Appendix B

Water Supply Data

Appendix B1

Option and Long-Term Water
Transfer Agreement between
LTRID and WWD dated April 13, 2011

OPTION AND LONG TERM WATER TRANSFER AGREEMENT

THIS OPTION AND LONG TERM WATER TRANSFER AGREEMENT is made this 13 day of April, 2011, by and between the Lower Tule River Irrigation District, a California irrigation district organized under Division 11 of the California Water Code ("LTRID"), and Fresno County Water Works District No. 18, a county waterworks district formed pursuant to the County Waterworks District Law contained in California Water Code Section 55000 et seq. ("WWD #18") (collectively, the "Parties") with reference to the following facts:

RECITALS:

WHEREAS, LTRID provides water for irrigation purposes to landowners within its service area, and is empowered to transfer and sell a portion of its water supply to WWD #18 as provided for in this Agreement;

WHEREAS, WWD #18 is empowered to purchase water from LTRID as provided in this Agreement;

WHEREAS, LTRID has an entitlement of 61,200 acre feet of Class 1 Water (the "LTRID Class I Water Entitlement") from the United States Bureau of Reclamation ("USBR") pursuant to that certain written agreement entitled "Long-Term Renewal Contract Between the United States and the Lower Tule River Irrigation District Providing For Project Water Service from Friant Division, Irrigation and other Contract No. 175r-2771-LTR1 dated January 20, 2001," as amended and renewed from time to time ("the LTRID Contract") for delivery of water from the Friant Division of the Central Valley Project. Unless otherwise defined herein, all defined terms used in this Agreement shall have the meaning set forth in the 9d Contract;

WHEREAS, WWD #18 has an entitlement of 150 acre-feet of Class 1 Water pursuant to its water supply contract with the USBR, Contract No. 14-065904-LTR1 for Municipal and Industrial uses, as amended and renewed from time to time (WWD #18 Contract), for delivery of water from the Friant Division of the Central Valley Project;

WHEREAS, WWD #18 has the responsibility to provide a water supply to the residential and commercial customers located within its district which is generally located within the unincorporated community of Friant, County of Fresno, State of California. WWD #18 owns a water treatment facility and water supply distribution system to serve its customers. Friant Ranch is located immediately adjacent to the service area of WWD #18;

WHERAS, Friant Ranch, a Limited Partnership ("Friant Ranch, L.P.") owns approximately 942 acres of land in and around the community of Friant (hereinafter called "Friant Ranch"). The County of Fresno approved the Friant Ranch Specific Plan and has reviewed and certified the environmental impact report regarding the development of a master planned residential community containing an active adult (ages 55+) retirement village consisting of approximately 2,500 units of age restricted single family housing with such amenities as are customary for a premier lifestyle community targeted to the primarily age-qualified households within the Fresno/Clovis Metropolitan Area and other Central California markets, and a commercial and retail village (the "Project");

WHEREAS, in furtherance of the Project, Friant Ranch, L.P. has requested that WWD #18 enlarge, with Fresno County Local Agency Formation Commission ("LAFCO") and USBR approval, its service area to include land within the Project in order that WWD #18 may provide a safe and reliable water supply for the residents and landowners at the Project;

than, September 1 of each Water Year, WWD #18 shall provide LTRID with a final written schedule for delivery of water for such Water Year ("Final Water Delivery Schedule"). WWD #18 shall pay the Annual Water Rate for one-half of the water requested on the date the Preliminary Water Delivery Schedule is provided by WWD #18 to LTRID in each Water Year. WWD #18 shall pay the balance of the Annual Water Rate for the water requested in the Preliminary Water Delivery Schedule or, if different, in the Final Water Delivery Schedule on or before September 1 of the Water Year. If the schedule changes between March 1 and September 1, such that WWD #18 requires less water than indicated in the Preliminary Water Delivery Schedule, LTRID will, on or about October 1, of each Water Year, refund to WWD #18 any balance resulting from a reduction in need calculated by the difference between the Preliminary Water Delivery Schedule and the Final Water Delivery Schedule in each Water Year.

5.4 Changes to Final Schedule After September 1. Following September 1, in each Water Year, and through the balance of the Water Year, any downward changes in the Final Water Delivery Schedule shall not result in the refund of any monies paid pursuant to paragraph 5.3 above. Any desire to increase the amount indicated in the Final Water Delivery Schedule shall be subject to LTRID's determination of water availability. If following September 1 of any Water Year, WWD #18 requests additional water beyond that requested in the Final Water Delivery Schedule, and LTRID is capable of delivering such water, WWD #18 shall pay the appropriate Annual Rate for such water at the time such request is made.

5.5 Monthly Delivery Report. WWD #18 shall provide to LTRID a monthly delivery report that shall include the actual amount of LTRID water delivered to the WWD #18 Point of Delivery for the preceding month and an estimate for the succeeding month on or before the 10th day of each month.

5.6 Point of Delivery. LTRID agrees to deliver the Water Supply to the Point of Delivery. The Parties hereby acknowledge that the necessary metering equipment for measuring the water delivered to WWD #18 is currently installed and operated by the USBR at the WWD #18 Point of Delivery.

5.7 Remarket. WWD #18 shall be entitled to remarket to third parties in any given Water Year (subject to state and federal law and regulation) some or all of the Water Supply provided such third parties are able to take delivery of such water within the place of use for Central Valley Project water (the "Remarket Water"). Notwithstanding the foregoing, prior to remarketing the Remarket Water, WWD #18 shall first provide LTRID with the first option to purchase the Remarket Water (the "Repurchase Option") at the same annual cost as WWD #18 pays for the Water Supply (i.e., the Annual Water Rate). The Repurchase Option must be exercised by written notice to WWD #18 as to all of the Remarket Water within 30 days after WWD #18 gives LTRID written notice of the proposed remarketing; otherwise, it shall become null and void as to the proposed remarketing, and WWD #18 may proceed to sell some or all of the Remarket Water as provided hereinabove. If the sale or other transfer of some or all of the Remarket Water is not completed within six months from the date the notice is provided to LTRID, WWD #18 may not the sell the Remarket Water except upon re-noticing LTRID of its option to purchase as provided hereinabove.

5.8 Indemnification. LTRID makes no representations or guarantees as to the quality of the water. Upon receipt at the Point of Delivery, WWD #18 shall indemnify, defend (at LTRID's option) and hold LTRID, its officers, directors, agents and employees harmless on account of damage or claim of damage of any nature whatsoever for which there is legal liability for the use of the Water Supply after its receipt at the Point of Delivery to the extent of and as

limited by WWD #18's obligation to indemnify the United States as set forth in Article 5(e) of the WWD #18 Contract.

6. **Approval of USBR and Regulatory Compliance**.

6.1 **Final Approval for Water Transfer**. The Parties shall jointly prepare and process all applications, petitions, permits, studies and documents required to obtain and shall use their best good faith commercial efforts to obtain promptly Final Approval of the Water Transfer. WWD #18 shall prepare and process all applications, petitions, permits, studies and documents required to enlarge its service area to encompass Friant Ranch and to achieve delivery of the Water Supply to its facilities.

(a) "Final Approval" of the Water Transfer shall mean that all governmental approvals, consents, and other requirements necessary to complete and finalize the Water Transfer provided for herein have been obtained, including but not limited to: (i) approval of the WWD #18 boundary change by the USBR, LAFCO and WWD #18, or in lieu thereof, the creation of a new or successor public water agency capable of owning and operating a public water system for the Project; (ii) approval of the Water Transfer and related infrastructure improvements by USBR; (iii) compliance with applicable environmental laws, including but not limited to the National Environmental Policy Act ("NEPA"), CEQA, and the Endangered Species Act ("ESA") has occurred; (iv) adoption of any amendments to this Agreement deemed necessary by USBR after completion of the NEPA review associated with the Water Transfer; (v) the time period to petition for review of the certification of any CEQA document prepared in connection with the Project and of any Project or Water Transfer approval relying thereon shall have expired without the filing of litigation, or if a petition has been filed, such matter is resolved to the satisfaction of WWD #18; (vi) the time period to appeal to the USBR Regional Director or

the Secretary of the Interior the filing or publishing of the Record of Decision approving the Water Transfer shall have expired with the filing of such an appeal or litigation, or if an appeal or litigation has been filed, such matter is resolved to the satisfaction of WWD #18; and (vii) WWD #18 is fully entitled to order and receive water from LTRID and USBR pursuant to this Agreement for use in the WWD #18 Service Area.

(b) WWD #18 shall give notice of Final Approval of the Water Transfer to LTRID immediately upon satisfaction of the requirements to obtain Final Approval as set forth hereinabove.

6.2 **Termination Due to Inability to Obtain Final Approval**. WWD #18 shall have the right to terminate this Agreement if, at any time within five (5) years from the Effective Date, WWD #18 and LTRID mutually determine that it is not possible or economically feasible to obtain Final Approval of the Water Transfer due to a cause which is outside the control of either party. Upon such termination, neither party will have any further rights, liabilities or obligations to the other as a result of this Agreement except that LTRID shall refund the Reserve Payment to WWD #18.

7. **Environmental Review**.

7.1 **Cooperation for Environmental Review**. The Parties acknowledge that they have adopted CEQA findings in connection with the Water Transfer, after consideration, as responsible agencies, of the environmental impact reports prepared by Fresno County. Notwithstanding the foregoing, the Parties agree to cooperate with regard to and complete any further environmental documentation and other regulatory requirements which may be required to obtain Final Approval of the Water Transfer contemplated by this Agreement. The parties also acknowledge that USBR may be required to comply with the requirements of NEPA in

order to provide the approval required by this Agreement. If so, the parties agree to cooperate with USBR in completing said environmental review and to make any necessary reasonable amendments to this Agreement arising out of said environmental review in order to facilitate completion of the Water Transfer pursuant to this Agreement.

7.2 **Costs and Expenses**. Any and all costs and expenses in connection with obtaining approval of the Water Transfer, including environmental review and documentation for which either LTRID or WWD #18 is responsible, shall be paid by WWD #18. Notwithstanding the foregoing, LTRID shall pay all costs and expenses in connection with any mitigation or other activities which it must undertake to obtain Final Approval of the Water Transfer.

8. **Joint Defense; Sharing of Regulatory and Litigation Costs**.

8.1 **Joint Defense of Litigation**. The parties mutually agree that they shall each be entitled to but not obligated to vigorously defend any litigation or regulatory challenge to the sale of the Water Supply, including, but not limited to, any Final Approval necessary thereto. Each party agrees agree to cooperate fully with the other party in the defense of any such action in furtherance of Final Approval of the sale of the Water Supply. The Parties are each entitled to defend their interests separately at their own cost or they may agree to share counsel and participate jointly in strategic and other decision making in defense of any litigation or regulatory challenge to the Water Transfer in which case the Parties agree to share the costs of such defense as may be later agreed. In the event of a challenge to the water entitlement under the LTRID Contract, before or after the Water Transfer becomes effective, LTRID shall be solely responsible for the defense and cost of such litigation and shall retain full discretion regarding direction of such defense.

8.2 **Sharing of Confidential Information**. The Parties agree that, in the event of a challenge to the Water Transfer, they may have interests in common and may litigate common claims and legal theories, and each Party may benefit from open communication with one another about all matters relating to the litigation. The Parties agree that such disclosures and communications are wholly consistent with the purpose of the attorney work product privilege, which is to safeguard mental impressions, opinions, strategies, work product and trial preparation. The Parties agree that, from time to time, the mutual interests of the Parties can best be served by sharing documents, factual material, mental impressions, memoranda, interview reports, legal research, expert data and other information hereinafter referred to as "confidential materials." These confidential materials are privileged from disclosure to adverse parties or other third parties as a result of the attorney-client privilege, the attorney work product privilege, and other applicable privileges. All information, which is provided by a Party to the other or to litigation counsel in furtherance of this agreement, shall be considered confidential in nature and may not be used for any other purpose.

8.3 **No Waiver of Privilege**. The Parties recognize that much of the information, which is required to be provided to assist in defense of any challenge, may be provided by or under the supervision of a Party's counsel. As such the information may be protected by the work product or the attorney-client privilege. When providing information to one of the other Parties, or to special counsel, a Party is intended to fulfill its obligations to cooperate in defense of challenges, and such communications are not intended to constitute a waiver of the applicable privileges. Similarly, information provided by, or to, the other Party is not intended to waive any applicable privilege, but to further the common interests of the Parties.

8.4 **No Derogation of Existing Rights**. In addition to the foregoing, and not in derogation thereof, the Parties are each entitled to defend their interests in any litigation or regulatory action challenging the validity of any aspect of the Water Transfer, including but not limited to USBR's actions, and environmental compliance, at its own cost. The Parties shall be separately responsible financially and otherwise to defend and/or advocate their interests with respect to matters related to the Parties' respective underlying contract entitlements, which matters are not caused by and exist independent of the Water Transfer.

9. **Representations and Warranties**.

9.1 **Representations and Warranties of LTRID**. LTRID represents and warrants that:

(a) The LTRID Contract constitutes LTRID's entire agreement with the USBR concerning the delivery of CVP Friant Division water to LTRID by USBR, and the LTRID Contract has not been revoked, amended or modified in any way, except that LTRID expressly discloses that the LTRID Contract as referenced herein constitutes an amended contract, and that the effect of the most recent amendment was to, among other things, make the LTRID Contract conform to and be subject to the September 13, 2006 Stipulation of Settlement filed in *Natural Resources Defense Council, et al. v. Rodgers, et al.*, No. CIV-S-88-1658-LJ/GGH and the related orders and Judgment issued by the United States Eastern District Court of California and the San Joaquin River Restoration Settlement Act, Title X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349). WWD #18 expressly acknowledges this disclosure and represents that it has had a full opportunity to review all amendments to the original LTRID Contract and to investigate for itself the impact of any and all amendments, settlement documents and legislation as referenced therein.

(b) USBR does not (i) presently assert any default by LTRID under the LTRID Contract, or any claim against LTRID, nor (ii) does LTRID know of any fact which, with the giving of notice or the passage of time, or both, could give rise to any such default or claim.

(c) USBR does not (i) presently assert any matured right to terminate or to cancel the LTRID Contract nor (ii) does LTRID know of any fact which, with the giving of notice or the passage of time, or both, could give rise to any such right.

(d) LTRID has performed all duties and obligations required to be performed by it pursuant to the terms of the LTRID Contract.

(e) LTRID has the right, power, legal capacity, and authority to enter into, and perform their respective obligations under this Agreement, and no approvals or consents of any persons other than the Final Approvals are necessary in connection with it. The execution and delivery of this Agreement by LTRID have been duly authorized by all necessary corporate action on the part of LTRID.

(f) There are no legal actions or governmental proceedings or investigations pending or, to the best of LTRID's knowledge, threatened, affecting either the Water Supply or the LTRID Contract except as disclosed herein and in the amendments that comprise the LTRID Contract.

(g) The execution, delivery and performance of this Agreement by LTRID will not (i) violate any provision of law or of LTRID's Articles of Incorporation or By-Laws, (ii) conflict with, cause the breach of, or constitute a default under, the provisions of any agreement of other instruments to which LTRID is a party or by which it or its property is bound or affected, or (iii) result in the creation of any lien, charge, or encumbrance on the Water Supply transferred to WWD #18 pursuant to the terms of this Agreement.

(h) LTRID has good and marketable title to the Water Supply and subject to obtaining Final Approval has the right to transfer the Water Supply free and clear of any and all liens, claims, demands, encumbrances, defects and exceptions to title. There are no options or other agreements of any type with any other person that would preclude LTRID from transferring the Water Supply to WWD #18.

(i) LTRID has made prior transfers of the right to receive water from the LTRID Class I Water Entitlement to certain third parties in the amounts as follows, and only to these third parties and no others: (i) agreement to transfer up to 2,000 acre-feet annually to the City of Orange Cove pursuant to Agreement dated April 3, 2002; (ii) agreement to "firm up" water supply for County of Fresno (on behalf of CSA-34) up to amount of 1,520 acre-feet annually pursuant to Agreement dated May 8, 2007; (iii) agreement to transfer in dry years up to 10,000 acre-feet to Terra Bella Irrigation District pursuant to Agreement dated April 21, 1988; and (iv) agreement to provide backup water supply to Terra Bella Irrigation District in dry years up to 7,438 acre-feet pursuant to Agreement dated August 22, 2000 (collectively, the "Contractual Transfer Commitments").

9.2 **Representations and Warranties of WWD #18**. WWD #18 represents and warrants that:

(a) WWD #18 is a public agency of the State of California duly organized and validly existing in the State of California.

(b) WWD #18 has full power and authority to execute and deliver this Agreement, and all documents now or hereafter to be executed and delivered by WWD #18 pursuant to this Agreement and to perform all obligations arising under this Agreement.

(c) WWD #18 has had full opportunity to review the LTRID Contract, all amendments encompassed thereby, and any and all litigation, settlement documents, and implementing legislation referenced therein, and acknowledges that it is responsible for determining the legal status and significance of the LTRID Contract.

10. **Additional Covenants of LTRID**. LTRID acknowledges that WWD #18 is relying on the Annual Water Supply provided for by this Agreement to provide a reliable and long term water supply for the residents and landowners within the WWD #18 Service Area. Accordingly, from and after the Effective Date and throughout the term of this Agreement:

10.1 LTRID expressly disclaims any warranty, express or implied, regarding the quality or fitness for a particular or intended purpose of the Water Supply, and WWD #18 expressly acknowledges that LTRID has made no representations regarding the quality or fitness for a particular or intended purpose of the Water Supply.

10.2 LTRID agrees that it shall take no action to modify, alter, amend or terminate the LTRID Contract so as to materially affect the provision of the Water Supply and any such modification, alteration, amendment or termination shall be ineffective, without WWD #18's prior written consent;

10.3 LTRID agrees to use its best efforts and to take all actions required to cause the LTRID Contract, including any renewal, extension or conversion thereof, to be renewed with the USBR for as long a period as possible under the LTRID Contract or existing law;

10.4 LTRID agrees that, whenever LTRID has the right to consent, approve or reject under the LTRID Contract, LTRID shall exercise such right in good faith and in a reasonable manner so as to facilitate the Water Supply provided to WWD #18 by LTRID;

10.5 LTRID agrees that it will perform all duties and obligations required to be performed by it and pay all amounts required to be paid by it pursuant to the terms of the LTRID Water Contract; and

10.6 LTRID agrees (i) that the Water Supply provided to WWD #18 shall be a first priority claim against the LTRID Class 1 Water Entitlement superior to the rights of all other users of the LTRID Class 1 Water Entitlement, except that the Water Supply shall be of equal priority with the Contractual Transfer Commitments, and that the Water Supply provided to WWD #18 shall not be apportioned with other users of the LTRID water entitlement in the event of a Condition of Shortage but rather WWD #18 shall have first priority on all water provided to LTRID, except that the Water Supply shall be of equal priority with the Contractual Transfer Commitments; (ii) that it shall not sell, transfer or encumber the Water Supply to any other person; (iii) that it shall advise all other third party transferees of the LTRID Class 1 Water Entitlement that the Water Supply transferred to WWD #18 is a first priority claim against the LTRID Class 1 Water Entitlement; and (iv) that it shall take no action which may cause the Water Supply to be or become unavailable to WWD #18.

10.7 LTRID agrees to promptly deliver to WWD #18 notice of any default or other communication from USBR under which USBR contends that it has the right to take action which may affect the availability of the Water Supply in any way.

11. **Acts Constituting Default**.

11.1 **Default by WWD #18**. The following acts shall constitute a default under this Agreement by WWD #18 ("WWD #18 Default"):

(a) The failure to pay any monetary sum required to be paid hereunder, if the failure is not cured within ten (10) days after receipt of notice of delinquency;

(b) The failure to perform or comply with any material covenant or take any action required to be taken by WWD #18 under the terms of this Agreement, if the failure is not cured within thirty (30) days after receipt of notice thereof; or in the case of a default not susceptible of cure within 30 days, WWD #18 fails promptly to commence to cure such default and thereafter to prosecute diligently such cure to completion within a reasonable time; or

(c) The making by WWD #18 of any general assignment or general arrangement for the benefit of creditors; the filing by or against WWD #18 of a petition to have WWD #18 adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against WWD #18, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of WWD #18's assets or of WWD #18's interest in this Agreement, where possession is not restored to WWD #18 within sixty (60) days; or the attachment, execution or other judicial seizure of substantially all of WWD #18's assets or of WWD #18's interest in this Agreement, where such seizure is not discharged within sixty (60) days.

11.2 **Notice to Friant Ranch, L.P. and Right to Cure**. Until such time as the delivery of the Water Supply to WWD #18 has commenced, as a condition precedent to pursuing any remedy for a WWD #18 Default, LTRID shall, before pursuing any remedy, give fifteen (15) days advance written notice of the WWD #18 Default to Friant Ranch, L.P. with respect to any failure to pay any monetary sum required to be paid hereunder and thirty (30) days advance written notice of default with respect to any other alleged default of any term or provision of this Agreement. Each notice of default shall specify in detail the alleged event of default and the intended remedy. If the alleged default is nonpayment of any monetary sum required to be paid hereunder, Friant Ranch, L.P. shall have fifteen (15) days after notice is given to cure the default.

For the cure of any other default, Friant Ranch, L.P. shall promptly and diligently after the notice commence curing the default and shall have ninety (90) days after notice is given, to complete the cure, unless, however, if the nature of WWD's obligation is such that more than ninety (90) days are required for performance, then Friant Ranch, L.P. shall not be in default if Friant Ranch, L.P. commences performance with such ninety (90) day period and thereafter diligently prosecutes the same to completion.

11.3 **Default by LTRID**. The following acts or conditions shall constitute a default under this Agreement by LTRID ("LTRID Default"):

(a) The failure to deliver the Water Supply pursuant to the terms and conditions of this Agreement.

(b) The failure to perform or comply with any material covenant or take any action required to be taken by LTRID under the terms of this Agreement.

(c) If any of the representations and warranties of LTRID are not true and complete in all respects.

12. **Remedies**.

12.1 LTRID Remedies. Upon the occurrence of a WWD #18 Default, LTRID, in addition to any other remedies given LTRID by law or equity, may:

(a) Continue this Agreement in effect by not terminating WWD #18's right to receive water and submitting any dispute to binding arbitration for resolution; or

(b) Terminate this Agreement and all rights of WWD #18 under this Agreement and recover from WWD #18 all damages authorized by law.

12.2 WWD #18's Remedy. Upon the occurrence of a LTRID Default under this Agreement, WWD #18, in addition to any other remedies which may be available to WWD #18 in law or equity, may:

(a) Obtain injunctive relief to prevent breaches of the provisions of this Agreement and specifically to enforce the terms and provisions hereof, including, but not limited to, compelling delivery of the Water Supply to WWD #18, in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction. LTRID acknowledges that WWD #18 would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that monetary damages would not provide an adequate remedy in such event;

(b) Continue this Agreement in effect by not terminating WWD #18's right to receive water and submitting any dispute to any court of the United States or any state thereof having subject matter jurisdiction for resolution; or

(c) Terminate this Agreement and all rights of LTRID under this Agreement and recover from LTRID all damages authorized by law.

12.3 Rights and Remedies Are Cumulative. The rights and remedies of the parties to this Agreement are cumulative and the exercise by either party of any one or more of such remedies will not preclude the exercise by it, at the same time or a different time, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either party with respect to the performance, or manner or time thereof, of any obligation of the other party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived and to the extent

thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

13. **Assignment**.

13.1 WWD #18 shall have the right to assign this Agreement without the consent of LTRID to any other public agency authorized to provide water services to the Project now existing or to be formed at a later time subject to approval of the USBR and other applicable regulatory agencies provided that said agency assumes the obligations of WWD #18 under this Agreement.

13.2 Except as otherwise provided herein, WWD #18 shall not assign or transfer this Agreement, by operation of law or otherwise, without the consent of LTRID, which consent shall not be unreasonably withheld or delayed.

13.3 This Agreement shall not be assigned by LTRID.

14. **Third Party Beneficiary**. It is expressly agreed that Friant Ranch, L.P., and its successors or assigns, shall be a third party beneficiary of the rights of WWD #18 under this Agreement with the full right and authority to enforce the terms and provisions of this Agreement. Nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than Friant Ranch, L.P. and its respective successors and assigns, any rights or remedies.

15. **Miscellaneous Provisions**.

15.1 Notices. All notices or other communications required or desired to be given under this Agreement shall be given in writing and mailed, delivered or transmitted to the other party at the address indicated below:

To WWD #18 at:

Fresno County Water Works District No. 18
c/o Dan Pearce, General Manager
P.O. Box 92
Friant, CA 93626

With Mandatory Copy to:

Friant Ranch, a Limited Partnership
c/o Bryan N. Wagner
1322 E. Shaw Ave., Suite 340
Fresno, CA 93710
Telephone: 559-224-0871
Facsimile: 559-224-0885

To LTRID at:
Lower Tule River Irrigation District
357 E. Olive Avenue
Tipton, CA 93272
Attention: Dan Vink, Manager
Telephone: 559-686-4716
Facsimile: 559-686-0151

Each such notice or other communication shall be deemed effective and given (i) upon receipt, if personally delivered; (ii) upon being transmitted, if sent by facsimile or electronic mail, if a copy of the notice is also sent by United States first class mail and provided receipt is confirmed by a transmission report otherwise; (iii) two (2) business days after deposit in the United States mail, postage prepaid, properly addressed to the party served; or (iv) upon receipt if sent in any other way. Either Party may from time to time, by written notice, designate a different address then that set forth above for the purpose of notice, provided, however, that no notice of change of address shall be effective until actual receipt of the notice.

15.2 Modification. This Agreement may not be modified, renewed, extended, or amended except by a written agreement signed by the parties, or their respective successors in interests.

15.3 Attorney's Fees. On any action commenced to enforce or interpret or for a breach of any provision of this Agreement, or to collect damages as a result of any breach thereof, the party prevailing in any such action shall be entitled to recover against the party not prevailing its reasonable attorney's fees and costs incurred in such action, subject to the limitations contained in the paragraph thereof.

15.4 Successors. Subject to the limitations on assignment set forth hereinabove, every provision of this Agreement shall be binding upon, and shall inure to the benefit of, the legal representatives, heirs, successors and assign of the parties.

15.5 Counterparts. This agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same agreement.

15.6 Section Headings. The various section headings in this Agreement are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any provision hereof. All uses of the words "articles(s)" and "section(s)" in this Agreement are references to articles and section in this agreement, unless otherwise specified.

15.7 Severability. If any provision or portion of this Agreement shall become illegal, unenforceable, invalid, null or void or against public policy for any reason, or shall be held by any court of competent jurisdiction to be illegal, unenforceable, invalid, null or void or against public policy, the legality, validity or enforceability of the remaining provisions of this Agreement shall not be effective thereby.

15.8 Entire Agreement. This Agreement is the entire integrated Agreement of WWD #18 and LTRID with respect to the rights granted hereunder, and contains all of the terms

and conditions to which each have agreed. This agreement supersedes and replaces entirely all previous oral and written understandings, if any, of WWD #18 and LTIRD with respect to the rights granted hereunder.

15.9 Cooperation. To the extent reasonably required, each party to this Agreement shall, in good faith, execute such further agreement or documents and take such further actions as are needed to consummate this Agreement. The parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to the performance of any terms of this Agreement.

15.10 Objective Construction. This Agreement reflects the negotiated Agreement of the Parties. Accordingly, notwithstanding Civil Code Section 1654, this Agreement shall be construed as if both parties jointly prepared this Agreement and no presumption against one Party or the other shall govern the interpretation or construction of any of the terms of this Agreement.

15.11 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of State of California.

15.12 Waivers. A waiver of breach of a covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party. Any extension of time for performance of any obligation or act shall not be deemed an extension of time for performance of any other obligation or act.

15.13 Conflicts of Interest. Each party covenants and declares that it has no Conflicts of Interest that would in any manner impair or affect its ability to perform under this Agreement.

15.14 Effectiveness and Acceptance. This Agreement shall not constitute or be deemed a contact between WWD #18 and LTRID until and unless it is fully executed by both parties.

15.15 Authority. Each signatory to this Agreement represents and warrants that it is authorized to enter into this Agreement and covenants to carry out its terms and conditions.

15.16 Memorandum of Contract. LTRID shall execute, acknowledge and deliver, at no cost to WWD #18, upon request of WWD #18, a short form memorandum suitable for recording evidencing the material provisions of the agreement herein contained.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth above.

LOWER TULE RIVER IRRIGATION DISTRICT
a California irrigation district organized under
Division 11 of the California Water Code

By: _____
Chairman of the Board

ATTESTED BY:

_____
Secretary of the Board

APPROVED AS TO FORM:

By: _____
Counsel for Lower Tule River I.D.

WATER WORKS DISTRICT NO. 18, ~~a California irrigation district organized under Division 11 of the California Water Code~~

By: _____

Chairman of the Board

ATTESTED BY:

Darlene Storm

Secretary of the Board

APPROVED AS TO FORM:

By: _____

Counsel for the Water Works District No. 18

G:\Friant Ranch\Water Contract\Documents\WaterPurchaseAgreement(post 9d)(03-22-11)FINAL.doc

Appendix B2

First Amendment to Option and Long-Term Water Transfer Agreement between LTRID and WWD dated September 21, 2016

FIRST AMENDMENT TO OPTION AND

LONG TERM WATER TRANSFER AGREEMENT

THIS FIRST AMENDMENT TO OPTION AND LONG TERM WATER TRANSFER AGREEMENT is made this 21st day of September, 2016, by and between the Lower Tule River Irrigation District, a California irrigation district organized under Division 11 of the California Water Code ("LTRID"), and Fresno County Waterworks District 18, a county waterworks district formed pursuant to the County Waterworks District Law contained in California Water Code Section 55000 et seq. ("WWD 18") (collectively, the "Parties") with reference to the facts set forth below. Capitalized terms used herein shall have the meaning given them in the Transfer Agreement unless otherwise stated in this Amendment.

RECITALS:

WHEREAS, the Parties hereto entered into that certain Option and Long Term Water Transfer Agreement dated April 13, 2011 (the "Transfer Agreement") which provides for the long-term purchase of the right to receive up to 2,000 acre-feet of LTRID Class 1 Water Entitlement (referred to herein as the "Water Supply") from LTRID to WWD 18 in order to provide a safe and reliable long term water supply for the residents within the Friant Ranch Specific Plan development and within the existing Friant Community (the "WWD 18 Service Area");

WHEREAS, the Transfer Agreement states that LTRID has an entitlement of 61,200 acre feet of Class 1 Water Entitlement from the United States Bureau of Reclamation (the "USBR") for delivery of water from the Friant Division of the Central Valley Project and that WWD 18 shall have the right to the Water Supply from LTRID for so long as the LTRID has the right to receive Friant Division CVP water;

WHEREAS, by Letter of Agreement dated May 23, 2014, the USBR consented to the long term water transfer between LTRID and WWD 18 as set forth in the Transfer Agreement;

WHEREAS, as a result of exceptional drought conditions in 2014, the USBR determined, for the first time in the history of the Central Valley Project and again in 2015, that the Friant Division of the Central Valley Project would receive a zero percent allocation of water for the holders of Class 1 Water Entitlement; and

WHEREAS, in order to insure a safe and reliable long term water supply for the residents within the WWD 18 Service Area, the Parties desire to amend the Transfer Agreement on the terms and conditions provided herein to provide for a carryover supply of LTRID water available to satisfy the Water Supply rights under the Transfer Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals which are hereby incorporated in this Agreement and in consideration of the mutual promises, obligations and covenants contained herein, the Parties hereby agree as follows:

1. **Back-Up Water Supply.**

a. On or before the end of each Water Year, LTRID shall request that the USBR reschedule to the subsequent Water Year an amount of LTRID Class 1 Water Entitlement for that year that is equal to two times the amount of Water Supply that as of that Water Year has been purchased under the Transfer Agreement ("Carryover Water"). The Carryover Water shall be held in Millerton Lake as a supply to meet any of LTRID's water supply needs for the subsequent water year, including, if necessary WWD 18 demands under the Transfer Agreement.

b. WWD 18 shall reimburse LTRID the full amount of any rates or charges charged by USBR for rescheduling LTRID water as required by Section 1.a. above. Such reimbursement requirement shall be considered an additional component of the Cost of Water as

defined in Section 5.2 of the Transfer Agreement. To the extent the Carryover Water is used by LTRID or used to meet other obligations of LTRID, WWD 18 will be reimbursed for the portion of the USBR rescheduling costs associated with such water.

c. In the event that LTRID is unable to reschedule and deliver Carryover Water pursuant to section a. above, LTRID will take such further action as is necessary to deliver to WWD 18 the Water Supply that has been purchased by WWD 18. LTRID hereby represents and warrants that it owns or controls various hydrologic resources which can be used to allow it to deliver the Water Supply provided for in the Transfer Agreement in the event of a critical dry year shortfall. Subject to its final determination, LTRID will use its best efforts to cause the Water Supply to be delivered to WWD 18 including, but not limited to, pumping the water generated by its pre-1914 water rights on the Tule River into the Friant Kern Canal so as to meet a portion of its commitments downstream thereby making available Class 1 Entitlement in Millerton Lake which can be delivered to WWD 18.

2. **Priority Access to Carryover Water.** LTRID hereby represents and warrants that the Carryover Water held by LTRID pursuant to Section 1.a. above shall be available to WWD 18 on a first priority basis under the Transfer Agreement. Pursuant to such priority, LTRID may use Carryover Water to satisfy its own water supply demands or to satisfy other contractual obligations, but only after Carryover Water is first used to satisfy obligations under the Transfer Agreement, if necessary.

3. **Reaffirmation.** Except as amended hereby, the parties hereby reaffirm each and every term and provision of the Transfer Agreement.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to Option and Long Term Water Transfer Agreement dated April 13, 2011 on the date set forth above.

LOWER TULE RIVER IRRIGATION DISTRICT
a California irrigation district organized under Division 11 of the California Water Code

By: _____
Chairman of the Board

ATTESTED BY:

_____
Secretary of the Board

APPROVED AS TO FORM:

By: _____
Counsel for Lower Tule River Ranch

FRESNO COUNTY WATER WORKS DISTRICT 18, a county waterworks district formed pursuant to the County Waterworks District Law in California Water Code Section 55000 et seq.

By: _____
Chairman of the Board

ATTESTED BY:

_____
Secretary of the Board

APPROVED AS TO FORM:

By: _____
Counsel for the Fresno County Waterworks District 18

Appendix B3

Update to Previously Compiled Water Supply Assessment for Friant Ranch

EST. 1968
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company

455 W Fir Avenue
Clovis, CA 93611-0242
Tel: (559) 449-2700
Fax: (559) 449-2715
www.provostandpritchard.com

Memorandum

To:	Friant Ranch, Limited Partnership C/o Dennis Bacopulos
From:	Brian Ehlers, PE, and Sara Harper, PE CFM
Subject:	Update to Previously Compiled Water Supply Assessment for Friant Ranch
Date:	July 15, 2022

The purpose of this memorandum is to update the water supply conditions that have occurred since adoption of the 2008 Water Supply Assessment (2008 WSA) for the Friant Ranch Specific Plan Project (Friant Ranch or Project). The 2008 WSA is included in this memorandum as **Attachment 1**. The memorandum prepared under this scope is for use by agencies tasked with review and approval of the planned development and provides documentation of the various recent actions that have either directly or indirectly impacted the calculations identified in the 2008 WSA.

It is not the intention of this memorandum to provide a comprehensive water supply assessment, but rather to summarize the pertinent updated information. Of specific interest is the identification and review of the available water supplies, revision of estimated project demands, and the determination of the adequacy of the available water supplies to meet the mixed-used development demands.

Executive Summary

The Project, including the 2008 WSA were initially submitted to and approved by the County of Fresno (County) in 2011. Since then, the Project has experienced legal challenges and the Project proponents have continued to pursue a secure water supply while defending against these legal challenges, working with Fresno County to address legal flaws in the Project Environmental Impact Report (EIR) as found by the California Supreme Court, and seeking reapproval of the Project. (Sierra Club et al. v. County of Fresno et al., 2018).

The Project as previously approved by the County, and as currently being proposed, is reduced in size compared with the proposed project analyzed in the 2008 WSA. The Project includes 2,500 residential units, consisting of 2,187 age-restricted (55 years of age and older) single-family units, 83 age-restricted (55 years of age and older) multi-family units, and 180 non-age restricted multi-family units. The Project also includes a Village Center on approximately 36.6 acres, comprising 250,000 square feet of retail and commercial uses, along with 50 non-age restricted residential units. Of the total Project area, 482 acres are reserved to open space, with a net of 460 acres to be developed. The Project's estimated water demand is 916 acre-feet per year (163 gallons per day, per person). This represents a 38% reduction in total water demand as compared to the 2008 WSA estimate of 1,471 acre-feet per year (231 gallons per day, per person).

An initial Transfer Agreement was executed in 2011 resulting in a secure water supply of 2,000 acre-feet per year. An amended Transfer Agreement (**Attachment 2**) was executed in 2016. The amended Transfer Agreement secures a reliable multi-year surface water supply including

2,000 acre-feet per year with a carryover potential of up to 4,000 acre-feet per year in Millerton Lake. Compared with the initial Transfer Agreement, the amended Transfer Agreement provides greater water supply assurance during dry year periods, including multi-year drought conditions.

The available surface water supply of 2,000 acre-feet per year is more than adequate to meet the annual projected Project demand of 916 acre-feet per year. In addition, the amended Transfer Agreement secures a multi-year surface water supply due to the carryover potential of up to 4,000 acre-feet per year. This additional water supply reliability is sufficient to meet Project demand during a multi-year drought scenario. This conclusion is based on the demands of the Project as it is currently envisioned and on the reliable water supply per the amended Water Transfer Agreement executed in 2016.

Background

A Water Supply Assessment was completed in 2008 (2008 WSA) evaluating the ability of Fresno County Waterworks District No. 18 (WWD 18) to meet water supply demands associated with the mixed-use Friant Ranch development, in accordance with the requirements of Section 10910, et seq, of the California Water Code. The Project description evaluated in 2008 consisted of a 942-acre Project area located adjacent to the existing community of Friant (depicted by the Fresno County Friant Community Plan boundaries, referred to herein as the "Friant Community," in northeastern Fresno County, California) as shown in **Figure 1**.

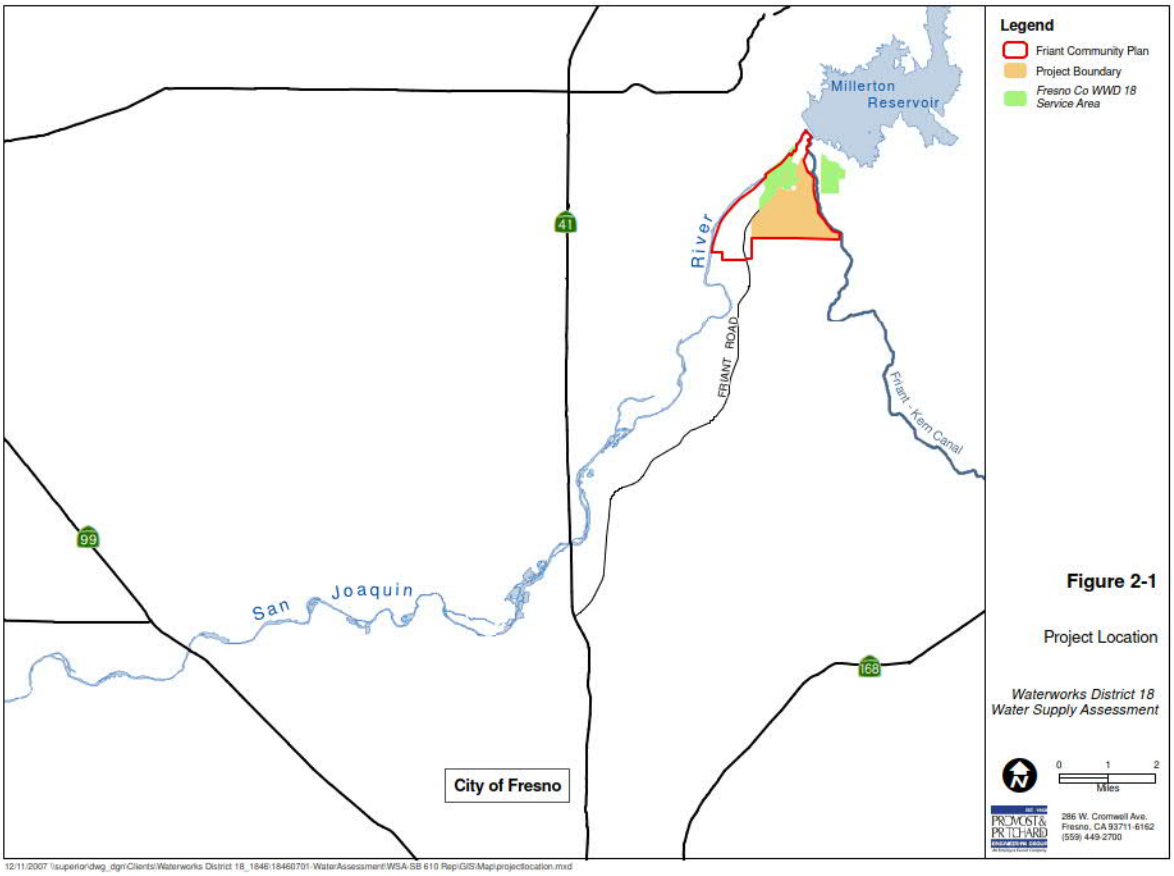

Figure 1. Project Location (Source: 2008 WSA, Figure 2-1)

The proposed Project as analyzed in the 2008 WSA included approximately 2,996 residential units; 2,683 age-restricted (55 years of age and older) single-family units, 83 age-restricted (55 years of age and older) multi-family units, 180 non-age restricted multi-family units, and 50 non-age restricted residential units, as shown in **Figure 2**. The Project also proposed a Village Center on approximately 21 acres, comprising 250,000 square feet of retail and commercial uses. The Project included 120 acres of landscaped areas, including both parks, landscaped vegetated slopes, and non-irrigated open space.

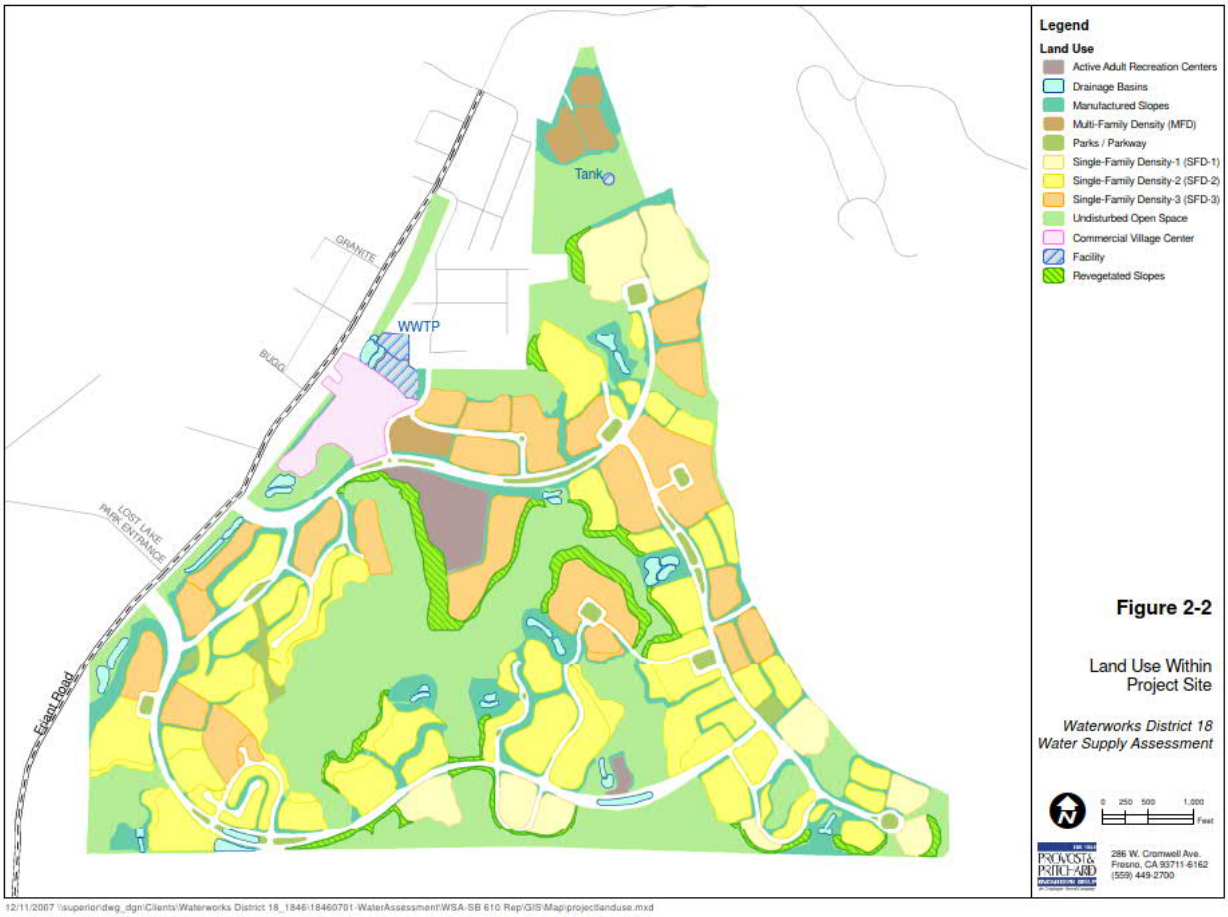

Figure 2. Land Use within Project site (Source: 2008 WSA, Figure 2-2)

The projected population at full build-out for the approved Project was approximately 5,692. Build-out within the combined Friant Community and Project area was projected to include: (1) more than 3,350 housing units with a population more than 6,700 people; and (2) approximately 250,000 square feet of combined commercial and office space. No industrial uses were planned. The projected Project demands determined in the 2008 WSA are provided in **Figure 3** and total 1,471 acre-feet per year (AF/yr).

Table 8.1.3: Projected Project Demands in AFY

Customer	2010	2015	2020	2025	2030
Single Family	-	259	518	777	1036
Multi- Family	-	16	32	48	64
Village Center	-	3	6	9	11
Neighborhood Shopping Center	-	13	26	39	52
Active-Adult Recreational Center (CC)	-	9	18	27	37
Parks and Parkways	-	17	34	51	70
Landscaped Slopes	-	50	100	150	201
Total	**0**	**341**	**682**	**1101**	**1471**

Notes:
1. Assumes construction begins in 2010.
2. Assumed build-out by 2030.

Figure 3. Projected Project Demands AFY (Source: 2008 WSA, Table 8.1.3.)

The 2008 WSA was prepared for the Fresno County Board of Supervisors (Board), in connection with its approval of various entitlements for the Project. In 2011, after certifying the EIR, the Fresno Board opted not to approve all of the alternatives analyzed in the EIR, including the Project as proposed and analyzed in the WSA. Instead, the Board approved what the EIR called "Alternative 3", which proposed only 2,500 housing units and had a smaller development footprint as compared to the Project analyzed in the 2008 WSA. At the same time, the Board updated the Friant Community Plan and approved the Friant Ranch Specific Plan, consistent with the description of Alternative 3 of the EIR.

The EIR was subsequently challenged in court. In 2018, the California Supreme Court held that the EIR was inadequate, insofar as the document failed to adequately connect the air pollutant emissions from the Project with specific health effects. The Superior Court and Court of Appeal subsequently ordered that the Board had to vacate its 2011 approvals and prepare a partially recirculated draft EIR with additional air quality and health analyses. During the litigation, the County and Project proponent successfully defended the water supply analysis in the 2011 EIR. The new EIR, then, is not required to address water supply in addition to air quality and health.

Even so, the Project proponent recognized the benefit of reconsidering and updating the conclusions in the 2008 WSA to reflect (i) the current development scope included within Alternative 3 of the EIR as compared with the original proposed Project as analyzed in the 2008 WSA; (ii) the greater water supply reliability associated with the amended Transfer Agreement; and (iii) current Project water supply and demands reflective of recent legislative updates, current water conservation requirements, and current hydrologic conditions. It is the intention of the Project proponent to submit this Technical Memorandum to the County for its consideration as part of a larger analysis as to whether changes to the Project or changed circumstances since 2011 have resulted in any new significant impacts or any substantial increases in the severity of previously-identified impacts. Upon recertification of the Project EIR as updated, the Board will reconsider its approval of the Project.

Data Acquisition and Review

The following data and reports were reviewed and analyzed for the purpose of updating the 2008 WSA. These data include but are not limited to water supply, demand, San Joaquin River Restoration Agreement, and climate change. A summary of the specific resources and associated citations are provided below:

- ConSol, Inc. (2015). *Codes and Standards Research Report: California's Residential Indoor Water Use.* Stockton: California Homebuilding Foundation.
- Das, T., Munevar, A., & Van Lienden, B. (2014). *Reclamation Managing Water in the West, Sacramento and San Joaquin Basins Climate Impact Assessment.* Sacramento: United States Department of the Interior, Bureau of Reclamation.
- Provost & Pritchard Consulting Group. (2008). *Water Supply Assessment for Fresno County Waterworkds District 18 Friant Ranch Specific Plan.* Fresno: Fresno County Waterworkds District 18.
- Provost & Pritchard Consulting Group. (2016). *Restated Water Supply Assessment for the Friant Ranch Specific Plan.* Fresno: Fresno County Waterworks District No. 18.
- Sierra Club et al. v. County of Fresno et al., S219783 (California Supreme Court December 24, 2018).
- Stipulation of Settlement in NRDC vs. Rodgers, et al., CIV S-8-1658 LKK/GGH (United States District Court, Eastern District of California September 13, 2006).

Legislative Updates

California Water Code Section 10910, et seq, defines a “project” subject to certain water supply planning requirements to include any residential development of more than 500 dwelling units, or one which adds more than 10 percent to the total number of District service connections—or equivalently-large commercial development—where the District has 5,000 or fewer existing connections. For projects meeting these definitions, the water purveyor (in this case, WWD 18) or the County itself must prepare a water supply assessment prior to project approval.

Because a WSA was prepared for the original proposed Project in 2008 and that document was not successfully challenged in court, no new WSA is required for the County’s upcoming reconsideration of the Board’s 2011 approval of Alternative 3 from EIR. Therefore, the County may rely on the 2008 WSA—updated by this Technical Memorandum—which concludes that the proposed water supply for the Project is sufficient to meet its projected water demand, in addition to the existing and planned future uses, including, but not limited to, agricultural and industrial uses.

Legislative updates that have occurred following the 2008 WSA include the following:

- ***Assembly Bill (AB) 1668 and Senate Bill (SB) 606*** establish new long-term urban water use efficiency standards by June 30, 2022, including components for indoor residential use, outdoor residential use, water losses and other uses. The bills require local water suppliers to calculate and comply with water use objectives, monitor and report on the objectives, incorporate five-year drought risk assessments, and water shortage contingency plans into Urban Water Management Plans (UWMP).

Project Description

As previously described, the Project has evolved over time, specifically from the Project description evaluated in the 2008 WSA. The Project as approved in 2011 and as currently envisioned, provides for higher-density development on fewer acres, and a reduced unit count. The Project now includes 2,500 residential units, consisting of 2,187 age-restricted (55 years of age and older) single-family units, 83 age-restricted (55 years of age and older) multi-family units, and 180 non-age restricted multi-family units. The Project also includes a Village Center on approximately 36.6 acres, comprising 250,000 square feet of retail and commercial uses, along with 50 non-age restricted residential units. Of the total Project area, 482 acres are reserved to open space, with a net of 460 acres to be developed. **Figure 4** depicts that land use within the Project site evaluated in this memorandum.

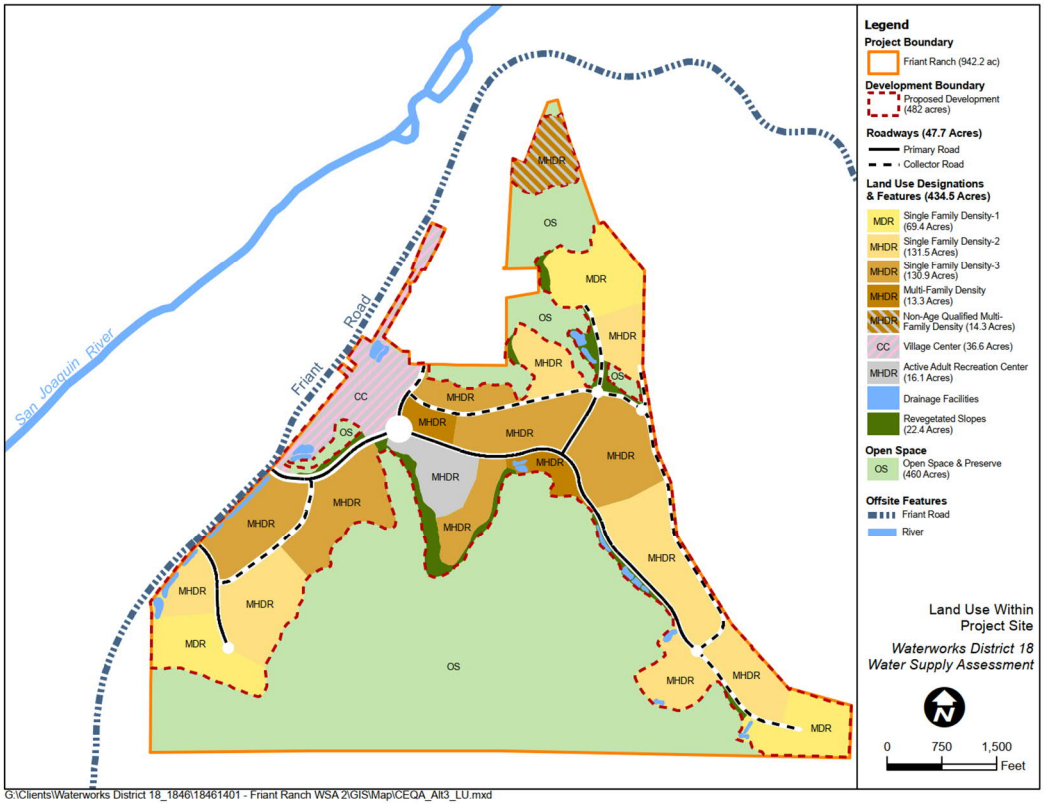

Figure 4. Land use within Project site.

Table 1 provides a comparison in development scope between the currently envisioned Project and the Project as it was presented in 2008.

Table 1. Comparison of Project analyzed in 2008 WSA and current Project.

	2008 Project	Current Project
Overall Project		
Total Acreage	942	942
Developed Acreage	942	460
Total Residential Units	2,996	2,500
Population	5,692	5,000

	2008 Project	Current Project
Residential Zone		
Age-Restricted Single-Family Units	2,683	2,187
Age-Restricted Multi-Family Units	83	83
Non-Restricted Multi-Family Units	180	180
Non-Residential Zone		
Village Center Acreage	21.3	36.6
Village Center Non-Restricted Multi-Family Units	50	50
Village Center Commercial Square Footage	250,000	250,000
Active Adult Recreation Center Acreage	16.7	16.1
Communal Irrigated Landscaping Acreage	120	85

Updated Demand Calculation

The demand calculations presented in the 2008 WSA utilize a methodology based on acreage and land use. More recent legislative updates (including SB 606 and AB 1668) encourage demand estimate calculations based on population as they impose limits on indoor residential use. For example, the upcoming per capita limit for planning purposes is 55 gpd/person from 2025 to 2030, and 50 gallons per day per person (gpd/person) beyond 2030. In addition, the Model Water Efficient Landscape Ordinance (MWELO) was adopted by California and places a limit on landscape irrigation water usage. This limit provides a solid basis for estimating outdoor water usage.

The annual Maximum Applied Water Allowance (MAWA) is calculated using the formula:

$MAWA = (ET_0)\ (0.62)\ (ETAF \times LA)$

Where:

MAWA = Maximum Applied Water Allowance in gal/year

ET_0 for Friant = 51.3 in/yr

Evapotranspiration Adjustment Factor (ETAF) for residential = 0.55

ETAF for non-residential = 0.45

LA = Landscaped area in square feet

An additional consideration when evaluating demand for this Project is that the number of residents per unit in an age-restricted community will be significantly lower than in a non-restricted community. Demand calculations based on land-use type will likely overestimate demand unless a factor is specifically applied to account for the lower population density of an age-restricted development. Therefore, the demand calculations identified below are based on population considerations and MWELO.

The overall Project demand, further described below, is summarized by the following four distinct usage types:

- Indoor residential
- Outdoor residential
- Commercial and recreational areas
- Communal landscaped areas

Indoor Residential

Indoor residential demand calculations are presented in **Table 2**. Demand calculations are based on the California mandated limit of 55 gpd/person for indoor use which will come into effect in 2025. This estimate is conservative as the mandated limit will drop to 50 gpd/person in 2030.

Table 2. Indoor Residential Demand Based on SB 606 limit of 55 gpd/person.

Unit Type	Unit Count	gpd/ Person	People/ Unit	gpd/ Unit	Indoor Demand (AF/yr)
Age-Restricted Single-Family	2,187	55	1.9(1)	105	256
Age-Restricted Multi-Family	83	55	1.9(1)	105	10
Non-Restricted Multi-Family (includes Village Center units)	230	55	3.2	176	45
Total Indoor Residential Demand	2,500				**311**

Note (1) – The value reflects for age restricted units which typically result in lower demands.

Outdoor Residential

Outdoor residential demand calculations are presented in **Table 3**. Calculations are based on the MWELO formula for residential usage. Lot size is assumed to be the largest allowed by the land use type.

Table 3. Outdoor Residential Demand Based on MWELO.

Unit Type	Unit Count	Lot Size (SF)	% Irrigated	Irrigated Area (SF/Unit)	Maximum Applied Water Allowance (MAWA) (gpd /Unit)	Outdoor Demand (AF/yr)
Age-Restricted Single-Family (SFD-1)	290	7,000	51%	3,570	171	56
Age-Restricted Single-Family (SFD-2)	745	5,000	45%	2,250	108	90
Age-Restricted Single-Family (SFD-3)	1,069	4,500	40%	1,800	86	103
Age-Restricted Multi-Family (MFD-AQ)	166	3,600	25%	900	43	8
Non-Restricted Multi-Family (MFD-NAQ)	230	3,600	25%	900	43	11
Total Outdoor Residential Demand	2,500	-	-	-	-	**268**

Commercial and Recreational Areas

Demand calculations for the Village Center commercial area and the Active Adult Recreation Area are presented in **Table 4**. Calculations for these areas are based on the City of Clovis 2013 Water Master Plan which lists an annual usage rate for “Neighborhood Commercial” areas of 2.9 AF/Acre, which equates to 2,590 gpd/acre.

Table 4. Commercial and Recreational Demand.

Land Use	Acreage	gpd/acre	AF/yr
Village Center Commercial	36.6	2,590	106
Active Adult Recreation	16.1	2,590	47
Total Commercial/Recreation Demand			**153**

Communal Landscaped Areas

The total irrigated landscape area for the project is listed at 85-acres. It is assumed that 12 of these acres are within the Village Center and Active Adult Recreation areas and irrigation demand for these 12-acres is included in the per-acre calculation presented in **Table 4**. The demand for the remaining 73-acres of communally irrigated areas is presented in **Table 5** and is based on the MWELO formula for non-residential areas.

Table 5. Communal Irrigation Demand Based on MWELO.

Land Use	Acreage	Maximum Applied Water Allowance (MAWA) (MG/yr)	AF/yr
Parks and Pathways	50.6	31.5	97
Revegetated Slopes	22.4	14.0	43
Total Communal Irrigation Demand			**140**

Table 6 provides a summary of the demands identified in **Table 2** thru **Table 5** and lists total Project demand.

Table 6. Combined total demands.

Use	Demand (AF/yr)
Indoor Residential	311
Outdoor Residential	268
Commercial/Recreation Areas	153
Communal Irrigation	140
Leakage (5% of Demand)	44
Total Project Demand	**916**

The estimated project demand of 916 AF/yr (163 gpd/person) represents a 38% reduction in total water use as compared to the 2008 WSA estimate of 1,471 AF/yr (231 gpd/person).

Evaluation of Available Water Supply

As previously described, the evaluation of the available water supply provided below is limited to a review of changes that have occurred following the 2008 WSA. Of specific interest are changes to available Project water supplies pursuant to the amended water Transfer Agreement (amended in 2016), potential water supply effects due to recent/varying hydrologic conditions, and potential water supply impacts from implementation of the San Joaquin River Restoration Settlement Agreement.

Water Supply Contract

On April 13, 2011, the option and long-term water transfer agreement (referred to herein as Transfer Agreement) between WWD18 and Lower Tule River Irrigation District (LTRID) was executed. This Transfer Agreement provided for the long-term purchase of the right to receive up to 2,000 acre-feet of LTRID Class 1 Water Entitlement[1] from LTRID to WWD 18 in order to provide a safe and reliable long-term water supply for the residents within the proposed Project and within the existing Friant Community.

The source of LTRID water supply includes 61,200 acre-feet of Class 1 Water entitlement from the United States Bureau of Reclamation (USBR) for delivery of water from the Friant Division of the Central Valley Project (CVP). The option and long-term water transfer agreement identified that WWD 18 shall have the right to the available water supply from LTRID for as long as the LTRID has the right to receive Friant Division CVP water. A Letter of Agreement dated May 23, 2014, from the USBR consented to the long-term water transfer between LTRID and WWD 18.

As a result of exceptional drought conditions in 2014, USBR determined, for the first time in the history of the Central Valley Project and again in 2015, that the Friant Division of the Central Valley Project would receive a zero percent allocation of water for the holders of Class 1 Water Entitlement. Therefore, in order to ensure a safe and reliable long-term water supply for the residents within the WWD 18 Service Area, and the Project, the Transfer Agreement was amended in 2016[2] and included additional provisions to protect against multi-year drought conditions including a carryover supply of LTRID water available to satisfy the allocation identified in the Transfer Agreement. The following provides a summary of the amended Transfer Agreement terms and conditions.

Back-up Water Supply

The amendment to the Transfer Agreement identified the following provisions to secure a back-up water supply for the proposed Project and within the existing Friant Community:

a) On or before the end of each Water Year, LTRID shall request that the USBR reschedule to the subsequent Water Year an amount of LTRID Class 1 Water Entitlement for that year that is equal to two times the amount of Water Supply that as of that Water Year has been purchased under the Transfer Agreement ("Carryover Water"). The Carryover Water shall be held in Millerton Lake as a supply to meet any of LTRID's water supply needs for the subsequent water year, including, if necessary WWD 18 demands under the Transfer Agreement.
b) WWD 18 shall reimburse LTRID the full amount of any rates or charges charged by USBR for rescheduling LTRID water as required by Section a. above. Such reimbursement requirement shall be considered an additional component of the Cost of Water as defined in Section 5.2 of the Transfer Agreement. To the extent the Carryover Water is used by LTRID or used to meet other obligations of LTRID, WWD

[1] Friant Division contractors' water supply develops in the Upper San Joaquin River Basin Watershed and is delivered from Millerton Lake through Friant Dam to the Madera Canal and Friant-Kern Canal. The first 800,000 acre-feet of available water supply is considered Class 1; Class 2 is considered the next amount of available water supply up to 1.4 million acre-feet.
[2] On September 21, 2016, the first amendment to the option was executed by the same parties as the Transfer Agreement (i.e., WWD 18, LTRID).

18 will be reimbursed for the portion of the USBR rescheduling costs associated with such water

c) In the event that LTRID is unable to reschedule and deliver Carryover Water pursuant to Section a. above, LTRID will take such further action as is necessary to deliver to WWD 18 the Water Supply that has been purchased by WWD 18. LTRID hereby represents and warrants that it owns or controls various hydrologic resources which can be used to allow it to deliver the Water Supply provided for in the Transfer Agreement in the event of a critical dry year shortfall. Subject to its final determination, LTRID will use its best efforts to cause the Water Supply to be delivered to WWD 18 including, but not limited to, pumping the water generated by its pre-1914 water rights on the Tule River into the Friant Kern Canal so as to meet a portion of its commitments downstream thereby making available Class I Entitlement in Millerton Lake which can be delivered to WWD 18.

Priority Access to Carryover Water

The amended Transfer Agreement states, "LTRID hereby represents and warrants that the Carryover Water held by LTRID pursuant to Section a. above shall be available to WWD 18 on a first priority basis under the Transfer Agreement. Pursuant to such priority, LTRID may use Carryover Water to satisfy its own water supply demands or to satisfy other contractual obligations, but only after Carryover Water is first used to satisfy obligations under the Transfer Agreement, if necessary."[3]

Reaffirmation

The amended Transfer Agreement also reaffirmed each and every term and provision of the prior Transfer Agreement executed in 2011.

Therefore, the amended Transfer Agreement and additional provisions provides a more secure and reliable water supply for the proposed Project and within the existing Friant Community. **Table 7** summarizes the amended Transfer Agreement provisions.

Table 7. Summary of amended Transfer Agreement.

Transfer Agreement	**Term**
LTRID CVP Class 1 entitlement	61,200 AF/yr
WWD #18 CVP Class 1 entitlement	150 AF/yr
Friant Ranch development	942 acres
Friant Ranch units	2,500 units
Option Agreement	
Length of term	Ongoing in perpetuity
Purchase amount	Up to 2,000 AF per year
Purpose	Safe and Reliable water supply for Friant Ranch residents
Carryover supply	up to 4,000 AF per year
Priority	Quantities shall be available to WWD 18 on a first priority basis

[3] *First Amendment to Option and Long Term Water Transfer Agreement*, Lower Tule River Irrigation District-Fresno County Water Works District No. 18, September 21, 2016.

Additional information regarding the basis of the contracts between WWD 18, LTRID and the US Bureau of Reclamation can be found in the 2008 WSA.

Change to Hydrologic Conditions

Surface water supplies available to WWD 18 from the Friant Division of the CVP will be used to support the demands within the Friant Community and this Project. The 2008 WSA considered potential limits in available surface water supply as a result of drier hydrology and multi-year drought. **Figure 5** provides the Projected surface supply available for normal, critical dry and multi-dry years in AFY that were identified in the WSA.

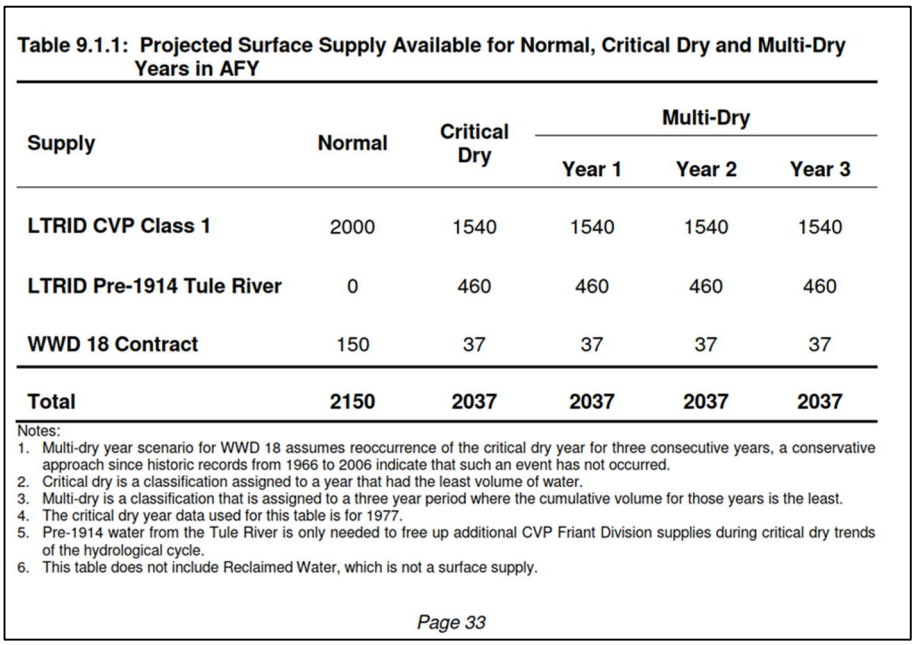

Table 9.1.1: Projected Surface Supply Available for Normal, Critical Dry and Multi-Dry Years in AFY

Supply	Normal	Critical Dry	Multi-Dry		
			Year 1	Year 2	Year 3
LTRID CVP Class 1	2000	1540	1540	1540	1540
LTRID Pre-1914 Tule River	0	460	460	460	460
WWD 18 Contract	150	37	37	37	37
Total	**2150**	**2037**	**2037**	**2037**	**2037**

Notes:
1. Multi-dry year scenario for WWD 18 assumes reoccurrence of the critical dry year for three consecutive years, a conservative approach since historic records from 1966 to 2006 indicate that such an event has not occurred.
2. Critical dry is a classification assigned to a year that had the least volume of water.
3. Multi-dry is a classification that is assigned to a three year period where the cumulative volume for those years is the least.
4. The critical dry year data used for this table is for 1977.
5. Pre-1914 water from the Tule River is only needed to free up additional CVP Friant Division supplies during critical dry trends of the hydrological cycle.
6. This table does not include Reclaimed Water, which is not a surface supply.

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Figure 5. Projected surface supply available for normal, critical dry and multi-dry years in AFY (Source: 2008 WSA).

Following the 2008 WSA, USBR determined, due to exceptional drought conditions in 2014, for the first time in the history of the CVP and again in 2015, that the Friant Division of the CVP would receive a zero percent allocation of water for the holders of Class 1 Water Entitlement.

Table 8 provides the historical allocations from USBR for the Friant Division of the CVP.

Table 8. Friant Division Central Valley Project Water Supply.

USBR Water Year	% year	CLASS I Actual	CLASS II Actual		USBR Water Year	% year	CLASS I Actual	CLASS II Actual
1966	70.7	100	23		1994	50	80	0
1967	176.1	100	100		1995	218	100	100
1968	47	92	0		1996	124	100	58
1969	220.1	100	100		1997	158	100	60
1970	78.8	100	29		1998	178	100	10
1971	77.2	100	35		1999	150	100	20

USBR Water Year	% year	CLASS I Actual	CLASS II Actual		USBR Water Year	% year	CLASS I Actual	CLASS II Actual
1972	56.6	100	4		2000	103	100	17
1973	111.5	100	77		2001	60	100	5
1974	119.3	100	82		2002	60	100	8
1975	97.8	100	60		2003	73	100	5
1976	34.3	75	0		2004	60	100	8
1977	19.7	25	0		2005	149	100	100
1978	185.3	100	100		2006	182	100	100
1979	99.7	100	63		2007	37	65	0
1980	162	100	100		2008	61	100	5
1981	58.2	100	22		2009	79	77	18
1982	180.7	100	100		2010	110	100	15
1983	252.9	100	100		2011	180	100	20
1984	111.3	100	50		2012	45	50	0
1985	70	100	14		2013	47	62	0
1986	151	100	100		2014	28	***0***	0
1987	42	91	0		2015	18	***0***	0
1988	47.1	78	0		2016	71	75	0
1989	52.2	98	0		2017	239	100	71
1990	40	68	0		2018	73	88	0
1991	66	100	0		2019	149	100	0
1992	46	83	0		2020	48	65	0
1993	150	100	90		2021	46	20	0

USBR has historically allowed contractors to carry over unused surface water supplies allocated from a certain year to the following year (referred to as carryover). Although there are conditions[4] on these carryover supplies, the intent is to provide certainty for water contractors that carryover water will be available if dry hydrologic conditions exit the following year, and water supplies are reduced (or the allocations are zero). The 2016 amendment to the Transfer Agreement requires LTRID to carry over (if requested by WWD 18) up to 4,000 AF of water or approximately four years of estimated Project demand in Millerton Reservoir to promote water supply resiliency and protect against dry year conditions and the potential reduced water supply allocation the following year.

CVP Allocation

As shown in **Table 8**, the CVP Friant Class 1 supplies have been 100% or greater in 37 of the 55 years of record, which equates to approximately 67%. There were four years (1977, 2014, 2015, and 2021) when allocated Class 1 supplies were less than 50%, two of which were consecutive and occurred in 2014 and 2015. Over the period of record, significantly reduced allocations (less

[4] Water supplies carried over from one year to the next is the first water lost in the event of a flood release.

than 50%) only occurred 10% of the time; however, three out of the four significant reductions in allocation occurred in the more recent hydrologic period, following the 2008 WSA.

Recent hydrologic conditions.

For the purposes of this memorandum, the historical unimpaired runoff at Millerton was reviewed (**Figure 6**).

Water Year [1]	Unimpaired Runoff [2]	SJRRP Water Year Type [3]
1901	3,227.9	Wet
1902	1,704.0	Normal-Wet
1903	1,727.0	Normal-Wet
1904	2,062.0	Normal-Wet
1905	1,795.4	Normal-Wet
1906	4,367.8	Wet
1907	3,113.9	Wet
1908	1,163.4	Normal-Dry
1909	2,900.7	Wet
1910	2,041.5	Normal-Wet
1911	3,586.0	Wet
1912	1,043.9	Normal-Dry
1913	879.4	Dry
1914	2,883.4	Wet
1915	1,966.3	Normal-Wet
1916	2,760.5	Wet
1917	1,936.2	Normal-Wet
1918	1,466.8	Normal-Wet
1919	1,297.5	Normal-Dry
1920	1,322.5	Normal-Dry
1921	1,604.4	Normal-Wet
1922	2,355.1	Normal-Wet
1923	1,654.3	Normal-Wet
1924	444.1	Critical-High
1925	1,438.7	Normal-Dry
1926	1,161.4	Normal-Dry
1927	2,001.3	Normal-Wet
1928	1,153.7	Normal-Dry
1929	862.4	Dry
1930	859.1	Dry
1931	480.2	Critical-High
1932	2,047.4	Normal-Wet
1933	1,111.4	Normal-Dry
1934	691.5	Dry
1935	1,923.2	Normal-Wet
1936	1,853.3	Normal-Wet
1937	2,208.0	Normal-Wet
1938	3,688.4	Wet
1939	920.8	Dry
1940	1,880.6	Normal-Wet
1941	2,652.5	Wet
1942	2,254.0	Normal-Wet
1943	2,053.7	Normal-Wet
1944	1,265.4	Normal-Dry
1945	2,134.633	Normal-Wet
1946	1,727.115	Normal-Wet
1947	1,121.564	Normal-Dry
1948	1,201.390	Normal-Dry
1949	1,167.008	Normal-Dry
1950	1,317.457	Normal-Dry
1951	1,827.254	Normal-Wet
1952	2,840.854	Wet
1953	1,226.830	Normal-Dry
1954	1,313.993	Normal-Dry
1955	1,161.161	Normal-Dry
1956	2,959.812	Wet
1957	1,326.573	Normal-Dry
1958	2,631.392	Wet
1959	949.456	Normal-Dry
1960	826.021	Dry
1961	647.428	Critical-High
1962	1,924.066	Normal-Wet
1963	1,945.266	Normal-Wet
1964	922.351	Dry
1965	2,271.191	Normal-Wet
1966	1,298.792	Normal-Dry
1967	3,233.097	Wet
1968	861.894	Dry
1969	4,040.864	Wet
1970	1,445.837	Normal-Dry
1971	1,416.812	Normal-Dry
1972	1,039.249	Normal-Dry
1973	2,047.585	Normal-Wet
1974	2,190.308	Normal-Wet
1975	1,795.922	Normal-Wet
1976	629.234	Critical-High
1977	361.253	Critical-Low
1978	3,402.805	Wet
1979	1,829.988	Normal-Wet
1980	2,973.169	Wet
1981	1,067.757	Normal-Dry
1982	3,317.171	Wet
1983	4,643.090	Wet
1984	2,042.750	Normal-Wet
1985	1,135.975	Normal-Dry
1986	3,031.600	Wet
1987	756.853	Dry
1988	862.124	Dry
1989	939.168	Normal-Dry
1990	742.824	Dry
1991	1,027.209	Normal-Dry
1992	807.759	Dry
1993	2,672.322	Wet
1994	824.097	Dry
1995	3,876.370	Wet
1996	2,200.707	Normal-Wet
1997	2,817.670	Wet
1998	3,160.759	Wet
1999	1,527.040	Normal-Wet
2000	1,735.653	Normal-Wet
2001	1,065.318	Normal-Dry
2002	1,171.457	Normal-Dry
2003	1,449.954	Normal-Dry
2004	1,130.823	Normal-Dry
2005	2,826.872	Wet
2006	3,180.816	Wet
2007	684.333	Dry
2008	1,116.790	Normal-Dry
2009	1,455.379	Normal-Wet
2010	2,028.706	Normal-Wet
2011	3,304.824	Wet
2012	831.582	Dry
2013	856.626	Dry
2014	509.579	Critical-High
2015	327.410	Critical-Low
2016	1,300.986	Normal-Dry
2017	4,395.400	Wet
2018	1,348.979	Normal-Dry
2019	2,734.772	Wet
2020	886.025	Dry
2021	521.853	Critical-High
2022	*Pending*	*Pending*

[1] Water year is from Oct 1 through Sept 30, for example the 2010 water year began Oct 1, 2009. Unimpaired Runoff is based on Reclamation calculations, and hypothetical water year types are shown here; actual Restoration water year types are based on the final allocation, which may sometimes differ slightly from the calculated water year total.

[2] Also known as “Natural River” or “Unimpaired Runoff into Millerton” – This is the total runoff that would flow into Millerton Lake if there were no dams or diversions upstream. There was a lower level of precision prior to 1945. Friant Dam uses 1.9835 conversion from cfs to AF.

[3] The six SJRRP Water Year Types are based on Unimpaired Runoff and are not updated as climatology changes as per the Settlement. Critical-Low= <400 TAF, Critical-High=400-669.999 TAF, Dry= 670-929.999 TAF, Normal-Dry 930-1449.999, Normal-Wet 1450-2500, Wet>2500.

Figure 6. History of unimpaired runoff of Millerton (source: Final 2022 Restoration Allocation &Default Schedule, May 13, 2022, Table C- Water Year Totals in Thousand Acre-feet).

The unimpaired runoff provided in **Figure 6** suggests normal conditions were experienced during the period from 1966 through 2021 with typical variations in hydrology. There was a reduction in precipitation in recent years (2008 through 2021) with an average runoff of 88% as compared to the entire period of record. It is unknown if the more recent period represents a drought condition or if these conditions reflect a new normal due to climate change.

Years 1924 through 1934 are the driest hydrologic period on record, even as compared to the drier hydrology experienced in recent years. The next driest period on record is 2007 through 2021 which shows a 14% reduction in runoff compared to the entire period of record.

Although overall, the 1924 through1934 dry hydrology was more severe on average, the "critical-high" and "critical-low" year designation in the most recent period were more severe from year to year. The multi-year dry and critical (both critical-high and critical-low) designations during 2012 though 2015 and 2020 through 2021 (and currently experienced in 2022) may indicate more severe annual reductions in unimpaired runoff going forward. These more recent drought conditions also may suggest a need to secure water supplies to account for prolonged periods (multi-year) drought conditions.

Effects of San Joaquin River Settlement Agreement

In 2006, a historic settlement agreement[5] (referred to herein as SJRSA, or Settlement Agreement) between the National Resources Defense Council (NRDC) and USBR was reached with two primary goals: 1) restore and maintain fish populations in "good condition" in the main stem San Joaquin River below Friant Dam to the confluence of the Merced River, and 2) reduce or avoid adverse water supply impacts on all the Friant division of the CVP long-term contractors that may result from the interim and restoration flows provided for in the settlement.

To achieve the restoration goal, the Settlement Agreement requires the USBR to release specified amounts of water into the San Joaquin River from Friant Dam ("Restoration Flows") based upon the water runoff forecast for each year. The Settlement Agreement flow schedule, by water year type, is provided in **Figure 7**. The agreement requires additional flow to the river in year types in all but the critical low water year type. **Figure 8** provides a map of the USBR CVP holding contracts from the Friant Dam to Gravelly Ford Weir.

[5] Stipulation of Settlement in NRDC vs. Rodgers, et al., CIV S-8-1658 LKK/GGH (United States District Court, Eastern District of California September 13, 2006).

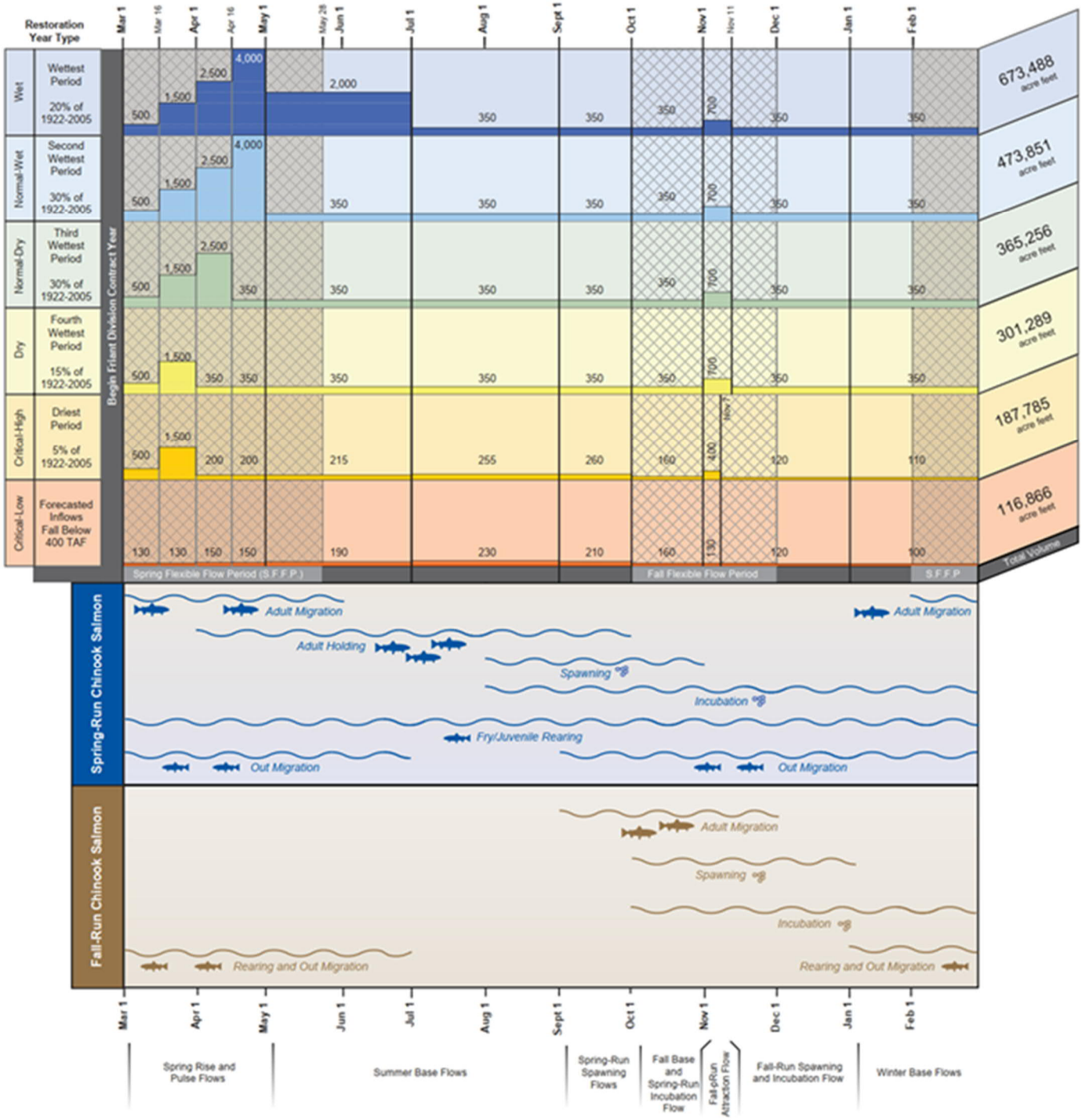

Figure 7. Settlement Agreement flow schedule (source: ES-4. Exhibit B of Settlement Agreement)

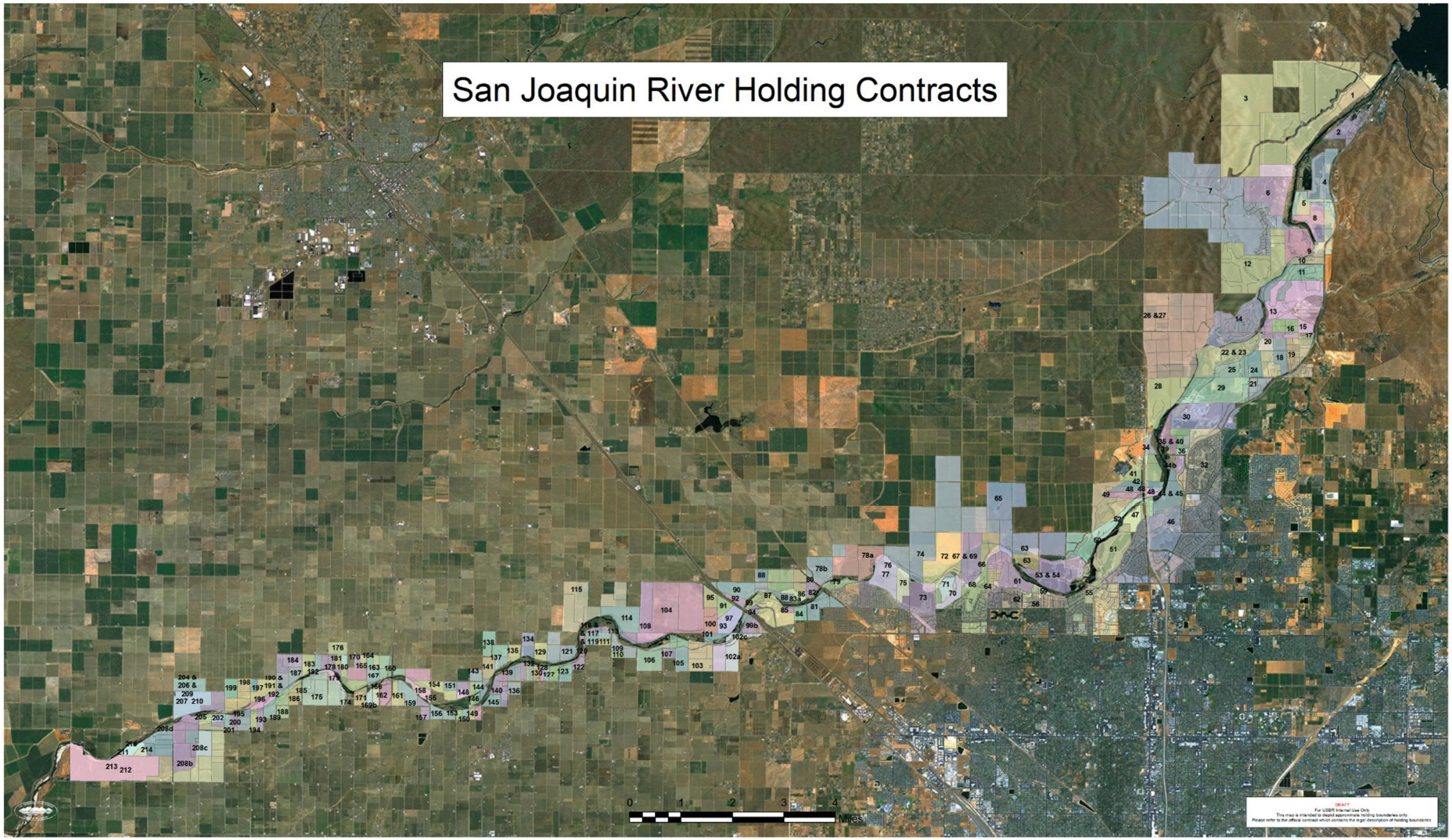

Figure 8. USBR CVP Holding Contracts Map

Although, the Settlement Agreement significantly reduces overall average deliveries to agricultural users by approximately 19%, more than half of the surface water availability impacts are to the Class 2 contractors. In general, the surface water impact to Class 1 contractors from restoration program actions is in the critical-dry year classification. In critical-low years the 400,000 acre-feet per year of San Joaquin supplies does not change the historic operational methodology. **Figure 7** identifies the flow requirements during wetter year types such as "wet", "normal-wet", "normal-dry" and "dry" and "critical-high" year types. The water supply required for restoration activities is intended to be redistributed from the water supply available to Class 2 contractors and generally results in small or no impacts to Class 1 water supplies during these year types.

In critical-low years when runoff is anticipated to be less than 400,000 acre-feet, no supplemental restoration water is to be released. During these years, the releases to the river are a reflection the commitment by the USBR to the riparian and "holding contract" users to meet the flow requirements of maintenance of a minimum 5 cubic feet per second flow past the Gravelly Ford weir. Dedicated flows released during critical-high years are estimated at 70,919 AF which is the difference between the flow requirements between the critical-high and critical-low requirements. This amount correlates with the Class 1 Friant CVP allocation which would suggest a potential reduction in Class 1 supplies of about 8 percent. The USBR allocates water first to fulfil the Class 1 Friant CVP allocations. If there is available remining water supply, Class 2 contractors receive an allocation.

While it is apparent that Friant CVP Class 2 supplies will be reduced in future years, the available water supply for the Project, as secured in the amended Transfer Agreement, is not reliant on Class 2 allocations. However, there is a potential that Class 1 allocations may be reduced during "Critical High" water year types depending upon the total inflow to Millerton Reservoir. The carryover provisions of the amended Transfer Agreement provide further protections for the Project and a multi-year supply to meet Project demand.

Climate Change Impacts

The Sacramento and San Joaquin River Basins Climate Impact Assessment (SSJRBC Impact Assessment)[6] was reviewed to evaluate the potential impacts to the Project from climate changes. Of specific interest were the evaluations and potential climate change impacts to precipitation, water supplies and demands in the San Joaquin River hydrologic subbasins.

Precipitation

Figure 9, identifies the estimated change in precipitation from 2025 to 2084.

[6] Das, T., Munevar, A., & Van Lienden, B. (2014). *Reclamation Managing Water in the West, Sacramento and San Joaquin Basins Climate Impact Assessment.* Sacramento: United States Department of the Interior, Bureau of Reclamation.

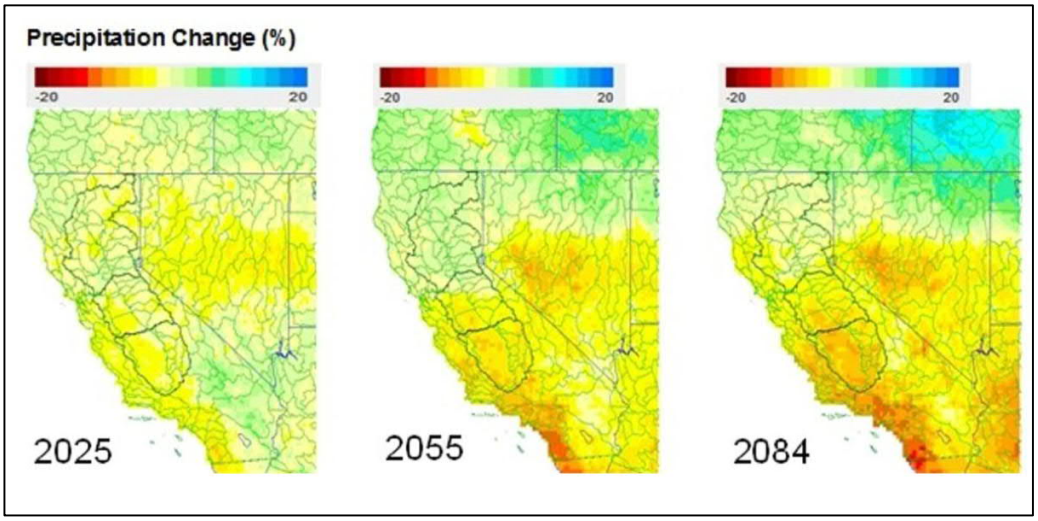

Figure 9. Projected annual average precipitation changes (percent in the early, mid and late 21st century (Source: SSJRBC Impact Assessment, Figure 6).

The SSJRBC Impact Assessment projects changes in annual average precipitation in the Central Valley basins including a clear north to south trend of decreasing precipitation, similar to historical conditions. This trend is projected to occur throughout the 21st century. In the northern part of the Sacramento Valley, projections indicate a slight increase of a few percent in precipitation around the mid-century period. A slight decrease in precipitation was projected to occur in both the San Joaquin and Tulare Lake basins. In these basins, the reductions tend to increase throughout the 21st century from a few percent to nearly 10 percent in the southern parts of the Central Valley.

Sea Level Rise

The SSJRBC Impact Assessment also identified that sea level, relative to levels in 2000 at the Golden Gate Bridge in San Francisco, could rise by 92 centimeters by the end of the century with a potential range from 42 to 166 centimeters.

Water Supply

The impacts of potential climate changes on water supplies were evaluated for each of the three major hydrologic basins in the study area (Sacramento, San Joaquin, and Tulare Lake hydrologic basins). The assessments included evaluating changes in the seasonality and volume of runoff due to the combined effects of temperature and precipitation. The full suite of 18 transient climate projections was simulated using the WEAP-CV hydrologic model to characterize the wide range of uncertainty associated with water supplies during the 21st century. For the purposes of this memorandum, the only the climate changes assessment for the San Joaquin hydrologic subbasin is included.

Figure 10 provides the monthly pattern of runoff in the San Joaquin hydrologic basin for each of the 18 socioeconomic-climate scenarios. Differences in the monthly pattern of runoff conditions between the basins reflect differences in latitude, watershed elevation, vegetation, and soil conditions. The climate scenarios exhibit a pattern similar to the Central Trend No Climate Change scenario (CT_NoCC, dashed line), but with a shift to more runoff in the winter and less in the spring months. This projected shift occurs because higher temperatures during winter cause more precipitation to occur as rainfall which increases runoff and reduces snowpack. This shift in runoff is especially evident when comparing the approximately equivalent amounts of precipitation

in the Current Trend, central tendency (CT_Q5) and Central Trend No Climate Change (CT_NoCC) scenarios. In the winter months (Dec, Jan, Feb) Current Trend, central tendency (CT_Q5) has more runoff than Central Trend No Climate Change (CT_NoCC), but in the spring (Mar, Apr, May) Central Trend No Climate Change (CT_NoCC) has greater runoff.

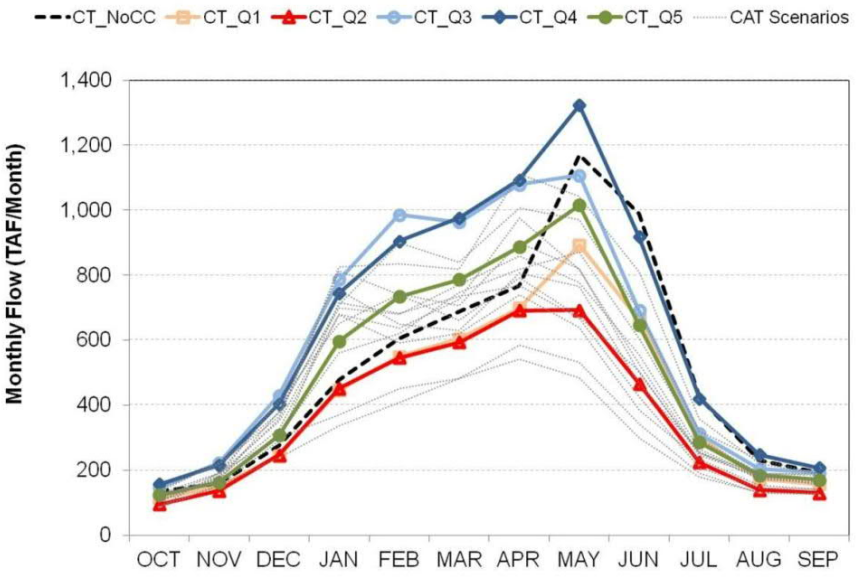

Figure 10. Average runoff in each month in the San Joaquin Basin in each climate scenario (Source: SSJRBC Impact Assessment, Figure 11).

Figure 11 provides the time series of "unimpaired" annual runoff for each of the 18 socioeconomic-climate scenarios in the San Joaquin River system. Unimpaired runoff is the flow that would occur without development of the CVP, SWP and other water management systems in the study area.

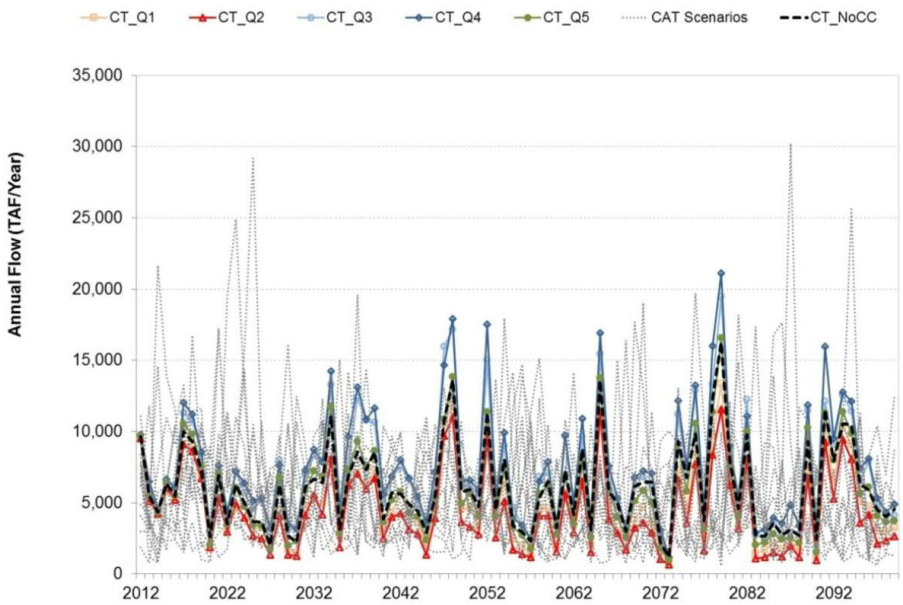

Figure 11. Annual time series of unimpaired runoff in the San Joaquin River system in each climate scenario (Source: SSJRBC Impact Assessment, Figure 14).

In general, the SSJRBC Impact Assessment identifies that the magnitude of the California Climate Action Team (CAT) high runoff events in the San Joaquin River subbasin is greater than the projected runoff simulated based on historic observations. This is especially true in the early 21st century period when the 12 California Climate Action Team (CAT) high-runoff events are notably greater than projected historical events. SSJRBC Impact Assessment also identified that there is an increased frequency and lower magnitude of runoff events in the San Joaquin basins especially in the early 21st century period. The lower average annual runoff in the San Joaquin in most of the 12 California Climate Action Team (CAT) scenarios as compared to the No Climate Change (NoCC) scenario would result in lower flows into the Delta and lower storage levels in CVP and SWP reservoirs in these scenarios, resulting in lower overall water supply agricultural, urban, and environmental uses within the study area.

The climate scenarios exhibit a seasonal shift to more runoff in the winter and less in the spring months. This projected shift occurs because higher temperatures during winter cause more precipitation to occur as rainfall, which increases runoff and reduces snowpack. The projected annual runoff into major Central Valley reservoirs is similar to the historical period with a north to south geographical trend toward slightly reduced runoff reflecting a similar trend in precipitation.

SSJRBC Impact Assessment identifies that under current reservoir operational criteria, the seasonal shift in runoff has a negative impact on the ability to store water for later use. With earlier runoff and more precipitation occurring as rainfall, reservoirs may fill earlier and excess runoff may have to be released downstream to ensure adequate capacity for flood control purposes.

Water Demands

the SSJRBC Impact Assessment identifies that water demands were impacted by both changes in climate and socioeconomics. The projected increases in population resulted in a steady increase in urban water use during the 21st century. Agricultural demands were also impacted by the assumed decrease in irrigated acreage and the changing climate. Unlike urban demands, agricultural demands have considerable inter-annual variability. In low precipitation years, demand is higher while in high precipitation years, agricultural water demands decrease. During the 21st century, the average annual agricultural demands are projected to decrease because of reduced irrigated acreage and to a lesser extent the effects of increasing carbon dioxide on decreasing water use by some crops despite increased temperatures in the latter half of the 21st century.

Conclusions of Evaluation

The overall conclusion of the analysis above, provides that the available water supply exceeds the estimated Project demand in all years, including periods of multi-year drought. This conclusion is supported by the following:

- Project as currently envisioned reduces estimated demand from 1,471 acre-feet per year (as identified in 2008 WSA) to 916 acre-feet per year (current Project demand)
- There was a reduction in precipitation in recent years, following the analysis performed for the 2008 WSA, with an average runoff of 88% as compared to the historic period of record.
- The recent multi-year dry and critical (both critical-high and critical-low) water year designations during 2012 through 2015 and 2020 through 2021 (and currently experienced in 2022) may indicate reductions in unimpaired runoff going forward. These more recent drought conditions may prompt the Legislature to enact more stringent water

supply planning requirements; however, based on the current water supply available for the Project and current demand projections there are sufficient water supplies to meet Project demand.

- Implementation of the San Joaquin River Restoration Settlement Agreement will impact Class 2 Friant CVP Contractors. Limited impacts are anticipated for Class 1 Friant CVP Contractors except for the driest of hydrologic conditions.
- Recent reductions in Class 1 allocations due to drought conditions have not affected the available water supply from LTRID to WWW 18.
- Climate change impacts will likely result in higher runoff events in the San Joaquin River subbasin. This is especially true in the early 21st century period when the high-runoff events are notably greater than projected historical events. Climate change as analyzed in the SSJRBC Impact Assessment scenarios also show a seasonal shift to more runoff in the winter and less in the spring months. This projected shift occurs because higher temperatures during winter cause more precipitation to occur as rainfall, which increases runoff and reduces snowpack.
- The amended Transfer Agreement secures a reliable multi-year surface water supply including 2,000 acre-feet per year with a carryover potential of up to 4,000 acre-feet per year
- Therefore, the available surface water supply of 2,000 acre-feet per year is more than adequate to meet the annual projected Project demand of 916 acre-feet per year. In addition, the amended Transfer Agreement secures a multi-year surface water supply due to the carryover potential of up to 4,000 acre-feet per year. This additional water supply reliability is sufficient to meet the Project's demand during a multi-year drought scenario.

Attachment 1

WATER SUPPLY ASSESSMENT FOR FRESNO COUNTY WATERWORKS DISTRICT 18

FRIANT RANCH SPECIFIC PLAN

FRIANT, CA

JANUARY 2008

Prepared for:

Fresno County Waterworks District No. 18

Prepared by:

Provost & Pritchard Engineering Group, Inc.

Fresno, California

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AB	Assembly Bill
ac	Acre(s)
AF	Acre-feet
AFY	Acre-feet per Year
CEQA	California Environmental Quality Act
CVP	Central Valley Project
DHS	Department of Health Services
DWR	Department of Water Resources
ESA	Endangered Species Act
FMFCD	Fresno Metropolitan Flood Control District
FWUA	Friant Water Users Authority
gpm	Gallons per Minute
GMP	Groundwater Management Plan
M&I	Municipal and Industrial
MG	Million Gallons
MGD	Million Gallons per Day
NEPA	National Environmental Policy Act
O&M	Operations and Maintenance
RWQCB	Regional Water Quality Control Board
RWWTF	Regional Wastewater Treatment Facility
SB	Senate Bill
SOI	Sphere of Influence
SWTP	Surface Water Treatment Plant
USACE	United States Army Corp of Engineers
USBR	United States Bureau of Reclamation
UWMP	Urban Water Management Plan
WSA	Water Supply Assessment
WWD	Waterworks District
WWTF	Wastewater Treatment Facility
WWTP	Wastewater Treatment Plant

EXECUTIVE SUMMARY

This Water Supply Assessment evaluates the ability of Fresno County Waterworks District No. 18 (WWD 18) to meet water supply demands associated with the mixed use development proposed through the Draft Friant Ranch Specific Plan (Project), in accordance with the requirements of Section 10910, et seq, of the California Water Code.

The Project proposes approximately 2,996 residential units, which include 2,683 age-restricted (55 years of age and older) single-family units, 83 age-restricted (55 years of age and older) multi-family units, and 180 non-age restricted multi-family units. The Project also proposes a Village Center on approximately 21.3 acres, comprising 250,000 square feet of retail and commercial uses, along with 50 non-age restricted residential units.

The 942-acre Project area is adjacent to the existing community of Friant (depicted by the current Fresno County Friant Community Plan boundaries, which do not include the Project area, and referred to herein as the "Friant Community") in northeastern Fresno County, California. Along with consideration of the Project, the County of Fresno ("County") will consider an update to the current Fresno County Community Plan to include the Project area within the Friant Community Plan area.

This Water Supply Assessment discusses the estimated water demands and proposed water sources for the Project, in addition to existing and planned future uses for the remaining lands within Waterworks District 18, which serves the vast majority of the current Friant Community Plan area. In fact, all developable areas within the Friant Community fall within the WWD 18 service area. See Figure 2-1. This report provides a summary of water supply calculations and evaluations pertaining to the Project and WWD 18's existing and planned future uses.

The CEQA Notice of Preparation for the Draft Community Plan Update suggests there will be one land use change within the existing Community Plan area. One parcel (referred to as the "Friant Depot Parcel") that was designated in 1983 as residential is proposed for designation as commercial. This proposed change is taken into account for purposes of this assessment.

The Project's estimated average annual demand of 1,471 acre-feet ("AF") (approximately 1.55 AF per acre) will be met with the following water supplies:

- Long-term surface water availability for the Project is derived from an agreement in principle between WWD 18 and the Lower Tule River Irrigation District (LTRID) for 2,000 AF of Class 1 supply from the Central Valley Project (CVP), Friant Division under a United States Bureau of Reclamation (USBR) contract with LTRID. (The significance of "Class 1 water is described in section 5.3.) Upon completion of environmental review and USBR approvals,

LTRID and WWD 18 will consider authorization of the formal agreement to memorialize the water transfer ("Water Supply Agreement").

- Pre-1914 water from the Tule River will be used during critical dry periods of the hydrologic cycle to make up for an anticipated shortfall of 460 AF in LTRID's CVP Class 1 supply, which is anticipated to occur only during critical dry periods. No Tule River water will be delivered to the Project. Rather, Tule River supplies will be pumped into the Friant-Kern Canal by LTRID and used to meet a portion of LTRID's South Valley commitments which would normally be met with CVP Class 1 supplies, thereby freeing up Class 1 water to be delivered to WWD 18 pursuant to the Water Supply Agreement.

- Approximately 50 percent of the reclaimed wastewater resulting from each phase (and ultimately, full buildout) of the Project will be reused to satisfy *non-potable water demands* of outdoor landscaping within each phase (and ultimately full buildout) of the Project. The total amount of reclaimed wastewater available for reuse after full buildout of the Project will be 400 acre-feet annually (approximately 30 percent of the *total consumptive water demand* of the Project).

The existing and planned future uses within the WWD 18 boundaries west of the Friant Kern Canal, which generally comprises the developable areas of the Friant Community as depicted in Figure 2-1 are referred to herein as the "Western Service Area". The current and proposed future uses within this area, combined with the Project's demands, total an estimated average annual demand of 1,806 AF.

The current demand of the Western Service Area is 150 AF. At present, WWD 18 has surface water supply available from a single source: a 150 AF supply from the Central Valley Project (CVP), Friant Division under a United States Bureau of Reclamation (USBR) contract. Regardless of the outcome of the Project application, WWD 18 will need to acquire additional water supplies to meet the additional 185 AF demand as its Western Service Area builds out. (See Table 10.1.1.) The Western Service Area is generally that portion of WWD 18 that aligns with the developable area of the Friant Community. Details about the existing and planned future uses within WWD 18 are provided in Section 8.2.

WWD 18 has additional service area east of the Friant-Kern Canal. This service area, which encompasses only the "Mira Bella at the Lake" development (Mira Bella), currently has no service connections, as no homes have been built within Mira Bella. Fresno County approved this development, which will be served by groundwater wells within the tract, and WWD 18 has agreed to act as the water service purveyor. In addition to the wells, WWD 18 will operate an iron and manganese removal plant which was constructed by the developer of Mira Bella, located within the development. There are no plans or obligation on the part of the District to pipe surface water to Mira Bella. It will always be a separate zone of benefit operating on a separate groundwater supply.

WWD 18 and LTRID have each entered into CVP Friant Division long-term water supply contracts with the USBR. Each of the separate renewal contracts negotiated by these districts in January 2001 expires on February 28, 2026, with one 25-year renewal provision (see **Appendices B** and **C)**. If a USBR contractor wishes to renew its respective contract pursuant to the 25-year renewal provision beyond the current expiration date of February 28, 2026, the contractor must submit a formal written request to the Secretary of the Interior two years prior to the date of expiration. In addition, each USBR contractor must also comply with certain conditions, such as: prepare a water conservation plan, implement this plan, operate and maintain all water measuring devices, use contract water supply in a reasonable and beneficial manner (see **Appendix J**).

As justified herein, WWD 18 has identified sufficient future water supplies currently available to satisfy the projected 20-year demands for the Project, in addition to WWD 18's existing and planned future uses, during normal, critical dry and multiple-dry years. Since WWD 18 does not currently have the water supply infrastructure or water rights to serve the identified water supply to the Project or other planned future growth within the district, this Water Supply Assessment explains the requisite steps WWD 18 is taking to acquire and develop the identified water supplies to serve the Project. Summarily, WWD 18 will:

(1) Participate in County California Environmental Quality Act, Pub. Res. Code, § 21000 et seq (CEQA) process for Friant Community Plan Update and Friant Ranch Specific Plan, and adopt CEQA findings for related WWD 18 actions including Water Supply Agreement, water service agreement for Project, approval of water supply infrastructure agreements, and inclusion of Project Site into WWD 18.

(2) Participate in USBR and LAFCO approval processes for annexation of Project boundaries into WWD 18.

(3) Obtain USBR and LTRID approvals for Water Supply Agreement; authorize execution of Water Supply Agreement.

(4) Approve inclusion of Project Site into WWD 18 service area (as a separate zone of benefit) and authorize water service agreement for Project.

(5) Obtain USBR, Orange Cove Irrigation District, and Department of Fish and Game approval (as appropriate) for use of water supply pipeline from Friant Dam.

(6) Obtain Regional Water Quality Control Board and Department of Public Health approvals for wastewater reuse and water treatment facilities.

(7) Participate in the Fresno County approval process for the various phases of the Project, requiring construction of all necessary water infrastructure (in

accordance with the Project's Infrastructure Master Plan) as phases are proposed.

(8) Construct (or inspect developer's construction of) the required infrastructure improvements, and verify that infrastructure is ready to be placed in service prior to occupancy of homes in the corresponding Project phases. (Upon completion of any developer-constructed facilities, take ownership and assume operating responsibility in accordance with the water service agreement).

This Water Supply Assessment also explains potential uncertainties related to the water supply and WWD 18's plan for addressing such uncertainties. Summarily, the following uncertainties relate to the identified Project water supply:

- The agreement in principle between LTRID and WWD 18, which is subject to CEQA review and USBR approval, could result in a potential critical dry year shortfall of 460 AF out of the 2,000 acre-feet of CVP Class 1 supply to be provided to WWD 18 by LTRID under the Water Supply Agreement. See Appendix D [memorandum from Lower Tule River Irrigation District discussing proration of shortage of Class 1 supplies among LTRID Class 1 commitments]. (The contracted water supply, even with this 460 AF shortfall, will still be in excess of the critical dry year demand for the Project.) To address this uncertainty, WWD 18 has negotiated with LTRID to include provisions within the Water Supply Agreement that ensure LTRID will make use of other water it has available to it, including its Pre-1914 water from the Tule River, only during critical dry years of the hydrologic cycle, to offset any shortfall of CVP Class 1 supply. No Tule River water will be delivered to the Project. Instead, LTRID will pump Tule River water into the Friant Kern Canal for delivery to LTRID's South Valley customers in lieu of CVP Class 1 supplies they would normally receive. (The Tule River water is normally delivered to growers within the LTRID service area, but would be replaced in critical dry years by pumped groundwater to which LTRID has rights and access.) According to LTRID's review of historic hydrologic data for the Tule River, implementing such a procedure will assure that the identified 460 AF of Tule River water will be available during these critical dry years. (See **Appendix D** [memorandum from Lower Tule River Irrigation District].)

- An Eastern District Court ruling in 2006 against the CVP Friant Division threatened to result in a judicial remedy that could curtail allocations under the USBR's contracts for CVP water from Millerton Reservoir. In 2007, the parties to the litigation settled on a restoration plan for the San Joaquin River in lieu of a judicial remedy. The San Joaquin River Settlement Agreement, while significantly changing the allocation of water supplies between agricultural users and fisheries by reducing overall average deliveries to ag users by approximately 19 percent, will not significantly affect the Water Supply Agreement proposed between WWD 18 and LTRID. In normal years, adequate flows are available to meet all Class 1 demands as now recorded in addition to agreed-upon fish flows, so LTRID would experience no reduction in its available Class 1 supplies and would have no increased difficulty in meeting its obligations to WWD 18. The river restoration hydrograph in critically

dry and multiple dry years does not propose to change current conditions. Rather, the restoration plan envisions that salmon would be trapped and trucked from the spawning beds to the Delta for release when the river is low. Thus, the percentage of LTRID's Class 1 supplies (under the LTRID Contract with USBR) allocated to LTRID in critically dry and multiple dry years are not expected to change significantly from allocations in prior critically dry years. The Settlement Agreement itself is not without uncertainty as it hinges on funding to carry out the restoration efforts.

- Another Eastern District Court-imposed remedy limiting the pumping operations related to the CVP export facilities in the Delta will cause water shortages for USBR contractors that receive CVP Northern California water supplies through the Delta. Though WWD 18 does not receive exported water supplies through the Delta, there is a remote chance that "Exchange Contractors" that agreed to trade pre-Friant Dam San Joaquin River water rights for CVP Delta originated supplies will exercise their "call" on CVP Friant Division water if they are unable to receive CVP exported water supply per the existing Exchange Agreement. WWD 18 recognizes this potential uncertainty, but based on the priority given to Exchange Contractors and current projections for pumping restraints through the Delta, concludes that the potential "call" does not threaten to reduce the CVP Friant Division water supplies for the Friant Community and the Project at this time. (Further, in the unlikely event that any Exchange Contractor(s) attempted to make such a "call", the threatened consequences to the 1 million acre Friant Division of the CVP would inspire immediate collective actions to meet emergency water needs of the Friant Division contractors.)

- The LTRID and WWD 18 contracts with the USBR for CVP Friant Division Class 1 water supplies (see **Appendices B** and **C**) are set to expire in 2026. However, the contracts provide for a 25-year renewal so long as certain conditions are met. The USBR will consider the contractors' written request for a renewal, subject to Endangered Species Act, 16 U.S.C. § 1536 et seq (ESA) and National Environmental Policy Act, 42 U.S.C. § 4321 et seq (NEPA) compliance.

- The Project water supply includes use of reclaimed water for outdoor landscaping uses. This reclaimed water is not included in the summary of surface water available to the project, but is counted as a separate source. Use of reclaimed water is subject to environmental review and approval by the Central Valley Regional Water Quality Control Board.

1 INTRODUCTION

This Water Supply Assessment evaluates the ability of Fresno County Waterworks District No. 18 (WWD 18) to meet water supply demands associated with the construction of a mixed use development through the proposed Friant Ranch Specific Plan ("Project"), in accordance with the requirements of Section 10910, et seq, of the California Water Code. The 942-acre Project area is adjacent to the existing community of Friant (depicted by the current Fresno County Friant Community Plan boundaries) ("Friant Community") in northeastern Fresno County, California. This assessment considers the Project water demand, in addition to the demand for existing and planned future uses within the current WWD 18 boundaries.

WWD 18 consists of two separate service areas that are separated by the Friant-Kern Canal (FKC) with the portion of the service area west of the canal generally comprising the developable areas of the Friant Community as depicted in Figure 2-1 and referred to herein as the "Western Service Area," located within the Friant Community. The present boundary for the Western Service Area of WWD 18 is formed by the San Joaquin River (west), the Project (east) and by Friant Dam (north), and is located within the Friant Community. The boundaries of the Eastern Service Area coincide with the Mira Bella development. The differences between WWD and Community Plan boundaries are illustrated on **Figure 2-1** and are discussed in more detail in Section 8.2.

Along with consideration of the Project, the County of Fresno ("County") will consider an update to the current Fresno County Community Plan to include the entire Project area within the Friant Community area.

In 2001, the State of California passed into law Senate Bills 221 and 610. In October 2001, the Governor signed SB 610 into law, amending Section 10910, et seq., of the Water Code to require preparation of a Water Supply Assessment to inform the environmental review process for new development projects. New development projects subject to the SB 610 requirements include any proposed residential development: (1) having more than 500 dwelling units; or (2) increasing the number of service connections for a public water system that has less than 5,000 connections by 10 percent or more.

Also in 2001, the Governor signed SB 221 into law, adding Government Code Section 66473.7. This legislation requires a city, county, or local agency, as part of the Tentative Map process, to prepare, or direct the water purveyor to prepare, a Water Supply Verification documenting the availability of a sufficient water supply to serve a subdivision.

The conditions and requirements of these two bills are similar. However, due to the current stage of entitlements for the Project, this Water Supply Assessment has been structured to address the requirements of SB 610. (See Section 2, State Water Code Requirements, for more information on these mandated reports.)

SECTION ONE

The water sources available to WWD 18 include an existing contract with the United States Bureau of Reclamation (USBR) for 150 AF of Class 1 water (currently serves existing users with the WWD service area west of the Friant Kern Canal, and a proposed transfer of 2,000 AF of CVP Friant Division Class 1 water from Lower Tule River Irrigation District (LTRID) to WWD 18 ("Water Supply Agreement"). LTRID and WWD 18 have not formally approved or executed the Water Supply Agreement, pending environmental review and USBR processing of the proposed transfer. On April 21, 2005, LTRID executed a letter of intent to provide WWD 18 with 2000 AF of CVP Friant Division Class 1 water annually for service to the Project; a copy of that letter is attached hereto as **Appendix A.** This report assumes the final Water Supply Agreement will reflect the quantity, quality, and reliability of the water supply described in the Letter of Intent.

The LTRID water supply originates from a Class 1 contract for water supply from the CVP Friant Division between LRTID and the USBR. This water is from Millerton Lake, in which USBR stores the runoff of the San Joaquin River for diversion to its water contractors, which include LTRID and WWD 18. The LTRID and WWD 18 contracts with USBR provides for an annual water supply totaling 61,200 AF through 2026, subject to 25-year renewals so long as certain conditions are met. Two years prior to expiration of that contract, the contractors must submit a written renewal request to the Secretary of the Interior requesting a contract extension (see **Appendices B** and **C**). The USBR will consider the contractors' written request for a renewal, subject to Endangered Species Act, 16 U.S.C. § 1536 et seq (ESA) and National Environmental Policy Act, 42 U.S.C. § 4321 et seq (NEPA) compliance.

WWD 18 has historically purchased additional quantities of CVP water from other long-term CVP contractors in years when the full Class 1 entitlement has not been available. For example, in 2007 the District received 60 percent of its contracted 150 AF of Class 1 supply (90 AF). To make up for that shortfall, the District negotiated purchase of 30 AF of water from Madera Irrigation District and 30 AF from Lower Tule River Irrigation District, for a total available supply of 150 AF. The District anticipates that these ad hoc purchases will continue in future years when Class 1 supplies are not fully delivered, however there is no contract in place to assure that will happen. Therefore, none of these supplemental supplies have been considered in this Water Supply Assessment.

2 DESCRIPTION OF DEVELOPMENT

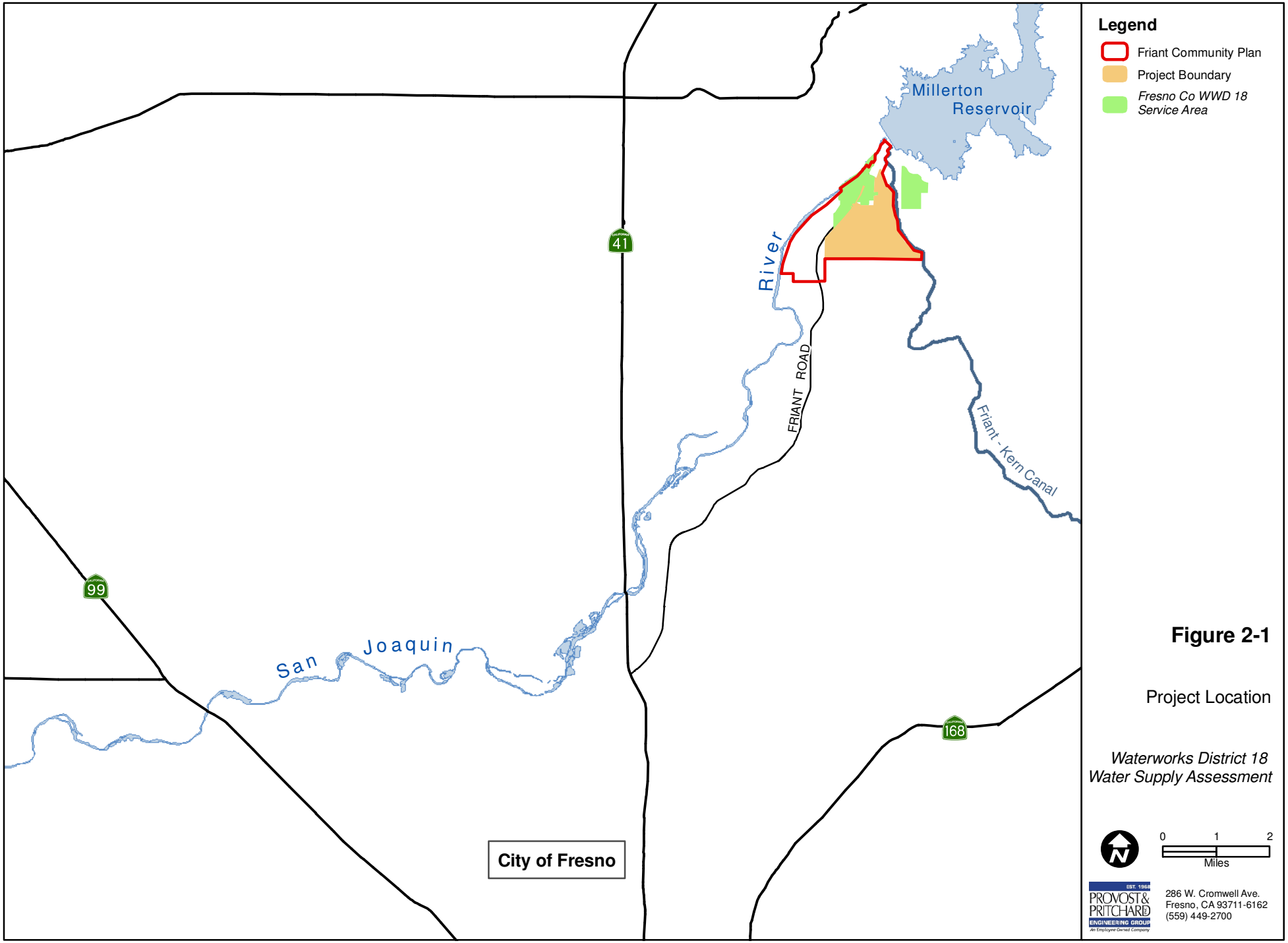
The approximately 942 acres comprising the Project site ("Site") are located in northeastern Fresno County. The Site is generally bordered on the east by the Friant-Kern Canal, on the north by the existing community of Friant, on the south by open lands and on the west by Friant Road. The Site is approximately five miles north of the Fresno city limit and is 21 miles east of the city of Madera (see Figure 2-1).

The Project proposes approximately 2,996 residential units, which include 2683 age-restricted (55 years of age and older) single-family units, 83 age-restricted (55 years of age and older) multi-family units, and 180 non-age restricted multi-family units. The Project also proposes a Village Center on approximately 21 acres, comprising 250,000 square feet of retail and commercial uses, along with 50 non-age restricted residential units. The Project includes 120 acres of landscaped areas, including both parks and landscaped vegetated slopes. The Project also includes non-irrigated open space. (See **Figure 2-2**)

The projected population at full build-out for the Project is approximately 5,692. Build-out within the combined Friant Community and Project area is projected to include: (1) more than 3,350 housing units with a population in excess of 6,700 people; and (2) approximately 250,000 square feet of combined commercial and office space. No industrial uses are planned.

The Friant Community is located in northeastern Fresno County near the base of Friant Dam. The Friant Community was recognized in the 1900s to honor a local businessman, Thomas Friant. Land use planning for the unincorporated Friant Community is governed by the *Friant Community Plan*, prepared and adopted by Fresno County.

Certain infrastructure improvements related to the Project will be constructed on lands outside of the Project boundary. These include development of domestic water supply facilities running from the Project area to near Friant Dam and wastewater effluent storage and reclamation areas.



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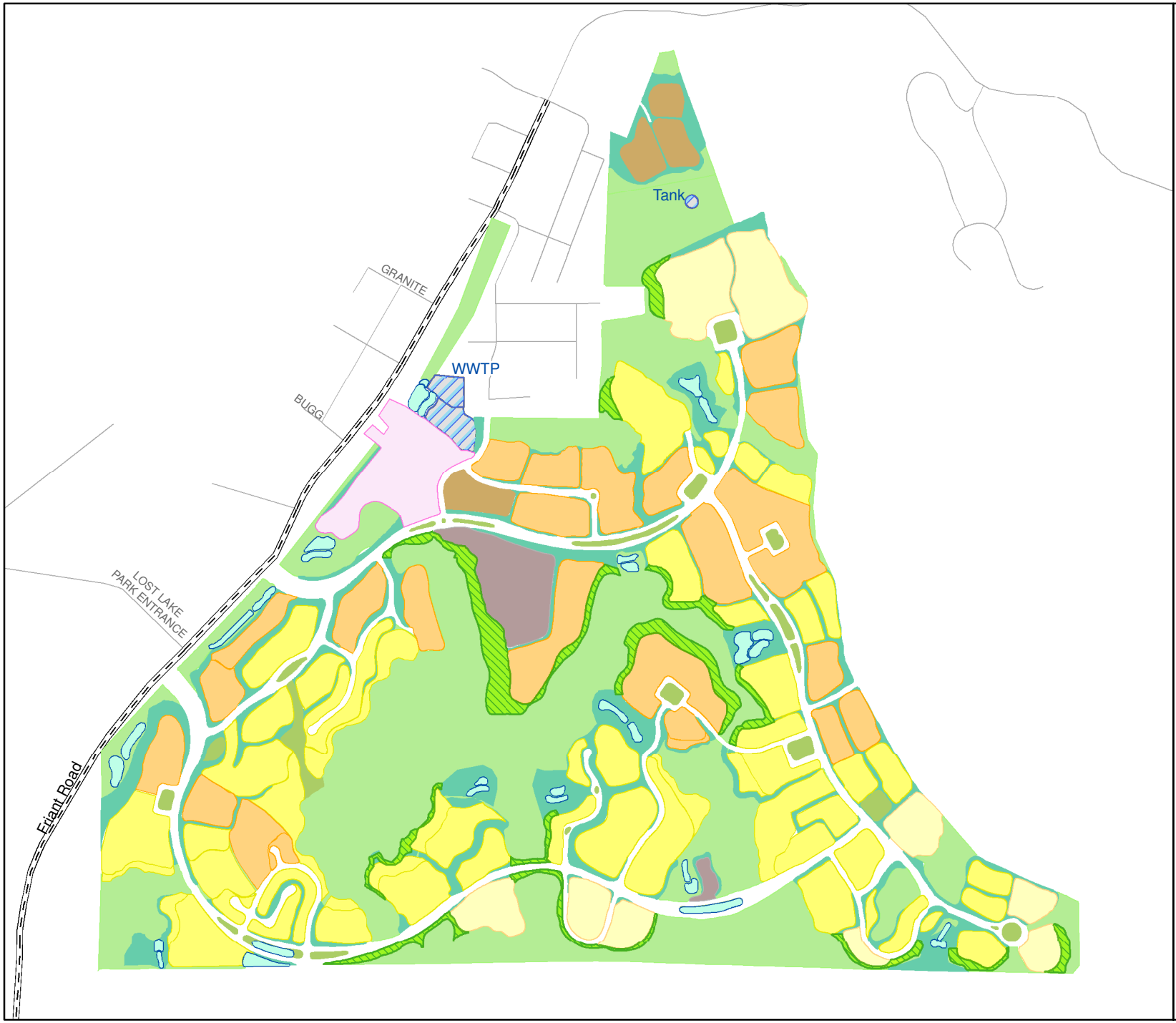


Legend

Land Use

- Active Adult Recreation Centers
- Drainage Basins
- Manufactured Slopes
- Multi-Family Density (MFD)
- Parks / Parkway
- Single-Family Density-1 (SFD-1)
- Single-Family Density-2 (SFD-2)
- Single-Family Density-3 (SFD-3)
- Undisturbed Open Space
- Commercial Village Center
- Facility
- Revegetated Slopes

Figure 2-2

Land Use Within Project Site

Waterworks District 18
Water Supply Assessment

0 250 500 1,000 Feet

EST. 1968 PROVOST & PRITCHARD ENGINEERING GROUP
An Employee Owned Company

286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

3 WATER CODE REQUIREMENTS

3.1 SB 610 Water Supply Assessment

Water Code Section 10910, et seq, as amended by SB 610 in 2001, defines a "project" as any residential development of 500 or more dwelling units (or equivalently-large commercial development), and requires the water purveyor (in this case, WWD 18) or the County itself to prepare a "Water Supply Assessment" prior to project approval. "Project approval" includes approval of any general plan amendment, rezoning, Specific Plan, or associated land use entitlements, including parcel or subdivision maps. The Water Supply Assessment must be included with the environmental document addressing the potential environmental impacts of the project. The Water Supply Assessment must evaluate whether the supply of domestic water available to the development is adequate, and will continue to be adequate over the next 20 years, during normal, dry, and multiple-dry years. If the water purveyor concludes that its water supplies are, or will be, insufficient to meet the project demands (either in short or long term), the purveyor shall provide the County with its plans for acquiring additional water supplies, setting forth the measures that are being undertaken to acquire and develop those water supplies.

SB 221 Verification of Water Supply

SB 221, codified in Government Code Section 66473.7 requires preparation of a "Verification of Water Supply" report when a proposed subdivision triggers certain criteria. The primary procedural difference between the Verification of Water Supply under SB 221 and the Water Supply Assessment pursuant to SB 610 is that the former report must be made at the time approval is sought for a Tentative Map for any phase of the project. In addition, the two requirements vary substantively, as the SB 221 Verification of a Water Supply must: 1) be based on the historical record for at least 20 years, 2) include an urban water shortage contingency analysis, and 3) identify supply reduction for "specific water use sector" per the Water Supplier's resolution, ordinance, or contract. The Project has not yet reached the tentative map stage. Moreover, the Project has not been planned at the level of detail typical for subdivision map processes and the Project does not at this time trigger the SB 221 requirements.

This Water Supply Assessment has been structured to address the requirements of SB 610 and will provide foundational information for any future Water Supply Verification reports which may be required.

3.2 Urban Water Management Plan

The California Urban Water Planning Act requires urban water suppliers to submit an Urban Water Management Plan (UWMP) to the California Department of Water Resources (DWR) every five years if they provide water for municipal purposes to more than 3,000 customers or supply more than 3,000 acre-feet annually.

SB 610 contemplates the use of UWMPs to obtain most of the information and evaluations needed to prepare a Water Supply Assessment in compliance with the above requirements. However, WWD 18 has not prepared a UWMP to date because WWD 18 does not meet the 3,000 acre-feet minimum to trigger the UWMP requirement.

During project build-out, WWD 18 will exceed 3,000 water connections, and therefore will be required to prepare and submit an UWMP. Based upon growth projections for the Friant Community and proposed development phasing for the Project, WWD 18 is not anticipated to exceed 3,000 water supply connections until approximately 2020.

4 AGENCIES

Water resources management and utilization of these resources within the Friant Community and Project area are primarily influenced by three separate agencies. Each of the subsections below provides a brief synopsis of the history, water supplies, facilities, and purpose of each agency. **Figure 4-1** identifies agencies within the Friant Community as well as other water-related agencies in the surrounding area. Detailed explanations on water supplies are provided in Sections Five & Six.

4.1 Fresno County Waterworks District 18

WWD 18 consists of two main areas – Mira Bella and a portion of the Friant Community – divided by the Friant-Kern Canal and operating independently and separately. The current service area for WWD 18 encompasses 443 acres. 244 acres are located west of the Friant-Kern Canal, within the Friant Community Plan boundary (the "Western Service Area"). The remaining 199 acres ("the Eastern Service Area") are all located within the Mira Bella development east of the Friant-Kern Canal along Friant Road (Eastern Service Area) and were annexed into WWD 18 in 2002. As of this report, Mira Bella has no active water service connections. Mira Bella is not connected to WWD 18's surface water delivery system and WWD 18 has no plans to make such a connection.

WWD 18 will provide water for Mira Bella from three groundwater wells east of the Friant Kern Canal; no water will be sourced from the San Joaquin River. The well water has notable levels of iron and manganese; the developer has constructed a treatment plant for the Eastern Services Area within the boundaries of Mira Bella which WWD 18 will operate once the development begins to build out. As of the date of this assessment, WWD 18 has not taken over management and operations of the water system infrastructure for Mira Bella as no homes have been constructed.

In 2005, WWD 18 delivered 150 acre-feet of treated surface water from Millerton Lake to 219 residential and 19 commercial/industrial customers within the Western Service Area. Water is delivered to the WWD 18 water treatment plant via a 6-inch diameter pipe that connects to a larger discharge pipe (used to supply water to the State Fish hatchery) near the base of Friant Dam. Raw surface water from this connection point is treated with a series of clarifiers and pressure filters, and is disinfected using chlorination.

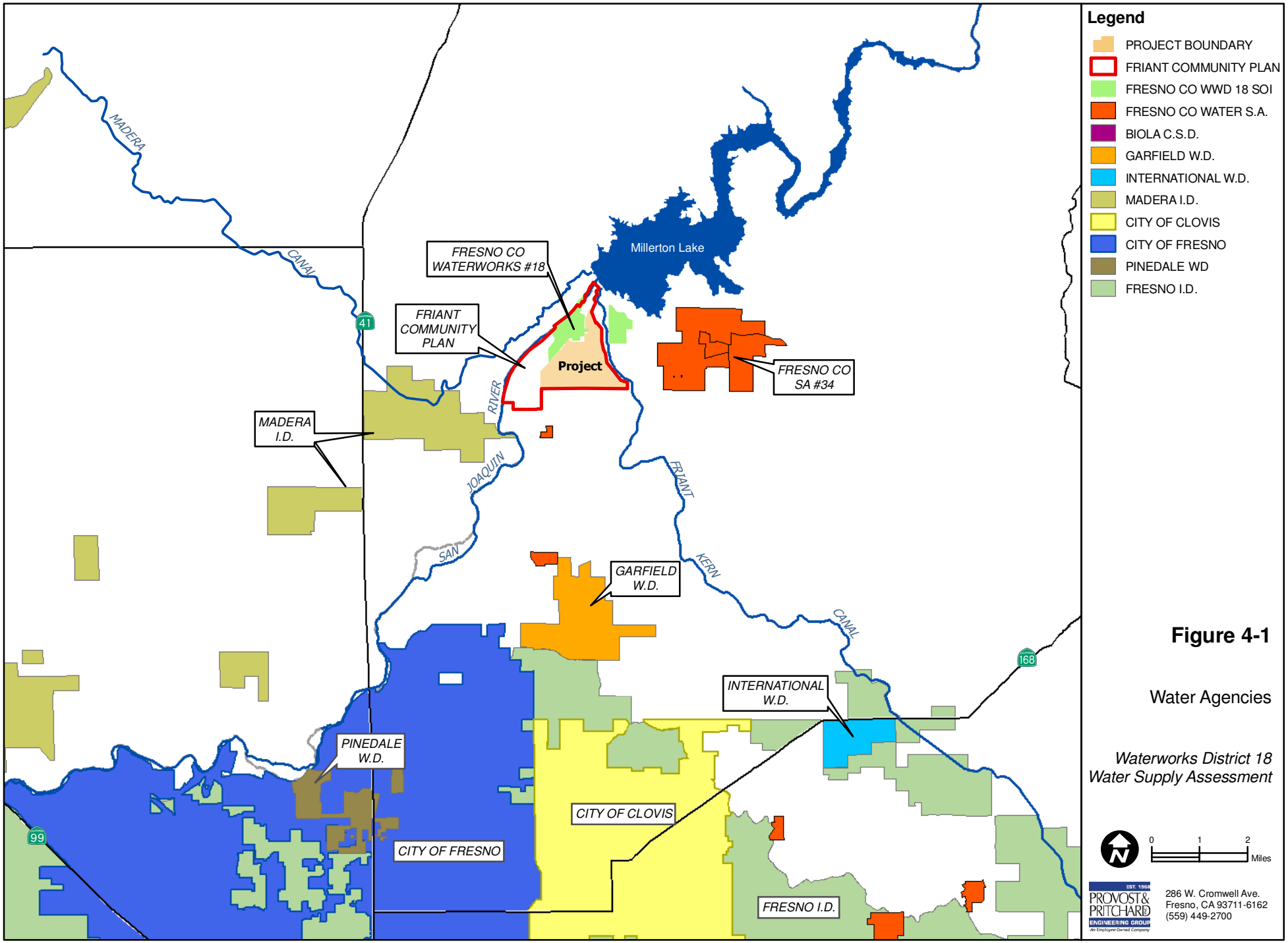
WWD 18 also provides contract water treatment services for Table Mountain Rancheria, Millerton Lake State Park, California Division of Forestry and Fire Protection (CDF) and the Bureau of Reclamation. The present processing agreement between WWD 18 and Table Mountain Rancheria requires the WWD 18 water treatment plant to treat 2 AF per month, not to exceed 20 AF annually. This water is obtained from Madera Irrigation District and remains in Millerton Lake until processing at the District's WTP. Treated water is trucked by Table Mountain for use at the casino located approximately six miles to the east. This contract is a fee-for-service arrangement. Other than the contract in

place, WWD 18 has no obligation to provide water service of any kind or water supply to Table Mountain.

The other three users (Millerton Lake State Park, the CDF station in Friant and the USBR office in Friant) receive water treatment under a single agreement which states that the water delivered to these entities is not charged against WWD 18's Class 1 supply. District records indicate an average of approximately 1.25 AF per month is treated for these three users, with 82 percent going to the State Park, 16 percent to CDF and the remainder to the Bureau office.

Water for Millerton Lake State Park is pumped to a state-owned storage tank east of Friant on the north side of Millerton Road, where the State Park takes over the job of distribution for its own uses. The CDF Station and the USBR office are served directly off the WWD 18 distribution system. Each of these three services are metered separately to provide for accurate credit for the water used.

The water supply and demand associated with these contract water treatment services for Table Mountain Rancheria, Millerton Lake State Park, CDF and USBR are not included in the water supply and demand calculations presented herein because the contracts are for treatment and delivery of wholly separate water supplies controlled by the respective contracting parties.



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4.2 Bureau of Reclamation

USBR is the sole State of California water right permit holder for the stored San Joaquin River water impounded by, diverted, and released from Friant Dam. USBR provides service contracts for use of stored water from the CVP Friant Division to the 31 water agencies designated as CVP Friant Division "long-term contractors." USBR has existing long-term service contracts with WWD 18 and LTRID (see **Appendices B** and **C** for contracts).

4.3 Lower Tule River Irrigation District

LTRID was formed in 1950 and is located in the southern third of Tulare County (see **Figure 4-2**). LTRID encompasses an area of 103,000 acres, including approximately 85,000 acres of agricultural lands irrigated by surface waters and groundwater. The other 18,000 acres comprise native lands (river bottom and riparian areas and uses incidental to agriculture such as residences, on-farm infrastructure, roads, etc.) Water is conveyed to these lands through a system of 150 miles of canals.

LTRID's water supply portfolio includes:

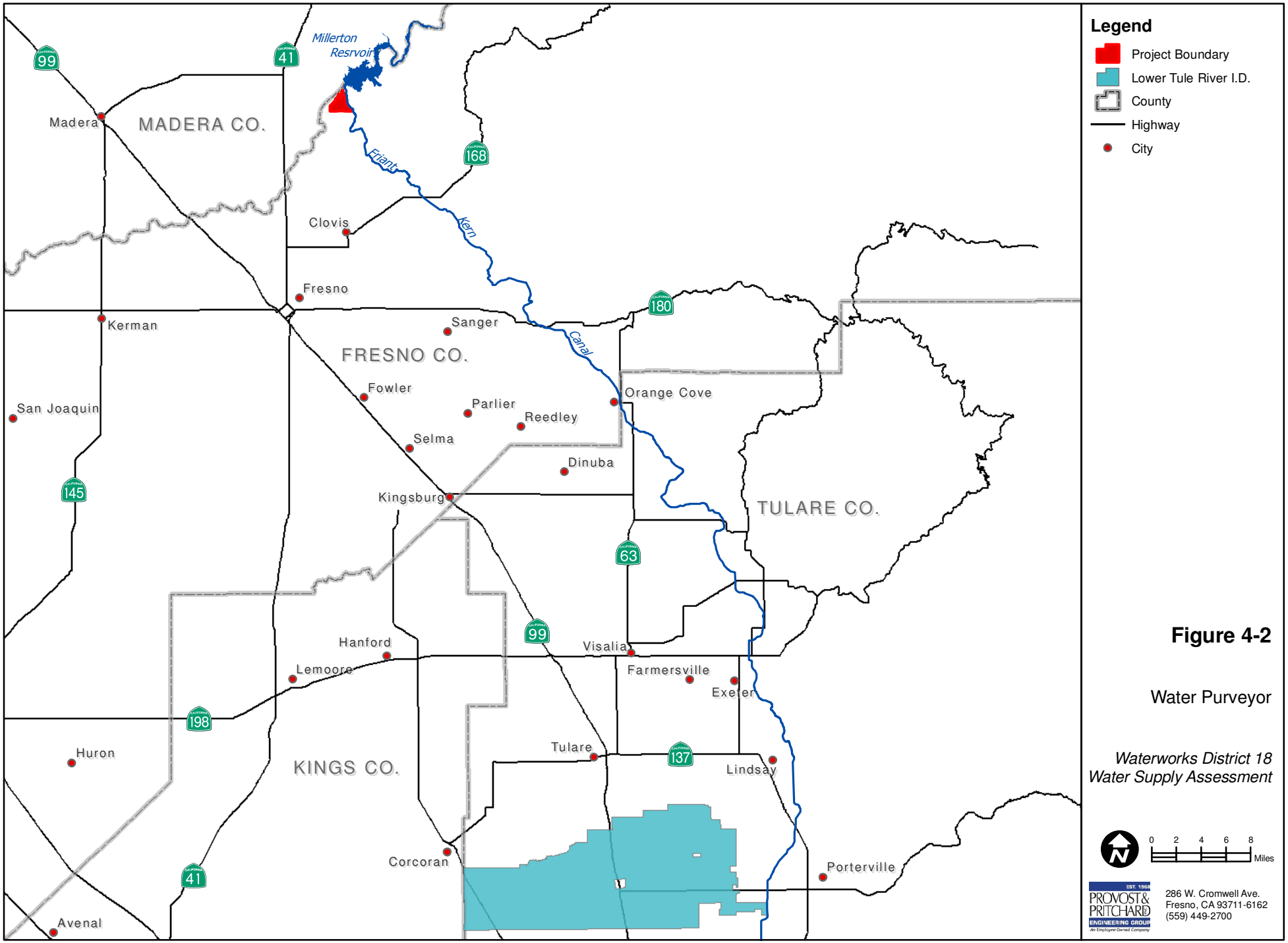
- Class 1 supplies from the CVP Friant Division in the amount of 61,200 AF (The significance of Class 1 is explained in Section 5.3 herein)

- Class 2 supplies from the CVP Friant Division in the amount of 238,000 AF (The significance of Class 2 is explained in Section 5.3 herein)

- Cross Valley Canal Water, in the amount of 31,200 AF.

- Pre-1914 water right for water from the Tule River, which is stored behind Success Dam and has an average yield of 40,000 AF. (LTRID would make water under these rights available to the Project in critical dry years by pumping Tule River water into the Friant-Kern Canal for use by downstream CVP contractors in lieu of CVP Class 1 supplies. The CVP Class 1 supplies in Millerton Lake originally reserved for those downstream CVP contractors would instead be delivered to the Project (in critical dry years).)

(See **Appendix D** for memorandum from LTRID explaining water supplies.)



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5 REGIONAL WATER SUPPLIES

This section summarizes the regional water supplies in the Central Valley that are used to satisfy the urban and agricultural demands within this region. The three major water supplies for the Central Valley are 1) precipitation, 2) groundwater, and 3) surface water. More detailed information pertaining to water supply in the Friant Community and Project area is contained in Section Six, *Local Water Supplies.*

5.1 Precipitation

Annual rainfall in and around the community of Friant area typically varies from around eight inches in a dry year to more than 28 inches in a wet year. The average annual precipitation is approximately 14 inches. The amount of precipitation captured and stored in the water table depends upon the soil conditions, slopes, and duration of storm events. Most natural seepage of precipitation occurs in the drainage courses that meander from east to the west. Since the unit water demand factors that were used to estimate annual water demand of the Project already account for any benefits that are derived from local precipitation, we have intentionally excluded this water source from water budget evaluations in this assessment. Additionally, the amount of demand that is offset by rainfall during the growing season is insignificant even in the wettest years.

5.2 Groundwater

Regional groundwater conditions for the Central Valley are described in a DWR report titled *California's Groundwater – Bulletin 118, Update 2003*, attached hereto as **Appendix E**. Friant is located within the San Joaquin Valley basin of Tulare Lake hydrologic region (Tulare Lake HR), which encompasses approximately 17,000 square miles from the San Joaquin River to the Tehachapi Mountains in the south, and is comprised of 13 distinct groundwater water basins. The San Joaquin Valley groundwater basin is then divided into seven subbasins, with the Friant Community residing in the Kings Subbasin.

The Kings Subbasin is the northern most subbasin within the San Joaquin Valley groundwater basin and covers approximately 8,000 square miles (5.15 million acres). The boundary for this subbasin is formed by the San Joaquin River (north), the western boundaries of the Westside and Mendota Subbasin (west), southern fork of the Kings River and the southern boundary of Alta Irrigation District (south), and by the alluvium-granitic rock interface of the Sierra Nevada foothills (east).

Groundwater is the predominate water supply for agricultural and urban users in the Tulare Lake hydrologic region, as groundwater supplies account for 41 percent of the total water supply in the hydrologic region (DWR 2003). When comparing recorded groundwater use within Tulare Lake hydrologic region to statewide records of groundwater use, DWR discovered that groundwater use in the Tulare Lake hydrologic

region accounts for just over one-third of the total groundwater use in the State (DWR 2003). Well yields in the Tulare Lake hydrologic region typically range from 200 to 2,500 gpm. Higher yields are generally realized in the thick sections of the aquifer made up of unconsolidated continental deposits. As one moves towards the eastern boundary of the basin, near the interface of the valley floor and foothills, the aquifer thins and generally results in wells with lower yields (less than 300 gpm).

Water levels in most of the subbasin within the San Joaquin Valley have declined steadily as users within these basins have increased their reliance on groundwater. According to Bulletin 118-80, five of the seven subbasins within the San Joaquin Valley, including the Kings Subbasin, were identified as being in a condition of critical overdraft. In order to offset the impact to groundwater levels from the sole reliance on groundwater, many water purveyors within these basins import surface water to augment their water supplies.

Groundwater plays a vital role in water budgets for agricultural and urban users across the Central Valley. However, the ability to utilize this resource depends on the types of surface and subsurface conditions that are present at the point of use. Those regions that have permeable soil conditions in conjunction with a thick aquifer will tend to rely on and use groundwater more readily than a user located in foothills where the aquifer tends to be shallow and soils are less permeable because of clay. However, even with poor subsurface soil conditions, it is commonly observed that enough water can be extracted to support the needs of a few individual residences, but not the production capacity needed to support a large community.

The Project will not rely on groundwater resources. As discussed above in Section 4.1, WWD 18 does not serve groundwater supplies for uses within the Friant Community. However, WWD 18 plans to use separate infrastructure to serve groundwater supplies to Mira Bella (which is outside of the Friant Community). Additionally, nine individual residences within the Friant Community rely on independent groundwater wells. Seven of these groundwater users are located along the bluff adjacent to the western boundary of the Project and east of Friant Road. Two of these groundwater users are located west of Friant Road, approximately 1,000 feet north of a gravel quarry at the southern end of the Friant Community area. An additional groundwater well is located within the Friant Community and the service area of WWD 18, near the entrance to the Mobile Home Village. This additional well does not comply with Department of Public Health well standards, thus preventing it from being used to supply potable water.

5.3 San Joaquin River

Millerton Lake, impounded by Friant Dam, is located on the main stream of the San Joaquin River about 25 miles northeast of Fresno, and is the principal storage facility in the Friant Division of the CVP. The dam was completed in 1947. Small diversions through the Madera Canal began in 1944 and through the Friant-Kern Canal in 1949. However, full operation of Friant Dam did not occur until 1951, when the Delta-Mendota Canal was completed. Until that time, water was released from Friant Dam for the

exchange contractors downstream. The "exchange contractors" are the San Joaquin River water rights holders who exchanged their use of natural river runoff for a substitute supply delivered through one of the three canals mentioned above. Total water supply from stored water within the CVP Friant Division is approximately 2,150,000 AF. Water made available from the Friant Division of the CVP may be assigned one of three possible classifications depending on hydrologic conditions. These classifications include:

- Class 1 - water that is considered dependable in most years with deficiencies only in dry or very dry years. Class 1 commitments total 800,000 AF annually.

- Class 2 - water that is in excess of Class 1 commitments, and accordingly is less dependable as to its quantity and time of occurrence. Class 2 commitments total 1,400,000 AF annually.

- Section 215 – surplus water released into the San Joaquin River during "flood" conditions to regulate Millerton Lake storage. Section 215 water availability varies from year to year.

According to delivery records from the USBR, average allotments for Class 1 and 2 waters from 1966 to 2006 are 94 percent and 45 percent, respectively. (see **Appendix F**) During this same period, contractors received their full allotment of Class 1 water allotment during 32 of the 41 years. The critical dry year for Class 1 water occurred in 1977 with a yield that was 25 percent of normal. The average yield for Class 2 water from 1966 to 2006 is 45 percent with no water available from 1987 to 1992.

In addition to the allocated Class 1 and Class 2 supplies, USBR makes Section 215 water available during "flood releases" from Millerton Lake. The San Joaquin River tends to experience more frequent flood releases than some larger reservoirs because of the limited storage capacity of Friant Dam (540,000 AF) versus the size of the average San Joaquin river runoff (approximately 1.5 million AF). Annual flood releases from Friant Dam to the San Joaquin River have averaged approximately 465,000 AF, though the year-to-year variance is very high.

Unlike the recent San Joaquin River Settlement, which requires release of water from the CVP Friant Division for in-stream habitat restoration, the provisions of the CVPIA 3406 b(2) have not been applied to the Friant Division operations and thus will not have any direct impact upon water supplies to be made available to LTRID (or the Project) from the Friant Division of the CVP. The total project yield for this program is 800,000 AF; however, release of this water is not required during critical drought conditions on the system. Although CVPIA does require flow to be put back into the San Joaquin River, all plans require congressional approval.

6 LOCAL WATER SUPPLIES AND RELIABILITY

6.1 Groundwater

Groundwater supplies in the vicinity of the Friant Community are limited and geographically spotty. Typically, groundwater wells are used to support individual single-family homes and other developments that do not reside in the service boundary of a water purveyor or within the place of use for a particular water supply. Groundwater users within the Friant Community include a few residences along the bluff and a few residences in the overland flow area of the flood plain, concentrated in the southern portion of this planning area. WWD 18 will not use groundwater to satisfy Project demands or the existing and planned future uses within the Western Service Area. Rather, WWD 18 will rely on surface water sources, specifically, CVP Class 1 water firmed up by other resources available to LTRID, as discussed in other sections of this report.

6.2 San Joaquin River

WWD 18 will provide San Joaquin River water supply, stored behind Friant Dam in Millerton Reservoir, to the Project. WWD 18 has a San Joaquin River water supply by virtue of a contract with the USBR for 150 AF of CVP Friant Division Class 1 water and an agreement in principle for 2,000 AF of CVP Friant Division Class 1 water from LTRID, as discussed above. Both of these water supplies are sourced from Millerton Lake, which stores runoff from the San Joaquin River watershed for diversion to its water contractors.

Use of stored water from the San Joaquin River is controlled by contracts between a number of special districts in the Central Valley and the USBR, dating from the 1940s and 1950s. According to the USBR website, the USBR has renewed approximately 27 long-term contracts, which means that 27 entities (including WWD 18 and LTRID) rely on the same source: stored water in Millerton Reservoir behind Friant Dam (see **Appendices B** and **C**). However, USBR's operation of the CVP Friant Division has been subject to environmental litigation in the United States District Court, Eastern District of California. (*Natural Resources Defense Council v. Rodgers,* E.D. Cal. Civ. No. S-88-1658.) The plaintiffs in the lawsuit, the National Resources Defense Council (NRDC), have sought greater water releases from Millerton Reservoir into the San Joaquin River to maintain water temperature and support fisheries, among other objectives. Doing so would mean reduced quantities of water for the long-term contractors in many years, as flows normally released into the canals, including the Friant-Kern Canal that provides LTRID its water supply from Millerton Lake, would instead be released directly into the San Joaquin River channel.

In 2006, the District Court ruled in favor of the plaintiffs. In 2007, prior to the District Court's consideration of appropriate remedies, the litigants agreed to a proposed remedy within a settlement agreement, which can be reviewed at

http://www.fwua.org/settlement/settlement.html. Under the settlement agreement, the USBR will be required to release specified amounts of water into the San Joaquin River from Friant Dam based upon the water runoff forecast for each year. No supplemental restoration water is to be released in the driest five percent of years, as compared with the period between 1922 and 2004. The settlement agreement does not require supplemental releases for instream uses when the annual runoff is projected to be 35 percent of average or less. (The five-percent benchmark looks to the driest four years of the 82-year period between 1924 and 2005 which are: 1924, at 25 percent of average annual runoff; 1931, at 27 percent; 1976, at 35 percent; and 1977, at 20 percent)

This assessment assumes the District Court will not have to issue a remedy order in lieu of the settlement terms. However, the settlement ultimately hinges on federal financing. Without federal support to fund the restoration activities, all USBR contracts for CVP Friant Division water will be subject to a future court-ordered remedy. The scope of any such order will affect all CVP Friant Division contractors, including WWD 18 and LTRID.

In addition to the NRDC case against the USBR operations of the CVP Friant Division, NRDC also challenged the Endangered Species Act Section 7 consultation associated with USBR's operation of the entire CVP system. (*NRDC v. Kempthorne,* E.D. Cal. Case No. CV-01207*.)* After finding in favor of the plaintiffs on ESA violations related to the United States Fish and Wildlife Service's biological opinion concerning the USBR CVP operations, the District Court issued an oral decision regarding interim remedies for Delta smelt. This ruling, which as of this writing was not yet adopted in written form, will impact the CVP and State Water Project (SWP) contractors reliant upon export water from the San Joaquin-Sacramento Delta ("Export Contractors"). Key remedies in this ruling include: reduction in SWP supplies up to 30%, restricting Tracy and Banks Pumping Plant pumping operations from November until June, and implementation of a monitoring program for the Delta smelt. Although the exact impact upon Export Contractors of this ruling cannot be quantified at this time, one can reasonably expect reductions in their contract amounts. Ultimately, the impacts will vary by water year and will result in substantial water allocation reductions in critical dry years.

Runoff flow from the San Joaquin River was first recorded in 1892 and now the USBR is responsible for tracking this data. According to delivery records from the USBR, average allotments for Class 1 and 2 waters from 1966 to 2006 are 94 percent and 45 percent, respectively. During this same period, contractors received full allotment of their Class 1 water allotment in 32 of the 41 years. The critical dry year for Class 1 water occurred in 1977 with a yield that was 25 percent of normal. The average yield for Class 2 water from 1966 to 2006 was 45 percent, although no Class 2 water was available during the extended drought period from 1987 to 1992. For additional information about runoff volume from the San Joaquin River, see **Appendix F**

Under WWD 18's current contract with USBR, the normal water supply is 150 AF per year, single- and multiple dry year supplies, using the 1977 drought as the basis, are reduced to 37 AF. This level of supply caused water shortages in the existing Friant Community in past dry years. These dry years were accommodated by prohibiting

outdoor water use throughout the WWD 18 service area, by encouragement of indoor water conservation by limiting bathing and showers, and reducing toilet flushes, and by securing short-term water supplies from other CVP Friant Division water contractors.

The LTRID has agreed in principle to provide WWD 18 an annual CVP Friant Division Class 1 water supply amount of 2,000 AF, net of conveyance losses and evaporation, to be available for the Project. See Appendix A for further explanation of this agreement. LTRID has a USBR long-term contract for a total of 61,200 AF of CVP Friant Division Class 1 supplies, which has been reduced to as low as 15,300 AF in the critical dry year (occurred in 1977) on record. LTRID has other CVP Class 1 commitments, so absent other supplies and only during critical dry years, LTRID will experience a 460 AF shortfall of CVP Class 1 water to fulfill its commitment to WWD 18 under the Water Supply Agreement (see **Appendix C** for details of LTRID's supplies and commitments.) This shortfall, however, will be offset by an additional 460 AF of Tule River pre-1914 water rights, which LTRID will make available during critical dry years. By pumping Tule River water into the Friant-Kern Canal, LTRID will free up CVP Class 1 water in quantities sufficient to allow it to meet its 2000 AF commitment to WWD 18.

Because Class 1 water availability, based upon the driest five percent of years on record, which are considered to be "critically dry," has been 25 percent of normal Class 1 supply, and because given this amount of Class 1 water, LTRID has demonstrated ability to deliver 1,456 AF to the Project in critical dry years, LTRID has sufficient supplies for the projected uses within the Project. Between Project water demands (1456 AF) being less than the Class 1 water supply available during a critical dry period (1540 AF) and the additional 460 AF of Class 1 made available through Tule River exchanges to make up the deficit CVP Class 1 supply, water supplies for the Project are reliable and capable of supporting projected demands.

7 EXISTING WATER USAGE

7.1 Project Area

The Project Site has historically relied only on natural precipitation and does not depend on any additional water supply to support grazing by cattle of an onsite pasture. "Use" of natural precipitation for the cattle grazing on the proposed Project Site was estimated from crop survey reports prepared by DWR.

In order to account for the changes in water use from different cropping patterns, crop surveys for two separate reporting years (1994 and 2000) were used to estimate annual consumptive water demand. However, upon further review of these crop surveys no changes were recorded in usage between these surveys. Therefore, water demand calculations for existing conditions were based upon the 2000 crop survey.

According to the 2000 crop survey, the entire Project Site is classified as native vegetation (see **Figure 7-1**). Using the agronomic water rate (0.5 acre-feet per acre per year) data from the University of California Experiment Station in Kearney and historic cropping patterns, water use for the existing Project Site is estimated at 560 acre-feet per year (AFY).

7.2 Existing WWD 18 Service Area

The WWD 18 boundaries consists of two main areas – Mira Bella and a portion of the Friant Community – divided by the Friant-Kern Canal and operated independently and separately. The current service area for WWD 18 encompasses 443 acres. 244 acres constitute the Western Service Area located with the current Friant Community Plan boundary. The remaining 199 acres comprising the Eastern Service Area are located all within Mira Bella, east of the Friant-Kern Canal along Friant Road, and were annexed into WWD 18 in 2002.

Even though Mira Bella is within the Eastern Service Area of WWD 18, the water system servicing these users is a stand-alone system and there are no plans to connect this service area to the Western Service Area of WWD 18. WWD 18 will provide water for Mira Bella from three groundwater wells east of the Friant Kern Canal; no water will be sourced from the San Joaquin River. WWD 18 has not, as of the date of this assessment, taken over management and operations of the water system infrastructure for Mira Bella.

In 2005, WWD 18 delivered 150 acre-feet of treated surface water from Millerton Lake to 219 residential and 19 commercial/industrial customers within the Friant Community. Water is delivered to the WWD 18 water treatment plant via a 6-inch diameter pipe that connects to a larger discharge pipe (used to supply water to the State Fish hatchery)

near the base of Friant Dam. Raw surface water from this connection point is treated with a series of clarifiers and pressure filters, and is disinfected using chlorination.

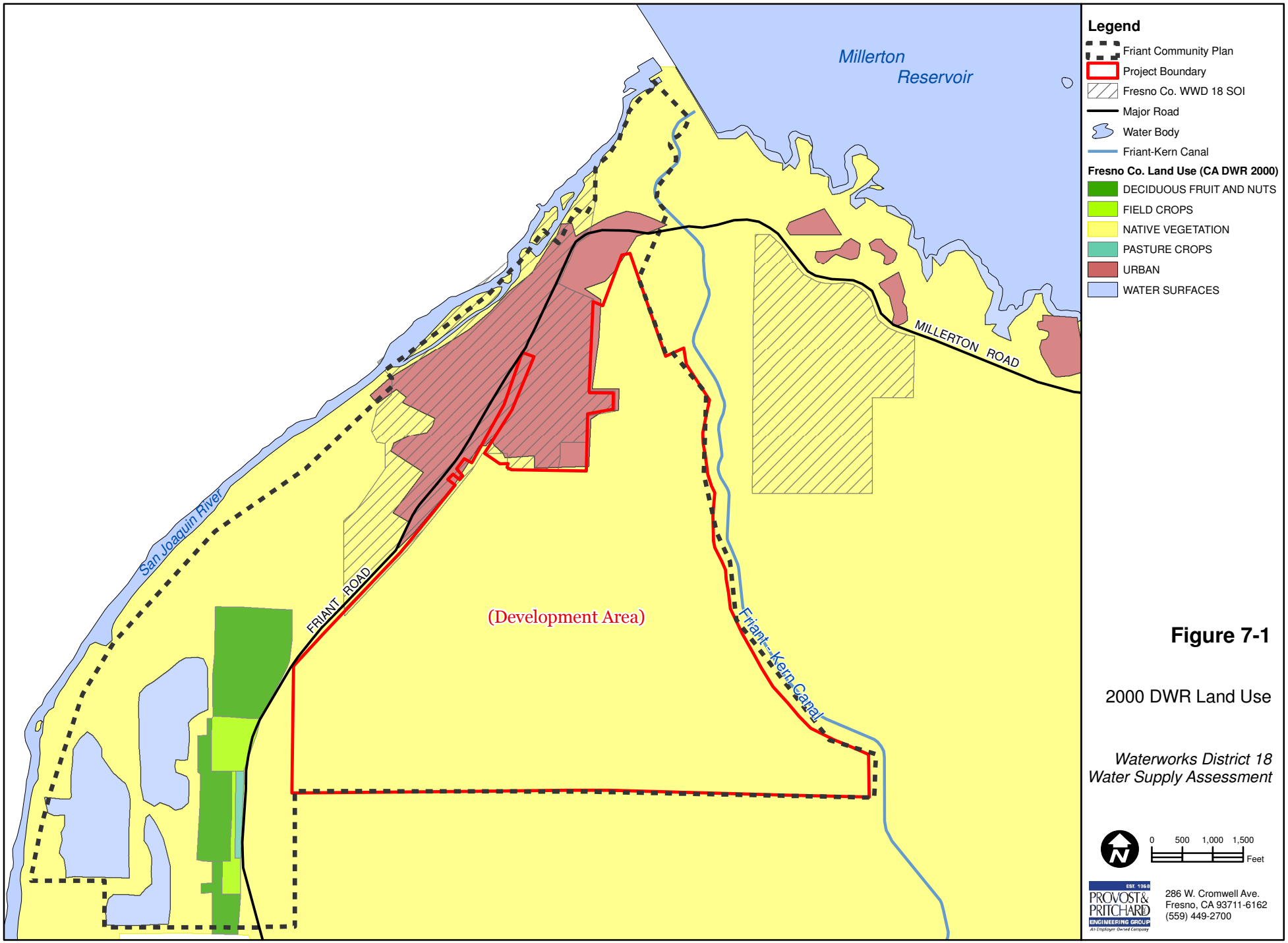
WWD 18 also provides contract water treatment services for Table Mountain Rancheria, Millerton Lake State Park, the CDF Fire Station in Friant, and the USBR office in Friant.

The present process agreement between WWD 18 and Table Mountain Rancheria requires WWD 18 to process 2 AF per month, not to exceed 20 AF annually. This water is purchased from Madera Irrigation District by WWD 18 on behalf of Table Mountain, and it remains in Millerton Lake until processing at the District's WTP. Treated water is trucked by Table Mountain for use at their casino, located approximately six miles to the east. This contract is a fee-for-service arrangement. Other than the contract in place, WWD 18 has no on-going obligation to provide water service of any kind or water supply to Table Mountain.

The other three users (Millerton Lake State Park, the CDF station in Friant and the USBR office in Friant) receive water treatment under a single agreement which states that the water delivered to these entities is not charged against WWD 18's Class 1 supply. District records indicate an average of approximately 1.25 AF per month is treated for these three users, with 82 percent going to the State Park, 16 percent to CDF and the remainder to the Bureau office.

Water for Millerton Lake State Park is pumped to a state-owned storage tank east of Friant on the north side of Millerton Road, where the State Park takes over the job of distribution for its own uses. The CDF Station and the USBR office are served directly off the WWD 18 distribution system. Each of these three services are metered separately to provide for accurate credit for the water used.

The water supply and demand associated with these contract water treatment services for Table Mountain Rancheria, Millerton Lake State Park, CDF and USBR are not included in the water supply and demand calculations presented herein because the contracts are for treatment and delivery of wholly separate water supplies controlled by the respective contracting parties.



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8 WATER DEMANDS AND FACILITIES

This section summarizes water demands of the Project and existing and planned future WWD 18 service boundaries (including the Friant Community and Mira Bella) along with water system infrastructure that is required to provide potable water to the users within the Project and the Friant Community. Project demands were evaluated by customer types and in 5-year increments until build-out in 2030. After build-out water demands are quantified, and demands for the Project and Friant Community were evaluated for normal, critical dry, and multi-dry year hydrologic conditions

8.1 Project Demand

All Project water demand estimates are based upon the proposed Land Use Plan in the draft Friant Ranch Specific Plan. The Project will be limited to 2,996 units, distributed amongst single-family residential units of various lot sizes and multi-family housing. The Project proposes approximately 2,996 residential units, which include 2683 age-restricted (55 years of age and older) single-family units, 83 age-restricted (55 years of age and older) multi-family units, and 180 non-age restricted multi-family units. The Project also proposes a Village Center on approximately 21.3 acres, comprising 250,000 square feet of retail and commercial uses, along with 50 non-age restricted residential units. The Project includes 117 acres of landscaped areas, including both parks and landscaped vegetated slopes. The Project also includes non-irrigated open space. (See **Figure 2-2**)

Indoor potable water demands were estimated based on land use type. Historical unit use factors for similar development in the San Joaquin Valley and calculated outdoor use was based on irrigable acreage composed of planned dedicated open-space acres and/or percent coverage for each land use type.

Using this method, the average annual demand for the proposed Project is estimated to be 1,471 acre-feet in a normal hydrological year.

Expected water demand for the Project will be a composite of the specific water demands for the various types of land uses proposed. These demands are summarized in Table1 and Table 2.

With 2,996 units proposed in the Specific Plan area, it is possible to calculate average unit densities, which have been correlated with land use designations in Clovis that allow for the use of selected specific water use factors which are, presented in Table 1, below. These factors have not been adjusted for the much-lower average occupancy of each unit in an age-restricted 55+ active adult community such as the Project. Approximately two-thirds of domestic water is for external use. Lower average occupancy has not been factored into these tables, as a measure of conservatism. The following **Table 8.1.1** presents a summary of water usage for residential development within the area, based upon the methodology above.

Table 8.1.1 Projected Project Average Daily Demand for Water By Residence Type and Lot Size By Land Use at Build-Out –Residential (Based upon City of Clovis Information and General Plan Designations)

Project Land Use	*No. Of Units*	*ADD (gpd/ac)*	*Acres*	*Demand (gpd)*	*Demand (AF/Day)*	*Demand (AF/yr)*
SFD-1 Single-Family (6,000–7,200 SF)	*293*	*1,875*	*60.7*	*113,812*	*0.349*	*127*
SFD-2 Single-Family (3,500-5,000 SF)	*1,295*	*1,875*	*214.4*	*402,000*	*1.23*	*449*
SFD-3 Single-Family Cluster & Alley-load (8.0-12.0 du/ac)	*1,095*	*3,035*	*135*	*409,725*	*1.26*	*460*
MFD Apartments, Condos, Triplexes (12.0-18.0 du/ac)	*83*	*3,035*	*5.3*	*16,085*	*0.049*	*18*
MFD Non-Age Qualified Apartments (12.0-18.0 du/ac)	*180*	*3,035*	*13.5*	*40,972*	*0.126*	*46*
Village Center (Live/Work)	*50*	*200 (gpd/unit)*	*-*	*10,000*	*0.031*	*11*
Total	***2,996***		***428.9***	***992,594***	***3.04***	***1111***

Overall water use patterns for proposed land uses and densities are expected to be similar to those of other Valley communities which have implemented water metering together with tiered rates. The City of Clovis was used for comparison due to its similarity and proximity to Project, and the abundance of data available from that system. See Table 8.1.2. In contrast, the City of Fresno has not fully implemented water metering and so has not been used as a basis for comparison.

Table 8.1.2: Projected Project Average Daily Demand (ADD) for Water By Land Use at Build-Out – Non-Residential (Based upon City of Clovis Information and General Plan Designations)

Land Use	*ADD (Gpd/ac)*	*Acres*	*Total Demand (gpd)*	*Total Demand (AF/Day)*	*Total Demand (AF/yr)*
Village Center	*1,965*	*23.8*	*46,767*	*0.14*	*52*
Active-Adult Recreational Center (CC)	*1,965*	*16.7*	*32,815*	*0.10*	*37*
Parks and Parkways (P)	*2,500*	*25*	*62,900*	*0.19*	*70*
Landscaped Slopes	*1,965*	*92*	*180,780*	*0.55*	*201*
	Total		***322,862***	***0.98***	***360***

Total annual consumptive water demand for all land uses, combining totals from Tables 8.1.1 and 8.1.2, will be 1,471 AF.

The water demands for the Project at build-out are presented in **Table 8.1.3.**

Table 8.1.3: Projected Project Demands in AFY

Customer	*2010*	*2015*	*2020*	*2025*	*2030*
Single Family	*-*	*259*	*518*	*777*	*1036*
Multi- Family	*-*	*16*	*32*	*48*	*64*
Village Center	*-*	*3*	*6*	*9*	*11*
Neighborhood Shopping Center	*-*	*13*	*26*	*39*	*52*
Active-Adult Recreational Center (CC)	*-*	*9*	*18*	*27*	*37*
Parks and Parkways	*-*	*17*	*34*	*51*	*70*
Landscaped Slopes	*-*	*50*	*100*	*150*	*201*
Total	***0***	***341***	***682***	***1101***	***1471***

Notes:
1. Assumes construction begins in 2010.
2. Assumed build-out by 2030.

8.2 WWD 18 Demand – Western Service Area

For purposes of this assessment, demands within the Western Service Area comprise those demands for all lands within the current WWD 18 service area west of the Friant Kern Canal that do not fall within the boundaries of the Project (see **Figure 2-1**)..

Per District records, the current potable water demands within WWD 18 are attributed to 219 residential and 19 commercial/industrial users that used 150 AF in 2005.

For purposes of this assessment, the "planned future uses" for the Western Service Area are determined based on the current Friant Community Plan (amended in 1983) land use designations for the land within the current WWD 18 boundaries, with the following exceptions:

- The 2007 CEQA Notice of Preparation for the Draft Community Plan Update suggests that the County is considering a land use change within the existing Community Plan area. One parcel (referred to as the "Friant Depot Parcel") that was designated in 1983 as residential is proposed for designation as commercial. This proposed change is taken into account for purposes of determining future planned uses within the WWD 18 boundaries in this assessment.

- 11 acres within the Project area are already a part of the current WWD 18 service area and included within the current Community Plan area (1983 amendment). For purposes of determining water demands for this assessment, those 11 acres are not included within the "future planned uses" of WWD 18 because they are included within the Project.

At build out, the Western Service Area is anticipated to have an additional annual demand of 185 AF, which results in a future cumulative water demand of 335 AFY. Most of that demand will be associated with residential (low, medium, and medium-high) land uses. Community Plan Land Uses are shown in Table 8.2.1 below.

Table 8.2.1: Western Service Area Land Use Distribution (All in Acres)[1]

Land Use	Total Community Plan Area	Total Outside of Project	Currently Developed Outside of Project	Total Developable Area[2]	Developable Area, Outside of Project
Agriculture	337	337	337	--	--
Residential					
Low Density	43	43	25	18	18
Medium Density	109	48	43	66	5
Medium High Density	398	13	5	393	8
Roads	77	--	--		
Commercial					
Highway	42	42	11	31	31
Community	24	--	--	24	
Special	17	17	--	17	17
Public Facilities					
Sewage Treatment Plant	6	2	2	4	--
Fish Hatchery	49	49	49	--	--
Telephone Relay Station	2	2	2	--	--
Landscaped Slopes	92	--	--	92	--
Parks & Parkways	25	--	--	25	--
Corporation Yard	4	4	4	--	--
Open Space					
Lost Lake Regional Park	273	273	273	--	--
San Joaquin River Zone at Lost Lake Park	24	24	24	--	--
Floodplain	7	7	7	---	--
Open Space[3]	275	--	--	275	--
Total Acreage	**1,804**	**861**	**782**	**945**	**80**

Notes:
1. Per Friant Community Plan (1983) but including proposed change of designation for Friant Depot Parcel to commercial and excluding 11 acres situated within the WWD 18 service area; includes Project except as noted.
2. Developable Land Acreage excludes lands designated as Agriculture, Public Facilities and Open Space including Lost Lake Regional Park, floodplain, and open space as these areas do not receive surface water supplies from WWD 18. This column includes land within the Project
3. Open Space includes natural open space and revegetated slopes.

8.3 WWD 18 Demand – Eastern Service Area

The eastern service area for WWD 18 is comprised entirely of the Mira Bella tract, a 180-lot low density single family residence development that covers 199 acres. Existing water demand for the eastern service area of WWD 18 is zero AF because Mira Bella does not have any existing users. According to design engineers for Mira Bella, build out demand is projected to be 130 AFY. Because this portion of WWD 18 will be stand-

alone water system, supplied by local groundwater resources rather than San Joaquin River supplies, demands within this area are not included in the water balance evaluations for the Western Service Area.

8.4 Water Demand Summary

Water demands in the Central Valley generally do not change significantly due to hydrological conditions from year-to-year, except that demands can be made to decrease during drought conditions because water purveyor/suppliers place restrictions on outdoor water usage. Since outdoor water use for residential land use types accounts for 60 percent of total water use, outdoor watering restrictions may reduce demands by 10 to 30 percent depending upon the severity of use restriction. For purposes of this investigation, this assessment assumes demands are constant for all hydrologic conditions, a conservative approach. Build-out demands at each hydrologic condition are shown below in **Tables 8.4.1 and Table 8.4.2** on the following page.

Table 8.4.1 Surface Water Demand at Build-out in AF (Projected WWD 18 Western Service Area, with Project)

Customer	Normal	Critical Dry	Multi-Dry		
			Year 1	Year 2	Year 3
Project	1471	1471	1471	1471	1471
Current Uses	150	150	150	150	150
Planned Future Uses	185	185	185	185	185
Total	**1806**	**1806**	**1806**	**1806**	**1806**

Note:
1. Future Planned Uess include all land use that are within the Western Service Area and the Friant Community boundary but fall outside the Project boundary, Demands for the Western Service Area of WWD 18 are accounted for by the Friant Community demands per the 1983 Friant Community Plan, except that this demand considers the proposed change of land use for the Friant Depot Parcel. Within the Community Plan area.
2. Although Project area is not yet annexed into the WWD 18 service area, for purposes of this Assessment this Chart includes the Project demand within the WWD 18 Western Service Area Total.

Table 8.4.2 Groundwater Demand at Build-out in AF
(Projected WWD 18 Eastern Service Area)

Customer	Normal	Critical Dry	Multi-Dry		
			Year 1	Year 2	Year 3
Total	130	130	130	130	130

Note:
1. Eastern service area for WWD 18 consists only of the Mira Bella development.

WWD 18's current 150 AF Friant Division CVP Class 1 supply will not be adequate to meet the demands of the Western Service Area at full build out (without the Project), and WWD 18 will need to acquire additional water supplies to meet those needs as buildout occurs. As demonstrated in Section 10, the water supplies proposed by the Project meet this need and eliminate the potential shortage.

8.5 Facilities

The facilities comprising the water system infrastructure for the Project consist of upgrades to the existing WWD 18 surface water treatment plant, water storage tanks, and a transmission main. All other water related infrastructure required to convey water to end users within the Project are considered In-Tract improvements and will not be discussed herein. See **Figures 8-1** and **8-2** for maps of existing and future water facilities within the Draft Friant Community Plan Update. However, the supplies proposed by the Project alleviate this situation and in fact, create a modest surplus of supply (see Section 10).

The Project will be supplied water from Millerton Lake, delivered to WWD 18's SWTP by connecting to an existing pipeline that is fed from an outlet located near the base of Friant Dam (subject to approval and/or consent from USBR, Department of Fish and Game, and Orange Cove Irrigation District, who are collectively the owners and users of this pipeline). There are existing connections in this location, which are used by the Orange Cove Irrigation District power plant and the State of California's fish hatchery. In order provide water to the Project during down times at the power plant, a by-pass line will be constructed around the power plant, thereby allowing uninterrupted deliveries to the SWTP and fish hatchery.

To accommodate the water demands for the Project, a total of 0.9 million gallons per day (mgd) of treatment capacity will be needed at the SWTP. This expansion may be designed and constructed by the District, or the District may choose to have the Project construct the necessary improvements under its direction and supervision. In either case, the Project would bear its pro-rata share of the improvement cost.

WWD 18 will also add capacity to meet the needs of future planned growth within the Western Service Area outside the project. The District anticipates that this growth will

occur in two or more phases, ending with a plant capacity of 1.8 to 2.0 mgd, which will be adequate for the Project plus the fully-developed Western Service Area. Although specific unit processes have not been selected for the process trains at the SWTP, all equipment will be chosen so that finished water complies with water quality regulations that are in effect at the time of design and construction, as stipulated by the Department of Public Health and EPA.

After water is treated at the SWTP, it will be conveyed to the Project by a 20-inch diameter transmission main planned for the abandoned right-of-way of a railway that runs along the west side of the Project. This pipeline is projected to be approximately 6,000 feet long. In order to provide water to the Project during peak demand periods and to meet fire protection requirements, two 1-million gallon water storage tanks will be installed. One tank will be sited near the SWTP and the other within the Project at a location to be determined in the future.

8.6 Water Conservation Policies

Water conservation and reclamation will be emphasized in Project design in order to meet the water use goals for the Project. Implementation of conservation policies and the use of reclamation facilities represent two of the most cost-effective ways to efficiently use limited resources. For example, the Project is proposing to incorporate water-saving plumbing fixtures, and to use reclaimed water on outdoor landscaping. Further, WWD 18 is proposing to impose tiered water rates as an incentive for conservation.

Consideration is given in project design for use of reclaimed water (treated, disinfected wastewater effluent) for irrigation of parks and publicly maintained open spaces (trails, road medians, landscape easements) wherever practical and economically feasible. This may mean that certain parks, medians, etc., are irrigated by reclaimed water while others are irrigated by the domestic supply. Although potable and reclaimed water will each be used to irrigate landscaped area within the Project, the water distribution systems conveying these sources will be two stand-alone facilities as required by the Department of Public Health, thereby preventing any blending of these water sources.

Another example of conservation measures and policies to be employed by WWD 18 includes issuing public notices when supplies are limited. For example, USBR issued a declaration to WWD 18 stating that Class 1 supplies for the 2007-2008 water year would be 60 percent of normal. In response to this information WWD 18 adopted a new resolution and rules summarizing how the district plans to reduce consumptive demands to match available supplies. A copy of this resolution is contained in **Appendix J.**

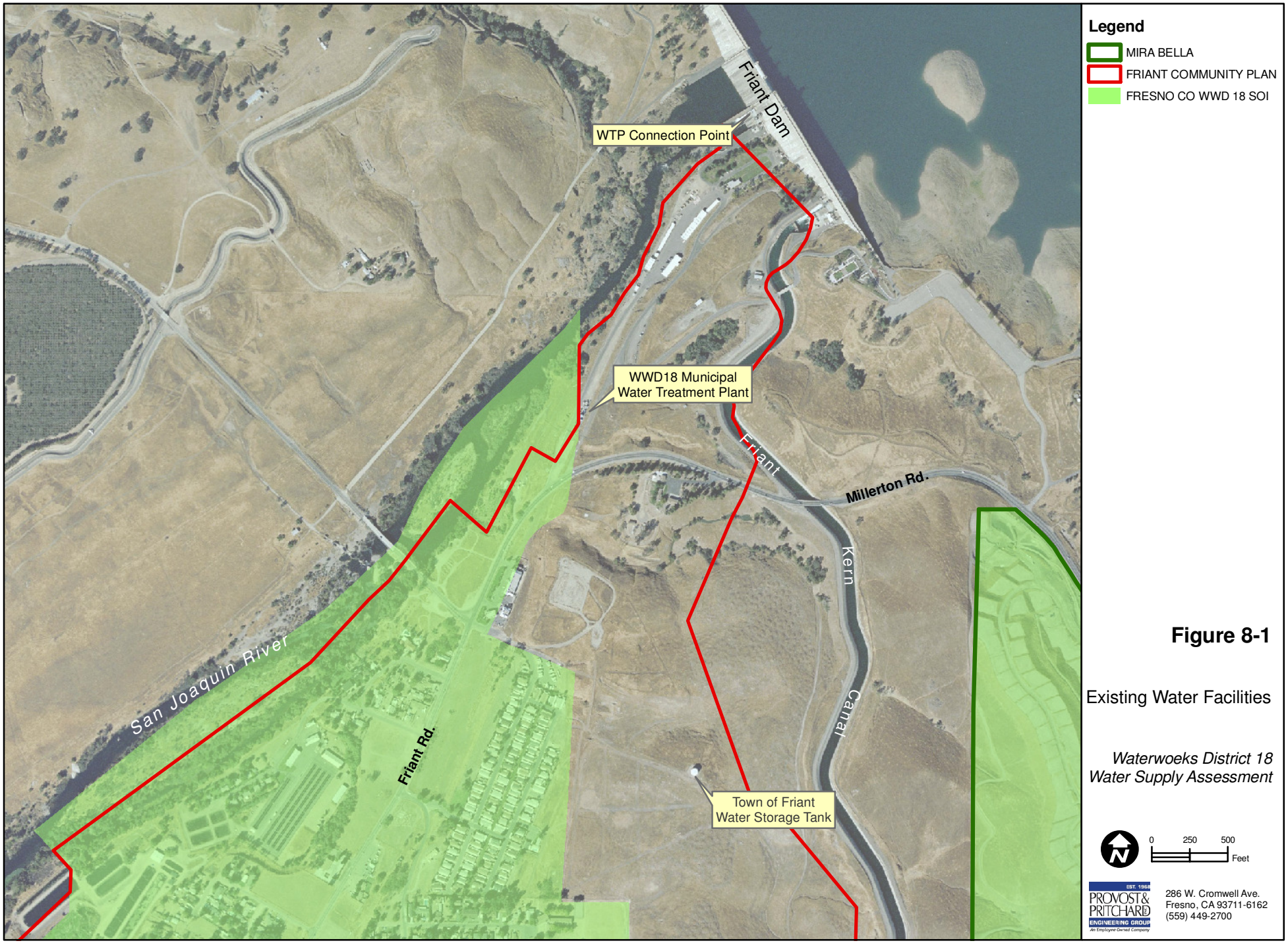

Figure 8-1

Existing Water Facilities

Waterwoeks District 18
Water Supply Assessment

EST. 1968
PROVOST & PRITCHARD
ENGINEERING GROUP
An Employee Owned Company

286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

12/11/2007 \\superior\dwg_dgn\Clients\Waterworks District 18_1846\18460701-WaterAssessment\WSA-SB 610 Rep\GIS\Map\waterfacilities.mxd

Legend

- Pressure Zone Boundary
- Proposed Facility
- Existing Facilities

Water Mains

- Existing
- Proposed

Figure 8-2

Proposed Backbone
Water System

Friant Ranch
Water Supply Assessment

0 250 500 1,000
Feet

PROVOST & PRITCHARD ENGINEERING GROUP
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

8.5 Capital Facilities Program

Infrastructure improvements necessary to meet Project demands will be constructed in phases as the project develops. Additional facilities will be constructed to meet the demands of the planned future uses within WWD 18 service boundaries, as required. In general terms, developments will be required to reimburse WWD 18 for all costs associated with the assured water supply, as well as reimbursement of capital related water, sewer, and reclaimed improvements required to support a development.

Currently, the water treatment plant and distribution system are sufficient to meet the public health and safety needs of the existing uses within the Friant Community. In order to satisfy water demands of the Project, additional water treatment, storage, and distribution facilities will need to be constructed. These Project-related improvements will be constructed on behalf of or by WWD 18, and funded by the Project. Prior to construction of houses within the Project, construction will begin on the water treatment plant (WTP) as well as the backbone water transmission line (the pipeline from the WTP to the Project. Major water system infrastructure will also include two potable water storage tanks. One tank will be constructed at the same time as the WTP and backbone water transmission line improvements; a second tank is not required until the Project reaches 50 percent of its build-out house count (approximately 2015). All water system improvements required to convey water to the various tracts within the Project will be constructed, as each tract is built-out. These improvements are considered to be part of the in-tract expenses rather than backbone infrastructure or capital facilities.

Financing of water infrastructure (WTP, backbone distribution, and storage) can be accomplished through many different financing programs available to a WWD 18. On April 24th, 2006, the WWD 18 Board of Directors adopted Resolution No. 06-06 to authorize entering into a reimbursement agreement with the Project proponents for the processing of requisite approvals for the WTP (see **Appendices G** and **H**). All direct and indirect costs and expenditures incurred by WWD 18 to install the major water system infrastructure will be reimbursed by the Project in accordance with the terms and conditions of a reimbursement agreement to be entered into after completion of environmental review. Operations and maintenance (O&M) expenses associated with major water system infrastructure will be funded from user fees and potential development impact fees. All costs associated with In-Tract improvements are the sole responsibility of a developer of that project and not WWD 18.

The water-related infrastructure costs total approximately $9.08 million, of which $3.0 million is associated with acquisition of the water supply from LTRID. The water treatment plant expansion has a projected cost of $2.25 million, with costs for water storage facilities and the transmission main totaling $3.73 million. A breakdown of the infrastructure costs is contained in **Appendix I**. WWD 18 will approve plans for these facilities, which will then be submitted to, reviewed and approved by Fresno County, all prior to the recordation of any Parcel or Final maps.

9 PROPOSED WATER SUPPLY

9.1 Surface Water

Surface water supplies available to WWD 18 will be used to support the demands within the Friant Community and the Project. At this time, all of the surface water supplies that are available to WWD 18 are from runoff within the San Joaquin River watershed that is captured and stored behind Friant Dam. Once the LTRID contract is executed by the districts (after environmental review) and approved by the USBR, an additional 2,000 AF (normal year yield) will be available to WWD 18 for service to the Project. Use of these supplies by WWD 18 is made possible by the following agreements, which are included herein as **Appendices B** and **C**.

- WWD 18 Contract No. 14-06-200-5904-LTR1
- LTRID Contract No. I75r-2771-LTR1

Since surface water supplies are not constant and can fluctuate from year to year, and due to regulatory limitations on the stored water supply, the supplies mentioned above were evaluated at key hydrologic conditions in order to ensure that supplies will be sufficient to meet projected demands. The hydrologic conditions that are of the most concern are the critical dry and multi-dry years because the yield during these conditions can be as little as 20 to 30 percent of normal year yields. Refer to **Table 9.1.1** for a summary of surface water availability during different hydrologic conditions.

Table 9.1.1: Projected Surface Supply Available for Normal, Critical Dry and Multi-Dry Years in AFY

Supply	Normal	Critical Dry	Multi-Dry		
			Year 1	Year 2	Year 3
LTRID CVP Class 1	2000	1540	1540	1540	1540
LTRID Pre-1914 Tule River	0	460	460	460	460
WWD 18 Contract	150	37	37	37	37
Total	**2150**	**2037**	**2037**	**2037**	**2037**

Notes:
1. Multi-dry year scenario for WWD 18 assumes reoccurrence of the critical dry year for three consecutive years, a conservative approach since historic records from 1966 to 2006 indicate that such an event has not occurred.
2. Critical dry is a classification assigned to a year that had the least volume of water.
3. Multi-dry is a classification that is assigned to a three year period where the cumulative volume for those years is the least.
4. The critical dry year data used for this table is for 1977.
5. Pre-1914 water from the Tule River is only needed to free up additional CVP Friant Division supplies during critical dry trends of the hydrological cycle.
6. This table does not include Reclaimed Water, which is not a surface supply.

WWD 18 and LTRID have each entered into CVP Friant Division long-term water supply contracts with the USBR. Each of the separate renewal contracts negotiated by these districts in January 2001 expires on February 28, 2026, with possible 25-year renewals. (See **Appendices B** and **C**.) If LTRID wishes to renew its respective contract pursuant to the 25-year renewal provision beyond the current expiration date of February 28, 2026, the District must submit a formal written request to the Secretary of the Interior two years prior to the date of expiration. In addition, each USBR contractor must also comply with certain conditions, such as preparation of a water conservation plan, implementation of this plan, operation and maintenance of all water measuring devices and use of contract water supply in a reasonable and beneficially manner, and compliance with any court order, final judgment, or settlement pertaining to the San Joaquin River restoration.

The WWD 18 USBR contract for Municipal and Industrial uses must be renewed for a period of 25 years and thereafter for successive periods of up to 40 years each (to the extent consistent with Reclamation-wide policy in effect at the time of renewal) so long as WWD 18 is in compliance with all terms and conditions of the USBR contract and all legal obligations under any court order, final judgment, or settlement pertaining to the San Joaquin River restoration. Any such renewals of the LTRID or WWD 18 contracts must comply with NEPA and ESA.

The San Joaquin River Settlement Agreement, while significantly changing the allocation of San Joaquin River water supplies between agricultural users and fisheries by reducing overall average deliveries to ag users by approximately 19 percent will not significantly affect the Water Supply Agreement proposed between WWD 18 and LTRID. The river restoration hydrograph in critically dry and multiple dry years does not propose to change current conditions. Rather, the restoration plan envisions that salmon would be trapped and trucked from the spawning beds to the Delta for release when the river is low. Thus, the percentage of LTRID's Class 1 supplies (under the LTRID Contract with USBR) allocated to LTRID in critically dry and multiple dry years are not expected to change significantly from allocations in prior critically dry years.

An Eastern District Court-imposed remedy limiting the pumping operations related to the CVP export facilities in the Delta will cause water shortages for USBR contractors that receive CVP Northern California water supplies through the Delta.

Though WWD 18 does not receive exported water supplies through the Delta, there is a remote chance that "Exchange Contractors" that agreed to trade pre-Friant Dam San Joaquin River water rights for CVP Delta originated supplies will exercise their "call" on CVP Friant Division water if they are unable to receive CVP exported water supply per the existing Exchange Agreement. WWD 18 recognizes this potential uncertainty, but based on the priority given to Exchange Contractors and current projections for pumping restraints through the Delta, concludes that the potential "call" does not threaten to reduce the CVP Friant Division water supplies for the Friant Community and the Project at this time. (Further, in the unlikely event that any Exchange Contractor(s) attempted to make such a "call", the threatened consequences to the 1-million acre

Friant Division of the CVP would inspire immediate collective actions to meet emergency water needs of the Friant Division contractors.)

9.2 Reclaimed Water

Portions of the Project will be irrigated with reclaimed water. WWD 18 will pursue reuse of 400 AF of reclaimed water from the WWD 18 wastewater treatment plant (WWTP) to irrigate turf on landscape features within the Project. Additional reclaimed water will be used offsite, potentially on Fresno County lands at Lost Lake Park. The disposal goal for this reclaimed water is to maximize the use of this resource to reduce the use of fresh water wherever technically and economically feasible. Any reclaimed water system that is used for outdoor irrigation will be standalone water system, completely separate from the potable water system. No interconnections will be permitted.

In the initial stages of the Project, the volume of effluent generated by the initial occupants will not be sufficient to make reclaimed water disposal practical on large landscaped areas. Implementation of the reclaimed water system is anticipated to occur in three phases, with Phase 1 servicing approximately 1,800 equivalent dwelling units (EDU) and Phases 2 and 3 each servicing 1,460 EDU. Phase 1 of the reclaimed water system is anticipated to deliver approximately 140 AF of reclaimed water to a 70 acre disposal area. Phases 2 and 3 are projected to have a combined disposal capacity of 260 AF, with each phase responsible for 50 percent of the total.

Effluent is generated year-round on a nearly constant basis, whereas the agronomic demand for typical landscape vegetation peaks during summer months and decreases significantly during winter, early spring and late fall months. In order to dispose of reclaimed water generated during the dormant months, it must be stored for future irrigation needs or disposed in another fashion. At build-out, 400 AF of reclaimed water will be available for use within the Project area annually. Because this water source is derived from interior water use, the reclaimed water available for use will remain constant during all hydrologic conditions.

9.3 Summary

The Water Supply Agreement between LTRID and WWD 18, in addition to the existing USBR Contract held by WWD 18 for 150 AF of Class 1 water from the CVP Friant Division, will generate a consistent water supply for the Project, in addition to the existing and planned future uses within the current WWD 18 water service area, over the next 20 years. During normal hydrologic years, LTRID will be able to provide 2,000 AF of Class 1 CVP Friant Division water supply to WWD 18 pursuant to the Water Supply Agreement, in addition to other demands for the LTRID 61,000 AF entitlement to Class 1 CVP Friant Division water supply. In dry years, however, LTRID may experience a shortfall in Class 1 supplies to meet all of its Class 1 water supply commitments, including WWD 18 (See Appendix D). To offset this anticipated shortfall (the prorated amount of shortfall for WWD 18 would be 460 AF), the Water Supply Agreement will provide for LTRID's provision of pre-1914 water from the Tule River to supply LTRID's Class 1 commitments to downstream users so that 2,000 AF of CVP

Class 1 water remains in Millerton Lake, available for use by WWD 18. As discussed above, reclaimed water is available under all hydrologic conditions. Refer to Table 9.3.1 on the following page for a summary of water supply availability.

Table 9.3.1: Projected Supply Available by Source for Normal, Critical Dry and Multi-Dry Years

Supply	Normal	Critical Dry	Multi-Dry		
			Year 1	Year 2	Year 3
LTRID CVP Class 1	2000	1540	1540	1540	1540
LTRID Exchange for Pre-1914 Tule River	0	460	460	460	460
WWD 18 CVP Class 1	150	37	37	37	37
Reclaimed Water	400	400	400	400	400
Total	**2550**	**2437**	**2437**	**2437**	**2437**

Notes:
1. The critical dry year data used for this Table is for 1977.
2. Multi-dry years scenario for WWD 18 assumes reoccurrence of the critical dry year for three consecutive years.
3. All sources except Reclaimed Water are surface supplies, which will be delivered via the CVP Friant Division.

10 USE OF SUPPLIES

Table 10.1.1 illustrates how build-out water demands from the Project, in addition to the existing and planned future uses within the Friant Community, inclusive of the Western Service Area of WWD 18, during various hydrologic conditions, will be met by the supplies identified in this report.

Table 10.1.1: Comparison of 20-year Projection of Supply and Demand for Normal, Critical Dry, and Multi-Dry Years

Supply	Normal	Critical Dry	Multi-Dry		
			Year 1	Year 2	Year 3
LTRID CVP Class 1	2000	1540	1540	1540	1540
LTRID Exchange for Pre-1914 Tule River	0	460	460	460	460
WWD 18	150	37	37	37	37
Reclaimed Water	400	400	400	400	400
Supply Total	**2550**	**2437**	**2437**	**2437**	**2437**
Demand Total	**1806**	**1806**	**1806**	**1806**	**1806**
Difference	**744**	**631**	**631**	**631**	**631**

Notes:
1. This evaluation pertains only to build out conditions within the Western Service Area and the Project.
2. Demand total is cumulative build out, potable water demand for all the land uses within the Western Service Area and the Project.

Note that for most hydrologic conditions, the water made available from just the LTRID CVP Class 1 supply contract is greater than all projected demands, and it is only during critically dry periods (single and multi-dry) that all available water supplies are needed to meet the combined needs of the Project and the existing and planned future uses (of surface water) within WWD 18 service area (i.e., Friant Community).

Since water supplies are sufficient to meet all the planned demands associated with the uses contemplated for the Project and the Friant Community, implementation of any outdoor water conservation measures will ensure that more water is available to use because there will be a reduction in demand consistent with the District's conservation policy (See Appendix J). Water conservation measures are intended to reduce outdoor water needs and therefore will not impact reclaimed water supplies because that water source is derived from indoor water use.

10.1 Permits, Approvals, Agreements, or Entitlements Required

The following is a list of the permits, approvals or entitlements that are expected to be needed in order to acquire and develop the water supplies identified above. (This list is not intended to, and does not, include all entitlements necessary for the Project, including wastewater treatment and effluent discharge approvals related to the wastewater treatment plant].)

1. Department of Public Health– Expansion of the WWD 18 surface water treatment plant from 0.4 MGD to 0.7 MGD, with build-out capacity of 1.5 MGD. Report of Water Reclamation for wastewater effluent reuse.

2. Regional Water Quality Control Board – Report of Waste Discharge and Report of Water Reclamation for wastewater treatment and reuse.

3. United States Bureau of Reclamation – Approval of LTRID water transfer agreement with WWD 18; approval of annexation of Project area into WWD 18 service area; approvals related to infrastructure placement and use of existing pipelines

4. LTRID – Approval of water transfer agreement with WWD 18.

5. Waterworks District 18 – Approval of transfer agreement with LTRID and agreement to provide water supply to the Project area. Approve inclusion of Project within service area.

6. Local Agency Formation Commission – Approval of the WWD 18 annexation of Project lands.

7. United States Fish and Wildlife Services – Issuance of Biological Opinion and Incidental Take Permit through Endangered Species Act Section 7 consultation.

8. Department of Fish & Game 1601 Permit - Authorization for any activity within a streambed.

9. Orange Cove Irrigation District (OCID) – Agreement with Waterworks District 18 for joint use of 44-inch water supply line from Friant Dam's face to the existing fish hatchery.

10. Fresno County Encroachment Permit – Permit for construction of water pipelines in and across Friant Road.

11. USBR approval (and related NEPA and ESA compliance) of 25 year renewals for LTRID and WWD 18 long-term contracts for CVP Friant Division Class 1 water.

11 CONCLUSIONS

The Project's estimated average-annual demand of 1,471 acre-feet, in addition to the average-annual demand associated with the existing and planned future uses within the boundaries of the Friant Community. The cumulative annual demand for the Project and the Friant Community is projected to be 1,806 AF and will be met with the water supplies listed below during normal, single dry, and multiple dry water years during a 20-year projection:

- Long-term water availability for the Project is derived from the Water Supply Agreement with LTRID, for 2,000 AF of Class 1 supply, with a dry year yield of 1,540 AF.

- Pre-1914 water from Tule River will be used during critical dry periods of the hydrologic cycle to offset the shortfall, 460 AF, in CVP Class 1 supply. As explained above, the Tule River water will not be delivered to the Project, but instead will be pumped into the Friant-Kern Canal and used to meet a portion of LTRID's South Valley commitments which would normally be met with CVP Class 1 supplies, thereby freeing up Class 1 water to be delivered to the Project.

- Approximately 400 acre-feet of reclaimed wastewater supplies will be recycled and utilized in a normal hydrologic year for non-potable uses on the Project Site.

- WWD 18 long-term contract for 150 AF of Class 1 CVP Friant Division supply, with a dry year yield of 37 AF.

According to the Fresno County Economic Development Commission (FCEDC), regional growth within the County is expected to be 2 to 3 percent on an annual average basis for the next 20 years. However, FCEDC expects the rate of growth within the major urbanized areas within the County, particularly the City of Fresno and City of Clovis, to be greater than other areas within the County. The unincorporated areas of this County are projected to grow at a slower rate of 1 to 2 percent per annum. Based upon such projections, a tentative timeline to reach build-out for the Project is 15 years once construction has started, which equates to approximately 2030. Consistent with the FCEDC report, the growth rate within the WWD 18 service area will also be no more than 1 to 2 percent per annum. The speed of growth within the WWD service area will be governed by housing and commercial market conditions. Favorable market conditions will increase the growth rate while less than desirable market conditions will cause it to slow.

SECTION ELEVEN

This assessment analyzes the complete build out of the WWD Western Service Area in accordance with the current land use designations for the Friant Community. Notably, however, based on the above growth projections, it is unlikely that the entire Community Plan area will be built out within the 20-year projection required for this water supply assessment.

These identified water supplies, current and agreed upon in principle, satisfy the projected 20-year demands of the Project together with WWD 18's existing and planned future uses during normal, critical dry and multiple-dry years. To secure and develop the identified supplies, WWD 18 will need to accomplish the following steps:

(1) Participate in County California Environmental Quality Act, Pub. Res. Code, § 21000 et seq (CEQA) process for Friant Community Plan Update and Friant Ranch Specific Plan, and adopt CEQA findings for related WWD 18 actions including Water Supply Agreement, water service agreement for Project, approval of water supply infrastructure agreements, and inclusion of Project Site into WWD 18.

(2) Participate in USBR and LAFCO approval processes for annexation of Project boundaries into WWD 18.

(3) Obtain USBR and LTRID approvals for Water Supply Agreement; authorize execution of Water Supply Agreement.

(4) Approve inclusion of Project Site into WWD 18 service area (as a separate zone of benefit) and authorize Water Service Agreement for Project.

(5) Obtain USBR, Orange Cove Irrigation District, and Department of Fish and Game approval (as appropriate) for use of water supply pipeline from Friant Dam.

(6) Obtain Regional Water Quality Control Board and Department of Public Health approvals for wastewater reuse and water treatment facilities.

(7) Participate in the Fresno County approval process for the various phases of the Project, requiring construction of all necessary water infrastructure (in accordance with the Project's Infrastructure Master Plan) as phases are proposed.

(8) Construct (or inspect developer's construction of) the required infrastructure improvements, and verify that infrastructure is ready to be placed in service prior to occupancy of homes in the corresponding Project phases. (Upon completion of any developer-constructed facilities, take ownership and assume operating responsibility in accordance with the water service agreement).

APPENDIX A

Lower Tule River
Irrigation District

SINCE 1950

Benjamin R. Serafin
President

Donald MacMillan
Vice President

Anton G. Simonich
Director

Gary Fernandes
Director

Robert Bowman
Director

Daniel G. Vink
General Manager

Eric Limas
Treasurer

Beth Grote-Lewis
Assessor

Dan Dooley
Legal Counsel

April 21, 2005

Bigelow/Silkwood Friant Ranch
C/O Bryan N. Wagner
Attorney At Law
Wagner and Wagner
1322 East Shaw, Suite 340
Fresno, CA 93710

Re: Friant Ranch – Letter of Intent for Delivery of Lower Tule River Irrigation District Long-Term Water

Dear Mr. Wagner,

Following is an outline describing a water partnership program between the Lower Tule River Irrigation District (LTRID), and Bigelow-Silkwood Friant Ranch L.P. (FRIANT RANCH), the developer of the Friant Ranch, Fresno County's first active adult retirement lifestyle community. It is anticipated that the water deliveries will be coordinated through Fresno County Water Works District No. 18 (FCWWD No. 18), the current municipal water provider in the community of Friant.

Water Sales Program Overview

FCWWD No. 18 has an existing contract for 150 acre-feet of annual contract entitlement of Central Valley Project (CVP) Friant Division water diverted at Friant Dam for municipal and industrial use in the town of Friant and could potentially (with additional facilities) serve Friant Ranch if additional CVP Friant Division water were made available to FCWWD No. 18 for such purposes. LTRID holds a contract for CVP Friant Division water from the San Joaquin River diverted at Friant Dam for 61,200 acre-feet of Class 1 annual contract entitlement and 238,000 acre-feet of Class 2 annual contract entitlement. This proposed program will provide FCWWD No. 18 with additional CVP Friant Division Class 1 water supplies to be made available by LTRID with assumed delivery to Friant Ranch by FCWWD No. 18. Further it will provide for significant one-time reserve and option payments and annual payments to be made to LTRID by FRIANT RANCH or its successor-in-interest which will be instrumental in assisting LTRID to more efficiently use and deliver its water to its users. The principal construction of the proposed program and agreement formalizing the proposed program (Agreement) will be between FRIANT RANCH and LTRID. FCWWD No. 18 is the entity through which agreements associated with the delivery of water will be formalized and may become the successor-in-interest to FRIANT RANCH relative to the proposed Agreement.

357 E. Olive Avenue
Tipton, CA 93272
(559) 686-4716
or (559) 752-5050
FAX (559) 686-0151
e-MAIL ltrid@ltrid.org

e) Annual Payment and Operations

i) Following the exercise of the option for delivery of water by FRIANT RANCH, FRIANT RANCH shall annually pay LTRID's cost of water and an additional $400 per acre-foot for each acre-foot so exercised and actually delivered. LTRID's cost of water consists of the average canal-side per acre foot cost of LTRID's federal CVP Friant Division water supply consisting of all charges which LTRID must pay in order to receive the federal CVP Friant Division water supply, including, but not limited to: (i) USBR charges, (ii) CVPIA charges, (iii) Friant-Kern Canal operation and maintenance charges (as currently estimated using the 25-year average deliveries) and State Water Resource Control Board fees or charges. Such average canal-side per acre-foot cost shall be determined annually and attached as an exhibit to the Agreement;

ii) The annual scheduling of water, timing of payments and refunding provisions will be specifically address in the proposed Agreement;

iii) FRIANT RANCH will at a minimum make annual payment for no less than 80 percent of the water where the option has been exercised regardless of the amount actually delivered;

iv) FRIANT RANCH is free to remarket (subject to state and federal law and regulation) any water it has exercised the option for delivery of. Any remarketing must have the approval of LTRID.

f) U.S. Bureau of Reclamation and Other Delivery Costs - LTRID will be responsible for all USBR water costs and any other costs associated with the purchase and delivery of the CVP Friant Division water supplies to FCWWD No. 18 by LTRID under the proposed Agreement subject to Paragraph 1(e) above.

2) Good-Faith Deposit

a) FRIANT RANCH will place into escrow $50,000 as a show of good faith at the time of acceptance of this Letter of Intent by LTRID and FRIANT RANCH. Such escrowed amount, including interest, will be released to LTRID at the time of commencement of the proposed Agreement.

b) Such escrowed amount, including interest, will be credited against the one-time Option payment to be paid by FRIANT RANCH at the first point of exercise of the option to begin taking delivery of water under the proposed Agreement.

c) Such deposit will only be returned to FRIANT RANCH if the proposed Agreement fails to be executed or fails to commence as a result of conditions or circumstances beyond the reasonable control of FRIANT RANCH.

3) Assignment – It is anticipated that a successor-in-interest will assume the responsibilities of FRIANT RANCH under this agreement once Friant Ranch is developed and operational.

4) Agreement or Transaction Costs - FRIANT RANCH will pay for all transaction costs including the costs associated with complying with the California Environmental Quality

1) Friant Ranch Water Purchase Program

a) Amount - LTRID will annually provide FCWWD No. 18 with up to 2,000 acre-feet of its CVP Friant Division Class I water supply pursuant to the terms and conditions of LTRID's Friant Division contract for use at Friant Ranch.

b) Initial Reserve Payment - FRIANT RANCH will pay LTRID a one-time reserve payment of $150 per acre-foot for the entire 2,000 acre-feet upon commencement of infrastructure construction of the Friant Ranch Project, but in any event no later than 5-years after commencement of the proposed Agreement.

c) Water Option:

i) FRIANT RANCH may exercise the option to begin taking delivery of this water by:

(1) Notifying LTRID in writing of their intent to begin delivery of water; and

(2) Making a one-time option payment of $300 per acre-foot for each acre-foot FRIANT RANCH desires to start taking delivery of annually. This option can be exercised in increments of no less than 500 acre-feet (up to 2,000 acre-feet).

ii) At a minimum, taking and paying the initial one-time option payment for the following amount of water will be required from the date of commencement of the proposed Agreement:

(1) A total of 500 acre-feet within 5-years;

(2) A total of 1,500 acre-feet within 7-years;

(3) A total of 2,000 acre-feet within 10-years.

d) Agreement Term:

i) The term of the proposed Agreement will commence upon approval of the program of long-term water transfer by the U.S. Bureau of Reclamation as described in the proposed Agreement;

ii) The term of the proposed Agreement will extend through the period of LTRID's current long-term CVP Friant Division contract and the one renewal currently contractually provided for. The term of the current contract extends through February 28, 2026.

iii) In the event the term of LTRID's current CVP Friant Division contract is modified or terminated, the proposed Agreement will similarly be modified or terminated;

iv) The proposed Agreement may be extended upon terms and conditions mutually agreeable to LTRID and FRIANT RANCH or their successors-in- interest and will be subject to any extension or subsequent renewal of LTRID's long-term CVP Friant Division contract.

Act (CEQA) and the National Environmental Policy Act (NEPA) and federal Endangered Species Act (ESA) associated with the proposed Agreement.

5) **Place of Use – All water used by FRIANT RANCH under this Agreement must be delivered within the current Friant Place of Use for municipal water.**

The terms outlined in this letter of intent will be subject to execution by both parties of a formal water supply agreement which will contain definitive terms covering the water supply and terms set forth in this letter. Additionally it is acknowledged by both parties that the terms outlined in this letter of intent will be subject to the approval of the U.S. Bureau of Reclamation and the review and certification of appropriate environmental documentation required under state and federal law. Both parties agree to use all practical efforts to complete the formal agreement as soon as reasonably possible.

Agreed and Accepted:
LOWER TULE RIVER IRRIGATION DISTRICT

By: Daniel G. Vink, General Manager

Agreed and Accepted:
BIGELOW-SILKWOOD FRIANT RANCH L.P.
MANAGEMENT COMMITTEE

By: Bryan Wagner

By: Dennis Bacopulos

By: John Martin

APPENDIX B

M&I
Contract No.
14-06-200-5904-LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES AND FRESNO COUNTY WATER WORKS DISTRICT NO. 18 PROVIDING FOR PROJECT WATER SERVICE FROM FRIANT DIVISION

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
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LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
FRESNO COUNTY WATER WORKS DISTRICT NO. 18
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION

THIS CONTRACT, made this 20th day of January, 2001, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and FRESNO COUNTY WATER WORKS DISTRICT NO. 18, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in California;

WITNESSETH, That:

EXPLANATORY RECITALS

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

distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3rd] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the United States has acquired water rights and other rights to the flows of the San Joaquin River, including without limitation the permits issued as the result of Decision 935 by the California State Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project Water stored or flowing through Millerton Lake in accordance with State and Federal law for the benefit of Project Contractors in the Friant Division; and

[3.1] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project Water developed through the exercise of the rights described in the third (3rd) Explanatory Recital of this Contract; and

[4th] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-200-5904, as amended, which established terms for the delivery to the Contractor of Project Water from the Friant Division from August 17, 1956, to February 28, 1997; and

[5th] WHEREAS, the Contractor and the United States have pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into interim renewal contract(s) identified as Contract No(s). 14-06-200-5904-IR1, IR2, IR3, and IR4, the current of which is hereinafter referred to as the Existing Contract, which provided for the continued water service to the Contractor from December 1, 2000, through February 28, 2001; and

[6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim and existing long-term Project Water service contracts following completion of appropriate environmental documentation, including a programmatic environmental impact statement (PEIS) pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA and the potential renewal of all existing contracts for Project Water; and

[7th] WHEREAS, the United States has completed the PEIS and all other appropriate environmental review necessary to provide for long-term renewal of the Existing Contract; and

[8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the State of California, for water service from the Central Valley Project; and

[9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of its obligations under the Existing Contract; and

[10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and beneficial use and/or has demonstrated projected future demand for water use such that the Contractor has the capability

and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to this Contract; and

[11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by urban and agricultural areas within California for more than fifty (50) years, and is considered by the Contractor as an essential portion of its water supply; and

[12th] WHEREAS, the economies of regions within the Central Valley Project, including the Contractor's, depend upon the continued availability of water, including water service from the Central Valley Project; and

[13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships to pursue measures to improve water supply, water quality, and reliability of the Project for all Project purposes; and

[14th] WHEREAS, the mutual goals of the United States and the Contractor include: to provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to achieve a reasonable balance among competing demands for use of Project Water; and to comply with all applicable environmental statutes, all consistent with the legal obligations of the United States relative to the Central Valley Project; and

[15th] Omitted;

[15.1] WHEREAS, during Uncontrolled Seasons, Friant Division Project Contractors utilize undependable Class 2 Water in their service areas to, among other things, assist in the management and

alleviation of groundwater overdraft in the Friant Division service area, provide opportunities for environmental enhancement, including restoration of the San Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage optimal water management, and maximize the reasonable and beneficial use of the water; and

[15.2] WHEREAS, the parties desire and intend that this Contract not provide a disincentive to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in the Explanatory Recital immediately above; and

[16th] WHEREAS, the United States and the Contractor are willing to enter into this Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

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

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

(b) “Charges” shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Components specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

(b2) "Class 1 Water" shall mean that supply of water stored in or flowing through

Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 11, and 12 of this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera Canals as a dependable water supply during each Year;

(b3) "Class 2 Water" shall mean that supply of water which can be made available subject to the contingencies hereinafter described in Articles 3, 11, and 12 of this Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will be undependable in character and will be furnished only if, as, and when it can be made available as determined by the Contracting Officer;

(c) "Condition of Shortage" shall mean a condition respecting the Project during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract Total;

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

(e) "Contract Total" shall mean the maximum amount of Class 1 Water, plus the maximum amount of Class 2 Water to which the Contractor is entitled under subdivision (a) of Article 3 of this Contract;

(f) "Contractor's Service Area" shall mean the area to which the Contractor is permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto, which may be modified from time to time in accordance with Article 35 of this Contract without amendment of this

Contract;

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

(h) Omitted;

(i) Omitted;

(j) Omitted;

(k) Omitted;

(l) Omitted;

(m) "Irrigation Water" shall mean water made available from the Project that is used primarily in the production of agricultural crops or livestock, including domestic use incidental thereto, and watering of livestock.

(n) Omitted;

(n2) "Long Term Historic Average" shall mean the average of the final forecast of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the fourth (4th) and fifth (5th) Explanatory Recitals of this Contract;

(o) "Municipal and Industrial (M&I) Water" shall mean water made available from the Project other than Irrigation Water made available to the Contractor. M&I Water shall include water used for human use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to land holdings operated in units of less than five (5)

acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a use described in subdivision (m) of this Article;

(p) "M&I Full Cost Water Rate" shall mean the annual rate, which, as determined by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I facilities in service, including, O&M deficits funded, less payments, over such periods as may be required under Federal Reclamation law with interest accruing from the dates such costs were first incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the RRA;

(q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable care, control, operation, repair, replacement (other than Capital replacement), and maintenance of Project facilities;

(r) "Operating Non-Federal Entity" shall mean the Friant Water Users Authority, a Non-Federal entity which has the obligation to operate and maintain all or a portion of the Friant Division facilities pursuant to an agreement with the United States, and which may have funding obligations with respect thereto;

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

(t) "Project Contractors" shall mean all parties who have water service contracts for Project Water from the Project with the United States pursuant to Federal Reclamation law;

(u) "Project Water" shall mean all water that is developed, diverted, stored, or

delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(v) "Rates" shall mean the payments determined annually by the Contracting Officer in accordance with the then current applicable water ratesetting policies for the Project, as described in subdivision (a) of Article 7 of this Contract;

(w) Omitted;

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

(y) "Tiered Pricing Component" shall be the incremental amount to be paid for each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

(z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

(aa) "Water Made Available" shall mean the estimated amount of Project Water that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(bb) "Water Scheduled" shall mean Project Water made available to the Contractor for which times and quantities for delivery have been established by the Contractor and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

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

TERM OF CONTRACT

2. (a) This Contract shall be effective March 1, 2001, through February 28, 2026. In the event the Contractor wishes to renew the Contract beyond February 28, 2026, the Contractor shall submit a request for renewal in writing to the Contracting Officer no later than two (2) years prior to the date this Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of M&I Water to the Contractor shall be governed by subdivision (c) of this Article.

(b) Omitted.

(c) Provided, the Contractor is complying with all terms and conditions of this Contract and all legal obligations of the Contractor, if any, set forth in an enforceable court order, final judgment and/or settlement relating to restoration of the San Joaquin River, this Contract, insofar as it pertains to the furnishing of M&I Water to the Contractor, shall be renewed for a period of twenty-five (25) years and thereafter shall be renewed for successive periods of up to forty (40) years each, which periods shall be consistent with the then-existing Reclamation-wide policy, under terms and conditions mutually agreeable to the parties and consistent with Federal and State law. The present Reclamation-wide policy, dated March 20, 2000, provides that the term of such contracts shall be no more than twenty-five (25) years each, subject to a variance to allow a longer term in appropriate circumstances. The Contractor shall be afforded the opportunity to comment to the Contracting Officer on the proposed adoption and application of any revised Reclamation-wide policy applicable to the delivery of Project M&I Water that would affect the term of any subsequent renewal contract with the Contractor for the furnishing of M&I Water.

(d) The Contracting Officer anticipates that by December 31, 2024, all authorized Project construction expected to occur will have occurred, and on that basis the Contracting Officer agrees by that date to allocate all costs that are properly assignable to the Contractor, and agrees further that, at any time after such allocation is made, and subject to satisfaction of the conditions set out in this subdivision of this Article, this Contract shall, at the request of the Contractor, be converted to a contract under subsection (c)(1) of Section 9, of the Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such conversion to occur shall be a determination by the Contracting Officer that, account being taken of the amount credited to return by the Contractor as provided for under Reclamation law, the remaining amount of construction costs assignable for ultimate return by the Contractor can probably be repaid to the United States within the term of a contract under said subsection 9(c)(1). If the remaining amount of costs that are properly assignable to the Contractor cannot be determined by December 31, 2024, the Contracting Officer shall notify the Contractor, and provide the reason(s) why such a determination could not be made. Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as to permit, upon request of the Contractor and satisfaction of the conditions set out above, conversion to a contract under said subsection 9(c)(1). In the event such determination of costs has not been made at a time which allows conversion of this Contract during the term of this Contract or the Contractor has not requested conversion of this Contract within such term, the parties shall incorporate in any subsequent renewal contract as described in Article 2(c) a provision that carries forth in substantially identical terms the provisions of this Article 2(d). In the event the Contracting Officer is able to make a

determination of the remaining amount of costs that are properly assignable to the Contractor before December 31, 2024, the Contracting Officer shall do so at the earliest time he/she has such ability.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) During each Year, consistent with all applicable State water rights, permits, and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this Contract, the Contracting Officer shall make available for delivery to the Contractor 150 acre-feet of Class 1 Water for M&I purposes. The quantity of Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

(b) Omitted.

(c) The Contractor shall utilize the Project Water in accordance with all applicable legal requirements.

(d) The Contractor shall make reasonable and beneficial use of all Project Water or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted within the Contractor's Service Area which are consistent with applicable State law and result in use consistent with Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided, further, That such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with Reclamation law.

Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted outside the Contractor's Service Area may be permitted upon written approval of the Contracting Officer, which approval will be based upon environmental documentation, Project Water rights, and Project operational concerns. The Contracting Officer will address such concerns in regulations, policies, or guidelines.

(e) The Contractor shall comply with requirements applicable to the Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within the Contractor's legal authority to implement. The Contractor shall comply with the limitations or requirements imposed by environmental documentation applicable to the Contractor and within its legal authority to implement regarding specific activities. Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with respect to any biological opinion or other environmental documentation referred to in this Article.

(f) Subject to subdivisions (l) and (n) of Article 3 of this Contract, following the declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will make a determination whether Project Water, or other water available to the Project, can be made available to the Contractor in addition to the Contract Total under Article 3 of this Contract during the Year without adversely impacting other Project Contractors. At the request of the Contractor, the Contracting Officer will consult with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of

Article 3 of this Contract, if the Contracting Officer determines that Project Water, or other water available to the Project, can be made available to the Contractor, the Contracting Officer will announce the availability of such water and shall so notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of taking such water to determine the most equitable and efficient allocation of such water. If the Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make such water available to the Contractor in accordance with applicable statutes, regulations, guidelines, and policies.

(g) The Contractor may request permission to reschedule for use during the subsequent Year some or all of the Water Made Available to the Contractor during the current Year referred to as "carryover." The Contractor may request permission to use during the current Year a quantity of Project Water which may be made available by the United States to the Contractor during the subsequent Year referred to as "preuse." The Contracting Officer's written approval may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

(h) The Contractor's right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the

Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of this

Contract or applicable provisions of any subsequent renewal contracts.

(i) Project Water furnished to the Contractor pursuant to this Contract may be delivered for purposes other than those described in subdivisions (m) and (o) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

(j) The Contracting Officer shall make reasonable efforts to protect the water rights and other rights described in the third (3rd) Explanatory Recital of this Contract and to provide the water available under this Contract. The Contracting Officer shall not object to participation by the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings related to the water rights and other rights described in the third (3rd) Explanatory Recital of this Contract; Provided, however, That the Contracting Officer retains the right to object to the substance of the Contractor's position in such a proceeding.

(k) Project Water furnished to the Contractor during any month designated in a schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1 Water is called for in such schedule for such month and shall be deemed to have been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month, such additional diversions shall be charged first against the Contractor's remaining Class 2 Water supply available in the current Year. To the

extent the Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to account for such additional diversions, such additional diversions shall be charged against the Contractor's remaining Class 1 Water supply available in the current Year. To the extent the Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year are not sufficient to account for such additional diversions, such additional diversions shall be charged first against the Contractor's available Class 2 Water supply and then against the Contractor's available Class 1 Water supply, both for the following

Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of this Contract.

(l) If the Contracting Officer determines there is a Project Water supply available at Friant Dam as the result of an unusually large water supply not otherwise storable for Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be made available to the Contractor and others under Section 215 of the RRA pursuant to the priorities specified below if the Contractor enters into a temporary contract with the United States not to exceed one (1) year for the delivery of such water or, as otherwise provided for in Federal Reclamation law and associated regulations. Such water may be identified by the Contractor either (i) as additional water to supplement the supply of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon written notification to the Contracting Officer, as water to be credited against the Contractor's Class 2 Water supply available pursuant to this Contract. The Contractor shall deliver such water to Eligible Lands, or to Excess Lands in accordance with this Article. The Contracting Officer shall make water determined to be available

pursuant to this subsection according to the following priorities: first, to long-term Contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to long-term Contractors in the Cross Valley Division of the Project. The Contracting Officer will consider and seek to accommodate requests from other parties

for Section 215 Water for use within the area identified as the Friant Division service area in the environmental assessment developed in connection with the execution of this Contract.

(m) Nothing in this Contract, nor any action or inaction of the Contractor or Contracting Officer in connection with the implementation of this Contract, is intended to override, modify, supersede or otherwise interfere with any term or condition of the water rights and other rights referred in the third (3rd) Explanatory Recital of this Contract.

(n) The rights of the Contractor under this Contract are subject to the terms of the contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until required by the terms of said contract, and the United States further agrees that it will not voluntarily and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from water that is available or that may become available to it from the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of the United States under said Exchange Contract and under Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract I1r-1145, dated

July 27, 1939).

TIME FOR DELIVERY OF WATER

4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall announce the Contracting Officer's expected declaration of the Water Made Available. The declaration will be updated monthly, and more frequently if necessary, based on then-current operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant supporting information, upon the written request of the Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide the Contractor with the updated Long Term Historic Average. The declaration of Project operations will be expressed in terms of both Water Made Available and the Long Term Historic Average.

(b) On or before each March 1 and at such other times as necessary, the Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer, showing the monthly quantities of Project Water to be delivered by the United States to the Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting Officer shall use all reasonable means to deliver Project Water according to the approved schedule for the Year commencing on such March 1.

(c) The Contractor shall not schedule Project Water in excess of the quantity of Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's Service Area,

or to sell, transfer or exchange pursuant to Article 9 of this Contract during any Year.

(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total amount of water requested in that schedule or revision does not exceed the quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3, and the Contracting Officer determines that there will be sufficient capacity available in the appropriate Friant Division facilities to deliver the water in accordance with that schedule: Provided, further, That the Contractor shall not schedule the delivery of any water during any period as to which the Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor will not be in operation because of scheduled O&M.

(e) The Contractor may, during the period from and including November 1 of each Year through and including the last day of February of that Year, request delivery of any amount of the Class 1 Water estimated by the Contracting Officer to be made available to it during the following Year. The Contractor may, during the period from and including January 1 of each Year (or such earlier date as may be determined by the Contracting Officer) through and including the last day of February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting Officer to be made available to it during the following Year. Such water shall hereinafter be referred to as preuse water. Such request

must be submitted in writing by the Contractor for a specified quantity of preuse and shall be subject to the approval of the Contracting Officer. Payment for preuse water so requested shall be at the appropriate rate(s) for the following Year in accordance with Article 7 of this Contract and shall be made in advance of delivery of any preuse water. The Contracting Officer shall deliver such preuse water in accordance with a schedule or any revision thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water is available and to the extent such deliveries will not interfere with the delivery of Project Water entitlements to other Friant Division Contractors or the physical maintenance of the Project facilities. The quantities of preuse water delivered pursuant to this subdivision shall be deducted from the quantities of water that the Contracting Officer would otherwise be obligated to make available to the Contractor during the following Year; Provided, That the quantity of preuse water to be deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in the following Year shall be specified by the Contractor at the time the preuse water is requested or as revised in its first schedule for the following Year submitted in accordance with subdivision (b) of this Article, based on the availability of the following Year water supplies as determined by the Contracting Officer.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

(b) The Contracting Officer, the Operating Non-Federal Entity, or other appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in the Friant Division

facilities to deliver Project Water to the Contractor at specific turnouts established pursuant to subdivision (a) of this Article.

(c) The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless approved in advance by the Contracting Officer..

(d) All Water Delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of time when accurate measurements have not been made, the Contracting Officer shall consult with the Contractor and the responsible Operating Non-Federal Entity prior to making a final determination of the quantity delivered for that period of time.

(e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage,

handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies) from which the damage claim arose.

MEASUREMENT OF WATER WITHIN THE SERVICE AREA

6. (a) The Contractor established a measurement program satisfactory to the Contracting Officer, all surface water delivered for municipal and industrial purposes is measured at each municipal and industrial service connection. The water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure its proper management of the water, to bill water users for water delivered by the Contractor; and, if applicable, to record water delivered for municipal and industrial purposes by customer class as defined in the Contractor's water conservation

plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing and collecting any charges, assessments, or other revenues authorized by California law. The Contractor shall include a summary of all its annual surface water deliveries in the annual report described in subdivision (c) of Article 26 of this Contract.

(b) To the extent the information has not otherwise been provided, upon execution of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the measurement devices or water measuring methods being used or to be used to implement subdivision (a) of this Article and identifying the municipal and industrial service connections or alternative measurement programs approved by the Contracting Officer, at which such measurement devices or water measuring methods are being used, and, if applicable, identifying the locations at which such devices and/or methods are not yet being used including a time schedule for implementation at such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring devices or water measuring methods identified in the Contractor's report and if the Contracting Officer does not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this Article.

(c) All new surface water delivery systems installed within the Contractor's Service Area after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article.

(d) The Contractor shall inform the Contracting Officer and the State of California in writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's Service Area during the previous Year.

(e) The Contractor shall inform the Contracting Officer and the Operating Non-Federal Entity on or before the twentieth (20^{th}) calendar day of each month of the quantity of M&I Water taken during the preceding month.

RATES AND METHOD OF PAYMENT FOR WATER

7. (a) The Contractor shall pay the United States as provided in this Article for all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance with the Secretary's then-existing ratesetting policy for M&I Water. Such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Reclamation law and associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be made by cash transaction, wire, or any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Components applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B", as may be revised annually.

(b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and Tiered Pricing Components as follows:

(1) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the Contractor an estimate of the Charges for Project Water that will be applied to the period October 1, of

the current Calendar Year, through September 30, of the following Calendar Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the period October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such notification shall revise Exhibit "B."

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

(c) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall make an advance payment to the United States equal to the total amount payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the end of the first month and before the end of each calendar month thereafter, the Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the Water Scheduled to be delivered

pursuant to this Contract during the second month immediately following. Adjustments between advance payments for Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of the following month; Provided, That any revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract during any month shall be accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect for such additional Project Water is made. Final adjustment between the advance payments for the Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water carried over under subdivision (f) of Article 3 of this Contract if such water is not delivered by the last day of February.

(d) The Contractor shall also make a payment in addition to the Rate(s) in subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the appropriate Tiered Pricing Component then in effect, before the end of the month following the month of delivery; Provided, That the Contractor may be granted an exception from the Tiered Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent with the quantities of M&I Water Delivered as shown in the water delivery report for the subject month prepared by the Operating Non-

Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer. Such water delivery report shall be the basis for payment of Charges and Tiered Pricing Components by the Contractor, and shall be provided to the Contractor by the Operating Non-Federal Entity or the Contracting Officer (as applicable) within five (5) days after the end of the month of delivery. The water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the adjustment of payments due to the United States for Charges for the next month. Any amount to be paid for past due payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

(e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall be no more than the otherwise applicable Rate for M&I Water under subdivision (a) of this Article.

(f) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(g) All revenues received by the United States from the Contractor relating to the delivery of Project Water or the delivery of non-project water through Project facilities shall be allocated and applied in accordance with Federal Reclamation law and the associated rules or regulations, and the then current Project ratesetting policies for M&I Water.

(h) The Contracting Officer shall keep its accounts pertaining to the administration of the

financial terms and conditions of its long-term contracts, in accordance with applicable Federal standards, so as to reflect the application of Project costs and revenues. The Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all Project and Contractor expense allocations, the disposition of all Project and Contractor revenues, and a summary of all water delivery information. The Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings, reports, or information.

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

(j) (1) Beginning at such time as the total of the deliveries of Class 1 Water and Class 2 Water in a Year exceed eighty (80%) percent of the Contract Total, then before the end of the month following the month of delivery the Contractor shall make an additional payment to the United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2 Water in excess of eighty (80%) percent of the Contract Total, but less than or equal to ninety (90%) percent of the Contract Total, shall equal the one-half of the difference between the Rate established under subdivision (a) of Article 7 of this Contract and the M&I Full Cost Water Rate. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2

Water which exceeds ninety (90%) percent of the Contract

Total shall equal the difference between (i) the Rate established under subdivision (a) of Article 7 of this Contract and (ii) the M&I Full Cost Water Rate.

(2) Omitted.

(3) For purposes of determining the applicability of the Tiered Pricing Components pursuant to this Article, Water Delivered shall include Project Water that the Contractor transfers to others but shall not include Project Water transferred and delivered to the Contractor.

(k) For the term of this Contract, Rates under the respective ratesetting policies will be established to recover only reimbursable "operation and maintenance" (including any deficits) and capital costs of the Project, as those terms are used in the then-current Project ratesetting policies, and interest, where appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy. Changes of significance in practices which implement the Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

(l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy.

(m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting

Officer is authorized to adjust determination of ability to pay every five (5) years.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and shall have no further liability therefor.

SALES, TRANSFERS, OR EXCHANGES OF WATER

9. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be approved absent compliance with appropriate environmental documentation including but not limited to the National Environmental Policy Act and the Endangered Species Act. Such environmental documentation should include, as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed water transfers on both the transferor and transferee.

(b) In order to facilitate efficient water management by means of water transfers of the type historically carried out among Project Contractors located within the same geographical area and to allow the Contractor to participate in an accelerated water transfer program during the term of this Contract,

the Contracting Officer shall prepare, as appropriate, necessary environmental documentation including, but not limited to, the National Environmental Policy Act and the Endangered Species Act analyzing annual transfers within such geographical areas and the Contracting Officer shall determine whether such transfers comply with applicable law. Following the completion of the environmental documentation, such transfers addressed in such documentation shall be conducted with advance notice to the Contracting Officer, but shall not require prior written approval by the Contracting Officer. Such environmental documentation and the Contracting Officer's compliance determination shall be reviewed every five (5) years and updated, as necessary, prior to the expiration of the then existing five (5) -year period. All subsequent environmental documentation shall include an alternative to evaluate not less than the quantity of Project Water historically transferred within the same geographical area.

(c) For a water transfer to qualify under subdivision (b) of this Article, such water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established cropland, wildlife refuges, groundwater basins or municipal and industrial use; (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing facilities with no new construction or modifications to facilities and be between existing Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of the environment and Indian Trust Assets, as defined under Federal law.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of more than One Thousand Dollars ($1,000) shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment at the option of the Contractor, may be credited against amounts to become due to the United States by the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the Project Water supply provided for herein. All credits and refunds of overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as to how to credit or refund such overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year in which the overpayment was made.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the additional costs pursuant to Article 25 of this Contract.

TEMPORARY REDUCTIONS--RETURN FLOWS

11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the requirements of Federal law and (ii) the obligations of the United States under existing contracts, or renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make all reasonable

efforts to optimize Project Water deliveries to the Contractor as provided in this Contract.

(b) The Contracting Officer or Operating Non-Federal Entity may temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given; Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity of Project Water which would have been delivered hereunder in the absence of such discontinuance or reduction.

(c) The United States reserves the right to all seepage and return flow water derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States any right as seepage or return flow to water being used pursuant to this Contract for surface irrigation or underground storage either being put to reasonable and beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or under the Contractor. For purposes of this subdivision, groundwater recharge, groundwater banking and all similar groundwater activities will be deemed to be underground storage.

CONSTRAINTS ON THE AVAILABILITY OF WATER

12. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made available to the Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

(b) If there is a Condition of Shortage because of errors in physical operations of the Project, drought, other physical causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a) of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom.

(c) The United States shall not execute contracts which together with this Contract, shall in the aggregate provide for furnishing during the life of this Contract or any renewals hereof Class 1 Water in excess of 800,000 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That, subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water contracts shall not prohibit the United States from entering into temporary contracts of one year or less in duration for delivery of Project Water to other entities if such water is not necessary to meet the schedules as may be submitted by all Friant Division long-term water service Contractors entitled to receive Class 1 Water and/or Class 2 Water under their water service contracts. Nothing in this subdivision shall limit the Contracting Officer's ability to take actions that result in the availability of new water supplies to be used for Project purposes and allocating such new supplies; Provided, That the Contracting Officer shall not take

such actions until after consultation with the Friant Division Project Contractors.

(d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or any other contract for water service heretofore or hereafter entered into any Year unless and until the Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c) of this Article will be available for delivery in said Year. If the Contracting Officer determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1 Water among all Contractors entitled to receive such water that will be made available at Friant Dam in accordance with the following:

(1) A determination shall be made of the total quantity of Class 1 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so determined being herein referred to as the available supply.

(2) The total available Class 1 supply shall be divided by the Class 1 Water contractual commitments, the quotient thus obtained being herein referred to as the Class 1 apportionment coefficient.

(3) The total quantity of Class 1 Water under Article 3 of this Contract shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in subdivision (a) of Article 3 of this Contract.

(e) If the Contracting Officer determines there is less than the quantity of Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of this Article substituting the term "Class 2" for the term "Class 1."

(f) In the event that in any Year there is made available to the Contractor, by reason of any shortage or apportionment as provided in subdivisions (a), (d) or (e) of this Article, or any discontinuance or reduction of service as set forth in subdivision (a) of Article 11 of this Contract, less than the quantity of water which the Contractor otherwise would be entitled to receive hereunder, there shall be made an adjustment on account of the amounts already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water for said Year in accordance with Article 10 of this Contract.

UNAVOIDABLE GROUNDWATER PERCOLATION

13. Omitted.

RULES AND REGULATIONS

14. (a) The parties agree that the delivery of Water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

(b) The terms of this Contract are subject to any enforceable order, judgment and/or settlement in NRDC v. Patterson, No. CIVS 88-1658-LKK-EM and shall be timely modified as necessary to effectuate or facilitate any final order, judgment or settlement in said litigation.

(c) The parties acknowledge that, as of the effective date of this Contract, active

settlement discussions are underway in NRDC v. Patterson between Friant Division water service contractors, representatives of the Contracting Officer, and the plaintiffs in NRDC v. Patterson. The mutual goals of the parties to those discussions are (i) to expeditiously evaluate and implement, on a mutually acceptable basis, instream and related measures that will restore ecological functions and hydrologic and geomorphologic processes of the San Joaquin River below Friant Dam to a level that restores and maintains fish populations in good condition, including but not limited to naturally-reproducing, self-sustaining populations of chinook salmon and (ii) to accomplish these restoration goals while not adversely impacting the overall sufficiency, reliability and cost of water supplies to Friant Division water users. The Contractor has been actively participating, and intends to continue to participate in such settlement discussions. Except as provided in this Contract, this Contract does not add to the obligations of the parties, if any, relating to the San Joaquin River. This Contract does not limit or detract from the obligations of the parties, if any, relating to the San Joaquin River.

WATER AND AIR POLLUTION CONTROL

15. The Contractor, in carrying out this 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.

QUALITY OF WATER

16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to this Contract shall be operated and maintained to enable the United States to deliver Project Water to the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or

other existing Federal laws. The United States is under no obligation to construct or furnish water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor

pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

(b) The Operation and Maintenance of Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall be responsible for compliance with all State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated through the use of Federal or Contractor facilities or Project Water provided by the Contractor within the Contractor's Service Area.

WATER ACQUIRED BY THE Contractor OTHER THAN FROM THE UNITED STATES

17. (a) Omitted.

(b) Water or water rights now owned or hereafter acquired by the Contractor, other than from the United States or adverse to the Project or its Contractors (i.e., non-Project Water), may be stored, conveyed and/or diverted through Project facilities, subject to the completion of appropriate environmental documentation, with the approval of the Contracting Officer and the execution of any contract determined by the Contracting Officer to be necessary, consistent with the following provisions:

(1) The Contractor may introduce non-Project Water into Project facilities and

deliver said water to lands within the Subcontractor, subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by the CVP Ratesetting Policy and the Reclamation Reform Act of 1982, each as amended, modified or superseded from time to time. In addition, if electrical power is required to pump non-Project Water through the facilities, the Contractor shall be responsible for obtaining the necessary power and paying the necessary charges therefor.

(2) Delivery of such non-project water in and through Project facilities shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other Project water service Contractors; (iii) interfere with the delivery of contractual water entitlements to any other Project water service Contractors; or (iv) interfere with the physical maintenance of the Project facilities.

(3) Neither the United States nor the Operating Non-Federal Entity shall be responsible for control, care or distribution of the non-Project Water before it is introduced into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and their respective officers, agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting from Contractor's diversion or extraction of non-Project Water from any source.

(4) Diversion of such non-project water into Project facilities shall be consistent with all applicable laws, and if involving groundwater, consistent with any groundwater management plan for the area from which it was extracted.

(5) After Project purposes are met, as determined by the Contracting Officer,

the United States and the Contractor shall share priority to utilize the remaining capacity of the facilities declared to be available by the Contracting Officer for conveyance and transportation of non-Project Water prior to any such remaining capacity being made available to non-Project Contractors.

OPINIONS AND DETERMINATIONS

18. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to or shall affect or alter the standard of judicial review applicable under federal law to any opinion or determination implementing a specific provision of federal law embodied in statute or regulation.

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

COORDINATION AND COOPERATION

19. (a) In order to further their mutual goals and objectives, the Contracting Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and with other affected Project

Contractors, in order to improve the operation and management of the Project. The communication, coordination, and cooperation regarding operations and management shall include, but not be limited to, any action which will or may materially affect the quantity or quality of Project Water supply, the allocation of Project Water supply, and Project financial matters including, but not limited to, budget issues. The communication, coordination, and cooperation provided for hereunder shall extend to all provisions of this Contract. Each party shall retain exclusive decision making authority for all actions, opinion, and determinations to be made by the respective party.

(b) Within one-hundred twenty (120) days following the effective date of this Contract, the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested Project Contractors to develop a mutually agreeable, written Project-wide process, which may be amended as necessary separate and apart from this Contract. The goal of this process shall be to provide, to the extent practicable, the means of mutual communication and interaction regarding significant decisions concerning Project operation and management on a real-time basis.

(c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

(1) The Contracting Officer will, at the request of the Contractor, assist in the development of integrated resource management plans for the Contractor. Further, the Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to improve water supply, water quality, and reliability.

(2) The Secretary will, as appropriate, pursue program and project implementation and authorization in coordination with Project Contractors to improve the water supply,

water quality, and reliability of the Project for all Project purposes.

(3) The Secretary will coordinate with Project Contractors and the State of California to seek improved water resource management.

(4) The Secretary will coordinate actions of agencies within the Department of the Interior that may impact the availability of water for Project purposes.

(5) The Contracting Officer shall periodically, but not less than annually, hold division level meetings to discuss Project operations, division level water management activities, and other issues as appropriate.

(d) Without limiting the contractual obligations of the Contracting Officer hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply with applicable laws.

CHARGES FOR DELINQUENT PAYMENTS

20. (a) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate

of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

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

EQUAL OPPORTUNITY

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

(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.

(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.

(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 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(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.

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

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

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

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age

Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

PRIVACY ACT COMPLIANCE

24. Omitted.

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

25. In addition to all other payments to be made by the Contractor pursuant to this Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the United States for work requested by the Contractor associated with this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by the Contractor. This Article shall not apply to costs for routine contract administration.

WATER CONSERVATION

26. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be implementing an effective water conservation and efficiency program based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's continued implementation of such water conservation program. In the event the Contractor's water conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently works with the Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing its water conservation and efficiency program in accordance with the time schedules therein.

(b) Should the amount of M&I Water delivered pursuant to subdivision (a) of Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the Contractor shall implement the Best Management Practices identified by the time frames issued by the California Urban Water Conservation Council for such M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

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

(d) At five (5) -year intervals, the Contractor shall revise its water conservation plan to reflect the then current conservation and efficiency criteria for evaluating water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets Reclamation's then current conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(e) If the Contractor is engaged in direct groundwater recharge, such activity shall be described in the Contractor's water conservation plan.

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

27. Except as specifically provided in Article 17 of this Contract, the provisions of this Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such water shall not be considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractor or any water user within the Contractor's Service Area acquires or has available under any other contract pursuant to Federal Reclamation law.

OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

28. (a) The Operation and Maintenance of a portion of the Project facilities which serve the

Contractor, and responsibility for funding a portion of the costs of such Operation and Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement

between the United States and the Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

(b) The Contracting Officer has previously notified the Contractor in writing that the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and the Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges or assessments of any kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the Operation and Maintenance of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and replacement costs for physical works and appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Components except to the extent the Operating Non-Federal Entity collects payments on behalf of the United States in accordance with the

separate agreement identified in subdivision (a) of this Article.

(c) For so long as the Operation and Maintenance of any portion of the Project facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the Contracting Officer shall adjust those components of the Rates for Water Delivered under this Contract representing the cost associated with the activity being performed by the Operating Non-Federal Entity or its successor.

(d) In the event the Operation and Maintenance of the Project facilities operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project Water under this Contract representing the Operation and Maintenance costs of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of this Contract.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

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

BOOKS, RECORDS, AND REPORTS

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

(b) Notwithstanding the provisions of subdivision (a) of this Article, no books, records, or other information shall be requested from the Contractor by the Contracting Officer unless such books, records, or information are reasonably related to the administration or performance of this Contract. Any such request shall allow the Contractor a reasonable period of time within which to provide the requested books, records, or information.

(c) At such time as the Contractor provides information to the Contracting Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the Operating Non-Federal Entity.

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

SEVERABILITY

32. In the event that a person or entity who is neither (i) a party to a Project contract, nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an association or other form of organization whose primary function is to represent parties to Project contracts, brings an action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement the provisions in this Contract which must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

RESOLUTION OF DISPUTES

33. Should any dispute arise concerning any provisions of this Contract, or the parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring any matter to Department of Justice, the party shall provide to the other party thirty (30) days' written notice of the intent to take such

action; Provided, That such notice shall not be required where a delay in commencing an action would prejudice the interests of the party that intends to file suit. During the thirty (30) -day notice period, the Contractor and the Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor or the United States may have.

OFFICIALS NOT TO BENEFIT

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

CHANGES IN CONTRACTOR'S SERVICE AREA

35. (a) While this Contract is in effect, no change may be made in the Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

(b) Within thirty (30) days of receipt of a request for such a change, the Contracting Officer will notify the Contractor of any additional information required by the Contracting Officer for processing said request, and both parties will meet to establish a mutually agreeable schedule for timely completion of the process. Such process will analyze whether the proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with the National Environmental Policy Act and

the Endangered Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

FEDERAL LAWS

36. By entering into this Contract, the Contractor does not waive its rights to contest the validity or application in connection with the performance of the terms and conditions of this Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the terms and conditions of this Contract unless and until relief from application of such Federal law or regulation to the implementing provision of the Contract is granted by a court of competent jurisdiction.

NOTICES

37. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Fresno County Waterworks District No. 18, PO Box 92, Friant, California 93626. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

CONFIRMATION OF CONTRACT

38. The Contractor, after the execution of this Contract, shall promptly seek to secure a decree of a court of competent jurisdiction of the State of California, confirming the execution of this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and all pertinent supporting records of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

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

THE UNITED STATES OF AMERICA

By: /s/ William H. Luce, Jr.
Acting Regional Director, Mid-Pacific Region
Bureau of Reclamation

(SEAL)

FRESNO COUNTY WATER WORKS
DISTRICT NO. 18

By: /s/ Dan Pearce
President of the Board of Directors

Attest:

By: /s/ Georgie Betitor
Secretary of the Board of Directors

(I:Fres18.wpd)

EXHIBIT A

[Map or Description of Service Area]

EXHIBIT B
[Initial Rates and Charges]

APPENDIX C

Irrigation and Other
Contract No.
I75r-2771-LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES LOWER TULE RIVER IRRIGATION DISTRICT PROVIDING FOR PROJECT WATER SERVICE FROM FRIANT DIVISION

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
LOWER TULE RIVER IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION

THIS CONTRACT, made this 20th day of January, 2001, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and LOWER TULE RIVER IRRIGATION DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in California;

WITNESSETH, That:

EXPLANATORY RECITALS

[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation,

municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3rd] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the United States has acquired water rights and other rights to the flows of the San Joaquin River, including without limitation the permits issued as the result of Decision 935 by the California State Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project Water stored or flowing through Millerton Lake in accordance with State and Federal law for the benefit of Project Contractors in the Friant Division; and

[3.1] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project Water developed through the exercise of the rights described in the third (3rd) Explanatory Recital of this Contract; and

[4th] WHEREAS, the Contractor and the United States entered into Contract No. I75r-2771, as amended, which established terms for the delivery to the Contractor of Project Water from the Friant Division from May 5, 1951, to February 28, 1991; and

[5th] WHEREAS, the Contractor and the United States entered into Renewal Contract No. I75r-2771R, which provided for continued water service to the Contractor from the Friant Division from March 1, 1991, through February 28, 2029, but, in light of the Ninth Circuit Court of Appeals Opinion in the lawsuit entitled Natural Resources Defense Council, et al. v. Roger Patterson, et al., that contract was replaced by Interim Renewal Contract No. I75r-2771-IR1, dated July 10, 1998, which provides for continued water service to the Contractor from the Friant Division from September 14, 1998, through February 28, 2001; and

[6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim and existing long-term Project Water service contracts following completion of appropriate environmental documentation, including a programmatic environmental impact statement (PEIS) pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA and the potential renewal of all existing contracts for Project Water; and

[7th] WHEREAS, the United States has completed the PEIS and all other appropriate environmental review necessary to provide for long-term renewal of the Existing Contract; and

[8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the State of California, for water service from the Central Valley Project; and

[9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of its obligations under the Existing Contract; and

[10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and beneficial use and/or has demonstrated projected future demand for water use such that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to this Contract; and

[11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by urban and agricultural areas within California for more than fifty (50) years, and is considered by the Contractor as an essential portion of its water supply; and

[12th] WHEREAS, the economies of regions within the Central Valley Project, including the Contractor's, depend upon the continued availability of water, including water service from the Central Valley Project; and

[13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships to pursue measures to improve water supply, water quality, and reliability of the Project for all Project purposes; and

[14th] WHEREAS, the mutual goals of the United States and the Contractor include: to provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to achieve a reasonable balance among competing demands for use of Project Water; and to comply with all applicable environmental statutes, all consistent with the legal obligations of the United States relative to the Central Valley Project; and

[15th] Omitted;

[15.1] WHEREAS, during Uncontrolled Seasons, Friant Division Project Contractors utilize undependable Class 2 Water in their service areas to, among other things, assist in the management and alleviation of groundwater overdraft in the Friant Division service area, provide opportunities for environmental enhancement, including restoration of the San Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage optimal water management, and maximize the reasonable and beneficial use of the water; and

[15.2] WHEREAS, the parties desire and intend that this Contract not provide a disincentive to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in the Explanatory Recital immediately above; and

[16th] WHEREAS, the United States and the Contractor are willing to enter into this Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

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

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

(b) "Charges" shall mean the payments required by Federal Reclamation law in addition

to the Rates and Tiered Pricing Components specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

(b2) "Class 1 Water" shall mean that supply of water stored in or flowing through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 11, and 12 of this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera Canals as a dependable water supply during each Year;

(b3) "Class 2 Water" shall mean that supply of water which can be made available subject to the contingencies hereinafter described in Articles 3, 11, and 12 of this Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will be undependable in character and will be furnished only if, as, and when it can be made available as determined by the Contracting Officer;

(c) "Condition of Shortage" shall mean a condition respecting the Project during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract Total;

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

(e) "Contract Total" shall mean the maximum amount of Class 1 Water, plus the maximum amount of Class 2 Water to which the Contractor is entitled under subdivision (a) of Article 3 of this Contract;

(f) "Contractor's Service Area" shall mean the area to which the Contractor is

permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,

which may be modified from time to time in accordance with Article 35 of this Contract without amendment of this Contract;

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

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

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

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

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

(l) "Irrigation Full Cost Water Rate" shall have the same meaning as "full cost" as that term is used in paragraph (3) of Section 202 of the RRA;

(m) "Irrigation Water" shall mean water made available from the Project that is used primarily in the production of agricultural crops or livestock, including domestic use incidental thereto, and watering of livestock. Irrigation Water shall not include water used for purposes such as the watering of

landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to landholdings operated in units of less than five (5) acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a use described in this subdivision of this Article;

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

(n2) "Long Term Historic Average" shall mean the average of the final forecast of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the fourth (4^{th}) and fifth (5^{th}) Explanatory Recitals of this Contract;

(o) Omitted;

(p) "Municipal and Industrial (M&I) Full Cost Water Rate" shall mean the annual rate, which, as determined by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I facilities in service, including, O&M deficits funded, less payments, over such periods as may be required under Federal Reclamation law with interest accruing from the dates such costs were first incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the RRA;

(q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable care, control, operation, repair, replacement (other than Capital replacement), and maintenance of Project facilities;

(r) “Operating Non-Federal Entity" shall mean the Friant Water Users Authority, a Non-Federal entity which has the obligation to operate and maintain all or a portion of the Friant Division facilities pursuant to an agreement with the United States, and which may have funding obligations with respect thereto;

(r2) "Other Water" shall mean water from the Project other than Irrigation Water as described in subdivision (l) of this Article, which is used for a purpose that is considered to be an irrigation use pursuant to State law such as the watering of landscaping or pasture for animals (e.g., horse) which are kept for the personal enjoyment. For purposes of this Contract, Other Water shall be paid for the Rates and Charges identical to those established for municipal and industrial water pursuant to the then current Municipal and Industrial (M&I) Ratesetting Policy.

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

(t) “Project Contractors” shall mean all parties who have water service contracts for Project Water from the Project with the United States pursuant to Federal Reclamation law;

(u) “Project Water” shall mean all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(v) “Rates” shall mean the payments determined annually by the Contracting Officer in accordance with the then current applicable water ratesetting policies for the Project, as described in subdivision (a) of Article 7 of this Contract;

(w) Omitted;

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

(y) "Tiered Pricing Component" shall be the incremental amount to be paid for each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

(z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

(aa) "Water Made Available" shall mean the estimated amount of Project Water that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(bb) "Water Scheduled" shall mean Project Water made available to the Contractor for which times and quantities for delivery have been established by the Contractor and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

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

TERM OF CONTRACT

2. (a) This Contract shall be effective March 1, 2001, through February 28, 2026. In the event the Contractor wishes to renew the Contract beyond February 28, 2026, the Contractor shall submit a request for renewal in writing to the Contracting Officer no later than two (2) years prior to the date this

Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article.

(b) (1) Under terms and conditions of a renewal contract that are mutually agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the time of contract renewal the conditions set forth in subdivision (b)(2) of this Article are met, and subject to Federal and State law, this Contract, insofar as it pertains to the furnishing of Irrigation Water to the Contractor, shall be renewed for a period of twenty-five (25) years.

(2) The conditions which must be met for this Contract to be renewed are: (i) the Contractor has prepared a water conservation plan that has been determined by the Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is implementing an effective water conservation and efficiency program based on the Contractor's water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is operating and maintaining all water measuring devices and implementing all water measurement methods as approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and beneficially used the Project Water supplies made available to it and, based on projected demands, is reasonably anticipated and expects fully to utilize for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to such renewal; (v) the Contractor is complying with all terms and conditions of this Contract and all legal obligations of the Contractor, if any, set forth in an enforceable court order, final judgment and/or settlement relating to restoration of the San Joaquin River; and (vi) the Contractor has the physical and legal ability to deliver

Project Water.

(3) The terms and conditions of the renewal contract described in subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed consistent with the parties' respective legal rights and obligations, and in consideration of all relevant facts and circumstances, as those circumstances exist at the time of renewal, including, without limitation, the Contractor's need for continued delivery of Project Water; environmental conditions affected by implementation of the Contract to be renewed, and specifically changes in those conditions that occurred during the life of the Contract to be renewed; the Secretary's progress toward achieving the purposes of the CVPIA as set out in Section 3402 and in implementing the specific provisions of the CVPIA; and current and anticipated economic circumstances of the region served by the Contractor.

(c) This Contract, insofar as it pertains to the furnishing of Other Water to the Contractor, shall be renewed for a period of twenty-five (25) years and thereafter shall be renewed for successive periods of up to forty (40) years each, which periods shall be consistent with the then-existing Reclamation-wide policy, under terms and conditions mutually agreeable to the parties and consistent with Federal and State law. The present Reclamation-wide policy, dated March 20, 2000, provides that the term of such contracts shall be no more than twenty-five (25) years each, subject to a variance to allow a longer term in appropriate circumstances. The Contractor shall be afforded the opportunity to comment to the Contracting Officer on the proposed adoption and application of any revised Reclamation-wide policy applicable to the delivery of Project Other Water that would affect the term of any subsequent renewal contract with the Contractor for the furnishing of Other Water.

(d) The Contracting Officer anticipates that by December 31, 2024, all authorized Project construction expected to occur will have occurred, and on that basis the Contracting Officer agrees by that date to allocate all costs that are properly assignable to the Contractor, and agrees further that, at any time after such allocation is made, and subject to satisfaction of the conditions set out in this subdivision of this Article, this Contract shall, at the request of the Contractor, be converted to a contract under subsection (c)(1) and (d) of Section 9, of the Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such conversion to occur shall be a determination by the Contracting Officer that, account being taken of the amount credited to return by the Contractor as provided for under Reclamation law, the remaining amount of construction costs assignable for ultimate return by the Contractor can probably be repaid to the United States within the term of a contract under said subsection 9(c)(1) and (d). If the remaining amount of costs that are properly assignable to the Contractor cannot be determined by December 31, 2024, the Contracting Officer shall notify the Contractor, and provide the reason(s) why such a determination could not be made. Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as to permit, upon request of the Contractor and satisfaction of the conditions set out above, conversion to a contract under said subsection 9(c)(1) and (d). In the event such determination of costs has not been made at a time which allows conversion of this Contract during the term of this Contract or the Contractor has not requested conversion of this Contract within such term, the parties shall incorporate in any subsequent renewal contract as described in Articles 2(b) and (c) a provision that carries forth in substantially identical terms the provisions of this Article 2(d). In the event the Contracting

Officer is able to make a determination of the remaining amount of costs that are properly assignable to the Contractor before December 31, 2024, the Contracting Officer shall do so at the earliest time he/she has such ability.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) During each Year, consistent with all applicable State water rights, permits, and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this Contract, the Contracting Officer shall make available for delivery to the Contractor 61,200 acre-feet of Class 1 Water and 238,000 acre-feet of Class 2 Water, for irrigation purposes. The quantity of Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

(b) Omitted.

(c) The Contractor shall utilize the Project Water in accordance with all applicable legal requirements.

(d) The Contractor shall make reasonable and beneficial use of all Project Water or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted within the Contractor's Service Area which are consistent with applicable State law and result in use consistent with Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided, further, That such Water Conservation Plan demonstrates

sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with Reclamation law. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted outside the Contractor's Service Area may be permitted upon written approval of the Contracting Officer, which approval will be based upon environmental documentation, Project Water rights, and Project operational concerns. The Contracting Officer will address such concerns in regulations, policies, or guidelines.

(e) The Contractor shall comply with requirements applicable to the Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within the Contractor's legal authority to implement. The Contractor shall comply with the limitations or requirements imposed by environmental documentation applicable to the Contractor and within its legal authority to implement regarding specific activities. Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with respect to any biological opinion or other environmental documentation referred to in this Article.

(f) Subject to subdivisions (l) and (n) of Article 3 of this Contract, following the declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will make a determination whether Project Water, or other water available to the Project, can be made available to the Contractor in addition to the Contract Total under Article 3 of this Contract during the Year without

adversely impacting other Project Contractors. At the request of the Contractor, the Contracting Officer will consult with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of Article 3 of this Contract, if the Contracting Officer determines that Project Water, or other water available to the Project, can be made available to the Contractor, the Contracting Officer will announce the availability of such water and shall so notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of taking such water to determine the most equitable and efficient allocation of such water. If the Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make such water available to the Contractor in accordance with applicable statutes, regulations, guidelines, and policies.

(g) The Contractor may request permission to reschedule for use during the subsequent Year some or all of the Water Made Available to the Contractor during the current Year referred to as "carryover." The Contractor may request permission to use during the current Year a quantity of Project Water which may be made available by the United States to the Contractor during the subsequent Year referred to as "preuse." The Contracting Officer's written approval may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

(h) The Contractor's right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose

shortages under Article 11 or subdivision (b) of Article 12 of this Contract or applicable provisions of any subsequent renewal contracts.

(i) Project Water furnished to the Contractor pursuant to this Contract may be delivered for purposes other than those described in subdivisions (m) and (r2) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

(j) The Contracting Officer shall make reasonable efforts to protect the water rights and other rights described in the third (3rd) Explanatory Recital of this Contract and to provide the water available under this Contract. The Contracting Officer shall not object to participation by the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings related to the water rights and other rights described in the third (3rd) Explanatory Recital of this Contract; Provided, however, That the Contracting Officer retains the right to object to the substance of the Contractor's position in such a proceeding.

(k) Project Water furnished to the Contractor during any month designated in a schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1 Water is called for in such schedule for such month and shall be deemed to have been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month, such additional diversions shall be

charged first against the Contractor's remaining Class 2 Water supply available in the current Year. To the extent the Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to account for such additional diversions, such additional diversions shall be charged against the Contractor's remaining Class 1 Water supply available in the current Year. To the extent the Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year are not sufficient to account for such additional diversions, such additional diversions shall be charged first against the Contractor's available Class 2 Water supply and then against the Contractor's available Class 1 Water supply, both for the following

Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of this Contract.

(l) If the Contracting Officer determines there is a Project Water supply available at Friant Dam as the result of an unusually large water supply not otherwise storable for Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be made available to the Contractor and others under Section 215 of the RRA pursuant to the priorities specified below if the Contractor enters into a temporary contract with the United States not to exceed one (1) year for the delivery of such water or, as otherwise provided for in Federal Reclamation law and associated regulations. Such water may be identified by the Contractor either (i) as additional water to supplement the supply of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon written notification to the Contracting Officer, as water to be credited against the Contractor's Class 2 Water supply

available pursuant to this Contract. The Contractor shall deliver such water to Eligible Lands, or to Excess Lands in accordance with this Article. The Contracting Officer shall make water determined to be available pursuant to this subsection according to the following priorities: first, to long-term contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to long-term contractors in the Cross Valley Division of the Project. The Contracting Officer will consider and seek to accommodate requests from other parties for Section 215 Water for use within the area identified as the Friant Division service area in the environmental assessment developed in connection with the execution of this Contract.

(m) Nothing in this Contract, nor any action or inaction of the Contractor or Contracting Officer in connection with the implementation of this Contract, is intended to override, modify, supersede or otherwise interfere with any term or condition of the water rights and other rights referred in the third (3rd) Explanatory Recital of this Contract.

(n) The rights of the Contractor under this Contract are subject to the terms of the contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until required by the terms of said contract, and the United States further agrees that it will not voluntarily and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from water that is available or that may become available to it from the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of the United States under said Exchange Contract and

under Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract I1r-1145, dated July 27, 1939).

TIME FOR DELIVERY OF WATER

4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall announce the Contracting Officer's expected declaration of the Water Made Available. The declaration will be updated monthly, and more frequently if necessary, based on then-current operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant supporting information, upon the written request of the Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide the Contractor with the updated Long Term Historic Average. The declaration of Project operations will be expressed in terms of both Water Made Available and the Long Term Historic Average.

(b) On or before each March 1 and at such other times as necessary, the Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer, showing the monthly quantities of Project Water to be delivered by the United States to the Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting Officer shall use all reasonable means to deliver Project Water according to the approved schedule for the Year commencing on such March 1.

(c) The Contractor shall not schedule Project Water in excess of the quantity of Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's Service Area,

or to sell, transfer or exchange pursuant to Article 9 of this Contract during any Year.

(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total amount of water requested in that schedule or revision does not exceed the quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3, and the Contracting Officer determines that there will be sufficient capacity available in the appropriate Friant Division facilities to deliver the water in accordance with that schedule: Provided, further, That the Contractor shall not schedule the delivery of any water during any period as to which the Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor will not be in operation because of scheduled O&M.

(e) The Contractor may, during the period from and including November 1 of each Year through and including the last day of February of that Year, request delivery of any amount of the Class 1 Water estimated by the Contracting Officer to be made available to it during the following Year. The Contractor may, during the period from and including January 1 of each Year (or such earlier date as may be determined by the Contracting Officer) through and including the last day of February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting Officer to be made available to it during the following Year. Such water shall hereinafter be referred to as preuse water. Such request must be submitted in writing by the Contractor for a specified quantity of preuse and shall be subject to the

approval of the Contracting Officer. Payment for preuse water so requested shall be at the appropriate rate(s) for the following Year in accordance with Article 7 of this Contract and shall be made in advance of delivery of any preuse water. The Contracting Officer shall deliver such preuse water in accordance with a schedule or any revision thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water is available and to the extent such deliveries will not interfere with the delivery of Project Water entitlements to other Friant Division contractors or the physical maintenance of the Project facilities. The quantities of preuse water delivered pursuant to this subdivision shall be deducted from the quantities of water that the Contracting Officer would otherwise be obligated to make available to the Contractor during the following Year; Provided, That the quantity of preuse water to be deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in the following Year shall be specified by the Contractor at the time the preuse water is requested or as revised in its first schedule for the following Year submitted in accordance with subdivision (b) of this Article, based on the availability of the following Year water supplies as determined by the Contracting Officer.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

(b) The Contracting Officer, the Operating Non-Federal Entity, or other appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts established pursuant to subdivision (a)

of this Article.

(c) The Contractor shall deliver Irrigation Water and Other Water in accordance with any applicable land classification provisions of Federal Reclamation law and the associated regulations. The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless approved in advance by the Contracting Officer.

(d) All Water Delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of time when accurate measurements have not been made, the Contracting Officer shall consult with the Contractor and the responsible Operating Non-Federal Entity prior to making a final determination of the quantity delivered for that period of time.

(e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility,

including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies) from which the damage claim arose.

MEASUREMENT OF WATER WITHIN THE SERVICE AREA

6. (a) The Contractor established a measurement program satisfactory to the Contracting Officer, all surface water delivered for irrigation purposes within the Contractor's Service Area is measured at each agricultural turnout. The water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure its proper management of the water, to bill water users for water delivered by the Contractor. Nothing herein contained, however, shall

preclude the Contractor from establishing and collecting any charges, assessments, or other revenues authorized by California law. The Contractor shall include a summary of all its annual surface water deliveries in the annual report described in subdivision (c) of Article 26 of this Contract.

(b) To the extent the information has not otherwise been provided, upon execution of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the measurement devices or water measuring methods being used or to be used to implement subdivision (a) of this Article and identifying the agricultural turnouts or alternative measurement programs approved by the Contracting Officer, at which such measurement devices or water measuring methods are being used, and, if applicable, identifying the locations at which such devices and/or methods are not yet being used including a time schedule for implementation at such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring devices or water measuring methods identified in the Contractor's report and if the Contracting Officer does not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this Article.

(c) All new surface water delivery systems installed within the Contractor's Service Area after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article.

(d) The Contractor shall inform the Contracting Officer and the State of California in

writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's Service Area during the previous Year.

(e) The Contractor shall inform the Contracting Officer and the Operating Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of Irrigation and Other Water taken during the preceding month.

RATES AND METHOD OF PAYMENT FOR WATER

7. (a) The Contractor shall pay the United States as provided in this Article for all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for M&I water. Such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Reclamation law and associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be made by cash transaction, wire, or any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Components applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B", as may be revised annually.

(b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and Tiered Pricing Components as follows:

(1) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the Contractor an estimate of the Charges for Project Water that will be applied to the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and the basis for such

estimate. The Contractor shall be allowed not less than two (2) months to review and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the period October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such notification shall revise Exhibit "B."

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

(c) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall make an advance payment to the United States equal to the total amount payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the end of the first month and before the end of each calendar month thereafter, the Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between advance

payments for Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of the following month; Provided, That any revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract during any month shall be accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect for such additional Project Water is made. Final adjustment between the advance payments for the Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water carried over under subdivision (f) of Article 3 of this Contract if such water is not delivered by the last day of February.

(d) The Contractor shall also make a payment in addition to the Rate(s) in subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the appropriate Tiered Pricing Component then in effect, before the end of the month following the month of delivery; Provided, That the Contractor may be granted an exception from the Tiered Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent with the quantities of Irrigation Water and Other Water Delivered as shown in the water delivery report for the subject month prepared by the Operating Non-Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer.

Such water delivery report shall be the basis for payment of Charges and Tiered Pricing Components by the Contractor, and shall be provided to the Contractor by the Operating Non-Federal Entity or the Contracting Officer (as applicable) within five (5) days after the end of the month of delivery. The water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the adjustment of payments due to the United States for Charges for the next month. Any amount to be paid for past due payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

(e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall be no more than the otherwise applicable Rate for Irrigation Water or Other Water under subdivision (a) of this Article.

(f) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(g) All revenues received by the United States from the Contractor relating to the delivery of Project Water or the delivery of non-project water through Project facilities shall be allocated and applied in accordance with Federal Reclamation law and the associated rules or regulations, and the then current Project ratesetting policies for M&I water or Irrigation Water.

(h) The Contracting Officer shall keep its accounts pertaining to the administration of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal standards, so as to reflect the application of Project costs and revenues. The Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all Project and Contractor expense allocations, the disposition of all Project and Contractor revenues, and a summary of all water delivery information. The Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings, reports, or information.

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

(j) (1) Beginning at such time as the total of the deliveries of Class 1 Water and Class 2 Water in a Year exceed eighty (80%) percent of the Contract Total, then before the end of the month following the month of delivery the Contractor shall make an additional payment to the United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2 Water in excess of eighty (80%) percent of the Contract Total, but less than or equal to ninety (90%) percent of the Contract Total, shall equal the one-half of the difference

between the Rate established under subdivision (a) of Article 7 of this Contract and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2 Water which exceeds ninety (90%) percent of the Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of Article 7 of this Contract and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable.

(2) Subject to the Contracting Officer's written approval, the Contractor may request and receive an exemption from such Tiered Pricing Components for Project Water delivered to produce a crop which the Contracting Officer determines will provide significant and quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced; Provided, That the exemption from the Tiered Pricing Components for Irrigation Water shall apply only if such habitat values can be assured consistent with the purposes of CVPIA through binding agreements executed with or approved by the Contracting Officer prior to use of such water.

(3) For purposes of determining the applicability of the Tiered Pricing Components pursuant to this Article, Water Delivered shall include Project Water that the Contractor transfers to others but shall not include Project Water transferred and delivered to the Contractor.

(k) For the term of this Contract, Rates under the respective ratesetting policies will be established to recover only reimbursable "operation and maintenance" (including any deficits) and capital costs of the Project, as those terms are used in the then-current Project ratesetting policies, and interest, where appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant

Project ratesetting policy. Changes of significance in practices which implement the Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

(l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy. If the Contractor is receiving lower Rates and Charges because of inability to pay and is transferring Project Water to another entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and Charges for transferred Project Water shall be the Contractor's Rates and Charges unadjusted for ability to pay.

(m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting Officer is authorized to adjust determinations of ability to pay every five (5) years.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and shall have no further liability therefor.

SALES, TRANSFERS, OR EXCHANGES OF WATER

9. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such

sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be approved absent compliance with appropriate environmental documentation including but not limited to the National Environmental Policy Act and the Endangered Species Act. Such environmental documentation should include, as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed water transfers on both the transferor and transferee.

(b) In order to facilitate efficient water management by means of water transfers of the type historically carried out among Project Contractors located within the same geographical area and to allow the Contractor to participate in an accelerated water transfer program during the term of this Contract, the Contracting Officer shall prepare, as appropriate, necessary environmental documentation including, but not limited to, the National Environmental Policy Act and the Endangered Species Act analyzing annual transfers within such geographical areas and the Contracting Officer shall determine whether such transfers comply with applicable law. Following the completion of the environmental documentation, such transfers addressed in such documentation shall be conducted with advance notice to the Contracting Officer, but shall not require prior written approval by the Contracting Officer. Such environmental documentation and the Contracting Officer's compliance determination shall be reviewed every five (5) years and updated, as necessary, prior to the expiration of the then existing five (5) -year period. All subsequent environmental documentation shall include an alternative to evaluate not less than the quantity of Project Water historically transferred within the same geographical area.

(c) For a water transfer to qualify under subdivision (b) of this Article, such water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established cropland, wildlife refuges, groundwater basins or municipal and industrial use; (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing facilities with no new construction or modifications to facilities and be between existing Project Contractors and/or the Contractor and the United States, Department of the Interior; and

(v) comply with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of the environment and Indian Trust Assets, as defined under Federal law.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of more than One Thousand Dollars ($1,000) shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment at the option of the Contractor, may be credited against amounts to become due to the United States by the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the Project Water supply provided for herein. All credits and refunds of overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as to how to credit or refund such overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year in which the

overpayment was made.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the additional costs pursuant to Article 25 of this Contract.

TEMPORARY REDUCTIONS--RETURN FLOWS

11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the requirements of Federal law and (ii) the obligations of the United States under existing contracts, or renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this Contract.

(b) The Contracting Officer or Operating Non-Federal Entity may temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given; Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity of Project Water which would have been delivered

hereunder in the absence of such discontinuance or reduction.

(c) The United States reserves the right to all seepage and return flow water derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States any right as seepage or return flow to water being used pursuant to this Contract for surface irrigation or underground storage either being put to reasonable and beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or

under the Contractor. For purposes of this subdivision, groundwater recharge, groundwater banking and all similar groundwater activities will be deemed to be underground storage.

CONSTRAINTS ON THE AVAILABILITY OF WATER

12. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made available to the Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

(b) If there is a Condition of Shortage because of errors in physical operations of the Project, drought, other physical causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a) of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for

any damage, direct or indirect, arising therefrom.

(c) The United States shall not execute contracts which together with this Contract, shall in the aggregate provide for furnishing during the life of this Contract or any renewals hereof Class 1 Water in excess of 800,000 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That, subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water contracts shall not prohibit the United States from entering into temporary contracts of one year or less in duration for delivery of Project Water to other entities if such water is not necessary to meet the schedules as may be submitted by all Friant Division long-term water service contractors entitled to receive Class 1 Water and/or Class 2 Water under their water service contracts. Nothing in this subdivision shall limit the Contracting Officer's ability to take actions that result in the availability of new water supplies to be used for Project purposes and allocating such new supplies; Provided, That the Contracting Officer shall not take such actions until after consultation with the Friant Division Project Contractors.

(d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or any other contract for water service heretofore or hereafter entered into any Year unless and until the Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c) of this Article will be available for delivery in said Year. If the Contracting Officer determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1 Water among all contractors entitled to receive such water that will be made available at Friant Dam in accordance with the following:

(1) A determination shall be made of the total quantity of Class 1 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so determined being herein referred to as the available supply.

(2) The total available Class 1 supply shall be divided by the Class 1 Water contractual commitments, the quotient thus obtained being herein referred to as the Class 1 apportionment coefficient.

(3) The total quantity of Class 1 Water under Article 3 of this Contract shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in subdivision (a) of Article 3 of this Contract.

(e) If the Contracting Officer determines there is less than the quantity of Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of this Article substituting the term "Class 2" for the term "Class 1."

(f) In the event that in any Year there is made available to the Contractor, by reason of any shortage or apportionment as provided in subdivisions (a), (d) or (e) of this Article, or any discontinuance or reduction of service as set forth in subdivision (a) of Article 11 of this Contract, less than the quantity of water which the Contractor otherwise would be entitled to receive hereunder, there shall be made an adjustment on account of the amounts already paid to the Contracting Officer by the Contractor for

Class 1 Water and Class 2 Water for said Year in accordance with Article 10 of this Contract.

UNAVOIDABLE GROUNDWATER PERCOLATION

13. To the extent applicable, the Contractor shall not be deemed to have delivered Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of the delivery of Irrigation Water by the Contractor to Eligible Lands.

RULES AND REGULATIONS

14. (a) The parties agree that the delivery of Irrigation Water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C.390aa et seq.), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

(b) The terms of this Contract are subject to any enforceable order, judgment and/or settlement in NRDC v. Patterson, No. CIVS 88-1658-LKK-EM and shall be timely modified as necessary to effectuate or facilitate any final order, judgment or settlement in said litigation.

(c) The parties acknowledge that, as of the effective date of this Contract, active settlement discussions are underway in NRDC v. Patterson between Friant Division water service contractors, representatives of the Contracting Officer, and the plaintiffs in NRDC v. Patterson. The mutual goals of the parties to those discussions are (i) to expeditiously evaluate and implement, on a mutually acceptable basis, instream and related measures that will restore ecological functions and hydrologic and geomorphologic processes of the San Joaquin River below Friant Dam to a level that restores and maintains fish populations in good condition, including but not limited to naturally-reproducing, self-sustaining populations of chinook salmon and (ii) to accomplish these restoration goals while not adversely impacting

the overall sufficiency, reliability and cost of water supplies to Friant Division water users. The Contractor has been actively participating, and intends to continue to participate in such settlement discussions. Except as provided in this Contract, this Contract does not add to the obligations of the parties, if any, relating to the San Joaquin River. This Contract does not limit or detract from the obligations of the parties, if any, relating to the San Joaquin River.

WATER AND AIR POLLUTION CONTROL

15. The Contractor, in carrying out this 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.

QUALITY OF WATER

16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to this Contract shall be operated and maintained to enable the United States to deliver Project Water to the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

(b) The Operation and Maintenance of Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall be

responsible for compliance with all State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated through the use of Federal or Contractor facilities or Project Water provided by the Contractor within the Contractor's Service Area.

WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

17. (a) Water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has a distribution system that was constructed without the use of federally financed funds. The use of this distribution system is not subject to the provisions of this subdivision of this Article.

(b) Water or water rights now owned or hereafter acquired by the Contractor, other than from the United States or adverse to the Project or its contractors (i.e., non-project water), may be

stored, conveyed and/or diverted through Project facilities, subject to the completion of appropriate environmental documentation, with the approval of the Contracting Officer and the execution of any contract determined by the Contracting Officer to be necessary, consistent with the following provisions:

(1) The Contractor may introduce non-project water into Project facilities and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands, subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by the CVP Ratesetting Policy and the RRA, each as amended, modified or superseded from time to time. In addition, if electrical power is required to pump

non-project water through the facilities, the Contractor shall be responsible for obtaining the necessary power and paying the necessary charges therefor.

(2) Delivery of such non-project water in and through Project facilities shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other Project water service contractors; (iii) interfere with the delivery of contractual water entitlements to any other Project water service contractors; or (iv) interfere with the physical maintenance of the Project facilities.

(3) Neither the United States nor the Operating Non-Federal Entity shall be responsible for control, care or distribution of the non-project water before it is introduced into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and their respective officers, agents, and employees,

from any claim for damage to persons or property, direct or indirect, resulting from Contractor's diversion or extraction of non-project water from any source.

(4) Diversion of such non-project water into Project facilities shall be consistent with all applicable laws, and if involving groundwater, consistent with any groundwater management plan for the area from which it was extracted.

(5) After Project purposes are met, as determined by the Contracting Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of the facilities declared to be available by the Contracting Officer for conveyance and transportation of non-project water prior to any such remaining capacity being made available to non-Project contractors.

OPINIONS AND DETERMINATIONS

18. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to or shall affect or alter the standard of judicial review applicable under federal law to any opinion or determination implementing a specific provision of federal law embodied in statute or regulation.

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

COORDINATION AND COOPERATION

19. (a) In order to further their mutual goals and objectives, the Contracting Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and with other affected Project Contractors, in order to improve the operation and management of the Project. The communication, coordination, and cooperation regarding operations and management shall include, but not be limited to, any action which will or may materially affect the quantity or quality of Project Water supply, the allocation of Project Water supply, and Project financial matters including, but not limited to, budget issues. The communication, coordination, and cooperation provided for hereunder shall extend to all provisions of this Contract. Each party shall retain exclusive decision making authority for all actions, opinion, and determinations to be made by the respective party.

(b) Within one-hundred twenty (120) days following the effective date of this Contract, the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested Project Contractors to develop a mutually agreeable, written Project-wide process, which may be amended as necessary separate and apart from this Contract. The goal of this process shall be to provide, to the extent practicable, the means of mutual communication and interaction regarding significant decisions concerning Project operation and management on a real-time basis.

(c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

(1) The Contracting Officer will, at the request of the Contractor, assist in the development of integrated resource management plans for the Contractor. Further, the Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to improve water supply, water quality, and reliability.

(2) The Secretary will, as appropriate, pursue program and project implementation and authorization in coordination with Project Contractors to improve the water supply, water quality, and reliability of the Project for all Project purposes.

(3) The Secretary will coordinate with Project Contractors and the State of California to seek improved water resource management.

(4) The Secretary will coordinate actions of agencies within the Department of the Interior that may impact the availability of water for Project purposes.

(5) The Contracting Officer shall periodically, but not less than annually, hold division level meetings to discuss Project operations, division level water management activities, and other issues as appropriate.

(d) Without limiting the contractual obligations of the Contracting Officer hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, physical integrity of structures or facilities, or

the Contracting Officer's ability to comply with applicable laws.

CHARGES FOR DELINQUENT PAYMENTS

20. (a) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

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

EQUAL OPPORTUNITY

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

(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.

(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.

(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 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(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.

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

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

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

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

PRIVACY ACT COMPLIANCE

24. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in maintaining Landholder acreage certification and reporting records, required to be submitted to the

Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

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

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

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

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

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

25. In addition to all other payments to be made by the Contractor pursuant to this Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the United States for work requested by the Contractor associated with this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by the Contractor. This Article shall

not apply to costs for routine contract administration.

WATER CONSERVATION

26. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be implementing an effective water conservation and efficiency program based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's continued implementation of such water conservation program. In the event the Contractor's water conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently works with the Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing its water conservation and efficiency program in accordance with the time schedules therein.

(b) Omitted.

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

(d) At five (5) -year intervals, the Contractor shall revise its water conservation plan to reflect the then current conservation and efficiency criteria for evaluating water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets Reclamation's then current conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(e) If the Contractor is engaged in direct groundwater recharge, such activity shall be described in the Contractor's water conservation plan.

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

27. Except as specifically provided in Article 17 of this Contract, the provisions of this Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such water shall not be considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractor or any water user within the Contractor's Service Area acquires or has available under any other contract pursuant to Federal Reclamation law.

OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

28. (a) The Operation and Maintenance of a portion of the Project facilities which serve the Contractor, and responsibility for funding a portion of the costs of such Operation and Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement between the United States and the Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the rights or

obligations of the Contractor or the United States hereunder.

(b) The Contracting Officer has previously notified the Contractor in writing that the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and the Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges or assessments of any kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the Operation and Maintenance of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and replacement costs for physical works and appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Components except to the extent the Operating Non-Federal Entity collects payments on behalf of the United States in accordance with the separate agreement identified in subdivision (a) of this Article.

(c) For so long as the Operation and Maintenance of any portion of the Project facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the

Contracting Officer shall adjust those components of the Rates for Water Delivered under this Contract representing the cost associated with the activity being performed by the Operating Non-Federal Entity or its successor.

(d) In the event the Operation and Maintenance of the Project facilities operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project Water under this Contract representing the Operation and Maintenance costs of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates,

Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of this Contract.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

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

BOOKS, RECORDS, AND REPORTS

30. (a) The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial transactions, water supply data, and Project land and right-of-way agreements; the water users' land-use (crop census), land ownership, land-leasing and water use data; and other matters that the Contracting

Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

(b) Notwithstanding the provisions of subdivision (a) of this Article, no books, records, or other information shall be requested from the Contractor by the Contracting Officer unless such books, records, or information are reasonably related to the administration or performance of this Contract. Any such request shall allow the Contractor a reasonable period of time within which to provide the requested books, records, or information.

(c) At such time as the Contractor provides information to the Contracting Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the Operating Non-Federal Entity.

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

SEVERABILITY

32. In the event that a person or entity who is neither (i) a party to a Project contract, nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an association or other form of organization whose primary function is to represent parties to Project contracts, brings an action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement the provisions in this Contract which must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

RESOLUTION OF DISPUTES

33. Should any dispute arise concerning any provisions of this Contract, or the parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring any matter to Department of Justice, the party shall provide to the other party thirty (30) days' written notice of the intent to take such

action; Provided, That such notice shall not be required where a delay in commencing an action would prejudice the interests of the party that intends to file suit. During the thirty (30) -day notice period, the Contractor and the Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor or the United States may have.

OFFICIALS NOT TO BENEFIT

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

CHANGES IN CONTRACTOR'S SERVICE AREA

35. (a) While this Contract is in effect, no change may be made in the Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

(b) Within thirty (30) days of receipt of a request for such a change, the Contracting Officer will notify the Contractor of any additional information required by the Contracting Officer for processing said request, and both parties will meet to establish a mutually agreeable schedule for timely completion of the process. Such process will analyze whether the proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs incurred by the Contracting

Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

FEDERAL LAWS

36. By entering into this Contract, the Contractor does not waive its rights to contest the validity or application in connection with the performance of the terms and conditions of this Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the terms and conditions of this Contract unless and until relief from application of such Federal law or regulation to the implementing provision of the Contract is granted by a court of competent jurisdiction.

NOTICES

37. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Lower Tule River Irrigation District, PO Box 4388, Porterville, California 93258. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

CONFIRMATION OF CONTRACT

38. The Contractor, after the execution of this Contract, shall promptly seek to secure a decree of a court of competent jurisdiction of the State of California, confirming the execution of this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and all pertinent supporting records of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

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

THE UNITED STATES OF AMERICA

By: /s/ William H. Luce, Jr.
Acting Regional Director, Mid-Pacific Region
Bureau of Reclamation

(SEAL)

LOWER TULE RIVER IRRIGATION DISTRICT

By: /s/ Robert F. Bowman
President of the Board of Directors

Attest:

By: /s/ Daniel G. Vink
Secretary of the Board of Directors

(I:Lowe.wpd)

EXHIBIT A

[Map or Description of Service Area]

EXHIBIT B
[Initial Rates and Charges]

APPENDIX D

EST. 1968
PROVOST & PRITCHARD INC
ENGINEERING GROUP

WATER
WASTEWATER
STREETS & ROADS
STORM DRAINAGE
LAND DEVELOPMENT
IRRIGATION DISTRICTS
AGRICULTURE
ENERGY SERVICES

3500 W. Orchard Court
Visalia, CA 93277-7055
559 636-1166 FAX 559 636-1177
e-mail: lsales@ppeng.com

M E M O R A N D U M

To: Chad Wegley, David McGlasson

From: Richard M. Moss

Subject: Lower Tule River Irrigation District Performance under Letter of Intent with Friant Ranch

Date: December 14, 2007

I have been asked to clarify how during a time of critical water shortage the current agreement between Lower Tule River Irrigation District (LTRID) and Friant Ranch (FR) would likely function.

LTRID apparently has other obligations to provide water similar to those provided to FR. The attached Figure 1 was taken from correspondence with Dan Vink, General Manager of LTRID listing those other obligations. There apparently is no stated priority as to which of these obligations would be fully or partially met during any year and what source of water would be used to meet them. LTRID has always indicated they would endeavor to meet all of these obligations in all years. Thus, we are left to analyze their ability to meet all of these obligations given what we know of water supplies available to LTRID[1].

In 1977, the driest year of record in the 60 year history of the Friant Division diversions from the San Joaquin River, LTRID would fall short of having enough Central Valley Project (CVP) Friant Division water supplies to meet all of their existing obligations if all of these obligations were to be met from LTRID's Friant Supplies[2] . This was a year in which 25% Class 1 entitlement was available. In accordance with attached Figure 1, LTRID would be short of making all of the CVP related out-of-district obligations with only their CVP Friant entitlement by some 4,720 acre-feet. LTRID has a history of not making any surface water available to their in-district growers in the driest of years and asks their growers to rely solely on groundwater under such circumstances.

LTRID has at a minimum two other sources of supply under its immediate control: (1) entitlement to the Tule River, and (2) its CVP Cross Valley Canal entitlement. I have

[1] Assuming the LTRID obligations in such a year would be prorated in receiving their share of LTRID's CVP allotment, the shortage to FR would be a 460 acre-feet shortfall out of their 2,000 acre-feet LTRID commitment or providing slightly more then what I understand is 1,500 acre-feet that FR currently projects as their dry year demand.

[2] It is possible for some of LTRID's other obligations to be met directly from the Tule River.

focused primarily on the Tule River supply in my analysis believing that it would be the most likely and secure source of alternative supply that could be used to meet LTRID's obligations.

The Tule River entitlement owned or controlled by LTRID exists in the form of pre-1914 appropriative rights which could be pumped from the Tule River into the Friant-Kern Canal to be exchanged so as to make water available to meet its out-of-district obligations which otherwise would have been met with CVP Friant Division supplies. LTRID's Tule River entitlement in 1977 (the only year in which LTRID's CVP Friant Division supply would not have been sufficient to meet all of its out-of-district obligations) was in excess of 38,000 acre-feet. However, much of this 38,000 acre-feet of entitlement arrived late in the season and thus in 1977 there still may have been a short period of time during the year when demands theoretically may have exceeded available supplies. The instantaneous timing of water availability and demand in a dry year will always be the subject of circumstance and is beyond the resolution required for this analysis.

Other years have been dryer on the Tule River, but not simultaneous with LTRID's inability to access enough CVP Friant Division supplies. Between the two sources of water, LTRID could have met all of their out-of-district obligations in all of the years reviewed. Figure 1. provides an estimate of the yield of the Tule River entitlement under the control of LTRID which potentially could be used to meet its out-of-district obligations under the worst hydrologic conditions experienced in the Friant Division[3]. Figure 2. is a record of CVP Friant Division Class 1 water availability and highlights the driest years of record. Figure 3. provides a summary of LTRID's headgate entitlement for Tule River water by month and by recorded water right over the reviewed period.

LTRID could also endeavor to cover the shortfall with their CVP Cross Valley Canal entitlement of some 31,000 acre-feet (contract maximum). Figure 3 provides an historical summary of Cross Valley Canal entitlement availability to LTRID since 1996.

Conditions in a series of two critically dry years only get marginally worse in that there is little reliance on reservoir surface storage to carry water over from year to year given the limited amount of capacity in these reservoirs and the reservoir space reserved for the flood control function that controls their operations in the winter and spring of each year. This is the case for both the CVP Friant Division's Millerton Lake as well as for Success Reservoir on the Tule River. There could be some diminution of the amount of CVP Friant Division supplies in back to back critically dry years given the allowance of late season releases from upstream power reservoirs in the first year of a critically dry year that likely would not be there in a second consecutive dry year. The LTRID Tule River supplies depend upon the runoff available in each year and thus do not diminish significantly in consecutive dry years. The limitation for the Cross Valley Canal availability is associated with the ability of the federal CVP to pump water out of the Sacramento/San Joaquin River Delta as CVP storage on the Sacramento, Trinity and

[3] I have included the worst single year and the worst consecutive two and three year periods. A delivery loss factor of 20 percent was assumed in getting the water transported down the Tule River to the Friant Kern Canal and in the exchange with downstream Friant-Kern Canal water users.

American Rivers is very large and easily capable of withstanding a back-to-back dry year scenario. Delta pumping conditions are very hard to predict given so much of the operation depends upon factors other then tributary hydrology, such as endangered species and water quality issues.

Nonetheless, it would appear that LTRID has enough alternative water supplies available to meet its out-of-district obligations for Friant Division supplies in virtually all conditions, certainly in the conditions which have been experienced to date.

Figure 1. Analysis of Lower Tule River Irrigation District's Ability to meet Dry Year Commitments

LTRID Commitments Under Agreement	
City of Orange Cove	2000
Friant Ranch	1500
Fresno Co Lower Tule	1500
Fresno Co DCTRA	770
DCTRA Internal Use	14250
Total	20020

Friant Class 1 Total Entitlement	800000
LTRID Contract Supply	61200

CVP Dry Year Scenarios	Friant Class 1 Declaration	Friant Class 1 Supply	LTRID Friant Supply	Required Alternate Supply	Tule River Entitlement	Delivery Losses 20%	Net for Exchange
Driest Single Year of Record							
1977	25%	200000	15300	4720	38074	7615	30459
Two Consecutive Driest Years of Record							
1976	75%	600000	45900	0	6072	1214	4858
1977	25%	200000	15300	4720	38074	7615	30459
Three Driest Consecutive Years of Record							
1988	78%	624000	47736	0	11239	2248	8991
1989	98%	784000	59976	0	18722	3744	14978
1990	68%	544000	41616	0	5358	1072	4286

Figure 2. CVP Friant Division Water Availability and Dry Year Analysis

	Class 1 Availability			Driest Series	
Year	Class 1 Availability	SJR % of Normal		Driest 2 Consecutive Years	Driest 3 Consecutive Years
1966	100	70.7			
1967	100	176.1		123	
1968	92	47		112	98
1969	100	220.1		134	148
1970	100	78.8		149	115
1971	100	77.2		78	125
1972	100	56.6		67	71
1973	100	111.5		84	82
1974	100	119.3		115	96
1975	100	97.8		109	110
1976	75	34.3		66	84
1977	25	19.7		27	51
1978	100	185.3		103	80
1979	100	99.7		143	102
1980	100	162		131	149
1981	100	58.2		110	107
1982	100	180.7		119	134
1983	100	252.9		217	164
1984	100	111.3		182	182
1985	100	70		91	145
1986	100	151		111	111
1987	91	42		97	88
1988	78	47.1		45	80
1989	98	52.2		50	47
1990	68	40		46	46
1991	100	66		53	53
1992	83	46		56	51
1993	100	150		98	87
1994	80	50		100	82
1995	100	218		134	139
1996	100	124		171	131
1997	100	158		141	167
1998	100	178		168	153
1999	100	150		164	162
2000	100	103		127	144
2001	100	60		82	104
2002					
	94	percent over period of			
	36	years			

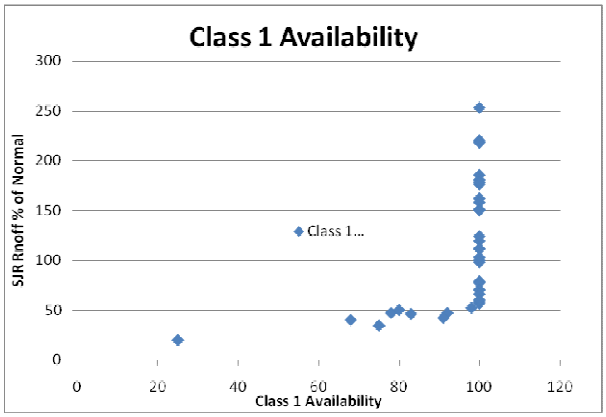

Figure 3. TULE RIVER HEADGATE ENTITLEMENT

Percentage of Runoff to Entitlement

March-Feb CVP Contract Year	Below Oettle Bridge	Woods Central Ditch	Porter Slough	Poplar Ditch	Yearly Total	Total Runoff	Percentage of Entitlement to Runoff
	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	
1975-1976	31,774	8,419	1,883	16,739	58,815	114,004	51.6%
1976-1977	1,156	1,191	0	4,836	7,183	30,745	23.4%
1977-1978	27,923	2,280	3,543	4,328	38,074	80,520	47.3%
1978-1979	71,674	17,654	10,208	25,728	125,264	230,386	54.4%
1979-1980	77,320	10,000	10,995	17,000	115,315	239,543	48.1%
1980-1981	75,756	10,000	7,107	16,903	109,766	199,057	55.1%
1981-1982	28,225	3,515	1,631	13,479	46,850	99,913	46.9%
1982-1983	138,462	9,492	26,288	15,297	189,539	403,013	47.0%
1983-1984	139,868	13,434	42,636	15,671	211,609	511,727	41.4%
1984-1985	36,671	2,321	843	18,527	58,362	113,860	51.3%
1985-1986	45,498	7,139	7,616	16,948	77,201	165,672	46.6%
1986-1987	48,718	8,825	10,442	18,646	86,631	175,054	49.5%
1987-1988	16,953	1,255	502	7,060	25,770	56,667	45.5%
1988-1989	6,917	121	623	3,578	11,239	38,199	29.4%
1989-1990	11,219	296	447	6,760	18,722	49,127	38.1%
1990-1991	2,011	160	0	3,187	5,358	23,664	22.6%
1991-1992	15,769	1,283	1,098	10,786	28,936	69,371	41.7%
1992-1993	24,655	44	2,593	942	28,234	64,980	43.5%
1993-1994	28,956	9,232	1,257	17,297	56,742	108,519	52.3%
1994-1995	26,774	1,248	2,216	6,314	36,552	76,170	48.0%
1995-1996	86,450	10,362	13,739	17,097	127,648	265,281	48.1%
1996-1997	124,107	8,903	21,807	16,545	171,362	381,568	44.9%
1997-1998	60,964	9,343	8,796	19,212	98,315	204,657	48.0%
1998-1999	119,295	11,258	32,957	14,741	178,251	393,582	45.3%
1999-2000	24,621	1,546	2,167	6,553	34,887	81,555	42.8%
2000-2001	30,078	1,950	1,543	12,277	45,848	90,331	50.8%
2001-2002	26,406	766	1,991	4,461	33,624	76,250	44.1%
2002-2003	12,257	23,584	1,224	5,277	42,342	91,288	46.4%
2003-2004	16,215	29,637	1,638	3,370	50,860	104,447	48.7%
2004-2005	22,155	2,546	2,244	5,570	32,515	74,904	43.4%
2005-2006	29,680	15,094	2,862	25,940	73,576	169,034	43.5%
2006-2007	60,636	3,450	12,113	7,889	84,088	183,148	45.9%

Figure 4. Cross Valley Canal Deliveries 1996-2007		
Year	Declaration	Available Supply
1996	95%	59,094
1997	90%	55,984
1998	90%	55,984
1999	70%	43,543
2000	65%	40,433
2001	49%	30,480
2002	75%	46,653
2003	60%	37,322
2004	70%	43,543
2005	90%	55,984
2006	100%	62,204
2007	50%	31,102

Lower Tule River
Irrigation District

SINCE 1950

December 14, 2007

Mr. Richard M. Moss
Provost & Pritchard Engineering Group, Inc.
3500 W. Orchard Court
Visalia, CA 93277-7055

Re: Lower Tule River Irrigation District Performance under the Letter of Intent with Friant Ranch

Dear Dick,

I have reviewed the memorandum you prepared to your associates Chad Wegley and David McGlasson dated December 14, 2007, regarding Lower Tule River Irrigation District's (District's) ability to perform under its Letter of Intent (LOI) with Friant Ranch interests.

I believe the memorandum to be a fair representation of the District's ability to perform under the subject LOI and accurately characterizes my understanding of the District's obligations and its various sources of supply.

Please feel free to call me if you have any questions.

Very truly yours,

Daniel G. Vink
General Manager

357 E. Olive Avenue
Tipton, CA 93272
(559) 686-4716
or (559) 752-5050
FAX (559) 686-0151
e-MAIL ltrid@ltrid.org

DGV/cc

APPENDIX E

San Joaquin Valley Groundwater Basin
Kings Subbasin

- Groundwater Subbasin Number: 5-22.08
- County: Fresno, Kings, and Tulare
- Surface Area: 976,000 acres (1,530 square miles)

Subbasin Boundaries and Hydrology

The San Joaquin Valley is surrounded on the west by the Coast Ranges, on the south by the San Emigdio and Tehachapi Mountains, on the east by the Sierra Nevada and on the north by the Sacramento-San Joaquin Delta and Sacramento Valley. The northern portion of the San Joaquin Valley drains toward the Delta by the San Joaquin River and its tributaries, the Fresno, Merced, Tuolumne, and Stanislaus Rivers. The southern portion of the valley is internally drained by the Kings, Kaweah, Tule, and Kern Rivers that flow into the Tulare drainage basin including the beds of the former Tulare, Buena Vista, and Kern Lakes.

The Kings Subbasin is bounded on the north by the San Joaquin River. The northwest corner of the subbasin is formed by the intersection of the east line of the Farmers Water District with the San Joaquin River. The west boundary of the Kings Subbasin is the eastern boundaries of the Delta-Mendota and Westside Subbasins. The southern boundary runs easterly along the northern boundary of the Empire West Side Irrigation District, the southern fork of the Kings River, the southern boundary of Laguna Irrigation District, the northern boundary of the Kings County Water District, the southern boundaries of Consolidated and Alta Irrigation Districts, and the western boundary of Stone Corral Irrigation District. The eastern boundary of the subbasin is the alluvium-granitic rock interface of the Sierra Nevada foothills.

The San Joaquin and Kings Rivers are the two principal rivers within or bordering the subbasin. The Fresno Slough and James Bypass are along the western edge of the subbasin and connect the Kings River with the San Joaquin River. Average annual precipitation values range from seven to 10 inches, increasing eastward.

Hydrogeologic Information

The San Joaquin Valley represents the southern portion of the Great Central Valley of California. The San Joaquin Valley is a structural trough up to 200 miles long and 70 miles wide. It is filled with up to 32,000 feet of marine and continental sediments deposited during periodic inundation by the Pacific Ocean and by erosion of the surrounding mountains, respectively. Continental deposits shed from the surrounding mountains form an alluvial wedge that thickens from the valley margins toward the axis of the structural trough. This depositional axis is below to slightly west of the series of rivers, lakes, sloughs, and marshes, which mark the current and historic axis of surface drainage in the San Joaquin Valley.

Water Bearing Formations

The Kings Subbasin groundwater aquifer system consists of unconsolidated continental deposits. These deposits are an older series of Tertiary and Quaternary age overlain by a younger series of deposits of Quaternary age. The Quaternary age deposits are divided into older alluvium, lacustrine and marsh deposits, younger alluvium, and flood-basin deposits.

The older alluvium is an important aquifer in the subbasin. It consists of intercalated lenses of clay, silt, silty and sandy clay, clayey and silty sand, sand, gravel, cobbles, and boulders. It is, generally, fine grained near the trough of the valley. Lacustrine and marsh deposits are interbedded with the older alluvium in the western portion of the subbasin.

The younger alluvium is a sedimentary deposit of fluvial arkosic beds that overlies the older alluvium and is interbedded with the flood-basin deposits. Its lithology is similar to the underlying older alluvium. Beneath river channels, the younger alluvium is highly permeable. Beneath flood plains, it may be of poor permeability. The flood-basin deposits occur along the Fresno Slough and James Bypass. They consist of sand, silt, and clay.

The continental deposits of Tertiary and Quaternary age crop out beneath the extreme southeastern part of the subbasin and yield small amounts of water to wells. The deposits of Quaternary age are exposed over most of the area and yield more than 90 percent of the water pumped from wells (Page and LeBlanc 1969).

Page and LeBlanc (1969) indicate that the specific yields in the subbasin range from a low of 0.2 percent to 36 percent. To calculate storage capacity in the 10 to 200 foot depth range, Davis and others (1959) used a range of specific yields from approximately six percent to 18 percent. Williamson and others (1989) used an average specific yield of 11.3 percent in the area of the subbasin for computer modeling purposes.

Restrictive Structures

The lacustrine and marsh deposits contain silts and clays and restrict the vertical movement of water. The Corcoran Clay (E-clay) member of the Tulare formation is the most extensive of these deposits and occupies the western one-quarter to one-third of the subbasin. Its depth ranges from about 250-550 feet (DWR 1981) although much of the information shown on the map is indicated as inferred. The A-clay and C-clay are less extensive and lie above the Corcoran Clay. These clay layers cause confined groundwater conditions beneath them.

Recharge Areas

Groundwater recharge occurs from river and stream seepage, deep percolation of irrigation water, canal seepage, and intentional recharge. The Cities of Fresno and Clovis, Fresno Irrigation District, and Fresno Metropolitan Flood Control District have a cooperative effort to utilize individually owned facilities to recharge water in the greater urban area. Fresno Irrigation District, Consolidated Irrigation District, and others have

recharge efforts in the subbasin. The Fresno-Clovis metropolitan area uses a regional sewage treatment facility that disposes of water in percolation ponds southwest of Fresno.

Groundwater Level Trends

Groundwater flow is generally to the southwest. Two notable groundwater depressions exist. One is centered in Fresno-Clovis urban area. The other is centered approximately 20 miles southwest of Fresno (DWR 2000) in the Raisin City Water District.

Most well water levels indicated a response to the 1976-77 drought. After the 1987-92 drought, wells in the northeast showed water levels from 10 to 40 feet below pre-1976-77 drought water levels. Water levels in the western subbasin experienced declines of 10 to 50 feet during the 1987-92 drought and are in various stages of recovery to mid-1980s levels. Water levels in the southeast have, generally, recovered to mid-1980s levels.

Groundwater Storage

Groundwater in Storage.
Williamson (1989) indicates that the groundwater in storage was 93,000,000 af in 1961. This estimate was to a depth of 1,000 feet or less.

Groundwater Budget (Type C)

The potential for subsurface flows south and westward exists. Depending upon groundwater conditions in the Westside Subbasin, subsurface flows may occur in that direction. The potential for groundwater flow in either direction along the southern boundary exists. Groundwater depressions on either side of the boundary and groundwater mounding from recharge along the Kings River complicate flow patterns in the area.

Groundwater Quality

Characterization. The groundwater is predominantly of bicarbonate type. The major cations are calcium, magnesium, and sodium. Sodium appears higher in the western portion of the subbasin where some chloride waters are also found (Page and LeBlanc 1969).

Page and LeBlanc (1969) noted that the TDS of groundwater in the Fresno area seldom exceeds 600 mg/L although at greater depths, 2,000 mg/L groundwater has been encountered. A typical range of groundwater quality in the basin is 200 to 700 mg/L.

DHS data indicates an average TDS of 240 mg/L from 414 samples from Title 22 water supply wells. These samples ranged from 40 to 570 mg/L.

Impairments. Dibromochloropropane (DBCP), a soil fumigant nematicide, and nitrates can be found in groundwater along the eastern side of the subbasin. Shallow brackish groundwater can be found along the western portion of the subbasin. Elevated concentrations of fluoride, boron, and sodium can be found in localized areas of the subbasin.

Water Quality in Public Supply Wells

Constituent Group[1]	Number of wells sampled[2]	Number of wells with a concentration above an MCL[3]
Inorganics – Primary	457	8
Radiological	443	24
Nitrates	463	23
Pesticides	495	105
VOCs and SVOCs	468	17
Inorganics – Secondary	457	41

[1] A description of each member in the constituent groups and a generalized discussion of the relevance of these groups are included in *California's Groundwater – Bulletin 118* by DWR (2003).
[2] Represents distinct number of wells sampled as required under DHS Title 22 program from 1994 through 2000.
[3] Each well reported with a concentration above an MCL was confirmed with a second detection above an MCL. This information is intended as an indicator of the types of activities that cause contamination in a given basin. It represents the water quality at the sample location. It does not indicate the water quality delivered to the consumer. More detailed drinking water quality information can be obtained from the local water purveyor and its annual Consumer Confidence Report.

Well Characteristics

	Well yields (gal/min)	
Municipal/Irrigation	Range: – 20-3,000 (Page And LeBlanc 1969)	Average: 500-1,500
	Total depths (ft)	
Domestic	Range: - Not determined	Average: Not determined
Municipal/Irrigation	Range: - 100-500 (Page and LeBlanc 1969 Table 14)	Average: 210

Active Monitoring Data

Agency	Parameter	Number of wells /measurement frequency
DWR and Cooperating Agencies	Groundwater levels	909 Semi-annually
Local Agencies	Miscellaneous water quality	Varies
Department of Health Services and Cooperators	Title 22 Water quality	722 Varies

Basin Management

Groundwater management:	The County of Fresno has an adopted groundwater management ordinance. The following entities have adopted AB3030 management plans: Alta Irrigation District, Consolidated Irrigation District, County of Fresno, Fresno Irrigation District, James Irrigation District, Kings River Conservation District, Kings River Water District, Liberty Canal Company, Liberty Water District, Liberty Mill Race Company, Mid Valley Water District, Orange Cove Irrigation District, Raisin City Water District, and Riverdale Irrigation District.
Water agencies	
Public	City of Fresno, City of Clovis, Alta I.D., Consolidated I.D., Fresno I.D., Hills Valley I.D., James I.D., Kings River Conservation District, Kings River Water District, Laguna I.D., Liberty Water District, Mid-Valley W.D., Orange Cove I.D., Raisin City W.D., Riverdale I.D., and Tri-Valley I.D.
Private	California Water Service Co., Bakman Water Company

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Errata

Updated groundwater management information and added hotlinks to applicable websites. (1/20/06)

Tulare Lake Hydrologic Region

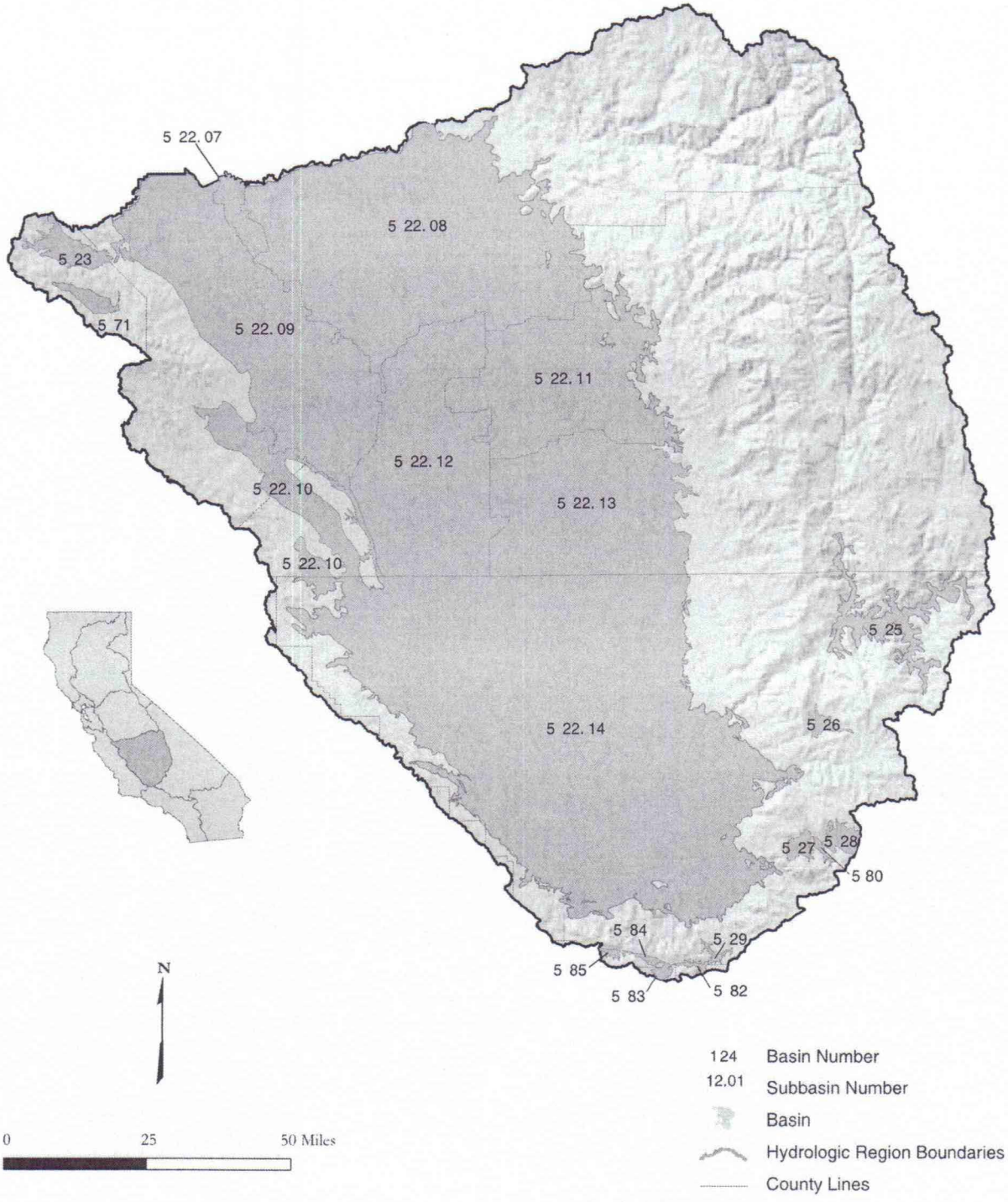

Figure 37 Tulare Lake Hydrologic Region

Basins and Subbasins of Tulare Lake Hydrologic Region

Basin/subbasin	Basin name
5-22	San Joaquin Valley
5-22.08	Kings
5-22.09	Westside
5-22.10	Pleasant Valley
5-22.11	Kaweah
5-22.12	Tulare Lake
5-22.13	Tule
5-22.14	Kern County
5-23	Panoche Valley
5-25	Kern River Valley
5-26	Walker Basin Creek Valley
5-27	Cummings Valley
5-28	Tehachapi Valley West
5-29	Castaic Lake Valley
5-71	Vallecitos Creek Valley
5-80	Brite Valley
5-82	Cuddy Canyon Valley
5-83	Cuddy Ranch Area
5-84	Cuddy Valley
5-85	Mil Potrero Area

Description of the Region

The Tulare Lake HR covers approximately 10.9 million acres (17,000 square miles) and includes all of Kings and Tulare counties and most of Fresno and Kern counties (Figure 37). The region corresponds to approximately the southern one-third of RWQCB 5. Significant geographic features include the southern half of the San Joaquin Valley, the Temblor Range to the west, the Tehachapi Mountains to the south, and the southern Sierra Nevada to the east. The region is home to more than 1.7 million people as of 1995 (DWR, 1998). Major population centers include Fresno, Bakersfield, and Visalia. The cities of Fresno and Visalia are entirely dependent on groundwater for their supply, with Fresno being the second largest city in the United States reliant solely on groundwater.

Groundwater Development

The region has 12 distinct groundwater basins and 7 subbasins of the San Joaquin Valley Groundwater Basin, which crosses north into the San Joaquin River HR. These basins underlie approximately 5.33 million acres (8,330 square miles) or 49 percent of the entire HR area.

Groundwater has historically been important to both urban and agricultural uses, accounting for 41 percent of the region's total annual supply and 35 percent of all groundwater use in the State. Groundwater use in the region represents about 10 percent of the State's overall supply for agricultural and urban uses (DWR 1998).

The aquifers are generally quite thick in the San Joaquin Valley subbasins with groundwater wells commonly exceeding 1,000 feet in depth. The maximum thickness of freshwater-bearing deposits (4,400 feet) occurs at the southern end of the San Joaquin Valley. Typical well yields in the San Joaquin Valley range from 300 gpm to 2,000 gpm with yields of 4,000 gpm possible. The smaller basins in the mountains surrounding the San Joaquin Valley have thinner aquifers and generally lower well yields averaging less than 500 gpm.

The cities of Fresno, Bakersfield, and Visalia have groundwater recharge programs to ensure that groundwater will continue to be a viable water supply in the future. Extensive groundwater recharge programs are also in place in the south valley where water districts have recharged several million acre-feet for future use and transfer through water banking programs.

The extensive use of groundwater in the San Joaquin Valley has historically caused subsidence of the land surface primarily along the west side and south end of the valley.

Groundwater Quality

In general, groundwater quality throughout the region is suitable for most urban and agricultural uses with only local impairments. The primary constituents of concern are high TDS, nitrate, arsenic, and organic compounds.

The areas of high TDS content are primarily along the west side of the San Joaquin Valley and in the trough of the valley. High TDS content of west-side water is due to recharge of stream flow originating from marine sediments in the Coast Range. High TDS content in the trough of the valley is the result of concentration of salts because of evaporation and poor drainage. In the central and west-side portions of the valley, where the Corcoran Clay confining layer exists, water quality is generally better beneath the clay than above it. Nitrates may occur naturally or as a result of disposal of human and animal waste products and fertilizer. Areas of high nitrate concentrations are known to exist near the town of Shafter and other isolated areas in the San Joaquin Valley. High levels of arsenic occur locally and appear to be associated with lakebed areas. Elevated arsenic levels have been reported in the Tulare Lake, Kern Lake and Buena Vista Lake bed areas. Organic contaminants can be broken into two categories, agricultural and industrial. Agricultural pesticides and herbicides have been detected throughout the valley, but primarily along the east side where soil permeability is higher and depth to groundwater is shallower. The most notable agricultural contaminant is DBCP, a now-banned soil fumigant and known carcinogen once used extensively on grapes. Industrial organic contaminants include TCE, DCE, and other solvents. They are found in groundwater near airports, industrial areas, and landfills.

Water Quality in Public Supply Wells

From 1994 through 2000, 1,476 public supply water wells were sampled in 14 of the 19 groundwater basins and subbasins in the Tulare Lake HR. Evaluation of analyzed samples shows that 1,049 of the wells, or 71 percent, met the state primary MCLs for drinking water. Four-hundred-twenty-seven wells, or 29 percent, exceeded one or more MCL. Figure 38 shows the percentages of each contaminant group that exceeded MCLs in the 427 wells.

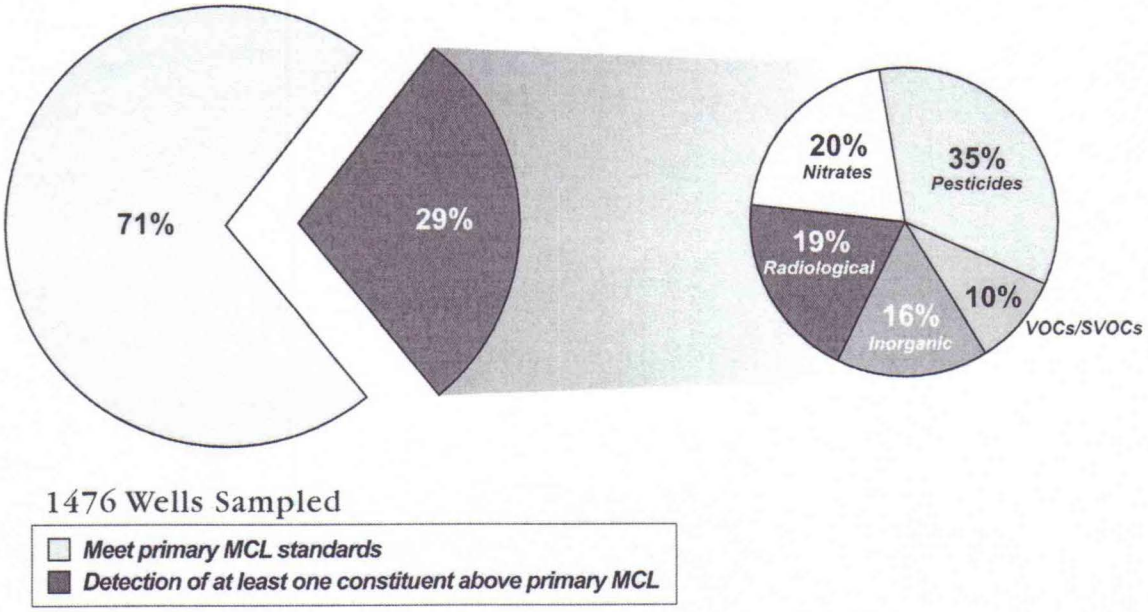

Figure 38 MCL exceedances by contaminant group in public supply wells in the Tulare Lake Hydrologic Region

Table 31 lists the three most frequently occurring contaminants in each of the six contaminant groups and shows the number of wells in the HR that exceeded the MCL for those contaminants.

Table 31 Most frequently occurring contaminants by contaminant group in the Tulare Lake Hydrologic Region

Contaminant group	Contaminant - # of wells	Contaminant - # of wells	Contaminant - # of wells
Inorganics - Primary	Fluoride – 32	Arsenic – 16	Aluminum – 13
Inorganics - Secondary	Iron – 155	Manganese – 82	TDS – 9
Radiological	Gross Alpha – 74	Uranium – 24	Radium 228 – 8
Nitrates	Nitrate(as NO_3) – 83	Nitrate + Nitrite – 14	Nitrite(as N) – 3
Pesticides	DBCP – 130	EDB – 24	Di(2-Ethylhexyl)phthalate – 7
VOCs/SVOCs	TCE – 17	PCE – 16	Benzene – 6 MTBE – 6

DBCP = Dibromochloropropane
EDB = Ethylenedibromide
TCE = Trichloroethylene
PCE = Tetrachloroehylene
VOC = Volatile organic compound
SVOC = Semivolatile organic compound

Changes from Bulletin 118-80

There are no newly defined basins since Bulletin 118-80. However, the subbasins of the San Joaquin Valley, which were delineated as part of the 118-80 update, are given their first numeric designation in this report (Table 32).

Table 32 Modifications since Bulletin 118-80 of groundwater basins and subbasins in Tulare Lake Hydrologic Region

Subbasin name	New number	Old number
Kings	5-22.08	5-22
Westside	5-22.09	5-22
Pleasant Valley	5-22.10	5-22
Kaweah	5-22.11	5-22
Tulare Lake	5-22.12	5-22
Tule	5-22.13	5-22
Kern County	5-22.14	5-22
Squaw Valley	deleted	5-24
Cedar Grove Area	deleted	5-72
Three Rivers Area	deleted	5-73
Springville Area	deleted	5-74
Templeton Mountain Area	deleted	5-75
Manache Meadow Area	deleted	5-76
Sacator Canyon Valley	deleted	5-77
Rockhouse Meadows Valley	deleted	5-78
Inns Valley	deleted	5-79
Bear Valley	deleted	5-81

Several basins have been deleted from the Bulletin 118-80 report. In Squaw Valley (5-24) all 118 wells are completed in hard rock. Cedar Grove Area (5-72) is a narrow river valley in Kings Canyon National Park with no wells. Three Rivers Area (5-73) has a thin alluvial terrace deposit but 128 of 130 wells are completed in hard rock. Springville Area (5-74) is this strip of alluvium adjacent to Tule River and all wells are completed in hard rock. Templeton Mountain Area (5-75), Manache Meadow Area (5-76), and Sacator Canyon Valley (5-77) are all at the crest of mountains with no wells. Rockhouse Meadows Valley (5-78) is in wilderness with no wells. Inns Valley (5-79) and Bear Valley (5-81) both have all wells completed in hard rock.

Table 33 Tulare Lake Hydrologic Region groundwater data

Basin/Subbasin	Basin Name	Area (acres)	Groundwater Budget Type	Well Yields (gpm)		Types of Monitoring			TDS (mg/L)	
				Maximum	Average	Levels	Quality	Title 22	Average	Range
5-22	SAN JOAQUIN VALLEY									
5-22.08	KINGS	976,000	C	3,000	500-1,500	909	-	722	200-700	40-2000
5-22.09	WESTSIDE	640,000	C	2,000	1,100	960	-	50	520	220-35,000
5-22.10	PLEASANT VALLEY	146,000	B	3,300	-	151	-	2	1,500	1000-3000
5-22.11	KAWEAH	446,000	B	2,500	1,000-2,000	568	-	270	189	35-580
5-22.12	TULARE LAKE	524,000	B	3,000	300-1,000	241	-	86	200-600	200-40,000
5-22.13	TULE	467,000	B	3,000	-	459	-	150	256	200-30,000
5-22.14	KERN COUNTY	1,950,000	A	4,000	1,200-1,500	2,258	249	476	400-450	150-5000
5-23	PANOCHE VALLEY	33,100	C	-	-	48	-	-	1,300	394-3530
5-25	KERN RIVER VALLEY	74,000	C	3,650	350	-	-	92	378	253-480
5-26	WALKER BASIN CREEK VALLEY	7,670	C	650	-	-	-	1	-	-
5-27	CUMMINGS VALLEY	10,000	A	150	56	51	-	15	344	-
5-28	TEHACHAPI VALLEY WEST	14,800	A	1,500	454	64	-	19	315	280-365
5-29	CASTAC LAKE VALLEY	3,600	C	400	375	-	-	3	583	570-605
5-71	VALLECITOS CREEK VALLEY	15,100	C	-	-	-	-	0	-	-
5-80	BRITE VALLEY	3,170	A	500	50	-	-	-	-	-
5-82	CUDDY CANYON VALLEY	3,300	C	500	400	-	-	3	693	695
5-83	CUDDY RANCH AREA	4,200	C	300	180	-	-	4	550	480-645
5-84	CUDDY VALLEY	3,500	A	160	135	3	-	3	407	325-645
5-85	MIL POTRERO AREA	2,300	C	3,200	240	7	-	7	460	372-657

gpm - gallons per minute
mg/L - milligram per liter
TDS -total dissolved solids

In some basins or subbasins, groundwater levels declined steadily over a number of years as agricultural or urban use of groundwater increased. In response, managing agencies developed surface water import projects to provide expanded water supplies to alleviate the declining groundwater levels. Increasing groundwater levels, or refilling of the aquifer, demonstrate the effectiveness of this approach in long-term water supply planning. In some areas of the State, the past overdraft is now being used to advantage. When the groundwater storage capacity that is created through historical overdraft is used in coordination with surface water supplies in a conjunctive management program, local and regional water supplies can be augmented.

In 1978 DWR was directed by the legislature to develop a definition of critical overdraft and to identify basins that were in a condition of critical overdraft (Water Code § 12924). The process that was followed and the basins that were deemed to be in a condition of critical overdraft are discussed in Box O, "Critical Conditions of Overdraft." This update to Bulletin 118 did not include similar direction from the legislature, nor funding to undertake evaluation of the State's groundwater basins to determine whether they are in a state of overdraft.

Box O Critical Conditions of Overdraft

In 1978 DWR was directed by the legislature to develop a definition of critical overdraft and to identify those basins in a critical condition of overdraft (Water Code §12924). DWR held public workshops around the state to obtain public and water managers' input on what the definition should include, and which basins were critically overdrafted. Bulletin 118-80, *Ground Water Basins in California* was published in 1980 with the results of that local input. The definition of critical overdraft is:

> *A basin is subject to critical conditions of overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.*

No time is specified in the definition. Definition of the time frame is the responsibility of the local water managers, as is the definition of significant adverse impacts, which would be related to the local agency's management objectives.

Eleven basins were identified as being in a critical condition of overdraft. They are:

- Pajaro Basin
- Ventura Central Basin
- Chowchilla Basin
- Kings Basin
- Tulare Lake Basin
- Kern County Basin
- Cuyama Valley Basin
- Eastern San Joaquin County Basin
- Madera Basin
- Kaweah Basin
- Tule Basin

The task was not identified by the Legislature, nor was the funding for this update (2003) sufficient to consult with local water managers and fully re-evaluate the conditions of the 11 critically overdrafted basins. Funding and duration were not sufficient to evaluate additional basins with respect to conditions of critical overdraft.

APPENDIX F

Friant Division - CVP Water Supplies in Acre-feet

USBR Water Year	San Joaquin River % Supply	CLASS I Actual %	CLASS II Actual %	FCWWD 18 Contract	LTRID Contract	LTRID Water to FCWWD 18
1966	71	100	23	150	61,200	2,000
1967	176	100	100	150	61,200	2,000
1968	47	92	0	138	56,304	2,000
1969	220	100	100	150	61,200	2,000
1970	79	100	29	150	61,200	2,000
1971	77	100	35	150	61,200	2,000
1972	57	100	4	150	61,200	2,000
1973	112	100	77	150	61,200	2,000
1974	119	100	82	150	61,200	2,000
1975	98	100	60	150	61,200	2,000
1976	34	75	0	113	45,900	2,000
1977	20	25	0	**38**	**15,300**	**1,500**
1978	185	100	100	150	61,200	2,000
1979	100	100	63	150	61,200	2,000
1980	162	100	100	150	61,200	2,000
1981	58	100	22	150	61,200	2,000
1982	181	100	100	150	61,200	2,000
1983	253	100	100	150	61,200	2,000
1984	111	100	50	150	61,200	2,000
1985	70	100	14	150	61,200	2,000
1986	151	100	100	150	61,200	2,000
1987	42	91	0	137	55,692	2,000
1988	47	78	0	117	47,736	2,000
1989	52	98	0	147	59,976	2,000
1990	40	68	0	102	41,616	2,000
1991	66	100	0	150	61,200	2,000
1992	46	83	0	125	50,796	2,000
1993	150	100	90	150	61,200	2,000
1994	50	80	0	120	48,960	2,000
1995	218	100	100	150	61,200	2,000
1996	124	100	58	150	61,200	2,000
1997	158	100	55	150	61,200	2,000
1998	178	100	50	150	61,200	2,000
1999	150	100	55	150	61,200	2,000
2000	103	100	60	150	61,200	2,000
2001	60	100	5	150	61,200	2,000
2002	60	100	8	150	61,200	2,000
2003	73	100	5	150	61,200	2,000
2004	60	100	8	150	61,200	2,000
2005	149	100	40	150	61,200	2,000
2006	182	100	45	150	61,200	2,000

Notes:
(1) Class I and II percent supply data provided by the USBR.
(2) LTRID to FCWWD 18 column indicates the quantity of water LTRID would have been able to deliver in each year tabulated, had the proposed agreement been in place at the time.

APPENDIX G

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
P.O. Box 92 3726 Fleming St.
FRIANT, CALIFORNIA 93626
(209) 822-2533

RESOLUTION 06 – 06

AUTHORIZING DISTRICT MANAGER'S EXECUTION OF REIMBURSEMENT AGREEMENT WITH FRIANT RANCH, A LIMITED PARTNERSHIP FOR PROCESSING AND CONSIDERATION OF PROPOSED ANNEXATION, PROPOSED WATER TRANSFER WITH LOWER TULE RIVER IRRIGATION DISTRICT, PROPOSED WASTEWATER TREATMENT PLANT, PROPOSED WATER TREATMENT PLANT EXPANSION AND RELATED INFRASTRUCTURE IMPROVEMENTS

WHEREAS, Fresno County Waterworks District #18, a county waterworks district formed pursuant to California Water Code Section 55000 et seq. (the "District"), is responsible for providing a safe and reliable water supply to the residential and commercial customers located within its service area, which generally comprises the unincorporated community of Friant, County of Fresno, State of California and is authorized to construct, maintain and operate sewage collection and treatment facilities; and

WHEREAS, Friant Ranch, a Limited Partnership ("Friant Ranch") is working with the County of Fresno to entitle and develop a master planned residential community containing an active adult retirement village consisting of approximately 2,500 units of age restricted single family housing, and a commercial and retail village ("Proposed Project") on approximately 1,129 acres in Fresno County, located immediately adjacent to the service area of the District; and

WHEREAS, Friant Ranch must locate and acquire a water supply for the Proposed Project and, to that end, Friant Ranch and the Lower Tule River Irrigation District ("LTRID") have entered into a letter of intent which proposes the long term transfer of water provided by the Friant Division of the Central Valley Project consisting of up to 2,000 acre-feet of water annually from LTRID to a specific zone of benefit within the District for the primary benefit of providing a safe and reliable water supply for the residents of Friant Ranch (the "Proposed Transfer"); and

WHEREAS, the District will process and consider the creation of a proposed zone of benefit within its service area, which zone will include only the boundaries of the Proposed Project, for purposes of receiving water pursuant to the Proposed Transfer and creating the requisite infrastructure therefore ("Proposed Zone"); and

WHEREAS, Friant Ranch has requested that the District serve the water and wastewater needs for the Proposed Project (the "Water and Wastewater Service Request") and the District intends to consider Friant Ranch's request to include the Proposed Project in its service area and to provide water and wastewater services to the Proposed Project; and

WHEREAS, in order to implement the Water and Wastewater Service Request, the District will be required to take various actions, obtain various approvals and conduct environmental review and compliance as required by law, including, but not limited to, the following: (1) obtain approvals from USBR and, as necessary, USFWS for the Proposed

Transfer and the annexation of the Friant Ranch into the District (the "Proposed Annexation"); (2) prepare a SB 610 Water Supply Assessment and SB 221 Verification of Water Supply for the Proposed Project; (3) comply with CEQA for District approval of the Proposed Transfer and Proposed Annexation; (4) cooperate with Friant Ranch in designing and preparing plans for the proposed wastewater treatment plant (the "Proposed WWTP"); (5) process Regional Board and DHS approvals for the Proposed WWTP; (6) process District approval and coordinate environmental review for the Proposed WWTP; (7) ensure appropriate NEPA and NHPA compliance for the USBR approval of the Proposed Transfer, the Proposed Annexation and the WTP Expansion; (8) cooperate with Friant Ranch in designing and preparing plans for the proposed water treatment plant expansion ("WTP Expansion") and any necessary modifications to the water supply facilities located at Friant Dam; (9) process DHS approval of the Proposed WTP Expansion; (10) process and coordinate environmental review for the Proposed WTP Expansion; (11) obtain LAFCO approval for the annexation of the Proposed Project lands into the District; (12) process and consider the creation of the Proposed Zone within the District, comprised only of the Proposed Project; (13) obtain and prepare any other approvals(s) studies, reports, plans, and/or designs that the Parties hereafter mutually consent to undertake in connection with the Proposed Annexation, Proposed Zone, Proposed Transfer, Proposed WWTP, Proposed WTP Expansion, SB 610 Water Supply Assessment, and SB 221 Verification of Water Supply; and

WHEREAS, in order to consider the Proposed Transfer, the United States Bureau of Reclamation ("USBR") has requested that the District execute and deliver a Letter of Agreement with the USBR, a copy of which is attached hereto as Exhibit A, whereby the

District agrees to pay all costs associated with the consideration of the Propose Transfer by USBR; and

WHEREAS, in order to consider and process the Water and Wastewater Service Request, Friant Ranch has presented to the District for its review and approval a form of Reimbursement Agreement, a copy of which is attached hereto as Exhibit B, which sets forth the various actions and approvals which will be required from the District in order for the District to provide water and wastewater services to the Proposed Project and which provides that Friant Ranch will reimburse the District for all of its costs and expenses incurred in connection with Water and Wastewater Service Request; and

WHEREAS, in order to fully implement the proposed relationship between the District and Friant Ranch as proposed in the Water and Wastewater Service Request, the District and Friant Ranch will need to negotiate one or more agreements pertaining to the Proposed Transfer, the Proposed Zone, the Proposed Project, the Proposed Annexation and the other specific entitlements described above and listed in the Reimbursement Agreement ("Water and Wastewater Service Agreements"); and

WHEREAS, this Board of Directors believes it is in the best interest of the District: (i) that the District commence the process to determine whether it may serve the water and wastewater needs of Friant Ranch; (ii) that the District execute and deliver the Letter of Agreement with Friant Ranch; (iii) that the District execute and deliver the Letter of Agreement with USBR; (iv) that the District perform all actions as set forth in and contemplated by the Reimbursement Agreement; and (v) that the District negotiate with

Friant Ranch concerning the terms and conditions for the Water and Wastewater Service Agreements.

NOW, THEREFORE BE IT RESOLVED:

A. The Board of Directors hereby approves the commencement of the process to determine whether it may serve the water and wastewater needs of Friant Ranch;

B. The board of Directors hereby approves the terms and conditions of the Reimbursement Agreement and the Letter of Agreement provided that Friant Ranch shall reimburse the District for all of its costs and expenses incurred in connection with Water and Wastewater Service Request.

C. The Board of Directors hereby affirms and states that it does not by this Resolution grant any entitlement, approve the annexation of new lands, or authorize execution of any water transfer or service agreement, but rather the District hereby authorizes the consideration of the Water and Wastewater Service Request and the reimbursement of expenses incurred by the District in considering the Water and Wastewater Service Request and the performance of environmental review as necessary to inform any such decisions in the future;

D. The board of Directors hereby authorizes and directs the District's General Manager to: (i) execute, deliver and perform the Reimbursement Agreement with Friant Ranch; (ii) execute, deliver and perform the Letter of Agreement with USBR;

(iii) perform all actions as set forth in and contemplated by the Reimbursement Agreement with Friant Ranch; (iv) negotiate with Friant Ranch concerning the terms and conditions for the Water and Wastewater Service Agreements; and (v) do any other acts on behalf of the District that are necessary or convenient to carry out the purpose of this Resolution.

THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Fresno County Waterworks District #18 on the 24th day of October 2006, by the following vote:

AYES: 4

NOES: 0

ABSENT: 1

ABSTAIN: 0

Mark A. Sharer, President
Board of Directors
Fresno County Waterworks District #18

ATTESTED:

Darlene Storm, Clerk to the
Board of Directors

Attached Exhibits

"A" Letter of Agreement of USBR

"B" Reimbursement Agreement with Friant Ranch

APPENDIX H

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
P.O. Box 92 3726 Fleming St.
FRIANT, CALIFORNIA 93626
(209) 822-2533

REIMBURSEMENT AGREEMENT

This reimbursement Agreement ("Agreement") is made and entered into this 24 day of October, 2006, by and between Fresno County Waterworks District #18, a county waterworks district formed pursuant to California Water Code Section 55000 et seq. ("WW#18") and Friant Ranch, a Limited Partnership, a California Limited Partnership ("Friant Ranch") collectively ("the Parties").

RECITALS

WHEREAS, WWD #18 has an entitlement to 150 acre-feet of Class 1 Water from the United States Bureau of Reclamation ("USBR") pursuant to the "Long-Term Renewal Contract between the United States and Fresno County Waterworks District #18 Providing for Project Water Service From Friant Division" dated January 20, 2001, M&I Contract No. 13-06-200-5904-LTR1, as amended and renewed from time to time for delivery of water from the Friant division of the Central Valley Project ("Bureau Contract"); and

WHEREAS, WWD #18 is responsible for providing a safe and reliable water supply to the residential and commercial customers located within its service area,

which generally comprises the unincorporated community of Friant, Count of Fresno, State of California; and

WHEREAS, Friant Ranch is working with the County of Fresno to entitle and develop a master planned residential community containing an active adult retirement village consisting of approximately 2,500 units of age restricted single family housing, and a commercial retail village ("Proposed Project") on approximately 1,129 acres in Fresno County, located immediately adjacent to the service area of WWD #18; and

WHEREAS, Friant Ranch desires to locate and acquire a water supply for the Proposed Project, and to that end, Friant Ranch and LTRID have entered into a letter of intent which provides the preliminary terms for the long term transfer of water provided by the Friant Division of the Central Valley Project consisting of up to 2,000 acre-feet of water annually from LTRID to a specified zone of benefit within WWD #18 for the primary benefit of the Proposed Project ("the Proposed Transfer"). A copy of the letter of intent between Friant Ranch and LTRID is attached hereto as Exhibit A and incorporated by reference herein ("Letter of Intent"); and

WHEREAS, WWD #18 seeks to provide a safe and reliable water supply for the Proposed Project and accordingly has agreed to pursue the appropriate approvals for the Proposed Transfer; and

WHEREAS, to implement the Proposed Transfer and facilitate water service to the Proposed Project, WWD #18 has agreed to pursue the annexation of the Proposed

Project lands into its service area ("Proposed Annexation"), which requires approvals from the Fresno County Local Agency Formation Commission ("LAFCO") and the USBR; and

WHEREAS, WWD #18 will process and consider the creation of a proposed zone of benefit within the WWD #18 service area, comprised only of the Proposed Project, for purposes of receiving water pursuant to the Proposed Transfer and creating the requisite infrastructure therefore ("Proposed Zone"); and

WHEREAS, WWD #18's approval of the Proposed Transfer, Proposed Zone, and Proposed Annexation will require environmental analysis in accordance with the California Environmental Quality Act, Pub. Resources Code §§ 21000 et seq., ("CEQA"); and

WHEREAS, as the potential water purveyor for the Proposed Project, WWD #18 must coordinate; (i) the preparation of a water supply assessment for the Proposed Project pursuant to Water Code, §§ 10910-10915 ("SB 610 Water Supply Assessment") and (ii) the verification of the water supply under Government Code, § 66473.8(a) ("SB 221 Verification of Water Supply"); and

WHEREAS, Friant Ranch desires to assist WWD #18 in its efforts to obtain approvals from USBR and, as necessary, the United States Fish and Wildlife Service ("USFWS") for the Proposed Transfer and Proposed Annexation; and

WHEREAS, the USBR approval of the Proposed Transfer and Proposed Annexation will require the completion of the appropriate National Environmental Policy Act, 42 U.S.C. §§ 4321-4347, ("NEPA") and the National Historic Preservation Act, 16 U.S.C. § 470 ("NHPA") analysis; and

WHEREAS, WWD #18 has executed a Letter of Agreement with USBR for reimbursement of costs associated with the administrative processing and environmental review for the Proposed Annexation and the Proposed Transfer ("Letter of Agreement"), which is attached hereto as Exhibit B and hereby incorporated by reference; and

WHEREAS, the Parties desire to design and construct a wastewater treatment plant for WWD #18 to accommodate the Proposed Project and improve the wastewater capacity for the unincorporated community of Friant ("Proposed WWTP"); and

WHEREAS, the Proposed WWTP will require certain approvals from WWD #18, the Central Valley Regional Water Quality Control Board ("Regional Board") and Department of Health Services ("DHS") which approvals will require environmental review under CEQA; and

WHEREAS, the Parties desire to expand WWD #18's existing water treatment plant and water supply facilities located at Friant Dam to accommodate the Proposed Project and improve the safety and reliability of the water supply for the unincorporated community of Friant ("Proposed WTP Expansion"); and

WHEREAS, the Proposed WTP Expansion will require certain approvals from WWD #18 and DHS and USBR, which approvals will require environmental review under CEQA; and

WHEREAS, WWD #18, Friant Ranch and LTRID are negotiating the terms and conditions of one or more agreements pertaining to the Proposed Transfer, the Proposed Project, the Proposed Annexation and the other specific entitlements described above and listed in Section 2 of this Agreement ("Water and Wastewater Service Agreements"); and

WHEREAS, the Parties recognize that the Proposed Transfer, Proposed Annexation, Proposed WWTP, Proposed WTP Expansion, Proposed Zone, and the SB 610 Water Supply Assessment will be included within the Environmental Impact Report ("EIR") currently under preparation by the County of Fresno in its capacity as the CEQA lead agency for the Proposed Project, and WWD #18 will review and approve the pertinent analysis of the EIR as a CEQA responsible agency; and

WHEREAS, Friant Ranch desires to reimburse WWD #18 for the amounts paid by WWD #18 to USBR under the Letter of Agreement and for expenses incurred by WWD #18 in pursuing the various approvals related to the Proposed Project as set forth in this Agreement.

NOW THEREFORE, in consideration of the above recitals and the mutual covenants and conditions contained herein, WWD #18 and Friant Ranch agree as follows:

AGREEMENT

1. Term. Upon execution, this Agreement shall remain in effect until either party elects to terminate this Agreement pursuant to the terms and conditions herein.

2. Services. WWD #18 through its staff, general counsel and such other consultants as may be reasonably necessary, will in good faith use its best efforts to assist Friant Ranch in connection with efforts to: (1) obtain approvals from USBR and, as necessary, USFWS for the Proposed Transfer and Proposed Annexation; (2) prepare a SB 610 Water Supply Assessment and SB 221 Verification of Water Supply for the Proposed Project; (3) comply with CEQA for WWD #!8 approval of the Proposed Transfer and Proposed Annexation; (4) cooperate with Friant Ranch in designing and preparing plans for the Proposed WWTP; (5) process Regional Board and DHS approvals for the Proposed WWTP: (6) process WWD #18 approval and coordinate environmental review for the Proposed WWTP; (7) ensure appropriate NEPA and NHPA compliance for the USBR approval of the Proposed Transfer, the Proposed Annexation and the Proposed WTP Expansion; (8) cooperate with Friant Ranch in designing and preparing plans for WTP Expansion; (9) process DHS approval of the Proposed WTP Expansion; (10) process and coordinate environmental review for the Proposed WTP Expansion; (11) obtain LAFCO approval for the annexation of the Proposed Project lands into WWD #18; (12) process and consider the creation of the Proposed Zone; and (13) obtain or prepare any other approval(s), studies, reports, plans, and/or designs that the Parties hereafter mutually consent to undertake in connection with the Proposed Annexation, Proposed Transfer, Proposed Zone, Proposed WWTP, Proposed WTP Expansion, SB 610 Water Supply Assessment and SB 221 Verification of Water Supply. The

assistance of WWD #18's staff and general counsel in these efforts will be limited to activities specifically requested by Friant Ranch or as reasonably deemed necessary by WWD #18 and as time may reasonably allow in light of other time commitments and obligations. WWD #18 may hire consultant(s) upon receipt of Friant Ranch's written approval selected consultant(s) and scope of work, as necessary to undertake any of the above listed tasks so long as Friant Ranch approves of the consultant(s) selected by WWD #18.

3. Compensation and Reimbursement. Friant Ranch shall reimburse WWD #18 for all of WWD #18's out-of-pocket expenditures incurred as a result of WWD #18's performance of the services described in Section 2 of this Agreement. These out-of-pocket expenditures shall include but are not limited to: (1) WWD #18' payments to its general counsel for legal services and fees incurred as a result of WWD #18's performance of services requested by Friant Ranch under Section 2 of this Agreement; (2) WWD #18 staff time expended as a result of WWD #18's performance of services requested by Friant Ranch under Section 2 of this Agreement, the reimbursement for which time shall be at the rate of $15.00 per hour (clerical) and $50.00 per hour (Manager) of work performed under this Agreement; (3) all expenses incurred as a result of the Letter of Agreement, including but not limited to the $3,000 upfront payment, processing of USBR's NHPA and NEPA compliance and all future payments made to USBR under the Letter of Agreement; (4) expenses incurred by WWD #18 for the preparation of a SB 610 Water Supply Assessment and SB 221 Verification of Water Supply for the Proposed Project; (5) expenses incurred by WWD #18 for the Regional Board and DHS approval processing and environmental review of the Proposed WWTP; (6) expenses incurred by WWD #18 for the processing of DHS

approval and environmental review for the WTP Expansion; and (7) expenses incurred for outside consultants pursuant to contracts approved by Friant Ranch. Costs and expenses of WWD #18 reflected to in this paragraph shall be paid as they are incurred or, upon presentation of an estimate of expected costs or expenses.

4. Termination. Either party shall have the right to terminate this Agreement upon written notice to the other party. In the event that WWD #18 or Friant Ranch give written notice of termination or USBR denies the approval or otherwise refuses to process the Proposed Transfer as provided for in the Letter of Agreement; (1) WWD #18 shall immediately cease rendering services upon receipt of such written notice; (2) WWD #18 shall immediately provide to Friant Ranch all work product related to this Agreement without further cost to Friant Ranch, including but not limited to all originals and drafts of any and all reports, plans, specifications, assessments, studies, applications, correspondence, notes, designs, resolutions, notices, approvals, documents prepared for CEQA compliance, SB 610 Water Supply Assessments and SB 221 Verification of Water Supply; and (3) Friant Ranch shall be required to reimburse WWD #18 for all time spent and out-of-pocket expenses incurred up to the date of termination. Nothing herein constitutes a waiver by the Parties from recovery of any and all damages authorized by law.

5. Hold Harmless and Indemnification. Each party agrees to protect, defend, indemnify and hold harmless the other Party, its directors, officers, agents, servants, employees and consultants from and against any and all losses, claims liens, demands and causes of action of every kind and character as may be brought by any non-party to this Agreement, without limitation by enumeration, occurring or in any way incident to,

connected with, or arising directly or indirectly out of the performance or non-performance by the indemnifying party hereunder.

6. Assignment. This Agreement may be assigned by Friant Ranch upon written consent of WWD #18. WWD #18 shall not unreasonably withhold or delay consent to assignment of this Agreement. WWD #18 shall not be entitled to assign its obligations under this Agreement.

7. Partial Invalidity. The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision of this Agreement.

8. Waiver. Failure to insist upon strict compliance with any provision of this Agreement shall not be deemed to be a waiver of such provision or any other provision; waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other provision or of any subsequent breach of such provision.

9. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of any successors-in-interest or permitted assigns of the Parties.

10. Entire Agreement. This Agreement between WWD #18 and Friant Ranch constitutes the entire agreement between WWD #18 and Friant Ranch as it relates to services performed hereunder. Except for the Letter of Agreement, Letter of Intent and Principles of Agreement incorporated herein by reference, this Agreement supersedes

all prior and contemporaneous agreements, understandings and representations between the parties, whether written or oral. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by WWD #18 and Friant Ranch.

11. Applicable Law. This Agreement shall be governed by the laws of the State of California except to the extent that federal law governs.

12. Notices.

(a) All notices provided for in this Agreement shall be sent or delivered by registered or certified mail to the parties, return receipt requested, with a copy forwarded to each of their respective attorneys and designated representatives by the same method, at the addresses set forth below or at such other addresses as the parties shall designate to each other in writing:

WWD #18

Waterworks District #18
c/o Dan Pearce
P.O. Box 92
Friant, CA 93626-0092
Telephone: (559) 822-3566
Facsimile: (559) 822-3577

With copy to:

Neal E. Costanzo
Hargrove & Costanzo
575 E. Locust Ave., Suite 115
Fresno, CA 93720
Telephone: (559) 261-0163
Facsimile: (559) 2361-0706

Friant Ranch

Friant Ranch, a Limited Partnership

c/o Bryan N. Wagner
1322 E. Shaw Ave., Suite 340
Fresno, CA 93710
Telephone: (559) 224-0871
Facsimile: (559) 224-0885

With copy to:

Martin & Associates
c/o Dennis Bacopulos
201 Shipyard Way, Cabin 1
Newport Beach, CA 92663
Telephone: (949) 673-4474
Facsimile: (949) 760-9728

Jacqueline L. McDonald
Stomach, Simmons & Dunn
813 Sixth Street, Third Floor
Sacramento, CA 95814
Telephone: (916) 446-7979
Facsimile: (916) 446-8199

(b) Any notice or demand so given, delivered or made by United States mail shall be deemed so given, delivered or made on the second business day after the same is deposited in the United States mail registered or certified matter, addressed as above provided, with postage thereon prepaid. Any such notice, demand or document not given, delivered or made by registered or certified mail as aforesaid shall be deemed to be given, delivered or made upon receipt of the same by the party to whom the same is to be given, delivered or made.

(c) WWD #18 and Friant Ranch may from time to time notify the other of changes with respect to where and to whom notices should be sent by sending notification of such changes pursuant to this section.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

FRESNO COUNTY WATERWORKS DISTRICT #18

By: Mark A. Sharer

Mark A. Sharer, President

FRIANT RANCH, A LIMITED PARTNERSHIP

By: SWD Investments – Friant Ranch, Inc.,
General Partner

By: Bryan N. Wagner

Bryan N. Wagner, Secretary

APPENDIX I

Revision Date: 01/24/2008
by: gmh

WATER INFRASTRUCTURE COST ESTIMATE

PHASE 1

Phase 1 (1800 EDU System Capacity)				
Acquire water Rights	1	LS	$3,000,000.00	$3,000,000.00
Treatment Additions- WWD 18 WTP:				
Added Capacity (Building & initial filters)	350,000	GPD	$5.25	$1,837,500.00
Added Storage at WTP	1,000,000	GAL	$1.00	$1,000,000.00
New 20" Main- WTP to FR	6,000	LF	$80.00	$480,000.00
Irrigation (Use Raw/ Reclaimed water)	25,000	LF	$20.00	$500,000.00
			PHASE 1 TOTAL:	**$6,817,500.00**

PHASE 2

Phase 2 (3720 EDU System Capacity)				
Treatment Additions - Filters for Capacity	550,000	GPD	$0.75	$412,500.00
Storage at FR (For later phases)	1,000,000	GAL	$1.10	$1,100,000.00
Pumping at FR (For later phases)	1	LS	$250,000.00	$250,000.00
Irrigation (Use Raw/ Reclaimed water)	25,000	LF	$20.00	$500,000.00
			PHASE 2 TOTAL:	**$2,262,500.00**
			GRAND TOTAL:	**$9,080,000.00**

APPENDIX J

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
P.O. Box 92 3726 Fleming St.
FRIANT, CALIFORNIA 93626
(209) 822-2533

The following sections are the District's Conservation Rules adopted by the Board of Directors June 26, 2007 for less than normal water allotment for the District.

Due to an allocation of only 60% of water allocation for the District this year by the U.S. Bureau of Reclamation the following rules will apply from this date forward:

1. Water utilized for the irrigation of lawns or other outdoor planting shall be applied so there is no excess runoff. All outdoor sprinklers and hoses must be equipped with automatic shutoff devices and drip irrigation is recommended.

2. From this day forward, until notified otherwise, watering shall only be done between the hours of 10:00 p.m. and 4:00 a.m.

3. Watering during these periods shall be done according to address. Even numbered addresses waters on Monday, Wednesday and Saturday. Odd numbered addresses water on Tuesday, Thursday and Sunday.

4. It is recommended that all new construction or expansion of landscaping be done using drought tolerant plants.

5. There shall be no exchanging of water in swimming pools. All fountains or ponds shall use internally recirculated water.

6. Water saving devices shall be incorporated into all interior plumbing fixtures and other installations of any new construction within the District.

7. No washing of autos, boats or other vehicles will be permitted without the use of automatic shutoff devices on hoses.

8. Construction water used for consolidation of backfill, dust control and other non-essential uses shall be taken from other sources first, utilizing backwash water if possible. Water used for such purposes will be charged at three times the normal rate for overage.

9. Penalties for violation of these regulations are:

1st offense……..Verbal Warning
2nd offense……..Written Warning
3rd offense……Fine of $50.00
4th offense……Fine of $100.00
5th offense and all others….$250.00 per violation.

It is the intent of the District to urge conservation of all water but to especially urge restraint in non-essential uses in light of the current 60% allocation.

THANK YOU FOR YOUR HELP IN CONSERVING!

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
P.O. Box 92 3726 Fleming St.
FRIANT, CALIFORNIA 93626
(209) 822-2533

RESOLUTION 07 – 05

FRESNO COUNTY WATERWORKS # 18
ADOPTING CONSERVATION RULES FOR DISTRICT

WHEREAS, the Board of Directors of Fresno County Waterworks District #18 adopted Conservation Rules for the District on June 21, 1996; and

WHEREAS, Fresno County Waterworks District #18 has been allocated 60% of water allotment from the United States Bureau of Reclamation for the fiscal year 2007-08; and

WHEREAS, the Board of Directors has determined that it is necessary to conserve water within the District; and

WHEREAS, the Board of Directors has determined that the rules adopted previously concerning conserving water has been approved by the United States Bureau of Reclamation, the Board has determined that with placement of added conservation measures it should adopt the updated rules.

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors on this date has determined that it is in the best interest of the community of Friant to adopt the attached rules of water conservation and hereby adopts the Conservation Rules for the District and implements the same.

The foregoing Resolution was passed and adopted at a regular meeting of the Board of Directors of the Fresno County Waterworks District #18 on the 26th day of June, 2007, by the following vote:

Ayes:	3	Board Members: Carlton, Tipton and Hiner
Noes:	0	Board Members:
Absent:	2	Board Members: Sharer and Stotts

Mark A. Sharer, President

ATTESTED:

Darlene Storm, Clerk to the
Board of Directors

APPENDIX K

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
P.O. Box 92 3726 Fleming St.
FRIANT, CALIFORNIA 93626
(209) 822-2533

RESOLUTION 08 – 02

ADOPTING WATER SUPPLY ASSESSMENT – EVALUATING THE ABILITY OF FRESNO COUNTY WATERWORKS DISTRICT #18 TO MEET WATER SUPPLY DEMANDS ASSOCIATED WITH THE PROPOSED FRIANT RANCH DEVELOPMENT, IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 10910, ET SEQ, OF THE CALIFORNIA WATER CODE.

WHEREAS, Fresno County Waterworks District #18, a county waterworks district formed pursuant to California Water Code Section 55000 et seq. (the "District"), is responsible for providing a safe and reliable water supply to the residential and commercial customers located within its service area, which generally comprises the unincorporated community of Friant, County of Fresno, State of California and is authorized to construct, maintain and operate sewage collection and treatment facilities; and

WHEREAS, the Water Supply Assessment evaluates the ability of Fresno County Waterworks District #18 to meet water supply demands associated with the construction of a mixed use development through the proposed Friant Ranch Specific Plan in accordance with the requirements of Section 10910, et seq, of the California Water Code; and

WHEREAS, Friant Ranch, a Limited Partnership ("Friant Ranch") is working with the County of Fresno to entitle and develop a master planned residential community containing approximately 2,996 residential units, which include 2,683 units of age-restricted (55 years of age and older) single family housing, 83 age-restricted (55 years of age and older) multi-family units and 180 non-age restricted multi-family units. The Project also proposes a village center on approximately 21.3 acres, comprising 250,000 square feet of retail and commercial uses, along with 50 non-age restricted residential units in Fresno County, located immediately adjacent to the service area of the District; and

WHEREAS, Fresno County Waterworks District #18 is required by SB 610 to prepare and adopt a Water Supply Assessment prior to consideration of annexation of Friant Ranch; and

WHEREAS, Friant Ranch must locate and acquire a water supply for the Proposed Project and, to that end, Friant Ranch and the Lower Tule River Irrigation District ("LTRID") have entered into a letter of intent which proposes the long term transfer of water provided by the Friant Division of the Central Valley Project consisting of up to 2,000 acre-feet of water annually from LTRID to a specific zone of benefit within the Waterworks District #18 for the primary benefit of providing a safe and reliable water supply for the residents of Friant Ranch (the "Proposed Transfer"); and

WHEREAS, the District will process and consider the creation of a proposed zone of benefit within its service area, which zone will include only the boundaries of the Proposed Project, for purposes of receiving water pursuant to the Proposed Transfer and creating the requisite infrastructure therefore ("Proposed Zone"); and

WHEREAS, Friant Ranch has requested that the District serve the water and wastewater needs for the Proposed Project and the District intends to consider Friant Ranch's request to include the Proposed Project in its service area and to provide water and wastewater services to the Proposed Project; and

WHEREAS, the District as justified through the Water Supply Assessment, has identified sufficient future water supplies currently available to satisfy the projected 20-year demands for the Friant Ranch Project, in addition to the District's existing and planned future uses, during normal, critical dry and multiple-dry years; and

WHEREAS, the Project water supply includes the use of reclaimed water for outdoor landscaping uses, subject to review by the Central Valley Regional Water Quality Control Board; and

WHEREAS, the District does not currently have the water supply infrastructure or water rights to serve the Friant Ranch Project or other planned future growth within the District, the Water Supply Assessment explains the requisite steps the District is taking to acquire and develop the identified water supplies to serve the Project; and

WHEREAS, the Water Supply Assessment also explains potential uncertainties related to the water supply and the District's plan for addressing such uncertainties, which relate to the identified Project water supply; and

WHEREAS, the District and Lower Tule River Irrigation District contract with the United States Bureau of Reclamation for class 1 water supply and those contracts are set to expire in 2026. However, the contracts provide for a 25-year renewal so long as certain conditions are met. The USBR will consider the contractors' written requests for a renewal, subject to Endangered Species Act, 16 U.S.C. §1536 et seq (ESA) and National Environmental Policy Act, 42 U.S.C. § 4321 et seq (NEPA) compliance.

NOW, THEREFORE BE IT RESOLVED THAT:

The District hereby approves and adopts the Water Supply Assessment for Fresno County Waterworks District #18 and the Board of Directors hereby affirms and states that it does not by this Resolution grant any entitlement, approve the annexation of new lands, or authorize execution of any water transfer or service agreement.

THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Fresno County Waterworks District #18 on the 29th day of January 2008, by the following vote:

AYES: 5 BOARD MEMBERS: Sharer, Carlton, Tipton, Hiner & Stotts

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

Mark A. Sharer

Mark A. Sharer, President
Board of Directors
Fresno County Waterworks District #18

ATTESTED:

Darlene Storm

Darlene Storm, Clerk to the Board of Directors

Attachment 2

FIRST AMENDMENT TO OPTION AND

LONG TERM WATER TRANSFER AGREEMENT

THIS FIRST AMENDMENT TO OPTION AND LONG TERM WATER TRANSFER AGREEMENT is made this 21st day of September, 2016, by and between the Lower Tule River Irrigation District, a California irrigation district organized under Division 11 of the California Water Code ("LTRID"), and Fresno County Waterworks District 18, a county waterworks district formed pursuant to the County Waterworks District Law contained in California Water Code Section 55000 et seq. ("WWD 18") (collectively, the "Parties") with reference to the facts set forth below. Capitalized terms used herein shall have the meaning given them in the Transfer Agreement unless otherwise stated in this Amendment.

RECITALS:

WHEREAS, the Parties hereto entered into that certain Option and Long Term Water Transfer Agreement dated April 13, 2011 (the "Transfer Agreement") which provides for the long-term purchase of the right to receive up to 2,000 acre-feet of LTRID Class 1 Water Entitlement (referred to herein as the "Water Supply") from LTRID to WWD 18 in order to provide a safe and reliable long term water supply for the residents within the Friant Ranch Specific Plan development and within the existing Friant Community (the "WWD 18 Service Area");

WHEREAS, the Transfer Agreement states that LTRID has an entitlement of 61,200 acre feet of Class 1 Water Entitlement from the United States Bureau of Reclamation (the "USBR") for delivery of water from the Friant Division of the Central Valley Project and that WWD 18 shall have the right to the Water Supply from LTRID for so long as the LTRID has the right to receive Friant Division CVP water;

WHEREAS, by Letter of Agreement dated May 23, 2014, the USBR consented to the long term water transfer between LTRID and WWD 18 as set forth in the Transfer Agreement;

WHEREAS, as a result of exceptional drought conditions in 2014, the USBR determined, for the first time in the history of the Central Valley Project and again in 2015, that the Friant Division of the Central Valley Project would receive a zero percent allocation of water for the holders of Class 1 Water Entitlement; and

WHEREAS, in order to insure a safe and reliable long term water supply for the residents within the WWD 18 Service Area, the Parties desire to amend the Transfer Agreement on the terms and conditions provided herein to provide for a carryover supply of LTRID water available to satisfy the Water Supply rights under the Transfer Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals which are hereby incorporated in this Agreement and in consideration of the mutual promises, obligations and covenants contained herein, the Parties hereby agree as follows:

1. **Back-Up Water Supply.**

a. On or before the end of each Water Year, LTRID shall request that the USBR reschedule to the subsequent Water Year an amount of LTRID Class 1 Water Entitlement for that year that is equal to two times the amount of Water Supply that as of that Water Year has been purchased under the Transfer Agreement ("Carryover Water"). The Carryover Water shall be held in Millerton Lake as a supply to meet any of LTRID's water supply needs for the subsequent water year, including, if necessary WWD 18 demands under the Transfer Agreement.

b. WWD 18 shall reimburse LTRID the full amount of any rates or charges charged by USBR for rescheduling LTRID water as required by Section 1.a. above. Such reimbursement requirement shall be considered an additional component of the Cost of Water as

defined in Section 5.2 of the Transfer Agreement. To the extent the Carryover Water is used by LTRID or used to meet other obligations of LTRID, WWD 18 will be reimbursed for the portion of the USBR rescheduling costs associated with such water.

c. In the event that LTRID is unable to reschedule and deliver Carryover Water pursuant to section a. above, LTRID will take such further action as is necessary to deliver to WWD 18 the Water Supply that has been purchased by WWD 18. LTRID hereby represents and warrants that it owns or controls various hydrologic resources which can be used to allow it to deliver the Water Supply provided for in the Transfer Agreement in the event of a critical dry year shortfall. Subject to its final determination, LTRID will use its best efforts to cause the Water Supply to be delivered to WWD 18 including, but not limited to, pumping the water generated by its pre-1914 water rights on the Tule River into the Friant Kern Canal so as to meet a portion of its commitments downstream thereby making available Class 1 Entitlement in Millerton Lake which can be delivered to WWD 18.

2. **Priority Access to Carryover Water.** LTRID hereby represents and warrants that the Carryover Water held by LTRID pursuant to Section 1.a. above shall be available to WWD 18 on a first priority basis under the Transfer Agreement. Pursuant to such priority, LTRID may use Carryover Water to satisfy its own water supply demands or to satisfy other contractual obligations, but only after Carryover Water is first used to satisfy obligations under the Transfer Agreement, if necessary.

3. **Reaffirmation.** Except as amended hereby, the parties hereby reaffirm each and every term and provision of the Transfer Agreement.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to Option and Long Term Water Transfer Agreement dated April 13, 2011 on the date set forth above.

LOWER TULE RIVER IRRIGATION DISTRICT
a California irrigation district organized under Division 11 of the California Water Code

By: _____
Chairman of the Board

ATTESTED BY:

_____
Secretary of the Board

APPROVED AS TO FORM:

By: _____
Counsel for Lower Tule River Ranch

FRESNO COUNTY WATER WORKS DISTRICT 18, a county waterworks district formed pursuant to the County Waterworks District Law in California Water Code Section 55000 et seq.

By: _____
Chairman of the Board

ATTESTED BY:

_____
Secretary of the Board

APPROVED AS TO FORM:

By: _____
Counsel for the Fresno County Waterworks District 18