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**AMENDMENT NO. 1
TO THE AGREEMENT BETWEEN PLACER COUNTY WATER AGENCY AND
SACRAMENTO SUBURBAN WATER DISTRICT FOR A WATER SUPPLY
FOR GROUNDWATER STABILIZATION**

This Amendment No. 1 ("Amendment") is entered into as of Oct 2, 2008, and amends the water supply agreement entered into on June 1, 2000 ("2000 Water Supply Agreement"), by and between Placer County Water Agency, a public agency (the "Agency"), and Sacramento Suburban Water District, a public agency ("Sacramento Suburban"), in the County of Sacramento, California. The Agency and Sacramento Suburban are collectively referred to as the "Parties." Terms defined in the 2000 Water Supply Agreement will have the same meaning in this Amendment.

Recitals

A. The Agency and Northridge Water District entered into the 2000 Water Supply Agreement, which provided for up to 29,000 acre-feet per year of water that would be made available by the Agency for use by Northridge Water District.

B. Sacramento Suburban is the successor entity to Northridge Water District following the consolidation of Northridge Water District and Arcade Water District, and Sacramento Suburban has succeeded to all the rights and obligations of Northridge Water District under the 2000 Water Supply Agreement.

C. The Parties desire to amend the 2000 Water Supply Agreement as set forth in this Amendment.

In consideration of the mutual covenants contained, herein, the Parties agree as follows:

1. **Recitals Incorporated.** The foregoing recitals are incorporated by reference.

2. **Amendment of Section 4.** Section 4 of the 2000 Water Supply Agreement is amended to read as follows:

4. Water to be Furnished to Sacramento Suburban.

(a) Each year during the term of this Agreement the Agency will make available to Sacramento Suburban, subject to the water shortage provisions set forth in this Agreement, and the operating criteria set forth in Exhibit A to this Agreement: (1) effective September 1, 2008, 16,000 acre-feet of untreated water; and (2) effective January 1, 2009, 12,000 acre-feet of untreated water, ("Sacramento Suburban Annual Entitlement").

(b) Each year Sacramento Suburban will be required to pay for the Sacramento

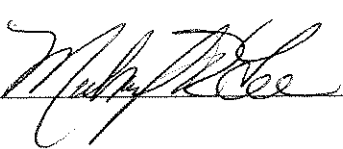
Suburban Annual Entitlement or surrender its right to some of it so that the Agency will be free to put the water to use elsewhere. In order to do this, if Sacramento Suburban does not take or pay for the Sacramento Suburban Annual Entitlement for any year, the Sacramento Suburban Annual Entitlement for each year thereafter will be reduced by an amount equal to 50% of the amount which Sacramento Suburban did not take or pay for during that year.

(c) In any year during the term of this Agreement, Sacramento Suburban may request that the Agency make available a water supply in addition to the Sacramento Suburban Annual Entitlement up to a total water supply of 29,000 acre-feet in any year, which if approved by the Agency would be made available to Sacramento Suburban under the applicable provisions of this Agreement. Such an approval would not change the amount of the Sacramento Suburban Annual Entitlement (unless the Parties agreed otherwise). Such an approval in one year would not obligate the Agency to approve a request in a subsequent year, and approval in one year would not require Sacramento Suburban to request an increased water supply in a subsequent year.

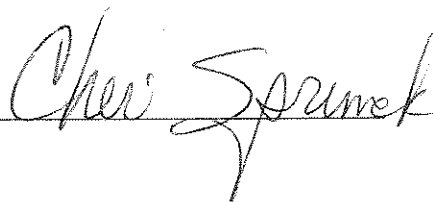
3. Other Provisions Unaffected. Except as provided in this Amendment, the remaining provisions of the 2000 Water Supply Agreement are unchanged and remain in full force and effect.

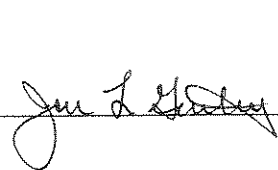
The foregoing is hereby agreed to by the Parties.

PLACER COUNTY WATER AGENCY SACRAMENTO SUBURBAN WATER DISTRICT

By: 

By: 

Attest: 

Attest: 

**AGREEMENT BETWEEN PLACER COUNTY WATER AGENCY
AND NORTHRIDGE WATER DISTRICT FOR A WATER SUPPLY
FOR GROUNDWATER STABILIZATION**

This Agreement is entered into as of the 1st day of June, 2000, and amends and supersedes in its entirety the agreement (as amended) entered into on August 21, 1995, by and between Placer County Water Agency, a public agency (the "Agency"), and Northridge Water District, a public agency ("Northridge") in the County of Sacramento, California.

Recitals

A. The Agency is a public agency created and existing under the Placer County Water Agency Act (Statutes 1957, Chapter 1234, as amended), and is authorized to conserve and utilize, within and outside of the Agency, water for any purpose useful to the Agency.

B. The Agency owns and operates the Middle Fork American River Project pursuant to water right permits 13855 through 13858 issued by the State of California ("Agency Water Rights").

C. Northridge is a public agency located in northern Sacramento County, created and existing under the County Water District Law (Division 12 of the Water Code, commencing with section 30,000), and is authorized to acquire water rights and entitlements to provide water service within its service area.

D. Northridge currently provides water for potable use within its service area primarily from groundwater. The groundwater aquifer utilized by Northridge (and other water purveyors) is located in both Placer and Sacramento Counties. This aquifer has experienced a steady decline for many years, and is expected to continue to decline in the future unless surface water is made

available as a supplemental water source to enable implementation of a conjunctive use program to stabilize the aquifer in Placer and Sacramento Counties.

E. San Juan Water District ("San Juan") diverts water from Folsom Reservoir (including water purchased from the Agency) for treatment and distribution within its service area, which is in both Placer and Sacramento Counties. San Juan has completed a project to increase the capacity of its water conveyance system from its treatment plant ("San Juan Pipeline"), and Northridge has purchased the right to use a portion of the capacity in the San Juan Pipeline for use within Northridge's service area. San Juan has also agreed to give Northridge first priority to use of surplus capacity in San Juan's water treatment facility. Northridge has installed a pipeline to convey treated surface water from the San Juan Pipeline to Northridge's service area to enable Northridge to better conserve and utilize its groundwater resources.

F. The Agency has determined that, subject to the terms and conditions set forth in this Agreement, there will be water available under the Agency's water rights for delivery to Northridge for the purpose of stabilizing the groundwater basin in Placer and Sacramento Counties as provided for in this Agreement.

G. The Agency is willing to deliver to, and Northridge is willing to pay for, water delivered by the Agency under the terms and conditions set forth in this Agreement.

H. The Agency (as lead agency) and Northridge (as a responsible agency) have prepared and approved a final environmental impact report ("EIR") under the California Environmental Quality Act for the sale of water under this agreement.

I. The State Water Resources Control Board ("SWRCB") issued orders on May 24,

2000 ("SWRCB Orders") that approve a change in the place of use of the Agency Water Rights to include the area served by Northridge, which is described in Article 19 of this Agreement.

J. The Agency and Northridge are signatories to the Water Forum Agreement, which sets forth provisions that are related to the diversion and use of water under this Agreement that are implemented by the EIR and SWRCB Orders.

K. Northridge and the U.S. Bureau of Reclamation ("Reclamation") have entered into an agreement that authorizes Northridge to use Reclamation facilities at Folsom Reservoir to convey water delivered by the Agency under this Agreement (the "Warren Act Contract", including any renewal, extensions or subsequent agreement for that purpose).

Now, therefore, in consideration of the mutual covenants contained, herein, the parties agree as follows:

1. **Recitals Incorporated.** The foregoing recitals are incorporated by reference.
2. **Term of Agreement.** This Agreement shall be effective as of June 1, 2000, and shall remain in effect through December 31, 2025, unless terminated earlier under the provisions of this Agreement.
3. **Renewals of Term.** Renewals of this Agreement may be made for successive periods not to exceed twenty-five years each. The terms and conditions of each renewal shall be agreed upon by the parties not later than one year before the expiration of the then current term of the Agreement.
4. **Water to be Furnished to Northridge.** Each year during the term of this Agreement the Agency

shall make available to Northridge, subject to the water shortage provisions set forth in this Agreement, and the operating criteria set forth in Exhibit A to this Agreement, the following amounts of untreated water ("Northridge Annual Entitlement"):

<u>YEAR</u>	<u>NORTHRIDGE ANNUAL ENTITLEMENT</u>
June 1 through December 31, 2000	7,000 acre-feet
2001	11,000 acre-feet
2002	12,000 acre-feet
2003	14,000 acre-feet
2004	16,000 acre-feet
2005	18,000 acre-feet
2006	20,000 acre-feet
2007	22,000 acre-feet
2008	23,000 acre-feet
2009	24,000 acre-feet
2010	25,000 acre-feet
2011	26,000 acre-feet
2012	27,000 acre-feet
2013	28,000 acre-feet
2014 and each year thereafter	29,000 acre-feet

Each year Northridge shall be required to pay for its Annual Entitlement or surrender its right to some of it so that the Agency will be free to put the water to use elsewhere. In order to do this, if Northridge does not take or pay for the Northridge Annual Entitlement for any year, the Northridge Annual Entitlement for each year thereafter shall be reduced by an amount equal to 50% of the amount which Northridge did not take or pay for during that year.

5. Water Shortage Provisions.

(a) The Northridge Annual Entitlement shall be subject to temporary or permanent reduction or elimination whenever the Agency notifies Northridge that the Agency has determined that it will not have sufficient water (1) to meet the needs of the Agency's then current customers within Placer County, (2) to meet the contractual entitlement of San Juan under its water supply contract with the Agency, or (3) to meet the Agency's obligations under its April 30, 1963 Middle Fork Project Power Purchase Contract with Pacific Gas and Electric Company ("the Power Purchase Contract"). Such notification shall be provided at the earliest date feasible. The Northridge Annual Entitlement shall not be subject to reduction or elimination because the Agency has insufficient water to meet the needs of other Agency contractors or users whose service areas are outside of Placer County, except for San Juan.

(b) The Agency may temporarily discontinue or reduce the amount of the Northridge Annual Entitlement for the purpose of maintaining, repairing, replacing, investigating or inspecting any of the facilities necessary for the storage or furnishing of water to Northridge. In so far as it is feasible, the Agency will give Northridge due notice in advance of such temporary discontinuances or reductions except in cases of emergency, in which case notice will be provided at the earliest date feasible. In the event of any such discontinuance or reduction, the Agency will, upon the resumption of service, attempt to approximate delivery of the quantity of Northridge Annual Entitlement that would have been furnished to Northridge in the absence of such event.

(c) The Northridge Annual Entitlement shall be subject to reduction in accordance with the provisions of Exhibit A.

(d) In the event of a water shortage as described in subparagraphs (a), (b) or (c) of this

article, Northridge shall be solely responsible for obtaining alternative supplies of water to meet its customers' needs, and no liability shall accrue against the Agency or any of its directors, officers, agents or employees for any damage, direct or indirect, arising from such shortages. In any year in which less than the Northridge Annual Entitlement from the schedule set forth in Article 4 is available to Northridge, a proportionate adjustment shall be made to the amounts to be paid by Northridge provided for in Article 12. To the extent that there is a deficiency in the availability of the Northridge Annual Entitlement not caused by wrongful conduct of the Agency, such adjustment shall constitute the sole remedy of Northridge or anyone having or claiming to have by, through or under Northridge the right to the use of any of the water supply provided for herein.

6. Delivery of Water. The Agency shall deliver the Northridge Annual Entitlement into Folsom Reservoir, and Northridge shall be responsible for diversion, treatment and conveyance of such water, including without limitation the payment of any charges to Reclamation concerning the diversion of such water from Folsom Reservoir and the cost of any facilities necessary to divert such water from Folsom Reservoir.

7. Commencement of Water Service. Water service to Northridge under this Agreement shall commence on June 1, 2000.

8. Delivery Schedule. Prior to commencement of water service, Northridge shall submit a written schedule to the Agency indicating the time and quantities of the Northridge Annual Entitlement to be diverted from Folsom Reservoir for delivery to Northridge pursuant to this Agreement during the remainder of the year. Thereafter, on or before December 1 of each year, Northridge shall submit a written schedule to the Agency indicating the times and quantities of the Northridge Annual Entitlement to be diverted from Folsom Reservoir for delivery to Northridge pursuant to this Agreement during the following year. The Agency shall, consistent with the Agency Water Rights,

the Power Purchase Contract and the provisions hereof, furnish the Northridge Annual Entitlement to the maximum extent feasible in accordance with the schedules submitted by Northridge or any revisions thereof that are satisfactory to the Agency. The Agency shall cooperate with Northridge in any revisions to the schedule for water deliveries as necessary to accommodate limitations in the available capacity of water diversion, treatment and conveyance facilities to be utilized by Northridge.

9. Measurement. Northridge shall measure or cause to be measured all water furnished pursuant to this Agreement at the point of diversion at Folsom Reservoir. Such measurement shall be with equipment satisfactory to the Agency and to Northridge, and Northridge shall furnish the Agency written reports quarterly showing the weekly diversions to Northridge. The Agency may inspect such measuring equipment for the purpose of determining the accuracy thereof at any time, and any errors therein will be adjusted.

10. Water Quality. The Agency assumes no responsibility with respect to the quality of the water to be furnished pursuant to this Agreement and does not warrant the quality of any such water.

11. Responsibilities for Delivery and Distribution of Water. Neither the Agency nor its directors, officers, agents or employees shall be liable for the control, carriage, handling, use, disposal or distribution of water furnished to Northridge hereunder outside of facilities then being operated or maintained by the Agency, nor for claims of damages of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water beyond such facilities, and Northridge shall indemnify and hold harmless the Agency and its directors, officers, agents and employees from any such damages or claims of damages.

12. Rate and Method of Payment for Water.

(a) **Rate of Payment for Water.** Each year Northridge shall pay the Agency for each acre-foot of Northridge Annual Entitlement made available for use in Northridge's service area the highest of the following three rates: (1) Thirty-five dollars (\$35); (2) One hundred seventy-five percent (175%) of the acre-foot price the Agency charges the City of Roseville and San Juan that year for water made available to them in Folsom Reservoir for use within Placer County; or (3) One hundred fifty percent (150%) of the total amount, per acre-foot, including any restoration and other fees and charges, which the Agency is required to pay that year to Reclamation for water to be used within the Agency pursuant to the Agency's September 18, 1970 contract with Reclamation as amended and supplemented or pursuant to any renewals of that contract.

Each year, Northridge shall pay the Agency for each acre-foot of Northridge Annual Entitlement which is sold, leased, transferred or disposed of by Northridge for use outside the authorized service area for Agency water as described in Article 19, either: (1) the price provided for in the previous sentence; or (2) an amount equal to 95% of the value received by Northridge for such water, whichever is higher, and the first water sold, leased, transferred or disposed of by Northridge each year for use outside the authorized service area for Agency water shall be deemed to be the water made available to Northridge by the Agency pursuant to this Agreement. Prior to December 31 each year, the Agency shall confirm and document in writing to Northridge the applicable water rate for the next year.

(b) **Time and Method of Payment.** Payment shall be made quarterly in advance on or before January 1, April 1, July 1 and October 1 of each year. The amount of the payment shall be based upon the amount of water in the delivery schedule or amendments thereof furnished pursuant to Article 8. At the close of each year, the Agency shall recalculate the amount owing to it for the

previous year based upon the actual deliveries and amounts of water made available to Northridge, and shall thereupon bill Northridge for any underpayments or refund any overpayments. Any amounts due and owing from one party to the other as a result of such recalculation shall be paid within thirty days after the Agency renders a statement to Northridge for such payment.

13. Interest on Overdue Payments. Northridge shall pay the Agency interest at the legal rate for interest on State of California judgments on any charges that remain unpaid after they become due and payable.

14. Obligation of Northridge to Make Payments.

(a) Character of obligation.

The obligations of Northridge arising out of or pursuant or incidental to this Agreement shall constitute general obligations of Northridge, and Northridge shall use all the powers and resources available to it under the law to collect the funds necessary for and to pay its obligations to the Agency under this Agreement. Northridge as a whole is obligated to pay to the Agency the payments coming due under this Agreement, notwithstanding any individual default by its water users, constituents or others in the payment to Northridge of assessments, taxes, tolls or other charges levied by Northridge.

(b) Refusal of Water Does Not Affect Obligation.

Northridge's failure or refusal to accept delivery of any of the Northridge Annual Entitlement in any year shall in no way relieve it of its obligation to make payments to the Agency for that year's Annual Entitlement as provided for herein to the extent the Agency was ready, willing

and able to supply the Northridge Annual Entitlement that year.

15. Compliance with Provisions of EIR, SWRCB Orders and Warren Act Contract.

(a) The Agency shall not petition the SWRCB for a change in the place of use under the Agency Water Rights to eliminate any of Northridge's service area as of the date of this Agreement, or for any other change to the Agency Water Rights that would adversely affect Northridge's rights under this Agreement.

(b) The Agency and Northridge shall fully comply with (1) the provisions of the EIR that limit the diversion and use of water under this Agreement and (2) the provisions of the SWRCB Orders that limit the diversion and use of water under this Agreement, by complying with the operating criteria set forth in Exhibit A.

16. Remedies Not Exclusive. The use by either party of any remedy specified for the enforcement of this Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

17. Waiver of Rights. Any waiver at any time by either party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

18. Assignment. The provisions of this Agreement shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this Agreement, or any part hereof or interest herein, shall be valid until and unless approved by the Agency.

19. Areas Served by Northridge. Water delivered to Northridge pursuant to this Agreement shall not be sold or otherwise disposed of by Northridge for use outside of the service area shown on the map marked Exhibit B, without the prior written consent of the Agency, which consent shall not unreasonably be withheld; provided, however, in no event shall any such water be used outside the place of use described in the Agency's water right permits.

20. Opinions and Determinations. Where the terms of this Agreement provide for action to be based upon judgment, approval, review or determination of either party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable.

21. Notices. All notices that are required either expressly or by implication to be given by any party to the other under this Agreement shall be signed for the Agency and for Northridge by such officers as they may from time to time authorize to so act. Any notices to parties required by this Agreement shall be delivered or mailed, U.S. first-class postage prepaid, addressed as follows:

To Agency:

General Manager
Placer County Water Agency
P.O. Box 6570
Auburn, California 95604

To Northridge:

General Manager
Northridge Water District
P.O. Box 41258
5331 Walnut Avenue
Sacramento, California 95841

Either party may change its address for notice by sending notice of such change to the other party.

22. Inspection of Books and Records. The proper officers or agents of Northridge shall have full and free access at all reasonable times to the account books and official records of the Agency in so

far as the same pertain to the matters and things provided for in this Agreement, with the right at any time during office hours to make copies thereof at Northridge's expense, and the proper representative of the Agency shall have similar rights with respect to the account books and records of Northridge.

23. Integration. This is an integrated agreement and contains all of the terms, considerations, understanding and promises of the parties. It shall be read as a whole.

24. Construction and Interpretation. It is agreed and acknowledged by the parties that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

25. Amendment. This Agreement may be modified or amended only by a subsequent written agreement approved by both parties.

26. Attorney's Fees. In any action brought by either party to enforce or construe this Agreement, the prevailing parties shall be entitled to an award of reasonable attorney's fees, expert witness and consulting fees, litigation costs and costs of suit.

27. Counterparts. This Agreement may be executed in counterparts. Northridge shall deliver its counterpart to the Agency, which shall deliver a fully-conformed counterpart to Northridge.

28. Obligations Prior to Termination. The obligations of the parties incurred pursuant to this

Agreement prior to the termination of this Agreement shall survive the termination.

29. Supporting Resolutions. Each party represents that it has legal authority to enter into this Agreement and to perform its obligations hereunder, and shall submit to the other party concurrent with execution of this Agreement a duly-authorized resolution or other document evidencing the authority and authorizing the person executing this Agreement to do so.

30. General Indemnity. Each party agrees to protect, defend, indemnify and hold harmless the other party, its directors, officers, agents, employees and consultants from and against any and all losses, claims, liens, demands and causes of action of every kind and character, without limitation by enumeration, occurring or in any wise incident to, connected with, or arising directly or indirectly out of the negligence or willful misconduct of the indemnifying party hereunder.

31. Severability. The invalidity, illegality or unenforceability of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

32. No Third Party Beneficiaries. This Agreement shall not be construed to create any third party beneficiaries. This Agreement is for the sole benefit of the parties, their respective successors and permitted transferees and assigns, and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement or any of its terms.

33. Relationship of Parties. Nothing in this Agreement shall be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to anyone or more of the parties.

34. Additional Documents. Each party agrees to make, execute, acknowledge and deliver any and all documents reasonably required to implement this Agreement.

35. Supersedes prior Agreement. This Agreement supersedes in its entirety the "Agreement between Placer County Water Agency and Northridge Water District for a water supply for groundwater stabilization", as amended, which was entered into as of August 21, 1995.

The foregoing is hereby agreed to by the parties.

PLACER COUNTY WATER AGENCY

By: _____

Attest: _____

NORTHRIDGE WATER DISTRICT

By: _____

Attest: _____

Exhibit A

Operating Criteria

The diversion and use of water under this Agreement shall be subject to the following operating criteria, in addition to the terms and conditions set forth in the Agreement:

1. The Northridge Annual Entitlement shall not exceed the annual amount of water that is available for diversion by Northridge in accordance with the terms and conditions of the SWRCB Orders, which are attached hereto. Northridge's obligation in Article 4 of the Agreement to take or pay for the Northridge Annual Entitlement shall be based on the Northridge Annual Entitlement as adjusted in this exhibit.
2. Northridge shall compensate the Agency at the rates provided for in Article 12 for water that the Agency would have appropriated to storage but could not (and which results in a net decrease in the amount of water in storage) as a result of application of Article 2.b. of the September 30, 1999 agreement between the Agency and the Department of Water Resources that is referred to in the SWRCB Orders and attached hereto.
3. To account for the conveyance losses provided for in Article 3(b) of the Warren Act Contract, the Agency shall release five percent more than the quantity of water requested for delivery by Northridge.

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS**

ORDER

Application 18085 Permit 13856

**ORDER APPROVING CHANGE IN THE PLACE OF USE,
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 13856 was issued to Placer County Water Agency on January 10, 1963, pursuant to Application 18085.
2. A petition to change the place of use of Permit 13856 was filed with the State Water Resources Control Board (SWRCB) on July 31, 1996 and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on October 18, 1996 and protest issues have been resolved. Resultant protest resolution agreements have been incorporated into this order.
3. The SWRCB has determined that the petition to change the place of use does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A paragraph should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
5. The paragraph relating to the continuing authority of the SWRCB should be updated to conform to section 780(a), title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The place of use under Permit 13856 shall be amended as follows:

The place of use is situated in portions of Placer and Sacramento counties as shown on the Placer County Water Agency map set dated July 31, 1996, on file with the SWRCB.

Application 18085

Permit 13856

2. Paragraph 8, the continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

3. An Endangered Species term shall be added to Permit 13856 to read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Application 18085

Permit 13856

3. The following term shall be added to Permit 13856 to read as follows:

Permittee shall comply with provisions of the following settlement agreements on file with the SWRCB:

- (a) *Agreement for Dismissal of Protest by California Department of Water Resources to Placer County Water Agency's Petition before State Water Resources Control SWRCB for Change in Place of Use under Permits Nos. 13856 (App. No. 18085) and 13858 (App. No. 18087) executed on September 30, 1999;*
- (b) *Stipulated Agreement for Dismissal of Bureau of Reclamation's Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858) executed on September 8, 1998;*
- (c) **SETTLEMENT AGREEMENT CONCERNING PLACER COUNTY WATER AGENCY'S PETITION TO EXPAND ITS PLACE OF USE UNDER WATER RIGHT PERMITS 13856 AND 13858** executed between Placer County Water Agency and the County of Sacramento (on March 23, 1999); as well as the City of Sacramento (on April 13, 1999); and
- (d) *Stipulated Agreement for Dismissal of Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858) executed between the Placer County Water Agency and the Friends of the River, Save the American River Association, and the Sierra Club, Mother Lode Chapter (on September 16, 1999); as well as Mr. William Berry (on November 20, 1999).*

Inclusion in this permit of provisions of the referenced agreements shall not be construed as affecting the enforceability, as between the parties, of such provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)



Harry M. Schueller
Division Chief

Dated:

MAY 24 2000

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS**

ORDER

Application 18087 Permit 13858

**ORDER APPROVING CHANGE IN THE PLACE OF USE,
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 13858 was issued to Placer County Water Agency on January 10, 1963, pursuant to Application 18087.
2. A petition to change the place of use of Permit 13858 was filed with the State Water Resources Control Board (SWRCB) on July 31, 1996 and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on October 18, 1996 and protest issues have been resolved. Resultant protest resolution agreements have been incorporated into this order.
3. The SWRCB has determined that the petition to change the place of use does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A paragraph should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
5. The paragraph relating to the continuing authority of the SWRCB should be updated to conform to section 780(a), title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The place of use under Permit 13858 shall be amended as follows:

The place of use is situated in portions of Placer and Sacramento counties as shown on the Placer County Water Agency map set dated July 31, 1996, on file with the SWRCB.

Application 18087

Permit 13858

2. Paragraph 8, the continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

3. An Endangered Species term shall be added to Permit 13858 to read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Application 18087

Permit 13858

3. The following term shall be added to Permit 13858 to read as follows:

Permittee shall comply with provisions of the following settlement agreements on file with the SWRCB:

- (a) *Agreement for Dismissal of Protest by California Department of Water Resources to Placer County Water Agency's Petition before State Water Resources Control SWRCB for Change in Place of Use under Permits Nos. 13856 (App. No. 18085) and 13858 (App. No. 18087) executed on September 30, 1999;*
- (b) *Stipulated Agreement for Dismissal of Bureau of Reclamation's Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858) executed on September 8, 1998;*
- (c) **SETTLEMENT AGREEMENT CONCERNING PLACER COUNTY WATER AGENCY'S PETITION TO EXPAND ITS PLACE OF USE UNDER WATER RIGHT PERMITS 13856 AND 13858** executed between Placer County Water Agency and the County of Sacramento (on March 23, 1999); as well as the City of Sacramento (on April 13, 1999); and
- (d) *Stipulated Agreement for Dismissal of Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858) executed between the Placer County Water Agency and the Friends of the River, Save the American River Association, and the Sierra Club, Mother Lode Chapter (on September 16, 1999); as well as Mr. William Berry (on November 20, 1999).*

Inclusion in this permit of provisions of the referenced agreements shall not be construed as affecting the enforceability, as between the parties, of such provisions insofar as they are not inconsistent with the terms of this permit. (0000024)



Harry M. Schneller
Division Chief

Dated: MAY 24 2000

**Agreement for Dismissal of Protest
by California Department of Water Resources
to Placer County Water Agency's Petition before
State Water Resources Control Board
for Change in Place of Use
under Permits Nos. 13856 (App. No. 18085)
and 13858 (App. No. 18087)**

This Agreement is entered into this 30th day of September, 1999, by and between the California Department of Water Resources, an agency of the State of California, and Placer County Water Agency, a public entity formed under the Placer County Water Agency Act, in the County of Placer, State of California.

Whereas:

1. Placer County Water Agency (Agency) has petitioned the State Water Resources Control Board (State Board) for a change in the place of use specified in water rights permits it holds to appropriate water from the Middle Fork of the American River to add and include areas in Sacramento County; and
2. The State of California Department of Water Resources (DWR) has protested that petition because of potential impacts to water rights it holds for the operation of the State Water Project (SWP); and
3. DWR and Agency desire to resolve DWR's protest through settlement.
4. A portion of the expanded place of use includes the service area of the San Juan Water District (District). The change in place of use will not change the total quantity of water that the District diverts from Folsom Lake because its service area is already substantially developed, because the District would be replacing a portion of its existing Central Valley Project water supply with the Agency water, and because the District has agreed to restrict its diversions in dry years under its Water Forum Agreement. The expansion of the Agency's place of use to cover all of the District's service area will not increase the District's diversions from Folsom Lake and will not affect the water supply available to the SWP. Therefore, the Term 91 diversion constraints established by this agreement shall not apply to the District's diversions from Folsom Lake. The exclusion of the District's service area from this agreement is intended to create no precedent in other proceedings as to the applicability of Term 91 to Agency water supplies diverted by the District.

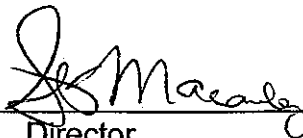
Therefore, the Parties Agree as Follows;

1. "Term 91 is in effect" means State Board Standard Permit Term 91 as described in State Board Decision 1594 is in effect as to those water right holders whose permits or licenses contain Term 91.
2. If the State Board grants Agency's petition to expand its place of use,
 - a. When Term 91 is in effect, Agency shall deliver to the Northridge Water District service area only water previously appropriated to storage; and
 - b. When Term 91 is in effect, Agency shall not appropriate water to storage to refill any storage in its Middle Fork reservoirs vacated on account of a previous use of stored water in the Northridge Water District service area.
 - c. DWR agrees that, upon request by the Agency, it will consider in good faith an appropriate modification to subsection (b) to provide protection for the SWP alone. The parties understand that, because of the obligations under the Coordinated Operating Agreement (COA) between DWR and USBR to provide storage releases for in-basin uses, DWR will need to first secure the agreement of USBR to keep DWR whole under the COA on account of the modification.
3. Upon DWR's request, Agency shall provide DWR all information relevant to the operation of its Middle Fork reservoirs or to any other aspect of its operations as necessary for DWR to monitor Agency's compliance with the provisions of this Agreement.
4. Upon execution of this agreement, DWR shall withdraw its protest to Agency's petition for change in place of use pending with the State Board.
5. In the event that the State Board shall, in the course of the current Bay-Delta water rights proceedings, enter a final order which expressly addresses and determines Agency's obligations to implement the provisions of the 1995 Water Quality Control Plan for the Bay-Delta Estuary, and for so long as that order is in effect, that order shall supersede the provisions of Section 2 of this agreement.
6. Neither party shall use or submit this agreement for any purpose in any proceeding before the State Water Resources Control Board, the Federal Energy Regulatory Commission, or any other regulatory or adjudicatory body, except in

an action to defend its validity or to enforce its terms.

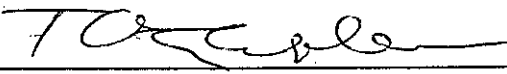
In Witness Whereof, the parties hereto have executed this Agreement for Dismissal of Protest as of the day and year first above written.

CALIFORNIA DEPARTMENT OF WATER RESOURCES


By:  or Tom Hamigan
Director

(SEAL)

PLACER COUNTY WATER AGENCY

By: 
Chair

Attest:

Secretary 

Stipulated Agreement for Dismissal of Bureau of Reclamation's Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858)

The United States Bureau of Reclamation (Reclamation) agrees that its protest to Placer County Water Agency's (PCWA) petition for change in place of use may be dismissed if the conditions set forth in paragraph 1 are included in the Board's Order approving the change. These conditions reflect a compromise among the parties to the Water Forum¹ in order to settle disputes among them concerning use of American River water and are not to be construed as evidence that the change in place of use under Permittee's permit will impact prior rights or the environment.

1. Permittee's deliveries of water from the American River to Northridge Water District (Northridge) under the August 21, 1995, PCWA-Northridge Agreement, and any amendments thereto, will be subject to the following restrictions:

a. Permittee shall not deliver any water within the expanded place of use in Sacramento County until the recipient of such water has entered into such contracts with Reclamation as may be necessary for access to and use of Federal facilities needed for rediversion of such water.

b. During the 10-year period following the date when water is first available to Northridge under the Northridge Agreement (the 10-year period):

(1) Water shall be delivered to Northridge only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 950,000 acre-feet.

(2) Notwithstanding subparagraph (1) above, in December, January, and February following a March through November period when the unimpaired inflow into Folsom Reservoir was less than 950,000 acre-feet, water may be delivered to Northridge when and after water is being released from Folsom Reservoir for flood protection.

¹The Water Forum is a regional group of water purveyors, environmental organizations and business interests interested in the economic and environmental future of the American River watershed as affected by the diversion of water from the American River. Its members include Sacramento County; the cities of Sacramento, Roseville, and Folsom; Sacramento County Water Agency; El Dorado County Water Agency; Placer County Water Agency; San Juan Water District; Northridge Water District; Save the American River Association; the Sierra Club; Friends of the River; and others.

(3) PCWA's deliveries of American River water to Northridge in each of these years will be limited to the amounts of water provided in the water use schedule in the Northridge Agreement, which allows annually increasing diversions to a maximum total of 29,000 acre-feet per year under that agreement.

c. After the 10-year period, Permittee may deliver American River water to Northridge only:

(1) In years when the projected March to November unimpaired inflow to Folsom Reservoir is greater than 1,600,000 acre-feet, or

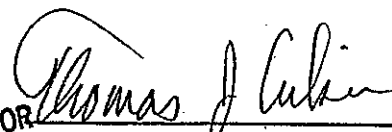
(2) Notwithstanding subparagraph (1) above, in a December, January, and February following a March through November period when the unimpaired inflow into Folsom Reservoir was less than 1,600,000 acre-feet, when and after water is being released from Folsom Reservoir for flood protection, or

(3) As otherwise permitted by the Board pursuant to an Order releasing or modifying the provisions of c(1) and c(2): Provided, That such Order is issued after a hearing before the SWRCB in which Reclamation is afforded the opportunity to participate; and Provided further, That this subparagraph is not interpreted as constituting a waiver by Reclamation of any rights it may have to contest the subject Board Order in a court of competent jurisdiction.

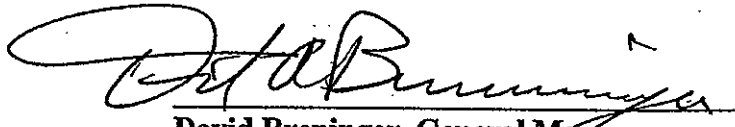
2. Nothing in this stipulation shall affect the right of Permittee to terminate the Northridge agreement if Permittee reasonably determines that any term of the Board Order resulting from the hearing is unacceptable.

3. Nothing in this stipulation is intended to restrict deliveries of water from Folsom Reservoir for use by Northridge under a Section 215 (surplus water) contract with Reclamation, whenever such water may be available.

Date: 9/8/98

ACTING FOR 
Roger K. Patterson, Regional Director
UNITED STATES
BUREAU OF RECLAMATION

Date: 8/24/98


David Breninger, General Manager
PLACER COUNTY WATER AGENCY

**SETTLEMENT AGREEMENT CONCERNING
PLACER COUNTY WATER AGENCY'S
PETITION TO EXPAND ITS PLACE OF USE
UNDER WATER RIGHTS PERMITS 13856 AND 13858**

This Settlement Agreement is executed on 23, March, 1999, by and between the Placer County Water Agency (hereafter referred to as "PCWA") and the County of Sacramento and Sacramento County Water Agency (Collectively referred to as "County").

RECITALS

- A. On July 31, 1996, PCWA filed a petition with the State Water Resources Control Board ("SWRCB") to change the place of use ("POU") authorized under PCWA's water right Application 18085 (Permit 13856) and Application 18087 (Permit 13858). This petition is referred to hereafter as the "POU Petition."
- B. The purpose of the POU Petition is to expand the POU to include a portion of Sacramento County that currently is almost entirely dependent on groundwater for its water supply, to allow surface water that is diverted by PCWA under Permits 13856 and 13858 to be used in lieu of groundwater in the expanded POU. PCWA intends to deliver water to the expanded POU pursuant to agreements with water purveyors whose service areas include portions of the expanded POU, including existing agreements with San Juan Water District ("San Juan") and Northridge Water District ("Northridge").
- C. On December 12, 1996, the County filed a protest based on environmental considerations to the POU Petition ("County Protest").
- D. PCWA and the County are members of the ongoing Water Forum, a regional group of water purveyors, environmental organizations, public and business interests interested in the economic and environmental future of the American River watershed as affected by the diversion of water from the American River. Other Water Forum members include the cities of Sacramento, Roseville and Folsom, El Dorado County Water Agency, San Juan Water

District, Northridge Water District, Save the American River Association, the Sierra Club, Friends of the River, and others.

- E. The provisions of this Settlement Agreement that pertain to the use of PCWA water in the expanded POU under the Northridge-PCWA Agreement are based on conditions that were negotiated in the Water Forum process.
- F. The County and PCWA now desire to resolve their differences regarding the proposed POU expansion, and therefore agree as follows:

Agreement

NOW, THEREFORE, in consideration of the mutual obligations and commitments set forth herein, the parties agree as follows:

- I. **Withdrawal of County's Protest.** Immediately upon execution of this Settlement Agreement by both parties, the County shall withdraw the County's Protest, and the County will support the POU Petition.
- II. **Use or Delivery of Water in Expanded POU by Northridge.**
 - A. The County and PCWA agree that diversions or rediversions of PCWA water for use or delivery in the expanded POU by Northridge Pursuant to the PCWA-Northridge Agreement shall be subject to compliance with the following conditions:
 - 1. For the first ten years that water is available for diversion by Northridge Water District ("Northridge") from Folsom Reservoir under the August 21, 1995, Northridge-PCWA Agreement ("Northridge-PCWA Agreement"), but not more than twelve years from the effective date of the Water Forum Agreement, whichever

occurs first,¹ diversions of PCWA water under the Northridge-PCWA Agreement, for Northridge's own use or delivery to other purveyors, will be subject to the following restrictions:

- a. PCWA water can be diverted only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 950,000 acre feet.
 - b. In December, January and February following a March through November period when the unimpaired inflow into Folsom Reservoir was less than 950,000 acre feet, PCWA water cannot be diverted until such time as or after water is being released from Folsom Reservoir for flood protection.
 - c. In addition to the foregoing, diversions of PCWA water will be limited during the ten-year period pursuant to the water use schedule in the Northridge-PCWA Agreement, which allows annually-increasing diversions of up to 24,000 acre feet per year during the first ten years of water deliveries under that agreement.
 - d. Nothing set forth herein is intended to restrict Northridge's ability to take delivery of Section 215 water from Folsom Reservoir from the Bureau of Reclamation whenever it may be available.
2. If Northridge is able to take delivery of Sacramento river water through the Sacramento River Pipeline (a pipeline that would connect the Sacramento River to the Northridge pipeline), PCWA water will thereafter be diverted under the Northridge-PCWA Agreement for Northridge's own use or delivery to other

¹This time period is hereafter referred as the "ten-year period", and it may be extended for a period of up to two additional years by agreement of the parties to the Water Forum Agreement.

purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 1,600,000 acre feet (i.e., "above-Hodge").

3. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, the SWRCB would hold a hearing "(SWRCB Hearing)" if requested by Northridge, the City of Sacramento, County of Sacramento, Friends of the River, Sierra Club or Save the American River Association. The purpose of the SWRCB Hearing will be to determine whether to add or revise conditions to PCWA's water rights for diversion of water from Folsom Reservoir under the Northridge-PCWA Agreement that are necessary to mitigate impacts from such diversions and/or prevent such diversions from adversely impacting diversion of American River water under the City's Rights. Nothing set forth in this section II determines the relative priority of the water rights of the City of Sacramento and PCWA. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, PCWA water will thereafter be diverted under the Northridge-PCWA Agreement for Northridge's own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir was greater than 1,600,000 acre feet (i.e., "above-Hodge") and under the conditions referred to in Section 1.b. above, unless these conditions are revised by a SWRCB order issued following the SWRCB Hearing. In addition, Northridge could divert water under the conditions referred to in Section 1.d. above.

The diversion restrictions set forth above reflect a compromise by the Water Forum parties in order to settle a dispute among them. If there is a SWRCB Hearing, the parties do not intend that the SWRCB consider the existence of this compromise as evidence of appropriate diversion conditions after the conclusion of the ten-year period. It is the intention of the parties that the SWRCB's determination following the SWRCB Hearing be based upon the best available scientific and other evidence available at the time of the SWRCB Hearing. Nothing set forth herein shall affect the right of PCWA to terminate the Northridge-PCWA Agreement if PCWA

reasonably determines that any term of the SWRCB order resulting from the SWRCB Hearing is unacceptable.

- B. The restrictions on diversions of PCWA water pursuant to the Northridge-PCWA Agreement, set forth in subsection A, above, also shall apply to diversions or rediversions of PCWA water for use or delivery in the expanded POU by Northridge pursuant to any other agreement or other arrangement.
- C. The diversion restrictions set forth above apply only to the use or delivery of PCWA water in the expanded POU.

III. Use of PCWA Water in Expanded POU By Other Purveyors. The County and PCWA agree to the following condition governing the use of PCWA water in the expanded POU by other purveyors:

The diversion of American River water under Permit 13856 or Permit 13858 for use or delivery in the expanded POU by any purveyor other than Northridge shall be permitted only if either of the following occur: (1) the purveyor has signed and is in compliance with the Purveyor Specific Agreement set forth for the purveyor in the Water Forum Agreement; or (2) there is no Purveyor Specific Agreement for the purveyor in the Water Forum Agreement or the Water Forum Agreement has not been finalized, but (a) the purveyor has formally adopted and is in compliance with a water conservation plan applicable to the area to receive water within the expanded POU that achieves a level of water conservation equal or greater to the level achieved by the water conservation measures included in the Water Forum Action Plan, and (b) the purveyor publicly supports and is participating in, consistent with the purveyor commitments set forth in the Water Forum Action Plan, the implementation of (i) an updated lower American River flow standard and improved pattern of fishery flow releases from Folsom reservoir, (ii) a habitat mitigation program for the lower American River, and (iii) the installation of a temperature control device on the urban water intake at Folsom Dam.

IV. Protest Dismissal Conditions. Immediately upon execution of this Settlement Agreement

by both parties, the County and PCWA both shall provide written requests to the SWRCB to include all of the conditions set forth in Section II, Section III and Section IV of this Settlement Agreement in the SWRCB's order approving the POU Petition, and both parties shall fully and unconditionally support implementation of those requests. Regardless of whether the SWRCB does or does not comply with these requests, this Settlement Agreement and all of the terms and conditions hereof shall remain in full force and effect between the parties.

V. Future Actions; Binding on Successors. The parties agree to take all actions necessary or convenient to carry out the purposes and intent of this Settlement Agreement. This Settlement Agreement shall inure to the benefit of and be binding upon successors and assigns of the parties.

VI. Miscellaneous. This Settlement Agreement and each provision hereof shall be interpreted as if drafted equally by all parties. Any of the terms or conditions of this Settlement Agreement may be waived at any time by the party entitled to the benefits thereof, but no such waiver shall affect or impair the right of the waiving party to require observance, performance or satisfaction either of that term or condition as it applies on a subsequent occasion or of any other term or condition hereof. This document constitutes the entire agreement between the parties concerning the POU Petition, and may only be amended in a writing signed by authorized representatives of both parties. Each representative signing below warrants and represents that he or she has the full legal authority to bind his or her respective party to all of the provisions of this Settlement Agreement, and that no further approvals or consents are necessary from his or her respective party in connection therewith.

PLACER COUNTY WATER AGENCY

Date: 3-19-99

By: 

APPROVED AS TO FORM:


General Counsel

COUNTY OF SACRAMENTO

Date: 23rd, March, 1999

By:

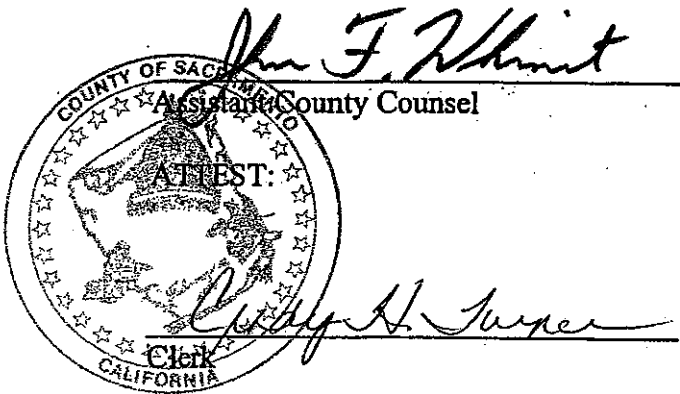
Muriel P. Johnson
Chairperson

SACRAMENTO COUNTY WATER AGENCY

By:

Muriel P. Johnson
Chairperson

APPROVED AS TO FORM:



FILED

MAR 23 1999

BOARD OF SUPERVISORS

By Cindy H. Turner
Clerk of the Board

FILED

MAR 23 1999

BOARD OF DIRECTORS

By Cindy H. Turner
Clerk of the Board

In accordance with Section 25103 of the Government Code of the State of California a copy of this document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on

MAR 23 1999

By D.P. Platt
Deputy Clerk, Board of Supervisors

**SETTLEMENT AGREEMENT CONCERNING
PLACER COUNTY WATER AGENCY'S
PETITION TO EXPAND ITS PLACE OF USE
UNDER WATER RIGHTS PERMITS 13856 AND 13858**

This Settlement Agreement is executed on March ___, 1999, by and between the Placer County Water Agency (hereafter referred to as "PCWA") and the City of Sacramento ("City").

RECITALS

- A. On July 31, 1996, PCWA filed a petition with the State Water Resources Control Board ("SWRCB") to change the place of use ("POU") authorized under PCWA's water right Application 18085 (Permit 13856) and Application 18087 (Permit 13858). This petition is referred to hereafter as the "POU Petition."
- B. The purpose of the POU Petition is to expand the POU to include a portion of Sacramento County that currently is almost entirely dependent on groundwater for its water supply, to allow surface water that is diverted by PCWA under Permits 13856 and 13858 to be used in lieu of groundwater in the expanded POU. PCWA intends to deliver water to the expanded POU pursuant to agreements with water purveyors whose service areas include portions of the expanded POU, including existing agreements with San Juan Water District ("San Juan") and Northridge Water District ("Northridge").
- C. City has four water right Permits (nos. 11358, 11359, 11360 and 11361) that authorize diversions of American River water, and one water right Permit (no. 992) and pre-1914 rights that authorize diversions of Sacramento River water, in addition to the City's 1957 water rights settlement contract with the U.S. Bureau of Reclamation (hereafter all collectively referred to as the "City's Rights"). Pursuant to a May 21, 1962 agreement between City and PCWA, PCWA's rights to divert from the American River and any of its tributaries, including its rights pursuant to Permit 13856 and Permit 13858, are and shall be subordinate to the City's prior rights. A copy of the May 21, 1962 agreement is attached hereto as Exhibit A, and incorporated herein.

- D. On December 18, 1996, City filed a protest based on environmental considerations and a protest based on injury to the City's Rights against the POU Petition, which protests are collectively referred to hereafter as the "City's Protest."
- E. PCWA and City are members of the ongoing Water Forum, a regional group of water purveyors, environmental organizations, public and business interests interested in the economic and environmental future of the American River watershed as affected by the diversion of water from the American River. Other Water Forum members include Sacramento County, the cities of Roseville and Folsom, Sacramento County Water Agency, El Dorado County Water Agency, San Juan Water District, Northridge Water District, Save the American River Association, the Sierra Club, Friends of the River, and others.
- F. The provisions of this Settlement Agreement that pertain to the use of PCWA water in the expanded POU under the Northridge-PCWA Agreement are based on conditions that were negotiated in the Water Forum process.
- G. City and PCWA now desire to resolve their differences regarding the proposed POU expansion, and therefore agree as follows:

Agreement

NOW, THEREFORE, in consideration of the mutual obligations and commitments set forth herein, the parties agree as follows:

- I. **Withdrawal of City's Protest.** Immediately upon execution of this Settlement Agreement by both parties, the City shall withdraw the City's Protest, and the City will support the POU Petition.
- II. **Use or Delivery of Water in Expanded POU by Northridge.**

A. The City and PCWA agree that diversions or rediversions of PCWA water for use or delivery in the expanded POU by Northridge Pursuant to the PCWA-Northridge Agreement shall be subject to compliance with the following conditions:

1. For the first ten years that water is available for diversion by Northridge Water District ("Northridge") from Folsom Reservoir under the August 21, 1995, Northridge-PCWA Agreement ("Northridge-PCWA Agreement"), but not more than twelve years from the effective date of the Water Forum Agreement, whichever occurs first,¹ diversions of PCWA water under the Northridge-PCWA Agreement, for Northridge's own use or delivery to other purveyors, will be subject to the following restrictions:
 - a. PCWA water can be diverted only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 950,000 acre feet.
 - b. In December, January and February following a March through November period when the unimpaired inflow into Folsom Reservoir was less than 950,000 acre feet, PCWA water cannot be diverted until such time as or after water is being released from Folsom Reservoir for flood protection.
 - c. In addition to the foregoing, diversions of PCWA water will be limited during the ten-year period pursuant to the water use schedule in the Northridge-PCWA Agreement, which allows annually-increasing diversions of up to 24,000 acre feet per year during the first ten years of water deliveries under that agreement.

¹This time period is hereafter referred as the "ten-year period", and it may be extended for a period of up to two additional years by agreement of the parties to the Water Forum Agreement.

- d. Nothing set forth herein is intended to restrict Northridge's ability to take delivery of Section 215 water from Folsom Reservoir from the Bureau of Reclamation whenever it may be available.
2. If Northridge is able to take delivery of Sacramento river water through the Sacramento River Pipeline (a pipeline that would connect the Sacramento River to the Northridge pipeline), PCWA water will thereafter be diverted under the Northridge-PCWA Agreement for Northridge's own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 1,600,000 acre feet (i.e., "above-Hodge").
3. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, the SWRCB would hold a hearing "(SWRCB Hearing)" if requested by Northridge, the City of Sacramento, County of Sacramento, Friends of the River, Sierra Club or Save the American River Association. The purpose of the SWRCB Hearing will be to determine whether to add or revise conditions to PCWA's water rights for diversion of water from Folsom Reservoir under the Northridge-PCWA Agreement that are necessary to mitigate impacts from such diversions and/or prevent such diversions from adversely impacting diversion of American River water under the City's Rights. Nothing set forth in this section II determines the relative priority of the water rights of the City of Sacramento and PCWA. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, PCWA water will thereafter be diverted under the Northridge-PCWA Agreement for Northridge's own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir was greater than 1,600,000 acre feet (i.e., "above-Hodge") and under the conditions referred to in Section 1.b. above, unless these conditions are revised by a SWRCB order issued following the SWRCB Hearing. In addition, Northridge could divert water under the conditions referred to in Section 1.d. above.

The diversion restrictions set forth above reflect a compromise by the Water Forum parties in order to settle a dispute among them. If there is a SWRCB Hearing, the parties do not intend that the SWRCB consider the existence of this compromise as evidence of appropriate diversion conditions after the conclusion of the ten-year period. It is the intention of the parties that the SWRCB's determination following the SWRCB Hearing be based upon the best available scientific and other evidence available at the time of the SWRCB Hearing. Nothing set forth herein shall affect the right of PCWA to terminate the Northridge-PCWA Agreement if PCWA reasonably determines that any term of the SWRCB order resulting from the SWRCB Hearing is unacceptable.

- B. The restrictions on diversions of PCWA water pursuant to the Northridge-PCWA Agreement, set forth in subsection A, above, also shall apply to diversions or rediversions of PCWA water for use or delivery in the expanded POU by Northridge pursuant to any other agreement or other arrangement.
- C. The diversion restrictions set forth above apply only to the use or delivery of PCWA water in the expanded POU.

III. Use of PCWA Water in Expanded POU By Other Purveyors. The City and PCWA agree to the following condition governing the use of PCWA water in the expanded POU by other purveyors:

The diversion of American River water under Permit 13856 or Permit 13858 for use or delivery in the expanded POU by any purveyor other than Northridge shall be permitted only if either of the following occur: (1) the purveyor has signed and is in compliance with the Purveyor Specific Agreement set forth for the purveyor in the Water Forum Agreement; or (2) there is no Purveyor Specific Agreement for the purveyor in the Water Forum Agreement or the Water Forum Agreement has not been finalized, but (a) the purveyor has formally adopted and is in compliance with a water conservation plan applicable to the area to receive water within the expanded POU that achieves a level of water conservation equal or greater to the level achieved by the water conservation measures included in the Water Forum

Action Plan, and (b) the purveyor publicly supports and is participating in, consistent with the purveyor commitments set forth in the Water Forum Action Plan, the implementation of (i) an updated lower American River flow standard and improved pattern of fishery flow releases from Folsom reservoir, (ii) a habitat mitigation program for the lower American River, and (iii) the installation of a temperature control device on the urban water intake at Folsom Dam.

IV. City's Rights. Notwithstanding any other provision hereof, and in accordance with the May 12, 1962, agreement between City and PCWA, PCWA will not divert or divert water originating in the American River or in any of its tributaries for use in any portion of the POU, including the expanded POU, whenever diversions or diversions for such purpose, alone or in conjunction with other diversions, would limit or impair surface water diversions or diversions by the City of Sacramento under the City's Rights.

V. Protest Dismissal Conditions. Immediately upon execution of this Settlement Agreement by both parties, City and PCWA both shall provide written requests to the SWRCB to include all of the conditions set forth in Section II, Section III and Section IV of this Settlement Agreement in the SWRCB's order approving the POU Petition, and both parties shall fully and unconditionally support implementation of those requests. Regardless of whether the SWRCB does or does not comply with these requests, this Settlement Agreement and all of the terms and conditions hereof shall remain in full force and effect between the parties.

VI. Future Actions; Binding on Successors. The parties agree to take all actions necessary or convenient to carry out the purposes and intent of this Settlement Agreement. This Settlement Agreement shall inure to the benefit of and be binding upon successors and assigns of the parties.

VII. Miscellaneous. This Settlement Agreement and each provision hereof shall be interpreted as if drafted equally by all parties. Any of the terms or conditions of this Settlement Agreement may be waived at any time by the party entitled to the benefits thereof, but no such waiver shall affect or impair the right of the waiving party to require observance, performance or satisfaction either of that term or condition as it applies on a subsequent occasion or of any other term or condition hereof. This document constitutes the entire agreement between the parties concerning the POU Petition,

and may only be amended in a writing signed by authorized representatives of both parties. Each representative signing below warrants and represents that he or she has the full legal authority to bind his or her respective party to all of the provisions of this Settlement Agreement, and that no further approvals or consents are necessary from his or her respective party in connection therewith.

PLACER COUNTY WATER AGENCY

Date:

3/19/99

By:

T. C. C.

APPROVED AS TO FORM:

Edward J. Cedernum
General Counsel

CITY OF SACRAMENTO

Date:

By:

APPROVED AS TO FORM:

J. Adams
Deputy City Attorney

ATTEST:

City Clerk

AGREEMENT

CITY OF SACRAMENTO, a municipal corporation, hereinafter referred to as "CITY", and PLACER COUNTY WATER AGENCY, a political subdivision of the State of California, hereinafter referred to as "AGENCY", hereby agree as follows:

Recitals

1. AGENCY has filed with the State Water Rights Board of the State of California Applications 18084, 18085, 18086, and 18087 to appropriate unappropriated water from North Fork and Middle Fork American River and from various tributaries thereto for power, irrigation, incidental domestic, municipal, industrial and recreational purposes.

2. CITY diverts water from the Sacramento River below its confluence with the American River, at the intake of its existing Filtration Plant, pursuant to appropriative rights dating from 1849 or 1850, and Permit 992 on Application 1743. CITY will also soon divert or redirect water from the American River at a point near the new Filtration Plant now under construction, pursuant to Permit No. 11358 on Application 12140, Permit No. 11361 on Application 16060, Permit 11359 on Application 12321, and Permit 11360 on Application 12622, under agreements with the U. S. Bureau of Reclamation, and with Sacramento Municipal Utility District, both dated June 28, 1957. All of such diversions are for municipal use of the City of Sacramento and the areas adjacent to said CITY.

3. CITY has filed with the aforesaid State Water Rights Board a protest against the applications filed by AGENCY and referred to in Paragraph 1 hereinabove on the ground that AGENCY's proposed diversions would interfere with CITY's diversions under prior right.

4. AGENCY has filed with said State Water Rights Board an answer to the aforesaid protest stating, inter alia, that water is available at AGENCY's proposed points of diversion for the uses proposed under its applications without interfering with the reasonable needs of protestant CITY under any prior downstream vested rights.

Agreements

5. CITY and AGENCY hereby agree (a) that the rights of AGENCY to divert water originating in the American River or in any of its tributaries are and shall be subordinate to CITY's rights under the appropriations, permits, and agreements referred to in Paragraph 2 hereinabove, and (b) that this agreement may be incorporated into and made a condition of any permit or permits issued to AGENCY by the aforesaid State Water Rights Board on the applications referred to in Paragraph 1 hereinabove.

6. CITY agrees that the protest referred to in Paragraph 3 hereinabove may be disregarded and dismissed if

002048

this agreement is incorporated into and made a condition
of said permit or permits issued to AGENCY.

Dated: May 21, 1962.

CITY OF SACRAMENTO

By E. A. Fairbairn

PLACER COUNTY WATER AGENCY

By S/ Thomas E. Doyle
Acting Chairman

**Stipulated Agreement for Dismissal of Protest to Placer County
Water Agency's Petition to Expand the Place of Use Under Application
18085 (Permit 13856) and Application 18087 (Permit 13858)**

Friends of the River agrees that its protest to Placer County Water Agency's ("PCWA") petition for change in place of use may be dismissed if the conditions set forth below are included in the State Board's order approving the petition:

1. For the first ten years that water is available for diversion by Northridge Water District ("Northridge") from Folsom Reservoir under the August 21, 1995 Northridge-PCWA Agreement ("Northridge-PCWA Agreement"), but not more than twelve years from the effective date of the Water Forum Agreement, whichever occurs first,¹ Northridge's diversions under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, will be subject to the following restrictions:

a. Northridge will be able to divert PCWA water only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 950,000 acre feet.

b. In December, January and February following a March through November period when the unimpaired inflow into Folsom Reservoir was less than 950,000 acre feet, Northridge will not divert PCWA water until such time as or after water is being released from Folsom Reservoir for flood protection.

c. In addition to the foregoing, Northridge's diversions of PCWA water will be limited during the ten-year period pursuant to the water use schedule in the Northridge-PCWA Agreement, which allows annually-increasing diversions of up to 24,000 acre feet per year during the first ten years of water deliveries under that agreement.

d. Nothing in this Agreement is intended to restrict Northridge's ability to take

¹ This time period is hereafter referred to as the "ten-year period," and it may be extended for a period of up to two additional years by agreement of the parties to this Agreement.

delivery of Section 215 water from Folsom Reservoir from the Bureau of Reclamation whenever it may be available.

2. If Northridge is able to take delivery of Sacramento River water through the Sacramento River Pipeline (a pipeline that would connect to the Northridge pipeline), Northridge will thereafter divert water from Folsom Reservoir under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 1,600,000 acre feet (i.e., "above-Hodge").

3. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, the SWRCB would hold a hearing ("SWRCB Hearing") if requested by Northridge, the City of Sacramento, County of Sacramento, Friends of the River, Sierra Club or Save the American River Association. The purpose of the SWRCB Hearing will be to determine whether to add or revise conditions to PCWA's water rights for diversion of water from Folsom Reservoir under the Northridge-PCWA Agreement that are necessary to mitigate impacts from such diversions and/or prevent such diversions from adversely impacting diversion of American River water under the City of Sacramento's prior water rights. Nothing in this Agreement determines the relative priority of the water rights of the City of Sacramento and PCWA. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, Northridge would thereafter divert water from Folsom Reservoir under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir was greater than 1,600,000 acre feet (i.e., "above-Hodge") and under the conditions referred to in Section 1.b. of this Agreement unless these conditions are revised by a SWRCB order issued following the SWRCB Hearing. In addition, Northridge could divert water under the conditions referred to in section 1.d. of this Agreement.

The diversion restrictions set forth in this Agreement reflect a compromise by the Water Forum parties in order to settle a dispute among them. If there is a SWRCB Hearing, the parties do not intend that the SWRCB consider the existence of this compromise as evidence of appropriate diversion conditions after the conclusion of the ten-year period. It is the intention of the parties that

the SWRCB's determination following the SWRCB Hearing be based upon the best available scientific and other evidence available at the time of the SWRCB Hearing. Nothing in this Agreement shall affect the right of PCWA to terminate the Northridge-PCWA Agreement if PCWA reasonably determines that any term of the SWRCB order resulting from the SWRCB Hearing is unacceptable.

4. Northridge will neither divert nor accept diversions of PCWA water from Folsom Reservoir or the American River under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, whenever such diversions alone or in conjunction with other diversions would limit or impair diversions from the American River by the City of Sacramento under its prior water rights.

Northridge's delivery to other purveyors of water diverted from the American River under the Northridge-PCWA Agreement is subject to those purveyors signing and implementing their commitments under the Water Forum Agreement.

The foregoing is hereby approved by the parties hereto.

Date: September 1, 1999

Ronald M. Stah
Friends of the River

Date: 09/16/99

T. C. Fugle
Placer County Water Agency

**Stipulated Agreement for Dismissal of Protest to Placer County
Water Agency's Petition to Expand the Place of Use Under Application
18085 (Permit 13856) and Application 18087 (Permit 13858)**

Save the American River Association agrees that its protest to Placer County Water Agency's ("PCWA") petition for change in place of use may be dismissed if the conditions set forth below are included in the State Board's order approving the petition:

1. For the first ten years that water is available for diversion by Northridge Water District ("Northridge") from Folsom Reservoir under the August 21, 1995 Northridge-PCWA Agreement ("Northridge-PCWA Agreement"), but not more than twelve years from the effective date of the Water Forum Agreement, whichever occurs first,¹ Northridge's diversions under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, will be subject to the following restrictions:

a. Northridge will be able to divert PCWA water only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 950,000 acre feet.

b. In December, January and February following a March through November period when the unimpaired inflow into Folsom Reservoir was less than 950,000 acre feet, Northridge will not divert PCWA water until such time as or after water is being released from Folsom Reservoir for flood protection.

c. In addition to the foregoing, Northridge's diversions of PCWA water will be limited during the ten-year period pursuant to the water use schedule in the Northridge-PCWA Agreement, which allows annually-increasing diversions of up to 24,000 acre feet per year during the first ten years of water deliveries under that agreement.

d. Nothing in this Agreement is intended to restrict Northridge's ability to take

¹ This time period is hereafter referred to as the "ten-year period," and it may be extended for a period of up to two additional years by agreement of the parties to this Agreement.

delivery of Section 215 water from Folsom Reservoir from the Bureau of Reclamation whenever it may be available.

2. If Northridge is able to take delivery of Sacramento River water through the Sacramento River Pipeline (a pipeline that would connect to the Northridge pipeline), Northridge will thereafter divert water from Folsom Reservoir under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 1,600,000 acre feet (i.e., "above-Hodge").

3. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, the SWRCB would hold a hearing ("SWRCB Hearing") if requested by Northridge, the City of Sacramento, County of Sacramento, Friends of the River, Sierra Club or Save the American River Association. The purpose of the SWRCB Hearing will be to determine whether to add or revise conditions to PCWA's water rights for diversion of water from Folsom Reservoir under the Northridge-PCWA Agreement that are necessary to mitigate impacts from such diversions and/or prevent such diversions from adversely impacting diversion of American River water under the City of Sacramento's prior water rights. Nothing in this Agreement determines the relative priority of the water rights of the City of Sacramento and PCWA. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, Northridge would thereafter divert water from Folsom Reservoir under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir was greater than 1,600,000 acre feet (i.e., "above-Hodge") and under the conditions referred to in Section 1.b. of this Agreement unless these conditions are revised by a SWRCB order issued following the SWRCB Hearing. In addition, Northridge could divert water under the conditions referred to in section 1.d. of this Agreement. || ||

The diversion restrictions set forth in this Agreement reflect a compromise by the Water Forum parties in order to settle a dispute among them. If there is a SWRCB Hearing, the parties do not intend that the SWRCB consider the existence of this compromise as evidence of appropriate diversion conditions after the conclusion of the ten-year period. It is the intention of the parties that

the SWRCB's determination following the SWRCB Hearing be based upon the best available scientific and other evidence available at the time of the SWRCB Hearing. Nothing in this Agreement shall affect the right of PCWA to terminate the Northridge-PCWA Agreement if PCWA reasonably determines that any term of the SWRCB order resulting from the SWRCB Hearing is unacceptable.

4. Northridge will neither divert nor accept diversions of PCWA water from Folsom Reservoir or the American River under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, whenever such diversions alone or in conjunction with other diversions would limit or impair diversions from the American River by the City of Sacramento under its prior water rights.

Northridge's delivery to other purveyors of water diverted from the American River under the Northridge-PCWA Agreement is subject to those purveyors signing and implementing their commitments under the Water Forum Agreement.

The foregoing is hereby approved by the parties hereto.

Date: 9-1-99

Alan M. Wade
Save the American River Association, Inc.

Date: 09/16/99

T. [Signature]
Placer County Water Agency

**Stipulated Agreement for Dismissal of Protest to Placer County
Water Agency's Petition to Expand the Place of Use Under Application
18085 (Permit 13856) and Application 18087 (Permit 13858)**

The Sierra Club, Sacramento agrees that its protest to Placer County Water Agency's ("PCWA") petition for change in place of use may be dismissed if the conditions set forth below are included in the State Board's order approving the petition:

1. For the first ten years that water is available for diversion by Northridge Water District ("Northridge") from Folsom Reservoir under the August 21, 1995 Northridge-PCWA Agreement ("Northridge-PCWA Agreement"), but not more than twelve years from the effective date of the Water Forum Agreement, whichever occurs first,¹ Northridge's diversions under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, will be subject to the following restrictions:

a. Northridge will be able to divert PCWA water only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 950,000 acre feet.

b. In December, January and February following a March through November period when the unimpaired inflow into Folsom Reservoir was less than 950,000 acre feet, Northridge will not divert PCWA water until such time as or after water is being released from Folsom Reservoir for flood protection.

c. In addition to the foregoing, Northridge's diversions of PCWA water will be limited during the ten-year period pursuant to the water use schedule in the Northridge-PCWA Agreement, which allows annually-increasing diversions of up to 24,000 acre feet per year during the first ten years of water deliveries under that agreement.

d. Nothing in this Agreement is intended to restrict Northridge's ability to take

¹ This time period is hereafter referred to as the "ten-year period," and it may be extended for a period of up to two additional years by agreement of the parties to this Agreement.

delivery of Section 215 water from Folsom Reservoir from the Bureau of Reclamation whenever it may be available.

2. If Northridge is able to take delivery of Sacramento River water through the Sacramento River Pipeline (a pipeline that would connect to the Northridge pipeline), Northridge will thereafter divert water from Folsom Reservoir under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 1,600,000 acre feet (i.e., "above-Hodge").

3. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, the SWRCB would hold a hearing ("SWRCB Hearing") if requested by Northridge, the City of Sacramento, County of Sacramento, Friends of the River, Sierra Club or Save the American River Association. The purpose of the SWRCB Hearing will be to determine whether to add or revise conditions to PCWA's water rights for diversion of water from Folsom Reservoir under the Northridge-PCWA Agreement that are necessary to mitigate impacts from such diversions and/or prevent such diversions from adversely impacting diversion of American River water under the City of Sacramento's prior water rights. Nothing in this Agreement determines the relative priority of the water rights of the City of Sacramento and PCWA. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, Northridge would thereafter divert water from Folsom Reservoir under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir was greater than 1,600,000 acre feet (i.e., "above-Hodge") and under the conditions referred to in Section 1.b. of this Agreement unless these conditions are revised by a SWRCB order issued following the SWRCB Hearing. In addition, Northridge could divert water under the conditions referred to in section 1.d. of this Agreement.

The diversion restrictions set forth in this Agreement reflect a compromise by the Water Forum parties in order to settle a dispute among them. If there is a SWRCB Hearing, the parties do not intend that the SWRCB consider the existence of this compromise as evidence of appropriate diversion conditions after the conclusion of the ten-year period. It is the intention of the parties that

the SWRCB's determination following the SWRCB Hearing be based upon the best available scientific and other evidence available at the time of the SWRCB Hearing. Nothing in this Agreement shall affect the right of PCWA to terminate the Northridge-PCWA Agreement if PCWA reasonably determines that any term of the SWRCB order resulting from the SWRCB Hearing is unacceptable.

4. Northridge will neither divert nor accept diversions of PCWA water from Folsom Reservoir or the American River under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, whenever such diversions alone or in conjunction with other diversions would limit or impair diversions from the American River by the City of Sacramento under its prior water rights.

Northridge's delivery to other purveyors of water diverted from the American River under the Northridge-PCWA Agreement is subject to those purveyors signing and implementing their commitments under the Water Forum Agreement.

The foregoing is hereby approved by the parties hereto.

Date:

9/1/99


The Sierra Club, Sacramento

Date:

09/16/99


Placer County Water Agency

**Stipulated Agreement for Dismissal of Protest to Placer County
Water Agency's Petition to Expand the Place of Use Under Application
18085 (Permit 13856) and Application 18087 (Permit 13858)**

William L. Berry, Jr. agrees that his protest to Placer County Water Agency's ("PCWA") petition for change in place of use may be dismissed if the conditions set forth below are included in the State Board's order approving the petition:

1. For the first ten years that water is available for diversion by Northridge Water District ("Northridge") from Folsom Reservoir under the August 21, 1995 Northridge-PCWA Agreement ("Northridge-PCWA Agreement"), but not more than twelve years from the effective date of the Water Forum Agreement, whichever occurs first,¹ Northridge's diversions under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, will be subject to the following restrictions:

a. Northridge will be able to divert PCWA water only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 950,000 acre feet.

b. In December, January and February following a March through November period when the unimpaired inflow into Folsom Reservoir was less than 950,000 acre feet, Northridge will not divert PCWA water until such time as or after water is being released from Folsom Reservoir for flood protection.

c. In addition to the foregoing, Northridge's diversions of PCWA water will be limited during the ten-year period pursuant to the water use schedule in the Northridge-PCWA Agreement, which allows annually-increasing diversions of up to 24,000 acre feet per year during the first ten years of water deliveries under that agreement.

d. Nothing in this Agreement is intended to restrict Northridge's ability to take

¹ This time period is hereafter referred to as the "ten-year period," and it may be extended for a period of up to two additional years by agreement of the parties to this Agreement.

delivery of Section 215 water from Folsom Reservoir from the Bureau of Reclamation whenever it may be available.

2. If Northridge is able to take delivery of Sacramento River water through the Sacramento River Pipeline (a pipeline that would connect to the Northridge pipeline), Northridge will thereafter divert water from Folsom Reservoir under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir is greater than 1,600,000 acre feet (i.e., "above-Hodge").

3. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, the SWRCB would hold a hearing ("SWRCB Hearing") if requested by Northridge, the City of Sacramento, County of Sacramento, Friends of the River, Sierra Club, Save the American River Association or William L. Berry, Jr. The purpose of the SWRCB Hearing will be to determine whether to add or revise conditions to PCWA's water rights for diversion of water from Folsom Reservoir under the Northridge-PCWA Agreement that are necessary to mitigate impacts from such diversions and/or prevent such diversions from adversely impacting diversion of American River water under the City of Sacramento's and Carmichael Water District's ("Carmichael") prior water rights. Nothing in this Agreement determines the relative priority of the water rights of the City of Sacramento, Carmichael and PCWA. If Northridge is not able to take delivery of Sacramento River water through the Sacramento River Pipeline within the ten-year period, Northridge would thereafter divert water from Folsom Reservoir under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, only in years when the projected March through November unimpaired inflow into Folsom Reservoir was greater than 1,600,000 acre feet (i.e., "above-Hodge") and under the conditions referred to in Section 1.b. of this Agreement unless these conditions are revised by a SWRCB order issued following the SWRCB Hearing. In addition, Northridge could divert water under the conditions referred to in section 1.d. of this Agreement.

The diversion restrictions set forth in this Agreement reflect a compromise by the Water Forum parties in order to settle a dispute among them. If there is a SWRCB Hearing, the parties do not intend that the SWRCB consider the existence of this compromise as evidence of appropriate

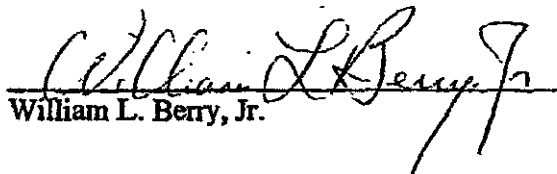
diversion conditions after the conclusion of the ten-year period. It is the intention of the parties that the SWRCB's determination following the SWRCB Hearing be based upon the best available scientific and other evidence available at the time of the SWRCB Hearing. Nothing in this Agreement shall affect the right of PCWA to terminate the Northridge-PCWA Agreement if PCWA reasonably determines that any term of the SWRCB order resulting from the SWRCB Hearing is unacceptable.

4. Northridge will neither divert nor accept diversions of PCWA water from Folsom Reservoir or the American River under the Northridge-PCWA Agreement, for its own use or delivery to other purveyors, whenever such diversions alone or in conjunction with other diversions would limit or impair diversions from the American River by the City of Sacramento or Carmichael under their prior water rights.

Northridge's delivery to other purveyors of water diverted from the American River under the Northridge-PCWA Agreement is subject to those purveyors signing and implementing their commitments under the Water Forum Agreement.

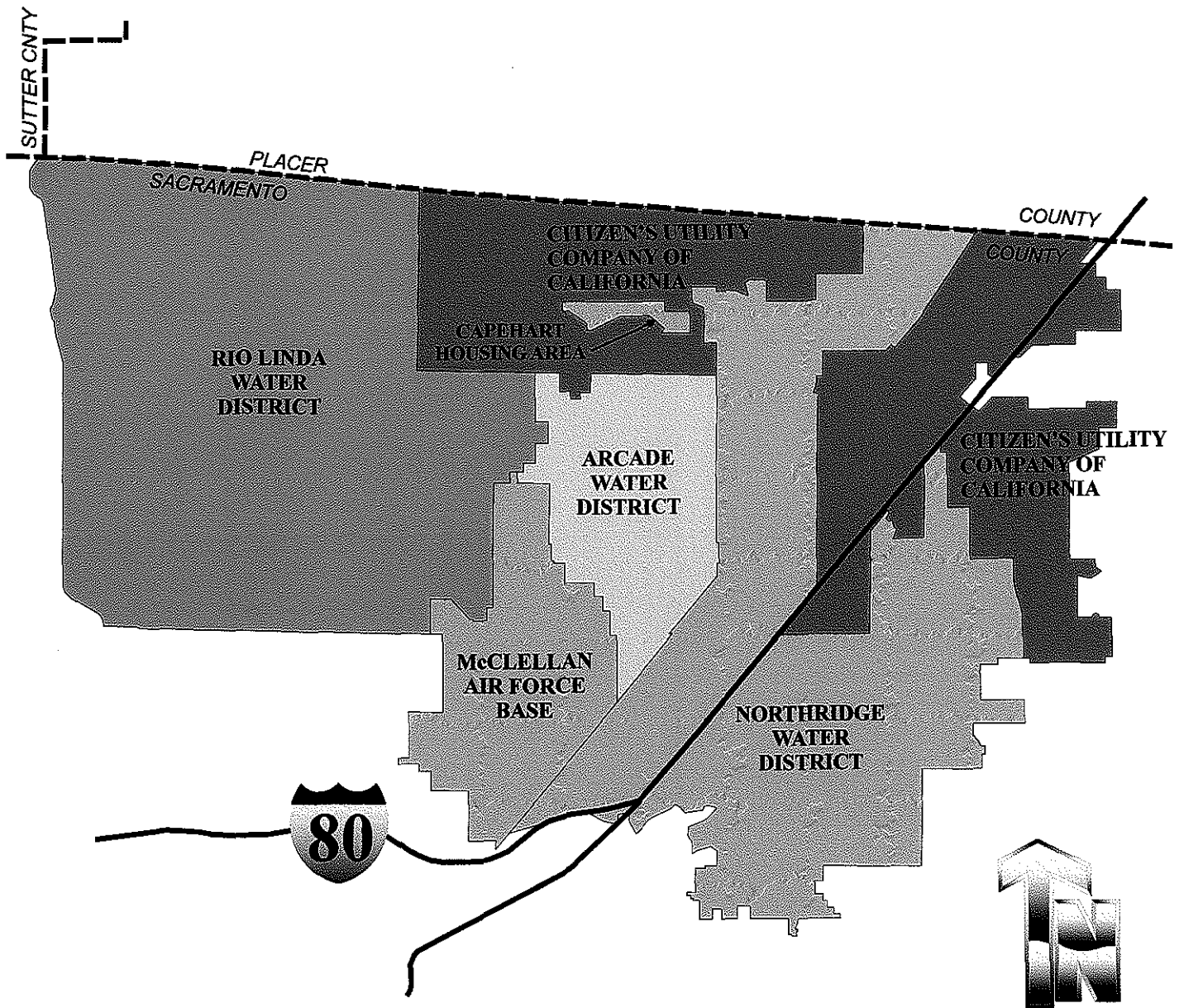
The foregoing is hereby approved by the parties hereto.

Date: November 20, 1999


William L. Berry, Jr.

Date: _____

Placer County Water Agency



Authorized Service Area For PCWA Water (Exhibit "B")

NOT TO SCALE

Contract No. 12-WC-20-0020

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
American River Division, Central Valley Project, California

TEMPORARY CONTRACT BETWEEN THE UNITED STATES
AND
SACRAMENTO SUBURBAN WATER DISTRICT
PROVIDING FOR CONVEYANCE OF NON-PROJECT WATER

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	1
1	Definitions.....	2
2	Term of Contract	5
3	Introduction, Conveyance, and Delivery of Non-Project Water	5
4	Measurement of Non-Project Water.....	9
5	Operation and Maintenance by Operating Non-Federal Entity	10
6	Payments and Adjustments	10
7	Medium for Transmitting Payments	12
8	Excess Capacity.....	12
9	Acreage Limitation Provisions	13
10	Receipt and Distribution of Non-Project Water - Sale, Transfer, or Exchange of Non-Project Water	13
11	Water Conservation	14
12	United States Not Liable	14
13	Opinions and Determinations	15
14	Protection of Water and Air Quality	15
15	Charges for Delinquent Payments	17
16	Equal Employment Opportunity.....	17
17	Certification of Non-Segregated Facilities	18
18	Compliance with Civil Rights Laws and Obligations	19
19	General Obligation - Benefits Conditioned Upon Payment	20
20	Books, Records, and Reports	20
21	Contingent upon Appropriation or Allotment of Funds	20

Contract No. 12-WC-20-0020

Table of Contents - continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
22	Assignment Limited - Successors and Assigns Obligated	21
23	Officials Not to Benefit	21
24	Changes in Contractor's Organization	21
25	Notices	21
26	Incorporation of Exhibits	21
27	Contract Drafting Considerations	21
	Signature Page	
	Exhibit A – Contractor's Boundary Map	
	Exhibit B – Conveyance Rates	
	Exhibit C – Source(s) of Contractor's Non-Project Water	
	Exhibit D – NMFS Concurrence Letter dated August 8, 2012	

Contract No. 12-WC-20-0020

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
American River Division, Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
SACRAMENTO SUBURBAN WATER DISTRICT
PROVIDING FOR CONVEYANCE OF NON-PROJECT WATER

THIS CONTRACT, made this 1st day of March,
2013, pursuant to the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or
supplementary thereto, including the Act of February 21, 1911 (36 Stat. 925), and Section 305
of the Reclamation States Emergency Drought Relief Act of 1991, enacted March 5, 1992
(106 Stat. 59), all collectively hereinafter referred to as the Federal Reclamation laws,
between the UNITED STATES OF AMERICA, hereinafter referred to as the United States,
represented by the officer executing this Contract, hereinafter referred to as the Contracting
Officer, and SACRAMENTO SUBURBAN WATER DISTRICT, hereinafter referred to as
the Contractor;

WITNESSETH, That:

EXPLANATORY RECITALS

[1st] WHEREAS, the United States has constructed and is operating the
Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial
use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation,
protection and restoration, generation and distribution of electric energy, salinity control,

navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the Contractor asserts a right to a Non-Project Water supply for M&I purposes through a contractual entitlement with Placer County Water Agency for water supplied from Placer County Water Agency's Middle Fork Project and has requested the United States convey said Non-Project Water through Excess Capacity in the Folsom Reservoir and associated facilities, features of the American River Division, Central Valley Project; and

[3rd] WHEREAS, the United States is willing to convey said Non-Project Water to the Contractor through Excess Capacity in said Project Facilities in accordance with the terms and conditions hereinafter stated; and

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree as follows:

DEFINITIONS

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

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

(b) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized representative acting pursuant to this Contract or applicable Reclamation law or regulation;

49 (c) "Contractor's Boundaries" shall mean the geographic area within which
50 the Contractor is authorized to serve Non-Project Water as set forth on Exhibit A, which may
51 be modified in accordance with Article 24, without amendment of this Contract;

52 (d) Omitted

53 (e) "Excess Capacity" shall mean capacity in the Project Facilities in
54 excess of that needed to meet the Project's authorized purposes, as determined solely by the
55 Contracting Officer, which may be made available to convey and deliver Non-Project Water;

56 (f) Omitted

57 (g) Omitted

58 (h) Omitted

59 (i) "Irrigation Water" shall mean Non-Project Water that is used in the
60 commercial production of agricultural crops or livestock, including domestic use incidental
61 thereto. Irrigation Water shall not include water used for purposes such as the watering of
62 landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or
63 water delivered to landholdings operated in units of less than 5 acres, unless the Contractor
64 establishes to the satisfaction of the Contracting Officer that the use of water delivered to such
65 landholding is a use described in the first sentence of this subdivision of this Article;

66 (j) "Municipal and Industrial (M&I) Water" shall mean Non-Project
67 Water, other than Irrigation Water, made available to the Contractor. M&I Water shall
68 include water used for human use and purposes such as the watering of landscaping or
69 pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to
70 land holdings operated in units of less than five acres unless the Contractor establishes to the

satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a use described in subdivision (i) of this Article;

(k) "Non-Project Water" shall mean water acquired by or available to the Contractor from the source(s) identified in Exhibit C that has not been appropriated or acquired by the United States;

(l) Omitted

(m) "Project" shall mean the Central Valley Project, owned by the United States and managed by the Department of the Interior, Bureau of Reclamation;

(n) "Project Facilities" shall mean the Folsom Dam, Reservoir, Pumping Plant and associated facilities, constructed as features of the American River Division, Central Valley Project;

(o) "Project-Use Power" is that electrical energy, and its associated ancillary service components, required to provide the full electrical service needed to operate and maintain Project Facilities, and to provide electric service for Project purposes and loads in conformance with the Reclamation Project authorization. Project-Use Power is not available to pump Non-Project Water, to operate pumps that were not built as Federal facilities as part of the Project, to pump Project Water outside the authorized service area, or provide for on-farm uses;

(p) "Rates" shall mean the amount to be paid to the United States by the Contractor, as set forth in Exhibit B, for the use of Excess Capacity in the Project Facilities made available pursuant to this Contract;

(q) "RRA" shall mean the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;

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

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

TERM OF CONTRACT

2. This Contract shall become effective on the date hereinabove written and shall remain in effect through February 28, 2018: *Provided*, That upon written notice to the Contractor, this Contract may be terminated by the Contracting Officer at an earlier date, if the Contracting Officer determines that the Contractor has not been complying with one or more terms or conditions of this Contract.

INTRODUCTION, CONVEYANCE, AND DELIVERY OF NON-PROJECT WATER

3. (a) During the term of this Contract, the Contractor may introduce up to 14,500 acre-feet each Year of Non-Project Water from the source(s) identified in Exhibit C into the Project Facilities at Folsom Reservoir. The United States shall convey Non-Project Water through Excess Capacity in the Project Facilities from said point(s) of introduction for delivery to the Contractor at the Folsom Pumping Plant or other location(s) mutually agreed to in writing by the Contracting Officer and the Contractor, in accordance with an approved schedule submitted by the Contractor pursuant to subdivision (d) of this Article: *Provided*, That the quantity of Non-Project Water to be delivered to the Contractor from Project Facilities shall not exceed the quantity of Non-Project Water previously introduced into the Project Facilities by the Contractor at said point(s) of introduction, less 5 percent for conveyance losses.

(a.1) In the event the quantity of water delivered to the Contractor exceeds the quantity of Non-Project water authorized pursuant to subdivision (a) of this Article, the contractor shall immediately take all reasonable actions to make available a like amount of water, plus conveyance loss, into the Project Facilities for use by the United States for Project purposes. The provisions of this subdivision are not exclusive and shall not prohibit the United States from exercising any other remedy under existing law, including the early termination of this Contract pursuant to Article 2 of this Contract.

(b) Exhibit C may be modified or replaced by mutual agreement of the Contractor and the Contracting Officer to reflect changes to the source(s) of Non-Project water without amendment of this Contract: *Provided, however,* That no such modification or replacement shall be approved by the Contracting Officer absent the completion of all appropriate environmental documentation, including but not limited to documents prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Endangered Species Act of 1973 (ESA), as amended.

(c) All Non-Project Water conveyed and delivered to the Contractor pursuant to this Contract shall be used for M&I purposes.

(d) Prior to the introduction of Non-Project Water into the Project Facilities, the Contractor shall submit a schedule to the Contracting Officer showing the quantities of Non-Project Water to be introduced into the Project Facilities, and the desired time or times for delivery of said Non-Project Water: *Provided,* That the Contractor is not required to initially schedule delivery of the maximum quantity of Non-Project Water for which the Contractor desires conveyance during the term of this Contract. The initial schedule and any revision(s) thereof shall be in a form acceptable to the Contracting Officer

and shall be submitted at such times and in such manner as determined by the Contracting Officer. The Contractor shall not introduce Non-Project Water into the Project Facilities unless and until the schedule and any revision(s) thereof have been approved by the Contracting Officer.

(e) All Non-Project Water remaining in the Project Facilities after 30 days from the date of introduction or upon expiration or termination of this Contract shall be deemed to be unused water donated to the United States for Project purposes. Further, all Non-Project Water made available for delivery to the Contractor from the Project Facilities and not accepted by the Contractor shall be deemed to be unused water donated to the United States for Project purposes.

(f) Unless otherwise agreed to in writing by the Contracting Officer, the Non-Project Water shall be introduced into and delivered to the Contractor through existing Project Facilities. If temporary inflow or delivery facilities are required to effectuate the introduction of Non-Project Water into the Project Facilities or the delivery of the Non-Project Water to the Contractor from the Project Facilities, the Contractor shall, at its own cost and expense obtain all appropriate environmental documents, necessary rights-of-way for such facilities, including the appropriate right-of-use agreement(s) or other authorizations issued by the United States for any such facilities located on right-of-way for existing Project Facilities. The Contractor, at its own cost and expense, shall be responsible for providing, installing, operating, maintaining, repairing, replacing, and removing said inflow and delivery facilities. The Contractor hereby grants to the Contracting Officer access, for the purpose of this Contract, to all temporary inflow and delivery facilities installed by the Contractor.

163 (g) The introduction, conveyance, and delivery of Non-Project Water
164 pursuant to this Contract will not be supported with Project-Use Power. If electrical power is
165 required to convey or pump the Non-Project Water into, through or from the Project Facilities,
166 the Contractor shall: (i) be responsible for the acquisition and payment of all electrical power
167 and associated transmission service charges, and provide a copy of a power contract and
168 copies of payment documents to the Contracting Officer as evidence that such electrical power
169 has been contracted and paid for prior to the introduction, conveyance, and delivery of any
170 Non-Project Water ; and/or (ii) prior to the introduction, conveyance, and delivery of any
171 Non-Project Water, enter into a letter of agreement with the United States that provides for the
172 payment of all actual energy costs and fees incurred in the introduction, conveyance and
173 delivery of the Non-Project Water .

174 (h) The Contractor shall have no rights to any benefits from increased
175 power generation that may result from the conveyance of the Non-Project Water through
176 excess capacity in the Project Facilities authorized pursuant to this Contract.

177 (i) The introduction of Non-Project Water into the Project Facilities by the
178 Contractor shall be conditioned upon compliance by the Contractor with the environmental
179 measures described in the environmental documentation prepared in connection with the
180 execution of this Contract and with the terms of the applicable operations procedures
181 approved by the Contracting Officer.

182 (j) The introduction, conveyance and delivery of Non-Project Water
183 pursuant to this Contract is further conditioned on compliance with the stipulations identified
184 in Exhibit D (Letter dated August 8, 2012 to the Bureau of Reclamation from the National
185 Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS)). If

conditions identified in Exhibit D upon which the analysis of the introduction, conveyance and delivery of water under this Contract was based are not being met, Reclamation will reinitiate consultation with NMFS, which could result in the reduction or elimination of the introduction of Non-Project Water by the Contractor in any Year under the terms of this Contract.

MEASUREMENT OF NON-PROJECT WATER

4. (a) All Non-Project Water shall be measured and recorded at the point(s) of introduction and point(s) of delivery established pursuant to Article 3 herein with measurement devices acceptable to the Contracting Officer and the methods used to make such measurements shall be in accordance with sound engineering practices.

(b) Unless otherwise agreed to in writing by the Contracting Officer, the Contractor, at its own cost and expense, shall be responsible for providing, installing, operating, maintaining, repairing, replacing, and removing all measurement devices required under this Contract in accordance with any right-of-use agreement(s) or other requisite authorization(s) issued by the United States. The Contractor shall be responsible for all costs associated with the issuance of such right-of-use agreement(s) and authorization(s).

(c) The Contractor shall maintain accurate records of the quantity of Non-Project Water, expressed in acre-feet, introduced into and delivered from Project Facilities at said authorized point(s) of introduction and delivery and shall provide such records to the Contracting Officer at such times and in such manner as determined by the Contracting Officer.

(d) Upon the request of either party to this Contract, the Contracting Officer shall investigate the accuracy of all measurements of Non-Project Water required by

209 this Contract. If the investigation discloses errors in the recorded measurements, such errors
210 shall be promptly corrected. If the investigation discloses that measurement devices are
211 defective or inoperative, the Contracting Officer shall take any necessary actions to ensure that
212 the responsible party makes the appropriate adjustments, repairs, or replacements to the
213 measurement devices. In the event the Contractor, as the responsible party, neglects or fails to
214 make such adjustments, repairs, or replacements to the measurement devices within a
215 reasonable time and to the reasonable satisfaction of the Contracting Officer, the Contracting
216 Officer may cause such adjustments, repairs, or replacements to be made and the costs thereof
217 shall be charged to the Contractor and the Contractor shall pay said charges to the
218 United States immediately upon receipt of a detailed billing. For any period of time during
219 which accurate measurements of the Non-Project Water have not been made, the Contracting
220 Officer shall consult with the Contractor prior to making a determination of the quantity of
221 Non-Project Water introduced, conveyed and delivered for that period of time and such
222 determination by the Contracting Officer shall be final and binding on the Contractor.

223 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

224 5. Omitted

225 PAYMENTS AND ADJUSTMENTS

226 6. (a) At the time the Contractor submits a schedule, or any revision(s)
227 thereof pursuant to subdivision (d) of Article 3 of this Contract, the Contractor shall make an
228 advance payment to the United States equal to the total amount payable pursuant to the
229 applicable Rates shown on Exhibit B for each acre-foot of Non-Project Water to be introduced
230 into the Project Facilities. The Rates are subject to annual adjustment pursuant to the then-
231 current M&I Ratesetting Policy for the Project to cover all costs incurred from the conveyance

of Non-Project Water. By January 31, the Contracting Officer shall provide the Contractor with the Rates to be in effect each Year, and such notification shall revise Exhibit B without amending this Contract. Non-Project Water shall not be introduced into Project Facilities by the Contractor prior to such payment being received by the United States. Final adjustment between the advance payments for the Non-Project Water scheduled and payments for the quantities of Non-Project Water conveyed during each Year pursuant to this Contract shall be made as soon as practicable but no later than April 30th of the following Year.

(b) Omitted

(c) The amount of any overpayment by the Contractor by reason of the quantity of Non-Project Water introduced into the Project Facilities and conveyed pursuant to this Contract, as conclusively determined by the Contracting Officer, having been less than the quantity which the Contractor otherwise under the provisions of this Contract would have been required to pay for, shall be applied first to any accrued indebtedness arising out of this Contract then due and owing to the United States by the Contractor. Any amount of such overpayment then remaining shall be refunded to the Contractor: *Provided, however,* That no refund shall be made by the United States to the Contractor for any quantity of Non-Project Water deemed to be unused water donated to the United States for Project purposes pursuant to subdivision (e) of Article 3 of this Contract.

(d) All payments made by the Contractor pursuant to subdivision (b) of this Article 6 shall be covered into the Reclamation Fund pursuant to Section 3 of the Act of February 21, 1911 (36 Stat. 925).

(e) The payment of the Rates set forth in this Article 6 for the use of Excess Capacity are exclusive of any additional charges that the Contractor may assess its

water users. In accordance with the Act of February 21, 1911 (36 Stat. 925), the Contractor may not impose on its water users any charge for the use of Excess Capacity that exceeds the total amount paid to the United States: *Provided*, That the Contractor may also charge its water users such additional amounts as are necessary to cover the Contractor's reasonable administrative costs in contracting with the United States for the use of Excess Capacity in the Project Facilities.

MEDIUM FOR TRANSMITTING PAYMENTS

7. (a) All payments from the Contractor to the United States under this Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of the Contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

EXCESS CAPACITY

8. (a) The availability of Excess Capacity shall be determined solely by the Contracting Officer. Nothing contained in this Contract shall limit or preclude the United States from utilizing available capacity in the Project Facilities for the storage and conveyance of Project Water pursuant to Federal law, Reclamation law or policy, and existing contract(s); or (2) for using Excess Capacity in the Project Facilities for the storage and conveyance of any other supplies of Non-Project Water.

(b) The Contracting Officer shall not be obligated to convey Non-Project Water during periods of maintenance or for other operating requirements.

(c) If at any time the Contracting Officer determines that there will not be Excess Capacity in the Project Facilities sufficient to allow the Non-Project Water to be introduced into, conveyed, and delivered in accordance with an approved schedule submitted

by the Contractor, the Contracting Officer shall so notify the Contractor in writing. Within 24 hours of said notice, the Contractor shall revise its schedule accordingly.

(d) No provision of this Contract shall be construed in any way as a basis for the Contractor to establish a priority to or a permanent right to the use of Excess Capacity in the Project Facilities nor to set a precedent to obligate the United States to enter into contracts with any other entities or individuals for the conveyance or storage of Non-Project Water.

ACREAGE LIMITATION PROVISIONS

9. Omitted

RECEIPT AND DISTRIBUTION OF NON-PROJECT WATER - SALE, TRANSFER, OR EXCHANGE OF NON-PROJECT WATER

10. (a) The parties hereto acknowledge that this Contract does not grant any permission or entitlement to the Contractor to extract and/or divert Non-Project Water from the source(s) described on Exhibit C or to change the nature or place of use of its rights to said Non-Project Water in any way. It is the responsibility of the Contractor to comply with all applicable Federal, State, and local laws' rules and regulations, including, but not limited to, State water law in relation to the Non-Project Water. It is expressly understood by the parties that the United States is only providing conveyance capacity for the Non-Project Water and does not claim any interest in the acquisition or use of the Non-Project Water beyond the terms specifically set forth in this Contract.

(b) The Contracting Officer makes no representations as to the accuracy of the description or of the validity of the Contractor's rights to the Non-Project Water described in Exhibit C.

305 (c) No sale, transfer, or exchange of Non-Project Water conveyed under
306 this Contract may take place without the prior written approval of the Contracting Officer.

307 WATER CONSERVATION

308 11. Prior to the delivery of water provided from or conveyed through federally
309 constructed or federally financed facilities pursuant to this Contract, the Contractor shall
310 provide the Contracting Officer a water conservation plan, consistent with the plans required
311 by Section 210(b) of the RRA and Part 427.1 of the Water Conservation Rules and
312 Regulations effective January 1, 1998.

313 UNITED STATES NOT LIABLE

314 12. (a) The United States, its officers, agents and employees shall not be
315 responsible for the control, care, or distribution of the Non-Project Water before it is
316 introduced into or after it is delivered from the Project Facilities. It is specifically understood
317 by the parties hereto that the United States is only providing conveyance capacity for the
318 Non-Project Water and does not claim any interest in the Non-Project Water beyond the terms
319 specifically set forth in this Contract.

320 (b) The Contractor shall indemnify and hold harmless the United States, its
321 officers, agents and employees, from any loss or damage and from any liability on account of
322 personal injury, death, or property damage, or claims for personal injury, death, or property
323 damage, of any nature whatsoever arising out of any actions or omissions of the Contractor, its
324 directors, officers, agents, contractors, and employees, under this Contract, including the
325 manner or method in which the Non-Project Water identified on Exhibit C is introduced into
326 and delivered from the Project Facilities. The Contractor further releases the United States, its
327 officers, agents and employees, from every claim for injury to persons, death, or property
328 damage, direct or indirect, resulting from the Contracting Officer's determination of the
329 quantity of Excess Capacity available in the Project Facilities for conveyance of the

Contractor's Non-Project Water, the determination that the Non-Project Water introduced into Project Facilities must be terminated, and the elimination from Exhibit C of any source(s) of Non-Project Water. Nothing contained in this Article shall be construed as an assumption of liability by the Contractor with respect to such matters.

OPINIONS AND DETERMINATIONS

13. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner. Nothing in subdivision (a) of this Article 13 is intended to or shall affect or alter the standard of judicial review applicable under Federal law to any opinion or determination implementing a specific provision of Federal law embodied in statute or regulation.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

PROTECTION OF WATER AND AIR QUALITY

14. (a) Project Facilities used to make available and deliver Non-Project Water to the Contractor shall be operated and maintained in the most practical manner to maintain the quality of the Non-Project Water at the highest level possible as determined by the Contracting Officer: *Provided*, That the United States does not warrant the quality of the

Non-Project Water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of the Non-Project Water delivered to the Contractor.

(b) The Contractor shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of Non-Project Water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Project Facilities or Contractor facilities or Non-Project Water provided by the Contractor within the Contractor's Boundaries.

(c) This Article 14 shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

(d) The Non-Project Water introduced into the Project Facilities shall be of such quality, as determined solely by the Contracting Officer, as to not significantly degrade the quality of the Project water. If it is determined by the Contracting Officer that the quality of the Non-Project Water from any source(s) identified in Exhibit C will significantly degrade the quality of Project water in or introduced into the Project Facilities, the Contractor shall, upon receipt of a written notice from the Contracting Officer, arrange for the immediate termination of the introduction of Non-Project Water from such sources(s) into the Project Facilities, and Exhibit C shall be modified to delete such sources(s) of Non-Project Water.

(e) Omitted

(f) Omitted

(g) The Contracting Officer reserves the right to require additional analyses to ensure the Non-Project Water meets the Bureau of Reclamation's water quality acceptance criteria.

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CHARGES FOR DELINQUENT PAYMENTS

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15. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, in addition to the interest charge, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, in addition to the interest and administrative charges, the Contractor shall pay a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

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(b) The interest charge rate shall be the greater of either the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments or the interest rate of 0.5 percent per month. The interest charge rate will be determined as of the due date and remain fixed for the duration of the delinquent period.

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(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

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EQUAL EMPLOYMENT OPPORTUNITY

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16. During the performance of this Contract, the Contractor agrees as follows:

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(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

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(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

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

425 (d) The Contractor will comply with all provisions of EO 11246, and of the
426 rules, regulations, and relevant orders of the Secretary of Labor.

427 (e) The Contractor will furnish all information and reports required by
428 EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant
429 thereto, and will permit access to his books, records, and accounts by the Contracting Agency
430 and the Secretary of Labor for purposes of investigation to ascertain compliance with such
431 rules, regulations, and orders.

432 (f) In the event of the Contractor's noncompliance with the
433 nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders,
434 this Contract may be canceled, terminated or suspended in whole or in part and the Contractor
435 may be declared ineligible for further Government contracts in accordance with procedures
436 authorized in EO 11246, and such other sanctions may be imposed and remedies invoked as
437 provided in EO 11246 or by rule, regulation, or order of the Secretary of Labor, or as
438 otherwise provided by law.

439 (g) The Contractor will include the provisions of paragraphs (a) through (g)
440 in every subcontract or purchase order unless exempted by the rules, regulations, or orders of
441 the Secretary of Labor issued pursuant to Section 204 of EO 11246, so that such provisions
442 will be binding upon each subcontractor or vendor. The Contractor will take such action with
443 respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
444 means of enforcing such provisions, including sanctions for noncompliance: *Provided,*
445 *however,* That in the event the Contractor becomes involved in, or is threatened with,
446 litigation with a subcontractor or vendor as a result of such direction, the Contractor may
447 request the United States to enter into such litigation to protect the interests of the United
448 States.

449 CERTIFICATION OF NONSEGREGATED FACILITIES

450 17. The Contractor hereby certifies that it does not maintain or provide for its
451 employees any segregated facilities at any of its establishments and that it does not permit its
452 employees to perform their services at any location under its control where segregated
453 facilities are maintained. It certifies further that it will not maintain or provide for its
454 employees any segregated facilities at any of its establishments and that it will not permit its
455 employees to perform their services at any location under its control where segregated
456 facilities are maintained. The Contractor agrees that a breach of this certification is a violation
457 of the Equal Employment Opportunity clause in this Contract. As used in this certification,
458 the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash
459 rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or

460 dressing areas, parking lots, drinking fountains, recreation or entertainment areas,
461 transportation, and housing facilities provided for employees which are segregated by explicit
462 directive or are in fact segregated on the basis of race, creed, color, or national origin, because
463 of habit, local custom, disability, or otherwise. The Contractor further agrees that (except
464 where it has obtained identical certifications from proposed subcontractors for specific time
465 periods) it will obtain identical certifications from proposed subcontractors prior to the award
466 of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal
467 Employment Opportunity clause; that it will retain such certifications in its files; and that it
468 will forward the following notice to such proposed subcontractors (except where the proposed
469 subcontractors have submitted identical certifications for specific time periods):

470 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT
471 FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

472 A Certification of Nonsegregated Facilities must be submitted prior to the
473 award of a subcontract exceeding \$10,000 which is not exempt from the
474 provisions of the Equal Employment Opportunity clause. The certification
475 may be submitted either for each subcontract or for all subcontracts during a
476 period (i.e., quarterly, semiannually, or annually). Note: The penalty for
477 making false statements in offers is prescribed in 18 U.S.C. 1001.

478 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

479 18. (a) The Contractor shall comply with Title VI of the Civil Rights Act of
480 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112,
481 Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L.
482 94-135, Title III; 42 U.S.C. § 6101, et seq.), [Title II of the Americans with Disabilities Act
483 of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.),] [Title III of the Americans with
484 Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.),] and any other
485 applicable civil rights laws, and with the applicable implementing regulations and any
486 guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

487 (b) These statutes prohibit any person in the United States from being
488 excluded from participation in, being denied the benefits of, or being otherwise subjected to
489 discrimination under any program or activity receiving financial assistance from the Bureau of
490 Reclamation on the grounds of race, color, national origin, disability, or age. By executing
491 this Contract, the Contractor agrees to immediately take any measures necessary to implement
492 this obligation, including permitting officials of the United States to inspect premises,
493 programs, and documents.

494 (c) The Contractor makes this agreement in consideration of and for the
495 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
496 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
497 Reclamation, including installment payments after such date on account of arrangements for
498 Federal financial assistance which were approved before such date. The Contractor
499 recognizes and agrees that such Federal assistance will be extended in reliance on the

representations and agreements made in this Article and that the United States reserves the right to seek judicial enforcement thereof.

(d) Complaints of discrimination against the Contractor shall be investigated by the Contracting Officer's Office of Civil Rights.

GENERAL OBLIGATION - BENEFITS CONDITIONED UPON PAYMENT

19. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligation to the Contractor.

(b) The payment of charges becoming due pursuant to this Contract is a condition precedent to receiving benefits under this Contract. The United States shall not make Non-Project Water available to the Contractor through Project Facilities during any period in which the Contractor is in arrears in the advance payment of Rates and charges due the United States. The Contractor shall not deliver Non-Project Water under the terms and conditions of this Contract for lands or parties that are in arrears in the advance payment of rates and charges as levied or established by the Contractor.

BOOKS, RECORDS, AND REPORTS

20. The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including the Contractor's financial transactions; water supply data; project operation, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

536 ASSIGNMENT LIMITED - SUCCESSORS AND ASSIGNS OBLIGATED

537 22. The provisions of this Contract shall apply to and bind the successors and
538 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or
539 interest therein by either party shall be valid until approved in writing by the other party.

540 OFFICIALS NOT TO BENEFIT

541 23. No Member of or Delegate to the Congress, Resident Commissioner, or official
542 of the Contractor shall benefit from this Contract other than as a water user or landowner in
543 the same manner as other water users or landowners.

544 CHANGES IN CONTRACTOR'S ORGANIZATION

545 24. While this Contract is in effect, no change may be made in the Contractor's
546 organization, by inclusion or exclusion of lands or by any other changes which may affect the
547 respective rights, obligations, privileges, and duties of either the United States or the
548 Contractor under this Contract including, but not limited to, dissolution, consolidation, or
549 merger, except upon the Contracting Officer's written consent.

550 NOTICES

551 25. Any notice, demand, or request authorized or required by this Contract
552 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage
553 prepaid, or delivered to Bureau of Reclamation, Central California Area Office, 7794 Folsom
554 Dam Rd., Folsom, CA 95630-1799, and on behalf of the United States, when mailed, postage
555 prepaid, or delivered to the President of the Board of Directors of the Sacramento Suburban
556 Water District 3701 Marconi Ave. Suite 100, Sacramento, CA 95821-5303. The designation
557 of the addressee or the address may be changed by notice given in the same manner as
558 provided in this Article for other notices.

559 INCORPORATION OF EXHIBITS


560 26. Exhibits A through D are attached hereto and incorporated herein by reference.

561 CONTRACT DRAFTING CONSIDERATIONS

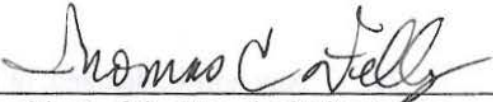
562 27. This Contract has been negotiated and reviewed by the parties hereto, each of
563 whom is sophisticated in the matters to which this Contract pertains. The double-spaced
564 articles of this Contract have been drafted, negotiated, and reviewed by the parties, and no one
565 party shall be considered to have drafted the stated articles.

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

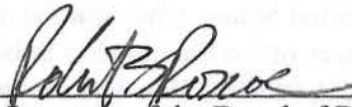
568 UNITED STATES OF AMERICA

569 By: 
570 Area Manager
571 Central California Area Office
572 Mid-Pacific Region
573 Bureau of Reclamation

574 SACRAMENTO SUBURBAN WATER DISTRICT
575 (SEAL)

576 By: 
577 President of the Board of Directors

578 Attest:

579 By: 
580 Secretary of the Board of Directors





Continental United States

Legend

Continental United States

Continental United States

Continental United States

EXHIBIT B
SACRAMENTO SUBURBAN WATER DISTRICT
YEAR 2013 CONVEYANCE RATES
(Per Acre-Foot)
PLACEHOLDER

Cost Component	M&I Cost of Service
Water Marketing	
Storage	
O&M	
Capital	
Other Cost	
Total:	

Additional details of rate components are available on the Internet at
<http://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>.

The following information is being provided for your information.
 This information is being provided for your information.
 This information is being provided for your information.

EXHIBIT B
 THE STATE OF TEXAS
 COUNTY OF DALLAS
 CITY OF DALLAS
 DEPARTMENT OF PUBLIC WORKS
 DIVISION OF PUBLIC UTILITIES

DATE	DESCRIPTION	AMOUNT
1/1/01
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This document is a true and correct copy of the original document.
 This document is a true and correct copy of the original document.

EXHIBIT C

SOURCE(S) OF CONTRACTOR'S NON-PROJECT WATER SACRAMENTO SUBURBAN WATER DISTRICT

The source of the Contractor's Non-Project Water supply is the Middle Fork American River Project Water under Placer County Water Agency's (PCWA) Permits 13856 and 13858, made available to the Contractor in accordance with the agreement between the Contractor's predecessor in interest, Northridge Water District, and PCWA entitled, "Agreement Between Placer County Water Agency and Northridge Water District For a Water Supply For Groundwater Stabilization" (Agreement), dated June 1, 2000, and as amended on October 2, 2008. Pursuant to the Agreement, Non-Project Water shall be delivered to the Contractor only: a) if the projected March to November unimpaired inflow to the Folsom Reservoir for each Year is greater than 1,600,000 acre-feet; or b) notwithstanding a) above, in December, January, or February following the March through November period of each Year when the unimpaired inflow was less than 1,600,000 acre-feet, when and after water is being released from Folsom Reservoir for flood protection. Water provided pursuant to this Contract is further limited to the quantities and at the times as provided in the Agreement.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

AUG 08 2012

In response refer to:
2011/05894

Michael R. Finnegan
Bureau of Reclamation
Mid-Pacific Region
Central California Area Office
7794 Folsom Dam Road
Folsom, California 95630-1799

Dear Mr. Finnegan:

This is in response to your letter from December 9, 2011, that requests initiation of section 7 consultation with NOAA's National Marine Fisheries Service (NMFS) pursuant to the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), concerning a proposed temporary 5-year "wet-year only," Warren Act (WA) contract with the Sacramento Suburban Water District (SSWD). For the purposes of this consultation, the definition of "wet-year" can be found at the end of the *Proposed Contract Description* section of this letter. The Bureau of Reclamation (Reclamation) submitted an Environmental Assessment to initiate consultation for a proposed 5-year temporary WA contract under Section 7(a)(2) of the ESA. The proposed contract action area is defined as Folsom Reservoir downstream to the Lower American River (LAR) at the confluence of the Sacramento River. Reclamation has concluded that the proposed 5-year temporary "wet-year only," WA contract with SSWD (proposed contract) may affect, but is not likely to adversely affect federally listed threatened Central Valley (CV) spring-run Chinook salmon evolutionarily significant unit (ESU) (*Oncorhynchus tshawytscha*), endangered Sacramento River winter-run Chinook salmon ESU (*O. tshawytscha*), and threatened California CV steelhead distinct population segment (DPS) (*O. mykiss*), or their designated critical habitats. In addition, Reclamation has determined that the proposed contract will not adversely affect Essential Fish Habitat (EFH) of Pacific salmon under section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This letter also serves as consultation under the authority of, and in accordance with, the provisions of the Fish and Wildlife Coordination Act of 1934 (FWCA), as amended.



Proposed Contract Description

Reclamation proposes to enter into a "wet-year only," temporary 5-year WA contract with the SSWD to facilitate the delivery of up to 14,500 acre-feet per year (AFY) of water that is not part of the Central Valley Project (CVP), otherwise known as Non-Project Water. This water will be delivered through Folsom Reservoir for municipal and industrial uses in north-central Sacramento County, California. The source of the Non-Project Water are water rights held by Placer County Water Agency (PCWA) originating in the Middle Fork American River Project Water, under PCWA Permits from the "Water Supply for Groundwater Stabilization" agreement dated June 1, 2000.

The purpose and need of the proposed contract is to reduce reliance on groundwater resources within the region by facilitating delivery of a substitute surface water supply. No changes in land use or construction related activities are included as part of the proposed contract. The proposed surface water supply will be a replacement for an existing water supply (groundwater) and not an additional water supply. From 2000 through 2010, Reclamation has executed 1-year temporary WA Contracts with SSWD to convey PCWA's Middle Fork American River Project Water to SSWD through the facilities at Folsom Dam and Reservoir.

The proposed contract will include provisions that provide Reclamation and NMFS the opportunity to consult anytime deemed necessary within the 5-year term.

The proposed contract makes water available for diversion in "wet water years." There are existing minimum in-stream flow agreements between PCWA and SSWD that Non-Project Water shall be delivered only:

- (1) In years when March-to-November unimpaired inflows to Folsom Reservoir (UIFR) is greater than 1,600,000 AFY; or
- (2) Notwithstanding (1) above, in a December, January, and February following a March through November period when the UIFR was less than 1,600,000 AFY, when and after water is being released from Folsom Reservoir for flood protection.

In 2009 NMFS released the Biological Opinion and Conference Opinion on the Long-Term Operations (OCAP BO) of the CVP and State Water Project (NMFS 2009). The OCAP BO states that on the American River Division effects on California CV steelhead are pronounced due to the inability to consistently provide suitable temperatures for various life stages and flow-related effects caused by operations. The OCAP BO requires flow-related temperature criteria in a reasonable and prudent alternative (RPA) for the LAR.

The general effects related to potential changes in both flow and water temperatures with implementation of the proposed contract were analyzed in the 2008 Operations Criteria and Plan Biological Assessment (2008 OCAP BA) and subsequent OCAP BO (NMFS 2009) for California CV steelhead, spring-run Chinook salmon, and EFH for Pacific salmon.

Reclamation's basis for their effects determination is based on the following:

- (1) Water delivered under the proposed contract will be delivered to SSWD in north-central Sacramento County. Federal delivery of water has undergone consultation by the United States Fish and Wildlife Service and with NMFS in the OCAP BO (NMFS 2009).
- (2) The effects related to potential changes in both flow and water temperature with implementation of the proposed contract have previously been analyzed in the 2008 OCAP BA and subsequent OCAP BO for California CV steelhead, spring-run Chinook salmon, and EFH for Pacific salmon.
- (3) With implementation of the proposed contract, Folsom Reservoir storage and surface water elevations will not change. During months when Folsom Reservoir inflows will be reduced, Folsom releases will be managed to compensate for the reduction in inflow so as to ensure that the water temperature criteria for CV steelhead (part of the American River Temperature Management Plan (ATMP)) are met and that conditions remain
- (4) consistent with the operating criteria of the OCAP BO and RPA tAs part of the ATMP requirement in the OCAP BO, Reclamation models the target temperatures at Watt Avenue given the unique hydrological and storage condition for that year. This plan is updated monthly as new information on hydrology becomes available. The ATMP includes a surrogate value for the contract obligations that Reclamation has historically fulfilled. The surrogate value is an historic amount of pumping at Folsom Reservoir. The SSWD temporary WA contract is included in this value as there have been annual deliveries pumped to SSWD for the past ten years. In addition, the total amount of water taken by SSWD through the temporary WA contract has been in the range of 3,958 AFY to 16,139 AFY with an average amount of delivered water of 12,427 AFY. Therefore, the amount of water being proposed under SSWD's temporary WA contract of up to 14,500 AFY is within the magnitude of the historic amount Reclamation has pumped at Folsom Reservoir for SSWD and is an accurate representation of the surrogate value used in the ATMP projections.
- (5) The 50 percent chance exceedance outlook indicates high Folsom Reservoir storage conditions by the end of May. Projected end of May storages are 954,000 AFY (98 percent reservoir capacity) for the 50 percent chance exceedance, respectively. Folsom Reservoir capacity is 977,000 AFY. The 90 percent chance exceedance operation outlook is currently unavailable for May. This operation outlook is based on expected snowpack and inflow forecast. High end-of-May storage is a strong indicator of good cold-water pool conditions prior to the temperature operation season.
- (6) LAR water temperature will tend to decrease during August and early September with implementation of the proposed contract, relative to the no water delivery conditions. However, there are increases in temperature in late September and October. These changes are associated with the timing and magnitude of inflow to Folsom Reservoir and are the result of the worst-case modeling scenario. Whether, it is an increase or decrease, the modeling indicates that changes in LAR water temperature at Watt Avenue with implementation of the proposed contract will be minor and will not likely adversely affect listed fish species. The modeling results can be found in Appendix C, Hydrologic Modeling Analysis, as part of the Draft Environmental Assessment for Sacramento Suburban Water District Warren Act Contract.
- (7) Water shall be delivered only in "wet water years" allowing for maximum operational flexibility to meet water temperature planning and criteria as described in the OCAP BO and RPA.

- (8) The proposed contract's term is for 5-years. SSWD has contracted with Reclamation for the use of Folsom facilities under temporary WA contracts since 2000. Temporary WA contracts have priority constraints. For example, when capacity is available at the Federal facilities, Reclamation delivers water first to CVP water service contractors, then to long-term WA contract holders, and lastly to temporary WA contract holders. Thus, these WA contracts will only be met if all other delivery commitments and operational plans and criteria can be met.
- (9) Only water measured and reported is available for diversion.
- (10) Should Reclamation or NMFS determine management of the cold water pool will be affected by this contract at some point during the term of the contract, re-consultation will be initiated by BOR or contract deliveries will be suspended or stopped.

The proposed contract language will include the following:

- (1) Reclamation reserves the option to re-consult with NMFS at any time during the term of the contract; and
- (2) Re-consultation will be based on current data and information used by Reclamation for management of the cold water pool that indicate diversions under the contract may adversely affect Reclamation's ability to meet cold water objectives for the LAR.

Additionally, regardless of the water year conditions, Reclamation will convene an interagency meeting at NMFS request, by the first week in June during each year of the 5-year term should flow or cold water management concerns be anticipated, based on the following conditions:

- (1) If the preliminary annual temperature data indicates mean daily water temperature at Watt Avenue cannot be maintained below or at actual mean daily temperatures exceeding 65°F;
- (2) If releases of the transfer water result in LAR flow fluctuation above or below the threshold flow of 4,000 cubic feet per second;
- (3) Operation outlooks indicate below average Folsom Reservoir storage condition by the end of May;
- (4) Historical storage in Folsom Reservoir is at or below average for the month of March-May;
- (5) Snowpack water content in the American River Basin is below the historical average for the month of March; or
- (6) Water conditions deviate from 2005 conditions, which is the benchmark used to determine if water temperature conditions are likely to be met.

Endangered Species Act Section 7 Consultation

California CV steelhead and spring-run Chinook salmon and Sacramento River winter-run Chinook salmon occur in the American River downstream of Folsom and Nimbus dams. Spring-run Chinook and winter-run Chinook salmon only use the LAR as juvenile, non-natal rearing habitat and are present during the winter months in the lower 9 miles of the river. Critical habitat is also designated for California CV steelhead and spring-run Chinook salmon in the LAR. Critical habitat is not designated for winter-run Chinook salmon in the LAR. For California CV

steelhead the primary constituent elements (PCEs) are found throughout the LAR and include freshwater migration, freshwater rearing, freshwater migration and spawning primary constituent elements. For CV spring-run Chinook salmon the PCEs are near the confluence with the Sacramento River and include freshwater rearing. Potential risks associated with implementation of the proposed action include changes in river flow and water temperature that affect juvenile growth and survival and the spawning success of adults.

The water diversion associated with the proposed contract and the water operations associated with Reclamation's American River Division were previously analyzed in the OCAP BO (NMFS 2009). The specific action of issuing water contracts was not included in the 2009 consultation, but Reclamation has determined that the proposed action of issuing a short term, wet-year water contract will not change Reclamation's operation of the American River Division as described in the OCAP BO and RPA and that additional effects are not expected.

Based on our review of the material provided with your request and the best scientific and commercial information currently available, NMFS concurs that the proposed contract is not likely to adversely affect federally listed CV spring-run Chinook salmon, Sacramento River winter-run Chinook salmon, and California CV steelhead, or their designated critical habitats. NMFS reached this determination because potential adverse effects of the action and the potential for the action to take listed species is insignificant or discountable based on the following:

- (1) CV spring-run Chinook salmon and Sacramento River winter-run Chinook salmon use of the action area is limited to juvenile, non-natal rearing in the lower nine miles of the LAR. Based on winter historic flows and water levels which can reasonably be expected to continue throughout the 5 years of the contract and the project's description of the proposed water delivery, the proposed action is not expected to significantly or measurably affect water temperatures or flows that would have an adverse effect on these species or their habitat during the winter months that they may be present.
- (2) With regard to CV steelhead, water deliveries as a part of the proposed 5-year contract will only occur during "wet water years" as described in the *Proposed Contract Description* section of this letter. Reclamation's analysis demonstrated only minor changes in cold water pool volume. Specifically, these changes are so minor that they are not expected to measurably affect the attainment of the downstream water temperature criteria and therefore are not likely to have more than an insignificant effect on CV steelhead or their habitat.
- (3) Water deliveries will only occur as Reclamation describes in the *Proposed Contract Description* section of this letter.
- (4) Ensuring that the water contract is only enacted in "wet water years" will help prevent adverse effects listed species during water year types where additional deliveries may have negative consequences.

This concludes ESA section 7 consultation for the proposed contract. This concurrence does not provide incidental take authorization pursuant to section 7(b)(4) and section 7(o)(2) of the ESA. Re-initiation of the consultation is required where discretionary Federal agency involvement or control over the proposed contract has been retained (or is authorized by law), and if: (1) new

information reveals effects of the proposed contract that may affect listed species or critical habitat in a manner or to an extent not considered; (2) the proposed contract is subsequently modified in a manner that causes adverse effects to listed species or critical habitat that were not considered; or (3) a new species is listed or critical habitat designated that may be affected by the proposed contract. Specifically, Reclamation has committed to work closely with NMFS throughout the period of the proposed action to ensure that cold water pool management is conducted in a manner that allows water temperature criteria to be met and agrees to reduce or discontinue the action if Reclamation or NMFS discovers new information indicating that the temperature criteria will somehow be affected. In connection with this, Reclamation has committed to including provisions within the proposed contract that provide NMFS the opportunity to consult anytime deemed necessary within the proposed contract 5-year term.

Essential Fish Habitat Consultation

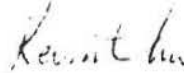
With regards to EFH consultation, the action area has been identified as EFH for Pacific salmon in Amendment 14 of the Pacific Salmon Fishery Management Plan pursuant to the Magnuson-Stevens Act. Federal action agencies are mandated by the Magnuson-Stevens Act (section 305(b)(2)) to consult with NMFS on all actions that may adversely affect EFH, and NMFS must provide EFH conservation recommendations to those agencies (section 305(b)(4)(A)). Based on our review of the material provided, and the best scientific and commercial information available, NMFS has determined that the proposed contract would adversely affect EFH for Pacific salmon, but that any anticipated adverse effects are so minimal in nature that no EFH conservation recommendations are necessary to avoid, minimize, or otherwise offset the adverse effects to EFH. Therefore, additional EFH conservation recommendations are not being provided at this time and written response as required under section 305(b)(4)(B) of the Magnuson-Stevens Act and Federal regulations (50 CFR 600.920(k)) will not be required. However, if there are substantial revisions to the proposed contract that could result in adverse effects to EFH, the lead Federal agency will need to re-initiate EFH consultation.

Fish and Wildlife Coordination Act

The purpose of the FWCA is to ensure that wildlife conservation receives equal consideration, and is coordinated with other aspects of water resources development (16 U.S.C. 661). The FWCA establishes a consultation requirement for Federal departments and agencies that undertake any action that proposes to modify any stream or other body of water for any purpose, including navigation and drainage (16 U.S.C. 662(a)). Consistent with this consultation requirement, NMFS provides recommendations and comments to Federal action agencies for the purpose of conserving fish and wildlife resources. The FWCA provides the opportunity to offer recommendations for the conservation of species and habitats beyond those currently managed under the ESA and Magnuson-Stevens Act. Because the proposed contract will avoid environmental impacts and will have no short-term or long-term negative impacts to listed species, NMFS has no FWCA comments to provide.

Please contact Gary Sprague at (916) 930-3615, or via e-mail at Gary.Sprague@noaa.gov if you have any questions or require additional information concerning this project.

Sincerely,



Rodney R. McInnis
Regional Administrator

cc: Copy to File ARN 151422SWR2011SA00580
NMFS-PRD, Long Beach, CA

References:

1. National Marine Fisheries Service. 2009. Biological Opinion and Conference Opinion on the Long-Term Operations of the Central Valley Project and State Water Project. Prepared by the NOAA Fisheries Protected Resources Division, Sacramento, California. <http://swr.nmfs.noaa.gov/ocap.htm>. June 2009.
2. United States Department of the Interior. Bureau of Reclamation. 2007. Draft Environmental Assessment for Sacramento Suburban Water District Warren Act Contract. October 2007.
3. United States Department of the Interior. Bureau of Reclamation. 2008. Biological Assessment on the Continued Long-term Operations of the Central Valley Project and the State Water Project. Prepared by the Bureau of Reclamation, Mid-Pacific Region, Sacramento, California. http://www.usbr.gov/mp/cvo/OCAP/sep08_docs/FrontMatter.pdf. August 2008.

These studies are required by the California Department of Fish and Game (CDFG) as a condition of the permit to develop the project. The project is located in the Central Valley of California, near the town of Manteca, California.

Summary

Robert H. Johnson
Regional Administrator

San Francisco Office, 400 Montgomery Street, Suite 1400
San Francisco, California 94104

1. National Marine Fisheries Service, 2000 Biological Opinion and Conservation Program on the Long-Term Operation of the Central Valley Project and State Water Project. Prepared by the NOAA, 1994. This is the final Biological Opinion for the project. The project is located in the Central Valley of California, near the town of Manteca, California.
2. United States Department of the Interior, Bureau of Reclamation, 2000. Biological Opinion on the proposed project. This is the final Biological Opinion for the project. The project is located in the Central Valley of California, near the town of Manteca, California.
3. United States Department of the Interior, Bureau of Reclamation, 2000. Biological Opinion on the proposed project. This is the final Biological Opinion for the project. The project is located in the Central Valley of California, near the town of Manteca, California.
4. United States Department of the Interior, Bureau of Reclamation, 2000. Biological Opinion on the proposed project. This is the final Biological Opinion for the project. The project is located in the Central Valley of California, near the town of Manteca, California.
5. United States Department of the Interior, Bureau of Reclamation, 2000. Biological Opinion on the proposed project. This is the final Biological Opinion for the project. The project is located in the Central Valley of California, near the town of Manteca, California.

RESOLUTION NO. 12-15

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SACRAMENTO SUBURBAN WATER DISTRICT APPROVING A TEMPORARY SHORT TERM WARREN ACT CONTRACT FOR A PERIOD OF UP TO FIVE YEARS (2013 – 2018) BETWEEN THE SACRAMENTO SUBURBAN WATERDISTRICT AND THE UNITED STATES BUREAU OF RECLAMATION

WHEREAS, the United States Bureau of Reclamation ("Reclamation") is authorized under the federal Warren Act to convey non-Central Valley Project ("CVP") water through CVP facilities upon execution of contracts with water suppliers requesting such service;

WHEREAS, Reclamation and the District are in the process of negotiating a Temporary Warren Act Contract for up to five years that would apply to non-CVP water conveyed to SSWD in the 2013 through 2018 water years; and

WHEREAS, Reclamation requests that the District's Board of Directors formally adopts and approves the proposed Temporary Warren Act Contract for up to five years to ensure that the parties comply with applicable federal laws and regulations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Sacramento Suburban Water District as follows:

1. The Board hereby adopts and approves a Temporary Warren Act Contract for up to five years, provided that the terms of such agreement are consistent with prior temporary Warren Act contracts and applicable law.
2. The President of the Board of Directors is hereby authorized to execute the Contract and any amendments, subject to the approval of pending non-substantive revisions by District Legal Counsel.
3. The General Manager and his designees are hereby authorized to implement the terms and conditions of the Contract.

PASSED AND ADOPTED by the Board of Directors of the Sacramento Suburban Water District on the 17th day of September 2012, by the following vote:

AYES: Fellenz, Gayle, Robison, Schild and Thomas.
NOES: None.
ABSENT: None.

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE SACRAMENTO SUTTER WATER DISTRICT
ATTESTING A TEMPORARY SHORT TERM WATER ACQUISITION CONTRACT FOR A
PERIOD OF UP TO SIX YEARS (2013-2018) BETWEEN THE
SACRAMENTO SUTTER WATER DISTRICT AND THE
UNITED STATES BUREAU OF RECLAMATION

WHEREAS, the United States Bureau of Reclamation ("Reclamation") is authorized under the Federal Water Act to convey and Control Water Rights ("CWR") within the CWR facilities upon completion of construction with other facilities providing such services

WHEREAS, Reclamation and the District have entered into a temporary Water Acquisition Contract for up to six years that will begin on 12/1/2013 and end on 12/31/2018 through 2018 water year, and

WHEREAS, Reclamation requests that the District, based on the terms and conditions of the contract and the fact that the contract is for a term of six years or less, be made exempt from applicable federal laws and regulations

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the District, that the District is authorized to enter into the following

The Board hereby authorizes and approves a temporary Water Acquisition Contract for up to six years, provided that the terms of such agreement are consistent with the temporary Water Acquisition Contract

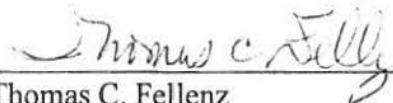
The Board hereby authorizes and approves a temporary Water Acquisition Contract for up to six years, provided that the terms of such agreement are consistent with the temporary Water Acquisition Contract

The Board hereby authorizes and approves a temporary Water Acquisition Contract for up to six years, provided that the terms of such agreement are consistent with the temporary Water Acquisition Contract

PASSED AND ADOPTED by the Board of Directors of the Sacramento Sutter Water District on the 12th day of December, 2012, at the following time:

12/12/12	12/12/12	12/12/12
12/12/12	12/12/12	12/12/12
12/12/12	12/12/12	12/12/12


By:


Thomas C. Fellenz
President, Board of Directors
Sacramento Suburban Water District

I hereby certify that the foregoing resolution was duly and regularly adopted and passed by the Board of Directors of Sacramento Suburban Water District at a regular meeting hereof held on the 17th day of September 2012.

(SEAL)

By:


Robert S. Roscoe
General Manager/Secretary
Sacramento Suburban Water District

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1862. It is a very important document, as it contains the President's annual message to Congress. The letter is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

2. The second part of the document is a report from the Secretary of the Interior, dated January 1, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

3. The third part of the document is a report from the Secretary of the Treasury, dated January 1, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

4. The fourth part of the document is a report from the Secretary of the War, dated January 1, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

5.