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EASTERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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BARCELLOS AND WOLFSEN, INC., et al.,	)	No. CV 79-106-EDP
	)	
Plaintiffs,	)	
	)	JUDGMENT
v.	)	
	)	
WESTLANDS WATER DISTRICT, et al.,	)	
	)	
Defendants.	)	
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WESTLANDS WATER DISTRICT,	)	
	)	
Counterclaimant and Cross-Claimant,	)	
	)	
v.	)	
	)	
BARCELLOS AND WOLFSEN, INC., et al.,	)	
	)	
Counterclaim and Cross-Claim Defendants.	)	
	)	
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BARCELLOS AND WOLFSEN, INC., et al.,	)	
	)	
Counterclaimants and Cross-Claimants,	)	
	)	
v.	)	

1 UNITED STATES OF AMERICA, et )  
 al., )  
 2 )  
 3 Counterclaim and )  
 Cross-Claim )  
 Defendants. )  
 4 )  
 5 FRANK ORFF, as representative )  
 of 1B Class, )  
 6 )  
 7 Counterclaimant and )  
 Cross-Claimant, )  
 8 v. )  
 9 UNITED STATES OF AMERICA, et )  
 al., )  
 10 )  
 11 Counterclaim and )  
 Cross-Claim )  
 Defendant. )  
 12 )  
 13 )  
 14 WESTLANDS WATER DISTRICT, et )  
 al., )  
 15 )  
 16 Plaintiffs-in- )  
 Consolidation. )  
 17 v. )  
 18 UNITED STATES OF AMERICA, et )  
 al., )  
 19 )  
 20 Defendants-in- )  
 Consolidation. )  
 21 )  
 22 BARCELLOS & WOLFSEN, INC., et )  
 al., )  
 23 Plaintiffs, )  
 24 v. )  
 25 WESTLANDS WATER DISTRICT, et )  
 al., )  
 26 Defendants. )  
 27 )  
 28 )

CONSOLIDATED  
 No. CV F-81-245-EDP

TABLE OF CONTENTS

<u>Para.</u>	<u>Title</u>	<u>Page</u>
1	1. Definitions .....	5
2	2. Termination of Stipulated Agreement and Duration of Judgment .....	10
3	3. Enforcement of Judgment .....	10
4	4. 1963 Contract .....	11
5	5. Provisional Water Service .....	15
6	6. Drainage Service Facilities .....	20
7	7. Drainage Trust Fund .....	22
8	8. Refunds to District for Net Overpayments and Deposits .....	32
9	9. Overpayment Credits and Underpayment Debits to Water Users .....	33
10	10. Service Area - Area 1B and 2B Rights .....	36
11	11. Improvement Districts and Future Contracts .....	37
12	12. Cooperation Between District and Federal Parties .....	39
13	13. Repayment of Funds Expended under PL 95-46 .....	42
14	14. Claims Preserved and Claims Not Affected by Judgment .....	45
15	15. Past Contracts, Water Allocation and Pricing .....	47
16	16. Future Contracts - Rights Under Merger Law .....	48
17	17. Future Water Allocation and Pricing .....	48
18	18. District Financing and Expenditures for Drainage Purposes .....	50
19	19. Payment of Court Costs and Attorneys' Fees and Expenses .....	52
20	20. Fifty Cents Per Acre Foot Drainage Service Charges .....	52
21	21. Pleasant Valley (Coalinga) Canal and Pumping Plant .....	53

1 22. Termination of Classes and Authorization of  
 2 Area Representatives ..... 53  
 3 23. Judgment and Stipulation for Compromise  
 4 Settlement Not a Contract ..... 56  
 5 24. No New United States Drainage Service Obligation ..... 56  
 6 25. Application of Certain Paragraphs ..... 56

6 Exh. Title  
 7 A 1963 Contract  
 8 B 1965 Contract  
 9 C Stipulated Agreement, approved  
 10 September 16, 1981  
 11 D Amendment to Stipulated Agreement,  
 12 approved September 10, 1982  
 13 E Second Amendment to Stipulated  
 14 Agreement, approved March 14, 1985  
 15 F Third Amendment to Stipulated Agreement,  
 16 approved November 5, 1985  
 17 G Fourth Amendment to Stipulated Agreement,  
 18 approved February 11, 1986  
 19 H Westlands Water District - Department  
 20 of the Interior Agreement, dated  
 21 April 3, 1985  
 22 I Table of Overpayments and Underpayments  
 23 by the District to the United States  
 24 for Water Service, February 28, 1986  
 25 J Table of Overpayments and Underpayments  
 26 by Water Users to the District for  
 27 Water Service, February 28, 1986  
 28 K Terms of Contractual Obligations re  
 Public Law 95-46

1 Pursuant to the Stipulation for Compromise Settlement,  
2 effective as of Aug. 27 1986, the Order, dated Oct. 1,  
3 1986, and the Order, dated Dec. 30 1986

4  
5 IT IS ADJUDGED, ORDERED, DECLARED AND DECREED as  
6 follows:

7  
8 1. Definitions.

9 As used herein, the following words and phrases shall  
10 have the following meanings:

11 1.1. "1A Parties": Plaintiffs, the class representa-  
12 tives (in their individual and representative capacities) of the  
13 Area 1A Class, all landowners and water users in the Area 1A  
14 Class and their predecessors and successors, and each other party  
15 to the extent such party owns, or uses water on, land in Area 1A;

16 1.2. "1B Parties": The class representative (in his  
17 individual and representative capacities) of the Area 1B Class,  
18 all landowners and water users in the Area 1B Class and their  
19 predecessors and successors, and each other party to the extent  
20 such party owns, or uses water on, land in Area 1B;

21 1.3. "2A Parties": The class representatives (in their  
22 individual and representative capacities) of the Area 2A Class,  
23 all landowners and water users in the Area 2A Class and their  
24 predecessors and successors, and each other party to the extent  
25 such party owns, or uses water on, land in Area 2A;

26 1.4. "2B Parties": The class representatives (in their  
27 individual and representative capacities) of the Area 2B Class,  
28 all landowners and water users in the Area 2B Class and their

1 predecessors and successors, and each other party to the extent  
2 such party owns, or uses water on, land in Area 2B;

3 1.5. "1939 Act": The Reclamation Project Act of August  
4 4, 1939, 53 Stat. 1187;

5 1.6. "1960 Act": The Act of June 3, 1960, 74 Stat.  
6 156, authorizing the San Luis Unit of the Central Valley Project,  
7 as supplemented by the Act of June 15, 1977, 91 Stat. 225;

8 1.7. "1963 Contract": Contract number 14-06-200-495,  
9 dated June 5, 1963, entered into between the United States and  
10 the Original Westlands District, as supplemented by a memorandum  
11 dated February 15, 1979, both of which are attached hereto as  
12 Exhibit A;

13 1.8. "1965 Contract": Contract number 14-06-200-2020A,  
14 dated April 1, 1965, entered into between the United States and  
15 the Original Westlands District, attached hereto as Exhibit B;

16 1.9. "1982 Act": The Reclamation Reform Act of October  
17 12, 1982, 96 Stat. 1261;

18 1.10. "Area 1A": The area of the Original Westlands  
19 District within the proposed initial service area of the San Luis  
20 Unit of the Central Valley Project, as depicted on Plate 1 in the  
21 report of the U.S. Bureau of Reclamation entitled "A Report on  
22 the Feasibility of Water Supply Development, San Luis Unit,  
23 Central Valley Project, California," dated May 1955, and trans-  
24 mitted to the Congress on December 17, 1956;

25 1.11. "Area 1B": The area of the Original Westlands  
26 District outside said proposed initial service area;

27 1.12. "Area 2A": The area of the Former Westplains  
28 District within said proposed initial service area;

1           1.13. "Area 2B": The area of the Former Westplains  
2 District outside said proposed initial service area;

3           1.14. "Area I": All the lands in the Original  
4 Westlands District;

5           1.15. "Area II": All the lands in the Former  
6 Westplains District;

7           1.16. "Bookkeeping Account Period": The period of  
8 time covering June 30 through December 31, 1978, all of the years  
9 1979, 1982, 1983, 1984, 1985, 1986 and the year 1987 through the  
10 end of the month in which this Judgment is entered;

11           1.17. "Cost Effective": In connection with Drainage  
12 Service Facilities, has reasonable costs in relation to the  
13 quantity of subsurface agricultural drainage water transported,  
14 treated or disposed of thereby; and, in connection with Drainage  
15 Reduction Programs, has reasonable costs in relation to the  
16 quantity of subsurface agricultural drainage water reduced  
17 thereby;

18           1.18. "Costs of Construction": Costs of design,  
19 preparation of plans and specifications, acquisition of real and  
20 personal property, and actual construction, excluding administra-  
21 tive, indirect and overhead costs;

22           1.19. "Discretionary Provisions of 1982 Act": Sections  
23 203-208 of the 1982 Act;

24           1.20. "District": The Westlands Water District;

25           1.21. "Drain": The work which is referred to as the  
26 "San Luis interceptor drain" in Section 1 of the 1960 Act and  
27 defined as the "interceptor drain" in Article 1(d) of the 1963  
28 Contract and which between March 13, 1968, and February 4, 1975,

1 was partially constructed between Laguna Avenue in Fresno County  
2 and Kesterson Reservoir in Merced County;

3 1.22. "Drainage Plan": The plan described in Paragraph  
4 6.1 of this Judgment;

5 1.23. "Drainage Reduction Program": Any facility or  
6 activity which reduces the amount of subsurface drainage water  
7 requiring drainage service in the District.

8 1.24. "Drainage Service Facility": The Drain or any  
9 significant drainage service facility constructed or acquired by  
10 either the United States or the District as partial or full  
11 alternatives to the Drain providing drainage service for lands in  
12 the District;

13 1.25. "Drainage Trust Fund": The trust fund estab-  
14 lished by Paragraph 7.1 of this Judgment;

15 1.26. "Existing Trust Fund": The trust fund estab-  
16 lished by the Stipulated Agreement, as amended, between the  
17 Federal Parties and the District, attached hereto as Exhibits C,  
18 D, E, F and G;

19 1.27. "Federal Parties": The United States Department  
20 of the Interior; the Bureau of Reclamation of the Department of  
21 the Interior; the Secretary of the Interior; the Assistant  
22 Secretary of the Interior for Water and Science; the Commissioner  
23 of Reclamation; and the Regional Director of the Bureau of  
24 Reclamation for the Mid-Pacific Region;

25 1.28. "Former Westplains District": The Westplains  
26 Water Storage District, as it existed immediately prior to  
27 June 29, 1965;

28



1           1.29. "Interim Contract": (a) Any temporary short-term  
2 water service contract between the District and the United States  
3 with respect to the period between June 30, 1978, and December  
4 31, 1981, and (b) the Stipulated Agreement between the United  
5 States and the District, approved September 16, 1981, in West-  
6 lands Water District v. United States et al., U.S. Dist. Ct.,  
7 E.D. Calif. No. CV-F-81-245-EDP, attached hereto as Exhibit C,  
8 and the amendments thereto approved on September 10, 1982, March  
9 14, 1985, November 5, 1985, and February 11, 1986, attached  
10 hereto as Exhibits D, E, F and G;

11           1.30. "Internal Allocation Rule": Any water allocation  
12 regulation or policy adopted by the District;

13           1.31. "Internal Pricing Rule": Any water pricing  
14 regulation or policy adopted by the District;

15           1.32. "Merger Law": The Westlands Water District  
16 Merger Law, California Water Code sections 37800 through 37856;

17           1.33. "M&I Uses": Uses other than agricultural use;

18           1.34. "Original Westlands District": The Westlands  
19 Water District, as it existed immediately prior to June 29, 1965;

20           1.35. "Overpayment Refund Account": The special  
21 account established by Paragraph 8.4 of this Judgment;

22           1.36. "Statutory Interest": Simple interest at the  
23 rate or rates established pursuant to Section 12 of the Contract  
24 Disputes Act of 1978 (92 Stat. 2389, 41 U.S.C. §611).

25  
26 ///

27 ///

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1           2.   Termination of Stipulated Agreement and Duration  
2                   of Judgment.

3                   The Stipulated Agreement identified in Para-  
4 graph 1.29(b) above shall terminate at the end of the month in  
5 which this Judgment is entered. This Judgment shall govern the  
6 rights and duties of all parties for its term commencing the  
7 first day of the month following entry of this Judgment and  
8 terminating December 31, 2007, except as otherwise provided in  
9 Paragraph 13.3(c) below and Exhibit K of this Judgment.

10  
11           3.   Enforcement of Judgment.

12  
13                   A party may obtain relief from a violation of this  
14 Judgment only by (a) the filing of a new action, or (b) the  
15 filing of a motion in these present actions. Either of these  
16 proceedings against the Federal parties shall, except as  
17 otherwise specifically limited by Paragraphs 6.1, 12.1.1, 12.1.2  
18 and 12.3 of this Judgment, be for the sole purpose of seeking an  
19 order directing the Federal parties to perform in accordance with  
20 the express terms of this Judgment; provided, that any other  
21 appropriate relief may be obtained against the Federal parties by  
22 the filing of a new action for violation of (a) Paragraph 5 below  
23 or (b) any contract or other right or obligation arising  
24 independently of this Judgment, notwithstanding that (i) it is  
25 required to be performed by this Judgment, (ii) its future  
26 creation is anticipated or encouraged by this Judgment, or (iii)  
27 it is otherwise a subject of this Judgment. A motion in these  
28 present actions to obtain relief from an alleged violation of

1 .this Judgment may be filed only after 60 days prior written  
2 notice to all other parties that such a motion will be filed if  
3 another party or other parties fail or refuse to perform in the  
4 manner described in said notice. The parties entitled to file  
5 such a motion and to receive such prior written notice thereof in  
6 these present actions shall be limited to the Area representa-  
7 tives provided for in Paragraph 22 below (who shall represent the  
8 interests of the class members within the areas they represent),  
9 the United States, the District, and any landowners or water  
10 users who have heretofore appeared in these present actions on  
11 their own behalf. The parties shall not seek judicial enforce-  
12 ment of this Judgment in any other manner than described above.  
13 During the term of this Judgment, each party shall perform all  
14 acts it is obligated hereunder to perform. This Judgment shall  
15 not alter or impair, or deprive any party of, any existing legal  
16 rights or confer on any party any right except as expressly  
17 provided herein.

18

19 4. 1963 Contract.

20

21 4.1. Beginning the first day of the month after this  
22 Judgment is entered, the District and the United States shall  
23 perform the 1963 Contract; provided, that the District waives the  
24 right to make payment for water requested and delivered under  
25 Articles 4(c) or 8 of said contract at the rate provided in  
26 Article 6 thereof so long as the rate charged for said water does  
27 not exceed the applicable Central Valley Project water rate as of  
28 the date of delivery; provided further, that to facilitate and

1 implement the existing water conservation policies of the United  
2 States, (a) Article 1(f) of said contract shall be revised to  
3 state: "'year' shall mean the period commencing March 1 of each  
4 year through the last day of February of the following year"; (b)  
5 Article 6(b) of said contract shall be revised by substituting  
6 "March 1" for "January 1" and "September 1" for "July 1"; and (c)  
7 notwithstanding the provisions of Article 3(d) of said contract,  
8 the quantity of water the United States shall be obligated to  
9 furnish, and the District to pay for, pursuant to Article 3 of  
10 said contract during the period commencing March 1, 2007, and  
11 ending December 31, 2007, shall be 811,000 acre-feet. The 1963  
12 Contract is a valid, enforceable and implementable contract enti-  
13 tling the District through the end of 2007 to water and other  
14 service by the United States as specified therein.

15 4.2. The District acknowledges that it entered into  
16 the 1963 Contract for the benefit of Areas 1A and 1B and the  
17 lands therein. The District will enforce the prior rights of  
18 said areas to the benefits of said contract and acknowledges that  
19 water users in Areas 2A and 2B may purchase water under the 1963  
20 Contract not purchased by water users in Areas 1A and 1B as  
21 provided in this Judgment. To the extent that water under the  
22 1963 Contract is purchased by a water user in Area 2A or Area 2B,  
23 the District shall collect from such water user and pay the  
24 United States for such water the water service rate set forth in  
25 Article 6(a) of the 1963 Contract, Paragraph 4.4 below or 4.5.4  
26 below, whichever is applicable, plus a \$0.50 per acre foot  
27 drainage service charge, until such water user becomes entitled  
28 to water service pursuant to the long-term contract described in

1 Paragraph 12.1.1 below, whereupon the contracting improvement  
2 district of the District shall collect from such water user and  
3 pay the United States for such water the applicable rates set  
4 forth in such long-term contract.

5 4.3. The District shall not enter into any contract  
6 which would modify the rights and obligations under the 1963  
7 Contract prior to 2008, except with the concurrence of Area I as  
8 provided in Paragraph 22.5 below; provided, that such concurrence  
9 may be obtained only by lack of objection by Area I representa-  
10 tives and not by an advisory election under said paragraph.

11 4.4. The agricultural water service component of the  
12 rates to be paid to the United States for water delivered under  
13 Article 3 of the 1963 Contract to lands which become subject to  
14 the Discretionary Provisions of the 1982 Act shall be the higher  
15 of (a) \$7.50 per acre foot or (b) the appropriate rate as of the  
16 date of delivery established pursuant to the 1982 Act.

17 4.5. Water deliveries under the 1963 Contract for M&I  
18 Uses shall be in accordance with Paragraph 4.5.1 through 4.5.4  
19 below.

20 4.5.1. Such water shall be quantified and iden-  
21 tified in the schedule or any revision thereof submitted by the  
22 District in accordance with Article 4(a) of the 1963 Contract;

23 4.5.2. Such water shall be measured at canalside  
24 delivery points established pursuant to Article 9 of the 1963  
25 Contract which are used exclusively to deliver water for M&I  
26 Uses, as determined by the United States, with equipment in-  
27 stalled, operated and maintained by the United States. The  
28 District shall measure all water furnished by the District for

1 M&I Uses at other delivery points with equipment installed,  
2 operated and maintained by the District. Said equipment and its  
3 installation, service and use shall be approved by the United  
4 States. The United States shall have full access at all  
5 reasonable times to inspect said measuring equipment to determine  
6 the accuracy and conditions thereof and any errors in measure-  
7 ments disclosed by said inspections shall be adjusted. If said  
8 facilities are found to be defective or inadequate they shall be  
9 adjusted, repaired or replaced by the District. In the event the  
10 District neglects or fails to make such repairs or replacements  
11 within a reasonable time as may be necessary to satisfy the  
12 operating requirements of the United States, the United States  
13 may cause repairs or replacements to be made and the costs  
14 thereof charged to the District, which charge shall be paid to  
15 the United States before April 1 of the year following that in  
16 which the cost was incurred and a statement thereof furnished by  
17 the United States;

18 4.5.3. The Federal Parties shall submit a report  
19 to the District as to the quantity of water the United States  
20 measures and the District shall submit a report to the Federal  
21 Parties as to the quantity of water the District measures. Said  
22 reports shall be submitted on or before the 10th day of each  
23 month following the month in which the water is measured;

24 4.5.4. Such water shall be paid for in accordance  
25 with Article 6(b) of the 1963 Contract at the applicable Central  
26 Valley Project water rate as of the date of delivery.

27  
28 ///

1           5.    Provisional Water Service.

2

3                   5.1.   The provisions of Paragraphs 5.2 through 5.3

4 below are included in this Judgment in light of the facts recited

5 in this Paragraph 5.1, as agreed to by the parties. Each year

6 from 1964 through 1981, the Federal Parties have permitted the

7 District to take various quantities of water from the Mendota

8 Pool pursuant to annual contracts to supplement the water pro-

9 vided to the District under the 1963 Contract. Since 1965 when

10 the Former Westplains District was merged into the Original

11 Westlands District, the Federal Parties have recognized that a

12 firm water supply from the San Luis Unit of 200,000 acre feet per

13 year in addition to the water from the San Luis Unit provided for

14 in the 1963 Contract and a firm water supply of 50,000 acre feet

15 per year from the Mendota Pool, are necessary within the boun-

16 daries of the District as it was expanded by the merger. Such

17 additional water supplies have consistently been allocated and

18 provided to the District by the Federal Parties each year from

19 1972 through 1981, inclusive, pursuant to a series of annual

20 contracts. Thereafter, such additional water supplies have been

21 provided pursuant to the Stipulated Agreement, as amended,

22 Exhibits C, D, E, F and G attached hereto. The District has

23 claimed that, pursuant to the provisions of the memorandum from

24 Kenneth Holum, Assistant Secretary of the Interior, Water and

25 Power Development, to Stuart Udall, Secretary of the Interior,

26 dated October 4, 1964, approved by Secretary Udall on October 7,

27 1964, and related activities, it is entitled as of right to both

28 of these additional supplies of water, a claim which the United

1 States disputes herein. The parties have agreed to settle this  
2 claim by recognizing the claim for the purposes of this settle-  
3 ment only to the limited extent set forth in Paragraphs 5.2  
4 through 5.3 below and subject to the provisions of Paragraph  
5 14.1.1 below.

6 5.2. In addition to the quantity of water specified in  
7 Article 3 of the 1963 Contract, the District shall be entitled to  
8 provisional water service from the United States of 200,000 acre  
9 feet per year from the San Luis Unit and 50,000 acre feet per  
10 year from the Mendota Pool under the conditions specified in  
11 Paragraphs 5.2.1 through 5.2.4.7 below.

12 5.2.1. The District shall pay the United States  
13 for water delivered to lands which are not subject to the discre-  
14 tionary provisions of the 1982 Act the Central Valley Project  
15 water rates applicable to the District as of the date of  
16 delivery.

17 5.2.2. The District shall pay the United States  
18 for water delivered to lands which are subject to the Discretion-  
19 ary Provisions of the 1982 Act the higher of (a) the rates  
20 payable under Paragraph 5.2.1 above or (b) the appropriate rate  
21 established pursuant to the 1982 Act.

22 5.2.3. The District shall pay the United States  
23 for water delivered for M&I Uses at the applicable Central Valley  
24 Project water rates as of the date of delivery.

25 5.2.4. Provisional water service under this Para-  
26 graph 5 shall commence the first day of the month after this  
27 Judgment is entered and end February 28 next following the  
28 conclusion of the action entitled Contra Costa Water District v.



1 Donald Hodel, as Secretary of the Interior, U.S. Dist. Ct., N.D.  
2 Calif., Civil No. C-75-2508-SW, unless said action is concluded  
3 by a final dismissal with prejudice, in which event said  
4 provisional water service shall end two years after such  
5 dismissal. All other terms and conditions of such provisional  
6 water service shall be the same as under the "Contract between  
7 the United States and Westlands Water District for Temporary  
8 Water Service from San Luis Unit and Mendota Pool," R.O. Draft  
9 4/10-1981, (hereinafter "Draft Contract") attached to the Stipu-  
10 lated Agreement identified in Paragraph 1.29(b) above (Exhibit C  
11 hereto), except as modified in Paragraphs 5 and 7 of the  
12 Stipulated Agreement and further modified in Paragraphs 5.2.4.1  
13 through 5.2.4.7 below.

14 5.2.4.1. No change in the rates to be paid  
15 for water delivered for agricultural use or M&I Uses shall be  
16 effective for any year unless written notice of the estimated  
17 rate is given to the District on or before the preceding Septem-  
18 ber 1 and written notice of the actual rate is given to the  
19 District on or before the preceding December 1.

20 5.2.4.2. The following is substituted for  
21 Article 6(c) of the Draft Contract:

22 "By February 1 of each year, the District shall  
23 make any additional payment it is obligated to  
24 make for the year."

25 5.2.4.3. The following is substituted for  
26 Article 15 of the Draft Contract:

27 "(a) The parties agree that the delivery of  
28 irrigation water or the use of Federal facilities

1 pursuant to this contract is subject to the  
2 acreage and ownership limitations and pricing  
3 provisions of reclamation law, as amended and  
4 supplemented, including but not limited to the  
5 1982 Act.

6 "(b) The Contracting Officer shall have the  
7 right to make, after an opportunity has been  
8 offered to the Contractor for consultation, rules  
9 and regulations consistent with the provisions of  
10 this contract, the laws of the United States and  
11 the State of California, to add to or to modify  
12 them as may be deemed proper and necessary to  
13 carry out this contract, and to supply necessary  
14 details of its administrations which are not  
15 covered by express provisions of this contract.  
16 The Contractor shall observe such rules and  
17 regulations."

18 5.2.4.4. The following is substituted for  
19 Article 19 of the Draft Contract:

20 "Where the terms of this contract provide for  
21 action to be based upon the opinion or determina-  
22 tion of either party to this contract, whether or  
23 not stated to be conclusive, said terms shall not  
24 be construed as permitting such action to be  
25 predicated upon arbitrary, capricious, or unrea-  
26 sonable opinions or determinations. In the event  
27 that the Contractor questions any factual determi-  
28 nation made by the Contracting Officer, the

1 findings as to the facts shall be made by the  
2 Secretary only after consultation with the Con-  
3 tractor and shall be conclusive upon the parties."

4 5.2.4.5. The following is substituted for  
5 Article 20 of the Draft Contract:

6 "The Contractor shall pay a late payment  
7 charge on installments or charges which are  
8 received after the due date. The late payment  
9 charge percentage rate calculated by the Depart-  
10 ment of the Treasury and published quarterly in  
11 the Federal Register shall be used; provided, that  
12 the late payment charge percentage rate shall not  
13 be less than 0.5 percent per month. The late  
14 payment charge percentage rate applied on an  
15 overdue payment shall remain in effect until  
16 payment is received. The late payment rate for a  
17 30-day period shall be determined on the day  
18 immediately following the due date and shall be  
19 applied to the overdue payment for any portion of  
20 the 30-day period of delinquency. In the case of  
21 partial late payments, the amount received shall  
22 first be applied to the late charge on the overdue  
23 payment and then to the overdue payment."

24 5.2.4.6. Article 31 of the Draft Contract is  
25 deleted.

26 5.2.4.7. To facilitate and implement the  
27 existing policies of the United States, Article 1(d) of the Draft  
28 Contract shall be revised to state: "'Year' shall mean the period

1 commencing March 1 of each year through the last day of February  
2 of the following year."

3 5.3. The District acknowledges that all water to which  
4 the District is entitled pursuant to Paragraph 5.2 above shall be  
5 for the benefit of the 2A Parties and the 2B Parties and the  
6 lands in Area 2A and Area 2B.

7  
8 6. Drainage Service Facilities.

9  
10 6.1. The Federal Parties, in consultation and coopera-  
11 tion with the District, shall develop, adopt and submit to the  
12 District by December 31, 1991, a Drainage Plan for Drainage  
13 Service Facilities, which shall have at least the elements set  
14 forth in Paragraphs 6.1.1 and 6.1.2 below; provided, that the  
15 remedies available to a party for an alleged breach of this  
16 paragraph by the Federal Parties shall be strictly limited to (a)  
17 the release to the District of the money then deposited in the  
18 Drainage Trust Fund, plus accumulated interest, pursuant to  
19 Paragraphs 7.1.8 and 7.1.8.1, below, and (b) the revival of any  
20 claim against the United States of the right to drainage service  
21 or Drainage Service Facilities pursuant to and in accordance with  
22 the terms of Paragraph 14.1.2, below.

23 6.1.1. The Drainage Service Facilities included  
24 in the Drainage Plan shall (a) in the aggregate have sufficient  
25 capacity and capability to transport, treat as necessary, and  
26 dispose of, the annual quantity of subsurface agricultural  
27 drainage water from the District (not less than 60,000 acre feet  
28 and not more than 100,000 acre feet) required to be disposed of

1 by December 31, 2007, as projected in the Drainage Plan, (b) be  
2 Cost Effective and financially feasible, and (c) be capable of  
3 construction, acquisition and operation in compliance with all  
4 applicable law.

5 6.1.2. The Drainage Plan shall contain a schedule  
6 for the initiation and completion of each Drainage Service Facil-  
7 ity by the United States. Adherence to the schedule will be  
8 contingent upon approvals within the Executive Branch and author-  
9 izations and appropriations by the Congress.

10 6.2. If the United States determines to construct or  
11 acquire Drainage Service Facilities prior to development of the  
12 Drainage Plan, the Federal Parties shall develop a plan for such  
13 facilities. Such plan shall be developed in consultation and  
14 cooperation with the District and shall have the same elements as  
15 the Drainage Plan except for the required acre-foot capacity of  
16 the facilities.

17 6.3. Drainage Service Facilities heretofore construct-  
18 ed by the United States are and, unless hereafter otherwise pro-  
19 vided by statute, will be a work or works "connected with water  
20 supply and allocated to irrigation" and not any "irrigation water  
21 distribution work" as those terms are used in Section 9(e) of the  
22 1939 Act. Section 9(d) of the 1939 Act does not prohibit the  
23 Federal Parties from presently providing water service or drain-  
24 age service under the 1963 Contract. Agreement by the District  
25 to repay the Costs of Construction by the United States of  
26 Drainage Service Facilities under said Section 9(d) is not a  
27 condition precedent to the United States' or the Federal Parties'  
28 duty to perform any term of the 1963 Contract. A per acre foot

1 drainage service charge is a legal and valid method of repayment  
2 of the Costs of Construction by the United States of Drainage  
3 Service Facilities.

4 6.4. Because they are the drainage counterpart of the  
5 main conveyance facilities of the San Luis Unit, Drainage Service  
6 Facilities authorized by the 1960 Act are not a part of  
7 "distribution systems and drains" as that term is used in Section  
8 8 of the 1960 Act.

9  
10 7. Drainage Trust Fund.

11  
12 7.1. To aid in funding costs of Drainage Service  
13 Facilities and to encourage and expedite United States' construc-  
14 tion or acquisition thereof, beginning the first day of the month  
15 after this Judgment is entered, the District shall establish,  
16 maintain and use the Drainage Trust Fund exclusively for the  
17 purposes and in accordance with the terms and conditions speci-  
18 fied in Paragraphs 7.1.1 through 7.1.9 below.

19 7.1.1. Beginning the second year after this  
20 Judgment is entered, the District shall levy \$5 million per year  
21 by assessments on all lands within the District, and deposit the  
22 money collected into the Drainage Trust Fund. Said \$5 million  
23 per year may be increased by the District with Area I and Area II  
24 concurrence as provided in Paragraph 22.5 below. To the extent  
25 necessary to meet the payment obligations from the Drainage Trust  
26 Fund under Paragraphs 7.1.4 and 7.1.7 below, the District shall  
27 borrow and deposit additional money therein. The District may  
28 terminate the collection and deposit of said \$5 million per year

1 when the District Board of Directors finds and determines, based  
2 on reasonable projections of said payment obligations and of  
3 interest earned on the money in the Drainage Trust Fund, that  
4 there is sufficient money therein to meet said payment obliga-  
5 tions.

6 7.1.2. Each year, the per acre average of said  
7 assessments levied by the District within (a) the territory  
8 encompassing Areas 1A and 1B and lands adjacent thereto annexed  
9 to the District after June 29, 1965, shall be 1.7 times the per  
10 acre average of said assessments within (b) the territory encom-  
11 passing Areas 2A and 2B and lands adjacent thereto annexed to the  
12 District after June 29, 1965. However, within each of the terri-  
13 tories described in (a) and (b) in the preceding sentence, the  
14 District shall apportion said assessments as authorized by law,  
15 including but not limited to Water Code Sections 36577 and 36578.

16 7.1.3. The District Treasurer shall be trustee of  
17 the Drainage Trust Fund and shall make the payments required  
18 under Paragraphs 7.1.4 and 7.1.7 below. The trustee shall invest  
19 the money in the Drainage Trust Fund to earn the highest possible  
20 rate of interest in prudent, legally authorized investments  
21 pursuant to California Government Code Sections 53600-53683. The  
22 interest earned on said investment shall become part of the  
23 Drainage Trust Fund.

24 7.1.4. For each Federal fiscal year (hereinafter  
25 "fiscal year") the trustee shall pay the United States from the  
26 Drainage Trust Fund, in accordance with the procedure and to the  
27 extent stated in Paragraph 7.1.5 below, a progress payment of 35  
28 percent of the estimated Costs of Construction by the United

1 States during that fiscal year of Drainage Service Facilities.  
2 As to facilities constructed or acquired by the United States for  
3 drainage service which have capability to serve others in addi-  
4 tion to capability as Drainage Service Facilities, the 35 percent  
5 progress payment to be paid from the Drainage Trust Fund shall be  
6 reduced to reflect the District's proportionate benefits from  
7 such facilities. The required progress payment to the United  
8 States from the Drainage Trust Fund for any fiscal year shall not  
9 exceed \$500,000 per facility for design and preparation of plans  
10 and specifications and \$15 million for total Costs of Construc-  
11 tion of all facilities. The progress payments in the aggregate  
12 shall not exceed \$100 million. Accumulated payments from the  
13 Drainage Trust Fund under Paragraph 7.1.7 below shall be credited  
14 toward meeting both the District's fiscal year and aggregate  
15 progress payment obligations.

16 7.1.5. By July 1 of each year, the Federal  
17 Parties shall advise the trustee of the estimated Costs of  
18 Construction to be incurred by the United States during each  
19 quarter of the upcoming fiscal year. The trustee shall pay the  
20 United States the required portion of said estimated quarterly  
21 cost on October 1, January 1, April 1, and July 1 of that fiscal  
22 year, to the extent that the Congress has appropriated federal  
23 funds sufficient to cover the remainder of such estimated costs.  
24 In the event the trustee does not make such payment when due, the  
25 Federal Parties shall have the right to withdraw the required  
26 amount of money from the Drainage Trust Fund on behalf of the  
27 United States. At the end of each quarter, if the actual Costs  
28 of Construction incurred by the United States during such quarter



1 were less than the estimated costs, there shall be an appropriate  
2 credit against the next quarterly progress payment obligation  
3 from the Drainage Trust Fund.

4 7.1.6. On October 1 and April 1 of each year, or  
5 at other times as agreed in writing by the Federal Parties and  
6 the trustee of the Drainage Trust Fund, the trustee shall provide  
7 a statement to the Federal Parties specifying the amount of money  
8 in the Drainage Trust Fund.

9 7.1.7. Upon the District's request, the Trustee  
10 shall pay the District from the Drainage Trust Fund:

11 (a) (i) the Costs of Construction, both before  
12 and after the date of this Judgment, of Cost Effective and  
13 financially feasible Drainage Service Facilities constructed  
14 or acquired by the District and the cost of Cost Effective  
15 and financially feasible Drainage Reduction Programs imple-  
16 mented by the District either before or after the effective  
17 date of this Judgment, or (ii) the amounts needed to repay  
18 District funds, or the principal of money borrowed by the  
19 District, used either before or after the effective date of  
20 this Judgment to pay any of the foregoing costs;

21 (b) a maximum of \$5 million which may be used for  
22 any one or more of the following: (i) to pay the costs of  
23 studies and investigations of drainage problems and  
24 solutions, either before or after the effective date of this  
25 Judgment; (ii) to repay District funds or the principal of  
26 money borrowed by the District to pay the costs described in  
27 (i) immediately above; (iii) to pay the interest cost of  
28 money borrowed by the District, either before or after the

1 effective date of this Judgment, to pay the Costs of  
2 Construction (not exceeding a total of \$30 million) of  
3 Drainage Service Facilities constituting "Alternative Means"  
4 under the agreement between the District and the U.S.  
5 Department of the Interior dated April 3, 1985 (a copy of  
6 which is attached hereto as Exhibit H); and

7 (c) the amounts needed to repay the principal of  
8 money borrowed and deposited into the Drainage Trust Fund by  
9 the District as required by Paragraph 7.1.1 above.

10 The District shall consult with the Federal Parties before  
11 incurring any Costs of Construction of Drainage Service Facil-  
12 ities or any costs of implementing Drainage Reduction Programs,  
13 or borrowing any money to pay such costs. Construction or  
14 acquisition by the District of Drainage Service Facilities or  
15 implementation by the District of Drainage Reduction Programs  
16 paid for with money from the Drainage Trust Fund shall reduce, by  
17 the amount of the design capacity of such facilities or by the  
18 design amount of drainage reduction resulting from such programs,  
19 the legal obligation of the United States to the District, if  
20 any, to construct or acquire Drainage Service Facilities or  
21 provide drainage service.

22 7.1.8. The money then deposited in the Drainage  
23 Trust Fund, including accumulated interest, shall be released to  
24 the District free of any obligation to the United States if and  
25 when any of the conditions specified in Paragraphs 7.1.8.1  
26 through 7.1.8.8 below occurs.

1                   7.1.8.1. The Federal parties do not develop,  
2 adopt, and submit to the District the Drainage Plan by December  
3 31, 1991.

4                   7.1.8.2. The Congress has not authorized the  
5 appropriation of funds for the construction or acquisition of at  
6 least one Drainage Service Facility described in the Drainage  
7 Plan by December 31, 1993.

8                   7.1.8.3. The Federal Parties have not  
9 commenced actual construction or acquisition of at least one  
10 Drainage Service Facility described in the Drainage Plan by  
11 December 31, 1996.

12                   7.1.8.4. After the authorization referred to  
13 in Paragraph 7.1.8.2, the Congress for any two consecutive fiscal  
14 years does not appropriate funds for construction or acquisition  
15 of Drainage Service Facilities.

16                   7.1.8.5. After the Congress has appropriated  
17 funds for the construction or acquisition of Drainage Service  
18 Facilities, the Federal Parties do not diligently pursue con-  
19 struction or acquisition thereof.

20                   7.1.8.6. The Federal Parties do not complete  
21 construction or acquisition of at least one Drainage Service  
22 Facility by the date provided in the Drainage Plan schedule.

23                   7.1.8.7. The Federal Parties state that they  
24 will not develop or implement the Drainage Plan.

25                   7.1.8.8. The Congress conditions future  
26 appropriations for Drainage Service Facilities on cost sharing  
27 arrangements different from those provided in Paragraph 7.1.4  
28 above, and the District, after 30 days written notice to its

1 landowners and water users and opportunity for hearing, gives  
2 written notice to the Federal Parties that it desires release of  
3 the money as provided in Paragraph 7.1.8. Such notice to the  
4 Federal Parties shall be given within six months of the effective  
5 date of, and shall specify, the Act of Congress giving rise to  
6 the District's right to a release of such money.

7 7.1.9. Each of the conditions specified in  
8 Paragraphs 7.1.8.1 through 7.1.8.7 above may be waived or the  
9 time extended by written agreement between the Federal Parties  
10 and the District, with Area I and Area II concurrence as provided  
11 in Paragraph 22.5 below.

12 7.2. Upon release from the Drainage Trust Fund under  
13 Paragraph 7.1.8 above, the money not needed to discharge payment  
14 obligations previously incurred pursuant to Paragraph 7.1.7 above  
15 shall be paid by the District as a refund to the landowners whose  
16 assessment payments were the original source of the money in  
17 amounts proportionate to such assessments.

18 7.3. Except as provided in Paragraph 7.3.2 below, on  
19 request of the District, the United States shall reimburse the  
20 District for the progress payments which were previously made by  
21 the District to the United States from the Drainage Trust Fund  
22 pursuant to Paragraph 7.1.4 above, plus Statutory Interest from  
23 the date each progress payment was made to the date on which the  
24 money in the Drainage Trust Fund is released to the District,  
25 with respect to any uncompleted Drainage Service Facility for  
26 which progress payments have been made if (i) for two consecutive  
27 fiscal years the United States has not incurred any Costs of  
28 Construction with respect to such facility and (ii) at the time

1 of such request, the United States has not resumed and does not  
2 thereafter diligently continue to incur Costs of Construction of  
3 such facility. Such reimbursement shall be accomplished by  
4 credits against water service payments due from the District to  
5 the United States, commencing the first day of the month after  
6 the Drainage Trust Fund is released to the District, until the  
7 total progress payments made pursuant to Paragraph 7.1.4 above  
8 have been reimbursed, with Statutory Interest on the unreimbursed  
9 amount starting the first day of said month. Thereafter, the  
10 District shall be entitled to no further credit for said progress  
11 payments made pursuant to Paragraph 7.1.4 above.

12 7.3.1. Notwithstanding the credits provided for  
13 in Paragraph 7.3 above, (a) water users in the District shall pay  
14 the District for water service the same amounts of money as they  
15 would have been required to pay for water service in the absence  
16 of said credits, and (b) at the time payments for such water  
17 service would have otherwise been made to the United States, the  
18 District shall deposit an amount of money equal to said credits  
19 into a special Assessment Refund Account of the District, which  
20 the District shall invest to earn the highest possible rate of  
21 interest in prudent, legally authorized investments pursuant to  
22 California Government Code Sections 53600-53683. Said interest  
23 shall become a part of said Assessment Refund Account. The money  
24 deposited into the Assessment Refund Account plus the interest  
25 thereon shall be paid by the District periodically as soon as  
26 practicable as refunds to the landowners for the portion of their  
27 assessments not previously refunded from the released Drainage  
28 Trust Fund.

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7.3.2. No reimbursement shall be made to the District pursuant to Paragraph 7.3 above of any progress payment previously made from the Drainage Trust Fund for any Drainage Service Facility if it is financially feasible for the District to complete construction and to operate and maintain such facility. In such event, the District shall have the right, but not the obligation, to complete the construction of, and to operate and maintain, such facility.

7.4. Unless and until one of the conditions specified in Paragraphs 7.1.8.1 through 7.1.8.8 above occurs, the parties shall not seek judicial relief based on any claim that the United States or the Federal Parties have any statutory, contractual or other obligation, or are violating any such obligation, to construct Drainage Service Facilities or to provide drainage service.

7.5. Beginning upon completion of construction or acquisition by the United States of any Drainage Service Facilities included in the Drainage Plan and continuing through December 31, 2007, the District shall pay the United States for drainage service, in addition to the \$0.50 per acre foot drainage service charge under the 1963 Contract, a drainage service charge per acre foot of Central Valley Project water delivered to the District sufficient, when combined with the \$0.50 per acre foot charge, to cover the District's share of the operation and maintenance costs of such Drainage Service Facilities. Such additional charge shall be adjusted by the Federal Parties annually in subsequent years after payment begins by the same percentage as the change in the annual operation and maintenance

1 costs of said Drainage Service Facilities; provided, that no  
2 increase in such charge shall be effective for any year unless  
3 written notice of the estimated increase is given by the Federal  
4 Parties to the District on or before September 1 of the previous  
5 year and written notice of the actual increase is given by the  
6 Federal Parties to the District on or before December 1 of the  
7 previous year. The United States shall credit the total drainage  
8 service charges collected, first, to payment of the District's  
9 share of the operation and maintenance cost of said Drainage  
10 Service Facilities and, second, to the District's share of the  
11 construction costs of said facilities.

12 7.6. During the duration of this Judgment, the Dis-  
13 trict shall not pay a total of more than \$100 million (exclusive  
14 of any interest other than the \$5 million referred to in Para-  
15 graph 7.1.7(b) above) for Costs of Construction of Drainage  
16 Service Facilities and costs of implementing Drainage Reduction  
17 Programs by either or both the District and the United States.  
18 If, however, the United States and the District agree to an  
19 amount greater than \$100 million and the Area I and Area II  
20 concurrences are obtained as provided in Paragraph 22.5, the  
21 District shall pay such additional amount.

22 7.7. Nothing in Paragraph 6 above or this Paragraph 7  
23 shall be deemed to prevent the Congress from conditioning future  
24 appropriations for Drainage Service Facilities on cost sharing  
25 arrangements different from those provided in this Judgment.  
26  
27  
28

1           8.   Refunds to District for Net Overpayments and Deposits.

2  
3           The parties agree that, as a result of overpayments and  
4 underpayments by the District to the United States for water  
5 service since June 30, 1978, and deposits by the District to the  
6 Existing Trust Fund since January 1, 1982, the District is  
7 entitled to the money referred to in Paragraphs 8.1 and 8.2  
8 below.

9           8.1. The entire amount in the Existing Trust Fund at  
10 the end of the month in which this Judgment is entered, including  
11 principal and interest, (which was a total of \$37,960,287.75 as  
12 of February 28, 1986) shall be released to the District from said  
13 trust at the end of said month. As soon thereafter as possible,  
14 the money shall be used, first, for payment of court costs and  
15 attorneys' fees and expenses as provided in Paragraph 19 below  
16 and, second, to refund water users in the District having net  
17 credits as provided in Paragraph 9 below.

18           8.2. As of the end of the month in which this Judgment  
19 is entered, the District shall be entitled to a refund from the  
20 United States of a sum which was \$6,900,081.00 as of February 28,  
21 1986, as shown in Exhibit I attached hereto, which amount in-  
22 cludes Statutory Interest. Said refund amount shall be adjusted  
23 to reflect overpayments and underpayments and Statutory Interest  
24 thereon from March 1, 1986, to the end of the month in which this  
25 Judgment is entered.

26           8.3. The adjusted refund referred to in Paragraph 8.2  
27 above shall be applied as a credit against payments due from the  
28



1 District to the United States as provided in Paragraph 13.2  
2 below.

3 8.4. Notwithstanding the credit provided for in  
4 Paragraph 8.3 above, (a) in the first year after this Judgment is  
5 entered, the District shall levy, and apportion within the  
6 District as authorized by law, and the landowners in the District  
7 shall pay to the District assessments in the total amount of said  
8 credit and (b) the District shall deposit the assessments so paid  
9 into a special Overpayment Refund Account of the District, which  
10 the District shall invest to earn the highest possible rate of  
11 interest in prudent, legally authorized investments pursuant to  
12 California Government Code Sections 53600-53683. Said interest  
13 shall become a part of the Overpayment Refund Account. The money  
14 in the Overpayment Refund Account shall be refunded or used as  
15 provided in Paragraphs 9.6.2 and 9.6.3 below.

16  
17 9. Overpayment Credits and Underpayment Debits to Water  
18 Users.

19  
20 9.1. The District shall establish a bookkeeping  
21 account for every District water user who purchased water from  
22 the District for use during the Bookkeeping Account Period.

23 9.2. Each water user's bookkeeping account shall show,  
24 as a credit, the amount of overpayments to the District and, as a  
25 debit, the amount of underpayments to the District for the  
26 various categories of water purchased by such water user for use  
27 during the Bookkeeping Account Period and the amount of Statutory  
28 Interest properly attributable thereto as determined by the

1 District. Exhibit J attached hereto shows the totals of all  
2 overpayments and underpayments to the District for the Book-  
3 keeping Account Period for the various categories of water as of  
4 February 28, 1986. Said totals shall be adjusted to reflect  
5 overpayments and underpayments from March 1, 1986, through the  
6 end of the month in which this Judgment is entered. In allocat-  
7 ing these adjusted totals and Statutory Interest thereon among  
8 the various water user's bookkeeping accounts, the District shall  
9 be guided by the principles set forth in Paragraphs 9.2.1 through  
10 9.2.5 below.

11 9.2.1. All the water purchased by agricultural  
12 water users in Areas 1A and 1B has been "San Luis agricultural"  
13 ("SL AG") water. The remaining SL AG category water not  
14 purchased by agricultural water users in Areas 1A and 1B for use  
15 in each year has been purchased by agricultural water users in  
16 Areas 2A and 2B in proportion to the total amount of water  
17 purchased by each such water user for use in such year. However,  
18 as an exception to the first sentence of Paragraph 9.2.1 above,  
19 SL AG water is deemed to have become "San Luis Agricultural  
20 operation and maintenance" ("SL AG O&M") water to the extent the  
21 water was delivered for use to lands subject to the operation and  
22 maintenance water rate pursuant to Section 208 of the 1982 Act.

23 9.2.2. Agricultural water users in Areas 2A and  
24 2B have purchased all the "Mendota Pool agricultural water" ("MP  
25 AG") each year in proportion to the total amount of water pur-  
26 chased by each such water user for use in such year.

27 9.2.3. The remainder of the total amount of water  
28 which has been purchased by each agricultural water user in Area

1 2A and 2B for use in each year has been "San Luis agricultural  
2 excess" ("SL AG EX") water.

3 9.2.4. All the water which has been purchased by  
4 agricultural water users in areas annexed to the District after  
5 June 29, 1965, has been SL AG EX water.

6 9.2.5. Municipal and industrial water users in  
7 the District have purchased and used only "San Luis Municipal and  
8 Industrial" ("SL M&I") water.

9 9.3. Each water user's bookkeeping account shall also  
10 show, as a debit, such water user's share of the total payment by  
11 the District of court costs and attorneys' fees and expenses as  
12 provided for in Paragraph 19 below. Each water user's share  
13 shall be the same proportion of said total payment as the total  
14 amount of water purchased by such water user from the District  
15 for use during the Bookkeeping Account Period is of the total  
16 amount of water purchased by all water users from the District  
17 for use during the Bookkeeping Account Period.

18 9.4. Each water user's bookkeeping account shall also  
19 show such water user's net credit or net debit, taking into  
20 account the credits and debits described in Paragraphs 9.2 and  
21 9.3 above.

22 9.5. Each water user having a net debit in such water  
23 user's bookkeeping account shall be obligated to pay the District  
24 the amount thereof, together with Statutory Interest on the  
25 unpaid balance beginning the first day of the month after this  
26 Judgment is entered. The District shall take such action as it  
27 deems appropriate to collect the amount owed, including but not  
28 limited to adding such amount to such water user's water purchase

1 payment obligations. The amount collected shall be deposited  
2 into and become part of the Overpayment Refund Account estab-  
3 lished by Paragraph 8.4 above.

4 9.6. The net credits in the water users' bookkeeping  
5 accounts shall be refunded as provided in Paragraphs 9.6.1  
6 through 9.6.3 below.

7 9.6.1. The total amount of money released to the  
8 District from the Existing Trust Fund under Paragraph 8.1 above,  
9 less the amount paid for court costs and attorneys' fees and  
10 expenses as provided in Paragraph 19 below, shall be apportioned  
11 among and paid to all the water users having net credits in  
12 proportion to their net credits.

13 9.6.2. When the required money has been deposited  
14 in the Overpayment Refund Account under Paragraphs 8.4 and 9.5  
15 above, the money therein shall be apportioned among and paid by  
16 the District as soon as practicable to all the water users having  
17 net credits in proportion to their net credits. Upon such  
18 payments being completed, said net credits shall be deemed fully  
19 refunded.

20 9.6.3. If the District is unable to locate a  
21 particular water user to refund the net credit to which such  
22 water user is entitled, the amount due such water user shall be  
23 used as determined by the District.

24  
25 10. Service Area - Area 1B and 2B Rights.

26  
27 10.1. Area 1B, in addition to Area 1A, is within the  
28 authorized service area of the Central Valley Project, including

1 the San Luis Unit and Delta Mendota Canal, and is entitled to the  
2 same water supply and the same rights pertaining thereto as Area  
3 1A.

4 10.2. Area 2B, in addition to Area 2A, is within the  
5 authorized service area of the Central Valley Project, including  
6 the San Luis Unit and Delta Mendota Canal, and is entitled to the  
7 same water supply and the same rights pertaining thereto as Area  
8 2A.

9 10.3. Areas adjacent to Area 1B or Area 2B which in the  
10 past have been annexed to the District with the consent of the  
11 United States are within the authorized service area of the  
12 Central Valley Project, including the San Luis Unit and Delta  
13 Mendota Canal.

14  
15 11. Improvement Districts and Future Contracts.

16  
17 11.1. The District shall initiate proceedings to form  
18 an improvement district encompassing all of Area 2A and Area 2B  
19 plus lands annexed to the District after June 29, 1965, for the  
20 purpose, among other things, of contracting with the United  
21 States for water service to serve solely the lands therein. The  
22 District also may initiate proceedings to form one or more  
23 improvement districts encompassing all or certain portions of the  
24 same territory described in the preceding sentence for the  
25 purpose, among other things, of contracting with the United  
26 States for construction of water distribution facilities or  
27 collector drainage facilities to serve the lands therein.

28

1           11.2. The District shall, with Area I concurrence as  
2 provided in Paragraph 22.5 below, initiate proceedings in the  
3 future to form one or more improvement districts encompassing all  
4 or certain portions of Area 1A and Area 1B for the purpose, among  
5 other things, of contracting with the United States, if and when  
6 appropriate, for completion of a collector drainage and water  
7 distribution system to serve the lands therein.

8           11.3. For any improvement district of the District to  
9 be eligible to contract with the United States for any purpose  
10 referred to in Paragraphs 11.1 and 11.2 above, it must qualify as  
11 an "organization" under Section 2(g) of the 1939 Act, and to be  
12 eligible to contract with the United States for the purpose of  
13 construction of collector drainage or water distribution facil-  
14 ities, it must be of such size and configuration as the Secretary  
15 of the Interior reasonably determines constitutes a logical area  
16 for such purpose. Upon any improvement district of the District  
17 entering into a contract with the United States for any purpose  
18 referred to in Paragraph 11.1 and 11.2 above, the contracting  
19 improvement district, but not the portion of the District outside  
20 such contracting improvement district, shall, if required by  
21 Section 203 (a) of the 1982 Act, become subject to the discre-  
22 tionary provisions of the 1982 Act by virtue of entering into  
23 said contract.

24           11.4. Neither the District nor any improvement dis-  
25 trict of the District shall enter into any future contract with  
26 the United States as described in Section 203(a) of the 1982 Act  
27 (a) without approval of the voters of the District or improvement  
28 district thereof, as appropriate, by two-thirds of the votes

1 cast, and (b) until the latest date reasonably necessary, which,  
2 in the case of a future contract with the United States for  
3 completion of a collector drainage system to serve lands in Area  
4 1A and Area 1B, shall be the latest date which would enable  
5 completion of such collector drainage system by the time Drainage  
6 Service Facilities are completed and ready to receive and dispose  
7 of drainage therefrom.

8 11.5. The entry into and performance of any water  
9 service contract between the United States and any improvement  
10 district of the District pursuant to this Judgment shall create  
11 no rights, preferences or priorities as to water service between  
12 lands in the Original Westlands District and lands in the Former  
13 Westplains District after the term of this Judgment.

14  
15 12. Cooperation Between District and Federal Parties.

16  
17 12.1.1. Reference is made to the recital of facts  
18 in Paragraph 5.1 above. Subject to all the requirements of this  
19 Judgment and the law, including the applicable provisions of the  
20 National Environmental Policy Act ("NEPA"), Federal reclamation  
21 law and the Administrative Procedure Act, including their  
22 requirements respecting agency decision-making, the Federal  
23 Parties shall, with the cooperation of the District, enter into a  
24 long-term contract under Section 9(e) of the 1939 Act on behalf  
25 of the United States with an improvement district of the District  
26 encompassing all of the territory described in Paragraph 11.1  
27 above, for the firm annual delivery of the amounts of Central  
28 Valley Project water referred to in Paragraph 5 above at the

1 rates specified in that paragraph for a term expiring no sooner  
2 than December 31, 2007; provided, that in the event of an alleged  
3 breach of the provisions of this Paragraph 12.1.1 by the Federal  
4 Parties, the remedies available to a party shall be  
5 limited to: (1) the revival of any claim otherwise preserved  
6 pursuant to Paragraph 14.1.1, below, or (2) the bringing of a new  
7 action pursuant to the Administrative Procedure Act, 5 U.S.C. §  
8 701 et seq.

9 12.1.2. Subject to all requirements of this  
10 Judgment and the law, including the applicable provisions of  
11 NEPA, Federal reclamation law and the Administrative Procedure  
12 Act, including their requirements respecting agency decision-  
13 making, and subject to any necessary congressional authorization,  
14 the availability of funds appropriated by the Congress, and the  
15 execution of an appropriate repayment or loan contract between  
16 the United States and the District or an improvement district of  
17 the District that is approved by the Secretary pursuant to  
18 Paragraph 11.3 above, the Federal Parties will make a good faith  
19 effort to construct water distribution and collector drainage  
20 facilities needed in the District in addition to those con-  
21 structed under the 1965 Contract; provided, that the sole remedy  
22 available to a party for an alleged breach of this Paragraph  
23 12.1.2 by the Federal Parties shall be limited to pursuing a  
24 claim as described in Paragraph 14.1.8 below.

25 12.2. With reference to the portion of the District  
26 encompassing Areas 2A and 2B plus lands annexed to the District  
27 after June 29, 1965, the provisions of Paragraph 12.3 below are  
28 included in this Judgment in light of the facts recited in



1 .Paragraphs 12.2.1 through 12.2.6 below, as agreed to by the  
2 parties.

3           12.2.1. In addition to any water obtained by  
4 contract pursuant to Paragraph 12.1.1 above, any water available  
5 to such portion of the District under Paragraphs 5 above and 17.3  
6 below, and the limited available groundwater supply, such portion  
7 of the District needs an additional annual supplemental water  
8 supply of 100,000 acre feet or more in order to provide it a  
9 total water supply adequate to sustain the existing agricultural  
10 development.

11           12.2.2. That need for an additional annual  
12 supplemental water supply to Areas 2A and 2B has been  
13 acknowledged by the Federal Parties and the District since before  
14 the merger of Former Westplains District and Original Westlands  
15 District in 1965.

16           12.2.3. Such portion of the District currently  
17 has no water supplies available to it other than those described  
18 in Paragraph 12.2.1 above.

19           12.2.4. Such portion of the District is within  
20 the authorized service area of the Central Valley Project.

21           12.2.5. Additional water service can be provided  
22 to such portion of the District from the Central Valley Project  
23 through the existing main conveyance facilities of the Central  
24 Valley Project, to the extent such service does not interfere  
25 with the furnishing of Central Valley Project water to contract  
26 entities in the San Felipe Division, Central Valley Project.

27           12.2.6. Such portion of the District has the  
28 financial ability and is willing to pay the United States the

1 applicable rates for an additional annual supplemental water  
2 supply from the Central Valley Project.

3 12.3. At such time as additional Central Valley  
4 Project water becomes available for long-term contracting, the  
5 Federal Parties, subject to all requirements of law and the  
6 then-prevailing Bureau of Reclamation water marketing policy,  
7 shall make a good faith effort to provide for delivery of an  
8 additional annual supplemental water supply to an improvement  
9 district encompassing such portion of the District or, if no such  
10 improvement district then shall exist, to the District, under  
11 mutually agreeable contract terms and conditions; provided, that  
12 nothing in this Paragraph 12.3 shall be deemed to confer upon  
13 either such improvement district or the District any priority  
14 right to such additional water vis a vis any other potential or  
15 competing users of available Central Valley Project water;  
16 provided further, that in the event of an alleged breach of the  
17 provisions of this Paragraph 12.3 by the Federal Parties, the  
18 sole remedy available to a party shall be limited to the bringing  
19 of a new action pursuant to the provisions of the Administrative  
20 Procedure Act, 5 U.S.C. § 701 et seq.

21  
22 13. Repayment of Funds Expended Under P.L. 95-46

23  
24 13.1. The provisions of Paragraphs 13.2 and 13.3 below  
25 are included in light of the facts recited in Paragraphs 13.1.1  
26 through 13.1.5 below, as agreed to by the parties.

27 13.1.1. Public Law 95-46, enacted June 15, 1977,  
28 authorized to be appropriated and to be committed for expenditure

1 by the Secretary of the Interior the sum of \$31,050,000 (herein-  
2 after "P.L. 95-46 funds") for continuation of construction of  
3 distribution systems and drains on the San Luis Unit, Central  
4 Valley Project. But said statute prohibited the Secretary from  
5 expending any of those funds prior to obtaining a pledge of the  
6 Board of Directors of the District indicating its intent to repay  
7 costs associated with the construction authorized by said  
8 statute.

9 13.1.2. On May 13, 1977, in anticipation of the  
10 enactment of Public Law 95-46, the Board of Directors of the  
11 District adopted Resolution No. 549-77 wherein it pledged to take  
12 all steps necessary to insure repayment by the District of  
13 expenditures of funds by the United States on behalf of the  
14 District pursuant to said statute. On June 23, 1977, the Dis-  
15 trict mailed a certified copy of that Resolution to the Federal  
16 Parties. That copy was received by the Federal Parties on June  
17 27, 1977, and was immediately accepted by the Federal Parties as  
18 the pledge of the District Board of Directors described in said  
19 statute.

20 13.1.3. Thereafter, in 1978, the Congress com-  
21 menced the appropriation and the Federal Parties commenced the  
22 expenditure within the District of P.L. 95-46 funds, and the  
23 District accepted the benefits thereof.

24 13.1.4. By virtue of the foregoing, the District  
25 became and still remains contractually obligated at law to repay  
26 to the United States all P.L. 95-46 funds, expended on the  
27 District's behalf, on such terms as are required by Section 9(d)  
28 of the 1939 Act and were, at that time, customarily used in

1 repayment contracts between the United States and water districts  
2 under said section.

3 13.1.5. To date, the Federal Parties have  
4 expended \$22,027,371 of P.L. 95-46 funds to construct  
5 distribution and collector drainage facilities in the District  
6 and intend to expend the remaining \$9,022,629 of said funds to  
7 construct additional distribution and collector drainage  
8 facilities within the District to the extent such funds are now  
9 or hereafter become available.

10 13.1.6. Exhibit K attached hereto and  
11 incorporated herein by reference includes the terms customarily  
12 used in repayment contracts between the United States and water  
13 districts under Section 9(d) of the 1939 Act at the time the  
14 contractual obligations referred to in Paragraph 13.1.4 arose.

15 13.2. The terms of the contractual obligations between  
16 the District and the United States with respect to the  
17 expenditure and repayment of P.L. 95-46 funds within the District  
18 are set forth in Exhibit K.

19 13.3. As set forth in Exhibit K:

20 (a) The adjusted refund to which the District is  
21 entitled under Paragraph 8.2 above is applied as a credit  
22 against the expenditure of P.L. 95-46 funds to date of  
23 \$22,027,371, and the District's contractual obligation is  
24 thereby repaid to the extent of that credit.

25 (b) The remaining amount of P.L. 95-46 funds  
26 expended to date shall be repaid by the District in 28 equal  
27 semi-annual installments on January 1 and July 1 each year  
28 beginning July 1 of the year after this Judgment is entered.

1                   (c) Upon completion of expenditure by the United  
2 States of the presently unexpended remainder of P.L. 95-46  
3 funds, said remainder shall be repaid by the District to the  
4 United States in 40 equal semi-annual installments on  
5 January 1 and July 1 each year beginning July 1 of the year  
6 following such completion of expenditure.  
7

8           14.   Claims Preserved and Claims not Affected by Judgment.  
9

10                   14.1. Notwithstanding this Judgment and the parties'  
11 voluntary dismissal of all claims for relief pleaded in these  
12 present actions, the claims described in Paragraphs 14.1.1 and  
13 14.1.2 below, and the right to judicial relief with respect  
14 thereto in other actions, are preserved, and the claims described  
15 in Paragraph 14.1.3 through 14.1.8 below are not affected by this  
16 Judgment.

17                   14.1.1. Any claim of (a) a long-term right to the  
18 water service provided for in Paragraph 5 above at an agricul-  
19 tural water service rate of \$7.50 per acre foot, and (b) if such  
20 a right is held not to exist, a right to recover the costs of  
21 operation and maintenance of the Pleasant Valley (Coalinga) Canal  
22 and Pumping Plant incurred by the District; provided, that such  
23 claims may be asserted only if the Federal Parties do not offer  
24 the District or an improvement district of the District encom-  
25 passing Areas 2A and 2B a contract as described in Paragraph  
26 12.1.1 above within a reasonable time prior to the expiration of  
27 the term of provisional water service provided for in Paragraph  
28 5.2.4 above.

1                   14.1.2. Any claim against the United States of  
2 the right to drainage service or Drainage Service Facilities,  
3 including but not limited to any claim by the District of the  
4 right to recover District costs of providing Drainage Service  
5 Facilities; provided, that the right to drainage service or  
6 Drainage Service Facilities which may be claimed against the  
7 United States during the term of this Judgment shall be limited  
8 to the removal and disposal of not to exceed 100,000 acre feet  
9 per year of subsurface agricultural drainage water from the  
10 District; provided further, that such claim may be asserted only  
11 upon the occurrence of one of the conditions specified in Para-  
12 graphs 7.1.8.1 through 7.1.8.8 above.

13                   14.1.3. Any claim that the second sentence of  
14 Section 203(b) of the 1982 Act is invalid or inapplicable to  
15 lands within the District.

16                   14.1.4. Any claim challenging the authority of  
17 the United States or the Federal Parties to sell excess lands  
18 under Federal reclamation law, including but not limited to the  
19 right to assert, subject to Paragraph 7.4 above, that provision  
20 for the Drain as set forth in the 1960 Act is a condition of the  
21 exercise of that authority.

22                   14.1.5. Any claim that a contract referred to in  
23 Paragraph 11.2 above is not a contract as described in Section  
24 203(a) of the 1982 Act.

25                   14.1.6. Any claim of any landowner or water user  
26 against the United States arising out of or relating to Exhibit H  
27 which (a) sounds in tort, or (b) has been asserted in any other  
28 action pending on the date of execution of the Stipulation for

1 Compromise Settlement from which this Judgment arose, or (c)  
2 seeks declaratory relief about the interpretation of the terms of  
3 Exhibit H.

4 14.1.7. Any claim of any landowner or water user  
5 against the District arising out of or relating to Exhibit H,  
6 drainage service, or Drainage Service Facilities.

7 14.1.8. Any claim of a party against the United  
8 States of a legal right to have additional water distribution or  
9 collector drainage facilities constructed within the District in  
10 addition to those constructed pursuant to the 1965 Contract;  
11 provided, that such claim may be asserted only in the event that  
12 the Federal Parties fail to perform in accordance with the terms  
13 of Paragraph 12.1.2 above, and not otherwise.

14 14.2. The claims referred to in Paragraphs 14.1.1  
15 through 14.1.8 above shall be subject to all available defenses,  
16 except that the running of time respecting the defense of statute  
17 of limitations and laches to the claims referred to in Paragraph  
18 14.1.1 and 14.1.2 above shall be tolled between the date this  
19 Judgment is entered and the first date when such claim may be  
20 asserted.

21  
22 15. Past Contracts, Water Allocation and Pricing.  
23

24 All parties have voluntarily dismissed with prejudice  
25 all claims for relief pleaded in these actions arising out of any  
26 Interim Contract, Exhibit H, any Internal Allocation Rule or  
27 any Internal Pricing Rule, except that the District and the  
28 United States retain any claim for relief arising out of Exhibit

1 H. No party shall recover any damages or obtain any other  
2 judicial relief in any action against any other party based on  
3 such past actions, except as provided in Paragraphs 8 and 9 above  
4 and Exhibit H. Notwithstanding the foregoing, any landowner or  
5 water user may assert in any other action any claim for relief  
6 referred to in Paragraphs 14.1.6 and 14.1.7 above and seek any  
7 remedy provided by law with respect thereto.

8  
9 16. Future Contracts - Rights Under Merger Law.

10  
11 Subject to the provisions of this Judgment and during  
12 its term, neither the District nor any improvement district of  
13 the District shall enter into any future water service, repayment  
14 or other contract, or perform under such contract, so as to  
15 impair the rights to which the 1A and 1B Parties are entitled  
16 pursuant to the Merger Law.

17  
18 17. Future Water Allocation and Pricing.

19  
20 17.1. Subject to the provisions of this Judgment and  
21 during its term, neither the District nor any improvement dis-  
22 trict of the District shall adopt any future Internal Allocation  
23 Rule or Internal Pricing Rule, or enforce any such rule, so as to  
24 impair the rights to which the 1A Parties and 1B Parties are  
25 entitled pursuant to the Merger Law.

26 17.2. The 1A Parties and 1B Parties shall have the  
27 first and prior right to timely apply for and purchase from the  
28 District the entire quantity of water to which the District is



1 entitled under the 1963 Contract. Except as provided in the  
2 preceding sentence and in Paragraphs 17.3 and 17.5 below, by  
3 virtue of the Merger Law the District shall adopt no Internal  
4 Allocation Rule in the future which allocates to Area 1A and Area  
5 1B less than such quantity of water.

6 17.3. Any water delivered to the District under the  
7 1963 Contract not purchased by water users in Area 1A and Area 1B  
8 shall be allocated ratably among water users in Area 2A and Area  
9 2B which timely apply for and purchase such water from the Dis-  
10 trict.

11 17.4. Any water delivered to the District by the  
12 United States for use within the District in addition to water  
13 delivered under the 1963 Contract, including but not limited to  
14 water delivered under Paragraph 5 above and under the water  
15 delivery contracts referred to in Paragraphs 12.1.1 and 12.3  
16 above, shall be allocated ratably among water users in Area 2A  
17 and Area 2B which timely apply for and purchase such water from  
18 the District.

19 17.5. In years of water shortage when water deliveries  
20 to Central Valley Project water contractors are reduced by the  
21 Federal Parties under their respective water service contracts,  
22 deliveries to and within the District of water purchased under  
23 Article 3 of the 1963 Contract to which the water users in Area  
24 1A and Area 1B have prior rights shall be proportionally reduced  
25 along with deliveries to and within the District of the addi-  
26 tional water from the Central Valley Project to which lands in  
27 the District are entitled.

28

1           17.6. Except as provided in Paragraph 7.3.1 above and  
2 Paragraph 18 below, the District shall not charge any water user  
3 more for water service or Drainage Service than the charges  
4 required to be paid to the United States for such service, plus  
5 any appropriate District charges to cover District costs rea-  
6 sonably necessary in making such service available within the  
7 District and in operating the District, including but not limited  
8 to compliance with this Judgment. Except as required by the 1982  
9 Act and as provided in Paragraph 18 below, the District shall  
10 adopt no Internal Pricing Rule in the future which imposes a  
11 water service charge for the water allocated to Area 1A and Area  
12 1B which is greater than the price of water which the District is  
13 obligated to pay under the 1963 Contract, plus the appropriate  
14 District charges referred to in the preceding sentence.

15  
16           18.   District Financing and Expenditures for  
17                   Drainage Purposes.

18           18.1. Notwithstanding anything to the contrary in  
19 Paragraphs 7.6 and 17.6 above or elsewhere in this Judgment, the  
20 District may raise money to be expended for any drainage purpose  
21 either by assessments on land or by charges for service or by a  
22 combination of both assessments and charges, as authorized by  
23 law, subject, however, to the conditions and limitations set  
24 forth in Paragraphs 18.2 through 18.5 below.

25           18.2. In levying any such assessments, the District  
26 shall apportion them as authorized by law, including but not  
27 limited to Water Code Sections 36577 and 36578.

28

1           18.3. In fixing any such charges, the District shall,  
2 if appropriate, equitably vary the amounts in different local-  
3 ities of the District to correspond to the cost and value of the  
4 service involved as authorized by law, including but not limited  
5 to Water Code Section 35470.

6           18.4. Before deciding on a major expenditure for any  
7 drainage purpose, the District shall give all water users (and,  
8 if appropriate, all landowners) reasonable notice of, and oppor-  
9 tunity to submit views to the District regarding, the proposed  
10 drainage purpose, the estimated amount of the expenditure, the  
11 proposed method of raising money to finance it, who will ulti-  
12 mately bear the cost, and any other relevant information. If, by  
13 reason of circumstances beyond the control of the District, there  
14 is insufficient time to give such notice and opportunity to all  
15 water users, the District shall give such notice and opportunity  
16 to the Area I and Area II representatives.

17           18.5. Area I and Area II concurrence, as provided in  
18 Paragraph 22.5 below, shall be required before the District may  
19 raise money or make appropriate expenditures for any drainage  
20 purpose, except that such concurrence is not required to raise  
21 money or make expenditures reasonably necessary (a) to comply  
22 with obligations arising from statutes and court and administra-  
23 tive judgments, orders and regulations, and from existing con-  
24 tracts, and (b) to make drainage service provided by the United  
25 States available within the District.

26  
27  
28

1           19.   Payment of Court Costs and Attorneys' Fees and  
2                    Expenses.

3                    Except as set forth herein, each party shall bear his  
4                    or its own court costs and attorneys' fees and expenses. The  
5                    District shall pay the class representatives their court costs  
6                    and reasonable attorneys' fees and expenses as approved by the  
7                    District for the representation of their respective classes. The  
8                    District shall also pay West Haven Farming Company its reasonable  
9                    attorneys' fees and expenses as approved by the District for its  
10                   assistance in achieving settlement of these actions, and shall  
11                   also pay Kings County Development Company Shareholders  
12                   Liquidating Trust, successor in interest to Kings County  
13                   Development Company, Stephens Investments Inc. et al, Chevron  
14                   U.S.A. and Southern Pacific Land Company, et al their respective  
15                   reasonable attorneys' fees and expenses up to \$25,000 each as  
16                   approved by the District for the assistance each has provided in  
17                   achieving settlement of these actions. Said payments shall be  
18                   made by the District from the money released from the Existing  
19                   Trust Fund under Paragraph 8.1 above before said money is used to  
20                   refund water users for their net credits.

21  
22           20.   Fifty Cents Per Acre Foot Drainage Service Charges.

23                   No party or water user shall be entitled to reimburse-  
24                   ment of any \$0.50 per acre foot drainage service charge paid in  
25                   the past.

1           21.   Pleasant Valley (Coalinga) Canal and Pumping Plant.

2  
3           Neither the District nor any water user or landowner  
4 therein has any right against the United States or the Federal  
5 Parties to any refund of the costs of operation and maintenance  
6 of the Pleasant Valley (Coalinga) Canal and Pumping Plant which  
7 the District has assumed in the past. The District shall retain  
8 the responsibility for such operation and maintenance until the  
9 end of 2007, as long as the Federal Parties continue to deliver  
10 to the District the quantities of Central Valley Project water  
11 specified in Paragraph 5 above at the rates specified therein.  
12 The 1A Parties and 1B Parties shall have no relief against the  
13 District or against the 2A Parties and the 2B Parties with  
14 respect to the manner in which the District has heretofore  
15 charged its water users for said costs under any Internal Pricing  
16 Rule. The District shall adopt no Internal Pricing Rule in the  
17 future which passes on the District's share of such charges on  
18 any other than a uniform basis throughout the District.

19  
20           22.   Termination of Classes and Authorization of Area  
21           Representatives.

22           22.1. The Area 1A, 1B, 2A and 2B Classes are hereby  
23 terminated and the representatives heretofore certified as  
24 representatives thereof are hereby discharged. In lieu thereof,  
25 Area representatives are hereby authorized to represent the two  
26 major areas of the District, Area I and Area II, for purposes of  
27 enforcement of this Judgment under Paragraph 3 and Area concur-

28

1      rence under Paragraphs 4.3, 7.1.1, 7.1.9, 7.6, 11.2, and 18  
2      above.

3                 22.2. The representatives of Area I shall initially be  
4      Boston Ranch Company, Edwin O'Neill, Frank Orff, Y. Stephen  
5      Pilibos and Fabry Farms. The representatives of Area II shall  
6      initially be Vista Verde Farms, Inc., Price Giffen & Associates,  
7      Jim Lowe Inc., Woolf Farming Company of California, Inc., and  
8      Perez Ranches Inc.

9                 22.3. Any representative of either such Area shall  
10     automatically lose status as such and shall no longer have any  
11     powers or duties as a representative of such Area hereunder upon  
12     the happening of either (a) the cessation of such representa-  
13     tive's juridical existence, including the death or adjudication  
14     of incompetence of a natural person, or the dissolution of a  
15     corporation, or (b) the cessation of such representative's  
16     ownership and operation of land within the Area of which he is a  
17     representative. Upon the occurrence of such vacancy, the remain-  
18     ing representatives of the affected Area owning or operating at  
19     least a majority of the assessed value of all the lands within  
20     such Area which are owned or operated by all the remaining  
21     representatives of such Area shall select a successor  
22     representative willing to so serve. The name of the successor  
23     representative shall be certified to the District by the repre-  
24     sentatives who have selected the successor. The District shall  
25     maintain an up-to-date list of the names and addresses of all  
26     Area representatives and the assessed value of the lands owned or  
27     operated by each.

28

1           22.4. The Court retains jurisdiction to remove or  
2 replace one or more of the representatives of an Area for good  
3 cause on motion of a landowner or water user within such Area.  
4 Notice of such motion shall be served upon all the representa-  
5 tives of such Area and upon the District.

6           22.5. Concurrence of an Area with District action, as  
7 required in Paragraphs 4.3, 7.1.1, 7.1.9, 7.6, 11.2 and 18 above,  
8 shall be deemed to have been obtained as follows:

9           The District shall give every Area representative of  
10 each Area for which concurrence is required for a particular  
11 action written notice of such action by certified mail. If,  
12 within 30 days after such notice has been mailed, the District  
13 has not received written objection to such action from represen-  
14 tatives owning or operating at least a majority of the assessed  
15 value of the land owned or operated within such Area by all the  
16 representatives thereof, concurrence of such Area shall be deemed  
17 to have been obtained. If, however, within said 30 days the  
18 District has received such written objection, concurrence shall  
19 be deemed not to have been obtained, except as follows with  
20 regard to the concurrence required under Paragraphs 7.1.1, 7.1.9,  
21 7.6, 11.2 and 18 above but not under Paragraph 4.3 above: The  
22 District may call an advisory election within such Area pursuant  
23 to the California Water District Act and the California Elections  
24 Code on the question of concurrence. If a majority of the votes  
25 cast in such election are in favor of concurrence, concurrence  
26 shall be deemed to have been obtained.

1        23.    Judgment and Stipulation for Compromise  
2                    Settlement Not a Contract.

3                    Neither this Judgment nor the Stipulation for Compro-  
4                    mise Settlement is a contract or an amendment to a contract with  
5                    the United States as described in Section 203(a) of the 1982 Act.  
6

7        24.    No New United States Drainage Service Obligation.

8  
9                    Nothing in this Judgment or the Stipulation for Compro-  
10                    mise Settlement shall be deemed to create any obligation of the  
11                    United States to provide any drainage service to the District or  
12                    to construct Drainage Service Facilities for the District, and  
13                    any claim that the United States has a preexisting obligation  
14                    with respect to drainage service or Drainage Service Facilities  
15                    may be brought by the District in accord with Paragraph 14.1.2  
16                    and not otherwise.

17        25.    Application of Certain Paragraphs.

18                    The provisions of Paragraphs 11.4, 16, 17 and 22 are  
19                    intended to, and shall, apply only among the District, the 1A  
20                    Parties, the 1B Parties, the 2A Parties and the 2B Parties and  
21                    are not intended to benefit the United States.

22                    Dated:                    \_\_\_\_\_.

23  
24                    \_\_\_\_\_  
25                    United States District Judge  
26  
27  
28