

1 AGREEMENT ON WATER QUANTITIES

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

3 (1) It shall constitute full agreement as between the United States and the
4 Contractor as to the quantities of water and the allocation thereof between Base Supply
5 and Project Water which may be diverted by the Contractor from its Source of Supply for
6 beneficial use on the land shown on Exhibit B which said diversion, use, and allocation
7 shall not be disturbed so long as the Contractor shall fulfill all of its obligations
8 hereunder;

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

11 (b) Nothing herein contained is intended to or does limit rights of the Contractor against
12 others than the United States or of the United States against any person other than the
13 Contractor: Provided, however, that in the event the Contractor, the United States, or any
14 other person shall become a party to a general adjudication of rights to the use of water of
15 the Sacramento River system, this Settlement Contract shall not jeopardize the rights or
16 position of either party hereto or of any other person and the rights of all such persons in
17 respect to the use of such water shall be determined in such proceedings the same as if
18 this Settlement Contract had not been entered into, and if final judgment in any such
19 general adjudication shall determine that the rights of the parties hereto are different from
20 the rights as assumed herein, the parties shall negotiate an amendment to give effect to
21 such judgment. In the event the parties are unable to agree on an appropriate amendment
22 they shall, within 60 days of determining that there is an impasse, employ the services of
23 a neutral mediator, experienced in resolving water rights disputes, to assist in resolving

1 the impasse. The cost of the mediation will be shared equally. A failure to reach
2 agreement on an amendment within 60 days of the end of mediation will cause the
3 immediate termination of this Settlement Contract. (c) In the event that the
4 California State Water Resources Board or a court of competent jurisdiction issues a final
5 decision or order modifying the terms and conditions of the water rights of either party to
6 this Settlement Contract in order to impose Bay-Delta water quality obligations, the
7 Contractor and the United States shall promptly meet to determine whether or not to
8 modify any of the terms of this Settlement Contract to comply with the final decision or
9 order. If within 60 days of the date of the issuance of the final decision or order the
10 parties are not able to reach agreement regarding either the need to modify this
11 Settlement Contract or the manner in which this Settlement Contract is to be modified,
12 the parties shall promptly retain a neutral mediator, experienced in resolving water right
13 disputes, to assist the parties in resolving their dispute. The cost of the mediator shall be
14 shared equally. In the event that either of the parties to this Settlement Contract
15 determines that the parties will not be able to develop mutually-agreeable modification(s)
16 to this Settlement Contract even with the assistance of a mediator, either of the parties to
17 this Settlement Contract may attempt to resolve the impasse by seeking appropriate
18 judicial relief including, but not limited to, filing a general adjudication of the rights to
19 the use of water in the Sacramento River system. The foregoing provisions of this sub-
20 article shall only apply to the incremental obligations contained within a final decision or
21 order of the State Water Resources Control Board that reflects a modification to the
22 obligations imposed in State Water Resources Control Board Revised Water Rights
23 Decision 1641 dated March 15, 2000, and its associated 1995 Water Quality Control Plan

1 which, taken together, will be considered the baseline for the application of the
2 provisions of this sub-article. In the event of an adjustment to the Contractor's Base
3 Supply pursuant to this sub-article, the Contracting Officer will not assess any charge for
4 the rescheduling of Base Supply as would otherwise be required under the provisions of
5 Article 3(c) of this Settlement Contract.

6 (d) In the event this Settlement Contract terminates, the rights of the parties to
7 thereafter divert and use water shall exist as if this Settlement Contract had not been
8 entered into; and the fact that as a compromise settlement of a controversy as to the
9 respective rights of the parties to divert and use water and the yield of such rights during
10 the term hereof, this Settlement Contract places a limit on the Contract Total to be
11 diverted annually by the Contractor during the Settlement Contract term and segregates it
12 into Base Supply and Project Water shall not jeopardize the rights or position of either
13 party with respect to its water rights or the yield thereof at all times after the Settlement
14 Contract terminates. It is further agreed that the Contractor at all times will first use
15 water to the use of which it is entitled by virtue of its own water rights, and neither the
16 provisions of this Settlement Contract, action taken thereunder, nor payments made
17 thereunder to the United States by the Contractor shall be construed as an admission that
18 any part of the water used by the Contractor during the term of this Settlement Contract
19 was in fact water to which it would not have been entitled under water rights owned by it
20 nor shall receipt of payments thereunder by the United States from the Contractor be
21 construed as an admission that any part of the water used by the Contractor during the
22 term of this Settlement Contract was in fact water to which it would have been entitled
23 under water rights owned by it.

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