

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

CONTRACT BETWEEN THE UNITED STATES AND  
ANDERSON-COTTONWOOD IRRIGATION DISTRICT,  
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
SETTLING WATER RIGHTS DISPUTES AND  
PROVIDING FOR PROJECT WATER

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble .....	1
	Explanatory Recitals .....	2-3
1	Definitions.....	3-6
2	Term of Settlement Contract.....	7
3	Water to be Furnished to Contractor.....	7-12
4	Return Flow .....	12
5	Constraints on the Availability of Water .....	12-13
6	Integrated Water Management and Partnerships .....	13
7	Use of Water Furnished to Contractor .....	13-14
8	Rate and Method of Payment for Water .....	15-20
9	Agreement on Water Quantities.....	20-23
10	Measurement of Water.....	23-24
11	Rules and Regulations.....	24
12	General Obligation – Benefits Conditioned Upon Payment.....	24-25
13	Charges for Delinquent Payments .....	25
14	Quality of Water .....	25
15	Water and Air Pollution Control.....	26
16	Equal Opportunity.....	26-27
17	Compliance With Civil Rights Laws and Regulations.....	27
18	Mingling of Contractor’s Project and Non-Project Water .....	28-29

Table of Contents - continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
19	Books, Records, and Reports .....	29
20	Change of Place of Use or Organization.....	29-30
21	Consolidation of Contracting Entities.....	30
22	Notices .....	30
23	Assignment Limited – Successors and Assigns Obligated .....	30-31
24	Officials Not to Benefit.....	31
25	Contingent Upon Appropriation or Allotment of Funds .....	31
26	Confirmation of Settlement Contract.....	31
27	Unavoidable Groundwater Percolation.....	31
28	Privacy Act Compliance .....	32
29	Water Conservation .....	32-34
30	Opinions and Determinations .....	35
31	Contractor to Pay Certain Miscellaneous Costs.....	35-36
32	Waiver of Default .....	36
	Signature Page .....	37
Exhibit A	Schedule of Monthly Diversions of Water	
Exhibit B	Map of Contractor’s Ownership	
Exhibit C	Unit Duty	
Exhibit D	Water Rates and Charges	

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

7 CONTRACT BETWEEN THE UNITED STATES AND  
8 ANDERSON-COTTONWOOD IRRIGATION DISTRICT,  
9 DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
10 SETTLING WATER RIGHTS DISPUTES AND  
11 PROVIDING FOR PROJECT WATER

12 THIS CONTRACT, hereinafter referred to as "Settlement Contract," is entered into  
13 by THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, made  
14 this 1st day of July, 2005, pursuant to the applicable authority granted  
15 to it generally in the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary  
16 thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and  
17 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, including, but not  
18 limited to, Sections 9 and 14 thereto, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68),  
19 October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title  
20 XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to  
21 as Federal Reclamation law, and ANDERSON-COTTONWOOD IRRIGATION DISTRICT,  
22 hereinafter referred to as the Contractor, a public agency of the State of California, duly  
23 organized, existing, and acting pursuant to the laws thereof, with its principal place of business in  
24 California;

25 WITNESSETH, that:

26

EXPLANATORY RECITALS

27           [1<sup>st</sup>]   WHEREAS, the United States has constructed and is operating the Central Valley  
28 Project, California, for multiple purposes pursuant to its statutory authority; and

29           [2<sup>nd</sup>]   WHEREAS, the Contractor has rights to divert, is diverting, and will continue to  
30 divert for reasonable beneficial use, water from the natural flow of the Sacramento River and  
31 tributaries thereto, that would have been flowing therein if the Central Valley Project were not in  
32 existence;

33           [3<sup>rd</sup>]   WHEREAS, the construction and operation of the integrated and coordinated  
34 Central Valley Project has changed and will further change the regimen of the Sacramento,  
35 American, San Joaquin, and Trinity Rivers and the Sacramento-San Joaquin Delta from  
36 unregulated flow to regulated flow; and

37           [4<sup>th</sup>]   WHEREAS, the United States has rights to divert, is diverting, and will continue  
38 to divert waters from said Rivers and said Delta in connection with the operation of said Central  
39 Valley Project; and

40           [5<sup>th</sup>]   WHEREAS, the Contractor and the United States had a dispute over the  
41 respective rights of the parties to divert and use water from the regulated flow of the Sacramento  
42 River which threatened to result in litigation, and as a means to settle that dispute entered into  
43 Contract No. 14-06-200-3346A, hereinafter referred to as the Existing Contract, which  
44 established terms for the delivery to the Contractor of Central Valley Project Water, and the  
45 quantities of Base Supply the United States and the Contractor agreed may be diverted by the  
46 Contractor from the Sacramento River pursuant to such contract; and

47           [6<sup>th</sup>]   WHEREAS, the United States and the Contractor disagree with respect to the  
48 authority of the United States to change the quantities of Base Supply and/or Project Water

49 specified as available for diversion in this Settlement Contract from the quantities specified in  
50 the Existing Contract, and other issues related thereto. That dispute was the subject of litigation  
51 in a lawsuit entitled *Glenn-Colusa Irrigation District, et al. v. United States, et al.* [Civ. No. S-  
52 01-1816 GEB/JFM (E.D. Cal.)], but that litigation was dismissed, without prejudice, pursuant to  
53 a stipulation of dismissal filed by the parties thereto on August 29, 2002. Notwithstanding that  
54 dismissal, the Contractor and the United States enter into this Settlement Contract to renew the  
55 Existing Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and  
56 the laws of the State of California; and

57 [7<sup>th</sup>] WHEREAS, to assure the Contractor of the enjoyment and use of the regulated  
58 flow of the said Rivers and the Delta, and to provide for the economical operation of the Central  
59 Valley Project by, and the reimbursement to, the United States for expenditures made for said  
60 Project.

61 NOW, THEREFORE, in consideration of the performance of the herein contained  
62 provisions, conditions, and covenants, it is agreed as follows:

63 DEFINITIONS

64 1. When used herein, unless otherwise expressed or incompatible with the intent  
65 hereof, the term:

66 (a) "Base Supply" shall mean the quantity of Surface Water established in  
67 Articles 3 and 5 which may be diverted by the Contractor from the Sacramento River each month  
68 during the period April through October of each Year without payment to the United States for  
69 such quantities diverted;

70 (b) "Basin-Wide Water Management Plan" shall mean the mutually agreeable  
71 Sacramento River Basinwide Water Management Plan, dated October 11, 2004, developed by

72 Glenn-Colusa Irrigation District, Maxwell Irrigation District, Natomas Central Mutual Water  
73 Company, Pelger Mutual Water Company, Princeton-Codora-Glenn Irrigation District, Provident  
74 Irrigation District, Reclamation District 108, Sutter Mutual Water Company, Anderson-  
75 Cottonwood Irrigation District, Meridian Farms Water Company, Reclamation District 1004, and  
76 the U.S. Bureau of Reclamation;

77 (c) "Charges" shall mean the payments for Project Water that the Contractor  
78 is required to pay to the United States in addition to the "Rates" specified in this Settlement  
79 Contract. The Contracting Officer will, on an annual basis, determine the extent of these  
80 Charges. The type and amount of each Charge shall be specified in Exhibit D;

81 (d) "Contract Total" shall mean the sum of the Base Supply and Project Water  
82 available for diversion by the Contractor for the period April 1 through October 31;

83 (e) "Critical Year" shall mean any Year in which either of the following  
84 eventualities exists:

85 (1) The forecasted full natural inflow to Shasta Lake for the current  
86 Water Year, as such forecast is made by the United States on or before February 15 and reviewed  
87 as frequently thereafter as conditions and information warrant, is equal to or less than 3.2 million  
88 acre-feet; or

89 (2) The total accumulated actual deficiencies below 4 million acre-feet  
90 in the immediately prior Water Year or series of successive prior Water Years each of which had  
91 inflows of less than 4 million acre-feet, together with the forecasted deficiency for the current  
92 Water Year, exceed 800,000 acre-feet.

93 For the purpose of determining a Critical Year, the computation of inflow to  
94 Shasta Lake shall be performed in a manner that considers the extent of upstream development

95 above Shasta Lake during the year in question, and shall be used as the full natural flow to  
96 Shasta Lake. In the event that major construction has occurred or occurs above Shasta Lake after  
97 September 1, 1963, and which has materially altered or alters the regimen of the stream systems  
98 contributing to Shasta Lake, the computed inflow to Shasta Lake used to define a Critical Year  
99 will be adjusted to eliminate the effect of such material alterations. After consultation with the  
100 State of California, the National Weather Service, and other recognized forecasting agencies, the  
101 Contracting Officer will select the forecast to be used and will make the details of it available to  
102 the Contractor. The same forecasts used by the United States for the operation of the Project  
103 shall be used to make the forecasts hereunder;

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

106 (g) "Eligible Lands" shall mean all lands to which Project Water may be  
107 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982  
108 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

109 (h) "Excess Lands" shall mean all lands in excess of the limitations contained  
110 in Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal  
111 Reclamation law;

112 (i) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)  
113 or 202(3) of the RRA, whichever is applicable;

114 (j) "Ineligible Lands" shall mean all lands to which Project Water may not be  
115 delivered in accordance with Section 204 of the RRA;

116 (k) "Landholder" shall mean a party that directly or indirectly owns or leases  
117 nonexempt land, as provided in 43 CFR 426.2;

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

120 (m) "Project Water" shall mean all Surface Water diverted or scheduled to be  
121 diverted each month during the period April through October of each Year by the Contractor  
122 from the Sacramento River which is in excess of the Base Supply. The United States recognizes  
123 the right of the Contractor to make arrangements for acquisition of water from projects of others  
124 than the United States for delivery through the Sacramento River and tributaries subject to  
125 written agreement between Contractor and the United States as to identification of such water  
126 which water when so identified shall not be deemed Project Water under this Settlement  
127 Contract;

128 (n) "Rates" shall mean the payments for Project Water determined annually  
129 by the Contracting Officer in accordance with the then current applicable water ratesetting  
130 policies for the Project, as described in subdivision (a) of Article 8 of this Settlement Contract;

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

134 (p) "Surface Water" shall mean only those waters that are considered as  
135 surface water under California law;

136 (q) "Water Year" shall mean the period commencing with October 1 of one  
137 year and extending through September 30 of the next; and

138 (r) "Year" shall mean a calendar year.



139

TERM OF SETTLEMENT CONTRACT

140

2. (a) This Settlement Contract shall become effective April 1, 2005, and shall

141

remain in effect until and including March 31, 2045; Provided, that under terms and conditions

142

mutually agreeable to the parties hereto, renewals may be made for successive periods not to

143

exceed 40 years each. The terms and conditions of each renewal shall be agreed upon not later

144

than one year prior to the expiration of the then existing Settlement Contract.

145

(b) With respect to Project Water and the portions of this Settlement Contract

146

pertaining thereto, upon written request by the Contractor of the Secretary made not later than

147

one year prior to the expiration of this Settlement Contract, whenever, account being taken of the

148

amount then credited to the costs of construction of water supply works, the remaining amount of

149

construction costs of water supply work which is properly assignable for ultimate return by the

150

Contractor as established by the Secretary of the Interior pursuant to (3) of Section 1 of Public

151

Law 643 (70 Stat. 483), probably can be repaid to the United States within the term of a contract

152

under subsection 9(d) of the 1939 Reclamation Project Act (53 Stat. 1187), the relevant portions

153

of this Settlement Contract may be converted to a contract under said subsection 9(d) upon terms

154

and conditions mutually agreeable to the United States and the Contractor. The Secretary shall

155

make a determination ten years after the date of execution of this Settlement Contract, and every

156

five years thereafter, of whether a conversion to a contract under said subsection 9(d) can be

157

accomplished pursuant to Public Law 643. Notwithstanding any provision of this Settlement

158

Contract, the Contractor reserves and shall have all rights and benefits under Public Law 643.

159

WATER TO BE FURNISHED TO CONTRACTOR

160

3. (a) Subject to the conditions, limitations, and provisions

161

hereinafter expressed, the Contractor is hereby entitled and authorized to divert from the

162 Sacramento River at the locations shown in Exhibit A, for beneficial use within the area  
163 delineated on Exhibit B, (both Exhibits are attached hereto and made a part hereof), the Contract  
164 Total designated in Exhibit A, or any revision thereof, in accordance with the monthly operating  
165 schedule required by Article 3(c) of this Settlement Contract. The quantity of any water diverted  
166 under this Settlement Contract from the Sacramento River, during the period April through  
167 October, for use on any lands delineated on Exhibit B, by the owner of such lands or otherwise  
168 shall constitute a part of the Contract Total as shown on Exhibit A and shall be subject to all the  
169 provisions of this Settlement Contract relating to such Contract Total as if such diversion were  
170 made by the Contractor.

171           (b) The Contractor may have acquired rights to divert water from the  
172 Sacramento River during the period April through October, that were obtained after the date of  
173 execution of the Existing Contract, or the Contractor may acquire such rights in the future. All  
174 diversions made from the Sacramento River, pursuant to such rights, during the period April  
175 through October, shall not be considered a part of the quantity of Base Supply and Project Water  
176 specified in Exhibit A; Provided, that the quantities diverted pursuant to the above rights shall be  
177 identified on the schedule submitted pursuant to Article 3(c) below, and shall not be substituted  
178 for any Base Supply or Project Water; Provided, further, that any such identified quantities of  
179 other acquired rights may be diverted by the Contractor before incurring any fee pursuant to  
180 Article 3(c)(1), below.

181           (c) Before April 1 and before the first day of each month thereafter when a  
182 revision is needed, the Contractor shall submit a written schedule to the Contracting Officer  
183 indicating the Contract Total to be diverted by the Contractor during each month under this  
184 Settlement Contract. The United States shall furnish water to the Contractor in accordance with

185 the monthly operating schedule or any revisions thereof. However, the United States recognizes  
186 the need of the Contractor to change from time to time its monthly diversions of water from the  
187 quantities shown in Exhibit A; the Contractor may make such changes, provided:

188 (1) that for the quantity of Base Supply diverted in excess of the  
189 monthly quantity shown in Exhibit A, and as may be reduced in accordance with Article 5(a),  
190 during June, July, August, September, or October of any Water Year, the Contractor shall be  
191 charged a rescheduling fee equal to 50 percent of the sum of the storage operations and  
192 maintenance rate and the storage capital rate components of the Project ratesetting policy.

193 (2) that in no event shall the total quantity scheduled for diversion by  
194 the Contractor from the Sacramento River:

195 (i) During the period April through October exceed the  
196 aggregate of the Contract Total for that period shown in Exhibit A or any revision  
197 thereof;

198 (ii) During the period July through August exceed the  
199 aggregate of the Contract Total for that period shown in Exhibit A or any revision  
200 thereof.

201 (d) In the event conditions warrant, the Contracting Officer reserves the right  
202 to require the Contractor to submit, at least 72 hours prior to the beginning of each weekly  
203 period, its estimate of daily diversion requirements for each such period from the Sacramento  
204 River; Provided, however, that changes during any such period may be made upon the giving of  
205 72 hours' notice thereof to the Contracting Officer; Provided, further, that the Contractor shall  
206 notify the United States as far in advance as is reasonably possible each time it intends to install  
207 or remove boards from its diversion dam. The United States shall notify the Contractor as far in

208 advance as is reasonably possible each time it intends to change the release of water from  
209 Keswick Reservoir into the Sacramento River. In addition, during the irrigation season, the  
210 Contractor may from time to time notify the United States of the maximum flow the Contractor  
211 believes its diversion dam with the then setting of boards can safely accommodate without  
212 damage thereto or to the walkway, and the Contracting Officer shall notify the Contractor as far  
213 in advance as possible but not less than 24 hours of any change in releases to be made at  
214 Keswick Reservoir that would exceed such maximum flow designated by the Contractor. The  
215 United States shall assist the Contractor in connection with the installation or removal of boards  
216 from the diversion dam by the Contractor as follows:

217                   (1) Adjust Keswick releases to the extent reasonably needed to  
218 facilitate installation or removal of boards, the adjustments to be made at times that will  
219 accomplish that purpose but not unduly interfere with other obligations of the United States; and

220                   (2) Furnish manpower to assist the Contractor in placing or removing  
221 boards when an emergency condition exists as a result of the operations of the United States.

222                   (e) No sale, transfer, exchange, or other disposal of any of the Contract Total  
223 designated in Exhibit A or the right to the use thereof for use on land other than that shown on  
224 Exhibit B shall be made by the Contractor without first obtaining the written consent of the  
225 Contracting Officer. Such consent will not be unreasonably withheld and a decision will be  
226 rendered in a timely manner. For short-term actions that will occur within one year or less, the  
227 decision will be rendered within 30 days after receipt of a complete written proposal. For long-  
228 term actions that will occur in a period longer than one year, the decision will be rendered within  
229 90 days after receipt of a complete written proposal. For a proposal to be deemed complete by  
230 the Contracting Officer, it must comply with all provisions required by State and Federal law,

231 including information sufficient to enable the Contracting Officer to comply with the National  
232 Environmental Policy Act, the Endangered Species Act, and applicable rules or regulations then  
233 in effect; Provided, that such consent does not authorize the use of Federal facilities to facilitate  
234 or effectuate the sale, transfer, exchange, or other disposal of Base Supply. Such use of Federal  
235 facilities will be the subject of a separate agreement to be entered into between the Contractor  
236 and Reclamation.

237 (f) For the purpose of determining whether Section 3405(a)(1)(M) of the  
238 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting  
239 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin,  
240 as those terms are utilized under California law.

241 (g) Nothing herein contained shall prevent the Contractor from diverting  
242 water during the months of November through March for beneficial use on the land shown on  
243 Exhibit B or elsewhere to the extent authorized under the laws of the State of California.

244 (h) The United States assumes no responsibility for and neither it nor its  
245 officers, agents, or employees shall have any liability for or on account of:

246 (1) The quality of water to be diverted by the Contractor;

247 (2) The control, carriage, handling, use, disposal, or distribution of  
248 water diverted by the Contractor outside the facilities constructed and then being operated and  
249 maintained by or on behalf of the United States;

250 (3) Claims of damage of any nature whatsoever, including but not  
251 limited to, property loss or damage, personal injury, or death arising out of or connected with the  
252 control, carriage, handling, use, disposal, or distribution of said water outside of the hereinabove  
253 referred to facilities; and

254 (4) Any damage whether direct or indirect arising out of or in any  
255 manner caused by a shortage of water whether such shortage be on account of errors in  
256 operation, drought, or unavoidable causes.

257 (i) In addition to the provisions of subdivision (h) of Article 3 of this  
258 Contract, if there is a shortage of Project Water because of actions taken by the Contracting  
259 Officer to meet legal obligations then, except as provided in subdivision (a) of Article 30 of this  
260 Contract, no liability shall accrue against the United States or any of its officers, agents, or  
261 employees for any damage, direct or indirect, arising therefrom.

262 RETURN FLOW

263 4. Nothing herein shall be construed as an abandonment or a relinquishment by the  
264 United States of any right it may have to the use of waste, seepage, and return flow water derived  
265 from water diverted by the Contractor hereunder and which escapes or is discharged beyond the  
266 boundaries of the lands shown on Exhibit B; Provided, that this shall not be construed as  
267 claiming for the United States any right to such water which is recovered by the Contractor  
268 pursuant to California law from within the boundaries of the lands shown on Exhibit B, and  
269 which is being used pursuant to this Settlement Contract for surface irrigation or underground  
270 storage for the benefit of the lands shown on Exhibit B by the Contractor.

271 CONSTRAINTS ON THE AVAILABILITY OF WATER

272 5. (a) In a Critical Year, the Contractor's Base Supply and Project Water agreed  
273 to be diverted during the period April through October of the Year in which the principal portion  
274 of the Critical Year occurs and, each monthly quantity of said period shall be reduced by  
275 25 percent; Provided, that, if a Critical Year occurs at any time during the first four Years of this  
276 Settlement Contract, the reduction in each monthly quantity shall be as follows:

277 Year One = 5 percent;  
278 Year Two = 10 percent;  
279 Year Three = 15 percent;  
280 Year Four = 20 percent.

281 (b) The amount of any overpayment by the Contractor shall, at its option, be  
282 refunded or credited upon amounts to become due to the United States from the Contractor under  
283 the provisions hereof in the ensuing Year. To the extent of such deficiency such adjustment of  
284 overpayment shall constitute the sole remedy of the Contractor.

285 INTEGRATED WATER MANAGEMENT AND PARTNERSHIPS

286 6. The Contractor and United States desire to work together to maximize the  
287 reasonable beneficial use of water for their mutual benefit. As a consequence, the United States  
288 and the Contractor will work in partnership and with others within the Sacramento Valley,  
289 including other contractors, to facilitate the better integration within the Sacramento Valley of all  
290 water supplies including, but not limited to, the better management and integration of surface  
291 water and groundwater, the development and better utilization of surface water storage, the  
292 effective utilization of waste, seepage and return flow water, and other operational and  
293 management options that may be identified in the future.

294 USE OF WATER FURNISHED TO CONTRACTOR

295 7. (a) The parties anticipate that, during the term of this Settlement Contract, a  
296 gradual change in the purpose of use of water will occur within the place of water use shown in  
297 Exhibit B from predominantly agricultural purposes to a mixture of municipal and industrial,  
298 wildlife habitat and agricultural purposes, and the parties agree to work cooperatively to  
299 accommodate and facilitate such change. Project Water furnished to the Contractor pursuant to

300 this Settlement Contract may be delivered or furnished by the Contractor for agricultural or  
301 municipal and industrial purposes; Provided, however, that the Contractor shall not deliver or  
302 furnish Project Water for municipal and industrial purposes without the written consent of the  
303 Contracting Officer. Such consent will not be unreasonably withheld and a decision will be  
304 provided in a timely manner following completion of any environmental review required under  
305 applicable law. For purposes of this Settlement Contract, “agricultural purposes” includes, but is  
306 not restricted to, the irrigation of crops, the watering of livestock, incidental domestic use  
307 including related landscape irrigation, and underground water replenishment; and “municipal and  
308 industrial purposes” includes, but is not limited to, the watering of landscaping or pasture for  
309 animals (e.g., horses) which are kept for personal enjoyment or water delivered to landholdings  
310 operated in units of less than five acres unless the Contractor establishes to the satisfaction of the  
311 Contracting Officer that the use of Project Water is for agricultural purposes.

312 (b) The Contractor shall comply with requirements applicable to the  
313 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
314 of this Settlement Contract undertaken pursuant to Section 7 of the Endangered Species Act of  
315 1973, as amended, that are within the Contractor’s legal authority to implement. The Existing  
316 Contract, which evidences in excess of 40 years of diversions, for agricultural uses, of the  
317 quantities of water provided for in Article 3, and the underlying water rights of the Contractor  
318 will be considered in developing an appropriate base-line for the Biological Assessment prepared  
319 pursuant to the Endangered Species Act, and in any other needed environmental review.  
320 Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial  
321 relief in a court of competent jurisdiction with respect to any biological opinion or other  
322 environmental documentation referred to in this Article.



323 RATE AND METHOD OF PAYMENT FOR WATER

324 8. (a) The Contractor shall make payments to the United States as provided in  
325 this Article for all Project Water shown in Exhibit A as follows:

326 (1) 75 percent of the amount shown as Project Water shall be paid for  
327 by the Contractor in each Year; and in addition

328 (2) the Contractor shall pay for Project Water actually diverted in  
329 excess of 75 percent of the amount shown as Project Water.

330 Such payments shall be at Rates and Charges established in accordance with: (i) the  
331 Secretary's then-current ratesetting policies for the Project; and (ii) applicable Reclamation law  
332 and associated rules and regulations, or policies; Provided, that if the Contractor desires to use  
333 Project Water for other than agricultural purposes the Rates and Charges set forth above will be  
334 adjusted by the Contracting Officer to the applicable Rates and Charges for such purposes;  
335 Provided, further, that to enable the Contracting Officer to compute the applicable Rates and  
336 Charges for Project Water diverted by the Contractor for other than agricultural use, including,  
337 but not limited to diversions for municipal and industrial uses and diversions for direct  
338 application to wildlife habitat (not including re-use of tailwater for habitat purposes), prior to  
339 initiating any such diversions, the Contractor shall provide the Contracting Officer with an  
340 estimate of the annual quantities of Project Water to be diverted or furnished for such purposes  
341 through the end of the CVP repayment period as identified in the then-current ratesetting  
342 policies. The Rates and Charges applicable to the Contractor upon execution of this Settlement  
343 Contract are set forth in Exhibit D, as may be revised annually. The Secretary's ratesetting  
344 policies for the Project shall be amended, modified, or superseded only through a public notice  
345 and comment procedure. The Contracting Officer shall adjust the amount of Project Water for

346 which payment is required to the extent of any reduction in diversions of Project Water made in  
347 accordance with the water conservation provisions of Article 29(e).

348 (b) The Contracting Officer shall notify the Contractor of the Rates and  
349 Charges as follows:

350 (1) Prior to July 1 of each Year, the Contracting Officer shall provide  
351 the Contractor an estimate of the Charges for Project Water that will be applied to the period  
352 October 1, of the current Year, through September 30, of the following Year, and the basis for  
353 such estimate. The Contractor shall be allowed not less than two months to review and comment  
354 on such estimates. On or before September 15 of each Year, the Contracting Officer shall notify  
355 the Contractor in writing of the Charges to be in effect during the period October 1 of the current  
356 Year, through September 30, of the following Year, and such notification shall revise Exhibit D.

357 (2) Prior to October 1 of each Year, the Contracting Officer shall make  
358 available to the Contractor an estimate of the Rates for Project Water for the following Year and  
359 the computations and cost allocations upon which those Rates are based. The Contractor shall be  
360 allowed not less than two months to review and comment on such computations and cost  
361 allocations. By December 31 of each Year, the Contracting Officer shall provide the Contractor  
362 with the final Rates to be in effect for the upcoming Year, and such notification shall revise  
363 Exhibit D.

364 (c) The Contractor shall pay the United States for Project Water in the  
365 following manner:

366 (1) With respect to Rates, prior to May 1 of each Year, the Contractor  
367 shall pay the United States one-half the total amount payable pursuant to subdivision (a) of this  
368 Article and the remainder shall be paid prior to July 1 or such later date or dates as may be

369 specified by the United States in a written notice to the Contractor; Provided, however, that if at  
370 any time during the Year the amount of Project Water diverted by the Contractor shall equal the  
371 amount for which payment has been made, the Contractor shall pay for the remaining amount of  
372 such water as shown in Exhibit A in advance of any further diversion of Project Water.

373 (2) With respect to Charges, the Contractor shall also make a payment  
374 to the United States, in addition to the Rate(s) in subdivision (c)(1) of this Article, at the Charges  
375 then in effect, before the end of the month following the month of delivery or transfer. The  
376 payments shall be consistent with the quantities of Project Water delivered or transferred.  
377 Adjustment for overpayment or underpayment of Charges shall be made through the adjustment  
378 of payments due to the United States for Charges for the next month. Any amount to be paid for  
379 past due payment of Charges shall be computed pursuant to Article 13 of this Settlement  
380 Contract.

381 (d) Payments to be made by the Contractor to the United States under this  
382 Settlement Contract may be paid from any revenues available to the Contractor. All revenues  
383 received by the United States from the Contractor relating to the delivery of Project Water or the  
384 delivery of non-Project water through Project facilities shall be allocated and applied in  
385 accordance with Federal Reclamation law and the associated rules or regulations, and the then  
386 current Project ratesetting policies for Irrigation Water.

387 (e) The Contracting Officer shall keep its accounts pertaining to the  
388 administration of the financial terms and conditions of its long-term water service and Settlement  
389 Contracts, in accordance with applicable Federal standards, so as to reflect the application of  
390 Project costs and revenues. The Contracting Officer shall, each Year upon request of the  
391 Contractor, provide to the Contractor a detailed accounting of all Project and Contractor expense

392 allocations, the disposition of all Project and Contractor revenues, and a summary of all water  
393 delivery information. The Contracting Officer and the Contractor shall enter into good faith  
394 negotiations to resolve any discrepancies or disputes relating to accountings, reports, or  
395 information.

396 (f) The parties acknowledge and agree that the efficient administration of this  
397 Settlement Contract is their mutual goal. Recognizing that experience has demonstrated that  
398 mechanisms, policies, and procedures used for establishing Rates and Charges and/or for making  
399 and allocating payments, other than those set forth in this Article may be in the mutual best  
400 interest of the parties, it is expressly agreed that the parties may enter into agreements to modify  
401 the mechanisms, policies, and procedures for any of those purposes while this Settlement  
402 Contract is in effect without amendment of this Settlement Contract.

403 (g) For the term of this Settlement Contract, Rates under the respective  
404 ratesetting policies for the Project will be established to recover only reimbursable operation and  
405 maintenance (including any deficits) and capital costs of the Project, as those terms are used in  
406 the then current Project ratesetting policies, and interest, where appropriate, except in instances  
407 where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy.  
408 Proposed changes of significance in practices which implement the ratesetting policies for the  
409 Project will not be implemented until the Contracting Officer has provided the Contractor an  
410 opportunity to discuss the nature, need, and impact of the proposed change. The Contractor  
411 retains all rights to challenge the validity of Rates and Charges imposed pursuant to this  
412 Settlement Contract, including but not limited to operation and maintenance expenses and  
413 operation and maintenance deficits, in an appropriate administrative or judicial proceeding.

414           (h)     Except as provided in subsection 3405(a)(1)(B) of the CVPIA, the Rates  
415 for Project Water transferred, exchanged, or otherwise disposed of, by the Contractor shall be the  
416 Contractor's Rates adjusted upward or downward to reflect the changed costs of delivery (if any)  
417 of the transferred, exchanged, or otherwise disposed of Project Water to the transferee's point of  
418 delivery in accordance with the then-current ratesetting policies for the Project. Except as  
419 provided in subsection 3407(d)(2)(A) of the CVPIA, the Charges for Project Water transferred,  
420 exchanged, or otherwise disposed of, by the Contractor shall be the Contractor's Charges  
421 specified in Exhibit D. If the Contractor is receiving lower Rates and Charges because of  
422 inability to pay and is transferring, exchanging, or otherwise disposing of Project Water to  
423 another entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and  
424 Charges for transferred, exchanged, or otherwise disposed of Project Water shall be the  
425 Contractor's Rates and Charges unadjusted for ability to pay.

426           (i)     Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting  
427 Officer is authorized to adjust determinations of ability to pay every five years.

428           (j)     Each payment to be made pursuant to subdivisions (a) and (c) of this  
429 Article shall be made at the office of the Bureau of Reclamation, MP Region: Mid-Pacific,  
430 P.O. Box 894242, Los Angeles, CA 90189-4242, or at such other place as the United States may  
431 designate in a written notice to the said Contractor. Payments shall be made by cash transaction,  
432 wire, or any other mechanism as may be agreed to in writing by the Contractor and the  
433 Contracting Officer. In the event there should be a default in the payment of the amount due, the  
434 delinquent payment provisions of Article 13 shall apply. The Contractor shall not be relieved of  
435 the whole or any part of its said obligation by, on account of, or notwithstanding, as the case may  
436 be:

437 (1) Its failure, refusal, or neglect to divert 75 percent of the quantity of  
438 Project Water shown on Exhibit A;

439 (2) The default in payment to it by any water user of assessments,  
440 tolls, or other charges levied by or owing to said Contractor;

441 (3) Any judicial determination that any assessment, toll, or other  
442 charge referred to in subsection 8(c)(2) of this Settlement Contract is irregular, void, or  
443 ineffectual; or

444 (4) Any injunctive process enjoining or restraining the Contractor  
445 from making or collecting any such assessment, toll, or other charge referred to in subsection  
446 8(c)(2) of this Settlement Contract.

447 AGREEMENT ON WATER QUANTITIES

448 9. (a) During the term of this Settlement Contract and any renewals thereof:

449 (1) It shall constitute full agreement as between the United States and  
450 the Contractor as to the quantities of water and the allocation thereof between Base Supply and  
451 Project Water which may be diverted by the Contractor from the Sacramento River for beneficial  
452 use on the land shown on Exhibit B from April 1 through October 31, which said diversion, use,  
453 and allocation shall not be disturbed so long as the Contractor shall fulfill all of its obligations  
454 hereunder;

455 (2) Neither party shall claim any right against the other in conflict with  
456 the provisions of Article 9(a)(1) hereof.

457 (b) Nothing herein contained is intended to or does limit rights of the  
458 Contractor against others than the United States or of the United States against any person other  
459 than the Contractor; Provided, however, that in the event the Contractor, the United States, or

460 any other person shall become a party to a general adjudication of rights to the use of water of  
461 the Sacramento River system, this Settlement Contract shall not jeopardize the rights or position  
462 of either party hereto or of any other person and the rights of all such persons in respect to the  
463 use of such water shall be determined in such proceedings the same as if this Settlement Contract  
464 had not been entered into, and if final judgment in any such general adjudication shall determine  
465 that the rights of the parties hereto are different from the rights as assumed herein, the parties  
466 shall negotiate an amendment to give effect to such judgment. In the event the parties are unable  
467 to agree on an appropriate amendment they shall, within 60 days of determining that there is an  
468 impasse, employ the services of a neutral mediator, experienced in resolving water rights  
469 disputes, to assist in resolving the impasse. The cost of the mediation will be shared equally. A  
470 failure to reach agreement on an amendment within 60 days of the end of mediation will cause  
471 the immediate termination of this Settlement Contract.

472 (c) In the event that the California State Water Resources Control Board or a  
473 court of competent jurisdiction issues a final decision or order modifying the terms and  
474 conditions of the water rights of either party to this Settlement Contract in order to impose Bay-  
475 Delta water quality obligations, the Contractor and the United States shall promptly meet to  
476 determine whether or not to modify any of the terms of this Settlement Contract to comply with  
477 the final decision or order, including, but not limited to, the applicability of the rescheduling  
478 charge in Article 3(c)(1) of this Settlement Contract. If within 60 days of the date of the issuance  
479 of the final decision or order the parties are not able to reach agreement regarding either the need  
480 to modify this Settlement Contract or the manner in which this Settlement Contract is to be  
481 modified, the parties shall promptly retain a neutral mediator, experienced in resolving water  
482 right disputes, to assist the parties in resolving their dispute. The cost of the mediator shall be

483 shared equally. In the event that either of the parties to this Settlement Contract determines that  
484 the parties will not be able to develop mutually-agreeable modification(s) to this Settlement  
485 Contract even with the assistance of a mediator, either of the parties to this Settlement Contract  
486 may attempt to resolve the impasse by seeking appropriate judicial relief including, but not  
487 limited to, filing a general adjudication of the rights to the use of water in the Sacramento River  
488 system. The foregoing provisions of this sub-article shall only apply to the incremental  
489 obligations contained within a final decision or order of the State Water Resources Control  
490 Board that reflects a modification to the obligations imposed in State Water Resources Control  
491 Board Revised Water Rights Decision 1641 dated March 15, 2000, and its associated 1995 Water  
492 Quality Control Plan which, taken together, will be considered the baseline for the application of  
493 the provisions of this sub-article.

494 (d) In the event this Settlement Contract terminates, the rights of the parties to  
495 thereafter divert and use water shall exist as if this Settlement Contract had not been entered into;  
496 and the fact that as a compromise settlement of a controversy as to the respective rights of the  
497 parties to divert and use water and the yield of such rights during the term hereof, this Settlement  
498 Contract places a limit on the Contract Total to be diverted annually by the Contractor during the  
499 Settlement Contract term and segregates it into Base Supply and Project Water shall not  
500 jeopardize the rights or position of either party with respect to its water rights or the yield thereof  
501 at all times after the Settlement Contract terminates. It is further agreed that the Contractor at all  
502 times will first use water to the use of which it is entitled by virtue of its own water rights, and  
503 neither the provisions of this Settlement Contract, action taken thereunder, nor payments made  
504 thereunder to the United States by the Contractor shall be construed as an admission that any part  
505 of the water used by the Contractor during the term of this Settlement Contract was in fact water



506 to which it would not have been entitled under water rights owned by it nor shall receipt of  
507 payments thereunder by the United States from the Contractor be construed as an admission that  
508 any part of the water used by the Contractor during the term of this Settlement Contract was in  
509 fact water to which it would have been entitled under water rights owned by it.

510 MEASUREMENT OF WATER

511 10. (a) All water diverted by the Contractor from the Sacramento River will be  
512 diverted at the existing point or points of diversion shown on Exhibit A or at such other points as  
513 may be mutually agreed upon in writing by the Contracting Officer and the Contractor.

514 (b) All water diverted from the Sacramento River pursuant to this Settlement  
515 Contract will be measured or caused to be measured by the United States at each point of  
516 diversion with existing equipment or equipment to be installed, operated, and maintained by the  
517 United States, and/or others, under contract with and at the option of the United States. The  
518 equipment and methods used to make such measurement shall be in accordance with sound  
519 engineering practices. Upon request of the Contractor, the accuracy of such measurements will  
520 be investigated by the Contracting Officer and any errors appearing therein will be corrected.

521 (c) The right of ingress to and egress from all points of diversion is hereby  
522 granted to all authorized employees of the United States. The Contractor also hereby grants to  
523 the United States the right to install, operate, maintain, and replace such equipment on diversion  
524 or carriage facilities at each point of diversion as the Contracting Officer deems necessary.

525 (d) The Contractor shall not modify, alter, remove, or replace diversion  
526 facilities or do any other act which would alter the effectiveness or accuracy of the measuring  
527 equipment installed by the United States or its representatives unless and until the Contracting  
528 Officer has been notified with due diligence and has been given an opportunity to modify such

529 measuring equipment in such manner as may be necessary or appropriate. In the event of an  
530 emergency the Contractor shall notify the United States within a reasonable time thereafter as to  
531 the existence of the emergency and the nature and extent of such modification, alteration,  
532 removal, or replacement of diversion facilities.

533 (e) The Contractor shall pay the United States for the costs to repair, relocate,  
534 or replace measurement equipment when the Contractor modifies, alters, removes, or replaces  
535 diversion or carriage facilities.

536 (f) Contractor and Contracting Officer shall develop a mutually agreeable  
537 surface water delivery water measurement program which shall be implemented by the  
538 Contractor, and such measurement program shall be consistent with the conservation and  
539 efficiency criteria for evaluating water conservation plans as provided in Article 29(a).

540 (g) All new surface water delivery systems installed within the lands  
541 delineated on Exhibit B after the effective date of this Settlement Contract shall also comply with  
542 the measurement provisions described in this Article.

543 RULES AND REGULATIONS

544 11. The parties agree that the delivery of Project Water for irrigation use or use of  
545 Federal facilities pursuant to this Settlement Contract is subject to Federal Reclamation law,  
546 including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), as  
547 amended and supplemented, and the rules and regulations promulgated by the Secretary of the  
548 Interior under Federal Reclamation law.

549 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

554 (b) The payment of Charges becoming due hereunder is a condition precedent  
555 to receiving benefits under this Settlement Contract. The United States shall not make water  
556 available to the Contractor through Project facilities during any period in which the Contractor  
557 may be in arrears in the advance payment of water Rates due the United States. The Contractor  
558 shall not furnish water made available pursuant to this Settlement Contract for lands or parties  
559 which are in arrears in the advance payment of water rates levied or established by the  
560 Contractor.

561 (c) With respect to subdivision (b) of this Article, the Contractor shall have no  
562 obligation to require advance payment for water Rates which it levies.

563 CHARGES FOR DELINQUENT PAYMENTS

564 13. (a) The Contractor shall be subject to interest, administrative and penalty  
565 charges on delinquent installments or payments. When a payment is not received by the due  
566 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond  
567 the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an  
568 administrative charge to cover additional costs of billing and processing the delinquent payment.  
569 When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty  
570 charge of six percent per year for each day the payment is delinquent beyond the due date.  
571 Further, the Contractor shall pay any fees incurred for debt collection services associated with a  
572 delinquent payment.

573 (b) The interest charge rate shall be the greater of the rate prescribed quarterly  
574 in the Federal Register by the Department of the Treasury for application to overdue payments,  
575 or the interest rate of one-half of one percent per month prescribed by Section 6 of the  
576 Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be  
577 determined as of the due date and remain fixed for the duration of the delinquent period.

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

581 QUALITY OF WATER

582 14. The operation and maintenance of Project facilities shall be performed in such  
583 manner as is practicable to maintain the quality of raw water made available through such  
584 facilities at the highest level reasonably attainable as determined by the Contracting Officer. The  
585 United States does not warrant the quality of water and is under no obligation to construct or  
586 furnish water treatment facilities to maintain or better the quality of water.

587

WATER AND AIR POLLUTION CONTROL

588

589

590

591

15. The Contractor, in carrying out this Settlement Contract, 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.

592

EQUAL OPPORTUNITY

593

594

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

595

596

597

598

599

600

601

602

603

604

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, 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 payment 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.

605

606

607

608

(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 discrimination because of race, color, religion, sex, or national origin.

609

610

611

612

613

614

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the said labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

615

616

617

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

618

619

620

(e) The Contractor will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting

621 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with  
622 such rules, regulations, and orders.

623 (f) In the event of the Contractor's noncompliance with the nondiscrimination  
624 clauses of this Settlement Contract or with any of the said rules, regulations, or orders, this  
625 Settlement Contract may be canceled, terminated, or suspended, in whole or in part, and the  
626 Contractor may be declared ineligible for further Government contracts in accordance with  
627 procedures authorized in said amended Executive Order, and such other sanctions may be  
628 imposed and remedies invoked as provided in said Executive Order, or by rule, regulation, or  
629 order of the Secretary of Labor, or as otherwise provided by law.

630 (g) The Contractor will include the provisions of paragraphs (a) through (g) in  
631 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
632 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such  
633 provisions will be binding upon each subcontractor or vendor. The Contractor will take such  
634 action with respect to any subcontract or purchase order as may be directed by the Secretary of  
635 Labor as a means of enforcing such provisions, including sanctions for noncompliance:  
636 Provided, however, that in the event the Contractor becomes involved in, or is threatened with,  
637 litigation with a subcontractor or vendor as a result of such direction, the Contractor may request  
638 the United States to enter into such litigation to protect the interests of the United States.

639 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

640 17. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
641 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the  
642 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights  
643 laws, as well as with their respective implementing regulations and guidelines imposed by the  
644 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

660 MINGLING OF CONTRACTOR’S PROJECT AND NON-PROJECT WATER

661 18. (a) Project Water must of necessity be transported by the Contractor to its  
662 water users by means of the same works and channels used for the transport of its non-Project  
663 Water including Base Supply. Notwithstanding such mingling of water, the provisions of Article  
664 11 hereof shall be applicable only to Project Water, and such mingling of water shall not in any  
665 manner subject to the provisions of Article 11 hereof the Contractor’s non-Project water  
666 including Base Supply.

667 (b) If required in accordance with subdivision (c) of this Article, the  
668 Contractor shall install and maintain such measuring equipment and distribution facilities and  
669 maintain such records as may be necessary to determine the amounts of water delivered to  
670 Excess Lands served by the Contractor. The Contractor shall not within any month deliver to  
671 Ineligible Lands water in excess of the non-Project Water, including Base Supply, for that  
672 month. The Contracting Officer or authorized representative shall have the right at all  
673 reasonable times to inspect such records and measuring equipment.

674 (c) The Contractor will not be considered in violation of the requirement that  
675 Project Water be delivered only to Eligible Lands during any month of the irrigation season that  
676 the water requirement for beneficial use on Eligible Lands for that month is equal to or in excess  
677 of the Project Water for that month as shown on Exhibit A or any revision thereof pursuant to  
678 subdivision (c) of Article 3. The water requirement for beneficial use on Eligible Lands will be  
679 determined by multiplying:

680 (1) the number of irrigable acres of the particular types of crops grown  
681 in that year on the acreage designated as eligible by

682 (2) the Unit Duties as set forth in Exhibit C attached hereto and made  
683 a part hereof, or by such other Unit Duties mutually agreed upon by the Contractor and the  
684 Contracting Officer. In order to make the computation of the water requirement for Eligible  
685 Lands, on April 1 of each Year and concurrently with its order for water for the irrigation season,  
686 the Contractor shall designate the acreage of and type of crops to be grown on its Eligible Lands  
687 that irrigation season. During any month the water requirement as above determined for crops  
688 growing on Eligible Lands during such month is equal to or in excess of the Project Water for  
689 that month as provided herein the Contractor shall not be required to measure the water delivered  
690 to Excess Lands. Any month the said water requirement is less than the amount of Project Water  
691 as provided herein, the Contractor will be required to measure water delivered to excess land in  
692 accordance with subdivision (b) hereof.

693 BOOKS, RECORDS, AND REPORTS

694 19. The Contractor shall establish and maintain accounts and other books and records  
695 pertaining to administration of the terms and conditions of this Settlement Contract, including:  
696 the Contractor's financial transactions, water supply data, and Project land and right-of-way  
697 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use  
698 data; and other matters that the Contracting Officer may require. Reports thereon shall be  
699 furnished to the Contracting Officer in such form and on such date or dates as the Contracting  
700 Officer may require. Subject to applicable Federal laws and regulations, each party to this  
701 Settlement Contract shall have the right during office hours to examine and make copies of each  
702 other's books and official records relating to matters covered by this Settlement Contract.

703 CHANGE OF PLACE OF USE OR ORGANIZATION

704 20. (a) Unless the written consent of the United States is first obtained no change  
705 shall be made in the place of water use shown on Exhibit B.

706 (b) While this Settlement Contract is in effect, no change shall be made in the  
707 area of the Contractor as shown on its Exhibit B, by inclusion, exclusion, annexation, or  
708 detachment of lands, by dissolution, consolidation, or merger or otherwise, except upon the

709 Contracting Officer’s written consent thereto. Such consent will not be unreasonably withheld  
710 and a decision will be provided in a timely manner.

711 (c) In the event lands are annexed to or detached from the area of the  
712 Contractor, as provided herein, the quantity of Project Water to be diverted may be increased or  
713 decreased, as may be appropriate, pursuant to a supplemental agreement to be executed in  
714 respect thereto.

715 CONSOLIDATION OF CONTRACTING ENTITIES

716 21. Consolidation of Contractors may be approved by the Contracting Officer  
717 provided: (i) the Contracting Officer approves the form and organization of the resulting entity  
718 and the utilization by it of the Contract Total; and (ii) the obligations of the Contractors are  
719 assumed by such entity.

720 No such consolidation shall be valid unless and until approved by the Contracting  
721 Officer.

722 NOTICES

723 22. Any notice, demand, or request authorized or required by this Settlement Contract  
724 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,  
725 or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation,  
726 16349 Shasta Dam Boulevard., Shasta Lake, California 96019, and on behalf of the United  
727 States, when mailed, postage prepaid, or delivered to the Board of Directors, Anderson-  
728 Cottonwood Irrigation District, 2810 Silver Street, Anderson, California 96007. The  
729 designation of the addressee or the address may be changed by notice given in the same manner  
730 as provided in this Article for other notices.

731 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

732 23. (a) The provisions of this Settlement Contract shall apply to and bind the  
733 successors and assigns of the parties hereto, but no assignment or transfer of this Settlement  
734 Contract or any right or interest therein shall be valid until approved in writing by the  
735 Contracting Officer.



736 (b) The assignment of any right or interest in this Settlement Contract by  
737 either party shall not interfere with the rights or obligations of the other party to this Settlement  
738 Contract absent the written concurrence of said other party.

739 (c) The Contracting Officer shall not unreasonably condition or withhold his  
740 approval of any proposed assignment.

741 OFFICIALS NOT TO BENEFIT

742  
743 24. (a) No Member of or Delegate to Congress, Resident Commissioner, or  
744 official of the Contractor shall benefit from this Settlement Contract other than as a water user or  
745 landowner in the same manner as other water users or landowners.

746 (b) No officer or member of the governing board of the Contractor shall  
747 receive any benefit that may arise by reason of this Settlement Contract other than as a  
748 landowner within the Contractor's Service Area and in the same manner as other landowners  
749 within the said service area.

750 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

756 CONFIRMATION OF SETTLEMENT CONTRACT

757 26. The Contractor, after the execution of this Settlement Contract, shall promptly  
758 seek to secure a decree of a court of competent jurisdiction of the State of California, if  
759 appropriate, confirming the execution of this Settlement Contract. The Contractor shall furnish  
760 the United States a certified copy of the final decree, the validation proceedings, and all pertinent  
761 supporting records of the court approving and confirming this Settlement Contract, and  
762 decreeing and adjudging it to be lawful, valid, and binding on the Contractor. This Settlement  
763 Contract shall not be binding on the United States until such final decree has been secured.

764 UNAVOIDABLE GROUNDWATER PERCOLATION

765 27. To the extent applicable, the Contractor shall not be deemed to have delivered  
766 Project Water to Excess Lands or Ineligible Lands if such lands are irrigated with groundwater  
767 that reaches the underground strata as an unavoidable result of the delivery of Project Water by  
768 the Contractor to Eligible Lands.

769

PRIVACY ACT COMPLIANCE

770           28.   (a)    The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)  
771 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et  
772 seq.) in maintaining Landholder acreage certification and reporting records, required to be  
773 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation  
774 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

775           (b)    With respect to the application and administration of the criminal penalty  
776 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees  
777 responsible for maintaining the certification and reporting records referenced in (a) above are  
778 considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

779           (c)    The Contracting Officer or a designated representative shall provide the  
780 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau  
781 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--  
782 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of  
783 information contained in the Landholder's certification and reporting records.

784           (d)    The Contracting Officer shall designate a full-time employee of the  
785 Bureau of Reclamation to be the System Manager who shall be responsible for making decisions  
786 on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The  
787 Contractor is authorized to grant requests by individuals for access to their own records.

788           (e)    The Contractor shall forward promptly to the System Manager each  
789 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed  
790 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System  
791 Manager with information and records necessary to prepare an appropriate response to the  
792 requester. These requirements do not apply to individuals seeking access to their own  
793 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18, unless the  
794 requester elects to cite the Privacy Act as a basis for the request.

795

WATER CONSERVATION

796           29.   (a)    Prior to the diversion of Project Water, the Contractor shall be  
797 implementing an effective water conservation and efficiency program based on the Basin-Wide  
798 Water Management Plan and/or Contractor's water conservation plan that has been determined  
799 by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water  
800 conservation plans established under Federal law. The water conservation and efficiency  
801 program shall contain definite water conservation objectives, appropriate economically feasible

802 water conservation measures, and time schedules for meeting those objectives. Continued  
803 diversion of Project Water pursuant to this Settlement Contract shall be contingent upon the  
804 Contractor's continued implementation of such water conservation program. In the event the  
805 Contractor's water conservation plan or any revised water conservation plan completed pursuant  
806 to subdivision (c) of Article 29 of this Settlement Contract have not yet been determined by the  
807 Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer  
808 determines are beyond the control of the Contractor, Project Water deliveries shall be made  
809 under this Settlement Contract so long as the Contractor diligently works with the Contracting  
810 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
811 immediately begins implementing its water conservation and efficiency program in accordance  
812 with the time schedules therein.

813           (b) The Contractor shall submit to the Contracting Officer a report on the  
814 status of its implementation of the water conservation plan on the reporting dates specified in the  
815 then existing conservation and efficiency criteria established under Federal law.

816           (c) At five-year intervals, the Contractor shall revise its water conservation  
817 plan to reflect the then current conservation and efficiency criteria for evaluating water  
818 conservation plans established under Federal law and submit such revised water management  
819 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then  
820 determine if the water conservation plan meets Reclamation's then current conservation and  
821 efficiency criteria for evaluating water conservation plans established under Federal law.

822           (d) If the Contractor is engaged in direct ground-water recharge, such activity  
823 shall be described in the Contractor's water conservation plan.

824                   (e)     In order to provide incentives for water conservation, the Contractor may  
825 reduce the amount of Project Water for which payment is required under Article 8(a) in  
826 accordance with the provisions of this Article 29(e).

827                   (1)     On or before February 15 of any Water Year, the Contractor may  
828 file with Reclamation an offer to reduce Project Water use, hereinafter referred to as Offer. The  
829 Offer shall specify the maximum quantity of Project Water to be diverted by the Contractor for  
830 each month that Project Water is available for that Water Year under this Settlement Contract.  
831 The Contracting Officer shall provide the Contractor with a decision, in writing, to the Offer on  
832 or before March 15 of that Water Year. The dates specified in this Article 29(e)(1) can be  
833 changed if mutually agreed to, in writing, by the Contractor and Contracting Officer.

834                   (2)     If Reclamation accepts the Offer, the Contractor's payment  
835 obligation under Article 8(a)(1) shall be reduced to the maximum quantity of Project Water to be  
836 diverted by the Contractor as specified in the Offer. The Contractor shall not divert Project  
837 Water in excess of the quantities set forth in the Offer; Provided, however, if the Contractor's  
838 diversions of Project Water exceed the quantities set forth in the Offer, the Contractor shall pay  
839 to Reclamation the applicable Rates and Charges plus an amount equal to the applicable Rates  
840 and Charges, unadjusted for ability to pay, for each acre-foot of Project Water diverted in excess  
841 of the quantities set forth in the Offer.

842                   (3)     If Reclamation decides not to accept the Offer, the Contractor's  
843 payment obligation will remain as specified in Article 8(a)(1).

844                   (4)     The provisions of this Article 29(e) shall be in addition to and shall  
845 not affect the provisions of Article 3(e) pertaining to the sale, transfer, exchange, or other  
846 disposal of the Contract Total designated in Exhibit A.

847

OPINIONS AND DETERMINATIONS

848

30. (a) Where the terms of this Settlement Contract provide for actions to be

849

based upon the opinion or determination of either party to this Settlement Contract, said terms

850

shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or

851

unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of

852

this Settlement Contract, expressly reserve the right to seek relief from and appropriate

853

adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each

854

opinion or determination by either party shall be provided in a timely manner. Nothing in

855

subdivision (a) of Article 30 of this Settlement Contract is intended to or shall affect or alter the

856

standard of judicial review applicable under Federal law to any opinion or determination

857

implementing a specific provision of Federal law embodied in statute or regulation.

858

(b) The Contracting Officer shall have the right to make determinations

859

necessary to administer this Settlement Contract that are consistent with the provisions of this

860

Settlement Contract, the laws of the United States and of the State of California, and the rules

861

and regulations promulgated by the Secretary of the Interior. Such determinations shall be made

862

in consultation with the Contractor to the extent reasonably practicable.

863

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

864

31. (a) In addition to all other payments to be made by the Contractor pursuant to

865

this Settlement Contract, the Contractor shall pay to the United States, within 60 days after

866

receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for

867

such specific items of direct cost incurred by the United States for work requested by the

868

Contractor associated with this Settlement Contract plus indirect costs in accordance with

869

applicable Bureau of Reclamation policies and procedures. All such amounts referred to in this

870 Article shall not exceed the amount agreed to in writing in advance by the Contractor. This

871 Article shall not apply to costs for routine contract administration.

872 (b) All advances for miscellaneous costs incurred for work requested by the  
873 Contractor pursuant to Article 31 of this Settlement Contract shall be adjusted to reflect the  
874 actual costs when the work has been completed. If the advances exceed the actual costs incurred,  
875 the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's  
876 advances, the Contractor will be billed for the additional costs pursuant to Article 31 of this  
877 Settlement Contract.

878 WAIVER OF DEFAULT

879 32. The waiver by either party to this Settlement Contract as to any default shall not  
880 be construed as a waiver of any other default or as authority of the other party to continue such  
881 default or to make, do, or perform, or not to make, do, or perform, as the case may be, any act or  
882 thing which would constitute a default.

883 IN WITNESS WHEREOF, the parties hereto have executed this Settlement

884 Contract as of the day and year first hereinabove written.

885 THE UNITED STATES OF AMERICA

APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY  
*James E. [Signature]*  
OFFICE OF REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR

886  
887  
888

By: *[Signature]*  
for Regional Director, Mid-Pacific Region  
Bureau of Reclamation

889 (SEAL)

890  
891

ANDERSON-COTTONWOOD IRRIGATION  
DISTRICT

892  
893

By: *Brenda L. Hayes*  
President

894 ATTEST:

895  
896

*[Signature]*  
Secretary

897 (H:\public\Sac River Final LTRC's\2005-01-31 ACID Final Draft Contract with exhibits.doc)

## Exhibit A

ANDERSON-COTTONWOOD IRRIGATION DISTRICT  
Sacramento RiverSCHEDULE OF MONTHLY DIVERSIONS OF WATER

	<u>Base Supply</u> (acre-feet)	<u>Project Water</u> (acre-feet)	<u>Contract Total</u> (acre-feet)
April	<u>8,000</u>	<u>0</u>	<u>8,000</u>
May	<u>10,000</u>	<u>0</u>	<u>10,000</u>
June	<u>22,000</u>	<u>0</u>	<u>22,000</u>
July	<u>22,000</u>	<u>3,000</u>	<u>25,000</u>
August	<u>22,000</u>	<u>4,000</u>	<u>26,000</u>
September	<u>19,000</u>	<u>0</u>	<u>19,000</u>
October	<u>18,000</u>	<u>0</u>	<u>18,000</u>
Total	<u>121,000</u>	<u>7,000</u>	<u>128,000</u>

Points of Diversion: 240.5L, 246.0R

Dated: 01-31-2005



Exhibit A

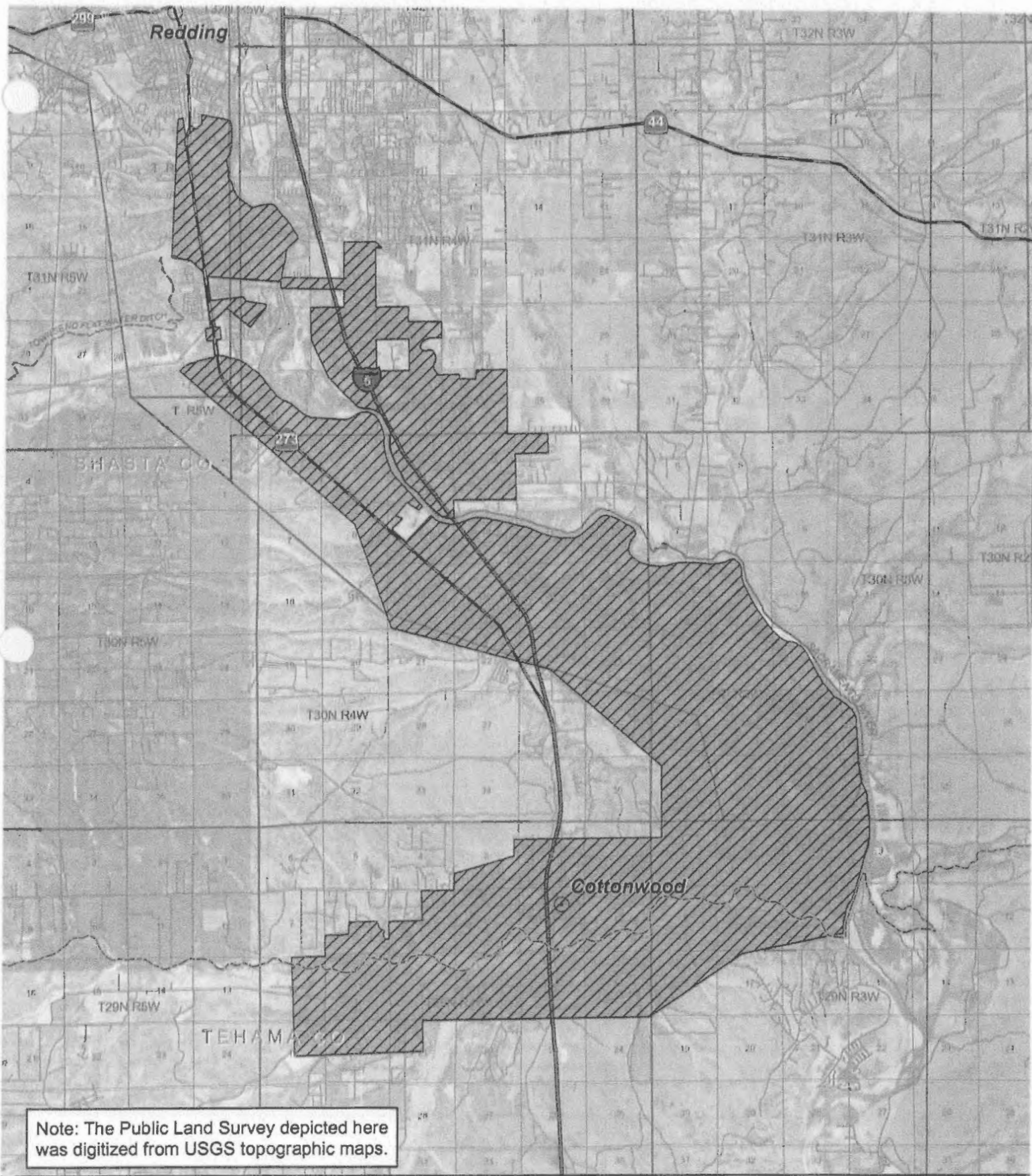
ANDERSON-COTTONWOOD IRRIGATION DISTRICT  
Sacramento River

SCHEDULE OF MONTHLY DIVERSIONS OF WATER

	<u>Base Supply</u> (acre-feet)	<u>Project Water</u> (acre-feet)	<u>Contract Total</u> (acre-feet)
April	8,000	0	8,000
May	10,000	0	10,000
June	22,000	0	22,000
July	22,000	2,000	24,000
August	22,000	2,000	24,000
September	19,000	0	19,000
October	18,000	0	18,000
Total	<u>121,000</u>	4,000	<u>125,000</u>

Points of Diversion: 240.51., 246.0R, 246.7R

Dated: 03-05-2009



Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

**Anderson-Cottonwood I.D.**  
 Contract No. 14-06-200-3346A-R-1  
 Exhibit B



-  Contractor's Service Area
-  District Boundary



Exhibit C

ANDERSON-COTTONWOOD IRRIGATION DISTRICT  
Sacramento River

UNIT DUTY

(In Acre-Feet Per Acre)

	<u>Alfalfa and Irrigated Pasture</u>	<u>General Crops</u>
July	1.00	0.70
August	0.80	0.70

Dated: 01-31-2005

## Exhibit D

ANDERSON-COTTONWOOD IRRIGATION DISTRICT  
 Sacramento River  
2005 Water Rates and Charges per Acre-Foot

<u>COST OF SERVICE RATES:</u>	<u>Irrigation</u>	<u>M&amp;I</u>
Capital Rates		
Storage	\$ 4.55	\$ 9.70
O&M Rates:		
Water Marketing	\$ 6.61	\$ 3.89
Storage	\$ 5.93	\$ 6.67
Deficit Rates:		
Interest Bearing	\$ 0.00*	\$ 0.00
CFO/PFR Adjustment Rate 1/	\$ <u>1.13</u>	\$ <u>0.00</u>
TOTAL	<u>\$18.22</u>	<u>\$20.26</u>

\*Assumes payment of O&M deficit prior to or upon effective date of contract

<u>RESCHEDULING FEE:</u>	<u>\$5.58</u>	<u>\$ 8.19</u>
--------------------------	---------------	----------------

FULL-COST RATES:

Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	<u>\$26.70</u>	<u>N/A</u>
---	----------------	------------

Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	<u>\$29.10</u>	<u>N/A</u>
---	----------------	------------

CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 2/

Restoration Payments (3407(d)(2)(A))	<u>\$ 7.93</u>	<u>\$15.87</u>
--------------------------------------	----------------	----------------

1/ Chief Financial Officer (CFO) adjustment and Provision for Replacement (PFR) expense is being distributed over a 5-year period beginning in FY 2003 for those contractors that requested those costs be deferred.

2/ Restoration fund charges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund charges are on a fiscal year basis (10/1 - 9/30).

**BOARD OF DIRECTORS  
ANDERSON-COTTONWOOD IRRIGATION DISTRICT  
RESOLUTION NO. 2005-01**

**RESOLUTION APPROVING LONG-TERM RENEWAL  
OF CONTRACT BETWEEN THE UNITED STATES AND  
ANDERSON-COTTONWOOD IRRIGATION DISTRICT,  
DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCES,  
SETTLING WATER RIGHTS DISPUTES AND  
PROVIDING FOR PROJECT WATER**

---

AS A BASIS AND PREMISE for this Resolution, the Board of Directors of ANDERSON-COTTONWOOD IRRIGATION DISTRICT (District) finds and states as follows:

1. The District has, since June 07, 1967, held a water rights settlement contract with the United States Department of the Interior, Bureau of Reclamation ("Reclamation") bearing Contract No. 14-06-200-3346A (the "Original Contract").
2. The Original Contract would have expired on March 31, 2004.
3. In advance of that expiration, the District and Reclamation entered into negotiations for a long-term renewal of the Original Contract.
4. By Act of Congress, the Original Contract was extended for a period of two years, because the negotiations and related procedures had not been completed by March 31, 2004.
5. The negotiations and related procedures have now been completed, and Reclamation has presented to the District the agreed upon final form of renewal contract bearing Contract No. 14-06-200-3346A-R1 (the "Renewal Contract").
6. It would be in the best interests of the District to approve the Renewal Contract and to authorize the officials and staff of the District to carry out any actions necessary to implement the Renewal Contract.

NOW, THEREFORE, be it RESOLVED, ADJUDGED and ORDAINED that:

1. The Board of Directors of the Anderson-Cottonwood Irrigation District hereby approves the Renewal Contract between Reclamation and the District.

2. The President and Secretary of the Board of Directors or any other officials of the District are authorized and directed to execute the Renewal Contract on behalf of the District.

3. The officials and staff of the District are authorized and directed to take any other action necessary to implement the terms of the Renewal Contract.

PASSED AND ADOPTED on this the 10<sup>th</sup> day of February, 2005 at a regular meeting of the Board of Directors by the following vote:

AYES: Andrews, Jordan, Haynes, Leitaker, Sartori

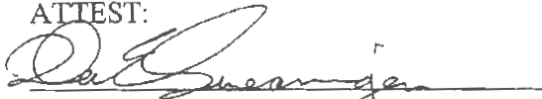
NOES: None

ABSENT: None



Brenda Haynes - President

ATTEST:

  
Dee E. Swearingen - Secretary

