THE MONTEREY AGREEMENT – STATEMENT OF PRINCIPLES

by the

STATE WATER CONTRACTORS

and the

STATE OF CALIFORNIA, DEPARTMENT OF WATER RESOURCES

FOR POTENTIAL AMENDMENTS TO THE STATE WATER SUPPLY CONTRACTS

INTRODUCTION

State Water Project ("SWP") shortages in recent years have prompted both Agricultural Contractors ("Ag Contractors"), and Municipal and Industrial Contractors ("Urban Contractors"), (collectively, the "Contractors") to consider amendments to their water supply contracts with the State of California, Department of Water Resources ("DWR"). Some of the Contractors have considered litigation to resolve differences over water allocations. To avoid litigation, and to make the SWP operate more effectively for all Contractors, the parties, including DWR, have engaged in mediated negotiations toward a settlement of their disputes.

This document contains an agreed Statement of Principles that is the foundation for an agreement among the Contractors and DWR that will settle their disputes over water allocations and certain operational aspects of the SWP. The undersigned negotiators pledge their good faith efforts to work diligently toward a final written agreement. The Contractor negotiators further pledge to obtain ratification of these Principles by their respective Contractor groups and the Boards of Directors that they individually represent.
STATEMENT OF PRINCIPLES

A written agreement with contract amendments and other implementing documents will contain provisions in accord with the following principles:

1. **Water allocations.** The SWP contracts shall be amended to provide that all future allocations of project water from existing project facilities are to be based on entitlements.

2. **Water allocations when requests exceed available supply.**
   
a. The water contracts will be amended to provide that each Contractor will be allocated the portion of total available project water supply equivalent to the ratio of its annual entitlement irrespective of type of use, as identified in its Table A, to the total annual entitlements of all Contractors as identified in Table A. If a Contractor declines allocated water, such water will be allocated in the same manner among other Contractors. The Contracts will further provide that the only permitted exceptions to this requirement are those necessary to comply with (i) a valid order of a court or the state water resources control board, or (ii) a valid declaration of emergency by the Governor pursuant to the Emergency Services Act in order to meet minimum demands for domestic supply, fire protection, or sanitation during the year.

   b. Article 18(b) through the end of subparagraph (1) will be deleted.

3. **Kern Water Bank.** The Kern Fan Element property and related assets of the Kern Water Bank will be sold or leased on a long-term basis by DWR to designated Ag Contractors. In exchange, 45,000 acre-feet of Ag water entitlements will be transferred to DWR and retired. All fixed conservation and transportation charges for the transferred and retired entitlements will be added to the Contractors’ Delta Water Charges. Subject to the approval of designated Ag Contractors, Urban Contractors may be provided access to and use of Kern Fan Element property and related assets of the Kern Water Bank for water storage.

Any project water remaining in the Kern Water Bank at the time of transfer of the property will split 50% to the project and 50% to be transferred with the property. The schedule and costs of delivery will be addressed in the implementation documents.

4. **Permanent Sales of Entitlement.**

a. **Ag-to-Urban entitlement transfers.**

   i. Ag Contractors will make available for permanent transfer to Urban Contractors on a willing buyer-willing seller basis 130,000 acre-feet of annual entitlements, with Kern County Water Agency ("KCWA") being responsible for any portion of this amount not made available by other Ag Contractors. This provision will apply only to those transfer contracts executed prior to January 1,
ii. Ag Contractors and DWR will expeditiously approve such sales. As a condition of KCWA’s approval of sales from within its service area, KCWA shall be entitled to receive a percentage of the gross sales price determined by that portion of the total SWP costs paid by KCWA’s Zones of Benefit or other KCWA resources.

iii. KCWA member units shall have 90 days to exercise a right of first refusal to purchase any entitlement being offered to Urban Contractors by agreeing to pay the same price offered by the Urban purchaser. Such sales to KCWA member units will not diminish the 130,000 acre-foot obligation of KCWA.

b. Ag-to-Non-Contractor transfers. Any permanent transfers of entitlement by Ag Contractors to parties who are not Urban Contractors, including transfers to KCWA urban member units or to KCWA’s Improvement District No. 4, will be considered a part of the 130,000 acre-feet to be made available to Urban Contractors pursuant to subsection (a), above, provided that Urban Contractors have been allowed 90 days to exercise a right of first refusal to purchase such entitlement at the price being offered by the prospective purchaser without conditions.

c. Other Water transfers. DWR will expeditiously approve permanent sales of entitlements among Contractors, including between Urban Contractors.

5. Restructuring to ensure financial integrity of the SWP. The SWP Contractors and DWR will develop financial programs involving funds related to State Water Project operations and payment of debt service on bonds to (i) bring the obligations of the parties into line with current market and regulatory circumstances facing the SWP, DWR and the Contractors; (ii) ensure the continuing financial viability of the SWP and improve security for bondholders; and (iii) provide for more efficient use of project water and facilities. These programs shall include:

a. In 1995, DWR will establish a general capital operating fund of $15 million to be made available from bond reserves that are no longer required by bond covenants.

b. It is expected that new capital projects will be financed with revenue bonds, consistent with past practice. The definition of Water System Facilities in the Water Supply Contracts will be expanded to include a State Water Project Corporation Yard and a Project Operation Center and to allow DWR to finance these facilities with water system revenue bonds if DWR decides to build them. These facilities are estimated to cost $35 million and $45 million, respectively, in 1995 dollars. DWR will fully consult with the Contractors prior to issuing each series of water system revenue bonds for defined project facilities.
c. When DWR pays off its obligation to the California Water Fund in 1997, additional moneys that become available will be dedicated to rate payment and other programs for Contractors. In 1997, $14 million will be available for these purposes and will be applied as follows: $10 million will be placed into a separate DWR trust fund ("Trust Fund") for stabilizing payments for Ag Contractors, and $4 million will be distributed directly to Urban Contractors, as directed by the Urban Contractors for their management.

d. In 1998, $7.7 million will be placed in the DWR capital operating fund, bringing the balance to $22.7 million. An additional $17 million will be used as follows: $10 million will be placed in the Trust Fund, and $7 million will be distributed to Urban Contractors, as they direct.

e. In 1999, $32 million in additional funds will be used as follows: $10 million will be placed in the Trust Fund and $22 million will be distributed to Urban Contractors, as they direct.

f. In 2000, funds will be used as follows: $10 million will be placed in the Trust Fund and $23 million will be distributed to Urban Contractors, as they direct.

g. In 2001 when funds available exceed $40.5 million, $10 million will be placed in the Trust Fund, and $30.5 million will be distributed to Urban Contractors, as they direct. The Director of DWR, in consultation with Contractors, will review the financial requirements of the SWP to determine if the amounts over $40.5 million should be retained or whether such amounts can be applied to the Trust Fund and Urban Contractor disbursements on a 24.7%-75.3% basis, respectively. If amounts in excess of $40.5 million are not retained by DWR, up to the first $2 million will be disbursed to Urban Contractors, then the remaining amounts, if any, in excess of $40.5 million will be applied to the Trust Fund and Urban Contractor disbursements on a 24.7%-75.3% basis respectively. Urban Contractors will receive up to the first $2 million in excess of $40.5 million every year until it has received a total of $19.3 million, then all amounts in excess of $40.5 million will be split between the Trust Fund and Urban Contractor disbursements on a 24.7%-75.3% basis. The Director of DWR and the Contractors will review this arrangement every five years after the initial review.

h. The numbers and percentages in this Principle reflect certain estimates of dollars and sharing of revenue. The actual numbers may vary slightly from the numbers described above. These calculations shall be completed before and used in the implementing documents.

i. The attached Exhibit A worksheet illustrates the estimated amounts and use of funds described above.

j. Approval of these Principles is subject to the satisfactory resolution of issues relating
6. Terminal Reservoirs - Points of Delivery.

DWR commits to develop, in cooperation with Contractors participating in repayment of the costs of Perris and Castaic Reservoirs, ways to utilize the respective capacities and stored water to increase the reservoirs' potentials for more effective utilization in conjunction with local water supply facilities. As part of this process, DWR will analyze the impacts on the contractors and on SWP operations. Subject to terms and conditions to be negotiated, Contractors participating in repayment of the costs of these terminal reservoirs will be provided the opportunity to directly utilize the respective capacities in order to optimize the operation of both local and SWP facilities.

Access to such capacity will be provided in a manner designed to ensure that any resulting changes in flow regimes into the reservoirs do not cause a significant adverse effect upon the manner in which these reservoirs were designed to function pursuant to the state water contracts and statutory requirements. The objective of this process is to provide additional flexibility and water management benefits to participating contractors consistent with the usage of such reservoirs as transportation facilities in the overall SWP operations.

DWR will attempt to work out similar arrangements for Del Valle Reservoir.

7. Interruptible Water Service Program.

a. Present Surplus (including unscheduled), Wet Weather and 12(d) water will be replaced by Interruptible water service. Whenever DWR has project water available for delivery to Contractors that is not needed for fulfilling entitlement delivery requests or meeting the project operational commitments, including storage goals for the current or following years, DWR will offer such water to Contractors in proportion to their annual entitlements for that year and Contractors taking such water will pay to DWR the Melded Power Rate for power costs incurred by DWR for such service.

b. Implementation would be in substantial conformance with the attached Exhibit B entitled "Possible Implementation of an Interruptible Water Service Program" dated December 1, 1994.

8. Non-project water transport. Contractors shall have the right to transport non-project water in project facilities. Power charges for non-project water delivered to Contractors shall be the same as for project water. Priority for conveyance of non-project water shall be as set forth in Principle 7.

9. Water storage outside service area.

a. Water stored outside a Contractor's service area is reserved exclusively for use in the
storer's service area. Such water cannot be sold.

b. "Storer" vs. "seller" alternative tracks: in any water year, a Contractor may elect to be a storer or seller, but not both.

i. Storing Contractors will not be allocated water beyond their total demand, including storage.

c. Existing carryover rules under Article 12(e) will be maintained. If a Contractor uses Article 12(e), the Contractor cannot sell water in the next year pursuant to Principle 10. If a Contractor follows the storage track, the Contractor cannot sell water, pursuant to Principle 10, in the year in which it adds to storage. The timing of the election will be determined during implementation.

d. There will be no limits on the amount of ground water storage outside a Contractor's service area in an existing and operational ground water storage program. Contractors will cooperate to develop or establish ground water storage programs.

e. The annual water supply allowed to be stored in current SWP surface conservation facilities and non-SWP surface water storage facilities located outside a Contractor's service area shall be limited, per Contractor, as follows: A floor of 25% of annual Table A entitlement, not to exceed 100,000 acre-feet/year in any year in which DWR can meet less than 50% of requests. In any year in which DWR can meet 75% or more of requests, a maximum of 50% of annual Table A entitlement, not to exceed 200,000 acre-feet/year. There will be a sliding scale between 50% and 75% of requests from the floor to the maximum on a straight-line basis. In a year when DWR can meet 100% of requests, there will be no limit on surface water storage in non-project facilities. Storage capacity will be allocated on the basis of entitlements.

f. The storage constraints in Principle 9e shall not apply to any new South-of-Delta off-stream storage facilities involving SWP Contractor(s).

g. Bona fide exchanges (as distinguished from sales) will be defined during implementation.

h. Carryover water in project surface water conservation facilities is subject to "spill" in the following priority:

i. water stored for non-SWP Contractor;
ii. water stored for a SWP Contractor above its proportional share of available storage capacity based on Table A annual entitlement;
iii. water stored for a SWP Contractor within its proportional share of available storage capacity based on Table A annual entitlement.
iv. project water.
Determination of the allocation of spill will be made during implementation.

10. **Turn-back water pool sales.** There will be a turn-back water pool sales mechanism. For Contractors following the "seller" track, allocations of entitlement water not required by a Contractor will be sold according to the following priorities:

a. Contractors will be encouraged to amend downward their Table A build-up schedule consistent with their actual needs. All Contractors will cooperate in such amendments, and DWR will process amendments expeditiously.

b. An annual entitlement water pool will be formed by DWR for willing SWP sellers and buyers and priced as follows.

i. For water offered on or before:

   February 15 – the seller will receive 50% of Delta Rate for water sold;

   March 15 – the seller will receive 25% of Delta Rate for water sold.

c. On the dates above, SWP Contractors will have first priority to purchase the water. If water is not sold by March 1, an offering Contractor can cancel its offer by March 1 or it will be considered re-offered on March 15.

d. On the dates above, water offered but not sold to other Contractors may be purchased by DWR at the same price as in item a, above, for the purpose of providing additional carryover storage for the SWP Contractors. DWR will consult with Contractors regarding such purchases.

e. In the March 15 market, water offered but not sold under the first two priorities may be offered to non-Contractors at market price, subject to a right of first refusal for SWP Contractors.

f. Sellers must elect to either store or sell. Sellers will not be permitted to store pursuant to Principle 10 during any year in which they have elected to sell water, except that under the short term provisions of Art. 12(e) they can carryover water during the last three months of the year, but cannot elect to sell in the subsequent year.

11. **Conforming contract amendments.** SWP contracts will be amended as appropriate to conform to this Statement of Principles.

12. **Project improvements.** DWR reaffirms its obligation under Article 6(c) of the water supply contracts, subject to the availability of funds, to make all reasonable efforts consistent with sound fiscal policies and proper operating procedures to complete the project facilities and other water management programs necessary for delivery of project water to the Contractors in
the total amounts designated in each contract's Table A.

13. Integrated package. Contractors will participate in all of the provisions of these Principles or none. A Contractor who chooses not to participate shall receive none of the benefits provided in these Principles.

14. No precedent. If the parties do not enter into the amendments, the parties agree not to utilize this document in any court proceedings relating to matters addressed in this agreement.

IMPLEMENTATION

The Contractors agree to expeditiously obtain preliminary determinations from their respective Boards of Directors as to whether this Statement of Principles is acceptable. The parties set March 31, 1995, as the goal for reaching final agreement.

Nothing in this Statement of Principles is intended to be, nor shall it be interpreted as, a waiver by any party of its rights in law or equity.
Executed this 15th day of December, 1994:

Kern County Water Agency
by [Signature]
General Manager

Tulare Lake Basin Water Storage District
by [Signature]
Member, Board of Directors

Metropolitan Water District of Southern California
by [Signature]
General Manager

Solano County Water Agency
by [Signature]
General Manager

Department of Water Resources
by [Signature]
Director

Coachella Valley Water District
by [Signature]
General Manager

Central Coast Water Authority
by [Signature]
General Counsel
### STATE WATER PROJECT
#### PAYMENT MANAGEMENT PROGRAM

(Millions of Dollars)

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<th>(2) SWP Capital Resources</th>
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Consultation with DWR and SWC's to discuss use of funds above $40.5 million

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[1] Data from Bulletin 132-93
[2] DWR to create a Capital Resources Account of $22.7 million from Bond Reserve Funds separate from the amounts shown.
[3] Initial estimate
POSSIBLE IMPLEMENTATION

of an

INTERRUPTIBLE WATER SERVICE PROGRAM

* Present Surplus, Wet Weather and 12(d) water replaced by Interruptible water service. Any existing priorities to delivery of water beyond scheduled entitlement is eliminated; all Contractors will have equal priority to Interruptible water in proportion to entitlements.

Delivery Priority:

1. scheduled entitlement deliveries;
2. interruptible up to Table A;
3. non-project up to Table A;
4. all additional interruptible; and
5. all additional non-project water.

* Existing balances of the above water types eliminated.

* All Scheduled delivery allocations to be based on contractual Table A.

* Interruptible available only as determined by DWR after Scheduled deliveries and operational commitments are met.

* Interruptible allocations based on Table A for that year.

* Interruptible plus Scheduled entitlement may add up to more than a Contractor's Table A for that year.

* Submit request for Scheduled deliveries, if Interruptible water is available, then anything over Scheduled deliveries considered Interruptible as long as it's available.

* Interruptible water may not be carried over.

* Conveyance charges for interruptible deliveries same as Scheduled deliveries, even if the total amount goes over Table A for that year.

* Interruptible available to all reasonable, beneficial uses. (Not restricted to storage or recharge programs.)

* Delivery of Interruptible water in one year does not impact a Contractor's Table A or the allocation in the next year.
Contractor can adjust delivery schedule for Interruptible at any time but can only adjust Scheduled Entitlement deliveries weekly.

DWR will use best effort to avoid economic impacts due to inability to Contractors to take water during wet periods (specific language to be developed during implementation).

December 1, 1994
STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 25 (THE MONTEREY AMENDMENT)
TO WATER SUPPLY CONTRACT BETWEEN THE
STATE OF CALIFORNIA DEPARTMENT OF
WATER RESOURCES AND THE METROPOLITAN WATER DISTRICT OF SOUTHERN
CALIFORNIA

THIS AMENDMENT to the Water Supply Contract is made this
13th day of December, 1995, pursuant to the
provisions of the California Water Resources Development Bond Act,
the Central Valley Project Act, and other applicable laws of the
State of California, between the State of California, acting by and
through its Department of Water Resources, herein referred to as the
"State", and The Metropolitan Water District of Southern California,
herein referred to as the "District".

RECITALS:

WHEREAS, the State and the District have entered into and
subsequently amended a water supply contract providing that the
State will supply certain quantities of water to the District, and
providing that the District shall make certain payments to the
State, and setting forth the terms and conditions of such supply and
such payment; and

WHEREAS, on December 1, 1994, representatives of the
contractors and the State executed a document entitled "Monterey
Agreement - Statement of Principles - By the State Water Contractors
and the State of California Department of Water Resources For
Potential Amendments To The State Water Supply Contracts" (the
"Monterey Agreement"); and
WHEREAS, the contractors and the State have negotiated an amendment to the water supply contracts to implement provisions of the Monterey Agreement (the "Monterey Amendment"); and

WHEREAS, the State and the District desire to implement such provisions by incorporating this Monterey Amendment into the water supply contract;

NOW, THEREFORE, IT IS MUTUALLY AGREED that the following changes and additions are hereby made to the District's water supply contract with the State:

1. Article 1(d) is amended to read:
   
   (d) Contractor

   "Contractor" shall mean any entity that has executed, or is an assignee of, a contract of the type published in Department of Water Resources Bulletin No. 141 dated November 1965, with the State for a dependable supply of water made available by the System, except such water as is made available by the facilities specified in Section 12934(d)(6) of the Water Code.

2. Article 1(m) is amended to read:

   (m) Minimum Project Yield

   "Minimum project yield" shall mean the dependable annual supply of project water to be made available, estimated to be 4,185,000 acre-feet per year, said amount to be determined by the State on the basis of coordinated operation studies of initial project conservation facilities and additional project conservation facilities, which studies shall be based upon:
(1) The estimated relative proportion of deliveries for agricultural use to deliveries for municipal use for the year 1990, and the characteristic distributions of demands for these two uses throughout the year.

(2) Agreements now in effect or as hereafter amended or supplemented between the State and the United States and others regarding the diversion or utilization of waters of the Delta or streams tributary thereto.

3. Article 1(hh) is amended to read:

(hh) Water System Facilities

(hh) "Water System Facilities" shall mean the following facilities to the extent that they are financed with water system revenue bonds or to the extent that other financing of such facilities is reimbursed with proceeds from water system revenue bonds:

(1) The North Bay Aqueduct,

(2) The Coastal Branch Aqueduct,

(3) Delta Facilities, including Suisun Marsh facilities, to serve the purposes of water conservation in the Delta, water supply in the Delta, transfer of water across the Delta, and mitigation of the environmental effects of project facilities, and to the extent presently authorized as project purposes, recreation and fish and wildlife enhancement,

(4) Local projects as defined in Article 1(h)(2) designed to develop no more than 25,000 acre-feet of project yield from each project.
(5) Land acquisition prior to December 31, 1995, for the Kern Fan Element of the Kern Water Bank,
(6) Additional pumps at the Banks Delta Pumping Plant,
(7) The transmission line from Midway to Wheeler Ridge Pumping Plant,
(8) Repairs, additions, and betterments to conservation or transportation facilities existing as of January 1, 1987, and to all other facilities described in this subarticle (hh) except for item (5),
(9) A project facilities corporation yard, and
(10) A project facilities operation center.

4. Article 1(jj) is added to read:

(jj) Interruptible water
"Interruptible water" shall mean project water available as determined by the State that is not needed for fulfilling contractors' annual entitlement deliveries as set forth in their water delivery schedules furnished pursuant to Article 12 or for meeting project operational requirements, including storage goals for the current or following years.

5. Article 1(kk) is added to read:

(kk) Nonproject water
"Nonproject water" shall mean water made available for delivery to contractors that is not project water as defined in Article 1(l).
6. Article 1(11) is added to read:

(11) "Monterey Amendments" shall mean this amendment and substantially similar amendments to other contractors' water supply contracts that include, among other provisions, the addition of Articles 51 through 56.

7. Article 4 is amended to read:

4. OPTION FOR CONTINUED SERVICE

By written notice to the State at least six (6) months prior to the expiration of the term of this contract, the District may elect to receive continued service after expiration of said term under the following conditions unless otherwise agreed to:

(1) Service of water in annual amounts up to and including the District's maximum annual entitlement hereunder.

(2) Service of water at no greater cost to the District than would have been the case had this contract continued in effect.

(3) Service of water under the same physical conditions of service, including time, place, amount and rate of delivery, as are provided for hereunder.

(4) Retention of the same chemical quality objective provision as is set forth herein.

(5) Retention of the same options to utilize the project transportation facilities as are provided for in Articles 18 (c) and 55, to the extent such options are then applicable.
Other terms and conditions of the continued service shall be reasonable and equitable and shall be mutually agreed upon. In the event that said terms and conditions provide for continued service for a limited number of years only, the District shall have the same option to receive continued service here provided for upon the expiration of that and each succeeding period of continued service.

8. Article 7(a) is amended to read:

(a) Changes in Annual Entitlements

The District may, at any time or times during the term of this contract, by timely written notice furnished to the State, request that project water be made available to it thereafter in annual amounts greater or less than the annual entitlements designated in Table A of this contract. Subject to approval by the State of any such request, the State's construction schedule shall be adjusted to the extent necessary to satisfy the request, and the requested increases or decreases in said annual entitlements shall be incorporated in said Table A by amendment thereof. Requests for changes in annual entitlements for more than one year shall be approved by the State: Provided, That no change shall be approved if in the judgment of the State it would impair the financial feasibility of project facilities.

9. The title of Article 12 is amended to read "Priorities, Amounts, Times and Rates of Deliveries".
10. Article 12(a)(2) is amended to read:

(2) Upon receipt of a preliminary schedule the State shall review it and, after consultation with the District, shall make such modifications in it as are necessary to insure the delivery of the annual quantity allocated to the District in accordance with Article 18 and to insure that the amounts, times, and rates of delivery to the District will be consistent with the State’s overall delivery ability, considering the then current delivery schedules of all contractors. On or before December 1 of each year, the State shall determine and furnish to the District the water delivery schedule for the next succeeding year which shall show the amounts of water to be delivered to the District during each month of that year.

11. Article 12(d) is deleted.

12. Article 12(f) is added to read:

(f) Priorities

Each year water deliveries to the contractors shall be in accordance with the following priorities to the extent there are conflicts:

First, project water to meet scheduled deliveries of contractors’ annual entitlements for that year.

Second, interruptible water to the extent contractors’ annual entitlements for that year are not met by the first priority.

Third, project water to fulfill delivery requirements pursuant to Article 14(b).
Fourth, project water previously stored pursuant to Articles 12(e) and 56.

Fifth, nonproject water to fulfill contractors’ annual entitlements for that year not met by the first two priorities.

Sixth, additional interruptible water delivered to contractors in excess of their annual entitlements for that year.

Seventh, additional nonproject water delivered to contractors in excess of their annual entitlements for that year.

13. Article 14 is amended to read:

Curtailment of Delivery

(a) State May Curtail Deliveries

The State may temporarily discontinue or reduce the delivery of project water to the District hereunder for the purposes of necessary investigation, inspection, maintenance, repair, or replacement of any of the project facilities necessary for the delivery of project water to the District, as well as due to outages in, or reductions in capability of, such facilities beyond the State’s control or unuseability of project water due to an emergency affecting project facilities. The State shall notify the District as far in advance as possible of any such discontinuance or reduction, except in cases of emergency, in which case notice need not be given.

(b) District May Receive Later Delivery of Water Not Delivered

In the event of any discontinuance or reduction of delivery of project water pursuant to subdivision (a) of this article, the District may elect to receive the amount of annual entitlement which otherwise would have been delivered to it during such period under
the water delivery schedule for that year at other times during the
year or the succeeding year to the extent that such water is then
available and such election is consistent with the State's overall
delivery ability, considering the then current delivery schedules
of annual entitlement to all contractors.

14. Article 16(a) is amended to read:

(a) Limit on Total of all Maximum Annual Entitlements

The District's maximum annual entitlement hereunder, together
with the maximum annual entitlements of all other contractors, shall
aggregate no more than the minimum project yield as defined herein
and in no event more than 4,185,000 acre-feet of project water.

15. Article 18 is amended to read:

18. SHORTAGE IN WATER SUPPLY

(a) Shortages; Delivery Priorities

In any year in which there may occur a shortage due to drought
or any other cause whatsoever, in the supply of project water
available for delivery to the contractors, with the result that such
supply is less than the total of the annual entitlements of all
contractors for that year, the State shall allocate the available
supply in proportion to each contractor's annual entitlement as set
forth in its Table A for that year and shall reduce the allocation
of project water to each contractor using such water for
agricultural purposes and to each contractor using such water for
other purposes by the same percentage of their respective annual
entitlements for that year: Provided, that the State may allocate
on some other basis if such is required to meet minimum demands of
contractors for domestic supply, fire protection, or sanitation
during the year. If a contractor is allocated more water than it
requested, the excess water shall be reallocated among the other
contractors in proportion to their annual entitlements as provided
for above. The foregoing provisions of this subdivision shall be
inoperative to the extent necessary to comply with subdivision (c)
of this article and to the extent that a contractor’s annual
entitlement for the respective year reflects established rights
under the area of origin statutes precluding a reduction in
deliveries to such contractor.

(b) - Deleted

(c) Permanent Shortage; Contracts for Areas-of-Origin

In the event that the State, because of the establishment by
a party of a prior right to water under the provisions of Sections
11460 through 11463 of the Water Code, enters into a contract with
such party for a dependable supply of project water, which contract
will cause a permanent shortage in the supply of project water to
be made available to the District hereunder:

(1) The State shall: (i) equitably redistribute the costs of
all transportation facilities included in the System among all
contractors for project water, taking into account the diminution
of the supply to the District and other prior contractors in
accordance with the terms of their contracts, and (ii) revise the
District’s annual entitlements and maximum annual entitlement, by
amendment of Table A of this contract to correspond to the reduced
supply of project water to be made available to the District:
Provided, That such redistribution of costs of transportation
facilities shall not be made until there has been reasonable
opportunity for the District to exercise the option provided for in
(2) below, and for other prior contractors to exercise similar
options.

(2) The District, at its option, shall have the right to use
any of the project transportation facilities which by reason of such
permanent shortage in the supply of project water to be made
available to the District are not required for delivery of project
water to the District, to transport water procured by it from any
other source: Provided, That such use shall be within the limits
of the capacities provided in the project transportation facilities
for service to the District under this contract: Provided further,
That, except to the extent such limitation in Section 12931 of the
Water Code be changed, the District shall not use the project
transportation facilities under this option to transport water the
right to which was secured by the District through eminent domain
unless such use be approved by the Legislature by concurrent
resolution with a majority of the members elected to each house
voting in favor thereof. This option shall terminate upon a
redistribution of costs of transportation facilities by the State
pursuant to (1) above. In the event that this option is exercised,
the State shall take such fact into account in making such
redistribution of costs, and shall offset such use as is made of the
project transportation facilities pursuant thereto against any
reduction in the District's payment obligation hereunder resulting
from such redistribution of costs.
(d) Reinstatement of Entitlements

If after any revision of annual entitlements and maximum annual entitlements pursuant to subdivisions (b) or (c) of this article, circumstances arise which, in the judgment of the State, justify a revision upward of the same, the State shall, with the consent of the affected contractor, reinstate proportionately the previously reduced entitlements of such contractor to the extent deemed justified, and shall equitably redistribute the costs of the project transportation facilities if inequities would otherwise occur as a result of such reinstatement of entitlements.

(e) Advance Notice of Delivery Reductions

The State shall give the District written notice as far in advance as possible of any reduction in deliveries to it which is to be made under subdivision (a) of this article and, to the extent possible, shall give the District written notice five (5) years in advance of any reduction in its annual entitlements and maximum annual entitlement under subdivision (c) of this article. Reports submitted to the District pursuant to Article 16(c) may constitute such notices.

(f) No Liability for Shortages

Neither the State nor any of its officers, agents, or employees shall be liable for any damage, direct or indirect, arising from shortages in the amount of water to be made available for delivery to the District under this contract caused by drought, operation of area of origin statutes, or any other cause beyond its control.
16. Old Article 21 "Sale of Surplus Water" is deleted and replaced by new Article 21 "Interruptible Water Service" to read:

21. Interruptible Water Service

(a) Allocation of Interruptible Water

Each year from water sources available to the project, the State shall make available and allocate interruptible water to contractors in accordance with the procedure in Article 18(a). Allocations of interruptible water in any one year may not be carried over for delivery in a subsequent year, nor shall the delivery of interruptible water in any year impact a contractor's approved deliveries of annual entitlement or the contractor's allocation of water for the next year. Deliveries of interruptible water in excess of a contractor's annual entitlement may be made if the deliveries do not adversely affect the State's delivery of annual entitlement to other contractors or adversely affect project operations. Any amounts of water owed to the District as of the date of this amendment pursuant to former Article 12(d), any contract provisions or letter agreements relating to wet weather water, and any Article 14(b) balances accumulated prior to 1995, are canceled. The State shall hereafter use its best efforts, in a manner that causes no adverse impacts upon other contractors or the project, to avoid adverse economic impacts due to a contractor's inability to take water during wet weather.

(b) Rates

For any interruptible water delivered pursuant to this article, contractors shall pay the State the same (including adjustments) for power resources (including on-aqueduct,
off-aqueduct, and any other power) incurred in the transportation
of such water as if such interruptible water were entitlement water,
as well as all incremental operation, maintenance, and replacement
costs, and any other incremental costs, as determined by the State.
The State shall not include any administrative or contract
preparation charge. Incremental costs shall mean those nonpower
costs which would not be incurred if interruptible water were not
scheduled for or delivered to the contractor. Only those
contractors not participating in the repayment of the capital costs
of a reach shall be required to pay any use of facilities charge for
the delivery of interruptible water through that reach.

(c) Contracts

To obtain a supply of interruptible water, a contractor shall
execute a further contract with the State which shall be in
conformity with this article and shall include at least provisions
concerning the scheduling of deliveries of interruptible water and
times and methods of payment.

17. Article 22(j) is amended to read:

(j) Notwithstanding provisions of Article 22(a) through (i),
the capital cost component and the minimum OMP&R component of the
Delta Water Charge shall include an annual charge to recover the
District's share of the conservation portion of the water system
revenue bond financing costs. Charges to the District for these
costs shall be calculated in accordance with provisions in
Article 50 of this contract. Charges for the conservation portion
of the water system revenue bond financing costs shall not be
affected by any reductions in payments pursuant to Article 51.
18. The first paragraph of Article 24(b) is amended to read:

(b) In the first step, the total amount of capital costs of each aqueduct reach to be returned to the State shall be allocated among all contractors entitled to delivery of project water from or through the reach by the proportionate use of facilities method of cost allocation and in accordance with (1) and (2) below. The measure of the proportionate use of each contractor of each reach shall be the average of the following two ratios: (i) the ratio of the contractor’s maximum annual entitlement to be delivered from or through the reach to the total of the maximum annual entitlements of all contractors to be delivered from or through the reach from the year in which charges are to be paid through the end of the project repayment period and (ii) the ratio of the capacity provided in the reach for the transport and delivery of project water to the contractor to the total capacity provided in the reach for the transport and delivery of project water to all contractors served from or through the reach from the year in which charges are to be paid through the end of the project repayment period. Allocations of capital costs to the District pursuant hereto shall be on the basis of relevant values which will be set forth in Table B by the State as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the District as to the maximum monthly delivery capability to be provided in each aqueduct reach of the project transportation facilities for the transport and delivery of project water to the District, pursuant to Article 17(a): Provided, That these values shall be subject to redetermination by the State in accordance with Article 28: Provided further, That the principles and procedures set forth in this
subdivision shall be controlling as to allocations of capital costs
to the District. Proportionate use of facilities factors for prior
years shall not be adjusted by the State in response to changes or
transfers of entitlement among contractors unless otherwise agreed
by the State and the parties to the transfer and unless there is no
impact on past charges or credits of other contractors.

19. Article 24(g) is amended to read:

(g) Notwithstanding provisions of Article 24(a) through (d),
the capital cost component of the Transportation Charge shall
include an annual charge to recover the District’s share of the
transportation portion of the water system revenue bond financing
costs. Charges to the District for these costs shall be calculated
in accordance with the provisions of Article 50 of this contract.
Charges for the transportation portion of the water system revenue
bond financing costs shall not be affected by any reductions in
payments pursuant to Article 51.

20. Article 25(d)(3) is amended to read:

(3) An interim adjustment in the allocation of the power costs
calculated in accordance with (2) above, may be made in May of each
year based on April revisions in approved schedules of deliveries
of project and nonproject water for contractors for such year. A
further adjustment shall be made in the following year based on
actual deliveries of project and nonproject water for contractors;
provided, however, in the event no deliveries are made through a
pumping plant, the adjustments shall not be made for that year at
that plant.
21. Article 50(j) is added to read:

(j) Amounts payable under this article shall not be affected by any reductions in payments pursuant to Article 51.

22. Article 51 is added to read:

51. FINANCIAL ADJUSTMENTS

(a) General Operating Account

(1) The State shall maintain a General Operating Account to provide the moneys needed to pay obligations incurred by the State of the types described in Water Code sections 12937(b)(1) and (2) in the event of emergency or cash flow shortages.

(2) An initial deposit of $15 million shall be made available from revenue bond reserves that are no longer required by revenue bond covenants and that would otherwise be credited to the contractors including the District. In 1998 or when the funds become available an additional $7.7 million will be deposited in the General Operating Account from revenue bond reserves that are no longer required by revenue bond covenants and that would otherwise be credited to the contractors including the District, bringing the deposits to that account under this article to $22.7 million.

(3) The balance in the General Operating Account will increase pursuant to subdivision (e)(3)(v) of this article to an amount determined by the State but not in excess of $32 million. However, after the year 2001, the maximum amount of the fund may increase or decrease annually by not more than the same percentage as the increase or decrease in the charges, other than power charges for pumping water, to all the contractors for the previous year from
the charges for the year before that for obligations under subdivisions (c)(2)(ii) and (iii) of this article.

(b) State Water Facilities Capital Account

(1) The State shall establish a State Water Facilities Capital Account to be funded from revenues available under Water Code section 12937(b)(4). Through procedures described in this article and as limited by this article, the State may consider as a revenue need under subdivision (c)(2)(v) of this article and may deposit in the State Water Facilities Capital Account the amounts necessary to pay capital costs of the State Water Facilities for which neither general obligation bond nor revenue bond proceeds are available, including but not limited to planning, reconnaissance and feasibility studies, the San Joaquin Valley Drainage Program and, through the year 2000, the CALFED Bay-Delta Program.

(2) The Director of the Department of Water Resources shall fully consult with the contractors and consider any advice given prior to depositing funds into this account for any purposes. Deposits into this account shall not exceed the amounts specified in subdivision (c)(2)(v) of this article plus any amounts determined pursuant to subdivision (e)(1)(iii) of this article.

(3) The State shall use revenue bonds or other sources of moneys rather than this account to finance the costs of construction of any major capital projects.

(c) Calculation of Financial Needs

(1) Each year the State shall calculate in accordance with the timing provisions of Articles 29 and 31 the amounts that would have been charged (but for this article) to each contractor as provided in other provisions of this contract.
(2) Each year the State shall also establish its revenue needs for the following year for the following purposes, subject to the following limitations:

(i) The amount required to be collected under the provisions of this contract, other than this article, with respect to all revenue bonds issued by the State for Project Facilities.

(ii) The amount required for payment of the reasonable costs of the annual maintenance and operation of the State Water Resources Development System and the replacement of any parts thereof as described in Water Code section 12937(b)(1). These costs shall not include operation and maintenance costs of any Federal Central Valley Project facilities constructed by the United States and acquired by the State of California after 1994, other than the State's share of the joint use facilities which include San Luis Reservoir, the San Luis Canal and related facilities.

(iii) The amount required for payment of the principal of and interest on the bonds issued pursuant to the Burns-Porter Act as described in Water Code section 12937(b)(2).

(iv) Any amount required for transfer to the California Water Fund in reimbursement as described in Water Code section 12937(b)(3) for funds utilized from said fund for construction of the State Water Resources Development System.

(v) For the years 1998 and thereafter, the amount needed for deposits into the State Water Facilities Capital Account as provided in subdivision (b) of this article, but (A) not more than $6 million per year for the years 1998, 1999 and 2000, and (B) not more than $4.5 million per year for the years 2001 and thereafter.
(3) Subject to the provisions of subdivision (e) of this article, the State shall reduce the annual charges in the aggregate for all contractors by the amounts by which the hypothetical charges calculated pursuant to subdivision (c)(1) above exceed the revenue needs determined pursuant to subdivision (c)(2) above. The reductions under this article shall be apportioned among the contractors as provided in subdivisions (d), (e), (f) and (g) of this article. Reductions to contractors shall be used to reduce the payments due from the contractors on each January 1 and July 1; provided, however, that to the extent required pursuant to subdivision (h) of this article, each Agricultural Contractor shall pay to the Agricultural Rate Management Trust Fund an amount equal to the reduction allocated to such Agricultural Contractor. Any default in payment to the trust fund shall be subject to the same remedies as any default in payment to the State under this contract.

(4) The State may submit a supplemental billing to the District for the year in an amount not to exceed the amount of the prior reductions for such year under this article if necessary to meet unanticipated costs for purposes identified in Water Code section 12937(b)(1) and (2) for which the State can issue billings under other provisions of this contract. Any supplemental billing made to the District for these purposes shall be in the same proportion to the total supplemental billings to all contractors for these purposes as the prior reduction in charges to the District in that year bears to the total reductions in charges to all contractors in that year and shall be treated as reducing the amount of the reduction made available for that year to the District by the amount of the supplemental bill to the District.
(5) The State may also submit a supplemental billing to the District for the year if necessary to meet unanticipated costs for revenue bond debt service and coverage for which the State can issue a statement of charges under provisions of this contract other than this article. The relative amounts of any supplemental billing made to the District and to other contractors for revenue bond purposes shall be governed by such other applicable provisions of this contract.

(6) Payment of any supplemental billing shall be due thirty days after the date of the invoice. Delinquency and interest on delinquent amounts due shall be governed by Article 32.

(d) Apportionment of Reductions between Agricultural and Urban Contractors

(1) Reductions available under this article are projected to begin to occur in 1997. The numbers and percentages in this subdivision reflect certain estimates of dollars and sharing of reductions. The actual reductions may vary slightly from the amounts described below. The State shall determine the availability of reductions for each year in accordance with this article.

(2) Reductions shall be phased in as follows:

(i) In 1997 reductions in the amount of $14 million are projected to be available and shall be applied as follows: the first $10 million of reductions shall be apportioned among the Agricultural Contractors, and the remaining reductions shall be apportioned among the Urban Contractors.

(ii) In 1998 reductions in the amount of $17 million are projected to be available and shall be applied as follows: the first $10 million of reductions shall be apportioned among the
Agricultural Contractors, and the remaining reductions shall be apportioned among the Urban Contractors.

(iii) In 1999 reductions in the amount of $32 million are projected to be available and shall be applied as follows: the first $10 million of reductions shall be apportioned among the Agricultural Contractors, and the remaining reductions shall be apportioned among the Urban Contractors.

(iv) In 2000 reductions in the amount of $33 million are projected to be available and shall be applied as follows: the first $10 million of reductions shall be apportioned among the Agricultural Contractors, and the remaining reductions shall be apportioned among the Urban Contractors.

(3)(i) In the event that the aggregate amount of reductions in any of the years 1997 through 2000 is less than the respective amount projected for such year in subdivision (d)(2) above, the shortfall shall be taken first from reductions that would have been provided to Urban Contractors. Only after all reductions to Urban Contractors have been eliminated in a given year shall the remaining shortfall be taken from reductions scheduled for Agricultural Contractors. Any projected reductions not made available due to such shortfalls in the years 1997 through 2000 shall be deferred with interest at the project interest rate to the earliest subsequent years when reductions in excess of those projected for those years are available. Such deferred reductions with interest at the project interest rate shall be applied to the charges of the contractors whose reductions have been deferred.

(ii) In the event that the aggregate amount of reductions available in any of the years 1997 through 2000 is
greater than the sum of (A) the respective amount projected for such
year in subdivision (d)(2) above, plus (B) the amount of any
shortfall with accrued interest at the project interest rate,
remaining from any prior year to be applied, the excess shall be
applied for the purposes and in the amounts per year described in
subdivisions (e)(3)(iii), (iv), (v) and (vi) of this article, in
that order.

(4) In 2001 and in each succeeding year reductions equal to
or in excess of $40.5 million are projected to be available and
shall be applied as follows:

(i) If reductions are available in an amount that equals
or exceeds $40.5 million, $10 million of reductions shall be
apportioned among the Agricultural Contractors, and $30.5 million
of reductions shall be apportioned among the Urban Contractors. If
reductions are available in an amount greater than $40.5 million,
the excess shall be applied as provided in subdivision (e)(3) of
this article, subject however to subdivision (e)(1).

(ii) If reductions are available in an amount less than
$40.5 million in any of these years, the reductions shall be divided
on a 24.7% - 75.3% basis between the Agricultural Contractors and
the Urban Contractors respectively. Any such reductions not made
due to shortages shall be applied without interest in the next year
in which reductions in an amount in excess of $40.5 million are
available pursuant to subdivision (e)(3) of this article with any
remainder that is not available carried over without interest to be
applied in the earliest subsequent years when reductions in excess
of $40.5 million are available.
(5) Annual charges to a contractor shall only be reduced prospectively from and after the date it executes the Monterey Amendment to this contract. Apportionments of reductions shall be calculated on the assumption that all contractors have executed such amendment.

(e) Review of Financial Requirements

(1) In 2001 and every fifth year thereafter the Director of the Department of Water Resources, in full consultation with the contractors, will review the financial requirements of the State Water Resources Development System and determine the following:

(i) The amount of revenues that are needed for State Water Resources Development System purposes in addition to those needed for the purposes specified in subdivisions (c)(2)(i), (ii), (iii), and (iv) of this article;

(ii) If the aggregate amount that would have been charged to all contractors in any year but for this article exceeds the sum of (A) the amount of revenues needed for the purposes specified in subdivisions (c)(2)(i), (ii), (iii) and (iv), plus (B) $40.5 million, plus (C) the amount determined pursuant to subdivision (c)(2)(v) of this article, the amount of such excess.

(iii) The amount of the excess determined in subdivision (e)(1)(ii) above that should be collected by the State for additional State Water Resources Development System purposes and the amount of such excess that should be used for further annual charge reductions.

(2) After making the determinations required above, the State may collect the revenues for additional State Water Resources
Development System purposes in the amount determined pursuant to subdivision (e)(1)(iii) above.

(3) If and to the extent that as a result of such determinations, the aggregate amount to be charged to contractors is to be reduced by more than $40.5 million per year, the following priorities and limitations shall apply with respect to the application of such additional reductions:

(i) First, reductions shall be allocated to make up shortfalls in reductions from those projected for the years 1997 through 2000 with interest at the project interest rate pursuant to subdivision (d)(3)(i).

(ii) Second, reductions shall be allocated to make up shortfalls in reductions from those projected for the years beginning with 2001 without interest pursuant to subdivision (d)(4)(ii).

(iii) Third, additional reductions in the amount of $2 million per year shall be apportioned among the Urban Contractors until a total of $19.3 million in such additional reductions have been so applied.

(iv) Fourth, reductions up to an additional $2 million per year shall be allocated to make up any shortfalls in the annual reductions provided for in subdivision (e)(3)(iii).

(v) Fifth, $2 million per year shall be charged and collected by the State and deposited in the General Operating Account to bring the account ultimately up to an amount determined by the State but not in excess of $32 million with adjustments as provided in subdivision (a) of this article. Any amount in the
account in excess of this requirement shall be returned to general
project revenues.

(vi) Sixth, remaining amounts if any shall be used for
reductions divided on a 24.7% - 75.3% basis between the Agricultural
Contractors and the Urban Contractors respectively.

(f) Apportionment of Reductions among Urban Contractors.
Reductions in annual charges apportioned to Urban Contractors under
subdivisions (d) and (e) of this article shall be further allocated
among Urban Contractors pursuant to this subdivision. The amount
of reduction of annual charges for each Urban Contractor shall be
based on each Urban Contractor's proportionate share of total
allocated capital costs as calculated below, for both project
conservation and project transportation facilities, repaid by all
Urban Contractors over the project repayment period.

(1) The conservation capital cost component of the reduction
allocation shall be apportioned on the basis of maximum annual
entitlement. Each Urban Contractor's proportionate share shall be
the same as the percentage of that contractor's maximum annual
entitlement to the total of all Urban Contractors' maximum annual
entitlements.

(2) The transportation capital cost component of the
reduction allocation shall be apportioned on the basis of
transportation capital cost component repayment obligations,
including interest over the project repayment period. Each Urban
Contractor's proportionate share shall be the same as the percentage
that the contractor's total transportation capital cost component
repayment obligation is of the total of all Urban Contractors'
transportation capital cost component repayment obligations.
(i) Recalculations shall be made annually through the year 1999. Beginning in the year 2000 recalculations shall be made every five years unless an Urban Contractor requests a recalculation for an interim year and does so by a request in writing delivered to the Department by January 1 of the year in which the recalculation is to take place.

(ii) The transportation capital cost component repayment obligations, for purposes of this Article 51(f), shall be based in the year of recalculation on the then most recent Department of Water Resources Bulletin 132, Table B-15, "Capital Cost Component of Transportation Charge for Each Contractor," or its equivalent, excluding any costs or entitlement associated with transfers of entitlement from Agricultural Contractors pursuant to Article 53.

(3) To reflect the relative proportion of the conservation capital cost component and the transportation capital cost component to the total of all capital cost repayment obligations, the two cost components shall be weighted as follows:

(i) The conservation capital cost component shall be weighted with a thirty percent (30%) factor. The weighting shall be accomplished by multiplying each Urban Contractor's percentage of maximum annual entitlements as calculated in subdivision (f)(1) of this article by thirty percent (30%).

(ii) The transportation capital cost component shall be weighted with a seventy percent (70%) factor. The weighting shall be accomplished by multiplying each Urban Contractor's percentage of transportation capital cost component repayment obligations as
calculated in subdivision (f)(2) of this article by seventy percent (70%).

(iii) A total, weighted capital cost percentage shall be calculated for each Urban Contractor by adding the weighted conservation capital cost component percentage to their weighted transportation capital cost component percentage.

(4) The total amount of the annual charges to be reduced to Urban Contractors in each year shall be allocated among them by multiplying the total amount of annual charges to be reduced to the Urban Contractors by the total, weighted capital cost percentages for each such contractor. If the amount of the reduction to an Urban Contractor is in excess of that contractor’s payment obligation to the Department for that year, such excess shall be reallocated among the other Urban Contractors.

(5) In the case of a permanent transfer of urban entitlement, the proportionate share of annual charge reductions associated with that entitlement shall be transferred with the entitlement to the buying contractor. In the case of an entitlement transfer by either Santa Barbara County Flood Control and Water Conservation District or San Luis Obispo County Flood Control and Water Conservation District, the reductions in annual charges to that agency shall be allocated (a) on the basis of that entitlement being retained by that agency which bears Coastal Branch Phase II transportation costs, (b) on the basis of that entitlement being retained by that agency which does not bear Coastal Branch Phase II transportation costs, and (c) on the basis of the balance of that agency’s entitlement which also does not bear Coastal Branch Phase II transportation costs.
(g) Apportionment of Reductions Among Agricultural Contractors

(1) Reductions in annual charges apportioned to Agricultural Contractors under subdivisions (d) and (e) of this article shall be allocated among the Agricultural Contractors pursuant to this subdivision. The amount of reduction of annual charges for each Agricultural Contractor for the years 1997 through 2001 shall be based on each Agricultural Contractor's estimated proportionate share of the total project costs, excluding the variable operation, maintenance, power and replacement components of the Delta Water Charge and the Transportation Charge and also excluding off-aqueduct power charges, to be paid by all Agricultural Contractors for the years 1997 through 2035, calculated without taking into account this article. For purposes of these calculations, Kern County Water Agency's and Dudley Ridge Water District's estimated project costs shall not include any costs associated with the 45,000 acre-feet of annual entitlement being relinquished by those contractors pursuant to subdivision (i) of Article 53. Also, for purposes of these calculations, an Agricultural Contractor's estimated project costs shall not be reduced by the transfer of any of the 130,000 acre-feet of annual entitlements provided for in subdivisions (a) through (i) of Article 53. The proportionate shares for 1997 through 2001 shall be calculated as follows:

(i) Each Agricultural Contractor's statement of charges received on July 1, 1994, shall be the initial basis for calculating the proportionate shares for the five years 1997 through 2001.

(ii) Each Agricultural Contractor's estimated capital and minimum components of the Delta Water Charge and the
Transportation Charge (excluding off-aqueduct power charges) and Water Revenue Bond Surcharge shall be totaled for the years 1997 through 2035.

(iii) Kern County Water Agency and Dudley Ridge Water District totaled costs shall be reduced for the 45,000 acre-feet of annual entitlement being relinquished by them.

(iv) Any reductions in an Agricultural Contractor's totaled costs resulting from the transfer of any of the 130,000 acre-feet of annual entitlement shall be re-added to that contractor's costs.

(v) Each Agricultural Contractor's proportionate share shall be computed by dividing that contractor's total costs by the total costs for all Agricultural Contractors determined pursuant to subparagraphs (ii), (iii) and (iv) above.

(2) The reductions in annual charges, for 1997 through 2001, shall be calculated using the method described in subdivision (g)(1) of this article.

(3) The allocation shall be recalculated using the same method described in subdivision (g)(1) of this article every five years beginning in 2002, if any Agricultural Contractor requests such a recalculation. Any recalculation shall be based on project cost data beginning with the year that the recalculation is to become effective through 2035.

(h) Agricultural Rate Management Trust Fund

(1) Establishment. Through a trust agreement executed contemporaneously with this amendment, the State and the Agricultural Contractors that sign the Monterey Amendments shall
establish the Agricultural Rate Management Trust Fund with a mutually agreed independent trustee.

(2) Separate Accounts. The trustee shall maintain within the trust fund a separate account for each Agricultural Contractor that signs the trust agreement to hold deposits made pursuant to this article.

(3) Deposits. Each Agricultural Contractor that signs the trust agreement shall deposit into such contractor's account within the trust fund, at the same time as payments would otherwise be required by this contract to be made to the State, an amount equal to the amount by which such contractor's charges under this contract have been reduced by reason of this article, until the balance in such contractor's account within the trust fund is the same percentage of $150,000,000 as such contractor's percentage share of reductions made available to all Agricultural Contractors as specified in subdivision (g) of this article. In 2002 and every fifth year thereafter, the Agricultural Contractors will review the maximum accumulation in the trust fund (the "Cap") and determine whether the cap should be adjusted. However, the Cap shall not be reduced below an aggregate of $150,000,000 for all Agricultural Contractor accounts.

(4) Trust Fund Disbursements.

(i) In any year in which the State's allocation of water to an Agricultural Contractor by April 15th of that year is less than one-hundred percent (100%) of the contractor's requested annual entitlement for that year, the trustee shall, to the extent there are funds in that contractor's account, distribute to the State from such account for the benefit of that contractor an amount equal to
the percentage of the total of that contractor's statement of charges for that year, as redetermined by the State on or about May 15th of that year, for (a) the Delta Water Charge; (b) the capital cost and minimum operation, maintenance, power and replacement components of the Transportation Charge (including off-aqueduct power charges); and (c) the water system revenue bond surcharge, that is equal to the percentage of that contractor's annual entitlement for that year that was not allocated to it by the State by April 15th of that year.

(ii) In addition to the provisions of subdivision (h)(4)(i) of this article, if on April 15 of any year any of the irrigable land within the Tulare Lake Basin Water Storage District (Tulare) is flooded, and Tulare in writing requests the trustee to do so, the trustee shall, to the extent there are funds in Tulare's account, distribute to the State from such account for the benefit of Tulare an amount equal to the percentage of the total of Tulare's statement of charges for that year, as redetermined by the State on or about May 15th of that year, for (a) the Delta Water Charge; (b) the capital cost and minimum components of the Transportation Charge (including off-aqueduct power charges); and (c) the water system revenue bond surcharge, that is equal to the percentage of the irrigable land within Tulare that is flooded on April 15.

(iii) Each Agricultural Contractor shall remain obligated to make payments to the State as required by other articles in this contract. Any amount to be disbursed pursuant to subdivisions (h)(4)(i) and (h)(4)(ii) shall be paid by the trustee to the State on July 1 of the year involved and shall be credited by the State toward any amounts owed by such respective Agricultural.
Contractor to the State as of that date. However, an Agricultural Contractor may direct the trustee to make the disbursement to that Agricultural Contractor which shall in turn make the payment to the State as required by other provisions of this contract. If the amount to be disbursed exceeds the amount owed to the State by such contractor as of July 1, the excess shall be disbursed by the Trustee to the State at the time of and in payment of future obligations owed to the State by such contractor. Alternatively, upon the request of such contractor, all or part of the excess shall be paid by the trustee to that contractor in reimbursement of prior payments by the contractor to the State for that year.

(5) Payment of Supplemental Bills. In any year in which a supplemental bill has been submitted to an Agricultural Contractor pursuant to subdivision (c)(4) of this article, such supplemental bill shall be treated as reducing by an equal amount the obligation of such contractor for that year to make payments into the Agricultural Rate Management Trust Fund. To the extent that such contractor has already made payments to the trust fund in an amount in excess of such contractor’s reduced trust fund payment obligation, such contractor may request the trustee to use the excess from the trust fund to pay the supplemental bill.

(6) Discharge of Payment Obligation. Each payment to the State by the trust fund shall discharge and satisfy the Agricultural Contractor’s obligation to pay the amount of such payment to the State. No reimbursement of the trust fund by the Agricultural Contractor for such payments shall be required. However, each Agricultural Contractor shall continue to make deposits to the trust fund matching the amount of each year’s reductions as provided in
subdivision (d) of this article so long as the amount in that
contractor's account is less than its share of the Cap.

(7) Distribution of Funds in Excess of the Cap. Whenever
accumulated funds (including interest) in an Agricultural
Contractor's account in the trust fund exceed that contractor's
share of the Cap, or the estimated remaining payments the contractor
is required to make to the State prior to the end of the project
repayment period, that contractor may direct the trustee to pay such
excess to the contractor.

(8) Termination of Trust Fund. At the end of the project
repayment period, the Agricultural Rate Management Trust Fund shall
be terminated and any balances remaining in the accounts for each
of the Agricultural Contractors shall be disbursed to the respective
Agricultural Contractors.

(i) Definitions. For the purposes of this article, the
following definitions will apply:

(1) "Agricultural Contractor" shall mean the following
agencies as they now exist or in any reorganized form:

(i) County of Kings,
(ii) Dudley Ridge Water District,
(iii) Empire West Side Irrigation District,
(iv) Kern County Water Agency for 993,300 acre-feet of
its entitlement,
(v) Oak Flat Water District,
(vi) Tulare Lake Basin Water Storage District.

(2) "Urban Contractor" shall mean every other agency having
a long term water supply contract with the State as they exist as
of the date of this amendment or in any reorganized form as well as
Kern County Water Agency for 119,600 acre-feet of its entitlement.

(j) Except as provided in subdivisions (c)(4) and (c)(5), this article shall not be interpreted to result in any greater State authority to charge the contractors than exists under provisions of this contract other than this article.

23. Article 52 is added to read:

52. KERN WATER BANK

(a) The State shall convey to the Kern County Water Agency (KCWA) in accordance with the terms set forth in the agreement between the State of California Department of Water Resources and Kern County Water Agency entitled "Agreement for the Exchange of the Kern Fan Element of the Kern Water Bank" (the Kern Water Bank Contract), the real and personal property described therein.

(b) Subject to the approval of KCWA, other contractors may be provided access to and use of the property conveyed to KCWA by the Kern Water Bank Contract for water storage and recovery. Fifty percent (50%) of any project water remaining in storage on December 31, 1995, from the 1990 Berrenda Mesa Demonstration Program and the La Hacienda Water Purchase Program shall be transferred to KCWA pursuant to the Kern Water Bank Contract. The remaining fifty percent (50%) of any such water (approximately 42,828.5 acre-feet) shall remain as project water and the State’s recovery of such project water shall be pursuant to the provisions of a separate recovery contract. Any other Kern Water Bank demonstration program water shall remain as project water and the State’s recovery of such water shall be pursuant to the provisions of the respective contracts for implementation of such demonstration programs.
24. Article 53 is added to read:

53. PERMANENT TRANSFERS AND REDUCTIONS OF ENTITLEMENT

(a) Article 41 provides that no assignment or transfer of a contract or any part thereof, rights thereunder or interest therein by a contractor shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose. In accordance with State policy to assist water transfers, the State and the County of Kings, Dudley Ridge Water District (DRWD), Empire West Side Irrigation District, Kern County Water Agency (KCWA), Oak Flat Water District and Tulare Lake Basin Water Storage District (for the purposes of this article the "Agricultural Contractors") shall, subject to the conditions set forth in this article, expeditiously execute any necessary documents and approve all contracts between willing buyers and willing sellers until permanent transfers totaling 130,000 acre-feet of annual entitlements of the Agricultural Contractors and, to the extent provided in such contracts, rights in project transportation facilities related to such annual entitlement have been made to other contractors (the "Urban Contractors") or noncontractors in accordance with the provisions of this article. Such approval requirement shall apply to all contracts executed prior to January 1, 2011. KCWA shall be responsible for approval of such transfers for any portion of the 130,000 acre-feet not previously made available under this article by the other Agricultural Contractors. A contract between a willing buyer and a willing seller shall mean a contract between (1) a buyer which is an Urban Contractor or, to the extent provided in subdivision (e) of this article, a noncontractor and (2) a seller which is an Agricultural Contractor.
or a public entity which obtains project water from an Agricultural Contractor.

(b) The State shall not be obligated to approve any transfer of annual entitlements if in its judgment the transfer would impair the security of the State's bondholders and the State may impose conditions on any transfer as necessary to make the delivery of the water operationally feasible and to assure that the transportation costs associated with the transferred entitlement are fully repaid. Transfers not approved by the State shall not be considered as part of the 130,000 acre-feet of annual entitlements provided for in this article.

(c) KCWA member units shall have 90 days to exercise a right of first refusal to purchase any annual entitlements being offered for sale to Urban Contractors by another KCWA member unit pursuant to this article, other than those annual entitlements made available to Urban Contractors by subdivision (d) of this article, by agreeing to pay the same price offered by the buyer. Any such sales to KCWA member units exercising such right of first refusal shall not be considered a part of the 130,000 acre-feet of annual entitlements provided for in this article.

(d) Any permanent transfers of annual entitlements by Agricultural Contractors to noncontractors, including transfers to KCWA urban member units or to KCWA's Improvement District Number 4, other than transfers pursuant to subdivision (c) of this article, will be considered a part of the 130,000 acre-feet of annual entitlements provided for in this article if the Urban Contractors have been given a right of first refusal to purchase such annual
entitlements as well as transportation rights in accordance with the
following terms and procedure:

(1) The Agricultural Contractor shall provide the State a
copy of a bona fide contract or Proposed Contract (the "Proposed
Contract") and the State shall, within five working days of receipt,
provide copies of such Proposed Contract to all Urban Contractors
together with a Notice of Proposed Contract stating the date on or
before which a Notice of Intent to Exercise a Right of First Refusal
(NOIs) must be delivered to both the State and the seller, which date
shall be 90 days from the date the State mails the Notice of
Proposed Contract.

(2) The Proposed Contract shall provide for the transfer of
rights in project transportation facilities sufficient to deliver
to the seller's service area in any one month eleven percent (11%)
of the annual entitlement being transferred or such greater amount
as the seller determines to sell; provided, however, that sellers
shall not be obligated to sell any transportation rights in the
Coastal Aqueduct.

(3) To exercise the right of first refusal, an Urban
Contractor shall deliver to the State and the seller its NOI within
the time period stated in the Notice of Proposed Contract and shall
proceed in good faith to try to complete the transfer to the Urban
Contractor. If two or more Urban Contractors deliver NOI's to the
State, the amount of annual entitlement and transportation rights
being sold shall be allocated among those Urban Contractors that are
prepared to perform the purchase by the Performance Date provided
for herein in proportion to their maximum annual entitlements, or
in another manner acceptable to the Urban Contractors delivering the
NOIs. An offer by an Urban Contractor in its NOI to purchase less than the entire annual entitlement and transportation right being transferred shall not be deemed to be an effective exercise of the right of first refusal unless other Urban Contractors submit NOIs to purchase the remainder of the annual entitlement and transportation right or the noncontractor buyer agrees to purchase the remainder at the same unit price and on the same terms and conditions provided for in the Proposed Contract. The Performance Date shall be the date upon which the Urban Contractor is prepared to perform the purchase, which date shall be the later of: (1) 180 days after the delivery of the NOI or (2) the date set forth in the Proposed Contract for the noncontractor buyer to perform the purchase.

The Performance Date shall be extended at the request of the Urban Contractor if a temporary restraining order or preliminary injunction is in effect as a result of a lawsuit challenging the execution of the contract on the basis of noncompliance with the California Environmental Quality Act. Such extensions shall continue until five days after the temporary restraining order or injunction expires or until the Urban Contractor requests it be discontinued, whichever occurs first. The Urban Contractor shall be liable for any damages suffered by the seller as a result of such extensions of the Performance Date.

(4) If the seller and the noncontractor buyer under the Proposed Contract make any substantive changes in the Proposed Contract, such changes shall constitute a new Proposed Contract that cannot be performed without compliance with all of the procedures set forth in this article.
(5) If an Urban Contractor issuing a NOI fails to complete its exercise of the Right of First Refusal by the Performance Date, the seller shall be free to sell its entitlement in substantial conformance with the terms and conditions set forth in the Proposed Contract. An Urban Contractor issuing a NOI may assign its rights to exercise a right of first refusal to another Urban Contractor and the assignee shall have the same rights as the assignor to complete the purchase by the Performance Date.

(6) In exercising the Right of First Refusal, an Urban Contractor, at its option, may either agree to perform the Proposed Contract in its entirety, including all of its terms and conditions, or agree to pay the price offered under the Proposed Contract for the annual entitlement and transportation rights without condition and without being entitled to enforce or being subject to any other provisions of the Proposed Contract.

(e) As used in this article, "price" shall mean the dollar amount of consideration provided for in the Proposed Contract.

(f) Upon the effective date of any such transfer, the seller shall be relieved of and the buyer shall become liable to the State for all prospective Delta Water Charges, the related Transportation Charges and any other charges for the annual entitlements and associated transportation rights transferred unless the seller and buyer provide otherwise in the contract for the transfer and the State approves such other provisions. However, the contractor making the sale shall remain obligated to the State to make the payments if the buyer defaults on its payments to the State related to the water transferred and is not a party to a long term water supply contract of the type contained in Department of Water
Resources Bulletin Number 141. If the contractor making the sale is required to make any payments to the State as a result of the buyer’s default, the entitlement transferred to the defaulting buyer shall, if provided for in the Proposed Contract, revert back to the contractor making the sale. The buyer may also be liable for any charges imposed pursuant to subdivision (g) of this article.

(g) A contractor which is a buyer of annual entitlement pursuant to this article may receive deliveries using any portion of the capacity previously provided by the State in each reach of the project transportation facilities for such contractor that is necessary for transporting the entitlement purchased by it on the same basis as any other entitlement provided for in its Table A in effect prior to the date of the Monterey Amendment. Such contractor may also use any transportation rights transferred to it by a seller in the same manner as the seller was entitled to use them and any unused capacity in any of the reaches specified in this paragraph so long as project operations and/or priority of service of water to other contractors participating in repayment of capital costs in such reaches is not adversely affected. The State shall not be responsible for any resulting adverse impacts upon its ability to provide such contractor peaking capacity. The capital cost and minimum, operation, maintenance, power and replacement components of the Transportation Charge allocated to a buying contractor needing transportation capacity in excess of the capacity factors on which its charges are based in any reach shall be determined prospectively based upon the increase in the buying contractor’s annual entitlement resulting from the purchase, and service of water to fulfill annual entitlement to other contractors shall not be
impaired. The capital cost and minimum operation, maintenance, power and replacement components of the Transportation Charges shall then be reallocated among the other entities participating in repayment of costs of that reach. For the purposes of this determination, all payments received by the State from the seller relating to the annual entitlement sold shall be deemed to have been received from the buying contractor. Any increased Transportation minimum operation, maintenance, power and replacement component charges allocated to the buying contractor pursuant to this subdivision (g) shall begin January 1 of the year following the effective date of the transfer.

(h) Individual contractors may transfer entitlements among themselves in amounts in addition to those otherwise provided for in this article. The State shall expeditiously execute any necessary documents and approve all contracts involving permanent sales of entitlements among contractors, including permanent sales among Urban Contractors. Such sales shall be subject to the provisions of subdivisions (b), (f) and (g) of this article; Provided, however, that for a buying contractor needing transportation capacity in excess of the capacity factors on which its charges are based in any reach, reallocation of the Transportation capital cost component charges for transfers other than (i) the 130,000 acre-feet provided for in this article and (ii) the approximate 33,000 acre-feet of transfers proposed from contractors located in Santa Barbara or San Luis Obispo counties, shall be determined both prospectively and retroactively.

(i) On January 1 following the year in which such Monterey Amendments take effect and continuing every year thereafter
until the end of the project repayment period: (i) Kern County Water
Agency’s (KCWA) annual entitlement for agricultural use as currently
designated in Table A-1 of its contract shall be decreased by 40,670
acre-feet; (ii) Dudley Ridge Water District’s (DRWD) annual
entitlement as currently designated in Table A of its contract shall
be decreased by 4,330 acre-feet; and (iii) the State’s prospective
charges (including any adjustments for past costs) for the 45,000
acre-feet of annual entitlements to be relinquished by KCWA and DRWD
thereafter shall be deemed to be costs of project conservation
facilities and included in the Delta Water Charge for all
contractors in accordance with the provisions of Article 22. If,
by November 20, 1995 and each October 1 thereafter until the
Monterey Amendments of both KCWA and DRWD take effect, KCWA and DRWD
at their option notify the State in writing that they will
relinquish up to their shares of 45,000 acre-feet of annual
entitlements for the following calendar year beginning before the
Monterey Amendments take effect, the State, when and if the Monterey
Amendments take effect, shall adjust the charges retroactively for
the acre-feet relinquished by KCWA and DRWD to January 1 of each
year for which water was relinquished. The delivery points for the
45,000 acre-feet of annual entitlement to be relinquished shall be
identified for the State by KCWA and DRWD to enable the State to
calculate the transportation costs for the 45,000 acre-feet to be
included in the Delta Water Charge.
25. Article 54 is added to read:

54. Usage of Lakes Castaic and Perris

(a) The State shall permit the contractors participating in repayment of the capital costs of Castaic Lake (Reach 30) and Lake Perris (Reach 28J) to withdraw water from their respective service connections in amounts in excess of deliveries approved pursuant to other provisions of the state water contracts. Each such contractor shall be permitted to withdraw up to a Maximum Allocation from the reach in which it is participating. The contractors participating in repayment of Castaic Lake may withdraw a collective Maximum Allocation up to 160,000 acre-feet pursuant to this article, which shall be apportioned among them pursuant to the respective proportionate use factors from the Department of Water Resources' Bulletin 132-94, Table B-1 upon which capital cost repayment obligations are based, as follows:

<table>
<thead>
<tr>
<th>Participating Contractor</th>
<th>Proportionate Use Factor</th>
<th>Maximum Allocation (Acre Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Metropolitan Water District of Southern California</td>
<td>0.96212388</td>
<td>153,940</td>
</tr>
<tr>
<td>Ventura County Flood Control and Water Conservation District</td>
<td>0.00860328</td>
<td>1,376</td>
</tr>
<tr>
<td>Castaic Lake Water Agency</td>
<td>0.02927284</td>
<td>4,684</td>
</tr>
<tr>
<td>Total</td>
<td>1.00000000</td>
<td>160,000</td>
</tr>
</tbody>
</table>
The Metropolitan Water District of Southern California, as the only contractor participating in repayment of Lake Perris, shall be allocated a Maximum Allocation at Lake Perris of 65,000 acre-feet based upon a proportionate use factor of 1.00000000. The Maximum Allocation totals of 160,000 acre-feet and 65,000 acre-feet shall not be subject to adjustment. The individual contractor’s Maximum Allocations shall be adjusted only as agreed to among the contractors desiring to adjust their Maximum Allocations. Adjustments between the contractors shall be subject to approval of the State which approval shall be given unless there are adverse impacts upon another contractor participating in the reach which are unacceptable to such contractor. The participating contractors will, in consultation with the State, cooperate with each other in an effort to promote efficient utilization of Castaic Lake, and to minimize any adverse impacts to each other, through coordination of deliveries pursuant to other provisions of the State Water Contract as well as withdrawals of allocations pursuant to this article.

(b) The State shall operate Castaic and Perris Reservoirs as transportation facilities in a manner consistent with this article. A contractor desiring to withdraw a portion or all of its Maximum Allocation shall furnish the State with a proposed delivery schedule. The proposed schedule may be submitted as part of the preliminary water delivery schedule submitted pursuant to Article 12(a)(1). Upon receipt of a schedule the State shall promptly review it to ensure that the amounts, times and rates of delivery will be consistent with the State’s ability to operate the reach. The contractor may modify its proposed
delivery schedule at any time, and the modified schedule shall be
subject to review in the same manner. If necessary, the State
may modify the schedule after consultation with the contractor
and other contractors participating in repayment of that reach:
but may not change the total quantity of water to be withdrawn.
As part of the consultation, the State shall advise a contractor
if it determines a withdrawal will adversely impact the rate of
delivery provided for the contractor in this contract. The State
shall not be responsible for any such impacts.

(c) A contractor may withdraw all or a portion of its
Maximum Allocation. It shall restore any withdrawn portion of
such allocation by furnishing an equivalent amount of replacement
water to the reservoir from which the water was withdrawn within
five years from the year in which the withdrawal takes place. The
unused portion of the allocation, in addition to any replacement
water furnished to the reservoir, shall remain available for
subsequent withdrawal. The State shall keep an accounting of the
contractor’s storage withdrawals and replacements. In any year,
the State shall permit a contractor to withdraw an amount
equivalent to the contractor’s Maximum Allocation minus remaining
replacement water requirements due to previous withdrawals. If
the contractor fails to schedule and replace the withdrawn water
within the five-year return period, the State shall provide the
replacement water from water scheduled for delivery to the
contractor in the sixth year or as soon as possible thereafter.
The total amount of scheduled annual entitlement which a
contractor can use in any one year for restoring its Maximum
Allocation and storing water in surface storage facilities
outside of its service area pursuant to Article 56 shall be the sum of the maximum amount the contractor can add to storage that year pursuant to Article 56 and the amount of acre-feet shown in column 2 of the following table, depending on the State's final water supply allocation percentage as shown in column 1.

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>50% or less</td>
<td>100,000</td>
</tr>
<tr>
<td>51%</td>
<td>98,000</td>
</tr>
<tr>
<td>52%</td>
<td>96,000</td>
</tr>
<tr>
<td>53%</td>
<td>94,000</td>
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<td>54%</td>
<td>92,000</td>
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<td>55%</td>
<td>90,000</td>
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<td>57%</td>
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<td>70,000</td>
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<td>66%</td>
<td>68,000</td>
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<td>67%</td>
<td>66,000</td>
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<td>68%</td>
<td>64,000</td>
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<tr>
<td>69%</td>
<td>62,000</td>
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<tr>
<td>70%</td>
<td>60,000</td>
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<tr>
<td>71%</td>
<td>58,000</td>
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<tr>
<td>72%</td>
<td>56,000</td>
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<tr>
<td>73%</td>
<td>54,000</td>
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<tr>
<td>74%</td>
<td>52,000</td>
</tr>
<tr>
<td>75 to 99%</td>
<td>50,000</td>
</tr>
<tr>
<td>100%</td>
<td>no limit</td>
</tr>
</tbody>
</table>

* Excludes the maximum amount that can be added to storage in a year pursuant to Article 56, which may be used in addition to the amounts in this table to restore Maximum Allocation.
A contractor may use any of this total amount for replacement water but cannot use any more than that provided for in Article 56 to add to storage in project surface conservation facilities and in nonproject surface storage facilities. There shall be no limit under this article on the amount of scheduled annual entitlement a contractor can use to restore its Maximum Allocation in a year when its percentage of annual water supply allocation is one-hundred percent (100%), nor shall there be any limit under this article on the amount of interruptible water, nonproject water or water obtained through an exchange which a contractor can use to restore its Maximum Allocation.

(d) For any replacement water furnished to reservoir storage pursuant to this article, the responsible contractor shall pay the State charges for the conservation, if any, and transportation of such replacement water as are associated with the type of replacement water that is furnished, as if such water were delivered to the turnout at the reservoir to which the replacement water is furnished. Adjustments from estimated to actual costs shall be subject to provisions applicable to the type of replacement water. The State shall not charge contractors for water withdrawn pursuant to this article.

(e) The State shall operate capacity in Castaic and Perris Reservoirs, not required for purposes of Maximum Allocation deliveries, in compliance with the requirement of Article 17(b) of The Metropolitan Water District of Southern California’s water supply contract with the State to maintain an amount of water reasonably sufficient to meet emergency requirements of the contractors participating in repayment of that reach. A
contractor receiving water pursuant to this article accepts that
the State shall not be liable for any damage, direct or indirect,
arising from shortages in the amount of water to be made
available from that reservoir to meet the contractor's actual
emergency requirements as a result of prior storage withdrawals
by that contractor pursuant to this article. Nothing in this
article shall permit or require the State to adjust allocations
or deliveries under Article 18.

(f) To the extent a contractor, during a calendar year,
uses all or a portion of its Maximum Allocation, the State may,

    to the extent necessary to service project purposes, reduce that
contractor's requested peaking service. Such reduction in
peaking service shall only occur to the extent such usage of
Maximum Allocation causes the State to be unable to provide all
peaking service requested. This paragraph shall not apply to the
extent the contractor requested usage of Maximum Allocation as
part of the preliminary water delivery schedule submitted
pursuant to Article 12(a)(1).

(g) The State may reduce water stored in Castaic Lake and
Lake Perris to the extent necessary for maintenance and to
respond to emergencies resulting from failure of project
transportation facilities or of other supply importation
facilities serving the State project service area. The State
shall promptly replace water within the Maximum Allocation as
soon as the need for the reduction terminates.
26. Article 55 is added to read:

55. Transportation of Nonproject Water

(a) Subject to the delivery priorities in Article 12(f), contractors shall have the right to receive services from any of the project transportation facilities to transport water procured by them from nonproject sources for delivery to their service areas and to interim storage outside their service areas for later transport and delivery to their service areas: Provided, that except to the extent such limitation in Section 12931 of the Water Code be changed, a contractor shall not use the project transportation facilities under this option to transport water the right to which was secured by the contractor through eminent domain unless such use be approved by the Legislature by concurrent resolution with the majority of the members elected to each house voting in favor thereof.

(b) For any nonproject water delivered pursuant to this article, contractors shall pay the State the same (including adjustments) for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the conservation and transportation of such water as if such nonproject water were entitlement water, as well as all incremental operation, maintenance, and replacement costs, and any other incremental costs, which may include an administrative or contract preparation charge, all as determined by the State. Incremental costs shall mean those nonpower costs which would not be incurred if nonproject water were not scheduled for or delivered to contractors. Only those contractors not participating in the repayment of a reach shall be required to pay a use of facilities
charge for the delivery of nonproject water from or through that
reach. Costs for transporting water placed into interim storage
shall be paid in the same manner provided for in subdivision
(c)(6) of Article 56.

(c) The amounts, times and rates of delivery of nonproject
water shall be provided for pursuant to a water delivery schedule
to be issued in the same manner as provided for in Article 12.
The costs specified in this article shall be paid for at the same
time the corresponding project water costs are paid.

27. Article 56 is added to read:

56. Use, Storage and Sale of Project Water Outside of
Service Area and Storage of Water in Project Surface
Conservation Facilities

(a) State Consent to Use of Project Water Outside of
Service Area

Notwithstanding the provisions of Article 15(a), the State
hereby consents to the District storing project water outside its
service area for later use within its service area in accordance
with the provisions of subdivision (c) of this article and to the
District selling project water for use outside its service area
in accordance with the provisions of subdivision (d) of this
article.

(b) Groundwater Storage Programs

The District shall cooperate with other contractors in the
development and establishment of groundwater storage programs.

(c) Storage of Project Water Outside of Service Area

(1) A contractor may elect to store project water outside
its service area for later use within its service area, up to the
limits and in accordance with the provisions provided for in this subdivision (c) and any applicable water right laws, by setting forth on the preliminary water delivery schedule submitted to the State on or before October 1 of each year pursuant to Article 12(a) the quantity of project water it wishes to store in the next succeeding year. There shall be no limit on the amount of project water a contractor can store outside its service area during any year in a then existing and operational groundwater storage program. The amount of project water a contractor can add to storage in project surface conservation facilities and in nonproject surface storage facilities located outside the contractor's service area each year shall be limited to the lesser of the percent of the contractor's Table A annual entitlement shown in column 2 or the acre-feet shown in column 3 of the following table, depending on the State's final water supply allocation percentage as shown in column 1. However, there shall be no limit to storage in nonproject facilities in a year in which the State's final water supply allocation percentage is one hundred percent. These limits shall not apply to water stored pursuant to Article 12(e).
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<td>75% or more</td>
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(2) Storage capacity in project surface conservation facilities at any time in excess of that needed for project operations shall be made available to requesting contractors for storage of project and nonproject water. If such storage requests exceed the available storage capacity, the available capacity shall be allocated among contractors requesting storage in proportion to their annual entitlements designated in their Table A’s for that year. A contractor may store water in excess of its allocated share of capacity as long as capacity is available for such storage.

(3) If the State determines that a reallocation of excess storage capacity is needed as a result of project operations or because of the exercise of a contractor’s storage right, the available capacity shall be reallocated among contractors requesting storage in proportion to their annual entitlements designated in their Table A’s for that year. If such reallocation results in the need to displace water from the storage balance for any contractor or noncontractor, the water to be displaced shall be displaced in the following order of priority:

First, water, if any, stored for noncontractors.
Second, water stored for a contractor that previously was in excess of that contractor’s allocation of storage capacity.
Third, water stored for a contractor that previously was within that contractor’s allocated storage capacity.

The State shall give as much notice as feasible of a potential displacement.
(4) Any contractor electing to store project water outside its service area pursuant to this subdivision may not sell project water under the provisions of subdivision (d) of this article during the year in which it elected to store project water. This limitation shall not apply to replacement water furnished to Castaic and Perris Reservoirs pursuant to Article 54, nor to the storage of water introduced into a groundwater basin outside a contractor’s service area if recovery is intended to occur within that contractor’s service area.

(5) The restrictions on storage of project water outside a contractor’s service area provided for in this subdivision (c), shall not apply to storage in any project offstream storage facilities constructed south of the Delta after the date of this amendment.

(6) For any project water stored outside its service area pursuant to this subdivision (c), a contractor shall pay the State the same (including adjustments) for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the transportation of such water as the contractor pays for the transportation of annual entitlement to the reach of the project transportation facility from which the water is delivered to storage. If annual entitlement is stored, the Delta Water Charge shall be charged only in the year of delivery to interim storage. For any stored water returned to a project transportation facility for final delivery to its service area, the contractor shall pay the State the same for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the transportation of such water calculated from the
point of return to the aqueduct to the turn-out in the contractor’s service area. In addition, the contractor shall pay all incremental operation, maintenance, and replacement costs, and any other incremental costs, as determined by the State, which shall not include any administrative or contract preparation charge. Incremental costs shall mean those nonpower costs which would not be incurred if such water were scheduled for or delivered to the contractor’s service area instead of to interim storage outside the service area. Only those contractors not participating in the repayment of a reach shall be required to pay a use of facilities charge for use of a reach for the delivery of water to, or return of water from, interim storage.

(7) A contractor electing to store project water in a nonproject facility within the service area of another contractor shall execute a contract with that other contractor prior to storing such water which shall be in conformity with this article and will include at least provisions concerning the point of delivery and the time and method for transporting such water.

(d) Sale of Project Water For Use Outside Service Area

(1) If in any year a contractor has been allocated annual entitlement that it will not use within its service area, the contractor has not elected to store project water in accordance with the provisions of subdivision (c) of this article during that year, and the contractor has not elected to carry over entitlement water from the prior year pursuant to the provisions of Article 12(e), the contractor may sell such annual entitlement for use outside its service area in accordance with the following provisions.
(2) Each year the State shall establish an annual entitlement water pool (the Pool) for contractors wishing to sell or buy project water pursuant to the provisions of this subdivision. The Pool shall constitute the exclusive means of selling portions of annual entitlements not desired by contractors that year. Contractors willing to sell to or buy water from the Pool shall notify the State in writing of their desire to do so indicating the quantity to be sold or purchased. Contractors shall have the first priority to purchase all water placed in the Pool. The State may purchase any water remaining in the Pool not purchased by contractors at the same price available to contractors and use such water for the purpose of providing additional carryover storage for contractors: Provided, that the State shall consult with the contractors prior to making any such purchases.

(3) Each year, the price per acre-foot to be paid by the State to contractors selling water placed in the Pool on or before February 15 that is purchased by a contractor requesting such purchase by March 1 or by the State on March 1 shall be equal to fifty percent (50%) of the Delta water rate as of that date. The price per acre-foot to be paid to the State for the purchase of water from the Pool by a contractor placing a request for such purchase on or before March 1 shall be equal to fifty percent (50%) of the Delta water rate as of that date. Any water placed in the Pool on or before February 15 that is not purchased by contractors or the State by March 1 may be withdrawn from the Pool by the selling contractor.
(4) Each year the price per acre-foot to be paid by the State to contractors selling water remaining in the Pool or placed in the Pool after February 15, but on or before March 15 that is purchased by a contractor requesting such purchase by April 1 or by the State on April 1 shall be equal to twenty-five percent (25%) of the Delta water rate as of that date. The price per acre-foot to be paid to the State for the purchase of water from the Pool by a contractor placing a request for such purchase between March 2 and April 1 shall be equal to twenty-five percent (25%) of the Delta water rate as of the later date. Any water placed in the Pool on or before March 15 that is not purchased by a contractor or the State by April 1 may be withdrawn from the Pool by the selling contractor.

(5) If there are more requests from contractors to purchase water from the Pool than the amount in the Pool, the water in the Pool shall be allocated among those contractors requesting such water in proportion to their annual entitlements for that year up to the amount of their requests. If requests to purchase water from the Pool total less than the amount of water in the Pool, the sale of Pool water shall be allocated among the contractors selling such water in proportion to their respective amounts of water in the Pool.

(6) Any water remaining in the Pool after April 1 that is not withdrawn by the selling contractor shall be offered by the State to contractors and noncontractors and sold to the highest bidder: Provided, that if the highest bidder is a noncontractor, all contractors shall be allowed fifteen days to exercise a right of first refusal to purchase such water at the price offered by
the noncontractor. The price to be paid to the selling
contractor shall be the amount paid by the buyer exclusive of the
amount to be paid by the buyer to the State pursuant to
subdivision (d)(7) of this article.

(7) For any water delivered from the Pool to contractors,
the buyer shall pay the State the same for power resources
(including on-aqueduct, off-aqueduct, and any other power)
incurred in the transportation of such water as if such water
were entitlement water, as well as all incremental operation,
maintenance, and replacement costs, and any other incremental
costs, as determined by the State, which shall not include any
administrative or contract preparation charge. Incremental costs
shall mean those nonpower costs which would not be incurred if
such water were not scheduled for or delivered to the buyer.
Only those buyers not participating in the repayment of a reach
shall be required to pay any use of facilities charge for the
delivery of such water from or through the reach. Adjustments
from estimated to actual costs shall be computed by the State
pursuant to these provisions and shall be paid by the buyer or
credited to the buyer at the times and interest rates described
in Article 28(c).

(e) Continuance of Article 12(e) Carry-over Provisions
The provisions of this article are in addition to the
provisions of Article 12(e), and nothing in this article shall be
construed to modify or amend the provisions of Article 12(e).
Any contractor electing to sell project water during any year in
accordance with the provisions of subdivision (d) of this
article, shall not be precluded from using the provisions of
Article 12(e) for carrying over water from the last three months of that year into the first three months of the succeeding year.

(f) **Bona Fide Exchanges Permitted**

Nothing in this article shall be deemed to prevent the District from entering into bona fide exchanges of project water for use outside the District’s service area with other parties for project water or nonproject water if the State consents to the use of the project water outside the District’s service area. Also, nothing in this article shall be deemed to prevent the District from continuing those exchange or sale arrangements entered into prior to September 1, 1995, which had previously received any required State approvals. A "bona fide exchange" shall mean an exchange of water involving a contractor and another party where the primary consideration for one party furnishing water to another is the return of a substantially similar amount of water, after giving due consideration to the timing or other nonfinancial conditions of the return.

Reasonable payment for costs incurred in effectuating the exchange and reasonable deductions from water delivered, based on expected storage or transportation losses may be made. A "bona fide exchange" shall not include a transfer of water from one contractor to another party involving a significant payment unrelated to costs incurred in effectuating the exchange. The State, in consultation with the contractors, shall have authority to determine whether transfers of water constitute "bona fide exchanges" within the meaning of this paragraph and not disguised sales.
(g) Other Transfers

Nothing in this article shall be deemed to modify or amend the provisions of Article 15(a), or Article 41, except as expressly provided for in subdivisions (c) and (d) of this article.

28. All balances of wet weather and Article 12(d) water otherwise available to any contractor executing the Monterey Amendment shall be eliminated as of the effective date of such amendment and no new balances for such water shall be established.

29. Effective Dates and Phase-in

(a) No Monterey Amendment to any contractor’s water supply contract shall take effect unless and until both of the following have occurred (1) the Monterey Amendments to both the Kern County Water Agency’s and The Metropolitan Water District of Southern California’s contracts have been executed and no legal challenge has been filed within sixty days of such execution or, if filed, a final judgment of a court of competent jurisdiction has been entered sustaining or validating said amendments; and (2) the State has conveyed the property which constitutes the Kern Fan Element of the Kern Water Bank to Kern County Water Agency pursuant to the Kern Water Bank Contact provided for in Article 52 either on or before October 1, 1996 or, if the conveyance on such date has been prevented by an interim court order, within ninety days after such court order has become ineffective so long as said ninety days expires not later than January 1, 2000. The
October 1, 1996 date and the January 1, 2000 date may be extended by unanimous agreement of the State, Kern County Water Agency and The Metropolitan Water District of Southern California.

(b) The State shall administer the water supply contracts of any contractors that do not execute the Monterey Amendment so that such contractors are not affected adversely or to the extent feasible beneficially by the Monterey Amendments of other contractors’ water supply contracts.

(c) If a court of competent jurisdiction issues a final judgment or order determining that any part of a contractor’s Monterey Amendment is invalid or unenforceable, all provisions of that amendment shall be of no force or effect as to such contractor, except as provided in subdivisions (e) and (f) of this paragraph.

(d) If any part of the Monterey Amendment of the Kern County Water Agency’s or The Metropolitan Water District of Southern California’s contracts or if the conveyance of the Kern Pan Element of the Kern Water Bank to the Kern County Water Agency provided for in Article 52 is determined by a court of competent jurisdiction in a final judgment or order to be invalid or unenforceable, the Monterey Amendments of all contractors and the Kern Water Bank Contract shall be of no force and effect except as provided in subdivisions (e) and (f) of this paragraph.

(e) Notwithstanding subdivisions (c), (d) and (f) of this paragraph, if any part of the Monterey Amendment of the Kern County Water Agency’s or The Metropolitan Water District of Southern California’s contract is determined by a court of competent jurisdiction in a final judgment or order to be invalid
or unenforceable, and if Articles 52 and 53 (i) have been
implemented (i.e., the property which constitutes the Kern Fan
Element of the Kern Water Bank has been conveyed by the State and
the 45,000 acre-feet of annual entitlements have been
relinquished to the State), the implementation of the
relinquishment shall not be reversed unless the implementation of
the conveyance is also reversed, and conversely, implementation
of the conveyance shall not be reversed unless implementation of
the relinquishment is also reversed. Nothing in this subdivision
shall affect any party's right to seek additional damages,
compensation or any other remedy available at law or in equity.

(f) The total invalidity or unenforceability of one
contractor's Monterey Amendment as provided for in subdivision
(c) of this paragraph or of all contractor's Monterey Amendments
as provided for in subdivision (d) of this paragraph or of the
Kern Water Bank Contract as provided for in subdivision (d) of
this paragraph may be avoided only if such invalidity or
unenforceability is explicitly waived in writing signed by the
State, Kern County Water Agency and The Metropolitan Water
District of Southern California. In cases arising under subdivision (c) or (d), the affected contractor whose Monterey Amendment has been determined to be partially invalid or unenforceable must first request the waiver.

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

Approved as to legal form and sufficiency

Susan N. Miller
Chief Counsel
Department of Water Resources

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

Director

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Approved as to Form:

N. Gregory Taylor
General Counsel

The Metropolitan Water District
of Southern California