

August 22, 2002

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Subject: Reclamation Proposed Language for Articles 1(b), 3(e), and 20, Sacramento River Settlement Contracts

Dear Andy:

Reclamation has reviewed and considered the proposals made by the Contractors in Stuart Somach's letter of August 5, 2002 addressed to Michael Ryan and the statements made at the last negotiation session on August 14, 2002 in regard to the three Articles referenced above. With regard to each, Reclamation proposes the following language for the respective Articles, for the reasons stated.

1. Article 1(b)- Proposed definition of "Basinwide Water Management Plan."

We believe that this term should be defined in the easiest manner possible, by simply stating the definition without reference to documents extrinsic to the contract itself. We would therefore propose the following definition:

1(b) "Basinwide Water Management Plan" shall mean the mutually agreeable Sacramento River Basinwide Water Management Plan dated \_\_\_\_\_ developed by Glenn Colusa Irrigation District, Maxwell Irrigation District, Natomas Central Mutual Water Company, Pelger Mutual Water Company, Princeton-Codora Glenn Irrigation District, Provident Irrigation District, Reclamation District 108, Sutter Mutual Water Company, Anderson-Cottonwood Irrigation District, M&T, Inc., Meridian Farms Water Company, Reclamation District 1004 and the U.S. Bureau of Reclamation.

This definition would only need to be used in the contracts for those contractors that participated in the Basinwide Management Plan.

2. Articles 3(e). and 20. We have first considered the question of whether these articles are redundant and have concluded that they are not. Article 3 deals with the sale, transfer or exchange of water between entities and the phrase, "the right to the use thereof for use on land other than that shown on Exhibit B" must be read in the context of a sale, transfer or exchange between entities. On the other hand, Article 20 addresses changes in place of use or in the organizational structure of the individual contractor signing the contract. The use of the phrase "in the place of water use" in this context refers to the contractor's approved service area or the district boundaries. We believe that these are two distinct concepts and should not be combined into one article. We have therefore proposed the following:

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

#### CHANGE OF PLACE OF USE OR ORGANIZATION

- 19 ~~20~~. (a) Unless the written consent of the United States is first obtained no change shall be made in the place of water use shown on Exhibit B.
- (b) While this ~~contract~~ Settlement Contract is in effect, no change shall be made in the area of the Contractor as shown on its Exhibit B, by inclusion, ~~or~~ exclusion, annexation, or detachment of lands, by dissolution, consolidation, or merger or otherwise, except upon the Contracting Officer's written ~~assent~~ consent thereto. Such consent will not be unreasonably withheld, and a decision will be rendered in a timely manner.
- (c) In the event lands are annexed to or excluded ~~excluded~~ detached from the area of the Contractor, as provided herein, the quantity of Project Water to be diverted may be increased or decreased, as may be appropriate, pursuant to a supplemental agreement to be executed in respect thereto.

I believe the language of Article 20 was essentially agreed upon at the last negotiation.

Reclamation looks forward to discussing the above proposals at the next negotiation on August 28, 2002.

Sincerely,

Michael J. Ryan

