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**Appendix E-3**  
**Kern County Water Transfer Agreement**

AGREEMENT FOR  
PERMANENT TRANSFER  
OF ENTITLEMENT TO  
STATE WATER PROJECT WATER  
AND  
CAPACITY IN THE CALIFORNIA AQUEDUCT

NAPA COUNTY AGREEMENT NO. 911CE

THIS AGREEMENT (this "Agreement") is executed in duplicate this 19<sup>th</sup> day of September \_\_, 2000 by and between the KERN COUNTY WATER AGENCY (the "Agency" or "Transferor") and NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("Napa");

WITNESSETH:

WHEREAS, on November 15, 1963, the State [defined in section 2.13 hereof] and the Agency [defined in section 2.01 hereof] entered into the Agency Contract [defined in section 2.02 hereof] for the delivery of Project Water [defined in section 2.11 hereof] from the SWP [defined in section 2.14 hereof] which, as amended through Amendment 31 thereto dated December 29, 1999, provides for the delivery of 1,020,730 AF [defined in section 2.00 hereof] of Project Water to the Agency in each Year [defined in section 2.21 hereof] during the balance of the term of the Agency Contract; and

WHEREAS, on December 19, 1963, the State and Napa entered into the Transferee's Contract [defined in section 2.19 hereof] for the delivery of Project Water from the SWP which, as amended through Amendment 20, provides for the delivery of a maximum annual entitlement of 25,000 AF of Project Water to the Transferee during the term of the Transferee's Contract; and

WHEREAS, the Transferor desires to permanently transfer the Transferred Entitlement [defined in section 2.17 hereof] and the Transferred Capacity [defined in section 2.15 hereof] to the Transferee under the terms of this Agreement; and

WHEREAS, Article 41 of the Agency Contract provides, in part, that no assignment or transfer thereof, or any part or interest therein, shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose;

NOW, THEREFORE, the Agency and Solano hereby agree as follows:

ARTICLE I.  
INTERPRETATION OF AGREEMENT

1.00. Introduction.

Unless the context otherwise requires, the rules of interpretation set forth

in this article I shall govern the interpretation of this Agreement and all documents executed pursuant hereto.

1.01. Captions.

The captions of articles and sections of this Agreement do not define the scope, meaning or intent of this Agreement or any documents executed pursuant hereto.

1.02. Exhibits.

All exhibits referred to in this Agreement are deemed to be incorporated by reference as though set forth herein.

1.03. Definitions.

Unless the context otherwise requires, the words and phrases defined in article II hereof shall govern the interpretation of this Agreement.

1.04. Opinions and Determinations.

Where the terms of this Agreement provide for actions to be based on the opinion, judgment, approval, consent, review, certification or determination of any party hereto, such terms are not intended to be and shall not be construed as permitting such opinion, judgment, approval, consent, review, certification or determination to be arbitrary, capricious or unreasonable.

1.05. Amendments.

When any reference is made to any law, such reference shall apply to all amendments and additions thereto, heretofore or hereafter made.

1.06. Tenses.

The present tense includes the past and future tenses and the future tense includes the present.

1.07. Gender.

The masculine, feminine or neuter gender shall be deemed to include the other.

1.08. Singular; Plural.

The singular or plural numbers shall be deemed to include the other.

1.09. Civil Code Section 1654.

The normal rule of interpretation that any ambiguity is to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibit hereto or amendment hereof and Civil Code section 1654 shall not be applied to resolve any ambiguity in this Agreement.

**ARTICLE II.  
DEFINITIONS**

2.00. AF.

"AF" means acre feet.

2.01. Agency or Transferor.

"Agency" or "Transferor" means the Kern County Water Agency, a body politic and corporate, organized and existing under and by virtue of the provisions of the Kern County Water Agency Act (Stats. 1961, ch. 1003, p. 2651, Deering's Wat.—Uncod. Acts (1970 ed.) Act. 9098, p. 71).

2.02. Agency Contract.

"Agency Contract" means the water supply contract between the State and the Agency dated November 15, 1963, as amended.

2.03. Assets.

"Assets" means the Transferred Entitlement and the Transferred Capacity.

2.04. CEQA.

"CEQA" means the California Environmental Quality Act (division 13 (commencing with section 21000) of the Public Resources Code).

2.05. Closing Date.

"Closing Date" means a date mutually agreed upon by the Transferor and the Transferee which shall be no later than September 30, 2000 unless the date is extended beyond September 30, 2000 under section 7.04 hereof.

2.06. Delta Water Charge.

"Delta Water Charge" means the annual charge under Article 22 of the

Transferee's Contract, expressed in dollars per AF.

2.07. Member Unit.

"Member Unit" means Belridge Water Storage District, a California water storage district organized under the California Water Storage District Law (division 14 [commencing with section 39000] of the Water Code) on February 22, 1962 and existing thereunder.

2.08. Member Unit Contract.

"Member Unit Contract" means the water supply contract between the Agency and Belridge Water Storage District dated October 4, 1966, as amended.

2.09. MOU.

"MOU" means the Memorandum of Understanding among the Transferor, the Transferee, and others having an effective date of December 15, 1999.

2.10. Napa or Transferee.

"Napa" or "Transferee" means Napa County Flood Control and Water Conservation District, a public agency created by and existing under the Napa County Flood Control and Water Conservation District Act (Stats. 1951, ch. 1449, p. 3411, Deering's Wat.—Uncod. Acts Act 5275, p. 82).

2.11. Project Water.

"Project Water" means water deliverable by the State to the Agency under the Agency Contract, water deliverable by the Agency to the Transferor under the Transferor's Contract and water deliverable by the State to the Transferee under the Transferee's Contract.

2.12. Purchase Price.

"Purchase Price" means (a) \$4,025,000; provided, however, that if the Transferred Entitlement is less than 4,025 AF, the "Purchase Price" shall mean the resultant of \$1,000 multiplied by the Transferred Entitlement and (b) interest on the Purchase Price at the rate of 6.0% per annum from January 1, 2000 to the Closing Date.

2.13. State.

"State" means the State of California, acting by and through its Department of Water Resources.

2.14. SWP.

"SWP" means the State Water Project.

2.15. Transferred Capacity.

"Transferred Capacity" means (a)(1) capacity of 9 cubic feet per second in Reaches 1 through 8D of the California Aqueduct (2) capacity of 9 cubic feet per second in Reaches 9 and 10A of the California Aqueduct, and (3) capacity of 4 cubic feet per second in Reach 11B of the California Aqueduct, reserving unto the Transferor, at no cost to the Transferor other than any variable costs, including off-aqueduct costs, the right to use that portion of such capacity that is not being used by the Transferee and (b) the right to use that portion of 2.5 cubic feet per second of the Transferor's capacity in Reaches 1 through 11B of the California Aqueduct that is not being used by the Transferor at no cost to the Transferee, other than any variable costs, including off-aqueduct costs; provided, however, that if the Transferred Entitlement is less than 4,025 AF, the foregoing numbers shall be reduced by dividing such numbers by 4,025 and multiplying the quotient by the amount of the Transferred Entitlement with the resultant being rounded to the nearest whole number.

2.16. Transferred Capacity Obligation.

"Transferred Capacity Obligation" means the obligation to pay for (a) capacity of 9 cubic feet per second in Reaches 1 through 8D of the California Aqueduct, (b) capacity of 9 cubic feet per second in Reaches 9 and 10A of the California Aqueduct, (c) capacity of 4 cubic feet in Reach 11B of the California Aqueduct, and (d) capacity of 5 cubic feet per second in Reach 31A of the California Aqueduct; provided, however, that if the Transferred Entitlement is less than 4,025 AF, the foregoing numbers shall be reduced by dividing such numbers by 4,025 and multiplying the quotient by the amount of the Transferred Entitlement with the resultant being rounded to the nearest whole number.

2.17. Transferred Entitlement.

"Transferred Entitlement" means 4,025 AF of the Transferor's annual entitlement under the Transferor's Contract; provided, however, that if the aggregate amount of entitlement to SWP water to be relinquished by the holders of title to land within the Transferor is less than 4,025 AF, "Transferred Entitlement" shall mean such aggregate amount.

2.18. Transferee's Address.

"Transferee's Address" means 1195 Third Street, Room 201, Napa, CA 94559.

2.19. Transferee's Contract.

"Transferee's Contract" means the water supply contract between the State and Napa dated December 19, 1963, as amended.

2.20. Transferor's Address.

"Transferor's Address" means P. O. Box 58, Bakersfield, California 93302.

2.21. Year.

31. "Year" means the calendar year beginning January 1, and ending December

**ARTICLE III.  
RELATIONSHIP TO OTHER CONTRACTS**

3.00. Agreement Subject to Other Contracts.

This Agreement is subject to the terms of the Member Unit Contract, the Agency Contract, the Transferee's Contract, and the MOU and is intended to be in conformance and harmony with those contracts. If any provision of this Agreement is inconsistent with any provision in the MOU, the provision in this Agreement shall control.

**ARTICLE IV.  
CONVEYANCE OF ASSETS  
AND  
ASSUMPTION OF OBLIGATIONS**

4.00. Conveyance of Transferred Entitlement.

The Transferor shall convey the Transferred Entitlement to the Transferee effective January 1, 2001.

4.01. Conveyance of Transferred Capacity.

The Transferor shall convey the Transferred Capacity to the Transferee effective January 1, 2001.

4.02. Assumption of Rights and Obligations.

The Transferee shall assume all of the rights and obligations associated with the Transferred Entitlement and the Transferred Capacity Obligation effective

January 1, 2001, including any adjustment of costs made by the State after December 31, 2000 associated with or relating to the Transferred Entitlement and the Transferred Capacity Obligation for the operation of the SWP and the delivery of Project Water in any Year prior to 2001 with the exception of the following adjustments of costs (the "Excepted Adjustments"): (a) the variable operation, maintenance, power, and replacement component of the Transportation Charge, (b) the minimum operation, maintenance, power, and replacement component of the Transportation charge (c) the off-aqueduct power facilities charge of the minimum operation, maintenance, power, and replacement component of the Transportation Charge, including the debt service reserves for revenue bonds sold to finance off-aqueduct power facilities, and (d) the Water System Revenue Bond Surcharge to the Delta Water Charge and the capital component of the Transportation Charge, including the debt service reserves for the Water System Revenue Bonds. The Transferor shall retain all rights and continue to be responsible for the obligation to pay the Excepted Adjustments. If the Transferor is required to pay to the State any obligation that is hereby assumed by the Transferee, the Transferee shall reimburse the Transferor for the payment of such obligation within a reasonable time following demand from the Transferor.

#### 4.03. Conveyancing Documents.

The conveyance of the Assets shall be effected through the execution and delivery of the following documents:

(a) An amendment of the Agency Contract in substantially the form attached as **Exhibit A**.

(b) An amendment of the Transferee's Contract in substantially the form attached as **Exhibit B**.

#### 4.04. Payment of Purchase Price.

The Purchase Price shall be paid by the Transferee to the Transferor on the Closing Date.

#### 4.05. Payment Regarding Transportation Charge.

In addition to the Purchase Price, the Transferee shall pay to the Transferor the fixed costs for capacity of 2.5 cubic feet per second in Reaches 1 through 11B of the California Aqueduct for the Year 2001 and each Year thereafter during the term of the Transferor's Contract, including any extension or renewal thereof. The fixed costs shall include (a) the capital component of the Transportation Charge, (b) the Water System Revenue Bond Surcharge to the capital component of the Transportation Charge, and (c) the minimum operation, maintenance, power, and replacement component of the Transportation Charge, exclusive of the off-aqueduct power facilities charge. The

Transferor shall provide to the Transferee by January 1 of each Year, commencing January 1, 2001, the Transferor's determination of that Year's fixed costs and all reasonably required supporting documentation. The Transferee shall pay to the Transferor the amount of such fixed costs by June 1 of that Year. All such fixed costs shall be subject to redetermination by the State in the manner provided in the Agency Contract and the Transferee's Contract.

## ARTICLE V. CONDITIONS

### 5.00. Joint Conditions.

The obligations of the Transferor and the Transferee under this Agreement are subject to the occurrence of all of the following conditions which are for the benefit of the Member Unit, the Transferor, and the Transferee:

(a) The approval by the Member Unit to the permanent transfer of the Assets under this Agreement and the due execution of an amendment to the Member Unit Contract.

(b) The approval by the State to the permanent transfer of the Assets under this Agreement, the due execution of an amendment to the Agency Contract in substantially the form attached as **Exhibit A**, and the due execution of an amendment to the Transferee's Contract in substantially the form attached as **Exhibit B**.

The Transferor shall seek the approval of the Member Unit. The Transferor and the Transferee shall seek the approval of the State. The Transferor and the Transferee shall diligently seek such approvals.

### 5.01. Transferor's Conditions.

The obligations of the Transferor and the Transferee under this Agreement are subject to the occurrence of all of the following conditions which are for the benefit of the Member Unit and the Transferor:

(a) The due execution of agreements between the Member Unit and holders of title to land within the Member Unit pursuant to which such holders of title to land terminate or partially terminate their water supply contracts with the Member Unit to relinquish entitlement to SWP water in the aggregate amount of the Transferred Entitlement.

(b) The Member Unit's approval of the amended Table 1 of the Member Unit Contract.

(c) The Transferor's approval of the amended Table A of the Agency Contract.

(d) The Transferor's approval of the amended Table A-1 of the Agency Contract.

(e) The Transferor's approval of Exhibit A of the amendment of the Agency Contract.

5.02. Transferee's Conditions.

The obligations of the Transferor and the Transferee under this Agreement are subject to the occurrence of all of the following conditions which are for the benefit of the Transferee:

(a) The Transferee's approval of an amended Table A of the Transferee's Contract.

(b) The Transferee's approval of Exhibit B of the amendment of the Transferee's Contract.

(c) The Transferee's approval of the amount of the Transferred Entitlement if the Transferred Entitlement is less than 4,025 AF.

(d) The Transferee's compliance with CEQA and the expiration of the time in which any person can challenge the Transferee's compliance with CEQA.

5.03. Failure of Conditions.

If any condition contained in section 5.00 hereof fails to occur before the Closing Date, the Transferor and the Transferee shall each have the power, exercisable by the giving of written notice to the other, to terminate this Agreement and to recover any amounts paid on account of the Purchase Price or any documents delivered pursuant to this Agreement. If any condition contained in section 5.01 hereof fails to occur before the Closing Date, the Transferor shall have the power, exercisable by the giving of written notice to the Transferee, to terminate this Agreement and to recover any documents delivered pursuant to this Agreement or to waive such condition; provided, however, that no waiver by the Transferor shall reduce any right or remedy of the Transferor by reason of any breach of any undertaking, covenant, representation or

warranty by the Transferee. If any condition contained in section 5.02 hereof fails to occur before the Closing Date, the Transferee shall have the power, exercisable by the giving of written notice to the Transferor, to terminate this Agreement and to recover any amounts paid on account of the Purchase Price or any documents delivered pursuant to this Agreement or to waive such condition; provided, however, that no waiver by the Transferee shall reduce any right or remedy of the Transferee by reason of any breach of any undertaking, covenant, representation or warranty by the Transferor. If this Agreement is terminated by the Transferor because a condition contained in section 5.00 or section 5.01 hereof fails to occur before the Closing Date and such condition failed to occur as a result of an act or omission of the Transferor, then the Transferee shall retain its right of first refusal under Article 53(d)(3) of the Transferee's Contract notwithstanding paragraph 7 of the MOU.

**ARTICLE VI.**  
**COVENANTS, REPRESENTATIONS AND WARRANTIES**

6.00. Representations and Warranties of Transferor.

The Transferor represents and warrants that as of the Effective Date and as of the date of conveyance of the Assets as follows:

(a) The Transferor is a body politic and corporate organized and existing under and by virtue of the Kern County Water Agency Act.

(b) The Transferor has authority to execute and perform this Agreement.

(c) The Transferor has authorized the execution and performance of this Agreement.

(d) The Transferor's execution and performance of this Agreement will not result in the breach of any other agreement to which the Transferor is a party or to which the Transferor is otherwise subject or bound.

(e) Title to the Assets is free and clear of any liens, encumbrances, or the rights of any other party, other than the obligations of the Member Unit and the Agency under the Member Unit Contract and the obligations of the Transferor under the Agency Contract.

(f) There is no litigation or other proceeding pending with respect to the ownership, use or transfer of the Assets which affects the transfer of the Assets.

6.01. Representations and Warranties of Transferee.

The Transferee represents and warrants as of the Effective Date and as of the date of the conveyance of the Assets as follows:

(a) The Transferee is a public agency created by and existing under the Napa County Flood Control and Water Conservation District Act.

(b) The Transferee has authority to execute and perform this Agreement.

(c) The Transferee has authorized the execution and performance of this Agreement.

(d) The Transferee's execution and performance of this Agreement will not result in the breach of any other agreement to which the Transferee is a party or to which the Transferee is otherwise subject or bound.

(e) There is no litigation or other proceeding pending which affects the Transferee's ability to perform this Agreement.

6.02. Indemnification.

The Transferor shall indemnify the Transferee against and hold it harmless from any claim, loss, damage or expense, including reasonable attorney's fees, asserted against or suffered by the Transferee resulting from any breach by the Transferor of this Agreement, any liability or obligation of the Transferor which the Transferee is not required to assume hereunder or accruing prior to such assumption, or the breach of any of the covenants, representations or warranties made by the Transferor. The Transferee shall indemnify the Transferor against and hold it harmless from any claim, loss, damage or expense, including reasonable attorney's fees, asserted against or suffered by the Transferor resulting from any breach by the Transferee of this Agreement, any liability or obligation of the Transferee which the Transferor is not required to assume hereunder or accruing prior to such assumption, or the breach of any of the covenants, representations or warranties made by the Transferee.

6.03. Commissions.

The Transferor and the Transferee each represent and warrant to the other

that (a) their sole contract with the Assets has been directly between themselves and their agents and employees, and (b) no person or entity can properly claim a right to a commission, finder's fee or other compensation based upon contacts or understandings between such claimant and the Transferor or Transferee with respect to the transaction contemplated by this Agreement.

## ARTICLE VII. CLOSING

### 7.00. Closing Date.

The Transferor and the Transferee shall consummate the conveyance of the Assets on the Closing Date.

### 7.01. Transferor's Deposit of Documents.

The Transferor shall deposit or cause to be deposited with the Transferee on or before the Closing Date the following described documents:

(a) A certified copy of an amendment of the Agency Contract in the substantially the form attached as **Exhibit A.**

### 7.02. Transferee's Deposit of Document and Funds.

The Transferee shall deposit or cause to be deposited with the Transferor the following described document and funds:

(a) A certified copy of an amendment of the Transferee's Contract in substantially the form attached as **Exhibit B.**

(b) A cashier's check issued by a California bank or warrant issued on an account of the Transferee in an amount equal to the Purchase Price.

### 7.03. Closing.

The conveyance of the Assets shall be complete when:

(a) The Transferor and the Transferee have satisfied or waived all conditions contained in article V hereof.

(b) The Transferor has performed its obligations under section 7.01 hereof.

(c) The Transferee has performed its obligations under section 7.02 hereof.

7.04. Extension of Closing Date.

(a) The Transferor or the Transferee, or both, shall have the right to extend the Closing Date beyond September 30, 2000 if it or they (1) commence litigation against the State on or before October 31, 2000 claiming that the State has breached the Transferor's Contract or the Transferee's Contract, or both, as the case may be, because of its failure to approve and execute the amendments in substantially the forms attached as **Exhibits A** and **B** and (2) diligently pursue such litigation to conclusion or settlement. The extension of the Closing Date under this section 7.04(a) shall be for a period beginning October 1, 2000 and ending 30 days after the litigation is concluded or settled.

(b) The Transferee shall have the right to extend the Closing Date beyond September 30, 2000 for the reasons and subject to the conditions stated in Article 53(d)(3) of the Transferee's Contract.

(c) The Transferee shall have the right to extend the Closing Date beyond September 30, 2000 if any act or omission of Westlands Water District is a substantial factor in delaying any condition of closing. The extension of the Closing Date under this section 7.04(c) shall be for a period beginning October 1, 2000 and ending a period of time thereafter which is equal to the period of time that the act or omission delayed the condition of closing.

**ARTICLE VIII.  
GENERAL PROVISIONS**

8.00. Remedies Not Exclusive.

The use by any party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive such party of, or limit the application of, any other remedy provided by law, at equity or otherwise.

8.01. Notices.

Any notice, request, tender, demand, delivery, approval or other communication provided for, required or arising under this Agreement shall be in writing and shall be deemed delivered if delivered to an officer of a party or, if mailed, three business days following deposit in the United States mails, registered or certified, return receipt requested, postage prepaid, addressed to the other party at the address or addresses provided in this section or at such other address or addresses of which such party may give notice in accordance with the provisions of this section:

If to the Transferor, at:                      Transferor's Address.  
With a copy to:                                William C. Kuhs  
    Kuhs, Parker & Stanton  
    P. O. Box 2205  
    Bakersfield, CA 93303

If to the Transferee, at:                      Transferee's Address.  
With a copy to:

8.02. Survival of Covenants.

Each of the covenants contained in this Agreement, to the extent applicable, shall survive the performance of the executory provisions of this Agreement and the closing.

8.03. Execution of Documents.

In addition to any documents expressly referred to in this Agreement to be executed by any one or both parties, each party agrees to execute any and all documents which might be required to implement the provisions of this Agreement.

8.04. Assignability.

Except as otherwise provided in the MOU, neither party shall sell, assign, transfer, convey or encumber this Agreement or suffer or permit any such assignment, transfer or encumbrance to occur by operation of law without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. In the event of any sale, transfer or assignment consented to by any party, the transferee shall agree in writing with the other party to personally assume, perform and be bound by the covenants, obligations and agreements contained in this Agreement.

8.05. Successors and Assigns.

Subject to the provisions of section 8.04 hereof, this Agreement shall be binding upon the successors and assigns of the parties hereto.

8.06. Application of Agreement.

This Agreement is made for the sole benefit of the Member Unit, the Transferor, and the Transferee and their respective successors and assigns and no other

person shall have any right of action hereon.

8.07. Choice of Law.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

8.08. Entire Agreement.

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants, representations, warranties, and agreements between the parties with respect to such subject matter, and each party hereby acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

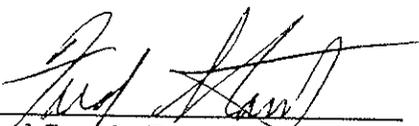
8.09. Time.

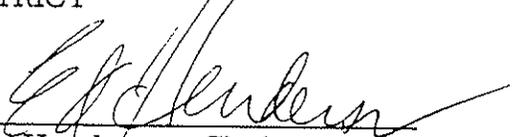
Time is of the essence in the performance of the parties' respective obligations contained in this Agreement.

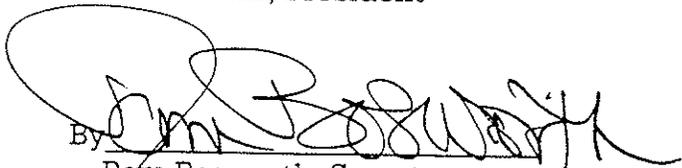
IN WITNESS WHEREOF, the Agency and Napa have caused this Agreement to be executed as of the date first hereinabove set forth.

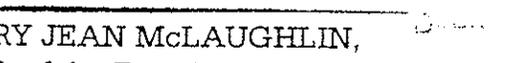
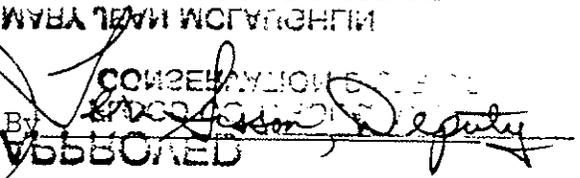
KERN COUNTY WATER AGENCY

NAPA COUNTY FLOOD CONTROL  
AND WATER CONSERVATION  
DISTRICT

By   
Fred Starrh, President

By   
Ed Henderson, Chairman  
Board of Directors

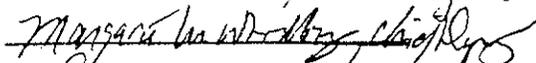
By   
Pam Bosworth, Secretary

ATTEST:  
By   
MARY JEAN McLAUGHLIN,  
~~Chair of the Board~~ CLERK OF THE DISTRICT  
MAY JEAN MCGLAUGHLIN  
By   
COUNSEL  
APPROVED

C:\WPDATA\WCK\DISTRICT\NAPATRANSFER

APPROVED AS TO FORM

Office of County Counsel/District Legal Counsel 15

By: 

Date: September 19, 2000

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES

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AMENDMENT NO. \_\_\_\_ TO THE WATER SUPPLY CONTRACT  
BETWEEN THE STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES  
AND  
KERN COUNTY WATER AGENCY

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THIS AMENDMENT to the Water Supply Contract is made this \_\_\_\_\_ day of \_\_\_\_\_, 2000, pursuant to the provisions of the California Water Resources Development Bond Act, the Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State," and Kern County Water Agency, herein referred to as the "Agency".

**RECITALS:**

- A. The State and the Agency entered into and subsequently amended a Water Supply Contract, herein referred to as the "contract" providing that the State will supply certain quantities of water to the Agency, and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment.
- B. The contractors and the State have amended the Water Supply Contracts to implement provisions of the Monterey Agreement.
- C. Among other things, Article 53 of the Water Supply Contracts provides for the permanent transfer of up to 130,000 acre-feet of agricultural entitlement water to urban agencies.
- D. The State and Agency wish to set forth their agreement as to such matters as (i) the 4,025 acre-feet per year decrease in the Agency's annual entitlement, (ii) the transfer of related transportation repayment obligations, and (iii) the revision of proportionate use of facilities factors set forth in the contract.
- E. The State and Napa County Flood Control and Water Conservation District, herein referred to as "Napa," are simultaneously with the execution and delivery of this Amendment, entering into Amendment No. \_\_\_\_ to the Water Supply Contract between Napa and the State in order to reflect (i) the transfer

of Table A Entitlement described herein, (ii) the transfer of related transportation repayment obligations, and (iii) the revision of proportionate use of facilities factors.

NOW, THEREFORE, it is mutually agreed that the following changes are hereby made to the contract:

1. Article 12(c) is revised to read as follows:

In no event shall the State be obligated to deliver water to the Agency through all delivery structures at a total combined instantaneous rate of flow exceeding \_\_\_\_\_ cubic-feet-per-second, except as this rate of flow may be revised by amendment of this article after submission to the State of the Agency's requests with respect to maximum flow capacities to be provided in said delivery structures, pursuant to Article 10.

2. Article 45\_\_ is added to read as follows:

(\_\_)(1) In accordance with Article 53(a) the Agency is decreasing its Table A and Table A-1 annual entitlements by 4,025 acre-feet beginning in year 2001 and each succeeding year thereafter for the term of the contract. The reduction is part of the 130,000 acre-feet made available to Urban Contractors under Article 53(a). Table A as designated in Article 6(b) and Table A-1 as designated in Article 45(b) are amended as follows:

( ) (2) The following apply to this permanent transfer:

- (a) Reductions in the Agency's Delta Water Charge, Transportation Charge, and the Water System Revenue Bond Surcharge resulting from the decrease in the Agency's annual entitlement for agricultural use for the year 2001 and each year thereafter shall commence January 1, 2001, and be identified by the State and included in a revised Statement of Charges for the year 2001 and in future annual Statement of Charges to the Agency.
  - (b) Any over and under adjustments to payments made by the Agency for 2000 and prior years attributable to the 4,025 acre-feet of entitlement shall be paid by or credited to the Agency, including refunds or credits for Off-Aqueduct and Water System Revenue Bond reserves. Any over and under adjustments to payments made by Napa County Flood Control and Water Conservation District for 2001 and future years attributable to the 4,025 acre-feet of entitlement shall be paid by or credited to Napa County Flood Control and Water Conservation District.
  - (c) For cost allocation and repayment purposes, Exhibit A attached hereto shows entitlement and capacity amounts for reach aqueduct reach in which the Agency participates. These redetermined values shall be used to derive the proportionate use of facilities factors as set forth in Table B as designated in Article 24(b). The capacity amounts shown in Exhibit A are estimated values. Actual values will be used by the State in implementing the terms of this Amendment and in redetermination of Table B of this contract under Article 28.
3. This Amendment shall not be effective until Amendment No. \_\_\_\_ of the Water Supply Contract between the State and Solano becomes effective.
  4. This Amendment shall not be used as precedent.
  5. This Amendment is permitted by the terms of the contract, and except as amended herein, the provisions of the contract will remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date first above written.

Approved as to legal form  
and sufficiency

STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

\_\_\_\_\_  
Chief Counsel  
Department of Water  
Resources

\_\_\_\_\_  
Director

ATTEST:

KERN COUNTY WATER AGENCY

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# DRAFT

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES

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AMENDMENT NO. 21 TO WATER SUPPLY CONTRACT  
BETWEEN THE STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES  
AND  
NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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THIS AMENDMENT to the Water Supply Contract is made this \_\_\_\_\_ day  
of \_\_\_\_\_, 2000, pursuant to the provisions of the California Water Resources  
Development Bond Act, the Central Valley Project Act, and other applicable laws of the  
State of California, between the State of California, acting by and through its Department of  
Water Resources, herein referred to as the "State," and Napa County Flood Control and  
Water Conservation District, herein referred to as the "District."

### RECITALS:

- A. The State and the District have entered into and subsequently amended a Water Supply Contract (the "Water Supply Contract"), providing that the State will supply certain quantities of water to the District, and providing that the District shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment.
- B. The contractors and the State have amended the Water Supply Contracts to implement provisions of the Monterey Agreement (the "Monterey Amendment").

EXHIBIT B

# DRAFT

- C. Among other things, Article 53 of the Water Supply Contract provides for the permanent transfer of up to 130,000 acre-feet of agricultural entitlement water to urban agencies.
- D. The District, the Agency and Belridge Water District have entered into an agreement to purchase State Water Project entitlement water executed as of \_\_\_\_\_ to provide for the sale of annual entitlement to the District by Kern County Water Agency, herein referred to as "KCWA", and on behalf of Belridge of \_\_\_\_\_ acre-feet per year of KCWA's annual entitlement that has been allocated to Belridge by KCWA under the contract between Belridge and KCWA dated \_\_\_\_\_ and all amendments thereto.
- E. The State and District wish to set forth their agreement as to such matters as (i) the 4,025 acre-feet per year increase in the District's annual entitlement, (ii) the transfer of related transportation repayment obligations, and (iii) the revision of proportionate use of facilities factors set forth in the Water Supply Contract.
- F. The State and KCWA are simultaneously with the execution and delivery of this Amendment, entering into Amendment No. 34 to KCWA's Water Supply Contract between KCWA and the State in order to reflect (i) the transfer of Table A Entitlement described herein, (ii) the transfer of related transportation repayment obligations, and (iii) the revision of proportionate use of facilities factors.
- G. This Amendment is permitted by the terms of the Water Supply Contract, and except as amended herein, the provisions of the Water Supply Contract will remain in full force and effect.

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AMENDMENT NO. 21  
REVISION TO TABLE A

NOW, THEREFORE, it is mutually agreed that the following changes are hereby made to the District's Water Supply Contract:

1. Article 53(j) is added to read:

(j) In accordance with Article 53(a) the District is increasing its Table A annual entitlements by 4,025 acre-feet beginning in year 2001 and each succeeding year thereafter for the term of the contract through a sale from Kern County Water Agency of 4,025 acre-feet of the 130,000 acre-feet made available to Urban Contractors. The District is also purchasing 4,025 acre-feet of additional delivery capacity on the North Bay Aqueduct. As a result of this sale, Table A as designated in Article 6(b) is amended as follows:

<u>Year</u>	<u>Old</u>	<u>New</u>
2001	16,700	20,725
2002	17,075	21,100
2003	17,450	21,475
2004	17,825	21,850
2005	18,200	22,225
2006	18,525	22,550
2007	18,850	22,875
2008	19,175	23,200
2009	19,500	23,525
2010	19,825	23,850
2011	20,150	24,175
2012	20,475	24,500
2013	20,750	24,775
2014	21,125	25,150
2015	21,800	25,825
2016	22,425	26,450
2017	23,050	27,075
2018	23,675	27,700

# DRAFT

AMENDMENT NO. 21  
REVISION TO TABLE A

2019	24,300	28,325
2020	24,900	28,925
2021	25,000	29,025

Table A entitled "ANNUAL ENTITLEMENTS, NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT" as designated in Article 6 of the District's Water Supply Contract with the State, dated December 19, 1963, is amended to read as follows:

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AMENDMENT NO. 21  
REVISION TO TABLE A

### TABLE A: ANNUAL ENTITLEMENT NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

<u>Year</u>		<u>Total Annual Amount in Acre-Feet</u>
1	(1988)	
2	(1989)	5,745
3	(1990)	6,195
4	(1991)	6,940
5	(1992)	7,290
6	(1993)	7,840
7	(1994)	8,490
8	(1995)	9,135
9	(1996)	9,780
10	(1997)	10,425
11	(1998)	11,065
12	(1999)	11,710
13	(2000)	15,850
14	(2001)	16,325
15	(2002)	20,725
16	(2003)	21,100
17	(2004)	21,475
18	(2005)	21,850
19	(2006)	22,225
20	(2007)	22,550
21	(2008)	22,875
22	(2009)	23,200
23	(2010)	23,525
24	(2011)	23,850
25	(2012)	24,175
26	(2013)	24,500
27	(2014)	24,775
28	(2015)	25,150
29	(2016)	25,825
30	(2017)	26,450
31	(2018)	27,075
32	(2019)	27,700
33	(2020)	28,325
34	(2021)	28,925

And each succeeding year,  
thereafter for the term of this  
contract as a maximum  
annual entitlement:

29,025

The following apply to this sale:

- (1) The District's delivery capability for transportation of entitlement water to the District's service area shall increase by 4,025 acre-feet annually.
- (2) Increases to the District's Delta Water and Transportation Charges and Water System Revenue Bond Surcharge resulting from the increase in the District's annual entitlements and maximum annual entitlement shall commence January 1, 2001, and be identified by the State and included in its annual Statement of Charges to the District.
- (3) Recognizing that the District will not be using Reach 31A of the Coastal Branch of the California Aqueduct for delivery of any of the 4,025 acre-feet of annual entitlement purchased from KCWA, effective January 1, 2001, KCWA is relieved of and the District is liable to the State for all prospective Transportation Charges and the related Water System Revenue Bond Surcharge payments for Reach 31A for the applicable portion of the 4,024 acre-feet of annual entitlement purchased from KCWA.
- (4) All future adjustments in charges and credits of past costs associated with the 4,025 acre-feet of annual entitlement (or applicable portion thereof) and the related transportation capacity in Reaches 1 through 11B and Reach 31A of the California Aqueduct shall be attributable to the District as if the District's annual entitlement and the related transportation capacity had been increased

# DRAFT

AMENDMENT NO. 21  
REVISION TO TABLE A

by the 4,025 acre-feet of annual entitlement purchased from the KCWA in years prior to January 1, 2001.

- (5) For cost allocation and repayment purposes, Exhibit A attached hereto shows entitlement and capacity amounts for each aqueduct reach in which the Agency participates. These redetermined values shall be used to derive the proportionate use of facilities factors as set forth in Table B as designated in Article 24(b). The capacity amounts shown in Exhibit A are estimated values. Actual values will be used by the State in implementing the terms of this Amendment and in redetermination of Table B of this Water Supply Contract under Article 28.
- 2. Article 12(c)(1) which defines the limits on the instantaneous rate of flow to the District based on peaking factors, is modified to delete "forty-six cubic feet per second" and replace it with "fifty-three cubic feet per second."
- 3. This Amendment is contingent upon the effectiveness of Water Supply Contract Amendment No. 34, between the State and the KCWA. If either amendment ceases to be effective, the State may identify the date on which the contract amendments shall be deemed inoperative, for the purpose of assuring timely repayment of contract obligations and orderly administration of the long-term water supply contracts.
- 4. The District agrees to indemnify, defend, and hold harmless the State and any of its officers, agents, or employees from any liability, expenses, defense costs, attorney fees, claims, actions, liens and lawsuits of any kind arising from or related to any and all actions implementing this Amendment and associated agreements.

Approved as to legal form  
and sufficiency

STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

**DRAFT**

\_\_\_\_\_  
Chief Counsel  
Department of Water Resources

\_\_\_\_\_  
Director

\_\_\_\_\_  
Date

**NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Ech#:

SWPAO Control #:

NQuan:janet davis-matsumoto  
N:\janet\quan\contract\2000\napa21kcwa (:jldm)

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AMENDMENT NO. 21  
EXHIBIT A

**NAPA COUNTY FLOOD CONTROL  
and WATER CONSERVATION DISTRICT  
ANNUAL ENTITLEMENT AND CAPACITY VALUES FOR EACH REACH (a)  
FOR COST ALLOCATION AND REPAYMENT ONLY**

The values related to this transfer are estimated to be as follows:

Repayment Reach (b)	Before Transfer		Entitlement Transferred from KCWA (c) (AF) [3]	Capacity Transferred from KCWA (c) (cfs) [4]	Additional Capacity Required (cfs) [5]	After Transfer	
	Annual Entitlement (AF) [1]	Capacity (cfs) [2]				Total Annual Entitlement [1]+[3] (AF) [6]	Total Capacity [2]+[4]+[5] (cfs) [7]
<b>California Aqueduct</b>							
Reach 1	0	0	4,025	9	0	4,025	9
Reach 2A	0	0	4,025	9	0	4,025	9
Reach 2B	0	0	4,025	9	0	4,025	9
Reach 3	0	0	4,025	9	0	4,025	9
Reach 4	0	0	4,025	9	0	4,025	9
Reach 5	0	0	4,025	9	0	4,025	9
Reach 6	0	0	4,025	9	0	4,025	9
Reach 7	0	0	4,025	9	0	4,025	9
Reach 8C	0	0	4,025	9	0	4,025	9
Reach 8D	0	0	4,025	9	0	4,025	9
Reach 9	0	0	4,025	9	0	4,025	9
Reach 10A	0	0	2,263	4	0	2,263	4
Reach 11B	0	0	2,263	4	0	2,263	4
Reach 31A	0	0	2,263	4	0	2,263	4
			1,782	5	0	1,762	5
<b>North Bay Aqueduct</b>							
Reach 1	0	0	4,025	0	0	4,025	0
Reach 2	0	0	4,025	0	0	4,025	0
Reach 3A	0	0	4,025	0	0	4,025	0
Reach 3B	0	0	4,025	0	0	4,025	0

- a) Does not include capacity for outages and losses.
- b) These numbers apply to the reaches as set forth in Bulletin 132, Figure B-4, "Repayment Reaches and Description".
- c) From the Delta to Belridge Water Storage District's service area (2,263 af) and to Berranda Mesa Water District's service area (1,782 af).