Short-Term Agreement to Guide Implementation of Short-Term Water Management Actions to Meet Local Water Supply Needs and to Make Water Available to the SWP and CVP to Assist in Meeting the Requirements of the 1995 Water Quality Control Plan and to Resolve Phase 8 Issues

To avoid prolonged litigation and to promote better management of California's water resources the Upstream Water Users, Downstream Water Users, the California Department of Water Resources, the United States Bureau of Reclamation, the California Department of Fish & Game, and the United States Fish & Wildlife Service agree to the terms of this Short-Term Settlement Agreement.

1.0 Definitions:

1.1 "1995 Water Quality Plan" means the Water Quality Control Plan for the San Francisco/Sacramento-San Joaquin Delta Estuary adopted May 22, 1995.

1.2 "Agreement" means this Short-Term Settlement Agreement.

1.3 "AOP" means the Annual Operating Plan to be developed pursuant to the provisions of Article 19.3 hereto.

1.4 "Capacity" as used in Articles 15 and 16 hereto means having the physical capability to produce the volumes of water projected for the respective projects during a designated period of time.

1.5 "CVP" means the Federal Central Valley Project, California.

1.6 "D-1641" means the State Water Resources Control Board Water Rights Decision 1641, dated March 15, 2000.

1.7 "DF&G" means the California Department of Fish and Game.

1.8 "DWR" means the California Department of Water Resources.

1.9 "Downstream Water Users" means collectively the Contra Costa Water District, the State Water Project contractors, and the Central Valley Project contractors that receive water from the Banks or Tracy pumping plants.

1.10 "Effective Date" means the date by which all parties to the Stay Agreement execute this Agreement, but no sooner than December 20, 2002.

1.11 "Long-Term Projects" means projects developed pursuant to the Program that will be implemented under contracts that will have a term that exceeds the ten-year term for Short-Term Projects.

1.12 "Long-Term Settlement Agreement" means the agreement among the Parties dealt with in Article 6.3.

1.13 "Management Committee" means the committee formed pursuant to the provisions of Article 19.1 hereto.

1.14 "Operation and Maintenance" or "O&M" costs means those costs necessary for upkeep, power, operation and environmental mitigation of that portion of fixed assets dedicated to the Program and recurring costs or payments required to obtain consents necessary to make water available under this Agreement. O&M costs will exclude general district overhead charges.

1.15 "Out-of-Pocket Costs" means the incremental costs incurred by a district pursuant to the provisions of Article 16.5.3 to acquire water when the fixed assets of the Short-Term Workplan projects are inadequate to meet the objectives specified in Article 2.0.

1.16 "Parties" or "Parties to this Agreement" means the Upstream Water Users, Downstream Water Users, DWR, Reclamation, DF&G, and USFWS.

1.17 "Phase 8" means the eighth phase of SWRCB water rights hearings associated with allocation of responsibility to meet the objectives in the 1995 Water Quality Control Plan.

1.18 "Program" means the Sacramento Valley Water Management Program described in Article 4.0 hereto.

1.19 "Reclamation" means the United States Bureau of Reclamation.

1.20 "Remedial Workplan" means the workplan described in Article 19.2.4 hereto.

1.21 "Settlement Water" means the water developed from the 92,500 acre feet of Capacity described in Article 15.1 that will be made available for the purposes set forth in Article 16.2.

1.22 "Short-Term Project Implementation Agreement" means the agreements between Upstream Water Users, DWR and Reclamation as specified in Article 6.2 hereto.

1.23 "Short-Term Projects" means projects developed pursuant to the Program that will be implemented under contracts, or through other appropriate arrangements, that will have a term not to exceed ten years.

1.24 "Short-Term Workplan" means the workplan first completed on October 26, 2001 that identified integrated water management projects that will enhance the Upstream Water Users', Downstream Water Users', DWR's and Reclamation's ability to use their existing supplies to meet their existing and future needs and enhance their water management flexibility as it may be augmented over time.

1.25 "Sites Reservoir" means the North of Delta Offstream Surface Water Storage Reservoir generally dealt with in the so-called "Sites Memorandum of Understanding" executed in November 2000, and in the August 28, 2000 CALFED Bay Delta Program Programmatic Record of Decision.

1.26 "Stay Agreement" means the "Agreement Regarding Resolution of Phase 8, Development and Management of Water Supplies, and a Binding Commitment to Proceed Pursuant to Specified Terms" entered into by DWR, Reclamation Mid-Pacific Region, State Water Contractors, San Luis & Delta-Mendota Water Authority, Contra Costa Water District, and Northern California Water Association effective April 26, 2001.

1.27 "SWP" means the California State Water Project.

1.28 "SWRCB" means the California State Water Resources Control Board.

1.29 "Technical Measurement and Monitoring Committee" means the committee formed pursuant to the provisions of Article 19.2 hereto.

1.30 "Upstream Water Users" means those individuals and entities that possess water rights or are water users within the watershed of the Sacramento River and its tributaries, who execute this Short-Term Settlement Agreement by December 15, 2002 or who execute Short-Term Project Implementation Agreements consistent with Article 13.1.

1.31 "USFWS" means the United States Fish and Wildlife Service.

2.0 Statement of Intent. In the implementation of this Agreement, the Parties intend to further the following objectives:

2.1 To implement and accomplish the goals and principles of the Stay Agreement, including meeting the flow-related objectives of D-1641, thereby avoiding the need to litigate Phase 8 issues.

2.2 To implement a series of Short-Term Projects, owned and operated by Upstream Water Users, that will: (i) meet unmet demands in the Sacramento Valley, and (ii) provide at least 92,500, and up to 185,000 acre-feet of water to augment SWP and CVP water supplies during certain year types. The objectives described in 2.2(i) and 2.2(ii) will be accomplished in a manner that does not adversely impact water supplies that would, in the absence of this Agreement, otherwise be available to the SWP, CVP, or Upstream Water Users.

2.3 To develop and implement monitoring programs that will provide the necessary technical information to ascertain whether the Short-Term Projects are meeting the objectives set forth in subparagraph 2.2.

2.4 To establish milestones for developing the Long-Term Workplan and a Long-Term Settlement Agreement that will enable the parties to fully meet the terms and conditions of the Stay Agreement.

2.5 To provide procedures to implement remedial actions as necessary to meet these objectives.

2.6 To jointly secure funding for Program implementation.

3.0 Integration and Coordination. Except as specifically modified by this Agreement, the Stay Agreement is incorporated herein by reference. The Stay Agreement allowed the SWRCB to issue an order staying Phase 8 of the Bay-Delta water rights hearings, thereby allowing the Parties to work together to develop programs that, if implemented successfully, will avoid the adversarial Phase 8 or similar proceedings. The Stay Agreement was the first of anticipated successive agreements, including this Agreement.

4.0 Sacramento Valley Water Management Program. The Sacramento Valley Water Management Program is an integrated effort by the Upstream Water Users to provide water as a mechanism for meeting the "Goals and Principles" established in the Stay Agreement and the objectives of Article 2.0 of this Agreement and to implement the workplans described in Articles 5.0 and 7.0. The governing boards of directors of the parties to Short-Term Project Implementation Agreements, or their ultimate decision-makers, will retain the final authority to approve or disapprove all subsequent project-specific agreements associated with the Program.

5.0 Short-Term Workplan. Notwithstanding the definition of "short-term projects" provided in the Stay Agreement, the term "Short-Term Project" will hereinafter have the meaning provided in Article 1.22 hereto. In this regard, consistent with the provisions of Article 5(a) of the Stay Agreement, the Parties have developed and approved a Short-Term Workplan related to Short-Term Projects. The Short-Term Workplan, which has been modified, now includes groundwater management and planning, conjunctive management, reservoir re-operation, system improvement and other projects, and may be further augmented and amended as other Short-Term Projects are identified. The Short-Term Workplan, as augmented, will serve as the technical basis for implementing the Program and the Short-Term Projects.

6.0 Successive Agreements. Implementation of the Short-Term Workplan projects and the full Program may involve three types of agreements in addition to the Stay Agreement, which are:

6.1 Short-Term Settlement Agreement. This Agreement is intended to provide guidance for the development of "Short-Term Project Implementation Agreements" and, in this context, guide the implementation of short-term water management actions and projects to meet local water supply needs and to make water available to the SWP and CVP, which, for the purposes of the Short-Term Settlement Agreement, will be jointly responsible for meeting the Sacramento River and its tributaries portion of flow-related requirements of D-1641.

6.2 Short-Term Project Implementation Agreements. Short-Term Project Implementation Agreements will be executed between a local sponsoring Upstream

Water User(s) and DWR and Reclamation. Short-Term Project Implementation Agreements will be executed and implemented in a manner consistent with the provisions of this Agreement. Each Short-Term Project Implementation Agreement will have a provision that both ratifies and incorporates by reference the Stay Agreement and this Agreement. Each Short-Term Project Implementation Agreement will control as to the specific year types and the time when water will be made available and the monitoring program that will be implemented to evaluate the degree to which providing this water meets the objectives set forth in Article 2.0 hereto. Each Short-Term Implementation Agreement will have a provision that describes the ongoing obligation to operate, including terms and conditions associated with operation in the event that this Agreement terminates or the Long-Term Agreement is not executed. Each Short-Term Implementation Agreement that involves reservoir reoperation will include provisions relating to refill criteria. This Short-Term Settlement Agreement will not be interpreted to require any individual water user to provide water until it has executed a Short-Term Project Implementation Agreement. Notwithstanding the specific terms of any Short-Term Project Implementation Agreement, nothing in this Article 6.2 will affect the Upstream Water Users' collective obligation to develop projects to make the required Capacity and quantities of water available under Articles 15 and 16. The sole remedy for failure of the collective obligation will be termination of the Agreement pursuant to Article 11.

6.3 Long-Term Settlement Agreement. A Long-Term Settlement Agreement may be executed among the Parties to this Agreement. The Long-Term Settlement Agreement will be for a term that exceeds the term of this Agreement. Notwithstanding the definitions of "medium and long-term Projects" provided in the Stay Agreement, the term "Long-Term Projects" will hereafter have the meaning provided in Article 1.10 hereto.

7.0 Long-Term Workplan. Notwithstanding the milestones within the Stay Agreement, the workplan for Long-Term Projects is to be completed by March 31, 2005. Long-Term Projects may include projects that are the subject of Short-Term Project Implementation Agreements.

8.0 Additional Reservoir Storage. The Parties recognize that the mix of resources available and, consequently, the form and content of a Long-Term Workplan and a Long-Term Settlement Agreement, pursuant to the provisions of Articles 6.3 and 7.0, hereto, will depend upon whether Sites Reservoir, Enlarged Shasta Dam or other North of Delta surface water storage reservoir(s) are to be built. Accordingly, adherence to milestones and completion dates associated with the Long-Term Workplan and Long-Term Settlement Agreement may need to be adjusted depending on when decisions associated with these reservoirs are, in fact, made.

9.0 Signatories to the Agreement. This Agreement will be effective when all parties to the Stay Agreement execute it, but no sooner than December 20, 2002. This Agreement may be executed by any of the Upstream Water Users that elect to become signatories to this Agreement; provided, however, that such election will occur on or before December 15, 2002. The duty of each of the signatory Upstream Water Users to provide Block 1 or 2 water under Article 16 of this Agreement is expressly conditioned on the execution of a Short-Term Project Implementation Agreement by the Upstream Water User, as specified in Article 6.2.

10.0 Term. The term of this Agreement will be from the Effective Date of this Agreement until December 31, 2014, unless earlier replaced by a Long-Term Settlement Agreement, terminated as set forth in this Agreement and the Stay Agreement, or unless otherwise limited by applicable law.

11.0 Termination. Consistent with the Stay Agreement, this Agreement may be subject to early termination: (i) if the 1995 Water Quality Plan flow objectives are increased or decreased; (ii) if after annual review the Downstream Water Users, DWR or Reclamation determines the objectives of the Program are not being substantially achieved and cannot be revised to do so; or (iii) matters outside this Agreement or Program materially affect the Upstream Water Users' ability to implement this Agreement or the Program, including, without limitation, a failure to renew Sacramento River Settlement Contracts or renewal of such contracts on terms that make performance of this Agreement infeasible. If the USFWS or DF&G determines that its continued participation in this Agreement or successive agreements under Article 6.0 abridges or conflicts with its duties as a trustee or regulatory agency, the USFWS or DF&G may withdraw from this

Agreement after providing the Parties with written notice which allows at least thirty days to resolve the conflict. Withdrawal from the Agreement by USFWS or DF&G will not terminate this Agreement. Consistent with Article 27, issues that may give rise to termination of this Agreement will first be submitted to a mediator to attempt to resolve the issues and avoid termination.

12.0 Extension of Term of Stay Agreement. Article 6(a) of the Stay Agreement is hereby amended to extend the term of the Stay Agreement from December 31, 2010 until December 31, 2014, unless the Stay Agreement is earlier terminated as set forth in this Agreement and the Stay Agreement, or unless otherwise provided by applicable law.

13.0 Additional Milestones. The following are added to the Milestones set forth in Article 5 of the Stay Agreement, and are subject to the termination provisions found at Article 6(c) of the Stay Agreement.

13.1 The relevant parties will negotiate and execute the Short-Term Project Implementation Agreements in a timely manner, but in no case later than a date that will allow for implementation of projects sufficient to meet the schedule established in Article 15.2.

13.2 Notwithstanding the provisions of the Stay Agreement, the Parties will develop a Long-Term Workplan by March 31, 2005.

13.3 The Parties will negotiate and execute the terms of a Long-Term Settlement Agreement, either by amending this Agreement or executing a separate agreement by December 31, 2005.

14.0 Upstream Water Users' Ownership of Projects and Obligations.

14.1 Upstream Water Users' Ownership of Projects. Notwithstanding any other provision of this Agreement, the projects set forth in the Short-Term Workplan and the Short-Term Project Implementation Agreements are local projects to be locally developed and owned by Upstream Water Users. The termination of this Agreement or failure of the Parties to execute a Long-Term Settlement Agreement will have no effect on the ownership of projects by the respective Upstream Water Users. In that event, the

respective Upstream Water Users will continue to control the water developed by those facilities subject to the continuing obligation to operate the projects under Articles 14.2 and 16.2.

14.2 Upstream Water Users' Obligations to Continue to Provide Water. In the event that this Agreement is terminated, or in the event a Long-Term Settlement Agreement is not executed, Reclamation and DWR at their discretion may, after consultation with the Downstream Water Users, elect to continue in effect one or more of the Short-Term Project Implementation Agreements, consistent with the provisions of those agreements, for a period not to exceed December 31, 2014. In the event of termination of this Agreement and an election by Reclamation and DWR to continue in effect a Short-Term Implementation Agreement, any Bay-Delta obligation imposed upon the Upstream Water User that continues project implementation to provide water to meet the 1995 Water Quality Plan, will be deemed satisfied during the period of time associated with the continued operation of such project. In the event that this election is not made, the Short-Term Project Implementation Agreement will be terminated.

14.3 Projects to Be Controlled by Upstream Water Users. A project sponsor will have the final decision-making role with respect to the manner in which it operates and manages Program projects to meet, consistent with the AOP as defined in Article 19.3, the requirements of this Agreement. In this regard, the Parties recognize that many of the Short-Term Projects are pilot projects that are intended to assist in determining their long-term capabilities. Consequently, if the Upstream Water User project sponsor determines, after consultation with the Management Committee, that development of water from these projects must be ceased or modified, such determination will be final, but the provisions of Article 14.4 will apply to the operation of that project.

14.4 Obligations in the Event Project Implementation is Ceased or Modified. In the event that a project sponsor, pursuant to the provisions of Article 14.3 of this Agreement, ceases project implementation or modifies the project in a manner that materially diminishes its benefits, and funding was obtained and utilized pursuant to Article 16.5 of this Agreement for the implementation of the project, the project sponsor will nonetheless be responsible to provide its allocated contribution of water sufficient to meet the Article 16.2 obligations; Provided that, if cessation of production or

modification of project operation was caused by a legal limitation or documented material adverse impact on the affected groundwater basin, then there will be no further obligation under this sub-article 14.4 during the duration of these limitations. Nothing in this Article 14.4 will affect the Upstream Water Users' collective obligation to develop projects to make the required Capacity and quantities of water available under Articles 15 and 16 or to implement an AOP pursuant to Article 19.3.

15.0 Development of Project Capacity Necessary to Deliver Water and Related Schedule.

15.1 Development of Project Capacity. The Upstream Water Users will implement projects (i.e., the Program and Short-Term Workplan projects) with the Capacity to produce 185,000 acre-feet of water that would otherwise not be available in the Sacramento River. Unless otherwise agreed to in the Short-Term Implementation Agreements, for groundwater projects, this Capacity will be made available during the period June 1 to October 31, and for storage release projects, this Capacity will be made available during the period July 1 to September 30. The Short-Term Project Implementation Agreements may provide for a different delivery period based upon individual project circumstances. Up to 92,500 acre feet of this Capacity will be available as Settlement Water, for the purposes of Article 16.2 hereto. Up to 92,500 acre feet of this Capacity will be available for the purposes of Articles 16.1 and 16.3 hereto. The Parties will work together, including through the development of the Remedial Workplan provided for in Article 19.2.4 hereto, to optimize the benefits associated with the developed Capacity in order to provide 185,000 acre feet of water that otherwise would not be available in the Sacramento River to meet the purposes set forth in Article 16 in a manner consistent with the Article 2.0 objectives. Reclamation and DWR will coordinate operation of the CVP and SWP (and any other project under their respective control) to maximize the water supply benefits associated with developed Capacity under this Agreement and the Short-Term Project Implementation Agreements.

15.2 Schedule for Development of Project Capacity. The Upstream Water Users will develop Capacity necessary to meet the requirements of Article 15.1 on the following schedule:

- 50,000 acre-feet of Capacity by June 1, 2003

- 100,000 acre-feet of Capacity by June 1, 2004
- 185,000 acre-feet of Capacity by June 1, 2005

The Capacity dedicated from Program projects on June 1, 2012 will decrease to that needed to provide 135,000 acre feet and will reduce further on June 1, 2013 to that needed to provide 85,000 acre feet.

15.3 Transition to Long Term Agreement. After the execution of the Short-Term Implementation Agreements, as provided for in Articles 6.2 and 13.0(a), any new Upstream Water Users' projects will be considered projects to be included within the Long-Term Workplan and subject to the Long-Term Workplan. To the extent that water developed from these projects is available prior to the execution of the Long-Term Settlement Agreement, then that water will be devoted first to the actions that may be necessary to address problems identified within the Article 19.2.4 Remedial Workplan process, and then the balance, if any, will be allocated to benefit equally interests associated with the allocations of water provided for within Articles 16.1 and 16.2 as determined by the Management Committee. As part of the Long-Term Agreement, the Parties will negotiate a mutually agreeable limit on the Upstream Water Users' requirement to assist in making water available for the purposes of D-1641.

16.0 Utilization of Program and Short-Term Workplan Project Capacity. The project Capacity developed pursuant to Article 15 will be dedicated and operated consistent with the AOP developed under Article 19.3 to meet the uses specified in Articles 16.1 and 16.2 in below normal, dry, and critical and in accordance with Article 16.4, in above-normal years. Water year types will be determined by the May 1 forecast using the 40-30-30 Sacramento River Index in D-1641.

16.1 Block 1 for Local Use. Fifty percent of the water developed from the Capacity set forth in Article 15 will be dedicated to local use within the entities producing the water. To the extent that water produced through this Capacity is not needed by entities producing the water, as determined by the entity producing the water, it will, consistent with the provisions of Article 16.3 below, be made available for purchase by the Downstream Water Users, DWR or Reclamation under the terms and conditions of this Short-Term Settlement Agreement.

16.2 Block 2 for Water Quality Control Plan Water. Fifty percent of the water developed from the Capacity set forth in Article 15.2 will be made available to the SWP and CVP, which, after consultation with the Downstream Water Users, may, on or before May 1, elect to take and use the water to meet the requirements of D-1641.

16.3 Obligation to Take Block 1 Water. In the event DWR or Reclamation elect to call for all or a portion of Block 2 water, the Downstream Water Users, DWR or Reclamation will be required to purchase an equal amount of Block 1 water if that water is made available for purchase pursuant to Article 16.1.

16.4 Water in Above-Normal Years. During above-normal year types, DWR or Reclamation may, after consultation with the Downstream Water Users, request that the Upstream Water Users make available Block 2 water. No Upstream Water User will be obligated to make such water available if it determines in its sole discretion that such action would have a negative impact on its ability to meet its commitments under this Agreement in below normal, dry or critical years; Provided that, in this event the Upstream Water User will not operate the Short Term Project in connection with any transfer during the relevant above-normal year.

16.5 Finances. To pay for projects and the other actions required by the Program and identified within the Short-Term Workplan, the Parties agree to the following:

16.5.1 Capital Costs. Consistent with the responsibilities of the agencies administering the funds, all steps will be taken to secure funds from Proposition 204, Proposition 13, and other appropriate public sources to pay the full capital expenses associated with Short-Term Workplan projects, including costs of acquiring capital facilities to implement the project, reasonable initial rehabilitation and other related costs associated with existing groundwater wells, and other general costs reasonably incurred to implement the project. The voters have recognized it is in the public interest to fund actions that improve water quality in the Delta and the reliability of supplies. Proposition 204, approved by the voters in 1996, provided $25 million for the purpose of assisting in meeting the 1995 Water Quality Control Plan objectives such as through the implementation of a water rights settlement in the Sacramento Valley. Proposition 13 contains funds for implementation of water management, water

use efficiency and planning projects consistent with the projects envisioned here. Nothing herein is intended to preclude projects from proceeding without the type of public funding dealt with in this sub-article.

16.5.2 Funds Not Available. In the event funds identified in Article 16.5.1 are not available in an amount sufficient to pay for the capital costs of Capacity required to make water available under Article 16, the Parties agree that they will together seek alternative funding to pay for these projects under the oversight of the Management Committee consistent with Article 19.

16.5.2.1 Block 2 Water. If sufficient alternative funding is not available to pay for the portion of the capital costs required to make Block 2 water available from a project, the Upstream Water User(s) sponsoring the project will not be obligated to proceed with the development of the project.

16.5.2.2 Block 1 Water. If sufficient alternative funding is not available to pay for the portion of the capital costs of a project required to make Block 1 water available from a project, the Parties will make their best efforts to obtain reasonably equivalent sources of alternative public or private financing for that project for the term of the Short-Term Project Implementation Agreement. If approved by the Upstream Water User sponsoring that project, Reclamation, DWR and/or Downstream Water Users may provide their own funds to make up for any deficiency in funds; provided that those funds will be fully repaid, including interest, as a credit against the payments required in Article 16.5.5 or pursuant to other repayment provisions specified in the Short-Term Project Implementation Agreement. If reasonably equivalent alternative financing for the term of the Short-Term Implementation Agreement is not available for any specific project, or Reclamation, DWR or the Downstream Water Users do not provide funds in accordance with this article 16.5.2.2 for any specific project, the Upstream Water User(s) sponsoring that project, in its discretion, will not be obligated to proceed with that project.

16.5.2.3 Termination. If the failure to implement projects because of the lack of funds results in a reduction in the amount of water otherwise to be provided pursuant to Articles 15 and 16, the early termination provisions of Article 11.0 may be invoked.

16.5.3 Operation and Maintenance ("O&M") Costs for Block 2 Water. O&M expenses for Block 2 water will be paid 50 percent by Upstream Water Users and 50 percent by Downstream Water Users, Reclamation or DWR. In "Critical Years" (as defined in Sacramento River Settlement Contracts), or "drought" years (as defined in Feather River Contracts and as will be applied on the Yuba River) the 50 percent O&M payment obligation will be tied to Out-of-Pocket Costs. The Technical Measurement and Monitoring Committee will confirm the need to rely upon sources other than short-term Workplan sources in "Critical Years" or "drought" years and also confirm the appropriateness of Out-of-Pocket Costs.

16.5.4 Costs Associated with Project Implementation, the Preparation of the Annual Operating Plan, Technical work, and Remedial Workplan. The Parties will seek funds from appropriate public sources to pay for the expenses associated with preparation of the AOP, technical work, remedial workplan preparation and implementation, and monitoring associated with implementation of the Short-Term Projects. To the extent such funds are not obtained for these purposes, the Management Committee will develop a plan for funding the remaining costs consistent with Article 19.0.

16.5.5 Payments for Block 1 Water Made Available to Downstream Water Users, DWR and Reclamation. Downstream Water Users, DWR or Reclamation will pay for Block 1 water made available under the provisions of Articles 16.1 and 16.3, according to year types as determined by the May 1 forecast using the 40-30-30 Sacramento River Index in D-1641, pursuant to the following payment schedule:

$50/acre-foot during years classified as above-normal;

$75/acre-foot during years classified as below-normal;

$100/acre-foot during years classified as dry; and

$125/acre-foot during years classified as critical.

The payments made for Block 1 water will be reduced to reflect the amount of public funds made available pursuant to the funding provisions of Article 16.5.1 hereto, if any, based on a formula assuming a 20-year amortization period at six percent. The payments made for Block 1 water will be modified up or down from the rate noted above based upon changes in actual operation and maintenance costs, assuming a 2002 base year.

16.5.6 Acre-Foot Payments. The costs and payments required by Articles 16.5.3 and 16.5.5 will be paid by the Downstream Water Users, DWR or Reclamation for each acre-foot of water they receive pursuant to Articles 16.1 through 16.3. Payments will be made, to an entity or entities identified by the Upstream Water Users, in any year when water is made available under this Agreement, as provided in the Short-Term Project Implementation Agreement(s).

17.0 System Improvement Projects. System Improvement Projects will be implemented consistent with the Short-Term Workplan. Water use efficiency measures will be implemented to provide maximum environmental benefit and to provide operations and maintenance benefits to participating Upstream Water Users. To the extent that the Management Committee, acting upon the recommendation of the Technical Measurement and Monitoring Committee, determines that these projects meet the objective of Article 2.2, such water will be credited equally toward the requirements in Articles 16.1 and 16.2.

18.0 Sacramento Valley Planning Projects. The planning projects identified in the Short-Term Workplan will be completed. These projects are intended, at least in part, to provide strategic information to Sacramento Valley decision-makers and others to assure that implementation of the Program will protect and enhance the reliability and integrity of Sacramento Valley water supplies.

19.0 Administration. To assure effective administration of this Agreement, the Program will include the following:

19.1 Management Committee. A Management Committee of 14 voting members will be established to provide oversight for the implementation of the Program. The committee will include an equal number of voting representatives of (i) the Upstream Water Users and (ii) the Downstream Water Users, DWR, and Reclamation collectively. Any decision by the Management Committee will require a majority vote of the members of both groups identified in (i) and (ii) above, provided that group (ii)'s majority includes the votes of DWR and Reclamation. The DF&G and the USFWS will each have an ex-officio, nonvoting representative on the Management Committee. The Management Committee may add voting members and ex-officio members, as it deems appropriate. The Management Committee will act in a manner consistent with the Short-Term Project Implementation Agreements and confirm that the form of the Short-Term Project Implementation Agreements is consistent with the provisions of the Short-Term Settlement Agreement. The Management Committee may create additional committees or working groups, as necessary, to assist it in fulfilling its duties.

19.2 Technical Measurement and Monitoring Committee.

19.2.1 General. A Technical Measurement and Monitoring Committee of members with expertise in groundwater and surface water project development and management representing the Parties will be created by the Management Committee. All actions and decisions of the Technical Measurement and Monitoring Committee, including decisions with respect to adoption of procedures associated with the operation of the Committee, will be subject to the approval of the Management Committee. The Technical Measurement and Monitoring Committee will establish procedures to determine whether projects are meeting the Article 2.0 objectives. The Technical Measurement and Monitoring Committee will evaluate the actual performance of the projects identified each year in the AOP prepared pursuant to Article 19.4. The Technical Measurement and Monitoring Committee will develop monitoring programs, analyze data from the monitoring programs, and attempt to resolve technical disputes. The Technical Measurement and Monitoring Committee will also provide recommendations with respect to means by which projects can best achieve the purposes of this Agreement.

19.2.2 Annual Evaluation of Projects. Each year the Technical Measurement and Monitoring Committee will: (a) assess how the Program and Short-Term Workplan projects developed water from the Capacity set forth in Article 15 to meet the Article 16.1, 16.2 and 16.3 obligations; (b) determine whether the water produced the previous year was made available at the time and in the quantities specified in that year's AOP; and (c) analyze and report on the results of the monitoring programs with respect to the timing and source of groundwater recharge resulting from operation of the projects associated with Program and Short-Term Workplan projects.

19.2.3 Annual Progress Report. The Technical Measurement and Monitoring Committee's findings and recommendations will be summarized in an Annual Progress Report submitted to the Management Committee. The Annual Progress Report will also evaluate the performance of projects in the Short-Term Workplan to assess their suitability for inclusion at existing or expanded scale in the Long-Term Workplan.

19.2.4 Remedial Workplan. If, after review of the Annual Progress Report, the Management Committee determines that the water developed from the Capacity set forth in Article 15 is not sufficient to meet the objectives of Article 2.0 and the Article 16.1, 16.2 and 16.3 purposes, it will direct the Technical Measurement and Monitoring Committee to develop a Remedial Workplan to address the identified problems. Remedial actions the Technical Measurement and Monitoring Committee consider may include, but are not limited to, relocation, improvement of Capacity or deepening of wells, and operation timing changes for groundwater and surface projects. To the extent that such actions result in additional expense, the Parties will evaluate such expenses and develop a mutually agreeable equitable distribution of such expenses. Failure to agree on implementation of improvements identified as necessary to provide water pursuant to Article 15.1 will be deemed cause for termination of the Agreement.

19.3 Annual Operating Plan. An AOP will be developed each year to describe how the available Capacity from the projects will be operated to produce water needed for the

purpose of Articles 15 and 16. The AOP will be developed each year by the dates shown in the following schedule:

March 1— The Upstream Water Users will develop a draft AOP in coordination with the Technical Measurement and Monitoring Committee, identifying how the Upstream Water Users plan to provide the amount of settlement water identified in Article 16.2. The plan will also disclose the quantity of Block 1 Water that the Upstream Water Users will require to be purchased pursuant to Article 16.3, and will describe the manner of operation and describe the measurement and monitoring program that will be carried out pursuant to Article 19.2;

March 15—DWR and Reclamation will submit comments, if any, on the AOP to the Upstream Water Users;

March 31—The Upstream Water Users will reply to any DWR and Reclamation comments;

May 1—DWR and Reclamation will request the amount of Block 2 water they elect to call for in that year;

May 15—The Upstream Water Users will submit a final AOP that reflects the amount of Block 2 water requested by DWR and Reclamation and the amount of Block 1 water that DWR and Reclamation will be obligated to purchase pursuant to Article 16.3 hereto.

20.0 Unmet Sacramento Valley Demands.

20.1 Recognition of Unmet Sacramento Valley Demands. The Stay Agreement recognizes that Upstream Water User demands may vary and that various enumerated categories of demand will need to be provided for. These categories of demand include:

(i) Urban needs and uses within the watershed of the Sacramento River and its tributaries;

(ii) Needs and uses within the Tehama-Colusa and Corning Canal service areas;

(iii) Needs and uses within the Sacramento River Water Rights Settlement Contractors' collective service area;

(iv) Needs and uses within areas that obtain supply from drains and bypasses within the Sacramento Valley; and

(v) Needs and uses within the areas tributary to the Sacramento, American and Feather Rivers.

The Parties agree that, as an initial step in providing for this identified demand, initial needs within the Tehama-Colusa and Corning Canal service areas ((ii) above) and within the Sutter Bypass ((iv) above) will be addressed. The general terms by which these needs are to be addressed are set forth in sub-articles 20.2 and 20.3 below. As part of the Long-Term Settlement Agreement, means by which additional unmet demands within the upstream areas can be met will be identified and developed. Meeting this upstream demand will be undertaken in a manner that also recognizes the need to increase benefits to Downstream Water Users.

20.2 Sutter Bypass. Notwithstanding the provisions of Article 2.2, during the term of this Short-Term Settlement Agreement or for whatever period is otherwise negotiated, the continued diversion and use of return and tailwater flows by water users in the Sutter Bypass/Butte Slough region will not be challenged by DWR, Reclamation, DF&G, USFWS or the Downstream Water Users. Sutter Bypass/Butte Slough region lands affected by this provision are shown on the map attached hereto and marked as Exhibit "A". The Sutter Bypass/Butte Slough Water Users Association will provide $36,000 annually, on behalf of the water users identified in Exhibit "A", for the benefit of DWR and Reclamation. To receive the benefit of this subarticle, these Sutter Bypass/Butte Slough water users must have this total amount applied as a credit towards the non-Upstream Water Users' share of operation and maintenance cost of Block 2 water pursuant to Article 16.5.3. This provision is self-executing and will create no legal precedent. It is solely for the purpose of addressing unique facts associated with the Sutter Bypass/Butte Slough water users as a part of this overall agreement. During the term of the Short-Term Settlement Agreement, the Sutter Bypass/Butte Slough water users, DWR, Reclamation and other interested parties will develop a long-term plan to accomplish the objectives in Article 20.1 for this region.

20.3 Tehama-Colusa Canal Authority ("TCCA"). Notwithstanding the provisions of Article 2.2, during the term of this Short-Term Settlement Agreement, or for whatever

period is negotiated between TCCA, Reclamation and other affected parties, CVP water service contractors served by the TCCA will receive an increased CVP contract supply, not to exceed a combined total of 25,000 acre-feet annually, at water rates based on Reclamation's "ability to pay" criteria. This supply will be made available through the assignment, or in such other manner as TCCA, Reclamation and other affected parties agree, of existing Sacramento River Settlement Contract CVP water supply to TCCA member agencies. This provision will create no legal precedent regarding transfers of base or project water supplies and is solely for the purpose of addressing unique facts associated with TCCA CVP water supply contracting. The general form of the agreement that will be used to implement this subarticle is attached as Exhibit B.

20.4 The provisions of sub-articles 20.2 and 20.3 are not intended to impose any obligation on any Upstream Water User or any Downstream Water User to make water supplies or money available for the benefit of the Sutter-Bypass/Butte Slough region or to the TCCA, except as otherwise agreed to by the affected parties. The provisions of subarticles 20.2 and 20.3 are not intended to impose any obligation on DWR or Reclamation, except as specifically provided in this Article 20.

21.0 Area-of-Origin Claims. Nothing within this Short-Term Settlement Agreement is intended, in any way, to adversely affect or to affirm the area-of-origin claims of Upstream Water Users or any other individual or entity who may be a beneficiary of the area-of-origin provisions of the California Water Code.

22.0 Water Transfers. Nothing herein is intended to prejudice the Parties' respective positions on the transferability of unused base water supply or unused water entitlements nor is it intended to affect the transfer of water that is not otherwise subject to this Agreement.

23.0 Protection of SWP and CVP Supplies. In recognition of the need to protect SWP and CVP supplies from inappropriate use by others, it is agreed as follows:

23.1 Illegal Diversions. The Parties agree that entities that do not hold adequate water rights should be prevented from illegally diverting water from the system. To reduce such diversions, the Parties will cooperate in seeking significantly increased penalties for

such illegal diversions and significant increases in resources for enforcement actions by the SWRCB.

23.2 Project Storage Releases. The Parties agree that when releases are required from the SWP and CVP reservoirs to maintain Delta water quality, such releases must be protected from illegal diversions. The Parties affirm the principle that upstream water rights do not extend to use of SWP and CVP storage releases, except in those circumstances where the upstream diverter has a contract with the SWP or CVP that expressly provides for such use.

24.0 Environmental Compliance.

24.1 Preparation of Environmental Documents. In carrying out any actions arising under or which may result from this Agreement, all applicable environmental review, including compliance with the National Environmental Policy Act ("NEPA") and the California Environmental Quality Act ("CEQA"), will be completed.

24.2 Program Environmental Document. DWR will be the lead agency under CEQA and Reclamation will be the lead agency under NEPA for preparing a program/programmatic environmental impact document with respect to actions resulting from this Agreement program documents. DWR and Reclamation will cooperate in preparing a joint program environmental impact document with DWR coordinating such preparation. During preparation and review of the joint program document, other Parties will participate as cooperating agencies pursuant to NEPA and as responsible agencies pursuant to CEQA. As appropriate, DF&G will also participate as a trustee agency pursuant to CEQA.

24.3 Project-Level Documents. Upstream Water Users will be lead agencies under CEQA for preparing and approving project level environmental documentation of their respective projects, as identified in the Short-Term Workplan. However, project-level evaluation of appropriate projects may be included within the program environmental document.

24.4 Compatible Documents. Environmental documents will be compatible with CALFED environmental documents.

24.5 Costs for Environmental Compliance. Costs for such environmental compliance, including preparation of program or project-level environmental documents, will be paid, to the extent feasible, from funds identified in Article 16.5.1, subject to the provisions of Article 16.5.2 and Article 30.0. If such funds are not sufficient to cover necessary costs of preparing the environmental documentation described by this Article, the Parties will cooperate to seek alternative funding to pay such costs.

25.0 Non-Participating Entities. The Downstream Water Users, DWR, Reclamation, DF&G or USFWS will not enter into water purchase or transfer agreements with entities, located in the Sacramento River Hydrologic Region as defined in Bulletin 160 and possessing water rights identified in the Phase 8 hearing process, if the entities are not providing water, or are not committed to provide water, under Articles 16.1, 16.2 or 16.4 pursuant to this Agreement and related Short-Term Implementation Agreements. The provisions of this Article 25.0 will not apply to Upstream Water Users that have resolved Phase 8 issues through separate settlement agreements approved by the SWRCB, or to water purchase or transfer agreements for use within the Sacramento River Hydrologic Region as defined in DWR Bulletin 160, including instream or in-basin environmental purposes. The provisions of this Article 25.0 also will not apply to water purchase or transfer agreements executed prior to October 1, 2002. For purposes of this Agreement the Environmental Water Account will be considered a use outside of the Sacramento River Hydrologic Region.

26.0 Upstream Water Users Who's Rights Are Not Directly at Risk in Phase 8. Any Upstream Water User whose underlying water rights were not identified in the Phase 8 hearing process and who participates in making water available under the provisions of Articles 16.1 and 16.2 will be credited to the extent it continues to provide Block 2 water pursuant to Article 16.2 in any SWRCB Bay-Delta water quality or water rights proceedings that directly implicate those rights and with respect to any action by the SWRCB to increase the 1995 Water Quality Control Plan objectives.

27.0 Resolution of Disputes. Any material dispute arising under this Agreement, including those involving possible termination or those which might cause the initiation of any

administrative or judicial proceeding to enforce the Agreement, will be submitted to a mediator. The mediator, who must have experience in water-related disputes, will be selected by the Parties who participate in the mediation. The Parties who participate in the mediation will use their best efforts to resolve the issues within 30 days. The costs of any such mediation will be borne equally among the Parties who participate in the mediation. Initiation of this mediation process will be through written notice to all Parties to this Agreement by any of the Parties hereto.

28.0 Effect of This Short-Term Settlement Agreement on Other Matters. Except as specifically provided in this Agreement, nothing in this Agreement, and nothing incorporated by reference into the terms of this Agreement, is intended or will be construed as a waiver or compromise of any Party's rights or responsibilities under State or Federal law. This Agreement will not be construed as an admission or determination of any Party's responsibility for meeting the requirements of D-1641. This Agreement constitutes a compromise and settlement of legal claims and is inadmissible to establish liability, responsibility or fault in any judicial or administrative proceeding. Execution of this Agreement is not intended and will not be construed as or is it intended to abrogate or limit any regulatory or statutory responsibility that any of the Parties hereto may have. The Agreement is subject to State and Federal Law.

29.0 Allocation of Risk Responsibilities. The Parties will cooperate in reducing, to the greatest extent practicable, the risk of claims arising against the parties from implementing this Agreement.

A. The parties to each Short-Term Project Implementation Agreement will specify in those agreements how they will allocate responsibilities with respect to the legal defense and payment of any settlements or judgments arising from:

(1) Claims involving control, carriage within the boundaries of the Upstream Water User who is implementing the project, handling, use, and disposal, or distribution of water pursuant to this Agreement or any Short-Term Project Implementation Agreement.

(2) Claims arising from activities under the exclusive control of the Upstream Water User who is implementing the project.

(3) Claims with respect to damage from the operation of an Upstream Water User who is implementing a groundwater project.

B. The Upstream Water Users and Downstream Water Users will share equally the responsibility, to the extent permitted by law, for the defense and any settlement of any claims challenging the validity of this Agreement (including reasonable attorneys' fees and litigation costs), or the underlying authority of the parties hereto to implement this Agreement, including claims brought under CEQA, NEPA, the Clean Water Act, state or federal Endangered Species Acts and claims with respect to the programmatic effects of this Agreement.

C. Reclamation, DWR, USFWS, and DFG will cooperate, to the extent permitted by law, in the defense and any settlement of any claims challenging the validity of this Agreement, and the underlying authority of the Parties hereto to implement this Agreement; including claims brought under CEQA, NEPA, the Clean Water Act, state or federal Endangered Species Acts; and claims with respect to the programmatic effects of this Agreement.

30.0 Contingent Upon Appropriations. The expenditure or advance of any money or the performance of any obligation of the United States or the State of California under this Agreement will be contingent upon appropriation and allotment of funds. No liability will accrue to the United States or the State of California in case funds are not appropriated or allotted.

31.0 Public Participation. The Parties will hold periodic public meetings, including SWRCB workshops and legislative hearings, to provide an opportunity for nonparticipating individuals and entities to have input into the planning process.

32.0 Other Agreements. The Parties recognize that as program development progresses there will be a need either to amend this Agreement or to enter into additional agreements. In this regard, the Parties acknowledge that this Agreement will complement other relevant local partnerships and/or CALFED agreements and will, as a consequence, be flexible enough to accommodate those other partnerships and agreements.

33.0 Cooperation. The Parties will cooperate in carrying out the provisions and intent of this Agreement.

34.0 Notices. All notices will be sent to the following:

DWR:	Thomas M. Hannigan, Director Department of Water Resources 1416 Ninth Street, Room 1115-1 P.O. Box 942836 Sacramento, CA 94236-0001
Reclamation:	Kirk C. Rodgers, Regional Director U.S. Department of the Interior Bureau of Reclamation, MP-100 2800 Cottage Way Sacramento, CA 95825
Downstream Water Users:	John C. Coburn, General Manager State Water Contractors 455 Capitol Mall, Suite 220 Sacramento, CA 95814
	Daniel G. Nelson, Executive Director San Luis & Delta-Mendota Water Authority 842 – 6th Street, Suite 7 P.O. Box 2135 Los Banos, CA 93635
	Walter J. Bishop, General Manager Contra Costa Water District 1331 Concord Avenue P.O. Box H2O Concord, CA 94524
Upstream Water Users:	David J. Guy, Executive Director Northern California Water Association 455 Capitol Mall, Suite 335 Sacramento, CA 95814
DF&G:	Robert C. Hight, Director Department of Fish and Game 1416 Ninth Street, Room 1207 Sacramento, CA 95814
USFWS:	Steve P. Thompson, Manager, California-Nevada Operations Office U.S. Fish and Wildlife Service 2800 Cottage Way, Suite W-2610 Sacramento, CA 95825

35.0 Counterparts. This Agreement may be executed simultaneously or in one or more counterparts, each of which will be an original but all of which together will constitute one and the same document.

DEPARTMENT OF WATER RESOURCES

Dated: 12/19/02

By _____
Thomas M. Hannigan
Director

U.S. BUREAU OF RECLAMATION

Dated: 1/10/03

By _____
Kirk C. Rodgers
Regional Director

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

STATE WATER CONTRACTORS

Dated: 12-18-02.

By _____
John C. Coburn
General Manager

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

Dated: 3/24/03

By _____
Daniel G. Nelson
Executive Director

CONTRA COSTA WATER DISTRICT

Dated: 12/24/02

By _____
Walter J. Bishop
General Manager

NORTHERN CALIFORNIA WATER ASSOCIATION

Dated: 12-20-02

By _____
David J. Guy
Executive Director

DEPARTMENT OF FISH AND GAME

Dated: 12-20-02

By _____
Robert C. Hight
Director

U.S. FISH AND WILDLIFE SERVICE

Dated: 12-18-2002

By _____
Steve P. Thompson
Manager
California-Nevada Operations Office

Additional Upstream Water User
Signatories Pursuant to Article 9.0:

ANDERSON-COTTON IRRIGATION DISTRICT

Dated: 12-12-02

By _____
Dee E. Swearingen
General Manager

BROWNS VALLEY IRRIGATION DISTRICT

Dated: 12-12-02

By _____
Robert Winchester
President
Board of Directors

BUTTE WATER DISTRICT

Dated: 12-17-02

By _____
Robert Waller
President of the Board

FEATHER WATER DISTRICT

Dated: Dec 16, 2002

By _____
Neill Mitchell
President

GARDEN HIGHWAY MUTUAL WATER COMPANY

Dated: 12/16/02

By _____
Alfred G. Montna
President/Manager

Dated: 12/15/02

By _____
Jill Leal
Secretary

Glenn-Colusa Irrigation District

Dated: 3/25/03

By _____
Donald R.Bransford
President

MAXWELL IRRIGATION DISTRICT

Dated: 12/10/02

By _____
Douglas McGeoghegan
Chairman
Board of Directors

MERIDIAN FARMS WATER COMPANY

Dated: 12-13-02

By _____
Harold Webster
General Manager

NATOMAS MUTUAL WATER COMPANY

Dated: December 11, 2002

By _____
Peter Hughes
Manager

ORLAND-ARTOIS WATER DISTRICT

Dated: 12/17/02

By _____
John Enos
President

ORLAND UNIT WATER USERS' ASSOCIATION

Dated: 12.13.02

By _____
Steve Butler
President

By _____
Joe Gilmore
Secretary

Oroville-Wyandotte Irrigation District

Dated: 11.26.02

By _____
Michael Glaze
General Manager

PELGER MUTUAL WATER COMPANY

Dated: 12/15/02

By Scott C. Tucker

Title President

Placer County Water Agency

Dated: _____

By _____
Dave Breninger
General Manager

PLEASANT GROVE-VERONA MUTUAL WATER COMPANY

Dated: Dec. 14, 02

By Brett Scheidel
Brett Scheidel
President

Plumas Mutual Water Company

Dated: _____

By _____
Dick Onyett
Treasurer

Princeton-Codora-Glenn Irrigation District

Dated: 12-11-02

By David Alves
David Alves
Chairman
Board of Directors

PROVIDENT IRRIGATION DISTRICT

Dated: 12-10-02

By Elwood Weller
Elwood Weller
President
Board of Directors

RECLAMATION DISTRICT NO. 108

President

Secretary

RECLAMATION DISTRICT 1004

Dated: 12-11-02

By:
Jack Baber
Chairman
Board of Trustees

RIVER GARDEN FARMS COMPANY, a partnership

Dated: 12-13-02

By

Title Waterbury Farms, Inc., by Les Cantor, President

RIVER GARDEN FARMS COMPANY, a partnership

Dated: 12/13/2002

By

Title VICE PRESIDENT of GENERAL PARTNER KSA INDUSTRIES INC.

Sutter Bypass-Butte Slough Water Users Association

Dated: 3/15/03

By
Nicole Montna Van Vleck
Chairman of the Board

SUTTER EXTENSION WATER DISTRICT

Dated: 12-13-02

By Paul Russell
Paul Russell
Secretary

SUTTER MUTUAL WATER CO.

Dated: 12/9/02

By David Richter
David Richter
President

Tehama Colusa Canal Authority

Dated: April 15, 2003

By Bob Williams
Bob Williams
Chairman of the Board

Tudor Mutual Water Company

Dated: _____

By _____
Jaswant Bains
President

YUBA COUNTY WATER AGENCY

Dated: Dec. 12, 2002

By Bill Simmons
Bill Simmons
Chairman
Board of Directors