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February 2, 2015

VIA ELECTRONIC MAIL

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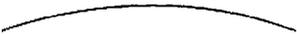
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Re: Root Creek Water District, Riverstone Wastewater
Treatment Facility
Waste Discharge Requirements

Dear Mr. Harvey, Ms. Creedon and Ms. Carpenter:

I am the General Counsel of Root Creek Water District (RCWD or the District). I am responding to the January 14, 2015 letter from Mr. Jeff Reid as attorney for Richard Gunner. Mr. Reid's assertions are not supported by the facts or the CEQA Guidelines applicable to modification of projects after certification of an EIR.

The refinements of the Root Creek Water District sewage treatment plan are minor improvements to the plan set forth in the water supply assessment and infrastructure master plan that were included in the Madera County EIR for Gateway Village. The refinements were decided upon, in consultation with Regional Board staff, primarily to further reduce environmental impacts of the project. The project modifications will reduce certain impacts and will not cause any additional impacts, including any of the impacts that Mr. Reid asserts. Therefore, it is appropriate for the Regional Board staff to prepare the Addendum to the EIR to document the modifications, the rationale for them and their effects for the Board's consideration in its deliberations. No further environmental documentation is necessary or appropriate.


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The specific rules for implementing CEQA are set forth in the CEQA Guidelines, which have the force of law. Guideline 15162 “Subsequent EIR’s and Negative Declarations” is the provision applicable to this situation. It states:

When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The public policy supporting the California Environmental Quality Act is imbedded in the CEQA Guidelines. In particular, 15092 concerning feasibility and 15093 concerning Statements of Overriding Consideration demonstrate that CEQA tries to strike a balance between environmental protection and maintaining economic prosperity. This is also indicated in the very short time lines for a court challenge of an adopted CEQA document. The intention expressed throughout the Guidelines is to protect the environment while minimizing the burden on, and delay of, economic activity. That is, CEQA recognizes that projects are always refined and modified as they are constructed but the process cannot be stopped for public review every time an environmentally-insignificant modification occurs.

Although Mr. Reid asserts that only minor technical corrections can be made pursuant to an addendum, Guideline 15162 phrases it much differently. The Guideline makes it clear that nothing more than an Addendum is required unless there is a significant additional environmental impact. Otherwise, approved projects should go forward. Most importantly, the scope of changes to the project is not relevant to CEQA. The only question is whether the changes to the project create an additional significant environmental impact. The Addendum prepared by Board staff analyses the changes in the project as minor refinements which have insignificant or positive environmental impacts. We agree. The modifications of the Root Creek sewage treatment plan reduce the impacts of the prior plan and do not create any new impacts. Mr. Reid expresses his concern that the change in the design of the effluent discharge from the small and temporary initial wastewater treatment plant may cause a significant adverse impact on groundwater recharge. His concern is completely unfounded.

As Mr. Reid notes, RCWD knows that percolating wastewater is less beneficial to the aquifer than using waste water for irrigation that displaces groundwater pumping. Mr. Reid acknowledges that RCWD has pointed out that problem with his client’s proposed project adjacent to RCWD. RCWD, however, has a contractual obligation to balance groundwater use within the District. Furthermore, RCWD has sufficient water supplies to balance the groundwater in the District without using recycled wastewater. Therefore, there will be no

impact at all from the temporary reduction in wastewater recycling before the Riverstone project generates sufficient wastewater flow to support a tertiary wastewater treatment plant.

The documents submitted to you by Mr. Reid establish that there will be no significant impact from a 50% reduction of recharge from sewage effluent until the tertiary treatment plant is operating. In the Water Supply Assessment for Gateway Village it states in the partial paragraph at the top of page 33 that “RCWD can provide 100% of the Gateway Village (*now Riverstone*) water demands from the agreement with Westside (*now Paramount*) (for 7,000 acre feet per year of firm water). Therefore, groundwater pumping and surplus water purchases can be viewed as auxiliary water supplies.” Later in the paragraph it explains that the use of recycled wastewater for irrigation was not included in the discussion above but it will further enhance water security. Therefore, the assumption that only 50% of effluent will percolate to usable groundwater has no impact on the analysis done in the Water Supply Assessment for Gateway Village.

In addition, Appendix D of the Water Supply Assessment is the “Agreement Concerning Agricultural Municipal and Industrial Water Use Within Root Creek Water District (enclosed herewith). The parties to the agreement are RCWD, Madera Irrigation District (MID), the Friant Water Authority (FWA) and Chowchilla Water District (CWD). In general, the contract provides for the three other entities to assist RCWD in developing its inventory of water supplies in exchange for commitments from RCWD concerning groundwater management and use of the so called Holding Contracts. The Holding Contract terms are not relevant to this discussion.

Both Friant and Madera Irrigation District agreed to assist RCWD with wheeling water supplies and contracting for surplus water supplies. In particular, MID agreed to assist RCWD with use of its Lateral 6.2 and the installation of a pipeline to bring surface water directly into RCWD. In exchange, RCWD agreed to address the groundwater overdraft within its boundary. In particular, on page 7 the contract states, “RCWD agrees [to] reduce to zero its contribution to groundwater overdraft within 5 years following completion of a facility to convey surface water to RCWD from MID lateral 6.2....RCWD agrees to maintain such zero contribution to groundwater overdraft, on average, thereafter.”

The contractual commitment that RCWD made enabled it to develop the water supplies that it now has in place. RCWD will continue to honor that commitment because it is the key to the operation of the District. Therefore, RCWD will ensure that any inefficiency in percolation of wastewater or other shortage of water supply is offset by imported surface water. RCWD has the water available and it has the obligation to import water as needed to maintain a water balance in the District. Therefore there will be no adverse impact to groundwater supply from the change in the design of the interim wastewater treatment plant.

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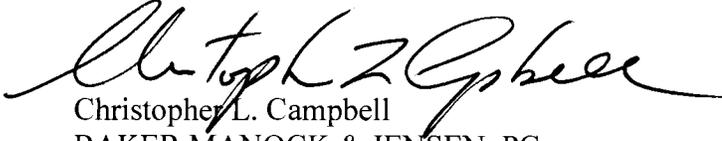
Mr. Reid's second concern is water quality. He argues that the requirement of an antidegradation analysis indicates there is a significant issue. Water quality is both the jurisdiction and the expertise of the Regional Water Quality Control Board (RWQCB). An antidegradation analysis is required with every Report of Waste Discharge involving land discharge, whether to recycling or to percolation. The staff normally examines the site specific conditions to ensure that groundwater quality will not be compromised. Therefore, the process is the same as it would have been if RCWD was requesting Waste Discharge Requirements under the unmodified plan. Nothing in the procedure followed by staff is unusual or indicates that there is an environmental concern.

The AECOM document Mr. Reid submitted includes nothing but conclusory statements which do not rise to the level of the substantial evidence necessary to require any additional analysis. The experts on the Regional Board staff have performed a detailed analysis and the AECOM comments present no evidence to refute the staff analysis and conclusions.

Root Creek Water District supports the addendum to the EIR prepared by the RWQCB staff. RCWD agrees that the staff has correctly analyzed the potential impacts of the refinements of the RCWD wastewater treatment plan. On balance, potential environmental impacts will be reduced by the modifications. Therefore, RCWD encourages the Board to approve the modified wastewater treatment plan.

Thank you for your attention.

Very truly yours,



Christopher L. Campbell
BAKER MANOCK & JENSEN, PC

CLC:TLW
Eclosure

AGREEMENT CONCERNING AGRICULTURAL, MUNICIPAL AND INDUSTRIAL WATER USE WITHIN ROOT CREEK WATER DISTRICT

This Agreement Concerning Agricultural, Municipal and Industrial Water Use Within Root Creek Water District ("Agreement") is entered into this 30th day of December, 1999, by and among FRIANT WATER USERS AUTHORITY ("Authority"), MADERA IRRIGATION DISTRICT ("MID"), CHOWCHILLA WATER DISTRICT ("CWD"), and ROOT CREEK WATER DISTRICT ("RCWD") (collectively, the "District Parties"). This Agreement shall further be between the District Parties and holding contract owners (as defined below) who sign this Agreement, and all landowners or developers who subsequently sign the Consents to be Bound by this Agreement as set out below. For the purposes of this Agreement, "Parties" shall refer collectively to the District Parties, any holding contract owner who signs this Agreement, and any others who are made Parties by agreement.

RECITALS:

A. The Authority represents 25 water and irrigation districts, including CWD and MID (the "Member Agencies"), who each contract with the United States Department of Interior, Bureau of Reclamation (the "Bureau") for San Joaquin River water impounded by Friant Dam and delivered through the Madera and the Friant-Kern Canals. The water and irrigation districts and municipalities who have contracts to obtain water deliveries from the Friant-Kern and Madera Canals, including all Member Agencies and all additional contractors, shall be referred to collectively as the "Friant Contractors."

B. MID and CWD each contract with the Bureau for San Joaquin River water impounded by Friant Dam and delivered through the Madera Canal.

C. RCWD is a new water district serving a portion of Southeastern Madera County currently consisting of 9,234 acres. A legal description of RCWD is attached as Exhibit A.

D. The "Holding Contract Owners" are certain landowners within RCWD who own certain properties that are subject to contracts with the United States acting through the Bureau (the "Holding Contracts"). The Holding Contracts provide for the property to obtain water directly from the main stem of the San Joaquin River downstream from Friant Dam. The signatories to this Agreement disagree with each other as to the scope of that right, including the amount of water which may be utilized under each Holding Contract, where that water may be utilized, and the purposes for which such water may be utilized.

E. The Holding Contracts within the RCWD Boundaries are numbers 65, 67, 69, and 74. The RCWD boundaries also include a claimed riparian parcel that is described in the Bureau's offer for Holding Contract number 72. The land included within RCWD and described in those four Holding Contracts and the claimed riparian parcel consists of a combined total of 2,211 acres. The Parties acknowledge that there is a dispute whether all the land described in the Holding Contracts is entitled to water pursuant to the terms of the Holding Contracts. For the purposes of this Agreement, the term "Holding Contracts" shall be used to mean only the four signed holding contracts and the claimed riparian parcel located within the current boundaries of RCWD.

F. RCWD desires to obtain additional surface water supplies to supplement the surface water and groundwater already available within RCWD and to correct the current groundwater overdraft within RCWD by utilizing direct and in lieu recharge programs. For the purposes of this Agreement, direct recharge means the application of water to land (either in spreading basins or intentional over irrigation) to provide recharge by direct

percolation. For the purposes of this Agreement, in lieu recharge means reducing groundwater pumping by providing surface water supplies to users that would otherwise pump groundwater. The amount of effective recharge is the amount of water available for extraction in the basin pursuant to Article II, Paragraph 5 of this Agreement

G. The "Gateway Developers" who are concurrently signing a Consent to be Bound by this Agreement desire to develop approximately 2,400 acres within RCWD to residential, commercial and industrial uses according to the terms of the Gateway Village plan submitted to the County of Madera (the "County"). The Gateway Developers intend to rely entirely on groundwater delivered by RCWD to supply their development ("M&I") water needs. To ensure a long-term, high-quality groundwater supply for the Village of Gateway, the Gateway Developers desire, through RCWD, to begin a program in cooperation with the District Parties and the County to address the existing groundwater overdraft in Southeastern Madera County.

H. The Parties desire to enter into this Agreement due to their mutual interest in the reasonable use and allocation of the waters of the San Joaquin River and/or preservation of the groundwater supply within the County, to fully resolve the current and any potential disputes among the Parties as to the scope of the rights to water under the Holding Contracts, and to comply with the Madera County General Plan Policies concerning water supply and delivery. The Parties believe that the creation of RCWD and the potential for municipal and industrial development in Southeastern Madera County creates both a need and an opportunity to comprehensively utilize available water resources for the mutual benefit of all Parties. It is the intent of the Parties that neither the development of RCWD's water supply nor conversion of lands within RCWD to municipal and industrial uses will have any adverse effects on established users of groundwater in

Southeastern Madera County, on established users of San Joaquin River water, or on the ability of any entity to meet current or future environmental requirements pertaining to San Joaquin River water.

I. Although the Authority cannot bind its members to this Agreement, it has concluded that this Agreement affords the requisite assurances to Friant Contractors that the use of water within RCWD will not adversely impact the water supply available from the Friant Division.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I

APPLICATION OF THIS AGREEMENT

1. Root Creek Water District. This Agreement shall apply to the operation of Root Creek Water District to obtain water for groundwater recharge and direct surface deliveries for agricultural and Municipal and Industrial ("M&I") uses. This Agreement shall apply to all water rights, water service or other transactions exercised by RCWD in its own name or on behalf of others. This Agreement shall not, however, apply to the individual exercise of any existing or future water rights by any Holding Contract Owners who do not sign this Agreement within RCWD solely for the account of those individual owners. Furthermore, any rights exercised by RCWD in delivering water to any landowner or water user within RCWD, including exercise of any landowner's overlying rights, whether in its own name or on behalf of others, shall be used exclusively by RCWD, and they shall not be concurrently exercised by any other owner of that right.

2. Holding Contract Owners. Any Holding Contract Owner that desires to avail itself of the settlement of potential disputes concerning the validity and scope of the rights granted in the Holding Contracts, all as set out in Article IV below, shall sign this

Agreement. As to non-signing Holding Contract Owners and those holding contracts outside RCWD, the Parties will retain the right to assert any claim, action or objection concerning the use of San Joaquin River water under such contracts.

3. Municipal and Industrial Users. For the purposes of this Agreement, an "M&I user" shall mean any water user that includes more than four residential units or any office or industrial facility. On farm labor camps and farmsteads for people who own or work in commercial agricultural production and existing agricultural office, processing or other support facilities (and repairs and replacement of the same approximate size and scope) shall not be included within the definition of M&I user. However, agricultural processing or other support facilities constructed after the date of this Agreement shall be included in such definition. The Parties acknowledge that RCWD is agreeing to the terms of this Agreement as a condition of providing M&I water service. Therefore, RCWD agrees that any M&I user within RCWD that desires to obtain M&I water service from RCWD, either directly or through participation in RCWD's groundwater recharge program shall be required to enter into an M&I Consent to be Bound by this Agreement substantially in the form attached as Exhibit B.

4. Effect of Consents. A Consent to be Bound shall not be revocable and shall modify the contract or other rights subject to that Consent so long as this Agreement is in effect.

ARTICLE II

PURPOSE AND COMMITMENTS OF ROOT CREEK WATER DISTRICT

1. Creation of RCWD/Purpose of Agreement. The District Parties, the County and others supported the creation and development of RCWD as the District

Parties and the County will benefit from RCWD comprehensively addressing the water supply needs within RCWD.

2. Increased Water Supply Goal. The District Parties agree to enter into this Agreement to assist RCWD in providing a water supply within its boundaries consistent with the District Parties' ongoing efforts to improve the total beneficially-useable water supply on the east side of the San Joaquin Valley and Southeastern Madera County. RCWD agrees to manage the water available to it from all existing sources and to obtain new water sources to achieve the goal of increasing the water supply that can be beneficially used within RCWD and, as a result, in Southeastern Madera County. In particular, RCWD shall stabilize and improve groundwater levels within RCWD boundaries and provide a firm annual water supply to support urbanization planned within RCWD.

3. No Adverse Impact on Existing Water Users. RCWD agrees that the operations of RCWD in providing M&I water service as set out in this Agreement shall be achieved with no long-term adverse impacts (as defined in Article II Section 6 below) on existing groundwater and surface water users in Madera County or on those other water users who receive water from the Friant system. Diversion of water by RCWD for use within RCWD shall not result in degradation of the quality or reduction of the quantity of water from the existing surface or groundwater sources currently utilized by (1) water users in the County, (2) Friant Contractors, or (3) downstream users of San Joaquin River water. RCWD also acknowledges that its water use may be impacted by current or future downstream environmental requirements.

4. Conjunctive Use Program. The Parties acknowledge that a major purpose of RCWD is enhancement of the groundwater resource within the RCWD

boundaries. Therefore, all Parties acknowledge that RCWD plans to bank surface water in the underground within and up and down gradient of RCWD to the maximum extent possible considering the constraints of the local aquifer and the ability to deliver water to RCWD. RCWD and landowners within RCWD are currently engaged in feasibility studies to develop an M&I conjunctive use program incorporating all of the following to the extent reasonably possible: reuse and reclamation of return flows, capture and groundwater recharge of currently unused local storm water flows, capture and groundwater recharge with San Joaquin River flood flows when available, groundwater recharge with and/or direct use of imported surface water, and off-site banking of surface water in the underground within Madera County or the Friant Service area. RCWD agrees, immediately following an agreement on conveyance charges with MID, to implement an aggressive, conjunctive use program within RCWD designed, in accordance with the feasibility study results, to maximize the water that is available for beneficial use within the RCWD boundaries, provided that such banking and subsequent groundwater extraction will not adversely affect any parties to this Agreement or adjacent landowners.

5. Groundwater Performance Criteria Applicable to RCWD. The RCWD groundwater management plan (the "Plan") indicates that the current groundwater usage within RCWD is contributing to groundwater overdraft by approximately 2,500 acre feet per year. To ensure a stable, reliable high-quality water supply within RCWD for agricultural and M&I use, RCWD agrees reduce to zero its contribution to groundwater overdraft within five years following completion of a facility to convey surface water to RCWD from MID lateral 6.2 as provided below. RCWD agrees to maintain such zero contribution to groundwater overdraft, on average, thereafter. The Parties acknowledge

that the conjunctive use program planned by RCWD intends to recharge more than is used in wet years and to extract more than is recharged in dry years. The commitment being made by all Parties is to assist RCWD in obtaining enough water in wet years to eliminate the RCWD contribution to groundwater overdraft assuming hydrologic conditions consistent with the period 1975 through 1995. Eliminating the RCWD contribution to groundwater overdraft shall be achieved by any combination of consumptive water use reductions that occur within RCWD (as compared to the consumptive use within RCWD as of the date of this Agreement), intentional groundwater recharge, or in lieu recharge from supplying surface water to agricultural uses within RCWD that currently rely on groundwater. The RCWD groundwater overdraft elimination program shall only be credited with the extractable portion of intentionally-recharged water based upon reasonable recharge/extraction ratios to be determined by RCWD based on applicable data and consultation with MID and CWD. The RCWD groundwater overdraft elimination program must assume that all Holding Contract water is currently utilized and assume that all Holding Contract supplies within RCWD are subject to reduction pursuant to this Agreement. All surface water imported by RCWD and accounted as balancing the water usage within RCWD shall be either Unused Flood Flows (defined below) or new water obtained for RCWD pursuant to this Agreement or otherwise. The Parties acknowledge that bringing RCWD's water usage into balance will not alone stabilize groundwater levels within RCWD as there are many significant contributors to the current overdraft in Southeastern Madera County.

6. Definition of Long-Term Adverse Impact and Unused Flood Flows.

For the purposes of this Agreement, a "long-term adverse effect on an existing water user"

shall be a reduction in surface water availability in any year, or a decline in groundwater levels that persists for five years.

For the purposes of this Agreement, "Unused Flood Flows" shall be flows of the San Joaquin River that are not diverted by any other Friant Contractors and would not otherwise be diverted by downstream users pursuant to their rights thereto or for satisfying current or future environmental requirements pertaining to the San Joaquin River.

ARTICLE III

SURFACE WATER SUPPLIES FOR RCWD

1. San Joaquin River Water Available to RCWD. In periods of high runoff on the San Joaquin River, water is sometimes flood released from Friant Dam because no Friant Contractors desire to take delivery of the water as it is available. The flood released water has the potential to be directly diverted from the San Joaquin River or delivered through the Madera Canal and utilized within RCWD. When flood releases are projected to occur, the Authority agrees to notify RCWD that water is potentially available at the same time notice is provided to all Friant Contractors. When Friant Contractors do not request delivery of all available San Joaquin River floodwater, the Authority, MID and CWD will use their best efforts to assist RCWD to obtain those Unused Flood Flows either through Bureau 215 water purchases, temporary Class 2 contracts, water transfers or other means at the lowest prevailing rate (including CVPIA Restoration Fund charges when applicable) available for water districts. The District Parties agree their intention is that no payments will be made to any Friant Contractors for Unused Flood Flows other than reimbursement for payments made by a contractor to the Bureau, the Authority or the Madera-Chowchilla Water and Power Authority for

that water or MID delivery charges for water delivered through its canal system to be negotiated between MID and RCWD in accordance with Paragraph 4 of Article V. The Parties acknowledge that certain regulatory approvals may be required to allow RCWD to obtain Unused Flood Flows, and the District Parties shall cooperate with RCWD in obtaining any such approvals. To benefit both RCWD and water users in Madera County generally, the Parties further agree to facilitate water transfers from outside Madera County to RCWD or other water purveying entities. The Parties agree that RCWD shall pay all delivery costs for water delivered to RCWD or for its benefit, including reasonable temporary regulation, storage or wheeling charges. The Parties agree that they shall jointly pursue all approvals necessary for delivery of such water to RCWD. The cost of those approvals shall be solely borne by RCWD. The Parties further agree to facilitate RCWD's efforts to obtain water transfers from Central Valley Project ("CVP") water service or exchange contractors pursuant to the Central Valley Project Improvement Act, or from Madera County or other M&I contractors who are not parties to this Agreement.

2. Purchase of Surface Water/First Option. RCWD intends to purchase additional surface water to supplement San Joaquin River water made available pursuant to the terms of this Agreement and supplies available within the boundaries of RCWD. RCWD agrees that before purchasing supplemental water from other sources, it shall satisfy its needs from supplies available for sale by MID, to the extent and on the same terms and conditions that MID is willing to sell such water to parties other than Friant Contractors or other CVP contractors. In consideration of RCWD's commitment to look first to MID for purchase of supplemental water, MID hereby agrees that RCWD shall have the first right to purchase any MID surface water that is available for sale outside its district

(except water sold to other Friant Contractors or other CVP contractors) to the extent and on the same terms and conditions that MID is willing to sell such water to parties other than Friant Contractors or other CVP contractors; provided, that RCWD's right pursuant to this paragraph shall not be interpreted as senior to or otherwise interfering with MID's ability to exchange water with other Friant Contractors to assist in delivery, timing and water management of MID water supplies. Nothing contained in this Agreement shall require MID to take any actions contrary to its bylaws or Friant Division operating policies or current water management arrangements.

3. Other Surface Water Supplies. MID agrees that RCWD shall be free to purchase surface water supplies from other members of the Authority or other sources so long as RCWD honors its commitment to purchase the MID water to the extent that it is reasonably available. The Parties acknowledge that RCWD desires to acquire long-term water supplies that originate outside Madera County. RCWD may seek to exchange any acquired supplies to augment supplies originating within Madera County. The Parties agree that (subject to the terms and conditions applicable to each supply) RCWD may utilize any long-term water supplies owned by RCWD or owned by any landowner (other than non-signing Holding Contract Owners) within RCWD, providing such use does not violate the terms and conditions of this Agreement, without violating RCWD's obligation to MID for surface water purchases.

4. Use of San Joaquin River for Conveyance. The District Parties agree that the San Joaquin River channel is a poor conveyance option due to the channel losses and other considerations and all District Parties prefer to utilize other options for delivery of water supplies to RCWD. The District Parties also acknowledge that the capacity of other conveyance options is limited and during some months no other options to convey

water to RCWD may be available. So long as this Agreement is in effect, all Parties agree to negotiate in good faith if RCWD believes it is necessary to utilize the San Joaquin River Channel for conveyance of water or to add or change points of diversion to facilitate the purposes of this Agreement.

ARTICLE IV

HOLDING CONTRACT SETTLEMENT

1. Settlement of Disputed Claims. The Parties agree that the purpose of this Article is to settle competing claims made by the Parties including, but not necessarily limited to, the following: (1) that the purposes of use of water under the Holding Contracts is limited to irrigation and domestic uses; (2) that the Holding Contracts describe land that is not entitled to water, and (3) that all land described in the Holding Contracts has a first right to all the water it can beneficially and reasonably use every year regardless of the total San Joaquin River flow. All Parties agree that litigation by a party interested in the flows of the San Joaquin River could resolve the disagreements among the Parties by defining the rights and obligations under the Holding Contracts. Because the Parties desire to resolve those disagreements without litigation and because all of the Parties to this Agreement have an interest in the flow of water in the San Joaquin River and may assert that they have a cause of action to enforce certain terms of the Holding Contracts, they have agreed to enter into this Agreement to specify an agreed upon water diversion schedule and other terms pursuant to the Holding Contracts within RCWD owned by Holding Contract Owners executing this Agreement. The intent of the Parties is that the agreements in this Article (that will sometimes be referred to as the "Holding Contract Settlement") shall survive any suit by any third party regardless of outcome. That is, the Parties intend this to be

a final and enforceable settlement of all claims by the Parties concerning any Holding Contract that is utilized by RCWD in accordance with this Agreement.

2. No Amendment/Agreement Not to Assert Claims. The Parties acknowledge that they do not have the right to amend or modify, and this Agreement will not be interpreted as amending or modifying, the terms of any Holding Contract, including any Holding Contract held by a Party. Based on the commitments of RCWD contained in this Agreement, all Parties hereby agree that, without waiving or modifying any rights that they may have under or pertaining to any Holding Contract, they shall not assert those rights with respect to any Holding Contract that is subject to this Agreement, and is managed by RCWD pursuant to the terms of this Agreement. (For the purposes of this paragraph only, the term "Agreed Holding Contract" shall refer to such a contract.) So long as (i) this Agreement is in full force and effect, (ii) all Agreed Holding Contract water delivered within RCWD is put to reasonable and beneficial use under California law, and (iii) RCWD and the owner of each Agreed Holding Contract comply with the terms of this Article and all other provisions of this Agreement, then (a) the District Parties and those Holding Contract Owners signing this Agreement agree that they shall not object to the management by RCWD of the water received under any Agreed Holding Contract or use of such Agreed Holding Contract water by RCWD for municipal and industrial purposes, (b) they shall not bring any action challenging such use on any basis, (c) they shall not cooperate in or assist in any action by any other party to challenge such use as being in violation of the Agreed Holding Contract, as creating adverse impacts different from those created by other users of water diverted at Friant Dam, or as failing to qualify as a reasonable and beneficial use of water merely because the water is used for municipal and industrial purposes, and (d)

they shall not assert that diversions, pursuant to an Agreed Holding Contract in accordance with the Holding Contract Delivery Schedule set out in Article IV, Paragraph 8, in and of themselves create adverse impacts on any existing water user. The Parties further do not waive, but agree not to assert while this Agreement is in full force and effect and all provisions of this Agreement are satisfied, any claims or assertions concerning the character of the lands described in the Agreed Holding Contracts as riparian or otherwise and assertions that significant portions of the land described in the Agreed Holding Contracts may not be entitled to water deliveries under such Agreed Holding Contracts. The Parties agree that during the continuance of a material breach of this Agreement by RCWD or an owner of an Agreed Holding Contract, they shall not be obligated by the terms of this paragraph. The Parties acknowledge that their agreement not to object, bring an action or assert any claim concerning RCWD's use of Agreed Holding Contract water supplies in accordance with the terms and conditions of this settlement shall not be construed as their opinion that all necessary legal authorization has been obtained for the usage and terms contemplated by this Agreement.

3. Holding Contracts Within RCWD. There are four privately-owned Holding Contracts numbered 65, 67, 69 and 74 within the RCWD service area. In addition, Contract 72 was offered by the Bureau but has not yet been signed. Upon the execution of this Agreement by the owner of the claimed riparian parcel described by Holding Contract 72, such owner shall use its best efforts to cause the Bureau to execute and deliver Holding Contract 72 to such owner, whereupon such owner shall also execute it. Upon its full execution, Holding Contract 72 shall be deemed to be a Holding Contract for purposes of this Agreement. Until such Holding Contract 72 has

been fully executed, the claimed riparian parcel described by offered Holding Contract 72 shall be treated the same as the land described in the Holding Contracts within RCWD that have been executed.

4. Agricultural Use of Holding Contract Water. Certain of the Holding Contract Owners currently divert water from the San Joaquin for agricultural use within the boundaries specified in those Holding Contracts. Agricultural irrigation may also occur in the future on other land within the boundaries specified in these Holding Contracts. So long as a particular Holding Contract (including groundwater supplies extracted from the lands described in that Holding Contract) has not been used to supply water for M&I or RCWD use, is not subject to the terms of this Agreement, and/or it has not been put under management of RCWD for district purposes, then, the Parties agree that the provisions of this Agreement shall not apply, and RCWD shall not receive any credit against its overdraft elimination commitment from any deep percolation resulting from such Holding Contract irrigation water supplies.

5. Management of Holding Contracts By RCWD for District Use. RCWD desires to utilize water from the Holding Contracts within RCWD as part of its total water supply strategy to ensure that reliable water service is available for the expected M&I development within RCWD without adverse impacts. RCWD shall only utilize water from a Holding Contract if the Holding Contract Owner signs this Agreement and that Contract is managed by RCWD subject to an exclusive management agreement with that Holding Contract Owner. The exclusive management contract shall provide that the Holding Contract Owner shall not retain any right to independently divert water pursuant to a Holding Contract managed by RCWD. RCWD and any Holding Contract Owners signing this Agreement agree that all

deliveries pursuant to any Holding Contract RCWD manages will be strictly controlled according to the terms of this Agreement. No water from any Holding Contract whose owner has executed this Agreement shall be used for M&I purposes unless the Holding Contract is managed by RCWD in accordance with this Section 5.

6. Full Disclosure of Water Supplies. RCWD shall meter its water diversions and make its water supply and the sources of those waters, including any water used for groundwater recharge, public record so that any of the other parties to this Agreement can confirm that the amount of water obtained pursuant to Holding Contract rights and the use of that water remains in accord with the limitations specified in this Agreement. RCWD shall furnish to the District Parties on a quarterly basis a summary of certified diversion metering records, intentional groundwater recharge, in lieu recharge, usage within RCWD by type, and other pertinent information on all RCWD water supplies and all water usage within RCWD. The District Parties shall be given access to properties within RCWD to verify diversions, recharge and water uses.

7. Agreement Not to Object to Changes in Place of Use and Point of Diversion Under the Holding Contracts. The terms of the Holding Contracts do not specify a quantitative limit on the amount of water that can be diverted pursuant to each contract. The terms of the Holding Contracts only specify a limited area for diversion and limit use of water to the land described in each contract. The Parties agree that the imprecise approach to diversions specified in the Holding Contracts makes planning difficult for the Authority, MID and CWD and leads to the dispute the Parties desire to resolve with this Agreement. The restrictions on diversion points and place of use of Holding Contract water makes water budgeting and distribution within RCWD for M&I uses unfeasible. Strictly for Holding Contracts whose owners have executed this

Agreement the Parties hereby agree, without waiving any rights or claims, and subject to Article III, Paragraph 4 not to assert point of diversion, purpose of use and place of use restrictions under the Holding Contracts in exchange for the commitments of the Parties under this Agreement and the schedule of diversions pursuant to each Holding Contract set out in the following paragraph.

8. Holding Contract Diversion Schedule. RCWD and the signing Holding Contract Owners voluntarily agree to limit their diversion of surface San Joaquin River water pursuant to each Holding Contract when such water or any ground water underlying such holding Contract land is first used for M & I purposes as follows:

a. In a water year with total projected San Joaquin River deliveries greater than 1,466,000 acre feet (above average deliveries), 2.0 acre feet per acre described in each Holding Contract managed by RCWD.

b. In a water year with total projected San Joaquin River deliveries of 1,466,000 acre feet or less (below average deliveries) diversion of Holding Contract water by RCWD shall be reduced to 1.5 acre-feet per acre described in each Holding Contract managed by RCWD.

c. In a water year with total projected San Joaquin River deliveries of 800,000 acre feet or less (critically dry) diversion of Holding Contract water by RCWD shall be reduced to 0.5 acre-feet per acre described in each Holding Contract managed by RCWD; and

d. There shall be no limitation on RCWD use of flood flows and any RCWD flood flow diversions shall not be considered Holding Contract water counted against the applicable annual limitations.

For the purpose of measuring diversions pursuant to this paragraph, RCWD shall be subject to the same water year forecasting and allocation schedule applicable to water service contractors within the Friant Division as that system operates and is amended from time to time. The Parties agree that they shall be bound by this water diversion formula only for so long as this Agreement is in effect.

9. Holding Contract Diversion Points. RCWD's use of Holding Contract water for M&I use requires that it have coordinated extraction and distribution facilities to utilize in its district wide supply. RCWD intends to extract Holding Contract water, for direct and in lieu groundwater recharge, M&I and other district purposes only, from any point along the main stem or underflow of the San Joaquin River accessible to RCWD. The remaining Parties agree that they, while not waiving any rights or claims, will not object to any such diversion by RCWD as long as RCWD and the participating Holding Contract Owners comply with both the quantity and area of use limitations specified by this Agreement, and other commitments in this Agreement.

10. Holding Contract Water Distribution. RCWD agrees that, subject to Bureau approval if required, any Holding Contract water obtained by RCWD will be introduced into the general RCWD distribution system with all other RCWD water and will be utilized for M&I uses through direct and in lieu groundwater recharge on lands throughout RCWD but will not be exported to lands that are outside RCWD except to the extent that occurs as an incidental part of an integrated regional groundwater recharge program in the RCWD area. The remaining Parties agree, without waiving any rights or claims, that they will not object to the expansion of place of use to all of RCWD of water diverted pursuant to Holding Contracts subject to this Agreement so

long as RCWD and the participating Holding Contract Owners comply with the quantity and place of use limitations specified by this Agreement.

11. Holding Contract Modification. The Parties agree to support RCWD in requesting that the Bureau of Reclamation modify any Holding Contract obtained by RCWD whose owner has executed this Agreement, provided both the quantity and area of use limitations specified by Article IV of this Agreement are incorporated into such modified Holding Contract. The owners of Holding Contracts executing this Agreement shall use their good faith best efforts to assist RCWD in obtaining such modifications. Any proposed modification of a Holding Contract shall be consistent with this Agreement and the Parties shall be provided an opportunity to review the proposed Holding Contract modification to ensure compliance with this Agreement. Following execution of a Holding Contract modification that incorporates the terms of this Holding Contract Settlement, all Parties waive all prior claims that they may have concerning that Holding Contract.

12. Definition of Holding Contract Settlement. Whenever the term "Holding Contract Settlement" is used in this Agreement, or in any consent to this Agreement it shall refer to all terms and conditions of this Article.

ARTICLE V

IMPLEMENTING AGREEMENTS

1. General. The Parties agree that additional agreements will be necessary to fully implement all aspects of this Agreement. The Parties agree to negotiate in good faith to reach all necessary subsequent agreements, including, but not limited to, those specified in this Article V.

2. Underground Banking In MID and CWD. The Parties acknowledge that MID and CWD may have excellent conditions within their boundaries for banking surface water in the underground. RCWD, MID and CWD agree to consider groundwater banking and recovery arrangements within MID and CWD. The Parties desire that arrangements between RCWD and MID and/or CWD be the preferred off-site banking utilized by RCWD within Madera County. RCWD agrees not to bank water elsewhere in Madera County unless approved by MID and CWD, but RCWD shall have the freedom to utilize the ability to enhance delivery timing or other advantages that other off-site banking opportunities may offer. Notwithstanding anything else in this Agreement, the Parties agree that RCWD shall not be required to negotiate or enter into any other banking or water storage agreements with any other District until RCWD fully develops the groundwater banking potential in and around RCWD.

3. Additional Underground Banking. To the extent that RCWD desires to bank additional surface water in the underground to provide for a firm annual agricultural and M&I supply, to maximize available surface water delivery options or for other purposes, RCWD and the Authority agree to work together and with Friant Contractors to develop underground banking and exchange programs within districts constituting the Authority. The availability, terms and conditions for any programs will be negotiated by the particular parties.

4. Conveyance Facility. The Parties acknowledge that RCWD currently does not have adequate facilities for delivery of surface water to meet its objectives. The most convenient way to deliver surface water to RCWD is through the Madera Canal and MID lateral 6.2. MID and RCWD shall negotiate in good faith on an agreement to be executed 18 months from the effective date of this Agreement to

obtain a replacement easement and construct a facility to convey water to RCWD from MID's Lateral 6.2. The facility will be financed pursuant to the terms of such agreement.

5. Warren Act Water Conveyance Charges. RCWD and MID and the Madera-Chowchilla Water and Power Authority shall negotiate in good faith to reach agreement on conveyance charges applicable to water delivered to RCWD through the Madera Canal and the MID lateral system. The availability of conveyance capacity, terms and conditions will be negotiated by the affected Parties. The conveyance rates shall not include any component for use of the easement or the pipeline connecting the existing MID laterals to the RCWD facilities, as RCWD will pay its pro rata capital operation and maintenance costs pursuant to separate facilities agreements. MID and the Madera-Chowchilla Power Authority agree to sign an agreement with RCWD on conveyance charges on or before 18 months from the effective date of this Agreement, subject to compliance with applicable environmental laws.

6. Effect of Failure to Reach Agreement. Failure to reach agreement on any of the implementing agreements shall not void or in any way modify, suspend or diminish the settlement concerning Holding Contracts or the commitments of the Parties to assist RCWD in obtaining surface water supplies. Should MID and RCWD fail to reach agreement on conveyance facilities however, RCWD shall be released from any obligation to utilize groundwater banking within MID or to purchase surface water from MID, and RCWD's obligation to eliminate its contribution to groundwater overdraft shall be deferred as provided in Article II Section 5.

ARTICLE VI

GENERAL PROVISIONS

1. Participation Within Madera County Groundwater Control (AB 3030 Plan). RCWD hereby agrees to participate with Madera County and the other interested water purveyors in Madera County to develop a groundwater management program for Southeastern Madera County. In making this agreement, RCWD acknowledges that the groundwater levels within the RCWD boundaries have been in a gradual state of decline over many years and that a fundamental purpose of RCWD is, to the extent reasonably feasible, to restore the groundwater within RCWD to a level consistent with overall water needs within RCWD and Southeastern Madera County.

2. Limitation on Water Transfers From RCWD. RCWD voluntarily agrees that as consideration for the cooperation of the other Parties in facilitating RCWD's acquisition of surface and Holding Contract water, RCWD shall restrict the use of all water acquired by it to the RCWD boundaries as they exist from time to time. To accomplish effective groundwater recharge, however, RCWD may utilize facilities immediately up or down gradient from RCWD boundaries. The Parties agree however that this restriction shall not be interpreted to prevent water transfers and exchanges by RCWD in the ordinary course of managing water to ensure appropriate timing of deliveries and a reliable and consistent water supply.

3. Rules, Regulations and Rights of Non-Parties. The Parties acknowledge that this Agreement only binds the Parties and their successors and assigns. RCWD agrees to comply at its own expense with all applicable rules and regulations of the United States acting through the Department of the Interior, Bureau of Reclamation, the California State Water Resources Control Board and any other

applicable regulatory agencies. RCWD further acknowledges that the signatories are not making any representations concerning and cannot bind any other claimants to waters of the San Joaquin River. RCWD takes any and all risks that other claimants may object to the terms of this Agreement. Furthermore this Agreement shall not be interpreted as excepting RCWD from any environmental review process applicable to any specific proposal made by RCWD and shall not be interpreted as limiting the participation of any other Party in that review.

4. Enforcement of Agreement. If default shall be made by any party in any provision contained in this Agreement, such default shall not excuse the other Parties from fulfilling their obligations under the Agreement and such other Parties shall continue to be liable for the performance of all obligations herein contained. The Parties hereby declare that this Agreement is entered into for the benefit of all Parties to the Agreement and each Party shall have the right to enforce this Agreement by whatever lawful means that Party deems appropriate all of the obligations of each Party hereunder.

5. Recording. This Agreement shall be recorded in the Official Records of Madera County to bind the land within RCWD as described in Exhibit A to the extent legally permissible and to make an official record of the agreement of the Parties.

6. Best Efforts/No Guaranty. When this Agreement requires any party to assist, cooperate, negotiate, facilitate or otherwise participate in a process to obtain a mutually desired result described in this Agreement, all that is required of that party is that they exert their reasonable and appropriate best efforts in relation to the matter described in this Agreement. In agreeing to cooperate, assist, or negotiate in good

faith, no party is endeavoring to guaranty any result described or sought by this Agreement.

7. Waste and Unreasonable Use. Nothing in this Agreement is intended or shall be construed as condoning any waste or unreasonable use of water. All Parties specifically retain their rights and responsibilities as water purveyors to ensure that water within their jurisdiction is put to reasonable and beneficial use.

8. Specific Performance. The Parties acknowledge that both groundwater and surface water are unique and irreplaceable resources. Therefore, monetary compensation or other remedies at law will not be sufficient to cure a breach of this Agreement. The Parties agree that in addition to all remedies at law, specific performance shall be available to all Parties to enforce the terms of this Agreement.

9. Costs. The costs and expenses incurred for the preparation of this Agreement shall be paid by each party.

10. Time. Time is of the essence of this Agreement and each and all of its provisions.

11. Effect of Headings. The subject headings of the articles and paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

12. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all of the Parties hereto.

13. Waiver. Waiver of any breach of this Agreement by any party hereto shall not constitute a continuing waiver or a waiver of any breach of the same or another provision of this Agreement.

14. Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument.

15. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of the Parties hereto, and shall bind and apply to all property subsequently annexed to RCWD or any other Party and shall be recorded against subsequent annexed land.

16. Survival of Agreement. The provisions of this Agreement and the covenants and conditions contained herein shall be continuous and shall survive any annexation or other change in the boundaries of RCWD and any transfer of ownership of any Holding Contract property or other property within RCWD.

17. Attorneys' Fees. Should any litigation be commenced between the Parties hereto concerning this Agreement, or the rights and duties of any party in relation thereto, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover from the losing party a reasonable sum for its attorneys' and paraprofessionals' fees and costs in such litigation, or any other separate action brought for that purpose.

18. Governing Law. This Agreement shall be governed by the laws of the State of California.

19. Construction. All words used in this Agreement shall be construed to include the plural as well as the singular number and vice versa. Words used herein

in the present tense shall include the future as well as the present, and words used in the masculine gender shall include the feminine and neuter genders.

20. Parties in Interest. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies on any persons other than the Parties hereto and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over and against any party to this Agreement.

21. Notices. All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service, if served personally on the person to whom notice is to be given, or on the third (3rd) day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

To Richard M. Moss, General Manager, at:
Friant Water Users Authority
854 North Harvard Avenue
Lindsay, CA 93247

To Stephen H. Ottemoeller, General Manager, at:
Madera Irrigation District
12152 Road 281/4
Madera, CA 93637-9199

To Douglas G. Welch, General Manager, at:
Chowchilla Water District
P.O. Box 905
Chowchilla, CA 93610

To Christopher L. Campbell, Counsel
Root Creek Water District
5260 N. Palm Ave., Suite 421
Fresno, CA 93704

To Holding Contract No. 65 at:

To Holding Contract No. 67 at:

To Holding Contract No. 69 at:

To Holding Contract No. 74 at:

S & J Ranch
P.O. Box 3347
Pinedale, CA 93650

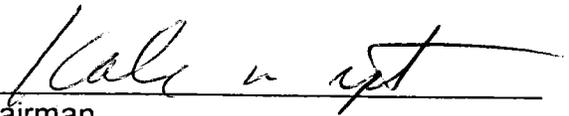
To Offered Holding Contract No. 72 at:

S & J Ranch
P.O. Box 3347
Pinedale, CA 93650

or at such other address as any party may, by like notice, designate to the other party in writing.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

FRIANT WATER USERS AUTHORITY

By 
Chairman
Board of Directors

Attest:

By  _____
General Manager

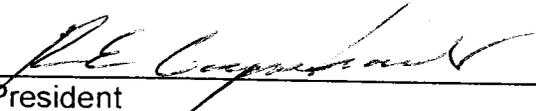
MADERA IRRIGATION DISTRICT

By  _____
President
Board of Directors

Attest:

By  _____
General Manager

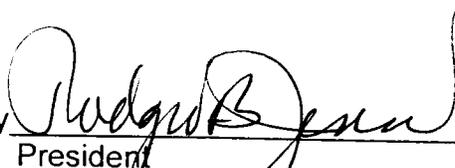
CHOWCHILLA WATER DISTRICT

By  _____
President
Board of Directors

Attest:

By  _____
General Manager

ROOT CREEK WATER DISTRICT

By  _____
President
Board of Directors

Attest:

By _____
General Manager

HOLDING CONTRACT NO. 65

By _____
Owner

HOLDING CONTRACT NO. 67

By _____
Owner

HOLDING CONTRACT NO. 69

By _____
Owner

HOLDING CONTRACT NO. 74

By  _____
Owner

OFFERED HOLDING CONTRACT NO. 72

By  _____
Owner

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List of Exhibits

EXHIBIT "A"

RCWD Legal Description

EXHIBIT "B"

M&I Consent to Be Bound