
DRAFT ENVIRONMENTAL ASSESSMENT (12-023)

ANNUAL EXCHANGE AT THE MENDOTA POOL BETWEEN THE BUREAU OF RECLAMATION AND DONALD J. PERACCHI AND AFFILIATES FOR UP TO 3,600 ACRE-FEET OF FARMERS WATER DISTRICT'S GROUNDWATER FOR CENTRAL VALLEY PROJECT WATER THROUGH FEBRUARY 2015

Appendix A

Mendota Pool Group lands in Westlands WD and San Luis WD

June 2012

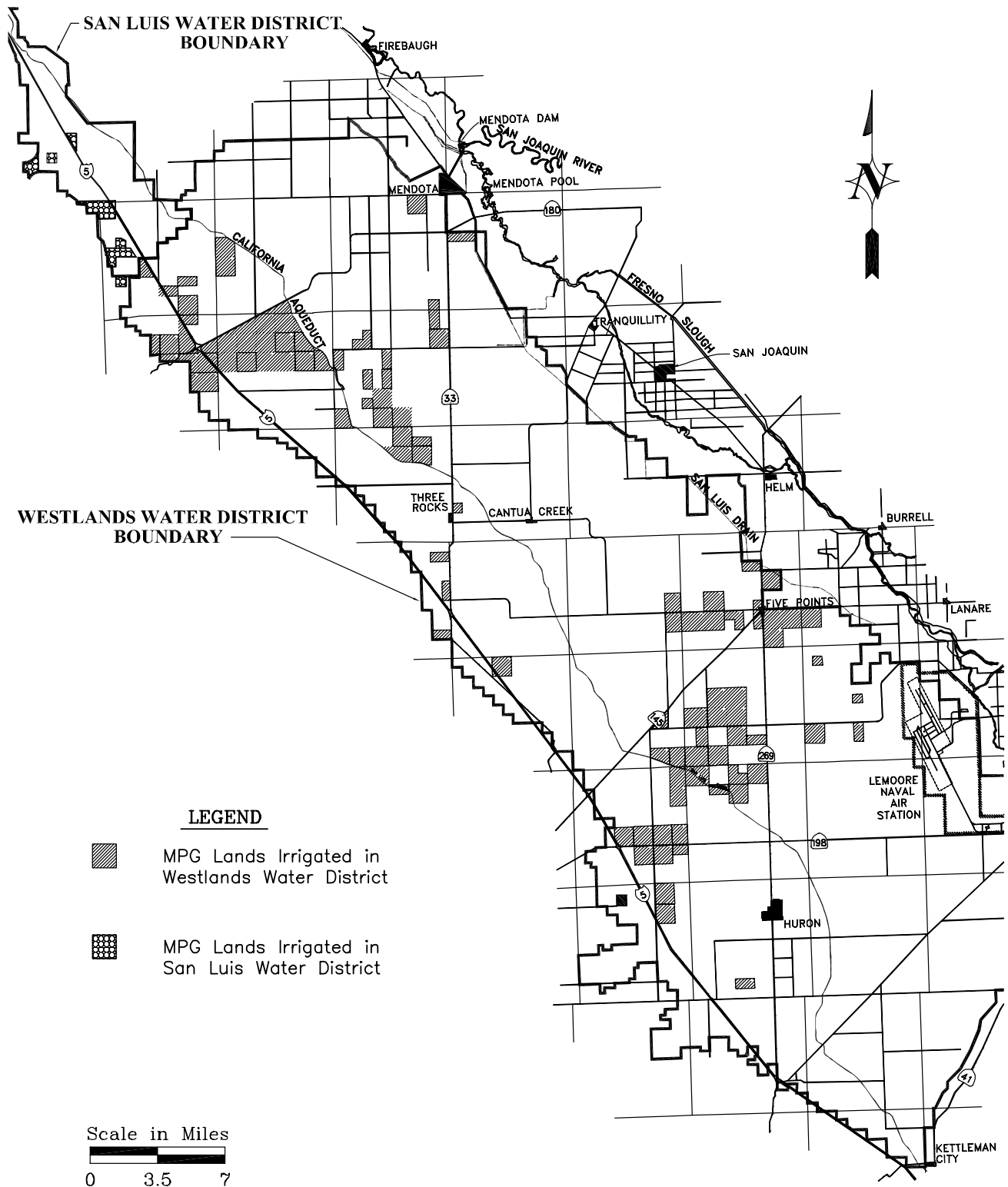


Figure 1-2. Lands Irrigated by the Mendota Pool Group in Westlands Water District and San Luis Water District

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Appendix B

2011 Agreement No. 2 for Mendota Pool Transfer Pumping Project

June 2012

**AGREEMENT NO. 2
FOR MENDOTA POOL
TRANSFER PUMPING PROJECT**

THIS AGREEMENT No. 2 ("Agreement No. 2") is executed in triplicate as of the Effective Date by and among the SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER AUTHORITY ("Exchange Contractors"), PARAMOUNT LAND COMPANY LLC and PARAMOUNT POMEGRANATE ORCHARDS LLC, Delaware limited liability companies (collectively "Paramount"), and the following named parties jointly and severally:

BAKER FARMING CO., a California limited liability company ("Baker");

M. BRITZ, T.I.C., a general partnership ("Britz");

COELHO WEST and related entities, a general partnership ("Coelho");

CASACA VINEYARDS, a general partnership ("Casaca");

DADDY'S PRIDE FARMING, a sole proprietorship ("DPF");

SOLO MIO FARMS, a sole proprietorship ("SMF");

VISTA VERDE FARMS, a California corporation ("Vista Verde");

FRANK A. LOGOLUSO FARMS, a California corporation ("Logoluso");

MEYERS FARMS FAMILY TRUST ("Meyers");

TERRA LINDA FARMS I, a general partnership ("Terra Linda"); and

PANOCHÉ CREEK TRUST ("PCT");

collectively referred to as the MENDOTA POOL GROUP ("MPG"), and individually referred to as MPG Party; and RIVER RANCH LLC, a California limited liability company ("River Ranch"). FARMERS' WATER DISTRICT, a California water district ("Farmers' WD"), is a party to this Agreement No. 2 for the purposes only of performing and complying with the conditions of section 3.05c hereof.

RECITALS

This Agreement No. 2 is entered into based on the following facts and circumstances which the parties agree are true and correct.

- A. The Board of Directors of Westlands Water District ("Westlands WD") certified the FEIR for the Mitigated Project under the California Environmental Quality Act on December 14, 1998.
- B. On February 11, 1999, the Exchange Contractors and The Newhall Land and Farming Company ("Newhall"), which farmed in and outside of the Exchange Contractors' service area, filed a petition for writ of mandate in Case 626573-0 against (1) Westlands WD as the respondent, and (2) Baker Farming Co., a general partnership, Blackburn Farming Co., Inc., Britz Mendota, T.I.C., Coelho West, a general partnership, Conejo Farms, a general partnership, Fordel, Inc., Hansen Farms, a general partnership, Hansen, Hansen and Gardner, a general partnership, J.C. & S. Land Co., a general partnership, Meyers Farming I, a partnership, Terra Linda Farms I, a general partnership, Mendota Pool Group, an unincorporated association, Fresno County, City of Mendota, Farmers' WD, River Ranch LLC, and Borel Bank and Trust Co., as the real parties in interest, challenging the adequacy of the FEIR for the Mitigated Project. Fresno County was dismissed on March 12, 1999.
- C. On March 2, 1999, the Exchange Contractors filed a complaint in Case 627638-0 against Baker Farming Co., a general partnership, Blackburn Farming Co., Inc., Britz Mendota, T.I.C., Coelho West, a general partnership, Conejo Farms, a general partnership, Fordel, Inc., Hansen Farms, a general partnership, Hansen, Hansen and Gardner, a general partnership, J.C. & S. Land Co., a general partnership, Meyers Farming I, a partnership, Terra Linda Farms I, a general partnership, Mendota Pool Group, an unincorporated

association, and River Ranch LLC for declaratory relief and injunctive relief and related claims.

- D. The dispute among the parties thereto in Cases 626573-0 and 627638-0 were as follows. The MPG desired to pump groundwater into the Mendota Pool and take delivery of such water directly through Westlands WD Laterals 6 and 7 or, by exchange with the Bureau, in the California Aqueduct. The Exchange Contractors questioned the right of the MPG to pump groundwater for the proposed use and believed that such groundwater pumping would, among other things, (1) cause water levels in the vicinity of the Mendota Pool to decline, (2) cause poorer water quality to reach the headworks of the Exchange Contractors' diversion facilities from the Mendota Pool, and (3) exacerbate land subsidence in the vicinity of the Mendota Pool. The MPG disagreed with the Exchange Contractors regarding its right to pump groundwater as proposed and whether there would be any such adverse impacts as a result thereof.
- E. On June 16, 1999, the Court filed an order in Case 627638-0, and on June 18, 1999, the Court filed a similar order in Case 626573-0 staying both proceedings "until further order of the Court, dismissal of the action, or written notice to the Court by any party," while the parties thereto and their technical consultants examined existing data and, in concert, developed an operating plan which would support a long-term groundwater pumping program by the MPG.
- F. On June 25, 1999, the parties appeared for assignment of the proceedings to a trial department. The matter was assigned to the Honorable Judge Gene M. Gomes in Department 32. Judge Gomes ordered that the parties thereto should file status reports commencing September 1, 1999. The parties thereto filed status reports in both cases based on the schedule contained in the Court's orders.

- G. The 1999 test pumping and monitoring program developed by Luhdorff and Scalmanini, on behalf of the MPG, and Kenneth D. Schmidt & Associates, on behalf of the Exchange Contractors and Newhall, got underway on or about July 15, 1999. The primary focus of the test pumping and monitoring program was to determine the effects of the MPG pumping during 1999 on the Exchange Contractors and Newhall. The results of the test pumping and monitoring program are contained in the Phase I Report.
- H. Following completion of the Phase I Report, the consultants of the parties thereto undertook to evaluate the long-term impacts of Transfer Pumping by the MPG on the Exchange Contractors and Newhall and to develop mitigation measures for any significant impacts identified. The results of the evaluation of the long-term impacts of Transfer Pumping by the MPG on the Exchange Contractors and Newhall and mitigation measures for any significant impacts was described in a Phase II Report completed in December 2000.
- I. The parties entered into an agreement ("Agreement No. 1"), effective January 1, 2001, for a 10-year term for MPG Transfer Pumping with the express intent of the MPG to prevent injury and damage to the aquifers, water quality and the interests of the other parties to Agreement No. 1. The term of Agreement No. 1 was through December 31, 2010. Agreement No. 1 allowed for:
- (a) Transfer Pumping in 8 of the 10 Years.
 - (b) Total Transfer Pumping of 269,600 acre feet (AF).
 - (c) Total Transfer Pumping from the Deep Zone of 96,000 AF.
 - (d) Total Transfer Pumping from the Shallow Zone of 173,600 AF.
- Agreement No. 1 included prescribed constraints on water quality in the Mendota Pool and land subsidence, as affected by Transfer Pumping, and constraints on groundwater

quality and drawdowns, as affected by Transfer Pumping, as determined by the Technical Committee. Agreement No. 1 strictly prescribed annual monitoring, the results of which were presented in annual reports. The environmental impacts of the 10-year Transfer Pumping (the Project) were addressed in a Draft Environmental Impact Statement (DEIS) in March 2003, and a Final Environmental Impact Statement (FEIS) was approved in March 2005. The Record of Decision (ROD) for the Project was signed on March 30, 2005. The DEIS and FEIS were developed in compliance with the National Environmental Policy Act (NEPA). The Bureau was the NEPA lead agency. Based on a full consideration of the impact analyses and the comparison of the alternatives in the FEIS, the Bureau concluded that the Project is considered the environmentally preferred alternative and the least damaging practical alternative. The Project would avoid significant impacts to the maximum extent feasible while fully meeting the purpose and need and Project objectives.

J. MPG Transfer Pumping as contemplated in Agreement No. 1 was conducted from 2001 through 2010. Transfer Pumping was conducted in 6 of the 10 Years as follows:

- (a) Total Transfer Pumping was 125,149 AF.
- (b) Total Transfer Pumping from the Deep Zone of 65,156 AF.
- (c) Total Transfer Pumping from the Shallow Zone of 59,993 AF.

The constraints on water quality in the Mendota Pool and land subsidence were not exceeded. The Technical Committee's annual analysis of the program found impacts to groundwater quality and drawdowns in and around the Exchange Contractors and Paramount lands (formerly Newhall Lands); however, they did not rise to a significant level and were not considered irreversible as affected by Transfer Pumping, to a degree as to limit Transfer Pumping in subsequent Years. Monitoring was conducted by the

MPG in each of the 10 Years as required by the Agreement No. 1 and the results of the monitoring were presented in annual reports for each of the 10 Years.

- K. On December 1, 2005 Paramount purchased the land and associated wells of Newhall and assumed Newhall's interest in Agreement No. 1.
- L. The parties hereto desire to implement Agreement No. 2 for a 4-year term to coincide with the term of the FEIS. The intent of the parties is to cooperate in good faith to ensure compliance with NEPA, CEQA, and any other applicable laws in order to analyze and consider a longer term project and agreement.

NOW, THEREFORE, in consideration of the recitals set forth above, and the mutual covenants, conditions and promises set forth herein, the Exchange Contractors, Paramount, Baker, Britz, Coelho, Casaca, DPF, SMF, Vista Verde, Logoluso, Meyers, Terra Linda, PCT, the MPG, River Ranch, and Farmers' WD hereby agree as follows:

ARTICLE I.

INTERPRETATION OF AGREEMENT NO. 2

1.00 Introduction.

The rules of interpretation contained in this Article I shall govern the interpretation of this Agreement No.2.

1.01 Definitions.

The words and phrases defined in Article II hereof shall govern the interpretation of this Agreement No. 2.

1.02 Applicable Law.

The Laws of the State of California without regard to conflict of law principles shall govern the interpretation of this Agreement No. 2.

1.03 Integration.

This Agreement No. 2 contains the entire agreement among the parties hereto with the respect to the subject of this Agreement No. 2 and supersedes any other agreement, whether written or oral, among the parties hereto relating to the same subject including Agreement No. 1. Any prior representations, promises, or the like that are not contained in this Agreement No. 2 shall be of no force or effect.

1.04 Amendment of Agreement No.2.

This Agreement No. 2 may not be modified, changed, altered, amended or otherwise revised except by a duly executed written amendment.

1.05 Statutory Rules of Interpretation.

Any rule of interpretation that an ambiguity is to be resolved against the drafting party shall not be employed in the interpretation of this Agreement No. 2, any exhibit hereto, or any amendment hereof, and neither Civil Code section 1654, nor any similar law shall be applied to resolve any ambiguity in this Agreement No. 2.

1.06 Opinions and Determinations.

Except as may be otherwise provided in this Agreement No. 2, where any term of this Agreement No. 2 provides for action to be based on the opinion, judgment, approval, consent, review, certification, or determination of a party, such term shall not be construed as permitting the opinion, judgment, approval, consent, review, certification, or determination to be arbitrary, capricious or unreasonable.

1.07 Waiver.

The waiver by any party hereto of any right with respect to a default or any other matter arising under this Agreement No. 2 shall not constitute or be construed as constituting a waiver with respect to any other default or matter.

1.08 Exhibits.

All exhibits referred to in this Agreement No. 2 are hereby incorporated by reference as if fully set forth in this Agreement No. 2.

1.09 Captions.

The captions of articles and sections of this Agreement No. 2 do not define the scope, meaning or intent of this Agreement No. 2.

ARTICLE II.

DEFINITIONS

2.00 AF.

“AF” means acre feet.

2.01 AFY.

“AFY” means acre feet per Year.

2.02 A-Clay.

“A-Clay” means the clay layer about 10 to 15 feet thick that lies about 70 feet to 100 feet beneath the Mendota Pool and lands in the vicinity of the Mendota Pool.

2.03 Adjacent Overlying Lands.

“Adjacent Overlying Lands” means the lands that are identified as Adjacent Overlying Lands in Exhibit A, as lands owned by MPG members (irrigated in 2011) and lands owned by MPG members (not irrigated in 2011). A member of the MPG who owns any of such land may

designate other land contiguous to lands shown in Exhibit A as Adjacent Overlying Land provided that a like amount of land, on an acreage basis, previously designated as Adjacent Overlying Land is deleted from such designation.

2.04 Bureau.

“Bureau” means the Bureau of Reclamation, a bureau within the Department of the Interior of the United States.

2.05 Case 626573-0.

“Case 626573-0” means the case filed in the Superior Court of the State of California for the County of Fresno entitled *SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER AUTHORITY* and *THE NEWHALL LAND AND FARMING COMPANY, Petitioners v. WESTLANDS WATER DISTRICT*, Respondent, and *BAKER FARMING COMPANY et al*, Real Parties in Interest, and assigned Case No. 626573-0.

2.06 Case 627638-0.

“Case 627638-0” means the case filed in the Superior Court of the State of California for the County of Fresno entitled *SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER AUTHORITY v. BAKER FARMING COMPANY, BLACKBURN FARMING COMPANY, BRITZ MENDOTA T.I.C., COELHO WEST, CONEJO FARMS, FORDEL, HANSEN FARMS, HANSEN, HANSEN AND GARDNER, J.C. & S. LAND COMPANY, MEYERS FARMING I, TERRA LINDA FARMS I, MENDOTA POOL GROUP, and RIVER RANCH LLC*, and assigned Case No. 627638-0.

2.07 Central California ID.

“Central California ID” means Central California Irrigation District, a California irrigation district organized and existing under Division 11 of the Water Code.

2.08 Columbia CC.

“Columbia CC” means Columbia Canal Company, a mutual water company organized and existing under the laws of the State of California.

2.09 Columbia Canal.

“Columbia Canal” means the canal of Columbia CC known as the Columbia Canal, the location of which is generally shown on Exhibit B.

2.10 DMC.

“DMC” means Delta Mendota Canal, a feature of the Bureau’s Central Valley Project.

2.11 Deep Zone.

“Deep Zone” means the aquifer or aquifers stratigraphically between the A-Clay, where present, or its equivalent depth, and the E-Clay.

2.12 EC.

“EC” means electrical conductivity, expressed in micromhos per centimeter (umhos/cm) at 25 degrees centigrade.

2.13 Effective Date.

“Effective Date” means January 1, 2011.

2.14 EIS.

“EIS” means Final Environmental Impact Statement (FEIS) dated December 3, 2004, and announced in a Notice of Availability by U.S. Environmental Protection Agency (EPA) dated December 10, 2004.

2.15 Exchange Contractors.

“Exchange Contractors” means the San Joaquin River Exchange Contractors Water Authority, a joint exercise of powers authority established under Chapter 5 (commencing with

section 6500) of Division 7 of Title 1 of the Government Code and consisting of member agencies Central California ID, Columbia CC, Firebaugh Canal WD, and San Luis CC.

2.16 Farmers' WD.

"Farmers' WD" means Farmers' Water District, a California water district organized and existing under Division 13 of the Water Code.

2.17 DEIR and FEIR.

"DEIR" means the Draft Environmental Impact Report prepared at the direction of Westlands WD for a Mendota Pool water transfer groundwater pumping project, and "FEIR" means the Final Environmental Impact Report for a modified Mendota Pool water transfer groundwater pumping project that was certified by the Board of Directors of Westlands WD under the California Environmental Quality Act and described therein as the Mitigated Project.

2.18 Firebaugh Canal WD.

"Firebaugh Canal WD" means Firebaugh Canal Water District, a California water district organized and existing under Division 13 of the Water Code.

2.19 Firebaugh Intake Canal.

"Firebaugh Intake Canal" means the canal of Firebaugh Canal WD known as the Firebaugh Intake Canal, the location of which is generally shown on Exhibit B.

2.20 Fordel Extensometer.

"Fordel Extensometer" means the extensometer identified as Fordel Extensometer on the figure attached as Exhibit C.

2.21 Fresno Slough.

"Fresno Slough" means the tributary of the San Joaquin River, part of which created the southerly branch of the Mendota Pool after the construction of Mendota Dam.

2.22 Independent Consultant.

“Independent Consultant” means the person appointed by the parties hereto under section 3.11a hereof to mediate any disputes between or among the members of the Technical Committee under section 3.11b hereof and arbitrate any dispute under section 3.11d hereof.

2.23 MPG.

“MPG” means the Mendota Pool Group, an unincorporated association, that is made up of the following members: Baker Farming Co., a general partnership, Britz Mendota, T.I.C., a general partnership, Coelho West, a general partnership, Casaca Vineyards, a general partnership, Daddy’s Pride Farming, a general partnership, Solo Mio Farms, a general partnership, Vista Verde Farms, a general partnership, Frank A. Logoluso Farms, a California corporation, Meyers Farms Family Trust, a general partnership, Terra Linda Farms I, a general partnership, and Panoche Creek Trust, a general partnership.

2.24 MPG Account.

“MPG Account” means the interest-bearing account to be established under section 3.07a hereof.

2.25 MPG Wells.

“MPG Wells” means water wells owned, operated or used by the MPG, a MPG Party, Farmers’ WD or River Ranch, for Transfer Pumping.

2.26 Main Canal.

“Main Canal” means the canal of Central California ID known as the Main Canal, the location of which is generally shown on Exhibit B.

2.27 Mendota Pool.

“Mendota Pool” means the pool at the confluence of the San Joaquin River and Fresno Slough created by Mendota Dam.

2.28 Mitigated Project.

“Mitigated Project” means the Project certified in the FEIR and the EIS.

2.29 Outside Canal.

“Outside Canal” means the canal of Central California ID known as the Outside Canal, the location of which is generally shown on Exhibit B.

2.30 Paramount

“Paramount” means Paramount Land Company LLC, a Delaware limited liability company and Paramount Pomegranate Orchards LLC, a Delaware limited liability company.

2.31 Phase I Report.

“Phase I Report” means the report dated May 2000 entitled “Results of 1999 Test Pumping Program for Mendota Pool Group Wells” prepared by Kenneth D. Schmidt and Associates and Luhdorff and Scalmanini, Consulting Engineers, which is incorporated herein by reference, and a copy of which will be maintained at the office of the Exchange Contractors.

2.32 Phase II Report.

“Phase II Report” means the report dated December 2000 entitled “Long-Term Impacts of Transfer Pumping by the Mendota Pool Group” prepared by Kenneth D. Schmidt and Associates and Luhdorff and Scalmanini, Consulting Engineers which is incorporated herein by reference, and a copy of which will be maintained at the office of the Exchange Contractors.

2.33 Policy Committee.

“Policy Committee” means the committee established under section 3.10 hereof.

2.34 Project.

“Project” means the project described in Chapter VI, Chapter VII and the Criteria for Agreement No. 1 in Chapter VIII of the Phase II Report, and Article III hereof to extract groundwater from beneath lands in the vicinity of the Mendota Pool for Transfer Pumping.

2.35 San Luis CC.

“San Luis CC” means San Luis Canal Company, a mutual water company organized and existing under the laws of the State of California.

2.36 Shallow Zone.

“Shallow Zone” means the aquifer or aquifers stratigraphically above the A-Clay, where present, or its equivalent depth.

2.37 Technical Committee.

“Technical Committee” means the committee established under section 3.09 hereof.

2.38 Transfer Pumping.

“Transfer Pumping” means the extraction of groundwater by the members of the MPG, Farmers’ WD and River Ranch from beneath lands in the vicinity of Mendota Pool for use on lands other than Adjacent Overlying Lands.

2.39 Westlands WD.

“Westlands WD” means Westlands Water District, a California water district organized and existing under Division 13 of the Water Code.

2.40 Year.

“Year” means a calendar year commencing January 1 and ending December 31.

2.41 Yearout Extensometer.

“Yearout Extensometer” means the extensometer identified as Yearout Extensometer on the figure is attached as Exhibit C.

ARTICLE III.

THE PROJECT

3.00 The Project-Transfer Pumping.

a. The purpose of the Project is to provide for Transfer Pumping to the extent it can be accomplished while minimizing detrimental impacts and while mitigating the impacts from Transfer Pumping including, without limitation: (a) drawdowns and other impacts at nearby wells; (b) land subsidence; and (c) water quality in the Mendota Pool and at the Exchange Contractors' canal intakes.

b. Transfer Pumping is based upon assumptions that were developed and adopted by the parties hereto based upon information and data provided by the parties and examined by their consultants. The assumptions upon which the Transfer Pumping conducted under Agreement No. 1 was based included the technical analyses found in the Phase I and Phase II Reports. The assumptions upon which the Transfer Pumping conducted under Agreement No. 2 are based include the technical analyses found in the Phase I and Phase II Reports as since modified based on the results of the Transfer Pumping conducted from 2001 through 2010, as described in annual reports prepared by the Technical Committee. In the event that any of the predictions and assumptions, including those provided by the parties hereto and which form the basis of predictions and assumptions that are included in the Phase I and Phase II Reports and since modified based on the results of the Transfer Pumping conducted from 2001 through 2010, as described in annual reports prepared by the Technical Committee turn out to be erroneous in any way the Technical and Policy Committees shall attempt to work out the issue presented, and respond to the change in assumption or new information.

c. The Mitigated Project may start in each of the 4 Years of the term of Agreement No. 2 starting on about March 1 of each Year; continued and completed operation of the

Mitigated Project in each of these Years, however, will not occur absent express agreement of the Exchange Contractors and Paramount, and further provided the Transfer Pumping does not exceed the agreed-upon annual and 4-year program maximum limits outlined in Exhibit D. If agreement of the Exchange Contractors and Paramount for that Year's Mitigated Project is not provided by April 15 of that Year, operation of the Project will be suspended until agreement can be achieved.

d. Commencing July 1, 2011 the parties shall commence work to identify CEQA and NEPA alternatives and scoping considerations for compliance with the requirements of those statutes beyond the 2014 term Year. The intent of the parties is to cooperate in good faith and to provide for compliance with NEPA, CEQA, and any other applicable laws in order to analyze and consider a longer term project and agreement.

3.01 Transfer Pumping From Deep Zone.

Transfer Pumping from the Deep Zone: (a) shall be conducted primarily during March, April, and May and from September through November. No Transfer Pumping from the Deep Zone shall occur during June, July, and August of any Year unless expressly permitted by the Exchange Contractors and Paramount and shall not be conducted during more than 10 months of any Year, (b) shall not exceed 12,000 AFY during any one Year or 40,000 AF for the term of Agreement No. 2, but (c) shall not exceed an amount that will cause subsidence at the Yearout Extensometer due to Transfer Pumping to average more than 0.005 feet per Year. The amount of Transfer Pumping from the Deep Zone shall be subject to adjustment by the Technical Committee.

3.02 Transfer Pumping From Shallow Zone.

Transfer Pumping from the Shallow Zone initially: (a) shall not be conducted during more than 10 months of any Year, and (b) shall not exceed 50,000 AF for the term of Agreement

No. 2. The amount of Transfer Pumping from the Shallow Zone shall be subject to adjustment by the Technical Committee. Total Transfer Pumping from the Deep Zone and Shallow Zone shall not exceed 25,000 AF during any Year or 90,000 AF for the term of Agreement No. 2.

3.03 Use of Groundwater On Adjacent Overlying Lands.

The amount of groundwater pumped for use on Adjacent Overlying Lands shall not be greater than 12,000 AF in any Year unless there is a corresponding reduction in the amount of Transfer Pumping that Year or the Technical Committee determines that there is a demonstrated reduction in Transfer Pumping impacts. Groundwater pumped by the MPG, a MPG Party, or River Ranch from wells within Farmers' WD for use on Adjacent Overlying Lands shall only be used on Adjacent Overlying Lands within Farmers' WD.

3.04 Declaration of Intent.

By March 1st of each Year, the MPG shall declare its intent to conduct Transfer Pumping for that Year and to provide a proposed schedule and amounts for that Year based on the expected surface water allocation to be available to members of the MPG that Year. This declaration shall be subject to all Technical Committee procedures.

3.05 Additional Limitations on Transfer Pumping.

a. Water Quality in Mendota Pool.

Water produced by Transfer Pumping from the MPG Wells along Fresno Slough shall not be introduced into the Mendota Pool (1) when the direction of flow in the Fresno Slough is not southerly, or (2) if the EC measured by the continuous EC recorders at the intake of the Firebaugh Intake Canal, the intake for the Outside Canal, the intake of the Main Canal, or the intake of the Columbia Canal exceeds the EC of the inflow to the Mendota Pool from the DMC by more than 90 umhos/cm for 3 days. If the EC limitation is exceeded at the intakes of the Firebaugh Intake Canal, the Outside, or the Main Canal,

the MPG shall shut off MPG Wells that produce water for introduction to Fresno Slough for Transfer Pumping, starting first with the MPG Wells that are the closest to the affected canal intake. If the EC limitation is exceeded at the intake of the Columbia Canal, the MPG shall shut off MPG Wells in Farmers' WD that produce water for introduction to the San Joaquin River Branch of the Mendota Pool for Transfer Pumping. Transfer Pumping from such MPG Wells shall not resume until the EC at the affected canal intake is no more than 30 umhos/cm above the EC of the inflow to the Mendota Pool from the DMC for 3 days.

b. Water Quality in Deep Zone.

Transfer Pumping from the Shallow Zone shall be reduced if it is determined by the Technical Committee that Transfer Pumping from the Shallow Zone significantly affects the quality of water in the Deep Zone in the Exchange Contractor and Paramount service areas due to the interception of good quality water that would otherwise reach the Deep Zone in the Exchange Contractor and Paramount service areas or if other significant impacts are identified.

c. Additional Pumping Within Farmers' WD.

During the term of Agreement No. 1, an issue arose regarding the pumping of groundwater by a non-MPG member within the boundary of Farmers' WD for use on lands outside Farmers' WD. Farmers' WD currently owns and operates 10 wells and related facilities within its Fresno County boundaries and other persons currently own and operate six wells and related facilities within the Fresno County boundaries of Farmers' WD. If any non-MPG member pumps groundwater from a well within Farmers' WD for use on lands outside Farmers' WD, the amount of such water pumped in any Year shall be determined by the Technical Committee and such amount shall be

deducted from the amount of water permitted to be pumped from wells within Farmers' WD under this Agreement No. 2 for such Year. If such non-MPG member pumping causes or contributes to causing water quality degradation, subsidence, or other limitations contained in this Agreement No. 2, the limitations provided in this Agreement No. 2 shall be enforced to reduce or eliminate Transfer Pumping until such conditions no longer exist. Farmers' WD shall cooperate with the other parties to this Agreement No. 2 to determine the amount of any such pumping by a non-MPG member and, to the extent authorized by law, shall exercise its authority to enforce the provisions of this section 3.05c.

3.06 Meters on Wells.

A separate water meter shall be installed, operated, maintained, repaired and replaced, as required (a) on each MPG Well or group of MPG Wells that have a common manifold; and b) on each non-MPG Well used to produce water for use on the Adjacent Overlying Lands. The MPG or its designated agent shall read the water meter on each MPG Well or group of MPG Wells and each non-MPG Well used to produce water for use on the Adjacent Overlying Lands each month during which water is produced from such well or group of wells. The meters shall be maintained on a schedule and protocol established by the Technical Committee.

3.07 Mitigation of Third Party Impacts.

a. The MPG Account.

The Exchange Contractors shall continue to maintain the interest-bearing MPG Account. The MPG shall pay the Exchange Contractors each Year when the MPG declares its intent to pump for Transfer Pumping under section 3.04 hereof an amount equal to \$25,000, less the current balance in the MPG Account,

and such amount shall be deposited by the Exchange Contractors in the MPG Account. The MPG shall augment the funds in the MPG Account, when and as required, so that the Exchange Contractors have sufficient funds in the MPG Account to compensate the persons entitled to compensation under this section. The Exchange Contractors, upon written authorization from the Policy Committee, shall disburse funds from the MPG Account to compensate such persons.

b. Persons Entitled to Compensation.

Each Year, upon request, the Exchange Contractors shall pay landowners or their duly authorized agents, who operate wells within (1) the Exchange Contractors' service area, and (2) lands owned by Paramount as defined as New Columbia Ranch on Exhibit E, where drawdowns from Transfer Pumping are predicted by the Technical Committee to occur, an amount fixed and determined by the Technical Committee under section 3.08c hereof. No person shall be entitled to payment under this section unless (1) water production from an affected well where drawdowns from Transfer Pumping are predicted to equal or exceed 10 feet is properly metered and adequate production records are maintained, or (2) adequate energy and pump test records are maintained for affected wells where drawdowns from Transfer Pumping are predicted to be less than 10 feet. In order to qualify for compensation where drawdowns of 10 feet or greater occur, meters will be required on wells in the drawdown area. To qualify for compensation where drawdowns of less than 10 feet occur, kilowatt hours and current pump test calculations will be sufficient.

c. Determination of Compensation.

The Technical Committee shall determine the incremental energy costs due to Transfer Pumping for the wells identified in section 3.08.b. hereof, after the completion of the irrigation season and within a reasonable time after the Policy Committee is presented with all documentation reasonably required to support an application for payment.

d. Compensation Guidelines.

The Technical Committee shall consider the following guidelines in determining the incremental energy and other costs:

1. Additional energy costs from increased drawdown may persist beyond the Year. These costs shall be compensated on an annual basis and if they will extend beyond the term of this Agreement No. 2 shall be estimated and paid prior to pumping in the last Year based upon a present value for such costs.
2. Additional drawdown may result in loss of efficiency of pumps or loss of production of wells resulting in the operation of wells during higher priced time of use periods.
3. Additional drawdown due to Transfer Pumping may result in the need to increase the horsepower of motors, lower or modify pump bowls, drill additional wells, or redrill, recase, or drill a new well. Any costs of such activities caused by Transfer Pumping, subject to review by the Technical Committee, shall be paid by the MPG. The owner or operator of the well shall bear any cost for betterment or enhancement of the facility, if any. The owner or operator shall also pay for modifications or repairs, which would normally be conducted at the time without the impacts of Transfer Pumping. For example, if a well were operating at

normal efficiencies and performing satisfactorily for normal operations and it is necessary to extend the pump column due to Transfer Pumping, the total cost to do so and to provide the equivalent production prior to the modifications shall be borne by the MPG. Likewise, if the extension of the pump column on a well is required due to Transfer Pumping and at the time the well is performing below normal efficiencies and in need of repair in the normal course of business, then the owner or operator shall be responsible for the cost which would normally be required to return the well to a reasonable efficiency for the existing facility and the MPG shall pay all other costs.

4. To the greatest degree possible, the costs estimated to be incurred and the determination of what occurred shall be measured against a standard of what a prudent but not infallible owner and operation of a well would do in circumstances which can be predicted or, if unpredicted impacts or conditions occurred, what that owner and operator should do to mitigate and reduce his, her or its damages in light of the availability of supplies, materials, time constraints, costs and like factors. Costs or preventive measures which are reasonable, even if in hindsight unnecessary, shall be compensated.

3.08 Monitoring Program.

- a. The parties hereto shall conduct a monitoring program to determine the impacts of Transfer Pumping in the manner specified in Chapter VII of the Phase II Report.
- b. The effectiveness of the monitoring program will be reviewed each Year by the Technical Committee and the Technical Committee will make recommendations each Year to improve the program and to make it more cost effective.

3.09 Technical Committee.

a. Formation.

Exchange Contractors, Paramount, and the MPG shall appoint one person to serve on the Technical Committee. The Exchange Contractors and Paramount may appoint the same person. Each person appointed shall be experienced in groundwater hydrology or hydrogeology. The initial members of the Technical Committee shall be Kenneth D. Schmidt and Glenn Browning. Each person appointed to the Technical Committee shall serve at the pleasure of the party who appointed him or her.

b. Authority and Obligations.

The Technical Committee shall have the following authority and obligations under this Agreement No. 2:

1. To obtain and preserve all records required to perform and implement the rights and obligations of each party hereto under this Agreement No. 2.
2. To establish the amount of recommended Transfer Pumping during each Year of the term of this Agreement No. 2 commencing 2011.
3. To establish a maintenance schedule and protocol for the water meters to be maintained by the MPG under section 3.07 hereof.
4. To determine the appropriate level of mitigation under section 3.07 hereof.
5. To prepare the annual reports required under section 3.08.d. hereof.

6. To attempt to resolve any dispute between or among the parties hereto or between any party hereto and any person claiming any right under this Agreement No. 2.

Any action of the Technical Committee shall require the unanimous agreement of its members.

c. Compensation.

Each party who appoints a member to the Technical Committee shall be responsible for the compensation of such member for his or her services on the Technical Committee.

d. Annual Reports.

The Technical Committee shall prepare an annual report for each Year during which Transfer Pumping is conducted, commencing with the Year 2011. Each annual report shall be prepared after the conclusion of the irrigation season for that Year. Each annual report shall include:

1. The amount of Transfer Pumping from the Deep Zone for the Year and the cumulative amount thereof to date including the quantities described in section 3.05 hereof.
2. The amount of Transfer Pumping from the Shallow Zone for the Year and the cumulative amount thereof to date.
3. The amount of groundwater pumped by the MPG, a MPG Party, or River Ranch for use on Adjacent Overlying Lands.
4. Current water levels and water level impacts for the Year in the Deep Zone and the Shallow Zone caused by Transfer Pumping.

5. Current water quality and water quality impacts for the Year in the Deep Zone and the Shallow Zone caused by Transfer Pumping.

6. Current water quality in the Mendota Pool and water quality impacts for the Year in the Mendota Pool caused by Transfer Pumping.

7. The amount of subsidence at the Yearout Extensometer and the Fordel Extensometer, the amount of such subsidence attributable to Transfer Pumping, and the cumulative amounts thereof to date.

8. Any recommended modification of or to the Project, provided, that any such recommended modifications shall not become effective unless approved by the Policy Committee.

e. Technical Committee Records.

The records and reports of the Technical Committee shall be kept at the office of the Exchange Contractors.

f. Limitation on Liability.

No member of the Technical Committee shall be liable to any party hereto, other than the party appointing him or her, for any claim of damage to such party, irrespective of its basis or nature, unless the claim is based on such member's actual fraud, bad faith, or intentional or willful conduct.

3.10 Policy Committee.

a. Formation.

The Exchange Contractors and Paramount shall each appoint one person and the MPG shall appoint two persons to serve on the four-person Policy Committee. The initial members of the Policy Committee shall be Steve Chedester, Roy Catania, Jim Stillwell, and Joc F. Coelho, Jr. Each person

appointed to the Policy Committee shall serve at the pleasure of the party who appointed him or her.

b. Authority and Obligation.

The Policy Committee shall have the authority and obligation to resolve any dispute that cannot be resolved by the Technical Committee under section 3.12b hereof. Any action of the Policy Committee shall require the unanimous agreement of its members.

c. Compensation.

Each party who appoints a member to the Policy Committee shall be responsible for the compensation of such member for his or her services on the Policy Committee.

d. Policy Committee Records.

The records of the Policy Committee shall be kept at the office of the Exchange Contractors.

e. Limitation on Liability.

No member of the Policy Committee shall be liable to any party hereto, other than the party appointing him or her, for any claim of damage to such party, irrespective of its basis or nature, unless the claim is based on such member's actual fraud, bad faith, or intentional or willful conduct.

3.11 Dispute Resolution.

a. Appointment of Independent Consultant.

The parties hereto hereby appoint Dennis E. Williams, Ph.D., Geoscience Support Services, Inc., Claremont, California, (909) 920-0707, as the Independent Consultant. If the Independent Consultant becomes unavailable for any reason, the parties hereto shall designate another qualified person to provide such services.

b. Resolution of Technical Committee Disputes.

If the members of the Technical Committee are unable to unanimously agree on a matter within the jurisdiction of the Technical Committee, the Technical Committee shall request the Independent Consultant to review the relevant information and make a separate, independent recommendation to the Technical Committee. The members of the Technical Committee shall thereafter attempt to reach unanimous agreement on the matter. If the members of the Technical Committee are still unable to unanimously agree on the matter, the Technical Committee shall refer the matter to the Policy Committee for its resolution. The Policy Committee shall thereafter meet and confer and attempt to resolve the dispute.

c. Resolution of Policy Committee Disputes.

If the members of the Policy Committee cannot unanimously agree on a matter referred to it by the Technical Committee, then, with one exception hereinafter stated, the decision of the Policy Committee shall be deemed to be the decision of the member or members of the Technical Committee appointed by the Exchange Contractors and Paramount. If the Exchange Contractors and

Paramount have each appointed a member to the Technical Committee and such members are not in agreement on the matter referred to the Policy Committee, the decision of the Policy Committee shall be deemed to be the average, or its equivalent, of separate decisions made by such members of the Technical Committee. The decision of the Policy Committee shall be final and not subject to any review, judicial or otherwise, with one exception, namely a decision regarding any right to compensation under section 3.10 hereof. If the members of the Policy Committee cannot unanimously agree on a matter regarding a right to compensation under section 3.10 hereof, such matter shall be subject to arbitration under section 3.12d hereof.

d. Arbitration.

Any matter regarding a right to compensation under section 3.10 hereof that cannot be resolved under section 3.12c hereof shall be decided by the Independent Consultant. A hearing on the matter shall take place before the Independent Consultant in Los Banos, California at a time and place selected by the Independent Consultant. The Independent Consultant shall give each party hereto written notice of the time and place of the hearing at least 30 days before the date selected. At the hearing, all relevant evidence may be presented by any party hereto and the formal rules of evidence applicable to judicial proceedings shall not govern. The Independent Consultant shall hear and determine the matter, shall render a written report on the matter, and cause a copy thereof to be delivered to each of the parties hereto. The decision of the Independent Consultant shall be binding and conclusive on each of the parties hereto.

e. Termination of Agreement No. 2.

1. The Exchange Contractors, and Paramount, so long as it obtains the written approval of the Exchange Contractors, and the MPG shall have the right to terminate this Agreement No. 2 at the end of any Year if the members of the Policy Committee cannot unanimously agree on a matter under section 3.12c hereof which is not subject to arbitration under section 3.12d hereof. No claim of vested rights or impairment or damage to property rights shall exist on the part of the MPG, any MPG Party, or River Ranch because of a change, reduction or termination of Transfer Pumping under the terms of this Agreement No. 2. Neither the MPG, a MPG Party, nor River Ranch shall obtain prescriptive rights, estoppel claims, or any preference in any form in the use or enjoyment of groundwater as and against the lands owned by Paramount and the lands located within the Exchange Contractors' service area.

2. If this Agreement No. 2 is terminated under section 3.12e1 hereof, (i) notice of such termination shall be provided to the Technical Committee, (ii) within 30 days of receipt of such notice, each member of the Technical Committee shall prepare and deliver to each party hereto a report setting forth his or her recommendation for Transfer Pumping during the next Year and the basis therefore. Similar reports shall be prepared for Years subsequent to the next Year if required by a court of competent jurisdiction.

3. If this Agreement No. 2 is terminated under section 3.12e1 hereof, (i) each party hereto shall fully perform his, her or its obligations that accrue through the end of the Year of termination and any obligations associated with any reports prepared under section 3.12e2 hereof, (ii) Transfer Pumping or a similar pumping program may only continue if all costs established by this Agreement No. 2 to mitigate impacts of Transfer

Pumping or a similar pumping program are paid as set forth in this Agreement No. 2, (iii) any party hereto may commence such litigation as he, she or it determines to establish the rights and obligations of the parties hereto, and perhaps others, to extract groundwater from the basin, and (iv) except as provided in this section, nothing in this Agreement No. 2 shall constitute an admission in any such litigation. If any party hereto commences such litigation, such party or any party hereto named as a party to such litigation, may request a stipulation from each other party hereto who is a party to such litigation whereby all parties to the stipulation, (i) waive all defenses to entry of a preliminary injunction or similar ancillary order establishing the terms and conditions for Transfer Pumping or a similar pumping program pending entry of judgment, (ii) waive any right to a bond or undertaking in connection with such order, (iii) agree that the court may enter its order based on the terms of this Agreement No. 2, the reports of the members of the Technical Committee under section 3.12e2 hereof and the cross-examination of any member of the Technical Committee regarding the recommendations of such member and the basis therefore, provided that the order requires the payment of compensation consistent with the provisions of section 3.08 hereof, (iv) agree that the stipulation, such order, this Agreement No. 2, and such reports shall not be considered by the court or any other finder of fact in considering the merits of such litigation and reaching a judgment therein, and (v) waive any right to appeal such order. Each party hereto who is a party to such litigation shall execute such stipulation.

3.12 Allocation of Responsibility and Costs.

a. The Exchange Contractors.

The Exchange Contractors, at its cost, shall be responsible for the following activities:

1. The operation, maintenance, repair, replacement and reading of EC recorders on the Firebaugh Intake Canal, the Outside Canal, the Main Canal, and the Columbia Canal.
2. The existing normal monitoring of the water levels and water quality in groundwater production wells within its service area.
3. The operation, maintenance, repair, replacement, and reading of the Yearout Extensometer.
4. Its participation on the Technical and Policy Committees.
5. The activities of any of its employees, agents or consultants.

b. Paramount.

Paramount, at its cost, shall be responsible for the following activities:

1. The existing normal monitoring of the water levels and water quality in its groundwater production wells.
2. Its participation on the Technical and Policy Committees.
3. The activities of any of its employees, agents or consultants.

c. The MPG.

The MPG, at its cost, shall be responsible for the following activities:

1. The activities of the MPG required under section 3.07 hereof.
2. The monitoring of all MPG Wells and any non-MPG Well used to produce water for use of the Adjacent Overlying Lands.

3. The acquisition of meters for installation on wells of the persons described in section 3.08b hereof where drawdowns from Transfer Pumping are predicted by the technical Committee to equal or exceed 10 feet during the Year.
4. Except as otherwise provided in this Agreement No. 2, the activities required under section 3.09 hereof.
5. The operation, maintenance, repair, replacement, and reading of the Fordel Extensometer.
6. Its participation on the Technical and Monitoring Committees.
7. The services of the Independent Consultant under section 3.12 hereof.
8. The activities of any of its employees, agents or consultants.

In addition, the MPG shall pay the Exchange Contractors the sum of \$20,000 upon execution of this Agreement No. 2 and on or before January 15 of each Year during the term of this Agreement No. 2, commencing January 15, 2011, as compensation for the costs the Exchange Contractors and Paramount would not have incurred but for this Agreement No. 2.

3.13 Environmental Documents.

The environmental documents for the Project shall be the DEIS and FEIS, the Phase I Report, and the Phase II Report, and as the interpretations therein have been modified by the monitoring results for the Transfer Pumping Years from 2001 to 2010. The environmental documentation evaluated the environmental impacts of Transfer Pumping only to the extent discussed in the Phase I and Phase II Reports. If this Agreement No. 2 is terminated the controlling environmental documents for any Transfer Pumping or similar project shall be the DEIS/FEIS, the Phase I Report and the Phase II Report and as the interpretations therein have been modified by the monitoring results for the Transfer Pumping Years from 2001 to 2010.

ARTICLE IV.

GENERAL PROVISIONS

4.00 Term.

The term of this Agreement No. 2 is 4 Years from and after the Effective Date unless earlier terminated under section 3.11e hereof. This Agreement No. 2 may be extended upon the mutual agreement of the parties hereto.

4.01 Venue.

The venue for any action or proceeding filed by any party hereto in any court, except a proceeding under the Bankruptcy Code, shall be in the Superior Court of the State of California in and for the County of Fresno.

4.02 Defense and Indemnity.

The MPG, the MPG Parties, and River Ranch shall defend, indemnify and hold harmless Paramount, the Exchange Contractors and the members thereof, Central California ID, San Luis CC, Firebaugh Canal WD, and Columbia CC, and their agents, employees, directors and technical representatives from any and all claims, liability or expense of whatsoever nature or kind arising directly or indirectly from claims by third parties or persons, including without excluding others, governmental agencies or any business forms that:

- a. Damages have occurred to persons, property or resources from Transfer Pumping or use of water upon Adjacent Overlying Lands; or,
- b. Laws, ordinances or regulations have been violated or not complied with; or,
- c. Through actions or omissions of the Policy Committee, or Technical Committee, or through any other action including complying with the terms of this Agreement No. 2, that the indemnified and defended parties have become participants in the Project or portions thereof.

This obligation to defend, indemnify and hold harmless shall be joint and several and includes, without excluding other claims, costs and expenses,

(a) The payment of attorneys fees, expert witness fees and costs incurred by the indemnified parties. The indemnified parties shall choose their own counsel to provide their defense and each of the Exchange Contractors and Paramount shall be entitled to employ attorneys of their choosing in that defense.

(b) The release of any and all claims, including future and presently unknown claims which may exist in the future on the part of the MPG, a MPG Party, or River Ranch or any entity or person claiming through them that through the exercise of the authority granted to the Technical Committee , damages, injuries or loss has occurred to the MPG, a MPG Party or River Ranch, or any of them. This release and waiver shall extend to unknown claims and as a result those parties do hereby waive the benefits of Civil Code Section 1542 which states:

“General Release. A General Release does not extend to claims which the creditor does not know or suspect to exist in his/her favor at the time of executing the release, which if known by him/her must have materially affected his/her settlement with the debtor.”

(c) Claims that the indemnified and defended parties were negligent or unreasonably omitted to act with respect to the proceedings prior to this Agreement No. 2 or in any proceeding or event related to the Technical Committee or the enforcement of this Agreement No. 2 whether made by third parties, governmental agencies, the MPG, an MPG Party or River Ranch or any of them.

The indemnification and defense provided for herein shall survive the termination of this Agreement No. 2.

4.03 Assignment.

No party hereto shall assign or transfer this Agreement No. 2 or any right or interest therein or thereunder, or suffer or permit any such assignment or transfer to occur by operation of law without the prior written consent of the other parties hereto, which consent shall not be unreasonably withheld, provided, however, that (a) the MPG may assign or transfer its rights and obligations under this Agreement No. 2 to another entity without the prior written consent of the other parties hereto if the equitable interests of the members of the MPG in such entity are substantially the same as their current interests in the MPG and (b) a member of the MPG or River Ranch may assign or transfer its rights under this Agreement No. 2 without the prior written consent of the other parties hereto so long as any change in the place of use of any Transfer Pumping water extracted under this Agreement No. 2 will not materially change any impacts caused by or attributable to Transfer Pumping and the assignor or transferor remains obligated under this Agreement No. 2. (c) Paramount may assign or transfer its rights and obligations under this Agreement No. 2 to its affiliates without the prior written consent of the parties so long as such assignee or transferee holds title to the New Columbia Ranch and such assignment or transfer does not materially change the obligations of the MPG or its members under this agreement. In the event of any authorized transfer or assignment, the transferee shall agree in writing with the other parties hereto or their successor or assigns, as the case may be, to personally assume, perform and be bound by the covenants, obligations and agreements contained in this Agreement No. 2 jointly and severally.

4.04 Successors and Assigns.

Subject to section 5.04 hereof, this Agreement No. 2 shall be binding upon the successors and assigns of the respective parties hereto.

4.05 Written Notice.

Any notice, request, tender, demand, delivery, approval or other communication provided for, required, or arising under this Agreement No. 2 shall be in writing and shall be deemed delivered to a party hereto if delivered in person to an individual or to an officer or authorized representative of a legal entity or, if mailed three business days following deposit in the United States mails registered or certified return receipt requested postage prepaid, and addressed to such party at the address contained in this section. Any notice to the Exchange Contractors shall be addressed to the Exchange Contractors at P. O. Box 2115, Los Banos, CA 93635 with a copy addressed to Paul R. Minasian of Minasian, Spruance, Baber, Mcith, Soares & Sexton, LLP, P.O. Box 1679, Oroville, CA 95965-1679. Any notice to Paramount shall be addressed to Paramount Farming Company, attention Kimberly Brown at 33141 E. Lerdo Hwy, Bakersfield, California 93308 with a copy to Paramount Farming Company, attention Roy Catania at 10302 Ave 7 1/2, Firebaugh, California 93622. Any notice to the MPG, shall be addressed to William Pipes c/o AMEC, Inc. at 1281 E. Alluvial Ave., Fresno, CA 93720 with a copy addressed to Robert G. Kuhs of Kuhs & Parker, P. O. Box 2205, Bakersfield, CA 93303. Any party hereto may change the address to which notice is to be given by giving notice in the manner specified in this section.

4.06 Representations and Warranties.

Each person who executes this Agreement No. 2 on behalf of a party hereto represents and warrants that: (a) the party on whose behalf he or she executes this Agreement No. 2, if other than a natural person, (1) is a legally constituted legal entity and (2) has authority to execute this Agreement No. 2 and (b) he or she is authorized to execute this Agreement No. 2.

4.07 As a Precedent.

Nothing in this Agreement No. 2 is intended or shall be construed as a precedent or other basis for any contention that any parties to this Agreement No. 2 has waived or compromised his, her, or its rights which may be available under state or federal law except as to the matters addressed in this Agreement No. 2.

4.08 Subject to Valid Laws.

Performance under this Agreement No. 2 is subject at all times to any and all valid laws, ordinances, and governmental regulations whether federal or state including, without limitation, current laws, regulations, policies and procedures which govern the transfer and sale of groundwater.

4.09 Counterparts of Agreement No. 2.

This Agreement No. 2 may be signed in any number of counterparts by the parties hereto, each of which shall be deemed to be an original, and all of which together shall be deemed one and the same instrument. This Agreement No. 2, if executed in counterparts, shall be valid and binding on a party as if fully executed all on one copy.

4.10 Attorneys' Fees.

In the event of any arbitration or litigation between the parties hereto arising out of, or in connection with, the provisions of this Agreement No. 2 or any documents executed and delivered pursuant to this Agreement No. 2, the prevailing party shall be entitled to reasonable attorneys' fees, expert witness costs, costs of suit, and necessary disbursements, in addition to whatever damages or other relief such party is entitled to in connection with such dispute.

4.11 Representation By Counsel.

This Agreement No. 2 is entered into freely and voluntarily. The parties hereto acknowledge that they have been represented by counsel of their own choice, or that they have had the opportunity to consult with counsel of their own choosing, in the negotiations that preceded the execution of this Agreement No. 2, and in connection with the preparation and execution of this Agreement No. 2. Each of the parties hereto executes this Agreement No. 2 with full knowledge of its significance and with the express intent of effecting its legal consequences.

4.12 Compromise.

This Agreement No. 2 is the result of a good faith compromise settlement of a disputed claim, and this Agreement No. 2 and the release contained herein shall not be taken or construed to be an admission of any liability, responsibility, fault, or wrongdoing by any of the parties hereto, each of whom continues to deny and disclaim any such liability, responsibility, fault, or wrongdoing. Each of the parties hereto is entering into this Agreement No. 2 to avoid the expense, disruption and uncertainty of litigation.

4.13 No Agency, Partnership or Joint Undertaking.

Nothing in this Agreement No. 2 shall create or be construed to create any form of joint undertaking, partnership or agency in which the MPG, a MPG Party or River Ranch shall be construed to be acting on behalf of Paramount or the Exchange Contractors. Paramount, and the Exchange Contractors, and their officers, employees, directors and independent consultants, including Technical Committee representatives acting under the terms of this Agreement No. 2, shall not be deemed to be a principal, an authorizing party, or a participant in the actions of the MPG, a MPG Party or River Ranch and those parties shall be solely and exclusively responsible for any damages, harm or injury resulting from their actions. The sole purpose of this

Agreement No. 2 is to attempt to provide means by which damages, injury or claims may be prevented and Paramount and the Exchange Contractors make no warranty or representation and undertake no liability should the measures provided herein or the functioning of the Technical Committee not result in full protection from injury, or damage, or should the knowing or unknowing failure to enforce rights under this Agreement No. 2 result in injury or damage.

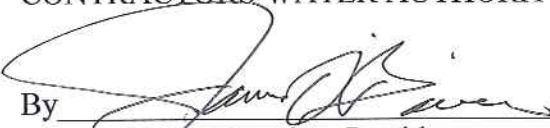
4.14 Remedies Not Exclusive

Except as otherwise provided in this Agreement No. 2, the application by any party hereto of any remedy provided in this Agreement No. 2 for the enforcement of this Agreement No. 2 is not exclusive and shall not deprive such party of, or limit the application of, any other remedy provided by law, in equity, or otherwise.

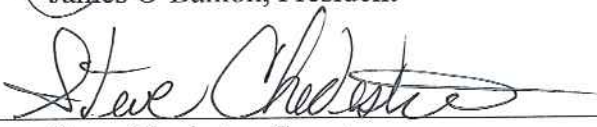
IN WITNESS WHEREOF, the Exchange Contractors, Paramount, the MPG, River Ranch, and Farmers' WD have caused this Agreement No. 2 to be executed as of the Effective Date.

SAN JOAQUIN RIVER EXCHANGE
CONTRACTORS WATER AUTHORITY

By


James O'Banion, President

By


Steve Chedester, Secretary

PARAMOUNT LAND COMPANY LLC and
PARAMOUNT POMEGRANATE ORCHARDS LLC,
Delaware limited liability companies


By



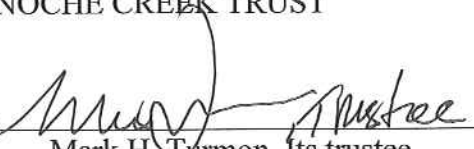
MENDOTA POOL GROUP

By 
William Pipes, Agent

BAKER FARMING CO.,
a California limited liability company

By 
Barry Baker, Its general partner

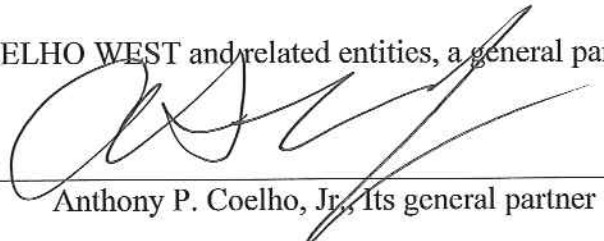
PANOCHE CREEK TRUST

By 
Mark H. Furmon, Its trustee

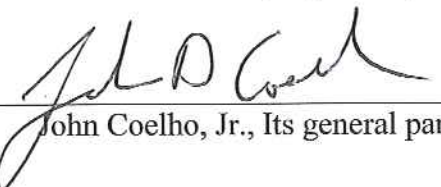
M. BRITZ, T.I.C., a general partnership

By 
David Britz, Its general partner

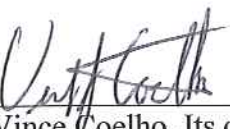
COELHO WEST and related entities, a general partnership

By 
Anthony P. Coelho, Jr., Its general partner

CASACA VINEYARDS, a general partnership

By 
John Coelho, Jr., Its general partner

DADDY'S PRIDE FARMING, a sole proprietorship

By 
Vince Coelho, Its owner

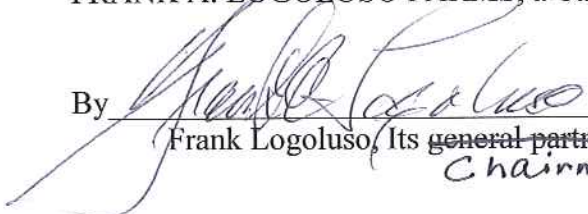
SOLO MIO FARMS, a sole proprietorship

By 
Ed Coelho, Its owner

VISTA VERDE FARMS, a California corporation

By 
Ken Gardner, Its secretary

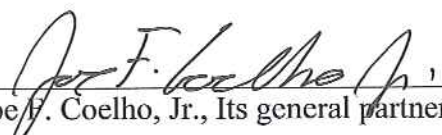
FRANK A. LOGOLUSO FARMS, a California corporation

By 
Frank Logoluso, Its ~~general partner~~
Chairman

MEYERS FARMS FAMILY TRUST

By 
Marvin Meyers, Its trustee


TERRA LINDA FARMS I, a general partnership

By 
Joe F. Coelho, Jr., Its general partner

RIVER RANCH LLC,
a California limited liability company

By 
Joe F. Coelho, Jr., Manager

FARMERS' WATER DISTRICT

By 
James K. Merrill, Its president