

1 UNITED STATES  
2 DEPARTMENT OF THE INTERIOR  
3 BUREAU OF RECLAMATION  
4 Central Valley Project, California  
5

6 CONTRACT BETWEEN THE UNITED STATES  
7 AND  
8 GRASSLAND WATER DISTRICT  
9 FOR WATER SUPPLY  
10 TO LANDS WITHIN  
11 THE GRASSLAND RESOURCE CONSERVATION DISTRICT

12 THIS CONTRACT, made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, in  
13 pursuance generally of the Act of June 17, 1902 (32 Stat. 388) as amended and supplemented;  
14 the Act of August 27, 1954 (68 Stat. 879), as amended by the Act of November 8, 1978 (92 Stat.  
15 3110, the Act of October 27, 1986 (100 Stat. 3050), and in particular Section 3406(d) of the  
16 Central Valley Project Improvement Act (CVPIA), Title XXXIV of the Act of October 30, 1992  
17 (106 Stat. 4706) all collectively hereinafter referred to as Federal Reclamation law, between THE  
18 UNITED STATES OF AMERICA, represented by the Secretary of the Interior's duly authorized  
19 representative acting pursuant to this Contract, hereinafter referred to as the Contracting Officer<sup>1</sup>,  
20 and Grassland Water District, hereinafter referred to as the Contractor, a public agency of the  
21 State of California, duly organized, existing, and acting pursuant to the laws thereof, with its  
22 principal place of business in Los Banos, California;

23 WITNESSETH, That:

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<sup>1</sup> Confirm consistency with the LTRC prior to execution of this Contract.

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EXPLANATORY RECITALS

WHEREAS, the United States has constructed and is operating the Central Valley Project, California (Project), for diversion, storage, carriage, and distribution of the waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries for the following beneficial uses, including, but not limited to, flood control, irrigation, municipal, domestic, industrial water service, the protection, restoration and enhancement of fish, and wildlife, and associated habitats in the Central Valley, the generation and distribution of electric energy, salinity control, and navigation; and

WHEREAS, the wetlands of the Central Valley have declined to approximately 300,000 acres and these remaining wetlands provide critical wildlife habitat and other environmental benefits, and important recreational and educational opportunities; and

WHEREAS, the Bureau of Reclamation’s 1989 Refuge Water Supply Report concluded that “... it is clear that each refuge requires a dependable supply of good quality water to facilitate proper wetland habitat management for the migratory birds of the Pacific Flyway and resident wildlife and flora.”; and

WHEREAS, Section 3406(d) of the CVPIA requires the Secretary to provide firm water supplies of suitable quality, through long-term contractual agreements with appropriate parties, to maintain and improve certain wetland habitat areas in the Central Valley in furtherance of the objectives of the Central Valley Habitat Joint Venture and the Central Valley Project to protect, restore and enhance fish and wildlife and associated habitats; and

WHEREAS, the directives of Section 3406(d) of the CVPIA have been carried out through a cooperative and collaborative effort between the Bureau of Reclamation and Fish

DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

46 and Wildlife Service, acting for the Secretary of the Interior, the California Department of Fish  
47 and Game, the Grassland Water District, and the Central Valley Habitat Joint Venture partners;  
48 and this cooperative and collaborative effort is expected to continue; and

49 WHEREAS, the Contracting Officer has determined that the Grassland Water  
50 District is the appropriate party to enter into a long-term contract to provide the firm water  
51 supplies allocated to lands within the Grassland Resource Conservation District; and

52 WHEREAS, the Contracting Officer intends to use Project facilities, in part, to  
53 provide firm water supplies of suitable quality to maintain and improve the Refuges; and

54 WHEREAS, the parties to this Contract have entered into contract No. 14-06-200-  
55 6106, dated September 13, 1956 and contract No. 14-06-200-3447A, dated August 4, 1967  
56 pursuant to Federal Reclamation law, which require that the Contracting Officer make available  
57 specified quantities of Project Water to the Contractor under terms and conditions set forth in  
58 such contracts as supplemented by the additional terms and conditions set forth in contract No.  
59 14-06-200-4658A, dated December 27, 1969, as amended on December 6, 1980; and

60 WHEREAS, the Contractor has demonstrated to the satisfaction of the  
61 Contracting Officer that the Contractor has fully utilized the Central Valley Project water  
62 supplies available to it for reasonable and beneficial use for fish and wildlife preservation and  
63 enhancement (wetland management) and/or the Contracting Officer has concluded through the  
64 Bureau of Reclamation's 1989 Refuge Water Supply Report and the San Joaquin Basin Action  
65 Plan/Kesterson Mitigation Action Plan Report that the Contractor has projected future demand  
66 for water use such that the Contractor has the capability and expects to fully utilize for reasonable  
67 and beneficial use the quantity of water to be made available to it pursuant to this Contract; and

DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

68 WHEREAS, the Contracting Officer<sup>1</sup> and the Contractor are willing to  
69 execute this Contract pursuant to subsection 3406(d) of the CVPIA on the terms and conditions  
70 set forth below;

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

73 DEFINITIONS

74 1. When used herein unless otherwise distinctly expressed, or manifestly  
75 incompatible with the intent of the parties or expressed in this contract, the term:

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

78 (b) "Contractor's Boundary" shall mean the Refuge(s) to which the  
79 Contractor is permitted to provide Delivered Water under this contract as identified in Exhibit  
80 "A". Exhibit "A" may be revised without amending this Contract upon mutual agreement of the  
81 Contractor and the Contracting Officer;

82 (c) "Contracting Officer" shall mean the Secretary of the Interior's duly  
83 authorized representative acting pursuant to this Contract;

84 (d) "Critically Dry Year" shall mean any Year in which either of the following  
85 eventualities exists:

86 (1) The forecasted full natural inflow to Shasta Lake for the current  
87 water year (October 1 of the preceding Calendar Year through September 30 of the current  
88 Calendar Year), as such forecast is made by the Contracting Officer, on or before February 20,

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<sup>1</sup> Confirm consistency with LTRC prior to execution of this Contract.

89 and reviewed as frequently thereafter as conditions and information warrant, is equal to or less  
90 than 3,200,000 acre feet: or

91 (2) The total accumulated actual deficiencies below 4,000,000 acre-  
92 feet in the immediately prior water year or series of successive prior water years, each of which  
93 had inflows of less than 4,000,000 acre-feet, together with the forecasted deficiency for the  
94 current water year exceed 800,000 acre-feet;

95 For the purpose of determining a Critically Dry Year, the computed inflow  
96 to Shasta Lake under present upstream development above Shasta Lake shall be used as the full  
97 natural inflow to Shasta Lake. In the event that major construction completed above Shasta Lake  
98 materially alters the present regimen of the stream systems contributing to Shasta Lake, the  
99 computed inflow to Shasta Lake used to define a Critically Dry Year will be adjusted to eliminate  
100 the effect of such material alterations.

101 After consultation with the State, the National Weather Service, and other  
102 recognized forecasting agencies, the Contracting Officer shall select the forecast to be used and  
103 will make the details of it available to the Contractor. The same forecast used by the Contracting  
104 Officer for operation of the Project shall be used to make forecasts hereunder.

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

107 (f) "Delivered Water" shall mean the Level 2 Water Supplies and the  
108 Incremental Level 4 Water Supplies diverted by the Contractor pursuant to this Contract at the  
109 Point(s) of Delivery in accordance with Article 4(c) of this Contract;

DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

- 110 (g) “Hydrologic Circumstances” shall mean the conditions described in  
111 subdivision (d) of this Article;
- 112 (h) “Incremental Level 4 Water Supplies” shall mean the difference between  
113 the Level 2 Water Supplies and the Level 4 Water Supplies depicted in Exhibit “B”;
- 114 (i) "Level 2 Water Supplies" shall mean the quantities of water referred to in  
115 section 3406 (d)(1) of the CVPIA and depicted in Exhibit “B” of this Contract;
- 116 (j) “Level 4 Water Supplies” shall mean the quantities of water referred to in  
117 section 3406 (d)(2) of the CVPIA and depicted in Exhibit “B” of this Contract;
- 118 (k) “Non-Project Facilities” shall mean any non-Project water conveyance or  
119 storage facilities;
- 120 (l) “Non-Project Water” shall mean water or water rights, other than “Project  
121 Water”, acquired, appropriated by, transferred to or assigned to the Contractor or, transferred to  
122 the United States for delivery to one or more of the Contractor’s Refuges, as identified in Exhibit  
123 “B”;
- 124 (m) “Point(s) of Delivery” shall mean the location(s) established and revised  
125 pursuant to Article 5(a) of this Contract , at which Level 2 Water Supplies of Project Water and  
126 Incremental Level 4 Water Supplies are deemed to be delivered to the Contractor and at which  
127 the Contractor shall assume the responsibility for the further control, carriage, handling, use,  
128 disposal or distribution of such water supplies so long as such water supplies are being used in  
129 accordance with the terms and conditions of this Contract;
- 130 (n) “Project” shall mean the Central Valley Project owned by the United  
131 States and managed by the Department of the Interior, Bureau of Reclamation;

DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

132 (o) "Project Water" shall mean all water that is developed, diverted, stored, or  
133 delivered by the Secretary in accordance with the statutes authorizing the Central Valley Project  
134 and in accordance with the terms and conditions of applicable water rights acquired pursuant to  
135 California law;

136 (p) "Refuge(s)" shall mean the lands in the units of the National Wildlife  
137 Refuge System in the Central Valley of California; Gray Lodge, Los Banos, Volta, North  
138 Grasslands and Mendota state wildlife management areas; and the Grassland Resource  
139 Conservation District all identified in the Refuge Water Supply Report and the land(s) identified  
140 in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the  
141 Bureau of Reclamation as set forth in Section 3406(d) of the CVPIA and/or as amended in  
142 accordance with subdivision (b) of this Article;

143 (q) "Refuge Water Supply Report" shall mean the report issued by the Mid-  
144 Pacific Region of the Bureau of Reclamation of the United States Department of the Interior  
145 entitled "Report on Refuge Water Supply Investigations, Central Valley Hydrologic Basin,  
146 California" (March 1989);

147 (r) "Secretary" shall mean the Secretary of the Interior, a duly appointed  
148 successor, or an authorized representative acting pursuant to any authority of the Secretary  
149 through any agency of the Department of the Interior;

150 (s) "Year" shall mean the period from and including March 1 of  
151 each Calendar Year through the last day of February of the following Calendar Year;

152 TERM OF CONTRACT

153           2.       (a)     This contract shall be effective on March 1, 2001 and shall remain in effect  
154 through February 28, 2026.

155           (b)     Upon request by the Contractor, this Contract shall be renewed for successive  
156 periods of twenty-five (25) years each, subject to the terms and conditions mutually agreeable to  
157 the parties. The Contractor shall request renewal of the Contract at least two (2) years prior to the  
158 date on which this Contract expires.

159           (c)     So long as this Contract, or a renewal of this Contract pursuant to Article 2(b) of  
160 this Contract, is in effect, the contracts referred to in the eighth Explanatory Recital of this  
161 Contract, shall be suspended and shall be of no force or effect.

162           WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

163           3.       (a)     During each Year, consistent with State water rights, permits and licenses,  
164 federal law, and subject to the provisions set forth in Articles 8 and 9 of this Contract, the  
165 Contracting Officer shall, at the established Point(s) of Delivery, make available and/or convey to  
166 the Contractor the maximum quantities of Project Water and Non-Project Water, respectively,  
167 required to provide each of the Refuges with the Level 2 Water Supplies set forth in Exhibit "B"  
168 and the Incremental Level 4 Water Supplies set forth in Exhibit "B". The quantities of Level 2  
169 Water Supplies and Incremental Level 4 Water Supplies made available and/or conveyed to the  
170 Contractor shall be scheduled in accordance with the provisions of Article 4 of this Contract;  
171 Provided, that in light of the fact that, Section 3406(d)(2) of the CVPIA provides that the  
172 Incremental Level 4 Water Supplies shall be acquired in cooperation with the State of California  
173 and in consultation with the Central Valley Habitat Joint Venture and other interests in  
174 cumulating increments of not less than ten percent per annum, from the date the CVPIA was



DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

175 enacted, through voluntary measures which include, but are not limited to, water conservation,  
176 conjunctive use, purchase, lease, donations, or similar activities, or a combination of such  
177 activities which do not require involuntary reallocation of Project yield, water being provided as  
178 all or part of the Incremental Level 4 Water Supplies for each of the Refuges can be made  
179 available only to the extent that the Contracting Officer is able to acquire the Incremental Level 4  
180 Water Supplies from willing sources; Accordingly, the Contracting Officer shall use his/her best  
181 efforts to acquire the Incremental Level 4 Water Supplies and shall coordinate acquisitions of  
182 Level 4 Water Supplies with acquisitions of Environmental Water Account (EWA) water  
183 pursuant to the Operating Principles Agreement, dated August 28,2000 attached to the Record of  
184 Decision for the CALFED Bay-Delta Program, dated August 28, 2000 and/or other acquisitions  
185 of water for environmental purposes to ensure that acquisitions of Incremental Level 4 Water  
186 Supplies have a priority at least equal to acquisitions of EWA and/or other environmental water  
187 each Year. The Contracting Officer also agrees that the Interagency Refuge Management Team  
188 shall be included among the interests consulted in acquiring Incremental Level 4 Water Supplies.

189 (b) Omitted from this Contract.

190 (c) The Contractor shall comply with requirements applicable to the Contractor in  
191 biological opinion(s) prepared as a result of a consultation regarding the execution of this  
192 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended,  
193 that are within the Contractor's legal authority to implement. The Contractor shall comply with  
194 the limitations or requirements imposed by environmental documentation applicable to the  
195 Contractor and within its legal authority to implement. Nothing herein shall be construed to  
196 prevent the Contractor from challenging or seeking judicial relief in a court of competent

197 jurisdiction with respect to any Biological Opinion or other environmental documentation  
198 referred to in this Article.

199 (d) The Contractor shall make reasonable and beneficial use of all Delivered  
200 Water furnished pursuant to this Contract consistent with the wetland habitat water management  
201 plan(s) described in Article 17 of this Contract.

202 (e) In order to maximize water available to Refuges and better manage such  
203 water, the Contractor may request the Contracting Officer's permission to reschedule a portion  
204 of the Level 2 Water Supplies and/or a portion of the Incremental Level 4 Water Supplies made  
205 available to the Contractor for use within the Contractor's Boundary during the current Year for  
206 use within the subsequent Year. The Contracting Officer may permit such rescheduling in  
207 accordance with applicable law, and the then-current applicable rescheduling guidelines and  
208 policies. Upon execution of this Contract, the Contracting Officer shall have adopted  
209 amendments to any applicable rescheduling guidelines and policies to provide for the  
210 rescheduling of refuge water in accordance with this Article. After execution of this Contract  
211 and annually thereafter, the Contracting Officer shall provide the Contractor with a copy of the  
212 then-current rescheduling guidelines and policies.

213 (f) The Contracting Officer shall not interfere with the Contractor's right  
214 pursuant to Federal Reclamation law and applicable California law to the beneficial use of water  
215 furnished pursuant to this Contract so long as the Contractor fulfills all of its obligations under  
216 this Contract. A reduction in water supplies pursuant to Article 9 of this Contract shall not be  
217 deemed to constitute such interference.

218 TIME FOR DELIVERY OF WATER

DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

219           4.       (a)       On or about February 20 of each Calendar Year, the Contracting Officer  
220 shall provide the Contractor, in writing, with a preliminary forecast of whether the upcoming  
221 Year will be a Critically Dry Year; and, if a Critically Dry Year is forecast, the extent to which  
222 Level 2 Water Supplies to be made available to the Contractor during the upcoming Year are to  
223 be shorted pursuant to Article 9 of this Contract; and the amount of Incremental Level 4 Water  
224 Supplies estimated to be made available to the Contractor pursuant to this Contract for the  
225 upcoming Year. The forecast will be updated monthly, as necessary, based on then-current  
226 hydrologic conditions. Upon the request of the Contractor, the Contracting Officer shall make  
227 available to the Contractor the data on which the Contracting Officer relied to determine whether  
228 the Year in question will or will not be a Critically Dry Year and to determine the amounts of  
229 Level 2 Water Supplies and Incremental Level 4 Water Supplies to be made available to the  
230 Contractor pursuant to this Contract during a Critically Dry Year.

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232           (b)       Based on the forecast(s) referred to in subdivision (a) of this Article, on or before  
233 March 1 of each Calendar Year, the Contractor shall submit to the Contracting Officer a written  
234 schedule, satisfactory to the Contracting Officer, showing both the monthly and annual quantities  
235 of Level 2 Water Supplies and Incremental Level 4 Water Supplies to be delivered by the  
236 Contracting Officer to each of the Refuges pursuant to this Contract. Each schedule shall be  
237 updated on a monthly basis to reflect actual use and remaining estimated needs.

238           (c)       In accordance with subdivision (a) of Article 3 of this Contract, the Contracting  
239 Officer shall make available and/or convey Level 2 Water Supplies and Incremental Level 4  
240 Water Supplies for diversion by the Contractor at the Points of Delivery in accordance with the

241 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written  
242 revision(s) thereto, mutually agreed to by the Contracting Officer and the Contractor which are  
243 submitted to the Contracting Officer within a reasonable time prior to the date(s) on which the  
244 requested change(s) is/are to be implemented.

245 POINT OF DIVERSION, MEASUREMENT AND RESPONSIBILITY FOR DISTRIBUTION  
246 OF WATER

247 5. (a) The original Point(s) of Delivery shall be established by written mutual  
248 agreement of the Contractor and the Contracting Officer. Such Point(s) of Delivery may be  
249 revised without amending this Contract upon written mutual agreement of the Contracting  
250 Officer and the Contractor.

251 (b) All water delivered to the Contractor pursuant to this Contract is to be  
252 measured at the Point(s) of Delivery to reflect the quantities of Level 2 Water Supplies and  
253 Incremental Level 4 Water Supplies delivered to the Contractor's Boundary. Upon the request of  
254 the Contractor or on the Contracting Officer's own initiative, the Contracting Officer shall  
255 investigate the accuracy of such measurements and the parties will jointly take any necessary  
256 steps to adjust any errors appearing therein. For any period of time when accurate measurement  
257 has not been made, the Contracting Officer shall consult with the Contractor prior to making a  
258 determination of the quantity of Delivered Water for that period of time. The Contractor shall  
259 advise the Contracting Officer on or before the 10th calendar day of each month of the quantities  
260 of Level 2 Water Supplies and Incremental Level 4 Water Supplies taken during the preceding  
261 month at the Point(s) of Delivery.

262 (c) The Contracting Officer shall not be responsible for the control, carriage,  
263 handling, use, disposal, or distribution of water delivered to the Contractor pursuant to this  
264 Contract beyond the Point(s) of Delivery specified in subdivision (a) of this Article.

265 POOLING OF WATER SUPPLIES

266 6. (a) Whenever the maximum quantities of Level 2 Water Supplies and/or the  
267 Incremental Level 4 Water Supplies depicted in Exhibit "B" are reduced pursuant to Article 9 of  
268 this Contract, the remaining Level 2 Water Supplies and/or the Incremental Level 4 Water  
269 Supplies may be pooled for use on other Refuge(s); Provided, that no individual Refuge shall  
270 receive more Level 2 Water Supplies than would have been made available to it absent a  
271 reduction pursuant to Article 9 of this Contract; or be reduced by more than twenty-five (25)  
272 percent; Provided further, that the Contracting Officer makes a written determination that pooling  
273 of water for use on other Refuge(s) would not have an adverse impact, that cannot be reasonably  
274 mitigated, on Project operations, other Project Contractors, or other Project purposes; Provided  
275 further, that the Contracting Officer determines that such reallocation is permitted under the  
276 terms and conditions of the applicable underlying water right permit and/or license; and  
277 Provided still further, that water made available under this contract may not be scheduled for  
278 delivery outside the Contractor's Boundary without prior written approval of the Contracting  
279 Officer.

280 (b) An Interagency Refuge Water Management Team, to be chaired by the  
281 Contracting Officer and to be established upon execution of this Contract, shall be entitled to  
282 collaboratively allocate the pooled water supplies and provide a schedule for delivery of the  
283 pooled supplies to meet the highest priority needs of the Refuge(s) as depicted in Exhibit "B";

284 Provided, however, nothing in this Article is intended to require the Contractor to pool the water  
285 supply provided for in this Contract. The Interagency Refuge Water Management Team shall be  
286 composed of designees of the Bureau of Reclamation, the United States Fish and Wildlife  
287 Service, the California Department of Fish and Game, and the Grassland Water District.

288 TRANSFERS, REALLOCATIONS OR EXCHANGES OF WATER

289 7. Subject to the prior written approval of the Contracting Officer, the Project Water  
290 made available under this Contract may be transferred, reallocated or exchanged in that Year to  
291 other Refuge(s) if such transfer, reallocation or exchange is requested by the Contractor and is  
292 authorized by applicable Federal and California State laws, and then-current applicable  
293 guidelines or regulations.

294 TEMPORARY REDUCTIONS--RETURN FLOWS

295 8. (a) Consistent with the authorized purposes and priorities of the Project and  
296 the requirements of Federal law, the Contracting Officer shall make all reasonable efforts to  
297 optimize water deliveries to the Contractor as provided in this Contract.

298 (b) The quantity of water to be delivered to the Contractor as herein provided  
299 may be temporarily discontinued or reduced when investigation, inspection, maintenance, repair,  
300 or replacement of any of the Project facilities and/or Non-Project Facilities or any part thereof  
301 necessary for the delivery of water to the Contractor is required. The Contracting Officer shall  
302 give and/or arrange to have the owner/operator of Non-Project Facilities give the Contractor due  
303 written notice in advance of such temporary discontinuance or reduction, except in case of an  
304 emergency, when no advance notice is possible, in which case the Contracting Officer shall

305 notify and/or arrange to have the owner/operator of the Non-Project Facilities notify the  
306 Contractor of said discontinuance or reduction as soon as is feasible; Provided, that the  
307 Contracting Officer shall use its best efforts to avoid any discontinuance or reduction in such  
308 service. Upon resumption of service after such reduction or discontinuance, and if requested by  
309 the Contractor, the Contracting Officer will make all reasonable efforts, consistent with other  
310 obligations and operational constraints, to deliver the quantity of water which would have been  
311 delivered hereunder in the absence of such discontinuance or reduction.

312 (c) The United States reserves the right to all seepage and return flow water  
313 derived from Delivered Water which escapes or is discharged beyond the Contractor's Boundary;  
314 Provided, that this shall not be construed as claiming for the United States any right to seepage or  
315 return flow being put to beneficial use pursuant to this contract within the Contractor's Boundary  
316 by the Contractor or those claiming by, through, or under the Contractor.

317 WATER SHORTAGE AND APPORTIONMENT

318 9. (a) In a Critically Dry Year, the Contracting Officer may temporarily reduce,  
319 for that Year, the availability of Level 2 Water Supplies up to twenty-five (25) percent of the  
320 maximum quantities set forth in Exhibit "B" whenever reductions due to Hydrologic  
321 Circumstances are imposed upon agricultural deliveries of Project Water; Provided, that such  
322 reductions shall not exceed in percentage terms the reductions imposed on agricultural service  
323 contractors. The quantity of Non-Project Water available to one or more of the Refuges as part of  
324 its/their Level 2 Water Supplies may be reduced by more than twenty-five (25) percent in Years  
325 when the quantity of Project Water made available to the Contractor can be reduced by no more  
326 than twenty-five (25) percent. In such cases, the Contracting Officer shall make up the supply

327 difference with water supplies provided by the Contracting Officer to ensure that Level 2 Water  
328 Supplies from all sources are not reduced by more than twenty-five (25) percent.

329 (b) Reductions in the Level 2 Water Supplies to be made available to the  
330 individual Refuge(s) pursuant to this Contract, shall be imposed only in a Critically Dry Year.  
331 For the Incremental Level 4 Water Supplies provided from Non-Project Water and Project  
332 Water, reductions shall be imposed in accordance with the priority or priorities that were applied  
333 to such Non-Project Water and the shortages assigned to Project Water prior to its transfer or  
334 acquisition as Incremental Level 4 Water Supplies.

335 RULES AND REGULATIONS

336 10. The parties agree that the delivery of water pursuant to this Contract is subject to  
337 Federal Reclamation law, as may be amended and supplemented, as applicable, and the rules and  
338 regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

339 WATER AND AIR POLLUTION CONTROL

340 11. The Contractor, in carrying out this contract, shall comply with all applicable  
341 water and air pollution laws and regulations of the United States and the State of California, and  
342 shall obtain all required permits or licenses from the appropriate Federal, State, or local  
343 authorities.

344 QUALITY OF WATER

345 12. (a) Consistent with other legal obligations, the water delivered by the  
346 Contracting Officer to the Contractor pursuant to this Contract shall be of suitable quality to  
347 maintain and improve wetland habitat areas and of comparable quality to water provided to other  
348 Project purposes within the same geographical areas; Provided, that the Contracting Officer is  
349 under no obligation to construct or furnish water treatment facilities to maintain or to improve  
350



351 the quality of the water furnished to the Contractor pursuant to this contract. The quality of  
352 Delivered Water may be monitored by the Contractor at the Point(s) of Delivery on an as needed  
353 basis. Should the Contracting Officer, in consultation with the Contractor, determine that the  
354 Level 2 Water Supplies and/or the Level 4 Water Supplies to be made available to the Contractor  
355 pursuant to this Contract during all or any part of a Year will not be of the quality that the  
356 Contractor feels is suitable to maintain and improve wetland habitat areas, the Contractor and the  
357 Contracting Officer shall meet within 48 hours or at a time mutually agreeable to the parties and  
358 determine the appropriate actions necessary to identify and address the source of the water  
359 quality problems.

360 (b) The operation and maintenance of Project facilities shall be performed in  
361 such manner as is practicable to maintain the quality of raw water made available through such  
362 facilities at the highest level reasonably attainable as determined by the Contracting Officer. The  
363 Contractor shall be responsible for compliance with all State of California and Federal water  
364 quality standards and directives applicable to surface return flows arising from water conveyed to  
365 the Refuges pursuant to this Contract. This Contract does not create any obligation on the  
366 Contracting Officer to provide drainage services.

367 USE OF NON-PROJECT FACILITIES FOR WATER DELIVERY

368 13. Any use of Non-Project Facilities, including use of State Water Project facilities  
369 pursuant to Joint Point of Diversion or other use of State Water Project facilities to deliver the  
370 water supplies provided for in the Contract, or any agreement for the use of such Non-Project  
371 Facilities, shall in no way alter the obligation of the Contracting Officer to make available and  
372 deliver water supplies in accordance with all of the terms and conditions of this Contract. In

373 addition, any costs incurred in the use of Non-Project Facilities to deliver water supplies pursuant  
374 to this Contract shall be paid for in accordance with Section 3406(d)(3) of the CVPIA.

375 OPINIONS AND DETERMINATIONS

376 14. (a) Where the terms of this Contract provide for actions to be based upon the  
377 opinion or determination of either party to this Contract, said terms shall not be construed as  
378 permitting such action to be predicated upon opinions or determinations that are arbitrary,  
379 capricious or unreasonable. Both parties, notwithstanding any other provisions of this Contract,  
380 expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary,  
381 capricious, or unreasonable opinion or determination. Each opinion or determination by either  
382 party shall be provided in a timely manner. Nothing in this subdivision of this Article is intended  
383 to or shall affect or alter the standard of judicial review applicable under federal law to any  
384 opinion or determination implementing a specific provision of federal law embodied in statute or  
385 regulation.

386 (b) Both parties to this Contract shall have the right to make determinations  
387 necessary to administer this Contract that are consistent with the provisions of this Contract, the  
388 laws of the United States and of California, and the rules and regulations promulgated by the  
389 Secretary of the Interior. Each party shall make such determinations in consultation with the  
390 other party to the extent reasonably practicable.

391 EQUAL OPPORTUNITY

392 15. During the performance of this contract, the Contractor agrees as follows:

393 (a) The Contractor will not discriminate against any employee or applicant for  
394 employment because of race, color, religion, sex, or national origin. The Contractor will take  
395 affirmative action to ensure that applicants are employed, and that employees are treated during

DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

396 employment, without regard to their race, color, religion, sex, or national origin. Such action  
397 shall include, but not be limited to, the following: Employment, upgrading, demotion, or  
398 transfer; recruitment or recruitment advertising; layoff or termination, rates of payment or other  
399 forms of compensation; and selection for training, including apprenticeship. The Contractor  
400 agrees to post in conspicuous places, available to employees and applicants for employment,  
401 notices to be provided by the Contracting Officer setting forth the provisions of this  
402 nondiscrimination clause.

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

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

413 (d) The Contractor will comply with all provisions of Executive Order No.  
414 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of  
415 the Secretary of Labor.

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

421 (f) In the event of the Contractor's noncompliance with the nondiscrimination  
422 clauses of this contract or with any of the said rules, regulations, or orders, this contract may be  
423 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared  
424 ineligible for further Government contracts in accordance with procedures authorized in said  
425 amended Executive Order, and such other sanctions may be imposed and remedies invoked as  
426 provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as  
427 otherwise provided by law.

428 (g) The Contractor will include the provisions of paragraphs (a) through (g) in  
429 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
430 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such  
431 provisions will be binding upon each subcontractor or vendor. The Contractor will take such  
432 action with respect to any subcontract or purchase order as may be directed by the Secretary of

433 Labor as a means of enforcing such provisions, including sanctions for noncompliance:  
434 Provided, however, That in the event the Contractor becomes involved in, or is threatened with,  
435 litigation with a subcontractor or vendor as a result of such direction, the Contractor may request  
436 the United States to enter into such litigation to protect the interests of the United States.

437 COMPLIANCE WITH CIVIL RIGHTS LAWS  
438 AND REGULATIONS

439 16. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
440 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the  
441 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights  
442 laws, as well as with their respective implementing regulations and guidelines imposed by the  
443 U.S. Department of the Interior and/or Bureau of Reclamation.

444 (b) These statutes require that no person in the United States shall, on the  
445 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be  
446 denied the benefits of, or be otherwise subjected to discrimination under any program or activity  
447 receiving financial assistance from the Bureau of Reclamation. By executing this contract, the  
448 Contractor agrees to immediately take any measures necessary to implement this obligation,  
449 including permitting officials of the United States to inspect premises, programs, and documents.

450 (c) The Contractor makes this agreement in consideration of and for the  
451 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
452 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of  
453 Reclamation, including installment payments after such date on account of arrangements for  
454 Federal financial assistance which were approved before such date. The Contractor recognizes  
455 and agrees that such Federal assistance will be extended in reliance on the representations and  
456 agreements made in this Article, and that the United States reserves the right to seek judicial  
457 enforcement thereof.

458 WATER CONSERVATION

459 17. (a) The Contractor shall prepare individual refuge wetland habitat water  
460 management plan(s) in order to ensure the effective use of water supplies to meet wetland  
461 resource needs and to meet the objectives of the Central Valley Habitat Joint Venture and the  
462 purposes of the CVPIA to maintain and improve certain Central Valley wetland habitat areas.  
463 Criteria to prepare and evaluate refuge wetland habitat water management plan(s) shall be

464 developed by the Interagency Refuge Water Management Team within one (1) year of the  
465 execution of this Contract, and reviewed and updated every five (5) years thereafter taking into  
466 consideration the provisions of the Interagency Coordinated Program Task Force report dated  
467 June 1998. The criteria shall include economically feasible water management measures which  
468 can improve the Contractors' efficient use of water in a manner appropriate for wetland and  
469 wildlife management, and shall also include time schedules for meeting the water use efficiency  
470 and conservation objectives. The criteria shall grant substantial deference to on-going state  
471 efforts related to wetlands water management and shall take into account the unique requirements  
472 associated with water use for the maintenance and enhancement of wetland and wildlife habitat.  
473 The Contractor shall make all reasonable efforts, consistent with appropriate limitations  
474 recognized in Article 19 of this Contract, to complete the original wetland habitat water  
475 management plan(s) within one (1) year of the establishment of the criteria. The Contracting  
476 Officer will review and determine if the wetland habitat water management plan(s) meet the  
477 established criteria for evaluating said plan within ninety (90) days of receipt of each plan.

478 (b) Prior to the Contractor being afforded opportunities such as pooling  
479 and rescheduling of water supplies pursuant to Articles 3 and 6 of this Contract, the Contractor  
480 must be implementing a wetland habitat water management plan that has been determined by the  
481 Contracting Officer to meet the established criteria developed pursuant to subdivision (a) of this  
482 Article for preparing and evaluating said plan. Continued pooling and rescheduling benefits  
483 pursuant to Articles 3 and 6 of this Contract shall be contingent upon the Contractor's continued  
484 implementation of such wetland habitat water management plans. In the event the Contracting  
485 Officer determines the Contractor is unable to implement its wetland habitat water management

DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

486 plan, due to circumstances beyond its control, the pooling and rescheduling benefits of Articles 3  
487 and 6 of this Contract shall be continued so long as the Contractor diligently works with the  
488 Contracting Officer to obtain such determination at the earliest practicable date and thereafter  
489 the Contractor begins implementing its wetland habitat water management plan immediately  
490 after the circumstances preventing implementation have ceased.

491 (c) In the event that implementation of the wetland habitat water management  
492 plan(s) prepared pursuant to subdivision (a) of this Article results in water savings, all conserved  
493 water supplies may be transferred/reallocated, under the terms and conditions of this Contract, to  
494 other wetland, wildlife and fishery needs in accordance with the recommendations of the  
495 Interagency Refuge Water Management Team established pursuant to Article 6 of this Contract;  
496 Provided, that the Contracting Officer makes a written determination that such  
497 transfer/reallocation of conserved water would not have an adverse impact, that cannot be  
498 reasonably mitigated, on Project operations, other Project contractors or other Project purposes;  
499 Provided further, that the transfer/reallocation is requested by the Contractor and the Contracting  
500 Officer determines that the transfer/reallocation is authorized by applicable laws, and then-  
501 current applicable guidelines and/or regulations.

502 (d) The Contractor shall submit to the Contracting Officer an annual update  
503 on the status of its implementation of the wetland habitat water management plan(s) for the  
504 previous Water Year.

505 (e) At five (5) year intervals, the Contractor shall revise its wetland habitat  
506 water management plan(s), as necessary, to reflect the then-current criteria for preparing and  
507 evaluating said plans and submit such revised plan(s). Upon completion of such revised plan(s),

508 the Contractor shall submit such revised plan(s) to the Contracting Officer for review and so the  
509 Contracting Officer can determine whether such plan(s) meet the then-current criteria.

510 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

511 18. Except as provided in subdivision (b) of Article 3, the exercise of existing water  
512 rights by the Contractor, or its acquisition of additional water or water rights from other than the  
513 United States, shall not alter the obligation of the Contracting Officer to provide the maximum  
514 quantities of Level 2 Water Supplies and Incremental Level 4 Water Supplies under subdivision  
515 (a) of Article 3 of this Contract.

516 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

517 19. The expenditure or advance of any money or the performance of any obligation of  
518 the United States under this contract shall be contingent upon appropriation or allotment of  
519 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
520 obligations under this contract. No liability shall accrue to the United States in case funds are not  
521 appropriated or allotted.

522

523 BOOKS, RECORDS, AND REPORTS

524 20. (a) The Contractor shall establish and maintain accounts and other books and  
525 records pertaining to administration of the terms and conditions of this contract, including: the  
526 Contractor's financial transactions, water supply data, and right-of-way agreements; and other  
527 matters that the Contracting Officer may require. Reports thereon shall be furnished to the  
528 Contracting Officer in such form and on such date or dates as the Contracting Officer may  
529 require. Subject to applicable Federal laws and regulations, each party to this contract shall have  
530 the right during office hours to examine and make copies of the other party's books and records  
531 relating to matters covered by this contract.

532 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books, records,  
533 or other information shall be requested from the Contractor by the Contracting Officer unless  
534 such books, records, or information are reasonably related to the administration or performance

535 of this Contract. Any such request shall allow the Contractor a reasonable period of time within  
536 which to provide the requested books, records, or information.

537 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

538 21. (a) The provisions of this contract shall apply to and bind the successors and  
539 assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest  
540 therein shall be valid until approved in writing by the Contracting Officer.

541 (b) The assignment of any right or interest in this contract by either party shall  
542 not interfere with the rights or obligations of the other party to this contract absent the written  
543 concurrence of said other party.

544 (c) The Contracting Officer shall not unreasonably condition or withhold  
545 his/her approval of any proposed assignment.

546 LIABILITY

547 22. (a) The Contractor shall not assert that the United States, its officers, agents  
548 and employees are responsible for legal liability for damages of any nature whatsoever arising  
549 out of any actions or omissions by the Contractor, its officers, agents and employees in the  
550 performance of this Contract.

551 (b) The United States shall not assert that the Contractor, its officers, agents  
552 and employees are responsible for legal liability for damages of any nature whatsoever arising  
553 out of any actions or omissions by the United States, its officers, agents and employees in the  
554 performance of this Contract.



555 (c) Within thirty (30) days of receipt by either party of any claim for liability  
556 arising from actions within the scope of this Contract, the party receiving the claim shall notify  
557 the other party of such claim and provide a copy of the claim to the other party, if it is in written  
558 form. Nothing in this Article shall be construed to limit the right of either party to assert such  
559 affirmative defenses and file such cross complaints as may be appropriate in relation to any claim  
560 affecting the liability of such party.

561 OFFICIALS NOT TO BENEFIT

562 23. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
563 Contractor shall benefit from this contract.

564 CERTIFICATION OF NONSEGREGATED FACILITIES

566 24. The Contractor hereby certifies that it does not maintain or provide for its  
567 employees any segregated facilities at any of its establishments, and that it does not permit its  
568 employees to perform their services at any location, under its control, where segregated facilities  
569 are maintained. It certifies further that it will not maintain or provide for its employees any  
570 segregated facilities at any of its establishments, and that it will not permit its employees to  
571 perform their services at any location, under its control, where segregated facilities are  
572 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal  
573 Opportunity clause in this contract. As used in this certification, the term "segregated facilities"  
574 means any waiting rooms, work areas, restrooms, and washrooms, restaurants and other eating  
575 areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking  
576 fountains, recreation or entertainment areas, transportation, and housing facilities provided for  
577 employees which are segregated by explicit directive or are in fact segregated on the basis of  
578 race, creed, color, or national origin, because of habit, local custom, or otherwise. The  
579 Contractor further agrees that (except where it has obtained identical certifications from proposed  
580 subcontractors for specific time periods) it will obtain identical certifications from proposed  
581 subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from  
582 the provisions of the Equal Opportunity clause; that it will retain such certifications in its files;  
583 and that it will forward the following notice to such proposed subcontractors (except where the  
584 proposed subcontractors have submitted identical certifications for specific periods):

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FEDERAL LAWS

25. By entering into this Contract, the Contractor does not waive its rights to contest the validity or application of, or compliance with, any federal law or regulation in connection with the performance of the terms and conditions of this Contract , nor does the Contractor waive any rights it may have to seek enforcement of obligations of the Secretary to provide water supplies to the Contractor under federal law independent of this Contract; Provided, that the Contractor agrees to comply with the terms and conditions of this Contract unless and until relief from or compliance with application of such Federal law or regulation to the implementing provision of the Contract is granted by a court of competent jurisdiction.

NOTICES

26. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager \_\_\_\_\_, and on behalf of the United States, when mailed, postage prepaid, or delivered to the \_\_\_\_\_ of the \_\_\_\_\_. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

THE UNITED STATES OF AMERICA

By: \_\_\_\_\_  
Regional Director, Mid-Pacific Region  
Bureau of Reclamation

GRASSLAND WATER DISTRICT

By: \_\_\_\_\_  
President/Director

DRAFT CONTRACT

DRAFT 11/14-2000 (RWS)

610 Attest

611 By: \_\_\_\_\_  
612 Secretary