon Payment.....	48
23	Compliance With Civil Rights Laws and Regulations.....	49

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
24	Privacy Act Compliance.....	49-50
25	Contractor to Pay Certain Miscellaneous Costs.....	50
26	Water Conservation.....	50-52
27	Existing or Acquired Water or Water Rights.....	52
28	Operation and Maintenance by Non-Federal Entity.....	52-54
29	Contingent on Appropriation or Allotment of Funds.....	54
30	Books, Records, and Reports.....	54-55
31	Assignment Limited--Successors and Assigns Obligated.....	55
32	Severability.....	56
33	Resolution of Disputes.....	56-57
34	Officials Not to Benefit.....	57
35	Changes in Contractor's Service Area.....	57-58
36	Federal Laws.....	58
37	Notices.....	58
38	Confirmation of Contract.....	58
	Signature Page.....	59
	Exhibit A	
	Exhibit B	

1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 LINDSAY-STRATHMORE IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION

10 THIS CONTRACT, made this 6th day of February, 2001, in pursuance
11 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
12 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
13 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
14 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat.
15 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
16 hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
17 hereinafter referred to as the United States, and LINDSAY-STRATHMORE IRRIGATION
18 DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly
19 organized, existing, and acting pursuant to the laws thereof, with its principal place of business in
20 California;

21 WITNESSETH, That:

22 EXPLANATORY RECITALS

23 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
24 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control,

25 irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration,
26 generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of
27 waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River
28 and their tributaries; and

29 [2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton
30 Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant
31 Division facilities, which will be used in part for the furnishing of water to the Contractor pursuant to
32 the terms of this Contract; and

33 [3rd] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
34 United States has acquired water rights and other rights to the flows of the San Joaquin River,
35 including without limitation the permits issued as the result of Decision 935 by the California State
36 Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this
37 Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project
38 Water stored or flowing through Millerton Lake in accordance with State and Federal law for the
39 benefit of Project Contractors in the Friant Division; and

40 [3.1] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project
41 Water developed through the exercise of the rights described in the third (3rd) Explanatory Recital of
42 this Contract; and

43 [4th] WHEREAS, the Contractor and the United States entered into Contract No. ~~175~~^{I1r}-1514,
44 as amended, which established terms for the delivery to the Contractor of Project Water from the
45 Friant Division from March 15, 1950, through February 28, 1990; and

46 [5th] WHEREAS, the Contractor and the United States entered into Renewal Contract
47 No. ~~175r~~^{I1r}-1514R, which provided for continued water service to the Contractor from the Friant
48 Division from March 1, 1990, through February 28, 2029, but, in light of the Ninth Circuit Court of
49 Appeals Opinion in the lawsuit entitled Natural Resources Defense Council, et al. v. Roger Patterson,
50 et al., that contract was replaced by Interim Renewal Contract No. ~~175r~~^{I1r}-1514-IR1, dated July 10,
51 1998, which provides for continued water service to the Contractor from the Friant Division from
52 September 14, 1998, through February 28, 2001; and

53 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim
54 and existing long-term Project Water service contracts following completion of appropriate
55 environmental documentation, including a programmatic environmental impact statement (PEIS)
56 pursuant to the National Environmental Policy Act analyzing the direct impacts and benefits of
57 implementing the CVPIA and the potential renewal of all existing contracts for Project Water; and

58 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
59 environmental review necessary to provide for long-term renewal of the Existing Contract; and

60 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
61 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the
62 State of California, for water service from the Central Valley Project; and

63 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of its
64 obligations under the Existing Contract; and

65 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
66 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and

67 beneficial use and/or has demonstrated projected future demand for water use such that the Contractor
68 has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project
69 Water to be made available to it pursuant to this Contract; and

70 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
71 urban and agricultural areas within California for more than fifty (50) years, and is considered by the
72 Contractor as an essential portion of its water supply; and

73 [12th] WHEREAS, the economies of regions within the Central Valley Project, including the
74 Contractor's, depend upon the continued availability of water, including water service from the
75 Central Valley Project; and

76 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
77 to pursue measures to improve water supply, water quality, and reliability of the Project for all
78 Project purposes; and

79 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
80 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of
81 the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to
82 achieve a reasonable balance among competing demands for use of Project Water; and to comply
83 with all applicable environmental statutes, all consistent with the legal obligations of the United
84 States relative to the Central Valley Project; and

85 [15th] Omitted;

86 [15.1] WHEREAS, during Uncontrolled Seasons, Friant Division Project Contractors utilize
87 undependable Class 2 Water in their service areas to, among other things, assist in the management

88 and alleviation of groundwater overdraft in the Friant Division service area, provide opportunities for
89 environmental enhancement, including restoration of the San Joaquin River below Friant Dam,
90 minimize flooding along the San Joaquin River, encourage optimal water management, and maximize
91 the reasonable and beneficial use of the water; and

92 [15.2] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
93 to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in
94 the Explanatory Recital immediately above; and

95 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
96 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

99 DEFINITIONS

100 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible
101 with the intent of the parties as expressed in this Contract, the term:

102 (a) "Calendar Year" shall mean the period January 1 through December 31, both
103 dates inclusive;

104 (b) "Charges" shall mean the payments required by Federal Reclamation law in
105 addition to the Rates and Tiered Pricing Components specified in this Contract as determined
106 annually by the Contracting Officer pursuant to this Contract;

107 (b2) "Class 1 Water" shall mean that supply of water stored in or flowing through
108 Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 11, and 12 of

109 this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera
110 Canals as a dependable water supply during each Year;

111 (b3) "Class 2 Water" shall mean that supply of water which can be made available
112 subject to the contingencies hereinafter described in Articles 3, 11, and 12 of this Contract for
113 delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of
114 Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will be
115 undependable in character and will be furnished only if, as, and when it can be made available as
116 determined by the Contracting Officer;

117 (c) "Condition of Shortage" shall mean a condition respecting the Project during
118 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract
119 Total;

120 (d) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized
121 representative acting pursuant to this Contract or applicable Reclamation law or regulation;

122 (e) "Contract Total" shall mean the maximum amount of Class 1 Water, plus the
123 maximum amount of Class 2 Water to which the Contractor is entitled under subdivision (a) of
124 Article 3 of this Contract;

125 (f) "Contractor's Service Area" shall mean the area to which the Contractor is
126 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,
127 which may be modified from time to time in accordance with Article 35 of this Contract without
128 amendment of this Contract;

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

131 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be
132 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96
133 Stat. 1263), as amended, hereinafter referred to as RRA;

134 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in
135 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
136 Reclamation law;

137 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or
138 202(3) of the RRA, whichever is applicable;

139 (k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be
140 delivered in accordance with Section 204 of the RRA;

141 (l) "Irrigation Full Cost Water Rate" shall have the same meaning as "full cost" as
142 that term is used in paragraph (3) of Section 202 of the RRA;

143 (m) "Irrigation Water" shall mean water made available from the Project that is
144 used primarily in the production of agricultural crops or livestock, including domestic use incidental
145 thereto, and watering of livestock;

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

148 (n2) “Long Term Historic Average” shall mean the average of the final forecast of
149 Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the
150 fourth (4th) and fifth (5th) Explanatory Recitals of this Contract;

151 (o) “Municipal and Industrial (M&I) Water” shall mean water made available
152 from the Project other than Irrigation Water made available to the Contractor. M&I Water shall
153 include water used for human use and purposes such as the watering of landscaping or pasture for
154 animals (e.g., horses) which are kept for personal enjoyment or water delivered to land holdings
155 operated in units of less than five (5) acres unless the Contractor establishes to the satisfaction of the
156 Contracting Officer that the use of water delivered to any such landholding is a use described in
157 subdivision (m) of this Article;

158 (p) “M&I Full Cost Water Rate” shall mean the annual rate, which, as determined
159 by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I
160 facilities in service, including, O&M deficits funded, less payments, over such periods as may be
161 required under Federal Reclamation law with interest accruing from the dates such costs were first
162 incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the
163 calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in
164 Section 202 (3) (B) and (C) of the RRA;

165 (q) “Operation and Maintenance” or “O&M” shall mean normal and reasonable
166 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of
167 Project facilities;

168 (r) "Operating Non-Federal Entity" shall mean the Friant Water Users Authority, a
169 Non-Federal entity which has the obligation to operate and maintain all or a portion of the Friant
170 Division facilities pursuant to an agreement with the United States, and which may have funding
171 obligations with respect thereto;

172 (s) "Project" shall mean the Central Valley Project owned by the United States
173 and managed by the Department of the Interior, Bureau of Reclamation;

174 (t) "Project Contractors" shall mean all parties who have water service contracts
175 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

176 (u) "Project Water" shall mean all water that is developed, diverted, stored, or
177 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance
178 with the terms and conditions of water rights acquired pursuant to California law;

179 (v) "Rates" shall mean the payments determined annually by the Contracting
180 Officer in accordance with the then current applicable water ratesetting policies for the Project, as
181 described in subdivision (a) of Article 7 of this Contract;

182 (w) Omitted;

183 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed
184 successor, or an authorized representative acting pursuant to any authority of the Secretary and
185 through any agency of the Department of the Interior;

186 (y) "Tiered Pricing Component" shall be the incremental amount to be paid for
187 each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

188 (z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for
189 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

190 (aa) "Water Made Available" shall mean the estimated amount of Project Water
191 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,
192 pursuant to subdivision (a) of Article 4 of this Contract;

193 (bb) "Water Scheduled" shall mean Project Water made available to the Contractor
194 for which times and quantities for delivery have been established by the Contractor and Contracting
195 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

196 (cc) "Year" shall mean the period from and including March 1 of each Calendar
197 Year through the last day of February of the following Calendar Year.

198 TERM OF CONTRACT

199 2. (a) This Contract shall be effective March 1, 2001, through February 28, 2026. In
200 the event the Contractor wishes to renew the Contract beyond February 28, 2026, the Contractor shall
201 submit a request for renewal in writing to the Contracting Officer no later than two (2) years prior to
202 the date this Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of
203 Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article, and the
204 renewal of this Contract insofar as it pertains to the furnishing of M&I Water to the Contractor shall
205 be governed by subdivision (c) of this Article.

206 (b) (1) Under terms and conditions of a renewal contract that are mutually
207 agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the time of
208 contract renewal the conditions set forth in subdivision (b)(2) of this Article are met, and subject to

208 Federal and State law, this Contract, insofar as it pertains to the furnishing of Irrigation Water to the
209 Contractor, shall be renewed for a period of twenty-five (25) years.

210 (2) The conditions which must be met for this Contract to be renewed are:

211 (i) the Contractor has prepared a water conservation plan that has been determined by the Contracting
212 Officer in accordance with Article 26 of this Contract to meet the conservation and efficiency criteria
213 for evaluating such plans established under Federal law; (ii) the Contractor is implementing an
214 effective water conservation and efficiency program based on the Contractor's water conservation
215 plan as required by Article 26 of this Contract; (iii) the Contractor is operating and maintaining all
216 water measuring devices and implementing all water measurement methods as approved by the
217 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and
218 beneficially used the Project Water supplies made available to it and, based on projected demands, is
219 reasonably anticipated and expects fully to utilize for reasonable and beneficial use the quantity of
220 Project Water to be made available to it pursuant to such renewal; (v) the Contractor is complying
221 with all terms and conditions of this Contract and all legal obligations of the Contractor, if any, set
222 forth in an enforceable court order, final judgment and/or settlement relating to restoration of the San
223 Joaquin River; and (vi) the Contractor has the physical and legal ability to deliver Project Water.

224 (3) The terms and conditions of the renewal contract described in
225 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed consistent
226 with the parties' respective legal rights and obligations, and in consideration of all relevant facts and
227 circumstances, as those circumstances exist at the time of renewal, including, without limitation, the
228 Contractor's need for continued delivery of Project Water; environmental conditions affected by

230 implementation of the Contract to be renewed, and specifically changes in those conditions that
231 occurred during the life of the Contract to be renewed; the Secretary's progress toward achieving the
232 purposes of the CVPIA as set out in Section 3402 and in implementing the specific provisions of the
233 CVPIA; and current and anticipated economic circumstances of the region served by the Contractor.

234 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
235 Contractor, shall be renewed for a period of twenty-five (25) years and thereafter shall be renewed for
236 successive periods of up to forty (40) years each, which periods shall be consistent with the then-
237 existing Reclamation-wide policy, under terms and conditions mutually agreeable to the parties and
238 consistent with Federal and State law. The present Reclamation-wide policy, dated March 20, 2000,
239 provides that the term of such contracts shall be no more than twenty-five (25) years each, subject to
240 a variance to allow a longer term in appropriate circumstances. The Contractor shall be afforded the
241 opportunity to comment to the Contracting Officer on the proposed adoption and application of any
242 revised Reclamation-wide policy applicable to the delivery of Project M&I Water that would affect
243 the term of any subsequent renewal contract with the Contractor for the furnishing of M&I Water.

244 (d) The Contracting Officer anticipates that by December 31, 2024, all authorized
245 Project construction expected to occur will have occurred, and on that basis the Contracting Officer
246 agrees by that date to allocate all costs that are properly assignable to the Contractor, and agrees
247 further that, at any time after such allocation is made, and subject to satisfaction of the conditions set
248 out in this subdivision of this Article, this Contract shall, at the request of the Contractor, be
249 converted to a contract under subsection (c)(1) and (d) of Section 9, of the Reclamation Project Act of
250 1939, subject to applicable Federal law and under stated terms and conditions mutually agreeable to

251 the Contractor and the Contracting Officer. A condition for such conversion to occur shall be a
252 determination by the Contracting Officer that, account being taken of the amount credited to return by
253 the Contractor as provided for under Reclamation law, the remaining amount of construction costs
254 assignable for ultimate return by the Contractor can probably be repaid to the United States within the
255 term of a contract under said subsection 9(c)(1) and (d). If the remaining amount of costs that are
256 properly assignable to the Contractor cannot be determined by December 31, 2024, the Contracting
257 Officer shall notify the Contractor, and provide the reason(s) why such a determination could not be
258 made. Further, the Contracting Officer shall make such a determination as soon thereafter as possible
259 so as to permit, upon request of the Contractor and satisfaction of the conditions set out above,
260 conversion to a contract under said subsection 9(c)(1) and (d). In the event such determination of
261 costs has not been made at a time which allows conversion of this Contract during the term of this
262 Contract or the Contractor has not requested conversion of this Contract within such term, the parties
263 shall incorporate in any subsequent renewal contract as described in Articles 2 (b) and (c) a provision
264 that carries forth in substantially identical terms the provisions of this Article 2(d). In the event the
265 Contracting Officer is able to make a determination of the remaining amount of costs that are
266 properly assignable to the Contractor before December 31, 2024, the Contracting Officer shall do so
267 at the earliest time he/she has such ability.

268 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

269 3. (a) During each Year, consistent with all applicable State water rights, permits,
270 and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this
271 Contract, the Contracting Officer shall make available for delivery to the Contractor 27,500 acre-feet

272 of Class 1 Water for irrigation and M&I purposes. The quantity of Water Delivered to the Contractor
273 in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
274 Articles 4 and 7 of this Contract.

275 (b) Omitted.

276 (c) The Contractor shall utilize the Project Water in accordance with all applicable
277 legal requirements.

278 (d) The Contractor shall make reasonable and beneficial use of all Project Water or
279 other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater
280 banking programs, surface water storage programs, and other similar programs utilizing Project
281 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
282 Area which are consistent with applicable State law and result in use consistent with Reclamation law
283 will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's
284 Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided, further, That
285 such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor's Service
286 Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be
287 reasonable for such uses and in compliance with Reclamation law. Groundwater recharge programs,
288 groundwater banking programs, surface water storage programs, and other similar programs utilizing
289 Project Water or other water furnished pursuant to this Contract conducted outside the Contractor's
290 Service Area may be permitted upon written approval of the Contracting Officer, which approval will
291 be based upon environmental documentation, Project Water rights, and Project operational concerns.
292 The Contracting Officer will address such concerns in regulations, policies, or guidelines.

293 (e) The Contractor shall comply with requirements applicable to the Contractor in
294 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
295 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within
296 the Contractor's legal authority to implement. The Contractor shall comply with the limitations or
297 requirements imposed by environmental documentation applicable to the Contractor and within its
298 legal authority to implement regarding specific activities, including conversion of Irrigation Water to
299 M&I Water. Nothing herein shall be construed to prevent the Contractor from challenging or seeking
300 judicial relief in a court of competent jurisdiction with respect to any biological opinion or other
301 environmental documentation referred to in this Article.

302 (f) Subject to subdivisions (l) and (n) of Article 3 of this Contract, following the
303 declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will
304 make a determination whether Project Water, or other water available to the Project, can be made
305 available to the Contractor in addition to the Contract Total under Article 3 of this Contract during
306 the Year without adversely impacting other Project Contractors. At the request of the Contractor, the
307 Contracting Officer will consult with the Contractor prior to making such a determination. Subject to
308 subdivisions (l) and (n) of Article 3 of this Contract, if the Contracting Officer determines that Project
309 Water, or other water available to the Project, can be made available to the Contractor, the
310 Contracting Officer will announce the availability of such water and shall so notify the Contractor as
311 soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project
312 Contractors capable of taking such water to determine the most equitable and efficient allocation of
313 such water. If the Contractor requests the delivery of any quantity of such water, the Contracting

314 Officer shall make such water available to the Contractor in accordance with applicable statutes,
315 regulations, guidelines, and policies.

316 (g) The Contractor may request permission to reschedule for use during the
317 subsequent Year some or all of the Water Made Available to the Contractor during the current Year
318 referred to as "carryover." The Contractor may request permission to use during the current Year a
319 quantity of Project Water which may be made available by the United States to the Contractor during
320 the subsequent Year referred to as "preuse." The Contracting Officer's written approval may permit
321 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

322 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
323 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the
324 term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during
325 the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations
326 under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the
327 Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of
328 this Contract or applicable provisions of any subsequent renewal contracts.

329 (i) Project Water furnished to the Contractor pursuant to this Contract may be
330 delivered for purposes other than those described in subdivisions (m) and (o) of Article 1 of this
331 Contract upon written approval by the Contracting Officer in accordance with the terms and
332 conditions of such approval.

333 (j) The Contracting Officer shall make reasonable efforts to protect the water
334 rights and other rights described in the third (3rd) Explanatory Recital of this Contract and to provide

335 the water available under this Contract. The Contracting Officer shall not object to participation by
336 the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings
337 related to the water rights and other rights described in the third (3rd) Explanatory Recital of this
338 Contract; Provided, however, That the Contracting Officer retains the right to object to the substance
339 of the Contractor's position in such a proceeding.

340 (k) Project Water furnished to the Contractor during any month designated in a
341 schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer
342 shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1
343 Water is called for in such schedule for such month and shall be deemed to have been accepted as
344 Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any
345 month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and
346 Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month,
347 such additional diversions shall be charged first against the Contractor's remaining Class 2 Water
348 supply available in the current Year. To the extent the Contractor's remaining Class 2 Water supply
349 available in the current Year is not sufficient to account for such additional diversions, such
350 additional diversions shall be charged against the Contractor's remaining Class 1 Water supply
351 available in the current Year. To the extent the Contractor's remaining Class 1 Water and Class 2
352 Water supplies available in the current Year are not sufficient to account for such additional
353 diversions, such additional diversions shall be charged first against the Contractor's available Class 2
354 Water supply and then against the Contractor's available Class 1 Water supply, both for the following

355 Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of
356 this Contract.

357 (l) If the Contracting Officer determines there is a Project Water supply available
358 at Friant Dam as the result of an unusually large water supply not otherwise storable for Project
359 purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be
360 made available to the Contractor and others under Section 215 of the RRA pursuant to the priorities
361 specified below if the Contractor enters into a temporary contract with the United States not to exceed
362 one (1) year for the delivery of such water or, as otherwise provided for in Federal Reclamation law
363 and associated regulations. Such water may be identified by the Contractor either (i) as additional
364 water to supplement the supply of Class 1 Water and/or Class 2 Water made available to it pursuant
365 to this Contract or, (ii) upon written notification to the Contracting Officer, as water to be credited
366 against the Contractor's Class 2 Water supply available pursuant to this Contract. The Contractor
367 shall deliver such water to Eligible Lands, or to Excess Lands in accordance with this Article. The
368 Contracting Officer shall make water determined to be available pursuant to this subsection according
369 to the following priorities: first, to long-term contractors for Class 1 Water and/or Class 2 Water
370 within the Friant Division; second, to long-term contractors in the Cross Valley Division of the
371 Project. The Contracting Officer will consider and seek to accommodate requests from other parties
372 for Section 215 Water for use within the area identified as the Friant Division service area in the
373 environmental assessment developed in connection with the execution of this Contract.

374 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
375 Contracting Officer in connection with the implementation of this Contract, is intended to override,

376 modify, supersede or otherwise interfere with any term or condition of the water rights and other
377 rights referred in the third (3rd) Explanatory Recital of this Contract.

378 (n) The rights of the Contractor under this Contract are subject to the terms of the
379 contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and
380 Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the
381 Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not
382 deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until
383 required by the terms of said contract, and the United States further agrees that it will not voluntarily
384 and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from
385 water that is available or that may become available to it from the Sacramento River and its
386 tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of
387 the United States under said Exchange Contract and under Schedule 2 of the Contract for Purchase of
388 Miller and Lux Water Rights (Contract I1r-1145, dated July 27, 1939).

389 TIME FOR DELIVERY OF WATER

390 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
391 announce the Contracting Officer's expected declaration of the Water Made Available. The
392 declaration will be updated monthly, and more frequently if necessary, based on then-current
393 operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made
394 Available will be made. The Contracting Officer shall provide forecasts of Project operations and the
395 basis of the estimate, with relevant supporting information, upon the written request of the
396 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer

397 shall provide the Contractor with the updated Long Term Historic Average. The declaration of
398 Project operations will be expressed in terms of both Water Made Available and the Long Term
399 Historic Average.

400 (b) On or before each March 1 and at such other times as necessary, the Contractor
401 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,
402 showing the monthly quantities of Project Water to be delivered by the United States to the
403 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting
404 Officer shall use all reasonable means to deliver Project Water according to the approved schedule for
405 the Year commencing on such March 1.

406 (c) The Contractor shall not schedule Project Water in excess of the quantity of
407 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's
408 Service Area, or to sell, transfer or exchange pursuant to Article 9 of this Contract during any Year.

409 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
410 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
411 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
412 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to
413 the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total
414 amount of water requested in that schedule or revision does not exceed the quantities announced by
415 the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3, and the Contracting
416 Officer determines that there will be sufficient capacity available in the appropriate Friant Division
417 facilities to deliver the water in accordance with that schedule: Provided, further, That the Contractor

418 shall not schedule the delivery of any water during any period as to which the Contractor is notified
419 by the Contracting Officer or Operating Non-Federal Entity that Project facilities required to make
420 deliveries to the Contractor will not be in operation because of scheduled O&M.

421 (e) The Contractor may, during the period from and including November 1 of each
422 Year through and including the last day of February of that Year, request delivery of any amount of
423 the Class 1 Water estimated by the Contracting Officer to be made available to it during the following
424 Year. The Contractor may, during the period from and including January 1 of each Year (or such
425 earlier date as may be determined by the Contracting Officer) through and including the last day of
426 February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting
427 Officer to be made available to it during the following Year. Such water shall hereinafter be referred
428 to as preuse water. Such request must be submitted in writing by the Contractor for a specified
429 quantity of preuse and shall be subject to the approval of the Contracting Officer. Payment for preuse
430 water so requested shall be at the appropriate rate(s) for the following Year in accordance with
431 Article 7 of this Contract and shall be made in advance of delivery of any preuse water. The
432 Contracting Officer shall deliver such preuse water in accordance with a schedule or any revision
433 thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water
434 is available and to the extent such deliveries will not interfere with the delivery of Project Water
435 entitlements to other Friant Division contractors or the physical maintenance of the Project facilities.
436 The quantities of preuse water delivered pursuant to this subdivision shall be deducted from the
437 quantities of water that the Contracting Officer would otherwise be obligated to make available to the
438 Contractor during the following Year; Provided, That the quantity of preuse water to be deducted

439 from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in
440 the following Year shall be specified by the Contractor at the time the preuse water is requested or as
441 revised in its first schedule for the following Year submitted in accordance with subdivision (b) of
442 this Article, based on the availability of the following Year water supplies as determined by the
443 Contracting Officer.

444 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

445 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
446 Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities
447 or another location or locations mutually agreed to in writing by the Contracting Officer and the
448 Contractor.

449 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
450 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in
451 the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts established
452 pursuant to subdivision (a) of this Article.

453 (c) The Contractor shall deliver Irrigation Water in accordance with any applicable
454 land classification provisions of Federal Reclamation law and the associated regulations. The
455 Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless
456 approved in advance by the Contracting Officer.

457 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
458 measured and recorded with equipment furnished, installed, operated, and maintained by the United
459 States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting

460 Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to
461 subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting
462 Officer shall investigate, or cause to be investigated by the responsible Operating Non-Federal Entity,
463 the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing
464 therein. For any period of time when accurate measurements have not been made, the Contracting
465 Officer shall consult with the Contractor and the responsible Operating Non-Federal Entity prior to
466 making a final determination of the quantity delivered for that period of time.

467 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be
468 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
469 Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in
470 subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers,
471 employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever
472 for which there is legal responsibility, including property damage, personal injury, or death arising
473 out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project
474 Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or
475 omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including
476 any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in
477 any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers,
478 employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii)
479 negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including
480 any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction

481 of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity;
482 Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the
483 malfunctioning facility(ies) from which the damage claim arose.

484 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

485 6. (a) The Contractor established a measurement program satisfactory to the
486 Contracting Officer, all surface water delivered for irrigation purposes within the Contractor's
487 Service Area is measured at each agricultural turnout and such water delivered for municipal and
488 industrial purposes is measured at each municipal and industrial service connection. The water
489 measuring devices or water measuring methods of comparable effectiveness must be acceptable to the
490 Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining
491 and repairing all such measuring devices and implementing all such water measuring methods at no
492 cost to the United States. The Contractor shall use the information obtained from such water
493 measuring devices or water measuring methods to ensure its proper management of the water, to bill
494 water users for water delivered by the Contractor; and, if applicable, to record water delivered for
495 municipal and industrial purposes by customer class as defined in the Contractor's water conservation
496 plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude
497 the Contractor from establishing and collecting any charges, assessments, or other revenues
498 authorized by California law. The Contractor shall include a summary of all its annual surface water
499 deliveries in the annual report described in subdivision (c) of Article 26 of this Contract.

500 (b) To the extent the information has not otherwise been provided, upon execution
501 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the

502 measurement devices or water measuring methods being used or to be used to implement subdivision
503 (a) of this Article and identifying the agricultural turnouts and the municipal and industrial service
504 connections or alternative measurement programs approved by the Contracting Officer, at which such
505 measurement devices or water measuring methods are being used, and, if applicable, identifying the
506 locations at which such devices and/or methods are not yet being used including a time schedule for
507 implementation at such locations. The Contracting Officer shall advise the Contractor in writing
508 within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring
509 devices or water measuring methods identified in the Contractor's report and if the Contracting
510 Officer does not respond in such time, they shall be deemed adequate. If the Contracting Officer
511 notifies the Contractor that the measuring devices or methods are inadequate, the parties shall within
512 sixty (60) days following the Contracting Officer's response, negotiate in good faith the earliest
513 practicable date by which the Contractor shall modify said measuring devices and/or measuring
514 methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this
515 Article.

516 (c) All new surface water delivery systems installed within the Contractor's
517 Service Area after the effective date of this Contract shall also comply with the measurement
518 provisions described in subdivision (a) of this Article.

519 (d) The Contractor shall inform the Contracting Officer and the State of California
520 in writing by April 30 of each Year of the monthly volume of surface water delivered within the
521 Contractor's Service Area during the previous Year.

522

523 (e) The Contractor shall inform the Contracting Officer and the Operating
524 Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of
525 Irrigation and M&I Water taken during the preceding month.

526 RATES AND METHOD OF PAYMENT FOR WATER

527 7. (a) The Contractor shall pay the United States as provided in this Article for all
528 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance
529 with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's
530 then-existing ratesetting policy for M&I Water. Such ratesetting policies shall be amended, modified,
531 or superseded only through a public notice and comment procedure; (ii) applicable Reclamation law
532 and associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract.
533 Payments shall be made by cash transaction, wire, or any other mechanism as may be agreed to in
534 writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing
535 Components applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B",
536 as may be revised annually.

537 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and
538 Tiered Pricing Components as follows:

539 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
540 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period
541 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
542 the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review
543 and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting

544 Officer shall notify the Contractor in writing of the Charges to be in effect during the period
545 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and
546 such notification shall revise Exhibit "B."

547 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
548 make available to the Contractor an estimate of the Rates and Tiered Pricing Components for Project
549 Water for the following Year and the computations and cost allocations upon which those Rates are
550 based. The Contractor shall be allowed not less than two (2) months to review and comment on such
551 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
552 shall provide the Contractor with the final Rates and Tiered Pricing Components to be in effect for
553 the upcoming Year, and such notification shall revise Exhibit "B."

554 (c) At the time the Contractor submits the initial schedule for the delivery of
555 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
556 shall make an advance payment to the United States equal to the total amount payable pursuant to the
557 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
558 delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the
559 end of the first month and before the end of each calendar month thereafter, the Contractor shall make
560 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for
561 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately
562 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
563 for Water Delivered shall be made before the end of the following month; Provided, That any revised
564 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the

565 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
566 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
567 to the Contractor in advance of such payment. In any month in which the quantity of Water
568 Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid
569 for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and until
570 an advance payment at the Rates then in effect for such additional Project Water is made. Final
571 adjustment between the advance payments for the Water Scheduled and payments for the quantities
572 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
573 but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project
574 Water carried over under subdivision (f) of Article 3 of this Contract if such water is not delivered by
575 the last day of February.

576 (d) The Contractor shall also make a payment in addition to the Rate(s) in
577 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
578 appropriate Tiered Pricing Component then in effect, before the end of the month following the
579 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
580 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent
581 with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery
582 report for the subject month prepared by the Operating Non-Federal Entity or, if there is no Operating
583 Non-Federal Entity, by the Contracting Officer. Such water delivery report shall be the basis for
584 payment of Charges and Tiered Pricing Components by the Contractor, and shall be provided to the
585 Contractor by the Operating Non-Federal Entity or the Contracting Officer (as applicable) within

586 five (5) days after the end of the month of delivery. The water delivery report shall be deemed a bill
587 for the payment of Charges and the applicable Tiered Pricing Component for Water Delivered.
588 Adjustment for overpayment or underpayment of Charges shall be made through the adjustment of
589 payments due to the United States for Charges for the next month. Any amount to be paid for past
590 due payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20
591 of this Contract.

592 (e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or
593 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
594 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
595 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall
596 be no more than the otherwise applicable Rate for Irrigation Water or M&I Water under subdivision
597 (a) of this Article.

598 (f) Payments to be made by the Contractor to the United States under this
599 Contract may be paid from any revenues available to the Contractor.

600 (g) All revenues received by the United States from the Contractor relating to the
601 delivery of Project Water or the delivery of non-project water through Project facilities shall be
602 allocated and applied in accordance with Federal Reclamation law and the associated rules or
603 regulations, and the then current Project ratesetting policies for M&I Water or Irrigation Water.

604 (h) The Contracting Officer shall keep its accounts pertaining to the administration
605 of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal
606 standards, so as to reflect the application of Project costs and revenues. The Contracting Officer

607 shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all
608 Project and Contractor expense allocations, the disposition of all Project and Contractor revenues, and
609 a summary of all water delivery information. The Contracting Officer and the Contractor shall enter
610 into good faith negotiations to resolve any discrepancies or disputes relating to accountings, reports,
611 or information.

612 (i) The parties acknowledge and agree that the efficient administration of this
613 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
614 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components, and/or
615 for making and allocating payments, other than those set forth in this Article may be in the mutual
616 best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify
617 the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
618 without amending this Contract.

619 (j) (1) Beginning at such time as the total of the deliveries of Class 1 Water
620 and Class 2 Water in a Year exceed eighty (80%) percent of the Contract Total, then before the end of
621 the month following the month of delivery the Contractor shall make an additional payment to the
622 United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for
623 the total of the deliveries of Class 1 Water and Class 2 Water in excess of eighty (80%) percent of the
624 Contract Total, but less than or equal to ninety (90%) percent of the Contract Total, shall equal the
625 one-half of the difference between the Rate established under subdivision (a) of Article 7 of this
626 Contract and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is
627 applicable. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2

628 Water which exceeds ninety (90%) percent of the Contract Total shall equal the difference between
629 (i) the Rate established under subdivision (a) of Article 7 of this Contract and (ii) the Irrigation Full
630 Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable.

631 (2) Subject to the Contracting Officer's written approval, the Contractor
632 may request and receive an exemption from such Tiered Pricing Components for Project Water
633 delivered to produce a crop which the Contracting Officer determines will provide significant and
634 quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced;
635 Provided, That the exemption from the Tiered Pricing Components for Irrigation Water shall apply
636 only if such habitat values can be assured consistent with the purposes of CVPIA through binding
637 agreements executed with or approved by the Contracting Officer prior to use of such water.

638 (3) For purposes of determining the applicability of the Tiered Pricing
639 Components pursuant to this Article, Water Delivered shall include Project Water that the Contractor
640 transfers to others but shall not include Project Water transferred and delivered to the Contractor.

641 (k) For the term of this Contract, Rates under the respective ratesetting policies
642 will be established to recover only reimbursable "operation and maintenance" (including any deficits)
643 and capital costs of the Project, as those terms are used in the-then-current Project ratesetting policies,
644 and interest, where appropriate, except in instances where a minimum Rate is applicable in
645 accordance with the relevant Project ratesetting policy. Changes of significance in practices which
646 implement the Contracting Officer's ratesetting policies will not be implemented until the
647 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
648 impact of the proposed change.

649 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
650 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
651 upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water
652 to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy. If
653 the Contractor is receiving lower Rates and Charges because of inability to pay and is transferring
654 Project Water to another entity whose Rates and Charges are not adjusted due to inability to pay, the
655 Rates and Charges for transferred Project Water shall be the Contractor's Rates and Charges
656 unadjusted for ability to pay.

657 (m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting
658 Officer is authorized to adjust determinations of ability to pay every five (5) years.

659 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

660 8. The Contractor and the Contracting Officer concur that, as of the effective date of this
661 Contract, the Contractor has no non-interest bearing operation and maintenance deficits and shall
662 have no further liability therefor.

663 SALES, TRANSFERS, OR EXCHANGES OF WATER

664 9. (a) The right to receive Project Water provided for in this Contract may be sold,
665 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
666 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
667 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
668 Contract may take place without the prior written approval of the Contracting Officer, except as
669 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be

670 approved absent compliance with appropriate environmental documentation including but not limited
671 to the National Environmental Policy Act and the Endangered Species Act. Such environmental
672 documentation should include, as appropriate, an analysis of groundwater impacts and economic and
673 social effects, including environmental justice, of the proposed water transfers on both the transferor
674 and transferee.

675 (b) In order to facilitate efficient water management by means of water transfers of
676 the type historically carried out among Project Contractors located within the same geographical area
677 and to allow the Contractor to participate in an accelerated water transfer program during the term of
678 this Contract, the Contracting Officer shall prepare, as appropriate, necessary environmental
679 documentation including, but not limited to, the National Environmental Policy Act and the
680 Endangered Species Act analyzing annual transfers within such geographical areas and the
681 Contracting Officer shall determine whether such transfers comply with applicable law. Following
682 the completion of the environmental documentation, such transfers addressed in such documentation
683 shall be conducted with advance notice to the Contracting Officer, but shall not require prior written
684 approval by the Contracting Officer. Such environmental documentation and the Contracting
685 Officer's compliance determination shall be reviewed every five (5) years and updated, as necessary,
686 prior to the expiration of the then existing five (5) -year period. All subsequent environmental
687 documentation shall include an alternative to evaluate not less than the quantity of Project Water
688 historically transferred within the same geographical area.

689 (c) For a water transfer to qualify under subdivision (b) of this Article, such water
690 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for

691 M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface water
692 storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established
693 cropland, wildlife refuges, groundwater basins or municipal and industrial use; (ii) occur within a
694 single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through
695 existing facilities with no new construction or modifications to facilities and be between existing
696 Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v)
697 comply with all applicable Federal, State, and local or tribal laws and requirements imposed for
698 protection of the environment and Indian Trust Assets, as defined under Federal law.

699 APPLICATION OF PAYMENTS AND ADJUSTMENTS

700 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
701 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
702 the Contractor arising out of this Contract then due and payable. Overpayments of more than One
703 Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any
704 amount of such overpayment at the option of the Contractor, may be credited against amounts to
705 become due to the United States by the Contractor. With respect to overpayment, such refund or
706 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have
707 the right to the use of any of the Project Water supply provided for herein. All credits and refunds of
708 overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as
709 to how to credit or refund such overpayment in response to the notice to the Contractor that it has
710 finalized the accounts for the Year in which the overpayment was made.

711 (b) All advances for miscellaneous costs incurred for work requested by the
712 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the
713 work has been completed. If the advances exceed the actual costs incurred, the difference will be
714 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
715 be billed for the additional costs pursuant to Article 25 of this Contract.

716 TEMPORARY REDUCTIONS--RETURN FLOWS

717 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
718 requirements of Federal law and (ii) the obligations of the United States under existing contracts, or
719 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make
720 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this
721 Contract.

722 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
723 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the
724 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
725 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far
726 as feasible the Contracting Officer or Operating Non-Federal Entity will give the Contractor due
727 notice in advance of such temporary discontinuance or reduction, except in case of emergency, in
728 which case no notice need be given; Provided, That the United States shall use its best efforts to
729 avoid any discontinuance or reduction in such service. Upon resumption of service after such
730 reduction or discontinuance, and if requested by the Contractor, the United States will, if possible,

731 deliver the quantity of Project Water which would have been delivered hereunder in the absence of
732 such discontinuance or reduction.

733 (c) The United States reserves the right to all seepage and return flow water
734 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
735 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United
736 States any right as seepage or return flow to water being used pursuant to this Contract for surface
737 irrigation or underground storage either being put to reasonable and beneficial use pursuant to this
738 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or
739 under the Contractor. For purposes of this subdivision, groundwater recharge, groundwater banking
740 and all similar groundwater activities will be deemed to be underground storage.

741 CONSTRAINTS ON THE AVAILABILITY OF WATER

742 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable
743 means to guard against a Condition of Shortage in the quantity of water to be made available to the
744 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition
745 of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination
746 as soon as practicable.

747 (b) If there is a Condition of Shortage because of errors in physical operations of
748 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
749 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a)
750 of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers,
751 agents, or employees for any damage, direct or indirect, arising therefrom.

752 (c) The United States shall not execute contracts which together with this
753 Contract, shall in the aggregate provide for furnishing during the life of this Contract or any renewals
754 hereof Class 1 Water in excess of 800,000 acre-feet per Year or Class 2 Water in excess of
755 1,401,475 acre-feet per Year; Provided, That, subject to subdivision (l) of Article 3 of this Contract,
756 the limitation placed on Class 2 Water contracts shall not prohibit the United States from entering
757 into temporary contracts of one year or less in duration for delivery of Project Water to other entities
758 if such water is not necessary to meet the schedules as may be submitted by all Friant Division long-
759 term water service contractors entitled to receive Class 1 Water and/or Class 2 Water under their
760 water service contracts. Nothing in this subdivision shall limit the Contracting Officer's ability to
761 take actions that result in the availability of new water supplies to be used for Project purposes and
762 allocating such new supplies; Provided, That the Contracting Officer shall not take such actions until
763 after consultation with the Friant Division Project Contractors.

764 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or
765 any other contract for water service heretofore or hereafter entered into any Year unless and until the
766 Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in
767 subdivision (c) of this Article will be available for delivery in said Year. If the Contracting Officer
768 determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for
769 delivery, the Contracting Officer shall apportion the available Class 1 Water among all contractors
770 entitled to receive such water that will be made available at Friant Dam in accordance with the
771 following:

772 (1) A determination shall be made of the total quantity of Class 1 Water at
773 Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so
774 determined being herein referred to as the available supply.

775 (2) The total available Class 1 supply shall be divided by the Class 1 Water
776 contractual commitments, the quotient thus obtained being herein referred to as the Class 1
777 apportionment coefficient.

778 (3) The total quantity of Class 1 Water under Article 3 of this Contract
779 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of
780 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective
781 Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in
782 subdivision (a) of Article 3 of this Contract.

783 (e) If the Contracting Officer determines there is less than the quantity of Class 2
784 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this
785 Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting
786 Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of
787 this Article substituting the term "Class 2" for the term "Class 1."

788 (f) In the event that in any Year there is made available to the Contractor, by
789 reason of any shortage or apportionment as provided in subdivisions (a), (d) or (e) of this Article, or
790 any discontinuance or reduction of service as set forth in subdivision (a) of Article 11 of this
791 Contract, less than the quantity of water which the Contractor otherwise would be entitled to receive
792 hereunder, there shall be made an adjustment on account of the amounts already paid to the

792 Contracting Officer by the Contractor for Class 1 Water and Class 2 Water for said Year in
793 accordance with Article 10 of this Contract.

794 UNAVOIDABLE GROUNDWATER PERCOLATION

795 13. To the extent applicable, the Contractor shall not be deemed to have delivered
796 Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands
797 are irrigated with groundwater that reaches the underground strata as an unavoidable result of the
798 delivery of Irrigation Water by the Contractor to Eligible Lands.

799 RULES AND REGULATIONS

800 14. (a) The parties agree that the delivery of Irrigation Water or use of Federal
801 facilities pursuant to this Contract is subject to Federal Reclamation law, including but not limited to,
802 the Reclamation Reform Act of 1982 (43 U.S.C.390aa et seq.), as amended and supplemented, and
803 the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

804 (b) The terms of this Contract are subject to any enforceable order, judgment
805 and/or settlement in NRDC v. Patterson, No. CIVS 88-1658-LKK-EM and shall be timely modified
806 as necessary to effectuate or facilitate any final order, judgment or settlement in said litigation.

807 (c) The parties acknowledge that, as of the effective date of this Contract, active
808 settlement discussions are underway in NRDC v. Patterson between Friant Division water service
809 contractors, representatives of the Contracting Officer, and the plaintiffs in NRDC v. Patterson.

810 The mutual goals of the parties to those discussions are (i) to expeditiously evaluate and implement,
811 on a mutually acceptable basis, instream and related measures that will restore natural ecological
812 functions and hydrologic and geomorphologic processes of the San Joaquin River below Friant Dam
813 to a level that restores and maintains fish populations in good condition, including but not limited to

815 naturally-reproducing , self-sustaining populations of chinook salmon and (ii) to accomplish these
816 restoration goals while not adversely impacting the overall sufficiency, reliability and cost of water
817 supplies to Friant Division water users. The Contractor has been actively participating, and intends to
818 continue to participate in such settlement discussions. Except as provided in this Contract, this
819 Contract does not add to the obligation of the parties, if any, relating to the San Joaquin River. This
820 Contract does not limit or detract from the obligations of the parties, if any, relating to the San
821 Joaquin River.

822 WATER AND AIR POLLUTION CONTROL

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

826 QUALITY OF WATER

827 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to
828 this Contract shall be operated and maintained to enable the United States to deliver Project Water to
829 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act
830 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat.
831 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish
832 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor
833 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the
834 Contractor pursuant to this Contract.

835 (b) The Operation and Maintenance of Project facilities shall be performed in such
836 manner as is practicable to maintain the quality of raw water made available through such facilities at

837 the highest level reasonably attainable as determined by the Contracting Officer. The Contractor
838 shall be responsible for compliance with all State and Federal water quality standards applicable to
839 surface and subsurface agricultural drainage discharges generated through the use of Federal or
840 Contractor facilities or Project Water provided by the Contractor within the Contractor's Service
841 Area.

WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

844 17. (a) Water or water rights now owned or hereafter acquired by the Contractor other
845 than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may
846 be simultaneously transported through the same distribution facilities of the Contractor subject to the
847 following: (i) if the facilities utilized for commingling Irrigation Water and non-project water were
848 constructed without funds made available pursuant to Federal Reclamation law, the provisions of
849 Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation
850 Water; (ii) the eligibility of land to receive Irrigation Water must be established through the
851 certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part
852 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area can be
853 established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity
854 necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation
855 Water and non-project water are/were constructed with funds made available pursuant to Federal
856 Reclamation law, the non-project water will be subject to the acreage limitation provisions of Federal
857 Reclamation law, unless the Contractor pays to the United States the incremental fee described in

857 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will calculate annually
858 the cost to the Federal Government, including interest of storing or delivering non-project water,
859 which for purposes of this Contract shall be determined as follows: The quotient shall be the unpaid
860 distribution system costs divided by the total irrigable acreage within the Contractor's Service Area.
861 The incremental fee per acre is the mathematical result of such quotient times the interest rate
862 determined using Section 202 (3) of the Act of October 12, 1982 (96 Stat. 1263). Such incremental
863 fee will be charged to each acre of excess or full cost land within the Contractor's Service Area that
864 receives non-project water through Federally financed or constructed facilities. The incremental fee
865 calculation methodology will continue during the term of this Contract absent the promulgation of a
866 contrary Reclamation-wide rule, regulation or policy adopted after the Contractor has been afforded
867 the opportunity to review and comment on the proposed rule, regulation or policy. If such rule,
868 regulation or policy is adopted it shall supersede this provision.

869 (b) Water or water rights now owned or hereafter acquired by the Contractor, other
870 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may
871 be stored, conveyed and/or diverted through Project facilities, subject to the completion of
872 appropriate environmental documentation, with the approval of the Contracting Officer and the
873 execution of any contract determined by the Contracting Officer to be necessary, consistent with the
874 following provisions:

875 (1) The Contractor may introduce non-project water into Project facilities
876 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,
877 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an

878 appropriate rate as determined by the CVP Ratesetting Policy and the RRA, each as amended,
879 modified or superseded from time to time. In addition, if electrical power is required to pump non-
880 project water through the facilities, the Contractor shall be responsible for obtaining the necessary
881 power and paying the necessary charges therefor.

882 (2) Delivery of such non-project water in and through Project facilities
883 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as
884 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other
885 Project water service contractors; (iii) interfere with the delivery of contractual water entitlements to
886 any other Project water service contractors; or (iv) interfere with the physical maintenance of the
887 Project facilities.

888 (3) Neither the United States nor the Operating Non-Federal Entity shall be
889 responsible for control, care or distribution of the non-project water before it is introduced into or
890 after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend
891 and indemnify the United States and the Operating Non-Federal Entity, and their respective officers,
892 agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting
893 from Contractor's diversion or extraction of non-project water from any source.

894 (4) Diversion of such non-project water into Project facilities shall be
895 consistent with all applicable laws, and if involving groundwater, consistent with any groundwater
896 management plan for the area from which it was extracted.

897 (5) After Project purposes are met, as determined by the Contracting
898 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of

900 the facilities declared to be available by the Contracting Officer for conveyance and transportation of
901 non-project water prior to any such remaining capacity being made available to non-Project
902 contractors.

903 OPINIONS AND DETERMINATIONS

904 18. (a) Where the terms of this Contract provide for actions to be based upon the
905 opinion or determination of either party to this Contract, said terms shall not be construed as
906 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
907 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve
908 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
909 unreasonable opinion or determination. Each opinion or determination by either party shall be
910 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to
911 or shall affect or alter the standard of judicial review applicable under federal law to any opinion or
912 determination implementing a specific provision of federal law embodied in statute or regulation.

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

918 COORDINATION AND COOPERATION

919 19. (a) In order to further their mutual goals and objectives, the Contracting Officer
920 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other

920 affected Project Contractors, in order to improve the operation and management of the Project. The
921 communication, coordination, and cooperation regarding operations and management shall include,
922 but not be limited to, any action which will or may materially affect the quantity or quality of Project
923 Water supply, the allocation of Project Water supply, and Project financial matters including, but not
924 limited to, budget issues. The communication, coordination, and cooperation provided for hereunder
925 shall extend to all provisions of this Contract. Each party shall retain exclusive decision making
926 authority for all actions, opinion, and determinations to be made by the respective party.

927 (b) Within one-hundred twenty (120) days following the effective date of this
928 Contract, the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange
929 to meet with interested Project Contractors to develop a mutually agreeable, written Project-wide
930 process, which may be amended as necessary separate and apart from this Contract. The goal of this
931 process shall be to provide, to the extent practicable, the means of mutual communication and
932 interaction regarding significant decisions concerning Project operation and management on a
933 real-time basis.

934 (c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract,
935 it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

936 (1) The Contracting Officer will, at the request of the Contractor, assist in
937 the development of integrated resource management plans for the Contractor. Further, the
938 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
939 improve water supply, water quality, and reliability.

940

942 (2) The Secretary will, as appropriate, pursue program and project
943 implementation and authorization in coordination with Project Contractors to improve the water
944 supply, water quality, and reliability of the Project for all Project purposes.

945 (3) The Secretary will coordinate with Project Contractors and the State of
946 California to seek improved water resource management.

947 (4) The Secretary will coordinate actions of agencies within the
948 Department of the Interior that may impact the availability of water for Project purposes.

949 (5) The Contracting Officer shall periodically, but not less than annually,
950 hold division level meetings to discuss Project operations, division level water management
951 activities, and other issues as appropriate.

952 (d) Without limiting the contractual obligations of the Contracting Officer
953 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's
954 ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders
955 or to make decisions in a timely fashion as needed to protect health, safety, physical integrity of
956 structures or facilities, or the Contracting Officer's ability to comply with applicable laws.

957 CHARGES FOR DELINQUENT PAYMENTS

958 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
959 on delinquent installments or payments. When a payment is not received by the due date, the
960 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
961 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
962 charge to cover additional costs of billing and processing the delinquent payment. When a payment
963 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
964 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
965 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
966 payment.

967 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
968 the Federal Register by the Department of the Treasury for application to overdue payments, or the
969 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation
970 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
971 date and remain fixed for the duration of the delinquent period.

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

975 EQUAL OPPORTUNITY

976 21. During the performance of this Contract, the Contractor agrees as follows:

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

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

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

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

998 (e) The Contractor will furnish all information and reports required by said
999 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or

1000 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer
1001 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,
1002 regulations, and orders.

1003 (f) In the event of the Contractor's noncompliance with the nondiscrimination
1004 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
1005 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible
1006 for further Government contracts in accordance with procedures authorized in said amended
1007 Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said
1008 Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided
1009 by law.

1010 (g) The Contractor will include the provisions of paragraphs (a) through (g) in
1011 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1012 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such
1013 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
1014 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
1015 means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That
1016 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor
1017 or vendor as a result of such direction, the Contractor may request the United States to enter into such
1018 litigation to protect the interests of the United States.

1019 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

1020 22. (a) The obligation of the Contractor to pay the United States as provided in this
1021 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation
1022 may be distributed among the Contractor's water users and notwithstanding the default of individual
1023 water users in their obligations to the Contractor.

1024 (b) The payment of charges becoming due hereunder is a condition precedent to
1025 receiving benefits under this Contract. The United States shall not make water available to the
1026 Contractor through Project facilities during any period in which the Contractor may be in arrears in
1027 the advance payment of water rates due the United States. The Contractor shall not furnish water
1028 made available pursuant to this Contract for lands or parties which are in arrears in the advance
1029 payment of water rates levied or established by the Contractor.

1030 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
1031 obligation to require advance payment for water rates which it levies.

1066 (d) The Contracting Officer shall designate a full-time employee of the Bureau of
1067 Reclamation to be the System Manager who shall be responsible for making decisions on denials
1068 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is
1069 authorized to grant requests by individuals for access to their own records.

1070 (e) The Contractor shall forward promptly to the System Manager each proposed
1071 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR
1072 2.71; notify the requester accordingly of such referral; and provide the System Manager with
1073 information and records necessary to prepare an appropriate response to the requester. These
1074 requirements do not apply to individuals seeking access to their own certification and reporting forms
1075 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy
1076 Act as a basis for the request.

1077 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1078 25. In addition to all other payments to be made by the Contractor pursuant to this
1079 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill
1080 and detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1081 of direct cost incurred by the United States for work requested by the Contractor associated with this
1082 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
1083 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
1084 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
1085 administration.

1086 WATER CONSERVATION

1087 26. (a) Prior to the delivery of water provided from or conveyed through Federally
1088 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
1089 implementing an effective water conservation and efficiency program based on the Contractor's water
1090 conservation plan that has been determined by the Contracting Officer to meet the conservation and

1091 efficiency criteria for evaluating water conservation plans established under Federal law. The water
1092 conservation and efficiency program shall contain definite water conservation objectives, appropriate
1093 economically feasible water conservation measures, and time schedules for meeting those objectives.
1094 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
1095 continued implementation of such water conservation program. In the event the Contractor's water
1096 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
1097 Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such
1098 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
1099 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
1100 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
1101 thereafter the Contractor immediately begins implementing its water conservation and efficiency
1102 program in accordance with the time schedules therein.

1103 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1104 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the Contractor
1105 shall implement the Best Management Practices identified by the time frames issued by the California
1106 Urban Water Conservation Council for such M&I Water unless any such practice is determined by
1107 the Contracting Officer to be inappropriate for the Contractor.

1108 (c) The Contractor shall submit to the Contracting Officer a report on the status of
1109 its implementation of the water conservation plan on the reporting dates specified in the then existing
1110 conservation and efficiency criteria established under Federal law.

1111 (d) At five (5) -year intervals, the Contractor shall revise its water conservation
1112 plan to reflect the then current conservation and efficiency criteria for evaluating water conservation
1113 plans established under Federal law and submit such revised water management plan to the
1114 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the
1115 water conservation plan meets Reclamation's then current conservation and efficiency criteria for
1116 evaluating water conservation plans established under Federal law.

1117 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
1118 be described in the Contractor's water conservation plan.

1119 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1120 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1121 Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter
1122 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such
1123 water shall not be considered Project Water under this Contract. In addition, this Contract shall not
1124 be construed as limiting or curtailing any rights which the Contractor or any water user within the
1125 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
1126 Reclamation law.

1127 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

1128 28. (a) The Operation and Maintenance of a portion of the Project facilities which
1129 serve the Contractor, and responsibility for funding a portion of the costs of such Operation and
1130 Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement

1131 between the United States and the Operating Non-Federal Entity. That separate agreement shall not
1132 interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

1133 (b) The Contracting Officer has previously notified the Contractor in writing that
1134 the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has
1135 been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1136 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under
1137 the terms and conditions of the separate agreement between the United States and the Operating Non-
1138 Federal Entity described in subdivision (a) of this Article, all rates, charges or assessments of any
1139 kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such
1140 successor determines, sets or establishes for (i) the Operation and Maintenance of the portion of the
1141 Project facilities operated and maintained by the Operating Non-Federal Entity or such successor, or
1142 (ii) the Friant Division's share of the operation, maintenance and replacement costs for physical
1143 works and appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the
1144 O'Neill Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and
1145 the federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such
1146 direct payments to the Operating Non-Federal Entity or such successor shall not relieve the
1147 Contractor of its obligation to pay directly to the United States the Contractor's share of the Project
1148 Rates, Charges, and Tiered Pricing Components except to the extent the Operating Non-Federal
1149 Entity collects payments on behalf of the United States in accordance with the separate agreement
1150 identified in subdivision (a) of this Article.

1151 (c) For so long as the Operation and Maintenance of any portion of the Project
1152 facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor
1153 thereto, the Contracting Officer shall adjust those components of the Rates for Water Delivered under
1154 this Contract representing the cost associated with the activity being performed by the Operating
1155 Non-Federal Entity or its successor.

1156 (d) In the event the Operation and Maintenance of the Project facilities operated
1157 and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the
1158 term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to
1159 the Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1160 Contractor for Project Water under this Contract representing the Operation and Maintenance costs of
1161 the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in
1162 the absence of written notification from the Contracting Officer to the contrary, pay the Rates,
1163 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the United
1164 States in compliance with Article 7 of this Contract.

1165 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1166 29. The expenditure or advance of any money or the performance of any obligation of the
1167 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1168 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1169 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1170 or allotted.

1171 BOOKS, RECORDS, AND REPORTS

1172 30. (a) The Contractor shall establish and maintain accounts and other books and
1173 records pertaining to administration of the terms and conditions of this Contract, including: the
1174 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;

1175 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1176 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1177 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1178 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1179 during office hours to examine and make copies of the other party's books and records relating to
1180 matters covered by this Contract.

1181 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1182 records, or other information shall be requested from the Contractor by the Contracting Officer unless
1183 such books, records, or information are reasonably related to the administration or performance of
1184 this Contract. Any such request shall allow the Contractor a reasonable period of time within which
1185 to provide the requested books, records, or information.

1186 (c) At such time as the Contractor provides information to the Contracting Officer
1187 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
1188 Operating Non-Federal Entity.

1189 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1190 31. (a) The provisions of this Contract shall apply to and bind the successors and
1191 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1192 therein shall be valid until approved in writing by the Contracting Officer.

1193 (b) The assignment of any right or interest in this Contract by either party shall not
1194 interfere with the rights or obligations of the other party to this Contract absent the written
1195 concurrence of said other party.

1196 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1197 of any proposed assignment.

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SEVERABILITY

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32. In the event that a person or entity who is neither (i) a party to a Project contract, nor

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(ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an

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association or other form of organization whose primary function is to represent parties to Project

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contracts, brings an action in a court of competent jurisdiction challenging the legality or

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enforceability of a provision included in this Contract and said person, entity, association, or

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organization obtains a final court decision holding that such provision is legally invalid or

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unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the

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parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final

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court decision identify by mutual agreement the provisions in this Contract which must be revised

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and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time

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periods specified above may be extended by mutual agreement of the parties. Pending the

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completion of the actions designated above, to the extent it can do so without violating any applicable

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provisions of law, the United States shall continue to make the quantities of Project Water specified

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in this Contract available to the Contractor pursuant to the provisions of this Contract which were not

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found to be legally invalid or unenforceable in the final court decision.

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RESOLUTION OF DISPUTES

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33. Should any dispute arise concerning any provisions of this Contract, or the parties'

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rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the

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dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring

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any matter to Department of Justice, the party shall provide to the other party thirty (30) days' written

1219 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
1220 in commencing an action would prejudice the interests of the party that intends to file suit. During
1221 the thirty (30) -day notice period, the Contractor and the Contracting Officer shall meet and confer in
1222 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive
1223 or abridge any right or remedy that the Contractor or the United States may have.

1224 OFFICIALS NOT TO BENEFIT

1225 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1226 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1227 manner as other water users or landowners.

1228 CHANGES IN CONTRACTOR'S SERVICE AREA

1229 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1230 Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or
1231 otherwise, except upon the Contracting Officer's written consent.

1232 (b) Within thirty (30) days of receipt of a request for such a change, the
1233 Contracting Officer will notify the Contractor of any additional information required by the
1234 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1235 agreeable schedule for timely completion of the process. Such process will analyze whether the
1236 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1237 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1238 Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and
1239 (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1240 Contracting Officer shall comply with the National Environmental Policy Act and the Endangered

1241 Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in
1242 this process, and such costs will be paid in accordance with Article 25 of this Contract.

1243 FEDERAL LAWS

1244 36. By entering into this Contract, the Contractor does not waive its rights to contest the
1245 validity or application in connection with the performance of the terms and conditions of this
1246 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1247 terms and conditions of this Contract unless and until relief from application of such Federal law or
1248 regulation to the implementing provision of the Contract is granted by a court of competent
1249 jurisdiction.

1250 NOTICES

1251 37. Any notice, demand, or request authorized or required by this Contract shall be
1252 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1253 to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California
1254 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
1255 Directors of the Lindsay-Strathmore Irrigation District, PO Box 846, Lindsay, California 93247. The
1256 designation of the addressee or the address may be changed by notice given in the same manner as
1257 provided in this Article for other notices.

1258 CONFIRMATION OF CONTRACT

1259 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a
1260 decree of a court of competent jurisdiction of the State of California, confirming the execution of this
1261 Contract. The Contractor shall furnish the United States a certified copy of the final decree, the
1262 validation proceedings, and all pertinent supporting records of the court approving and confirming
1263 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

See ltr. dtb. 6/19/01

→ IIR

Contract No. ~~75~~-1514-LTR1

1264

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day

1265

and year first above written.

THE UNITED STATES OF AMERICA

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY
James E. Turner
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

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

(SEAL)

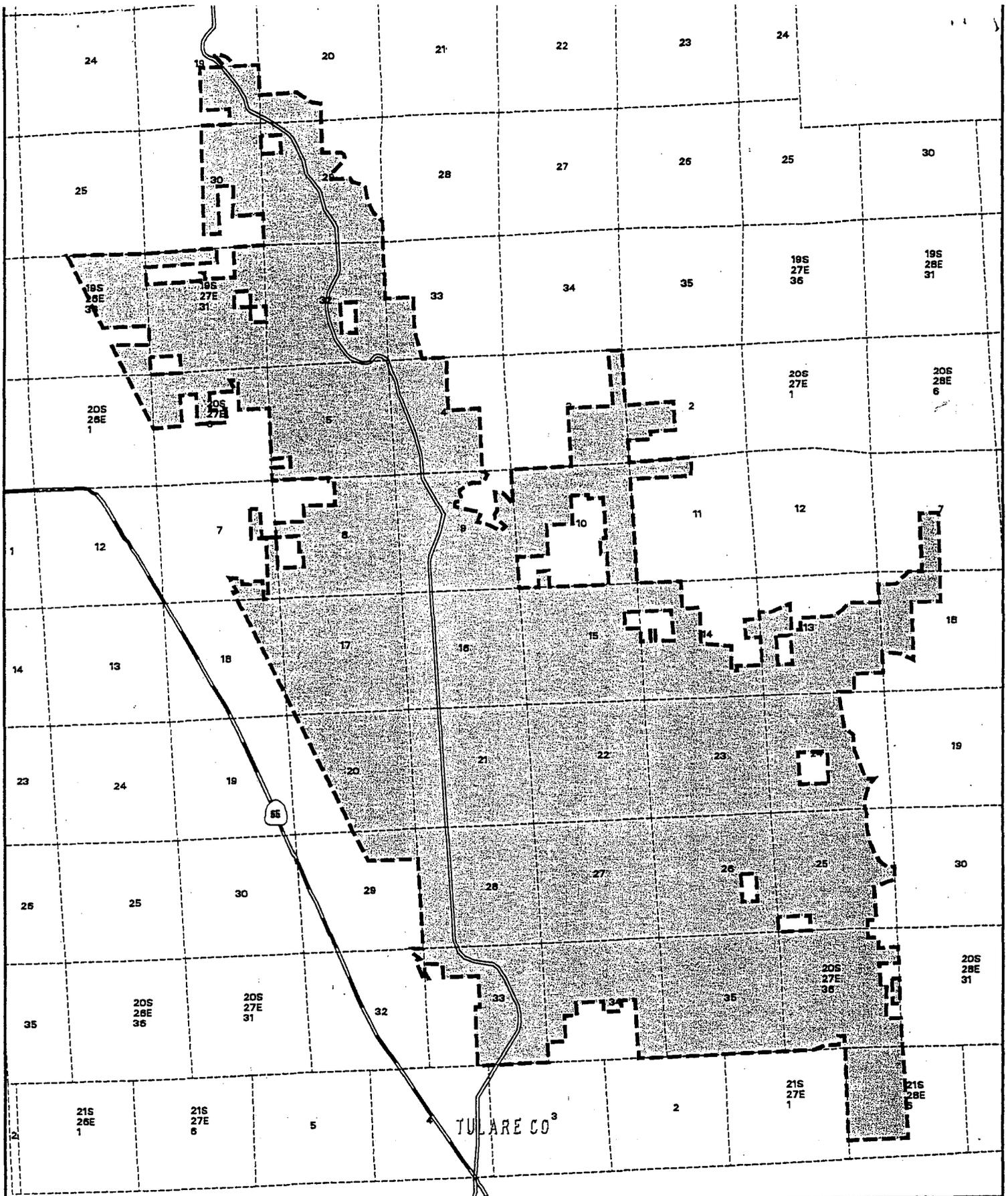
LINDSAY-STATHMORE IRRIGATION
DISTRICT

By: *Michael D. George*
VICE - President of the Board of Directors

Attest:

By: *Dennis R. Medders*
Secretary of the Board of Directors

(I:\Long\ter\LSID.WPD)



LINDSAY-STRAATHMORE I.D.

EXHIBIT A



US BUREAU OF RECLAMATION



-  Service Area Boundary
-  Water District Boundary

214-208-12668

2001 Water Rates EXHIBIT A

11r → see the Dtd 6/19/01

CONTRACT NUMBER 75 -1514-LTR1	2001 Rates Per Acre-Foot	
LINDSAY-STRATHMORE IRRIGATION DISTRICT	Irrigation Water	M&I
O&M AND COST-OF-SERVICE RATES:	Class 1	Water
Capital Rates:	\$8.95	\$16.75
O&M Rates:		
Water Marketing	\$6.91	\$7.00
Storage	\$4.23	\$4.47
Conveyance	*	*
Conveyance Pumping (Exchange Water)	*	*
Deficit Rates:		
Non-Interest Bearing	\$0.00	\$0.00
Interest Bearing	\$0.00	\$1.37
TOTAL COST-OF-SERVICE RATES (COS):	\$20.09	*** \$29.60
Tiered Pricing Component >80% <=90% of Contract		
Total [202 (3) Rate - COS Rate /2]:	\$5.01	\$5.54
Tiered Pricing Component >90% of Contract		
Total [202 (3) Rate - COS Rate]:	\$10.01	\$11.07
FULL-COST RATES:		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$30.10	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$36.29	
M&I Full Cost Rate		\$40.67
SURCHARGES UNDER P.L. 102-575 TO RESTORATION FUND**		
Friant Surcharge [3406(c)(1)]	\$7.00	\$7.00
Restoration Payments [3407(d)(2)(A)]	\$7.28	\$14.56

* Conveyance and Conveyance Pumping Operation and maintenance costs were removed for ratesetting purposes and are to be billed directly to the water authorities.

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

*** Calculations off by one penny due to ratesetting schedules.

LINDSAY-STRATHMORE IRRIGATION DISTRICT

POST OFFICE BOX 846

TELEPHONE 209-562-2581

LINDSAY, CALIFORNIA 93247

BEFORE THE BOARD OF DIRECTORS

OF THE

LINDSAY-STRATHMORE IRRIGATION DISTRICT
COUNTY OF TULARE, STATE OF CALIFORNIA

Resolution Approving Contract No. ¹¹ⁿ~~175~~-1514-LTR1)

WHEREAS, Lindsay-Strathmore Irrigation District is a contractor with the United States Bureau of Reclamation for the receipt of water service from the Friant Division of the Central Valley Project; and

WHEREAS, Lindsay-Strathmore Irrigation District and its representatives have been negotiating with the United States Bureau of Reclamation to develop a long-term water service agreement in accordance with the provisions of Reclamation law; and

WHEREAS, a draft agreement has been negotiated, submitted for public comment, and authorized for execution by the United States Bureau of Reclamation; and

WHEREAS, in connection with said agreement, a stipulation regarding the status of the litigation in *NRDC vs. Patterson*, in which Lindsay-Strathmore Irrigation District is a party, is also required; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Lindsay-Strathmore Irrigation District that it does hereby approve a long-term agreement between the United States Bureau of Reclamation and Lindsay-Strathmore Irrigation District for water service in accordance with Reclamation law.

BE IT FURTHER RESOLVED that the District disagrees with the contention of the Federal Government that the right to perpetual use of San Joaquin River water is ours only at the discretion of the Secretary of Interior but rather that right is appurtenant to the lands of our growers, contingent only on their beneficial use of that water.

BE IT FURTHER RESOLVED that the Vice-President and Secretary of the Board of Directors of Lindsay-Strathmore Irrigation District are authorized to execute said contract on behalf of the District.

BE IT FURTHER RESOLVED that the District's counsel is authorized to execute a stipulation amongst the parties in the case of *NRDC vs. Patterson*, as contemplated by Articles 14(a) and 14(b) of said long-term renewal agreement.

AYES: Imoto, George, Lopez, Neece
NOES: None
ABSENT: Pursell

STATE OF CALIFORNIA

)

COUNTY OF TULARE

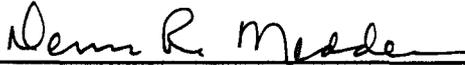
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ss.

I, DENNIS R, MEDDERS, do hereby certify that I am and at all times mentioned the duly elected, qualified and acting Secretary of the Board of Directors of Lindsay-Strathmore Irrigation District, and that the foregoing Resolution is a full, true and correct copy of such resolution as the same was unanimously passed and adopted at the special meeting of said Board held on the 24th day of January 2001 at which meeting a quorum, to wit, more than a majority of said Board was present and participating, and that the same is duly entered in the minutes of said meeting, and has not been rescinded, modified or revoked.

IN WITNESS THEREOF, I have hereto set my hand and affixed the seal of said Lindsay-Strathmore Irrigation District, this 24th day of January 2001.



DENNIS R. MEDDERS, Secretary of the Board
of Directors of Lindsay-Strathmore Irrigation District