

## AGREEMENT

WHEREAS, The State of California, through its Department of Water Resources (DWR), and the North Delta Water Agency entered into a Contract for the Assurance of a Dependable Water Supply of Suitable Quality on January 28, 1981 under which, inter alia, the State agreed to operate the State Water Project to provide water qualities at least equal to the better of (1) standards adopted by the State Water Resources Control Board, or (2) criteria identified on the graphs included as Attachment A;

WHEREAS, Article 5 of the 1981 Contract permits a shift of Attachment A water quality criteria for the Sacramento River at Emmaton to a location on Three Mile Slough upon completion of an overland facility to supply and distribute water to Sherman Island;

WHEREAS, with the concurrence of landowners on Sherman Island and NDWA, DWR commenced a program of land acquisition on Sherman Island in lieu of building the overland facility described in Article 5;

WHEREAS, DWR presented plans to Reclamation District 341 for an overland facility to service lands remaining in private ownership and R.D. 341 approved the plans;

WHEREAS, DWR presented the same plans to NDWA; but prior to NDWA reaching a decision to approve or disapprove the plans, DWR

reached agreement in principle with the remaining landowners to purchase their lands on Sherman Island, making an overland facility unnecessary;

WHEREAS, DWR and NDWA wish to amend the 1981 Contract to change the monitoring station at Emmaton to Three Mile Slough for the reason that DWR is pursuing its land acquisition program in lieu of the overland facility;

WHEREAS, the parties disagree on whether DWR should pay assessments on land it owns within NDWA's jurisdiction, and wish to resolve the issue herein;

IT IS HEREBY AGREED:

The State of California acting by and through its Department of Water Resources, hereinafter "State," and the North Delta Water Agency, hereinafter "NDWA," agree to amend the 1981 Contract Between State of California Department of Water Resources and North Delta Water Agency for the Assurance of a Dependable Water Supply of Suitable Quality ("the 1981 Contract") as follows:

1. Subject to the terms and conditions set forth in this agreement, NDWA approves the State's plans for acquisition of agricultural lands on Sherman Island and agrees that such acquisition is in lieu of the overland facility described in Article 5 of the 1981 Contract.

2. NDWA agrees that the water quality criteria for the Sacramento River at Emmaton shall apply at the monitoring station at Three Mile Slough, as shown on Exhibit A, attached hereto and incorporated herein by reference.

3. State agrees that NDWA's approval in paragraph 1 is contingent, and paragraph 2 shall only be effective, upon State's acquiring fee title to, or a water quality easement or similar waiver on, those agricultural lands on Sherman Island which are specified in the draft report entitled "Overland Agricultural Facilities Sherman Island" dated January 1980. The parties agree that the 1981 Contract imposes no obligation relating to the quality of water for domestic uses on Sherman Island.

4. State agrees to hold harmless from all costs, defend and indemnify NDWA for any claim or action brought by any person or entity based on this agreement, including any claim or action based on the change in water quality criteria for the Sacramento River under the 1981 Contract.

5. State agrees to reimburse NDWA for engineering costs paid for review of the plans for the overland facility, based on invoices received for work performed between May 12, 1995 and July 3, 1996, inclusive.

6. State agrees that NDWA may permanently reduce its annual payments due under Article 10 of the 1981 Contract by a percentage equal to the percentage of acreage of land owned or

hereafter acquired by the Department of Water Resources within NDWA's jurisdiction compared to all lands within NDWA's jurisdiction. NDWA agrees not to assess or assert any right to assess DWR-owned lands. In all other respects, payment obligations imposed by the 1981 Contract shall remain the same.

7. The term of this agreement is concurrent with that of the 1981 Contract.

8. This agreement shall be effective immediately after it is both signed by DWR and approved by the NDWA Board of Directors. NDWA agrees to deliver to DWR a copy of the resolution authorizing NDWA to enter into this agreement.

9. NDWA shall promptly notice a hearing on this amendment pursuant to California Water Code Appendix section 115-7.8 and hold a hearing pursuant to Water Code Appendix section 155-7.6. If a substantial written protest is received, NDWA shall promptly hold an election on this amendment pursuant to Water Code appendix section 115-7.6. If an election is held and the majority of the votes cast do not approve this amendment, the term of the agreement (as defined in paragraph 8), shall be changed to a one-year term as an interim agreement pursuant to Water Code Appendix section 115-7.1, and all other terms of this agreement shall remain valid for the one-year interim period.

10. Promptly after the execution and delivery of this contract, NDWA shall file and prosecute to a final decree,

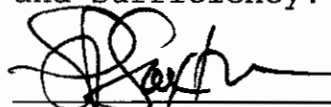
including any appeal therefrom to the highest court of the State of California, in a court of competent jurisdiction a special proceeding for the judicial examination, approval, and confirmation of the proceedings of the NDWA Board of Directors and of NDWA leading up to and including the making of this contract and the validity of the provisions thereof as a binding and enforceable obligation upon the State and the NDWA. If, in this proceeding or other proceeding before a court of competent jurisdiction, any portion of this contract should be determined to be invalid, then the remaining portions of this contract shall remain in full force and effect unless modified by mutual consent of the parties.

**NORTH DELTA WATER AGENCY**

  
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W.R. Darsie, Chairman  
Board of Directors

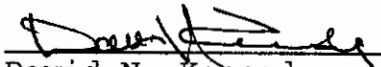
Dated: 12-24-96

Approved as to legal form  
and sufficiency:

  
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Steve Saxton  
Attorney for North Delta  
Water Agency

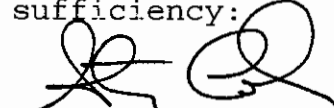
Dated: 12/27/96

**STATE OF CALIFORNIA,  
DEPARTMENT OF WATER RESOURCES**

  
\_\_\_\_\_  
David N. Kennedy  
Director

Dated: 1-21-97

Approved as to legal form  
and sufficiency:

  
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Susan N. Weber  
Chief Counsel

Dated: 1/17/97

Amended, 1996

### Exhibit A: Threemile Slough Monitoring Station

