

1 **BOUTIN JONES INC.**
2 Daniel S. Stouder SBN 226753
3 Eric C. Miller SBN302594
4 Ian K. McGlone SBN 315201
5 555 Capitol Mall, Suite 1500
6 Sacramento, CA 95814-4603
7 T: (916) 321-4444/F: (916) 441-7597

FILED Superior Court of California
County of Butte
6/17/2021
By *D. H. [Signature]* Deputy
Electronically FILED

Attorneys for Plaintiff North Yuba Water District

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF BUTTE**

11 NORTH YUBA WATER DISTRICT

12 Plaintiff,

13 vs.

14 SOUTH FEATHER WATER AND
15 POWER AGENCY, and DOES 1 through
16 10,

17 Defendants.

Case No.: 21CV01563

COMPLAINT FOR:

- 18 (1) BREACH OF CONTRACT
- 19 (2) BREACH OF IMPLIED COVENANT
OF GOOD FAITH AND FAIR
DEALING
- 20 (3) ACCOUNTING
- 21 (4) CONVERSION
- 22 (5) BREACH OF FIDUCIARY DUTY
- 23 (6) DECLARATORY RELIEF

24 Plaintiff alleges as follows:

25 **PRELIMINARY ALLEGATIONS**

26 1. Plaintiff North Yuba Water District (“NYWD”) is a county water district located in Yuba
27 County formed and existing in accordance with the provisions of Division 12 of the California Water
Code. NYWD previously operated under the name “Yuba County Water District.”

28 //

1 2. Defendant South Feather Water and Power Agency (“SFWPA”) is an irrigation water district
2 located in Butte County formed and existing in accordance with the provisions of Division 11 of the
3 California Water Code.

4 3. NYWD and SFWPA may be referred to herein individually as a “Party” or collectively as the
5 “Parties.”

6 4. The true names and capacities of defendants DOES 1 through 10, inclusive, whether
7 individual, agency, corporate, associate, or otherwise, are unknown to Plaintiff at this time, who
8 therefore sues these defendants, and each of them, by fictitious names. Plaintiff is informed and
9 believes and on that basis alleges Defendant, together with DOES 1 through 10, inclusive, were and
10 are the agents, employees, and/or joint venturers of each other and that all defendants participated in
11 each of the acts and omissions of the other defendants and did so with the knowledge and intent
12 and/or are in some way responsible for the events and happenings referred to herein and caused the
13 damages as herein alleged; that all of the things alleged to have been done by those defendants were
14 done under the scope and capacity of and as agents, employees, representatives and/or joint
15 venturers for each of the other defendants and that all of the things alleged to have been done were
16 done with the knowledge, authority, consent, approval, agreement, adoption and/or ratification of
17 each of the other defendants. Plaintiff will seek leave of this Court to amend this Complaint to state
18 the true names and capacities of the fictitiously named defendants when they have been ascertained.

19 5. Venue is initially proper in this County under CCP § 395(a) because it is where SFWPA
20 resides and where the Agreement was at least partially to be performed. However, venue must be
21 transferred to a neutral county pursuant to CCP § 394(a).

BACKGROUND

22
23 6. NYWD and SFWPA are 50/50 partners in the South Feather Power Project (“SFPP”), which is
24 a water supply and hydropower project located within Plumas, Yuba, and Butte Counties. Historically,
25 SFPP has used waters from the South Fork Feather River and its tributaries and a tributary of the North
26 Fork of the Yuba River. SFPP facilities include dams, tunnels, and powerhouses. In 2004, the
27 California State Water Resources Board issued an order requiring an agreement between the Parties
28

1 that allows NYWD to use SFPP diversion, storage, and conveyance facilities to supply water to
2 NYWD.

3 A. The 2005 Agreement

4 7. On or about May 27, 2005, NYWD and SFWPA entered into the written “Agreement between
5 South Feather Water and Power Agency and [North Yuba] Water District”¹ which was later amended
6 three times by written agreement of the Parties on May 20, 2010, June 25, 2013, and December 22,
7 2016, respectively. The “Agreement between South Feather Water and Power Agency and [North
8 Yuba] Water District” and the amendments thereto are referred to herein as the “2005 Agreement.” A
9 true and correct copy of the 2005 Agreement is attached to this Complaint as **Exhibit “A”** and is
10 incorporated by reference herein. The 2005 Agreement created a legal partnership between NYWD
11 and SFWPA in connection with the SFPP.

12 8. Among other issues, the 2005 Agreement addresses the water-right permits to be
13 independently held by each Party, SFWPA’s re-licensing of the SFPP with the Federal Energy
14 Regulatory Commission, and the terms and conditions governing the delivery of water from SFPP
15 facilities to NYWD. Most pertinent to this dispute, the 2005 Agreement also addresses the
16 partners’ sharing of SFPP net revenues derived from power and water sales.

17 9. Pursuant to Part I.3 of the 2005 Agreement, the Parties agreed that NYWD and SFWPA
18 “jointly own, for purposes of diversion, storage and use of water for hydroelectric generation within
19 SFPP” certain water-right licenses. NYWD and SFWPA’s “joint ownership of these water-right
20 licenses is for security for the sharing of net revenues from sales of hydroelectric power generated by
21 the SFPP.” The 2005 Agreement also allows NYWD to use SFPP diversion, storage, and conveyance
22 facilities to supply water to NYWD.

23 10. The 2005 Agreement requires that “[a]ll revenues” from SFPP power and water sales be
24 deposited into the “SFPP Joint Facilities² Operating Account” (“JFOA”), and used to pay SFPP Joint
25 Facilities expenses from that account. Part III.12; Part IV; Definitions p. 6. The 2005 Agreement
26

27
28 ¹ The actual title is the “Agreement between South Feather Water and Power Agency and Yuba County Water District.”
² “SFPP Joint Facilities” is defined by the Agreement as “all SFPP facilities besides the Sly Creek Powerhouse.”

1 requires SFWPA to maintain the JFOA; at all pertinent times SFWPA solely controlled access to the
2 JFOA and solely controlled all SFPP records.

3 11. Pursuant to Parts III and IV of the 2005 Agreement, SFWPA is required to distribute SFPP net
4 power revenues on a 50/50 basis to SFWPA and NYWD after meeting certain expenses, making
5 certain payments, and meeting certain other requirements as described in the 2005 Agreement.

6 12. Under Part IV.1 of the 2005 Agreement, NYWD is “**at all times**” afforded “**reasonable**
7 **access**” to the SFPP records of accounts to allow NYWD to verify both the “**accuracy and adequacy**”
8 of SFWPA’s handling of the SFPP accounting. Thus, while SFWPA creates and maintains all records
9 of accounts related to the power and water sales, the 2005 Agreement makes clear that NYWD will
10 have reasonable access to all relevant records to enable it to verify SFWPA’s financial management of
11 the SFPP and the JFOA.

12 13. The 2005 Agreement also requires SFWPA to provide NYWD with an annual, detailed
13 accounting of the prior calendar year’s SFPP gross revenues, operating, and other expenses and
14 payments, for the purpose of determining the net revenues from SFPP that are available for distribution
15 to the Parties (“Annual Accounting”). Part IV.3. The Annual Accounting is due no later than June 30
16 of each year, and distributions must be made by July 1. *Id.*; Second Amendment to 2005 Agreement, ¶
17 1. SFWPA is also required to provide a preliminary accounting, due each and every month, both as to
18 amounts actually received and incurred, and as compared to the budgeted amounts (“Monthly
19 Accounting”). *Id.*

20 B. SFWPA’s breaches of the 2005 Agreement

21 a. Annual and Monthly Accountings

22 14. On information and belief, SFWPA has never provided an Annual Accounting or a Monthly
23 Accounting to NYWD. Over the years NYWD has demanded that SFWPA comply with the 2005
24 Agreement by providing the Annual Accounting and Monthly Accounting, yet SFWPA refuses to do
25 so. Most recently, SFWPA’s attorney claimed in written correspondence that SFWPA and NYWD
26 long-ago agreed to do away with the Monthly Accounting requirement. Part VII.10 of the 2005
27 Agreement requires valid amendments to be in writing and signed by both Parties. SFWPA’s attorney
28 was unable to provide any such written agreement. There being no valid amendment to delete these

1 requirements, SFWPA must be ordered to comply with the 2005 Agreement and provide the Annual
2 Accounting and Monthly Accounting to NYWD, including on a going forward basis.

3 b. Reasonable Access

4 15. SFWPA also refuses to allow NYWD the “reasonable access” to the SFPP accounting which
5 the 2005 Agreement guarantees. On information and belief, this has been a consistent pattern dating
6 back to 2010. For the past four (4) years, NYWD has made a number of formal requests for access to
7 the SFPP accounting. Until this year, SFWPA largely only provided publicly available documents in
8 response, most of which were already posted on SFWPA’s website. Beginning in January of 2021,
9 and only after NYWD threatened to sue to enforce its rights under the 2005 Agreement, SFWPA
10 began to provide more of the required SFPP accounting records. But still to this day, SFWPA refuses
11 to provide all records related to the SFPP accounting so that NYWD, as one half of the SFPP
12 partnership, can verify the accuracy and adequacy of SFWPA’s SFPP revenues, expenditures, and
13 accountings.

14 16. As part of exercising its verification rights under the 2005 Agreement, and because SFWPA
15 creates and maintains all SFPP accountings and financial records, NYWD requires SFWPA to respond
16 to questions and explain its accounting methodologies, both historically and on an ongoing basis. Yet
17 SFWPA refuses to reasonably engage with NYWD in this regard. For over five (5) months in 2021,
18 NYWD worked in vain through counsel to convince SFWPA to respond to pertinent and reasonable
19 accounting questions so that NYWD could verify the accuracy and adequacy of the SFPP accounting
20 (including the issue of whether SFWPA was distributing the entire share of net revenues owed to
21 NYWD). This process culminated in a May 10, 2021 meeting between the principals, accountants,
22 and attorneys for SFWPA and NYWD. Unfortunately, SFWPA arbitrarily limited what could be
23 discussed at this meeting, refused to answer focused categories of questions, and was unable to answer
24 other questions. SFWPA refuses to allow full transparency in its financial dealings related to the SFPP,
25 and as a result NYWD has not been able to provide the important oversight functions which ensure
26 that the partners are treated fairly. Beyond the specific dollar amount described below, NYWD does
27 not know whether it is owed monies from SFWPA because SFWPA has not allowed, and continues to
28 refuse, NYWD the reasonable access to the records and information mandated by the 2005 Agreement.

1 SFWPA has also indicated that it will not accommodate NYWD’s requests for information and
2 documentation regarding the SFPP in the future. NYWD has exhausted all reasonable efforts to secure
3 compliance with this critical component of the 2005 Agreement and now requires judicial intervention
4 to restore the bargained-for balance of power and access to the SFPP accounting records and
5 information.

6 c. Required Distribution

7 17. In May of 2019, SFWPA unilaterally obtained a short-term loan to cover a SFPP obligation
8 for \$8,000,000 from Signature Financial to refinance certain PG&E debt. The 2005 Agreement
9 provides in Part IV.8 that SFPP loans must be paid off before any distribution of SFPP Joint Facilities
10 net power revenues **if, and only if**, certain conditions are first met. The conditions are that the
11 balances in the JFOA and the SFPP Contingent Reserve Account (“Reserve Account”) “together are
12 not sufficient at any time to pay all SFPP Joint Facilities...expenses as they become due...” From May
13 of 2019 through June 30, 2020, the balances in the JFOA and the Reserve Account were more than
14 sufficient to pay all SFPP Joint Facilities expenses, including the obligation for which the Signature
15 Financial loan was taken. Because this condition precedent regarding insufficient funds was not met,
16 the requirement that loans be repaid before making distributions to the Parties did not and does not
17 apply as it pertains to the 2019 SFPP operations year.

18 18. As of June 23, 2020, SFWPA distributed to its board members a document with a line item
19 called “Ending Balance” which reflected a Reserve Account Ending Balance of \$24,044,866 with a
20 Reserve Requirement of \$19,569,960 as reflected on SFWPA’s “additional distributions” calculation.
21 Per the 2005 Agreement, excess reserves are defined as distributable net revenues so long as there are
22 no qualifying loans outstanding (which there were not for the 2019 year). As of June 30, 2020,
23 SFWPA’s records make clear that it was holding, for 2019, excess reserve funds in the amount of
24 \$4,474,906. That entire amount should have been distributed to the Parties on a 50/50 basis as of July
25 1, 2020. Specifically, SFWPA should have paid NYWD \$2,237,453 on that date. This is consistent
26 with how SFWPA operated for the 2017 year when it made more than \$1 million in distributions even
27 though it carried debt at that time. Despite NYWD’s repeated demands and objections to SFWPA’s
28

1 accounting, SFWPA refuses to distribute any net revenues for the 2019 year, falsely claiming that Part
2 IV.8 of the 2005 Agreement completely justifies its misleading accounting tricks.

3 **FIRST CAUSE OF ACTION**

4 **BREACH OF CONTRACT**

5 **(Against Defendant SFWPA)**

6 19. NYWD incorporates herein all of the paragraphs above.

7 20. NYWD and SFWPA entered into the written 2005 Agreement as described above.

8 21. NYWD has performed all conditions, covenants, and promises required on its part to be
9 performed in accordance with the terms and conditions of the 2005 Agreement.

10 22. Beginning on or about July 1, 2020, and likely much earlier, SFWPA breached the
11 Agreement by failing to distribute to NYWD all of NYWD's share of the water and power net
12 revenues in breach of Parts III and IV of the 2005 Agreement.

13 23. Within the last four years, and continuously thereafter, NYWD made written requests to
14 SFWPA for full access to SFPP records and accountings. SFWPA breached, and continues to
15 breach, Paragraphs IV.1 and IV.3 of the 2005 Agreement by refusing and failing to provide
16 accountings and reasonable access to SFPP records.

17 24. SFWPA has never provided the Monthly Accounting or Annual Accounting to NYWD in
18 continual and ongoing breach of Part IV.3 of the 2005 Agreement.

19 25. Based on NYWD's preliminary analysis of the limited records it has obtained and reviewed
20 thus far, SFWPA owes the principal sum of at least \$2,237,453 for NYWD's share of the 2019 net
21 profits that SFWPA retained in violation of Section IV of the 2005 Agreement.

22 26. NYWD made reasonable and good faith attempts to resolve this dispute prior to the filing of
23 this Complaint. NYWD thus satisfied Part VII.3 of the Agreement through numerous correspondence
24 with SFWPA and through an in-person meeting by the Parties held on May 10, 2021.

25 27. As a result of SFWPA's breach of the Agreement, NYWD has sustained monetary damages
26 in the sum of at least \$2,237,453, plus additional amounts as will be determined after reviewing all
27 unredacted SFPP documents, plus interest at the statutory rate.

28 //

1 28. SFWPA should also be found in breach of the 2005 Agreement for failing to provide the
2 Annual Accounting and Monthly Accounting and the required reasonable access to the SFPP
3 accounting.

4 29. NYWD should also be awarded specific performance to include, without limitation, that
5 SFWPA be ordered to produce all prior, current, and future Annual Accountings and Monthly
6 Accountings to NYWD and to provide reasonable access to all prior, current, and future SFPP
7 records as required by the 2005 Agreement.

8 **SECOND CAUSE OF ACTION**

9 **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

10 **(Against all Defendants)**

11 30. NYWD incorporates herein all of the paragraphs above.

12 31. California law recognizes an implied covenant of good faith and fair dealing in every
13 contract. This duty includes, among other things, a duty to refrain from taking any action or from
14 making any omission that deprives the other party of the benefit of the contract.

15 32. Because SFWPA has sole access to and exclusive control over the SFPP records and the
16 JFOA, SFWPA had a duty to at all times exercise transparency and to ensure NYWD received its
17 benefit of the bargain, including its share of the net revenues from water and power sales.

18 33. On information and belief, SFWPA failed to provide the Annual Accountings and Monthly
19 Accountings and to provide reasonable access to SFPP records, while representing through its
20 actions that NYWD was receiving its contractual share from net water and power sales as required
21 by the 2005 Agreement. NYWD reasonably relied on SFWPA's representations that it was
22 distributing NYWD's entire share of the net revenues to NYWD.

23 34. On information and belief, SFWPA knew that NYWD was unaware of the fact that SFWPA
24 was not paying NYWD fifty percent (50%) of the net revenues of water and power sales, and
25 further, that SFWPA deliberately withheld accountings and SFPP documents from NYWD for the
26 purpose of concealing this fact from NYWD. Through these actions and omissions, SFWPA
27 abused its superior position as the Party maintaining control of all SFPP financial documents and
28 the JFOA, and thus breached the implied covenant of good faith and fair dealing owed to NYWD.

1 35. As a result of SFWPA's breach of the implied covenant of good faith and fair dealing,
2 NYWD was damaged in an amount to be proven at trial.

3 **THIRD CAUSE OF ACTION**

4 **ACCOUNTING**

5 **(Against all Defendants)**

6 36. NYWD incorporates herein all of the paragraphs above.

7 37. SFWPA controls access to the SFPP accountings and all financial records related to power
8 and water sales governed by the 2005 Agreement.

9 38. SFWPA has duties under the 2005 Agreement to provide reasonable access to the SFPP
10 records and to provide accountings to NYWD.

11 39. Within the last four (4) years, SFWPA, in the course of the aforementioned charge and
12 management, has received money from water and power sales, a portion of which is due NYWD
13 pursuant to the terms of the 2005 Agreement. The total amount of money due from SFWPA to
14 NYWD is unknown to NYWD and cannot be fully ascertained without a full accounting of the
15 JFOA and all financial records related to power and water sales governed by the 2005 Agreement.
16 On information and belief, the amount owed exceeds the sum of \$2,237,453.

17 40. Based on the limited records produced by SFWPA within the last year, NYWD is informed
18 and believes and thereon alleges that complete accounting records dating back more than four (4)
19 years will establish that additional monies are owed to NYWD pursuant to the terms and conditions
20 of the 2005 Agreement. SFWPA was at all times in a superior position to NYWD because it had
21 access to all SFPP financial records and controlled the amount of JFOA funds that were distributed
22 to NYWD. Using that superior position, SFWPA deliberately withheld documents and information
23 that will show that SFWPA did not distribute all monies owed NYWD pursuant to the 2005
24 Agreement. NYWD did not know or have reason to know that SFWPA was deliberately
25 withholding documents and information for the purpose of concealing from NYWD that NYWD
26 was not in fact receiving all monies due. This amount of money due from SFWPA to NYWD is
27 unknown to NYWD and cannot be fully ascertained without an accounting of the JFOA and all
28 financial records related to power and water sales and expenses governed by the 2005 Agreement.

1 **FOURTH CAUSE OF ACTION**

2 **CONVERSION**

3 **(Against all Defendants)**

4 41. NYWD incorporates herein all of the paragraphs above.

5 42. At all times herein mentioned, NYWD had, and still has, a right to fifty percent (50%) of the
6 net water and power revenues as provided by the 2005 Agreement.

7 43. As of the date of the filing of this Complaint, SFWPA has converted the principal amount of
8 at least \$2,237,453 that is due and owing to NYWD.

9 44. On April 20, 2021, NYWD made a written demand to SFWPA for the distribution of
10 amounts that are due and owing to NYWD, but SFWPA failed and refused, and continues to fail
11 and refuse, to make this and/or any other distribution to NYWD for the 2019 SFPP year and instead
12 kept the funds for SFWPA's benefit.

13 45. SFWPA's acts alleged above are willful, wanton, malicious, and oppressive, and justify the
14 awarding of exemplary and punitive damages.

15 **FIFTH CAUSE OF ACTION**

16 **BREACH OF FIDUCIARY DUTY**

17 **(Against SFWPA)**

18 46. NYWD incorporates herein all of the paragraphs above.

19 47. NYWD and SFWPA entered into the written 2005 Agreement as described above.

20 48. The purpose of the 2005 Agreement was, among other things, for NYWD and SFWPA to
21 share equally in the net revenues from water and power sales.

22 49. The sharing of net revenues from water and power sales created a partnership between
23 NYWD and SFWPA. The presumption of a partnership is not overcome by Part VII.15 of the
24 Agreement because the essential elements of a partnership have been met. *San Joaquin Light &*
25 *Power Corp. v. Costaloupes* (1929) 96 C.A. 322, 332.

26 50. At all relevant times, SFWPA owed, and continues to owe, NYWD the duties of loyalty and
27 care. These duties include, among other things, the duty to refrain from engaging in grossly
28

1 negligent, reckless, or intentional misconduct, and the duty to discharge duties to the partnership
2 and to NYWD consistently with the obligation of good faith and fair dealing.

3 51. SFWPA breached, and continues to breach, its fiduciary duties owed to NYWD by refusing
4 and failing to provide NYWD with its share of the net revenues from the power and water sales, by
5 refusing and failing to provide NYWD with reasonable access to partnership records and to fully
6 account to NYWD, and by refusing to provide the Monthly Accounting and Annual Accounting.
7 The purpose of SFWPA's breaches of its fiduciary duties owed to NYWD was and is to benefit
8 itself to NYWD's detriment.

9 52. As a direct and proximate result of SFWPA's breach of its fiduciary duties, NYWD was
10 harmed and continues to be harmed in the amount of at least \$2,237,453, with the exact amount
11 subject to proof.

12 53. SFWPA's breaches of its fiduciary duties were motivated by malice as will be shown
13 according to proof, and includes but is not limited to its refusal to provide reasonable access to
14 partnership records and its refusal to provide a full accounting of the partnership. Therefore, the
15 awarding of punitive damages is justified.

16 **SIXTH CAUSE OF ACTION**

17 **DECLARATORY RELIEF**

18 **(Against SFWPA)**

19 54. NYWD incorporates herein all of the paragraphs above.

20 55. An actual dispute currently exists between NYWD and SFWPA as described above.
21 Succinctly restated, NYWD contends that SFWPA is obligated to but has failed to provide the
22 Annual Accounting and Monthly Accounting and reasonable access to the SFPP records to enable
23 NYWD to verify the accuracy and adequacy of the SFPP accounting. On information and belief,
24 SFWPA disputes these allegations.

25 56. A judicial declaration is desirable and necessary for the Court to resolve the issues identified
26 in the preceding paragraph. NYWD, on behalf of its roughly 2,300 customers, has both the right
27 and the obligation to oversee SFWPA's handling of the SFPP finances and SFWPA has prevented
28 NYWD from accomplishing this task for too long. The Declaratory Relief requested herein is

1 consistent with the express and implied rights of the Parties to the 2005 Agreement and will bring
2 some much needed guidance going forward. The obligations in dispute are ongoing and a
3 declaration of the Parties' rights and obligations is required in order to avoid a multiplicity of future
4 disputes regarding the 2005 Agreement.

5 57. In the interest of justice and equity, such a declaration of duties, rights, title, interests, and/or
6 responsibilities is necessary.

7 58. NYWD has no adequate remedy at law. The Court needs to instruct SFWPA on a) what
8 "reasonable access" means regarding the SFPP financial records and b) its obligations to provide
9 the Monthly Accounting and Annual Accounting. Conversely, SFWPA will not be prejudiced by a
10 judicial declaration regarding the Parties' rights and obligations under the 2005 Agreement.

11 **PRAYER FOR RELIEF**

12 Plaintiff prays for judgment against Defendants, and each of them, as follows:

- 13 1. For compensatory damages in the sum of at least \$2,237,453.
- 14 2. For an accounting between Plaintiff and Defendants.
- 15 3. For payment over to Plaintiff on the amount due from Defendants as a result of the account.
- 16 4. For interest at the statutory rate.
- 17 5. For punitive damages.
- 18 6. For declaratory relief.
- 19 7. For specific performance.
- 20 8. For costs of suit.
- 21 9. For other proper relief.

22
23 Dated: June 17, 2021

BOUTIN JONES INC.

24 

25 By: _____

26 Daniel S. Stouder
27 Eric C. Miller
28 Ian K. McGlone
Attorney for Plaintiff

Exhibit A

**AGREEMENT BETWEEN SOUTH FEATHER WATER AND POWER AGENCY
AND YUBA COUNTY WATER DISTRICT**

RECITALS

A. The South Feather Water and Power Agency (SFWPA) is an irrigation district formed and existing in accordance with the provisions of Division 11 of the Water Code.

B. The Yuba County Water District (YCWD) is a county water district formed and existing in accordance with the provisions of Division 12 of the Water Code.

C. On March 21, 1958, YCWD and SFWPA entered into an agreement regarding various pending applications for water-right permits and the operations of the South Feather Power Project (SFPP).

D. On December 9, 1959, SFWPA and YCWD entered into a new agreement, which amended, modified, supplemented and superseded the March 21, 1958 agreement.

E. On December 20, 1965, SFWPA and YCWD entered into an agreement modifying and supplementing the December 9, 1959 agreement.

F. SFWPA and YCWD entered into these agreements to settle certain pending disputes and proceedings regarding waters in the watersheds of the South Fork of the Feather River and the North Fork of the Yuba River within Butte, Plumas, Sierra and Yuba Counties, California.

G. In accordance with the 1959 agreement, SFWPA constructed, owns and operates the SFPP, a multipurpose project that uses waters from the South Fork Feather River and its tributaries and a tributary of the North Fork of the Yuba River.

H. YCWD has not been able to construct the storage facilities on the upper Dry Creek Basin or the facilities on Canyon Creek that are described in paragraph V.B of the 1959 Agreement and that would have supplied water required by YCWD for its consumptive uses.

I. YCWD and SFWPA jointly hold water-right Permits 11516 and 11518, which authorize consumptive uses of waters diverted, stored and conveyed by the SFPP within the service areas of SFWPA and YCWD.

J. SFWPA also holds water-right Permits 1267, 1268, 1271 and 2492, which authorize consumptive and recreational uses of waters diverted, stored and conveyed by the SFPP within the service area of SFWPA.

K. SFWPA has initiated proceedings before the Federal Energy Regulatory Commission (FERC) to obtain a renewed license authorizing SFWPA's continued ownership and operation of the SFPP past March 31, 2009, when SFWPA's present FERC license expires.

L. The following disagreements and disputes have arisen between SFWPA and YCWD regarding their respective rights to the water from the SFPP for consumptive uses:

1. YCWD has notified SFWPA that unless SFWPA allocates additional water from the SFPP to YCWD for its consumptive uses, YCWD will petition FERC and the California State Water Resources Control Board (SWRCB) for orders to be issued in connection with SFWPA's FERC re-licensing proceedings that would direct SFWPA to make water available to YCWD from the SFPP in excess of the amounts specified in the 1959 Agreement for consumptive uses within YCWD's service area.

2. SFWPA denies that YCWD has any right to make such requests of FERC or the SWRCB, contends that such petition or petitions would constitute a breach of the 1959 Agreement, and contends that neither FERC nor the SWRCB has the authority to order such relief, but, in the interests of settlement, SFWPA is willing to provide additional water from the SFPP to YCWD for consumptive uses, according to the terms and conditions of this Agreement.

M. The SWRCB's Order WRO 2004-0029 authorized YCWD to file petitions for extensions of the deadlines in water-right Permits 11516 and 11518 for applying water necessary for future growth and development to beneficial use, subject to several conditions. One of these conditions is that SFWPA and YCWD must reach an agreement that allows YCWD to use SFWPA's diversion, storage and conveyance facilities for the quantity of water under Permits 11516 and 11518 that is identified as necessary to accommodate YCWD's future growth and development, and to file a copy of this agreement with the SWRCB by June 1, 2005.

N. SFWPA has petitioned the SWRCB to extend the deadlines in Permits 1267, 1268, 1271 and 2492 for applying water to beneficial uses.

O. YCWD has petitioned the SWRCB to extend the deadlines in Permits 11516 and 11518 for applying water to beneficial uses.

P. Representatives of SFWPA and YCWD have met and conferred and agreed upon terms and conditions of this Agreement, which will settle the disputes referenced above, which will comply with SWRCB Order WRO 2004-0029, and which will supplant and supersede the 1959 Agreement.

Q. SFWPA and YCWD have agreed that SFWPA will diligently pursue the FERC re-licensing of the SFPP with the support of YCWD, and that SFWPA and YCWD will jointly, cooperatively and diligently pursue the independent extension, development and use of water-right Permits 11516 and 11518 by YCWD, and the independent extension, development and use of water-right Permits 1267, 1268, 1271 and 2492 by SFWPA.

NOW, THEREFORE, in consideration of these premises and the mutual promises in this Agreement, SFWPA and YCWD agree as follows:

PREAMBLE

It is the purpose and intent of this Agreement to supersede the 1959 Agreement and all prior agreements between the Parties, and to address all issues pertinent to the use of the storage, diversion and conveyance system of the SFPP for the consumptive water use requirements of YCWD and SFWPA. As such, this Agreement addresses the following components of the relationship of YCWD and SFWPA: Part I – water-right permits to be independently held and protected by each Party; Part II – FERC re-licensing of the SFPP by SFWPA; Part III – terms and conditions governing the delivery of water from SFPP facilities to YCWD; Part IV – sharing of net revenues derived from power and water sales by the SFPP; Part V – additions of new or expansions of existing facilities within the SFPP; and Part VI – transfer of the Upper Forbestown Ditch to YCWD in 2011.

EFFECTIVE DATE

This Agreement will become effective upon its approval by the governing boards of YCWD and SFWPA. However, notwithstanding this effective date, the operative provisions of Parts III, IV and VI will become operative on the dates specified in this Agreement. Provisions of this Agreement regarding the ownership and revenues of the SFPP will be subject to SFWPA's FERC license and the actions of FERC in connection therewith. If SFWPA ever conveys the SFPP to another party, then SFWPA will provide in such conveyance that the transferee will assume all of SFWPA's obligations to YCWD that are contained in this Agreement.

DEFINITIONS

In this Agreement, the following terms have the following meanings:

“1959 Agreement” means the December 9, 1959 Agreement (As Amended) between Oroville-Wyandotte Irrigation District and Yuba County Water District, as modified and supplemented by the agreement between the same two Parties dated December 20, 1965. The 1959 Agreement amended, modified, supplemented and superseded the March 21, 1958 agreement between the same two Parties.

“Agreement” means this Agreement.

“CEQA” means the California Environmental Quality Act, Public Resources Code sections 21000-21177, as such Act now exists or in the future may exist.

“DWR” means the California Department of Water Resources.

“Exhibit” means any of the exhibits to this Agreement. All of these exhibits are incorporated into this Agreement by reference.

“FERC” means the Federal Energy Regulatory Commission.

“Forbestown Ditch” means the following water-conveyance ditches: (a) Oroleve Ditch; (b) Upper Forbestown Ditch; (c) Lower Forbestown Ditch; (d) Lake Wyandotte Ditch; (e) Miller Hill Ditch; and (f) South Honcut Ditch. “Forbestown Ditch” does not include Lake Wyandotte or any ditches or other water-conveyance facilities that receive water from Lake Wyandotte or that are located west of Lake Wyandotte.

“Gauge WD-6” means the flow gauge on the Forbestown Ditch in Forbestown immediately downstream of the turnout from the Forbestown Ditch to YCWD’s water-treatment plant.

“Paragraph” means any of the paragraphs of this Agreement.

“Part” means any of the parts of this Agreement.

“Parties” mean SFWPA and YCWD. “Party” means SFWPA or YCWD.

“Permits 1267, 1268, 1271 and 2492” mean the water-right permits issued by the SWRCB and its predecessors to SFWPA on Applications 1651, 2142, 2979 and 2778, respectively.

“Permits 11516 and 11518” mean the water-right permits issued by the SWRCB and its predecessors to SFWPA and YCWD on Applications 13957 and 14113, respectively.

“Petitions For Extensions Of Time” mean the petitions for extension of time that SFWPA filed with the SWRCB on November 15, 2004 to extend the deadlines for applying water to beneficial use in Permits 1267, 1268, 1271 and 2492, and the petition for extension of time that YCWD filed with the SWRCB on November 30, 2004 to extend the deadlines for applying water to beneficial use in Permits 11516 and 11518.

“SFPP” means the South Feather Power Project, FERC Project No. 2088. The SFPP is referred to in the 1959 Agreement as the “South Fork Project.”

“SFPP Contingent Reserve Account” means the account described in Paragraph IV.6, which will be used to pay the expenses of SFPP Joint Facilities operations and maintenance, capital repairs, emergencies, replacements and improvements after June 30, 2010, if there are not sufficient funds for such expenses in the SFPP Joint Facilities Operating Account.

“SFPP Joint Facilities” mean all SFPP facilities besides the Sly Creek Powerhouse. The major SFPP Joint Facilities are listed in Paragraph I.4.

“SFPP Joint Facilities Operating Account” means the account that SFWPA maintains and will maintain to deposit power and water-transfer revenues from SFPP Joint Facilities and to pay expenses of SFPP Joint Facilities, as described in Part IV.

“SFWPA” means the South Feather Water and Power Agency, which previously was named the “Oroville-Wyandotte Irrigation District.”

“SFWPA’s Service Area” means all of the areas where SFWPA normally delivers irrigation, municipal or domestic water to its customers, as such area now exists or in the future may exist.

“SWRCB” means the California State Water Resources Control Board.

“Turnout SF-14” means the turnout on the Woodleaf Penstock through which water is conveyed from the Woodleaf Penstock into the Forbestown Ditch.

“Upper Forbestown Ditch” means the Oroleve Diversion, the Oroleve Ditch and the portion of the Forbestown Ditch that runs from Turnout SF-14 to Gauge WD-6. The Upper Forbestown Ditch includes Gauge WD-6.

“YCWD” means the Yuba County Water District.

“YCWD Water Purchase Reserve Fund” means the fund described in Paragraph III.10, which will ensure that YCWD has sufficient money to make the payments that are described in Paragraphs III.6 and III.8 to the SFPP Joint Facilities Operating Account for water that YCWD receives from the SFPP pursuant to these Paragraphs.

“YCWD’s Service Area” means all of the areas where YCWD normally delivers irrigation, municipal or domestic water to its customers, as such area now exists or in the future may exist.

PART I.

WATER-RIGHT PERMITS AND LICENSES

1. SFWPA will continue to be the sole owner of Permits 1267, 1268, 1271 and 2492, which authorize consumptive uses of water from the SFPP within SFWPA’s authorized place of

use. YCWD disclaims any ownership interests in any of these Permits, and YCWD disclaims any rights to any water for consumptive uses under these Permits.

2. SFWPA transfers all of its right, title and interest to in Permits 11516 and 11518 to YCWD, and SFWPA agrees that the SWRCB will be authorized to remove SFWPA's name as a co-permittee of these Permits and to remove SFWPA's Service Area from the authorized places of use in these Permits. After the effective date of this Agreement, YCWD will be the sole owner of Permits 11516 and 11518, which authorize consumptive uses of water from the SFPP, SFWPA disclaims any ownership interests in any of these Permits, and SFWPA disclaims any rights to any consumptive uses under these Permits.

3. SFWPA and YCWD will continue to jointly own, for purposes of diversion, storage and use of water for hydroelectric generation within the SFPP, the following water-right licenses: License 10939 (Application 13676); License 10940 (Application 13956); and License 10941 (Application 14112). SFWPA's and YCWD's joint ownership of these water-right licenses is for security for the sharing of net revenues from sales of hydroelectric power generated by the SFPP. SFWPA will continue to be the owner and operator of the SFPP.

4. The SFPP will be defined to include the following components of the project described in the Federal Power Act license for Project No. 2088: Little Grass Valley Dam and Reservoir, South Fork Diversion, South Fork Tunnel, Slate Creek Diversion, Slate Creek Tunnel, Sly Creek Dam and Reservoir, Sly Creek Powerhouse, Lost Creek Dam and Reservoir, Woodleaf Tunnel and Penstock, Woodleaf Powerhouse, Forbestown Diversion Tunnel and Penstock, Forbestown Powerhouse, Ponderosa Dam and Reservoir, Ponderosa Tunnel, Miner's Ranch Canal and Tunnel, Miner's Ranch Dam and Reservoir, Kelly Ridge Tunnel and Penstock and Kelly Ridge Powerhouse. Subject to Paragraph V.3, the Sly Creek Powerhouse, which is located

at the outlet of the penstock from Sly Creek Reservoir and which discharges into Lost Creek Reservoir, is an SFPP facility, but is not an SFPP Joint Facility.

5. The 1959 Agreement is, upon execution of this Agreement, superseded by this Agreement and of no further independent force or effect.

6. SFWPA and YCWD currently have pending before the SWRCB the Petitions For Extensions Of Time. Notwithstanding any other provisions of this Agreement to the contrary, SFWPA will not seek to divert and use more than a total of 51,250 acre-feet per year for consumptive uses within SFWPA's Service Area under Permits 1267, 1268, 1271 and 2492, and YCWD will not seek to divert and use more than a total of 23,700 acre-feet for consumptive uses within YCWD's Service Area under Permits 11516 and 11518. YCWD will support, and take no action directly or indirectly to oppose, SFWPA's Petitions For Extensions Of Time for Permits 1267, 1268, 1271 and 2492, and SFWPA will support, and take no action directly or indirectly to oppose, the Petitions For Extensions Of Time that YCWD has filed for Permits 11516 and 11518. SFWPA and YCWD will appear and take other actions, as necessary, before the SWRCB or any other agency or court exercising jurisdiction regarding these petitions, to support the issuance of the extensions of time that are requested in these petitions, consistent with the terms and conditions of this Agreement. SFWPA or YCWD may ask the SWRCB to include in the appropriate permits the annual limits on consumptive uses that are described in this Paragraph and YCWD may ask the SWRCB to make the changes to Permits 11516 and 11518 that are described in Paragraph I.2.

7. Notwithstanding the annual limits on diversions and use that are described in Paragraph I.6, SFWPA or YCWD may, at some future time, if demands exist, be required to seek additional rights to divert and use unappropriated water in the Feather River watershed. To the

extent that such unappropriated water is available or becomes available, SFWPA or YCWD may apply for a permit to appropriate such water. However, neither SFWPA nor YCWD will apply for a permit to appropriate any water that may be unused under Permit 1267, 1268, 1271, 2492, 11516 or 11518, and neither SFWPA nor YCWD will apply for any permit to appropriate water in any manner that would adversely affect, directly or indirectly, the other Party's rights under this Agreement or the other Party's rights under Permit 1267, 1268, 1271, 2492, 11516 or 11518. Either Party may protest a subsequent water-right application of the other Party in order to ensure that any permit issued on such water-right application will not authorize any injury to the rights of the protesting Party under the water-right Permits and Licenses described in in Paragraphs I.1, I.2, and I.3.

8. Each Party waives any claim or interest in, or demand on, the water rights of the other Party, and the water-right Permits of each Party will be independently held by that Party without any interference or reduction as a result of any actions by the other Party.

9. The SWRCB has jurisdiction over the Petitions For Extensions Of Time, and the SWRCB will require the preparation of documentation under CEQA for these petitions and any related changes in the water-right Permits that are the subjects of these petitions and this Agreement. Because a single CEQA document addressing the deliveries of water under this Agreement and for all of the Petitions For Extension Of Time will result in savings of time and expense, SFWPA and YCWD will proceed to prepare a single CEQA document for all of these petitions. Because SFWPA is the owner and operator of the SFPP storage, diversion and conveyance facilities that are used to provide water under these Permits, SFWPA will be the lead agency under CEQA for the preparation of this CEQA document.

10. SFWPA and YCWD will retain the services of a qualified consultant to assist in the preparation of this CEQA document. The contract with this consultant will be a joint contract, executed by both SFWPA and YCWD, and the consultant will be responsible to both SFWPA and YCWD as clients in connection with the preparation of this CEQA document. SFWPA and YCWD each will be responsible for one half of the consultant's costs for preparing this CEQA document, and SFWPA and YCWD each will provide the other with copies of all documents, working drafts, notes, or comments relevant to the preparation of this CEQA document. SFWPA and YCWD will jointly approve the agreement with said consultant, and SFWPA and YCWD each will ensure that both Parties have equal access to the consultant in connection with the preparation of the CEQA document.

11. The CEQA document for the Petitions For Extensions Of Time will require independent findings and conclusions by SFWPA and YCWD under Section 21081 of the Public Resources Code and Sections 15091 through 15096 of the CEQA Guidelines. Nothing in this Agreement will restrict either Party from exercising its full and necessary authority and discretion to make any required findings under these provisions. Notwithstanding the preceding sentence, as long as the CEQA document and any conclusions and mitigation measures recommended therein are reasonably consistent with the terms and conditions of this Agreement, neither Party may unreasonably refuse to make such findings as may be required to complete the required CEQA process.

12. If the CEQA document, or the use of the CEQA document by other responsible agencies, results in the disclosure of significant impacts or required mitigation measures that make it reasonably likely that there will be significant changes or mitigation measures required for the SFPP that are not reasonably foreseeable by SFWPA or YCWD on the date of execution

of this Agreement, or if such changes or mitigation measures would unreasonably restrict the ability of either Party or both Parties to acquire or retain the rights necessary to divert and use the water reasonably required by them for the terms of the extensions of time, or if such changes or mitigation measures would unduly discriminate or interfere disproportionately with the rights of one Party, then this Agreement may be terminated. However, before any such termination, the Party considering terminating this Agreement because of the conclusions reached in the final CEQA documentation for the Petitions For Extensions Of Time will provide written notice of its intent to terminate to the other Party and both Parties will diligently meet and confer, in good faith over a period of at least sixty (60) days, to diligently assess whether or not the terms and conditions of this Agreement can be modified in a way that satisfies the requirements of CEQA while preserving to the Parties the relative terms and conditions and benefits and burdens of this Agreement. If such modifications are available, then the Parties will work diligently to make such modifications to this Agreement, and this Agreement will not be terminated. Notwithstanding the preceding provisions of this Paragraph, decisions of the SWRCB in connection with the Petitions For Extensions Of Time that limit the terms of any of the requested extensions of time, or that limit the amounts of water available under the water-right Permits to either Party or both parties, will not be grounds to terminate this Agreement, and the parties instead will be governed by such decision in accordance with the terms of this Agreement.

PART II.

FERC RE-LICENSING OF SFPP BY SFWPA

1. SFWPA will remain the owner of the SFPP and will be responsible for the necessary application and processing required for the FERC re-licensing of the SFPP. YCWD will support said application for re-licensing as long as it is being pursued in a manner that is reasonably

consistent with the rights, benefits, duties and obligations of the Parties under this Agreement. Whenever SFWPA circulates a consultation document or other document that is in the form of a draft re-license application to interested parties, SFWPA also will provide a copy of such document to YCWD. When SFWPA circulates its draft FERC re-license application to regulatory agencies (which is contemplated to occur in July 2006), SFWPA also will circulate a copy of this draft to YCWD and allow YCWD to comment on this draft during the same 90-day period that will be allowed for regulatory agencies. If YCWD determines that the proposed operations of the project identified in the draft re-license application are inconsistent with the terms of this Agreement, then YCWD will provide written comments to SFWPA describing those portions of the final draft re-license application that are inconsistent with this Agreement. The Parties then will meet and confer and diligently pursue reasonable and feasible measures in connection with said application that will permit the full benefits, rights and obligations of this Agreement to be preserved. If the parties are not able to reconcile the final draft relicense application with this Agreement, then SFWPA will describe its positions on the disputed issues in its formal comments on the draft and YCWD may appear before FERC to secure its rights under this Agreement within such re-licensing proceeding.

2. Without limiting the generality of the foregoing, it is understood that FERC may impose, either directly or through the recommendations of other agencies with mandatory conditioning authorities, restrictions and operating requirements on the SFPP. SFWPA and YCWD will diligently proceed to try to modify or change any such conditions that they believe unreasonably conflict with this Agreement, but if SFPP operations are modified as a result of mandatory licensing conditions that cannot be changed, then neither Party will be authorized to terminate this Agreement as a result of such modifications, including but not limited to any

instream flow requirements that reduce or restrict water available for power generation by the SFPP.

PART III.

WATER DELIVERIES AND USE OF SFPP STORAGE, DIVERSION AND CONVEYANCE FACILITIES FOR DELIVERIES TO YCWD

SWRCB Order WRO 2004-0029 requires an agreement between the Parties that allows YCWD to use SFPP diversion, storage and conveyance facilities to supply water to YCWD. This portion of this Agreement addresses SFWPA's authorization to YCWD to use said facilities and the water supplies that will be provided from the SFPP to YCWD.

1. In consideration for YCWD's acceptance of the Upper Forbestown Ditch under Part VI and YCWD's agreement to SFWPA's rights to power revenues under Paragraph IV.9, SFWPA waives and releases YCWD from any claims that YCWD is required to construct the storage facilities in the upper Dry Creek Basin (including, but not limited to New York Flat Reservoir) or the facilities on Canyon Creek that are described in Paragraph V.B. of the 1959 Agreement. SFWPA will not oppose any future efforts by YCWD to obtain permits for or to construct any such facilities.

2. This Agreement constitutes the requisite agreement under SWRCB Order WRO 2004-0029 by which SFWPA authorizes the use of SFPP diversion, storage and conveyance facilities for the delivery of the water for consumptive uses to YCWD so long as YCWD holds Permits 11516 and 11518, or successor water-rights permits that do not conflict with SFWPA's Permits 1267, 1268, 1271 and 2492.

3. In consideration of the agreements of SFWPA in Paragraphs III.1 and III.2, YCWD waives and releases SFWPA from any claim or demand that SFWPA is required to store or

convey any water from the SFPP to YCWD, or to share any power or water transfer revenues of the SFPP with YCWD, except as set forth in this Agreement.

4. As provided in Paragraph II.C.1 of the 1959 Agreement, YCWD will continue to have the right to require the delivery of up to 3,700 acre-feet per year from the SFPP at Turnout SF-14. This water will be accounted for as being used under Permit 11516 or 11518. Such deliveries will be on a monthly demand schedule to be supplied by YCWD to SFWPA on or before the fifteenth of the preceding month. The actual amount of water taken each day will be recorded at the appropriate gauge or gauges at or near Turnout SF-14. This volume of water will be considered the first block of water taken each month. If YCWD takes less water than the amount that YCWD specified under this allocation for any month, then the excess water will be credited to YCWD's right to receive water under this Paragraph during the following month. In connection with this allocation at Turnout SF-14, YCWD will not be required to reimburse either SFWPA or the SFPP Joint Facilities Operating Account for such water.

5. From the date of execution of this Agreement through June 30, 2010, and to the extent authorized by SWRCB Order WRO 2004-0029, YCWD's right to transfer up to 4,500 acre-feet of water per year that is available under Paragraph II.C.2 of the 1959 Agreement to Yuba City will continue, with all revenues of such transfers going solely to YCWD. YCWD's right to receive any of this water at the outlet from the Miners Ranch Terminal Reservoir, as was provided in Paragraph II.C.2 of the 1959 Agreement, will terminate upon execution of this Agreement.

6. Commencing on July 1, 2010, and continuing for the life of this Agreement, upon YCWD's request, SFWPA will deliver all or part of the 4,500 acre-feet per year of water that is described in Paragraph II.C.2 of the 1959 Agreement to YCWD at Turnout SF-14, in lieu of such

water being delivered to Yuba City, provided that there are facilities with the necessary capacities to receive and transport such additional water through the Upper Forbestown Ditch or an alternate pipeline. This water will be accounted for as being used under Permit 11516 or 11518. Because delivery of this water at Turnout SF-14 will bypass the Woodleaf and Forbestown Powerhouses, YCWD will be obligated to pay into the SFPP Joint Facilities Operating Account an amount of money equal to the amount of power revenue that would have resulted from generation at the Woodleaf and Forbestown Powerhouses if such water had passed through these powerhouses. YCWD will not be required to pay the SFPP Joint Facilities Operating Account or SFWPA for any lost generation at the Kelly Ridge Powerhouse that might be associated with such water. The rates at which YCWD must pay the SFPP Joint Facilities Operating Account for such water will be calculated according to the formulas and rules in Exhibit A. The KWh/AF rates for each powerhouse in Exhibit A may be adjusted as determined by the results of testing performed by mutually agreeable experts, as may be agreed to by the Parties, it being the intention of this provision to provide that the SFPP Joint Facilities Operating Account will be reimbursed for the power value that this water would have had if it had passed through the Woodleaf and Forbestown Powerhouses, based on the then current operating efficiencies and duties of the hydroelectric facilities in these powerhouses and the daily average price that the SFPP receives for electricity on the day on which the water is delivered to YCWD at Turnout SF-14. By June 15, 2010, YCWD will notify SFWPA of the volume of water under this 4,500-acre-feet/year allotment that it intends to take at SF-14 during the subsequent month. For each month thereafter, YCWD will provide SFWPA written notice by the fifteenth of the previous month of the volume of water (in acre-feet) that YCWD will take during that month. The actual amount of water taken daily will be recorded at the appropriate gauge or gauges at or

near Turnout SF-14. This volume of water will be considered the second block of water taken each month. If YCWD takes less water than the amount that YCWD specified under this allotment for any month, then the excess will be credited to YCWD's right to take water under this Paragraph during the following month.

7. After June 30, 2010, in lieu of receiving some or all of the 4,500 acre-feet per year described in paragraph III.6 at Turnout SF-14, YCWD may request that all or the remaining portion of this 4,500 acre-feet per year continue to be passed through the Kelly Ridge Powerhouse to the Feather River for delivery to Yuba City. YCWD may change the amounts of this request each year. Provided that YCWD makes delivery of this water consistent with the operating criteria that were established in accordance with SWRCB Order WRO 2004-0029, and provided that this water does not bypass any powerhouses, including the Kelly Ridge Powerhouse, YCWD will not be obligated to reimburse the SFPP Joint Facilities Operating Account or SFWPA for any lost power generation value, but the proceeds earned after June 30, 2010 on the sale of such water will be deposited in the SFPP Joint Facilities Operating Account and treated in the same manner as revenues from power sales or from any other water sale from the SFPP Joint Facilities.

8. From and after June 30, 2010, and continuing for the life of this Agreement, YCWD will be entitled to receive such additional quantities of water from the SFPP at Turnout SF-14, up to 15,500 acre-feet per calendar year, provided that there are facilities with the necessary capacities to receive and transport such additional water through the Upper Forbestown Ditch or an alternate pipeline. This additional water will be accounted for as being used under Permit 11516 or 11518. This additional water, when combined with the water deliveries under Paragraphs III.4 and III.6, will not exceed a total of 23,700 acre-feet per year from the SFPP. In

consideration of SFWPA's authorization of the use of SFPP diversion, storage and conveyance facilities and water supplies for YCWD for such deliveries, YCWD will pay into the SFPP Joint Facilities Operating Account an amount that will equal to the gross power generation revenues that such water would have produced passing through the Woodleaf, Forbestown, and Kelly Ridge Powerhouses. This amount will be subject to the adjustments described in Exhibit A. If the SFPP becomes entitled to any revenues or other benefits from DWR for the use of SFPP water to generate power through the facilities of DWR, including the use of water within such facilities in lieu of using the water to generate power at the Kelly Ridge Powerhouse, then the per-acre-foot value of such credits or benefits will be included in the calculation of any amount owed by YCWD under this paragraph. However, the per-acre-foot value of such credits or benefits will not exceed the per-acre-foot value that this water would have had if it had been used to generate power at the Kelly Ridge Powerhouse. This additional water will be provided only for consumptive uses within YCWD's service area and no other place of use, unless the Parties agree to some other place of use for this water. By June 15, 2010, YCWD will notify SFWPA of the volume of water under this 15,500-acre-feet/year allotment that it intends to take during the subsequent month. For each month thereafter, YCWD will provide SFWPA with written notice by the fifteenth of the month prior to receiving water of the volume of water (in acre-feet) to be taken during that month. The actual amount of water taken daily will be recorded at the appropriate gauge or gauges at or near Turnout SF-14. This volume of water will be considered the third block of water taken each month. The value of the foregone power generation resulting from said diversions, for purposes of determining YCWD's payment rate into the SFPP Joint Facilities Operating Account, will be calculated in accordance with the formulas and rules in

Exhibit A. The KWh/AF rates for each powerhouse in Exhibit A will be subject to adjustment as set forth in Paragraph III.6.

9. From and after June 30, 2010, the point of delivery of water requested by YCWD in accordance with its delivery entitlements set forth in Paragraphs III.4, III.6 and III.8 will be Turnout SF-14, and YCWD will be entitled to use within YCWD's Service Area any water that is made available through water-conservation or water-savings measures that YCWD institutes on the Upper Forbestown Ditch or on any pipeline that replaces all or part of the Upper Forbestown Ditch. If it feasibly can be done without interference or restrictions in the operating efficiency of the Woodleaf Powerhouse (which interference and restrictions will be determined by the Power Division Manager of SFWPA or a qualified engineer of SFWPA's choosing), then SFWPA will deliver the water to YCWD at Turnout SF-14 at a pressure that will assist YCWD in conveying this water through a pipeline from Turnout SF-14 to, or part way to, YCWD's Service Area. However, SFWPA makes no warranty or assurance that such water will be delivered at any particular pressure. Any facility required at Turnout SF-14 to make deliveries from the SFPP to YCWD will be designed and constructed by SFWPA, or its contractor, will be subject to YCWD's approval. YCWD will pay all of the costs of designing and constructing this facility and none of these costs will be obligations of the SFPP Joint Facilities Operating Account. Nothing in this Agreement requires YCWD to install any pipeline to replace all or any part of the Forbestown Ditch.

10. Water will not be delivered to YCWD under Paragraph III.6 or III.8 unless YCWD has a YCWD Water Purchase Reserve Fund with a sufficient balance to make the payments described in Paragraph III.6 or III.8 for the water that YCWD has ordered for the following month. If at any time YCWD is unable to demonstrate that it has a sufficient balance in this fund

to make these payments, then YCWD's right to require deliveries of water under Paragraphs III.6 and III.8 will be suspended, but not terminated, until such time as YCWD demonstrates that it has a sufficient balance in this fund to make the anticipated payments under these Paragraphs for the water that YCWD has ordered for the following month.

11. YCWD's payments under Paragraphs III.6 and III.8 to the SFPP Joint Facilities Operating Account will be treated in the same manner as any other revenues from power or water sales. Thus, such funds will be available first for the payment of authorized costs and expenses of SFPP Joint Facilities, including capital and reserve requirements, as described in Paragraphs IV.1, IV.2, IV.5 and IV.6, and, thereafter, any net revenues from such funds will be divided on a 50/50 basis between YCWD and SFWPA, as described in Paragraph IV.4.

12. All revenues from any transfers, sales, leases, or exchanges of water, however such transfers are denominated, including transfers of water for purposes of power generation to other hydroelectric projects, that are received for water supplies stored, diverted, transported or delivered by the SFPP Joint Facilities any time after June 30, 2010, will be paid into the SFPP Joint Facilities Operating Account and will be treated in this account in the same manner as revenues from power sales. Neither Party will enter into an agreement for the sale, transfer, lease, exchange, or other conveyance of any water to which either Party has rights under this Agreement, or of any water that is diverted, stored, conveyed, or delivered by any SFPP Joint Facilities, without the written approval of the other Party. The criteria for such approval will be a reasonable determination that the available water supplies of the SFPP are sufficient to meet all consumptive-use requirements of SFWPA and YCWD under this Agreement notwithstanding the proposed sale, transfer, lease, exchange or other conveyance of water. The costs to implement

any such sale, transfer, lease, exchange or other conveyance of water will be expenses of the SFPP Joint Facilities Operating Account.

13. SFWPA will take steps to ensure that no transfer of water, nor any operations of the SFPP hydroelectric facilities, will occur if such transfer or operations would unreasonably restrict the ability of the SFPP to provide adequate water for the Parties' reasonably anticipated consumptive-use requirements for the next succeeding calendar year. If no water transfers from storage are planned in a given year, then the December 31 total carryover storage target for Little Grass Valley and Sly Creek Reservoirs will be twice the average annual total consumptive-use demand of SFWPA and YCWD during the previous three years in which no curtailments in deliveries were made. If water transfers from storage are planned, then the December 31 total carryover storage target for Little Grass Valley and Sly Creek Reservoirs will not be less than the average annual total consumptive-use demand of SFWPA and YCWD during the previous three years in which no curtailments in deliveries were made plus 10,000 acre-feet. If Little Grass Valley and Sly Creek Reservoirs do not refill to a combined storage of at least 131,000 acre-feet during the year following the transfer or transfers, then the maximum amount of any subsequent transfer will be reduced by the amount of refill shortfall. In no event will the December 31 total carryover storage in Little Grass Valley and Sly Creek Reservoirs be less than the average annual total consumptive-use demand of SFWPA and YCWD during the previous three years in which no curtailments in deliveries were made plus 10,000 acre-feet. The priorities to be met from SFPP water supplies, including stored water, by SFWPA will be in the following order: (1) all reasonably anticipated consumptive-use demands of both YCWD and SFWPA in the next succeeding year; (2) obligations under outstanding contracts for the sale of hydroelectric energy for the next succeeding year; (3) the generation of revenues from hydroelectric generation or

transfers of water above and beyond the operations necessary to meet the obligations of SFPP under (2).

14. If, notwithstanding the determinations of SFWPA that the SFPP will maintain adequate water supplies for the succeeding year, curtailments in deliveries of water from the SFPP to SFWPA and YCWD for consumptive uses nevertheless are necessary because of unanticipated weather conditions or physical constraints, then such curtailments will be imposed on SFWPA and YCWD in proportion to the demand of each Party for water for consumptive uses for that year, with such demands being determined on the basis of actual average annual deliveries of water from the SFPP to each Party for consumptive uses during the last three years during which no curtailments were made, adjusted for any reasonably anticipated increases in actual demand within the service area of either Party. For example, if, using the above criteria, SFWPA's demand for water from the SFPP during a year is 30,000 acre-feet and YCWD's demand for water from the SFPP during that year is 15,000 acre-feet, but only 40,500 acre-feet of water is available from the SFPP for consumptive uses during that year, then SFWPA would receive 27,000 acre-feet and YCWD would receive 13,500 acre-feet during that year. After any such curtailments are imposed, SFWPA and YCWD each will have discretion to decide how to allocate the supply allocated to each Party to its respective customers.

PART IV.

DISPOSITION OF NET SFPP POWER REVENUES AFTER 2010

After June 30, 2010, all power revenues received from the operations of SFPP Joint Facilities will be deposited in the SFPP Joint Facilities Operating Account. SFWPA then will distribute any net power revenues on a 50/50 basis to SFWPA and YCWD under Paragraph IV.4

after meeting the expenses that are described in Paragraphs IV.1, IV.2, IV.5 and IV.6 and after making the payments to SFWPA's general account that are described in Paragraph IV.9.

1. SFPP Joint Facilities operating expenses, reserve requirements, expenses to meet regulatory requirements (including fees and penalties imposed by a regulatory agency exercising jurisdiction over the operations or facilities of the SFPP), and administrative and general operational expenses (including insurance expenses) will be paid from the SFPP Joint Facilities Operating Account as payments for such expenses become due. In the event of any dispute as to whether a particular expense is within the authorized operating expenses of the SFPP, the matter will be resolved by reference to FERC's Uniform System of Accounts for jurisdictional hydroelectric projects. In accordance with the practice established by SFWPA for the payment of operation and maintenance expenses of the SFPP, SFWPA may maintain a minimum working capital balance of 15% of the budgeted annual operation and maintenance expenses for SFPP Joint Facilities in the SFPP Joint Facilities Operating Account, to ensure that sufficient funds are available in this account to pay such expenses on a current basis. If FERC requires a different percentage, then the percentage in the preceding sentence will be adjusted to comply with FERC's requirement. Interest earned on any money in the SFPP Joint Facilities Operating Account will be paid into that account. A system of accounts, consistent with the Uniform System of Accounts prescribed by the FERC for jurisdictional hydroelectric utilities will be maintained at all times by SFWPA, and YCWD and SFWPA will at all times have reasonable access to the records of such accounts for purposes of verifying the accuracy and adequacy of said accounting under the terms of this Agreement and under the FERC Uniform System of Accounts. All power and water-transfer revenues derived from any SFPP Joint Facilities will be deposited into the SFPP Joint Facilities Operating Account. Power-sale and water-transfer

revenues will include any revenues that might be received by the SFPP Joint Facilities for the provision of ancillary power services from such facilities and any revenues from DWR for the deliveries of such water, including the deliveries to DWR that are described in Paragraph III.8. Revenues from power generated at the Woodleaf, Forbestown and Kelly Ridge Powerhouses will be considered SFPP Joint Facilities operating revenues. Subject to Paragraph V.3, revenues from power generated at the Sly Creek Powerhouse will not be considered SFPP Joint Facilities operating revenues.

2. Portions of the gross revenues that are received from the sale of power generated by SFPP Joint Facilities will be required to pay the operating and administrative and general expenses of such facilities, to pay the costs of all other required long-term maintenance, deferred maintenance, capital upgrades, transmission, compliance and other fees and expenses for such facilities that are ordered by FERC or any other regulatory agency with jurisdiction over the SFPP, to pay SFWPA for the recovery of its capitalized FERC re-licensing expenses, to make any payments required to fund or maintain the SFPP Contingent Reserve Account, and to make the payments required by Paragraph IV.9.

3. On or before March 31 of each year, SFWPA will provide YCWD with a detailed accounting of the prior calendar year's SFPP Joint Facilities gross revenues, and operating, general and other expenses and payments, for purposes of determining the net revenues from SFPP Joint Facilities that are available for distribution to the Parties. SFWPA also will provide to YCWD each month a preliminary accounting of the SFPP Joint Facilities revenues and expenses, both as actually received and incurred, and as compared to the budgeted amounts. Instead of such monthly reports, SFWPA and YCWD may agree to a different reporting period. If YCWD disputes any of SFWPA's accountings under this Paragraph, then YCWD will

promptly notify SFWPA of the dispute and, if necessary, the Parties will follow the mediation provisions in Paragraph VII.3 to attempt to resolve the dispute. If an accounting dispute remains unresolved, the Parties nevertheless may accept the payments of net power revenues to the Parties' general accounts that are described in Paragraph IV.4 without waiving their rights regarding the dispute. If necessary after the dispute has been resolved, appropriate credits or debits will be made to the amounts owed to each Party.

4. After the amount of net SFPP Joint Facilities power revenues is determined, such net revenues will be divided and paid to each Party on or before April 15 of each year on a 50/50 basis. Net revenues distributed under this Paragraph will be paid to each Party's general account, as directed by the Party receiving the money, and no net revenues will be required to be spent on any SFPP Joint Facilities operating, maintenance, repair, replacement or improvement expenses. SFWPA and YCWD may agree to more-frequent distributions of SFPP Joint Facilities net power revenues, if more-frequent distributions can be made without jeopardizing the obligations of the SFPP Joint Facilities Operating Account to pay SFPP Joint Facilities operating and capital expenses. If YCWD is obligated to make payments to the SFPP Joint Facilities Operating Account under Paragraph III.6 or III.8 and the SFPP Joint Facilities Operating Account at the same time is obligated to pay some net power revenues to YCWD, then a setoff may be made in lieu of YCWD and the SFPP Joint Facilities Operating Account each making equal payments to the other. Except for such setoffs, all payments of SFPP Joint Facilities net power revenues will be in equal amounts to SFWPA and YCWD.

5. SFWPA has incurred and is incurring costs associated with the FERC re-licensing of the SFPP. SFWPA may capitalize these costs, as they were or are incurred, at interest rates equal to the average annual interest rates earned on SFWPA reserves in the year in which the particular

expenditure was made or is made, compounded annually. Before capitalizing these costs, these costs will be reduced by 10.8 percent, and this 10.8 percent reduction will be allocated to the costs of re-licensing of the Sly Creek Powerhouse and will not be treated as an SFPP Joint Facilities cost. SFWPA may withdraw portions of its capitalized re-licensing expenses from the SFPP Joint Facilities Operating Account in equal annual amounts, with these amount set so that all such capitalized re-licensing expenses associated with the re-licensing of SFPP Joint Facilities will be paid back to SFWPA over five years. On or before December 1, 2005, SFWPA will provide YCWD with an accounting and breakdown of all of the applicable expenses associated with the FERC re-licensing of the SFPP that SFWPA has incurred through September 30, 2005. Commencing January 31, 2006 and quarterly thereafter, SFWPA will provide a similar accounting for each previous calendar quarter. These accountings will list the amounts of any withdrawals from SFWPA's reserve that were necessary to fund the FERC re-licensing, the applicable interest rates that SFWPA's reserves earned during the period of the FERC re-licensing and the 10.8-percent reductions for the costs of re-licensing the Sly Creek Powerhouse. If YCWD questions or disputes any portions of any of these accountings, then YCWD will submit its questions or a description of its dispute in writing to SFWPA within 90 days after YCWD's receipt of the accounting. If YCWD does not so question or dispute any accounting within the 90-day period, then the accounting will be deemed to be accepted.

6. SFWPA will establish an SFPP Contingent Reserve Account that will contain the contingency funds that may be necessary for SFPP Joint Facilities operations and maintenance expenses or for the expenses of any capital repairs, emergencies, replacements and improvements that may be necessary to continue to reliably operate and maintain SFPP Joint Facilities or to replace major SFPP Joint Facility components after June 30, 2010 if the SFPP Joint Facilities

Operating Account does not have sufficient funds to pay such expenses. The SFPP Contingent Reserve Account will be initially established at \$15,000,000 and this account will be funded by annual payments of all revenues in the SFPP Joint Facilities Operating Account that are not needed for the administrative, operating and other expenses described in Paragraphs IV.1 and IV.2. In order to provide some level of funding from net revenues for the general accounts of YCWD and SFWPA while the SFPP Contingent Reserve Account initially is being funded, the Parties agree that a minimum distribution to the general funds of SFWPA and YCWD of \$1,418,000 per year (\$709,000 to each Party) will be made from net revenues before the complete funding of the \$15,000,000 SFPP Contingent Reserve Account has been made. For the half-year from July 1 through December 31, 2010, the minimum distribution will be \$709,000 (\$354,500 to each Party). Notwithstanding the foregoing, however, no net revenues will be paid to YCWD or SFWPA if the budgeted operation, maintenance, administrative and regulatory expenses of SFPP joint facilities cannot adequately be paid from the SFPP Joint Facilities Operating Account. Under such circumstances, SFPP's withdrawals from the Joint Facilities Operating Account pursuant to Paragraph IV.5 to pay portions of SFWPA's capitalized re-licensing expenses also will be suspended until the minimum distributions described in this Paragraph can be made, and any portions of SFWPA's capitalized re-licensing expenses that have not yet been reimbursed will continue to bear interest at the applicable rates described in Paragraph IV.5.

7. The SFPP Contingent Reserve Account will be used to pay for major repairs and replacements of SFPP Joint Facilities, and, if necessary during dry years when SFPP Joint Facilities revenues, including funds held as working capital, are less than SFPP Joint Facilities operating, maintenance, administrative and regulatory expenses, to pay such expenses to the

extent that they exceed available revenues. If withdrawals are made from the SFPP Contingent Reserve Account for any purpose, then this account will be re-funded with the next available revenues in the SFPP Joint Facilities Operating Account that are not needed for immediate operation, maintenance, administrative and regulatory expenses of SFPP Joint Facilities, as soon as such revenues are available for this purpose. SFWPA and YCWD may agree to change the amount of the SFPP Contingent Reserve Account, and, if they do not otherwise agree to any such change, then beginning on July 1, 2015, the amount of the SFPP Contingent Reserve Account will be adjusted in proportion to any proportionate change in the Engineering News Record Construction Cost Index that is applicable to the region in which the SFPP is located from July 1, 2010 to the date of the adjustment. If this index is not available, then the most-similar available index will be used instead. Notwithstanding the foregoing, the SFPP Contingent Reserve Account will be adjusted any time that FERC, or any other state or federal regulatory body exercising jurisdiction over said facilities, requires additional funding or reserves for the SFPP.

8. If the balances in the SFPP Joint Facilities Operating Account and the SFPP Contingent Reserve Account together are not sufficient at any time to pay all SFPP Joint Facilities operating, maintenance, administrative and regulatory expenses as they become due, then SFWPA may obtain a short-term loan for sufficient money to pay such expenses, and may secure this short-term loan with future SFPP Joint Facilities gross power revenues. If SFWPA obtains such a loan, then, while this loan is outstanding, all SFPP Joint Facilities gross power revenues that are not needed for present SFPP Joint Facilities operating, maintenance, administrative and regulatory expenses will be used to repay this loan, and loan will be paid off before any distribution of SFPP Joint Facilities net power revenues is made to SFWPA or YCWD.

9. The SFPP Joint Facilities Operating Account will make a payment each month from May through December to SFWPA's general account for the value of any hydroelectric power that actually was generated during the previous month at the Woodleaf, Forbestown or Kelly Ridge Powerhouse by water that SFWPA was entitled to deliver to YCWD at Turnout SF-14 for YCWD to convey to SFWPA at Gauge WD-6, and that SFWPA decided not to deliver to YCWD at Turnout SF-14 for such purpose, up to a maximum amount of 3,720 acre feet per year. The maximum flow rate for such water will be 11 cubic feet per second. The hydroelectric power value of this water will be calculated in accordance with the formulas and rules in Exhibit C. The KWh/AF rates for each powerhouse in Exhibit C will be subject to adjustment as set forth in Paragraph III.6. The payments from the SFPP Joint Facilities Operating Account to SFWPA's general account under this Paragraph will be made before net power revenues are calculated under Paragraph IV.3.

PART V.

PARTICIPATION IN CONSTRUCTION OF NEW SFPP GENERATING CAPACITY

1. If SFWPA decides to construct any new power generation facilities, or to expand the capacity of the existing generating facilities, that are or will be part of FERC Project No. 2088, then SFWPA and YCWD will meet to discuss such new facilities and how the construction, operation, maintenance, repair and replacement costs of such new facilities will be financed or paid. If YCWD elects to participate in the costs of construction of such new facilities, then the construction, operation, maintenance and repair costs will be paid from the SFPP Joint Facilities Operating Account, and all power revenues from or associated with such new facilities will be paid into the SFPP Joint Facilities Operating Account. If YCWD elects not to participate in the

costs of construction of such new facilities, then SFWPA may proceed to construct said facilities, in which case their construction, operation, maintenance and repair costs, as well as any power revenues from such facilities, will be made from and into a separate account that will be maintained and funded solely by SFWPA and solely for SFWPA's benefit. Any expansions of capacity or increased generation arising from routine maintenance or upgrades at the Woodleaf, Forbestown or Kelly Ridge Powerhouse will be funded from the SFPP Joint Facilities Operating Account and treated as SFPP Joint Facilities.

2. Except as set forth in Paragraph V.3, and unless otherwise mutually agreed by the Parties, the Sly Creek Powerhouse will not be considered a component of the SFPP Joint Facilities, and instead will be owned and operated for the sole benefit of and at the sole responsibility of SFWPA. SFWPA will be solely responsible for the FERC re-licensing, operation, maintenance, repairs and replacement of the Sly Creek Powerhouse and, correspondingly, all revenues derived from sale of power from this powerhouse will be the sole and exclusive property of SFWPA, and YCWD disclaims any interest in or rights to the use thereof. SFWPA will allocate all costs of operations, maintenance, administration, regulatory compliance, capital repairs, replacements and reconstruction of the Sly Creek Powerhouse to SFWPA as its sole responsibility, and no such costs will be paid from the SFPP Joint Facilities Operating Account or the SFPP Contingent Reserve Account. SFWPA may utilize employees engaged in the general work of the SFPP Joint Facilities for Sly Creek Powerhouse, but all time and expenses, including materials, equipment, labor, overhead and capital costs, for the Sly Creek Powerhouse will be separately accounted for and be a sole obligation of SFWPA, and SFWPA will provide, at such time as is reasonably requested by YCWD, confirmation that no

portion of any Sly Creek Powerhouse expenses has been allocated to the SFPP Joint Facilities Operating Account or the SFPP Contingent Reserve Account.

3. YCWD may request that the Sly Creek Powerhouse become a component of the SFPP Joint Facilities upon payment by YCWD of 50 percent of the fair market value of the Sly Creek Powerhouse to SFWPA. If the parties cannot agree as to the fair market value of the Sly Creek Powerhouse, then the parties will jointly retain the services of a qualified independent appraiser to determine fair market value. The appraised value will be not less than the original construction cost of the Sly Creek Powerhouse, capitalized at a reasonable rate of interest on special district investment since its construction, with appropriate reductions for depreciation. After receipt of this appraisal, YCWD may elect to pay SFWPA one half of the appraised value and, upon such election and payment, the Sly Creek Powerhouse thereafter will be treated as a SFPP Joint Facility and all revenues and expenses of the Sly Creek Powerhouse will be considered revenues and expenses of SFPP Joint Facilities.

PART VI.

TRANSFER OF UPPER FORBESTOWN DITCH

1. SFWPA will transfer to YCWD, by quitclaim deed, and YCWD will accept, effective January 1, 2011, all of SFWPA's right, title and interests in the Upper Forbestown Ditch, including all of SFWPA's pre-1914 water rights in Oroleve Creek and in any other flows reaching the Upper Forbestown Ditch that have historically been diverted into the ditch and then transported by it. This quitclaim deed also will transfer to YCWD all of SFWPA's right, title and interest in the roads that SFWPA uses to access the Upper Forbestown Ditch. SFWPA also will deliver to YCWD all of the papers and documents that SFWPA has regarding the Upper Forbestown Ditch (except that SFWPA may make and retain copies of any of these documents).

SFWPA will indemnify, hold harmless, protect and defend YCWD (pursuant to Paragraph VII.5) in any legal action in which YCWD is a defendant and which involves a challenge to the transfer of the Upper Forbestown Ditch to YCWD. However, SFWPA will not be required to provide such indemnification to YCWD, or to hold harmless, protect or defend YCWD, if YCWD took some actions besides accepting the transfer of the Upper Forbestown Ditch and related facilities, and such other actions were a substantial basis for the legal action. The transfer of the Upper Forbestown Ditch will not include any other portion of the Forbestown Ditch or Lake Wyandotte, and YCWD will not be obligated to serve any SFWPA customers that presently receive or in the future may receive water from any portion of the Forbestown Ditch or Lake Wyandotte. The Upper Forbestown Ditch (including the Oroleve Diversion and the Oroleve Ditch) that will be transferred to YCWD is shown in Exhibit B. After the date of this transfer, SFWPA will not object to any diversions of water by YCWD from Oroleve Creek and other sources below Turnout SF-14 into the Upper Forbestown Ditch up to the historical amounts of such diversions, notwithstanding that some of these diversions may alter or reduce inflows into SFPP reservoirs or reduce generation at some SFPP powerhouses. However, the preceding sentence will not affect YCWD's obligations to make the payments described in Paragraphs III.6 and III.8 for any water that YCWD receives from the SFPP at Turnout SF-14 pursuant to those Paragraphs. Any time after January 1, 2011, YCWD may (but will not be required to) install at its sole cost a pipeline or pipelines to replace all or part of the Upper Forbestown Ditch. Any such pipeline will include any turnouts that are necessary to deliver water to SFWPA's customers that now receive water from the Upper Forbestown Ditch.

2. Beginning on January 1, 2011, YCWD will use its best efforts to maintain in good working order the Upper Forbestown Ditch, any pipelines that replace all or part of the Upper

Forbestown Ditch, any turnouts that are used to deliver water from the Upper Forbestown Ditch or any replacement pipelines to SFWPA's customers, Gauge WD-6 and any gauges or meters that measure deliveries of water to SFWPA's customers that now receive water from the Upper Forbestown Ditch. During April through November of each year, SFWPA will have the right to require YCWD to convey up to 11 cubic feet per second of water from Turnout SF-14 through the Upper Forbestown Ditch or any replacement pipelines to Gauge WD-6 or to SFWPA's customers that presently receive water directly from the Upper Forbestown Ditch. SFWPA will not be assessed any conveyance losses on this water. None of this water will be included in the amounts of water that YCWD receives under Paragraphs III.4, III.6 and III.8. The maximum amount of water that SFWPA may require YCWD to convey in any year will be 3,720 acre-feet. However, if there is conveyance capacity in the Upper Forbestown Ditch or replacement pipeline or pipelines in excess of the capacity needed to convey 3,720 acre-feet to SFWPA, to convey all water needed by YCWD's customers and for all associated conveyance losses, then SFWPA may require YCWD to use such excess conveyance capacity to convey additional water from Turnout SF-14 to Gauge WD-6 for SFWPA. SFWPA will not receive any credits for any water that flows into the Upper Forbestown Ditch or any replacement pipe from Oroleve Creek, the Oroleve Ditch or any other source below Turnout SF-14. Beginning in 2011, on or before the fifteenth of each month from March through October, SFWPA will notify YCWD of the flow rate or rates at which SFWPA intends to deliver water at Turnout SF-14 to YCWD for conveyance to SFWPA at Gauge WD-6 or turnouts to SFWPA's Upper Forbestown Ditch customers during the next month. Day-to-day variations in these requested flow rates during any month will not be any more than are reasonably necessary for SFWPA's deliveries of water to its Forbestown Ditch customers. To the extent reasonably feasible based on operational limitations, SFWPA will

notify YCWD at least 24 hours in advance of the amounts of water that SFWPA wants YCWD to deliver to SFWPA at Gauge WD-6 or to SFWPA's Upper Forbestown Ditch customers. YCWD will deliver this water to SFWPA at Gauge WD-6 or at any turnouts on the Upper Forbestown Ditch or replacement pipelines that are used to deliver water to SFWPA's Upper Forbestown Ditch customers. The total of YCWD's deliveries to SFWPA at Gauge WD-6 and any turnouts on the Upper Forbestown Ditch or replacement pipelines will equal that amount of water that SFWPA delivered to YCWD at Turnout SF-14 pursuant to this Paragraph, subject to the limitations in SFWPA's operations of Turnout SF-14. Beginning in 2011, on or before the end of each month from May through December, YCWD will provide an accounting to SFWPA of the amounts of water that: (a) YCWD received from SFWPA at Turnout SF-14 under this Paragraph; (b) the amounts of water that YCWD delivered to SFWPA at Gauge WD-6; and (c) the amounts of water that YCWD delivered to SFWPA's Upper Forbestown Ditch customers. SFWPA will have 90 days after it receives this accounting to question or dispute this accounting, and if SFWPA does not provide any written questions about or disputes to this accounting within this 90-day period, then the accounting will be deemed to be accepted.

3. If the minimum payments described in Paragraph IV.6 are not made during any year before the SFPP Contingent Reserve Account is completely funded to \$15,000,000, then SFWPA will pay up to \$150,000 per year from its general account (not from the SFPP Joint Facilities Operating Account) to YCWD for YCWD to use for Upper Forbestown Ditch operations, maintenance, repairs, replacements or improvements. SFWPA will not be required to disburse such funding to YCWD until SFWPA has received an invoice from YCWD with sufficient accounting detail to reasonably confirm the need and use of such funds for operations, maintenance, repairs, replacements or improvements to the Upper Forbestown Ditch. In lieu of

paying such funds to YCWD, SFWPA, in its discretion, may, in whole or in part, provide for such operations, maintenance, repairs, replacements or improvements with its own employees and equipment by force account. YCWD will be obligated to repay SFWPA's general account for any such payments or force account work when YCWD receives sufficient net power revenues pursuant to Paragraph IV.4 to be able to do so.

4. If, at any time before the SFPP Contingent Reserve Account is completely funded to \$15,000,000, extraordinary expenses are necessary to repair unanticipated damages to the Upper Forbestown Ditch and YCWD cannot, through the exercise of reasonable efforts, obtain a disaster-relief grant or grants for such repairs, then the costs of such repairs will be paid by SFWPA's general account. YCWD will be obligated to repay SFWPA's general account for any such payments when YCWD receives sufficient net power revenues pursuant to Paragraph IV.4 to be able to do so.

5. SFWPA and YCWD will cooperate in the actions required to seek DWR approval for the following modifications to YCWD's Forbestown Pipeline Project, for which DWR has recently approved a \$4,211,400.00 grant to YCWD: (a) increase the capacity of the new pipeline so that it can serve all of YCWD's anticipated demands for water from the pipeline and an additional 11 cubic feet per second to be delivered to SFWPA at Gauge WD-6; (b) change the proposed pipeline's alignment so that it will be within the existing alignment of the portion of the Forbestown Ditch that will be replaced by the pipeline; (c) change the type of pipe material to be used from ductile iron to C-900 high pressure PVC or to some other material that is acceptable to the Parties and DWR; and (d) have the construction work done by SFWPA by force account at a cost not to exceed the portion of the \$4,211,400.00 grant that is not needed for all other project costs. SFWPA and YCWD each will pay 50 percent of all additional costs (including but not

limited to engineering, DWR-negotiation and CEQA costs, but not including construction costs) associated with obtaining these modifications to YCWD's Forbestown Pipeline Project.

6. Between the date of this Agreement and January 1, 2011, SFWPA will maintain all reaches of the Upper Forbestown Ditch in good working order, consistent with the condition of the Ditch as of the date of this Agreement, and SFWPA will make the following repairs to the Upper Forbestown Ditch: (a) replacing all non-pressure-treated wood in the Hell-For-Stout Flume with pressure-treated wood; and (b) removing the tree that may fall on to this flume. Before January 1, 2011, when requested by YCWD, SFWPA will allow YCWD employees to accompany and observe SFWPA employees whenever they perform Upper Forbestown Ditch operations, maintenance, repairs, replacements or improvements, so that YCWD employees can learn about Upper Forbestown Ditch operations, maintenance, repairs, replacements and improvements. Between January 1, 2011 and December 31, 2012, if so requested by YCWD, SFWPA will authorize and direct its employees to assist, at YCWD's cost, YCWD's employees in operating, maintaining, repairing, replacing and improving the Upper Forbestown Ditch. The cost of operations and maintenance of and repairs and improvements to the Upper Forbestown Ditch will continue to be divided at 75% to SFWPA and 25% to YCWD until January 1, 2011. After January 1, 2011, all costs of operating, maintaining, repairing, replacing and improving the Upper Forbestown Ditch will be the sole responsibility of YCWD, except as otherwise provided in Paragraphs VI.3 and VI.4. YCWD will be entitled to use anywhere within its Service Area all water made available through any water-conservation or water-savings measures that YCWD implements on the Upper Forbestown Ditch. SFWPA will continue to be solely responsible for the costs of operating, maintaining, repairing, replacing and improving all portions of the Forbestown Ditch besides the Upper Forbestown Ditch.

PART VII.

GENERAL PROVISIONS

1. Each person signing this Agreement represents that he or she is authorized to sign it on behalf of the Party for whom he or she is signing the Agreement and to bind that Party to this Agreement.

2. The subordination or release of priority described in Paragraph II.G of the 1959 Agreement and the release of priority described in Paragraph II.H of the 1959 Agreement will remain in effect and will not be altered by this Agreement.

3. If any dispute regarding this Agreement arises, then the Parties will make reasonable and good-faith attempts to resolve the dispute before filing any legal action regarding the dispute. Such reasonable and good-faith attempts will include at least one meeting, and, if the Parties agree, hiring a mutually agreeable mediator (with each Party bearing one-half of the mediator's costs) and submitting the dispute to the mediator for non-binding mediation. Both Parties will make all reasonable good-faith efforts to promptly schedule and to participate in mediation meetings and to devote the necessary time and resources to attempt to resolve to dispute.

4. YCWD will indemnify, hold harmless, protect and defend SFWPA and its officers, agents and employees from and against any and all liabilities, claims, demands, damages, losses, disabilities and expenses (including attorney fees and litigation costs) arising from any actions taken by YCWD in connection with implementation of this Agreement, except as otherwise provided in Paragraph VI.1, and except for liabilities, claims, demands, damages, losses, disabilities and expenses that are based on SFWPA's sole negligence, willful misconduct or violation of law.

5. SFWPA will indemnify, hold harmless, protect and defend YCWD and its officers,

agents and employees from and against any and all liabilities, claims, demands, damages, losses, disabilities and expenses (including attorney fees and litigation costs) arising from any actions taken by SFWPA in connection with implementation of this Agreement, including actions taken by SFWPA under Paragraph VI.1, except for liabilities, claims, demands, damages, losses, disabilities and expenses that are based on YCWD's sole negligence, willful misconduct or violation of law.

6. This Agreement is entered into freely and voluntarily. The Parties acknowledge that they have been represented by attorneys of their own choice in the negotiations that preceded the execution of this Agreement and in connection with its preparation and execution.

7. This Agreement constitutes the entire agreement between the Parties pertaining to the settlement of disputes and obligations between them. This Agreement supersedes all prior and contemporaneous agreements, representations and obligations concerning those obligations, which are merged into this Agreement. This Agreement is made on the understanding that each term is in consideration and support of every other term, and each term is a necessary part of the entire Agreement.

8. Subject to FERC's authority under federal law, this Agreement will be construed under and will be deemed to be governed by the laws of the State of California without giving effect to any principles of conflicts of law if such principles would operate to construe this Agreement under the laws of any other jurisdiction.

9. This Agreement is the product of negotiation and preparation by and among the Parties and their attorneys. Therefore, the Parties acknowledge and agree that this Agreement will not be deemed to have been prepared or drafted by any one Party or another. Accordingly,

the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement.

10. No supplement, modification, waiver, or amendment of this Agreement will be binding unless executed in writing by the Party against whom enforcement of such supplement, modification, waiver or amendment is sought.

11. This Agreement may be signed in two counterparts by the Parties, each of which will be deemed to be an original, and both of which together will be deemed one and the same instrument. This Agreement, if executed in counterparts, will be valid and binding on a party as if fully executed all on one copy. Counterpart executions may be made by facsimile.

12. Except as otherwise provided, all notices required under or regarding this Agreement will be made in writing addressed to the Party at the address listed here:

South Feather Water and Power Agency
Attention: General Manager
P. O. Box 581
2310 Oro-Quincy Highway
Oroville, California 95965
Fax: 530-533-9700

Yuba County Water District
Attention: General Manager
P. O. Box 299
8691 La Porte Road
Brownsville, California 95919

Fax: 530-675-0462

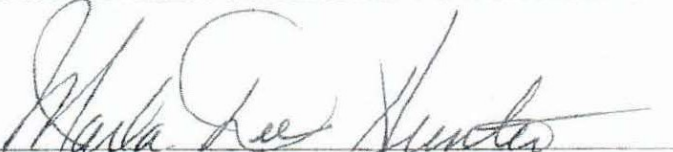
Any Party may send such notice to the other Party by first-class mail or comparable method of distribution. For purposes of this Agreement, a notice will be effective five days after the date on which it is mailed or otherwise distributed. When this Agreement requires notice in less than five days, notice will be provided by personal service or facsimile and will be effective when provided.

14. This Agreement will apply to, and be binding on, the Parties and their successors and assigns. Upon completion of a succession or assignment, the initial Party no longer will be a party to this Agreement. A transferring or assigning Party will provide notice to the other Party at least 30 days prior to completing such transfer or assignment.

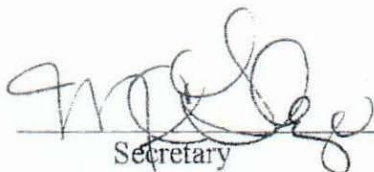
15. Except as otherwise expressly set forth herein, this Agreement does not and will not be deemed to make any Party the agent for or partner of any other Party.

Agreed to this 24TH day of May, 2005, at CROVILLE, California.

SOUTH FEATHER WATER AND POWER AGENCY

By: 
President

Attest:


Secretary

Agreed to this 27th day of May, 2005, at Brownsville, California

YUBA COUNTY WATER DISTRICT

By: *Arvin M. Olsen*
President

Attest:

Dennis G. Pollock
Secretary

Exhibits

- A. Formulas and Rules For Calculating Payment Rates Under Paragraphs III.6 and III.8
- B. Map Of Upper Forbestown Ditch
- C. Formulas and Rules For Calculating Payment Rates Under Paragraph IV.9.

Exhibit A
Formulas and Rules For Calculating Payment Rates
Under Paragraphs III.6 and III.8

Water may be delivered from Turnout SF-14 ("SF-14") to YCWD at the head of the Forbestown Ditch pursuant to three different paragraphs of the Agreement: Part III, Paragraphs 4, 6 and 8. Water also may be delivered from SF-14 to YCWD for conveyance to SFWPA at Gauge WD-6 ("WD-6") or to SFWPA's Upper Forbestown Ditch customers pursuant to Part VI, Paragraph 2. It is necessary to track the total deliveries at Turnout SF-14, the deliveries to SFWPA at WD-6, and the deliveries to SFWPA's metered customers on the Upper Forbestown Ditch, to determine these amounts. A spreadsheet has been developed for purposes of tracking and accounting for the water and its value. Following is a text description of the inputs and formulas for the spreadsheet.

INPUT (Sheets 1-12)

The following monthly values will be input manually:

- 1) Lost Creek minimum flow requirement; and
- 2) Estimated YCWD monthly demands for water under Paragraphs III.4, III.6, III.8; and SFWPA monthly demands under Paragraph VI.2.

The following daily values will be input manually:

- 1) Flow measured at USGS gauge 11396000 (SF-13) below Lost Creek Dam;
- 2) Flow measured at USGS gauge 11395500 (SF-14) at the release to Forbestown Ditch;
- 3) Flow measured at gauge WD-6, Forbestown Ditch below YCWD Treatment Plant;
- 4) Metered deliveries to SFWPA customers on Upper Forbestown Ditch;
- 5) Base energy price in \$/KWh; and
- 6) Added energy price (e.g., ancillary services) in \$/KWh.

In addition, the following status inputs will be entered daily, where "Yes"=0 and "No"=1:

- 1) Sly Creek Reservoir spilling;
- 2) Lost Creek Reservoir spilling;
- 3) Woodleaf Powerhouse available for generating;
- 4) Forbestown Powerhouse available for generating; and
- 5) Kelly Ridge Powerhouse available for generating.

The following inputs will be generated from the previous month's calculations (in months 2-12):

- 1) Carryover amounts under Paragraphs III.4 and III.6; and
- 2) Year-to-Date amounts delivered under Paragraphs III.4, III.6, III.8 and VI.2.

USAGE (Sheets 1-12)

Daily SF-14 deliveries in acre-feet are calculated as follows:

$$\text{SF14} = \text{Input SF-14} * 1.9835$$

Cumulative SF-14 deliveries are calculated daily throughout the month (Σ SF14).

Daily SFWPA Lower Forbestown Ditch and metered Upper Forbestown Ditch deliveries (together designated as LFD for simplicity) are calculated as follows:

$$\text{LFD} = (\text{Input WD-6} + \text{Input Metered UFD}) * 1.9835$$

Cumulative SFWPA deliveries are calculated daily throughout the month (Σ LFD).

Usage of the water is then assigned pursuant to one of the following Paragraphs of the agreement:

- 1) If Σ SF14 minus Σ LFD is less than or equal to the monthly request under Paragraph III.4, then there is no charge for the water delivered to YCWD.
- 2) If Σ SF14 minus Σ LFD is greater than the monthly request under Paragraph III.4 but less than or equal to the sum of the monthly requests under Paragraphs III.4 and III.6, then SF14 minus LFD is credited under Paragraph III.6 for that day.
- 3) If Σ SF14 minus Σ LFD is greater than the sum of the monthly requests under Paragraphs III.4 and III.6, then SF14 minus LFD is credited under Paragraph III.8 for that day.

If Lost Creek Reservoir is spilling, then the daily amount of spill in acre-feet is calculated as follows:

$$\text{SPILL} = (\text{SF13} - (\text{LCMIN} + 1)) * 1.9835$$

Where SF13 is the flow measured in cfs at USGS gauge 11396000, and

LCMIN+1 is the required minimum flow downstream of Lost Creek Dam plus 1 cfs.

PAYMENT (Sheets 1-12)

A. The value of an acre-foot of water at each powerhouse will be calculated as follows:

- 1) Woodleaf \$/AF (WPH\$) = [Base Price (\$/KWh) + Added Price (\$/KWh)] * 1,236 KWh/AF
- 2) Forbestown \$/AF (FPH\$) = [Base Price (\$/KWh) + Added Price (\$/KWh)] * 704 KWh/AF
- 3) Kelly Ridge \$/AF (KPH\$) = [Base Price (\$/KWh) + Added Price (\$/KWh)] * 519 KWh/AF

B. The cost of water delivered at SF-14 pursuant to Paragraph III.6 will be calculated as follows:

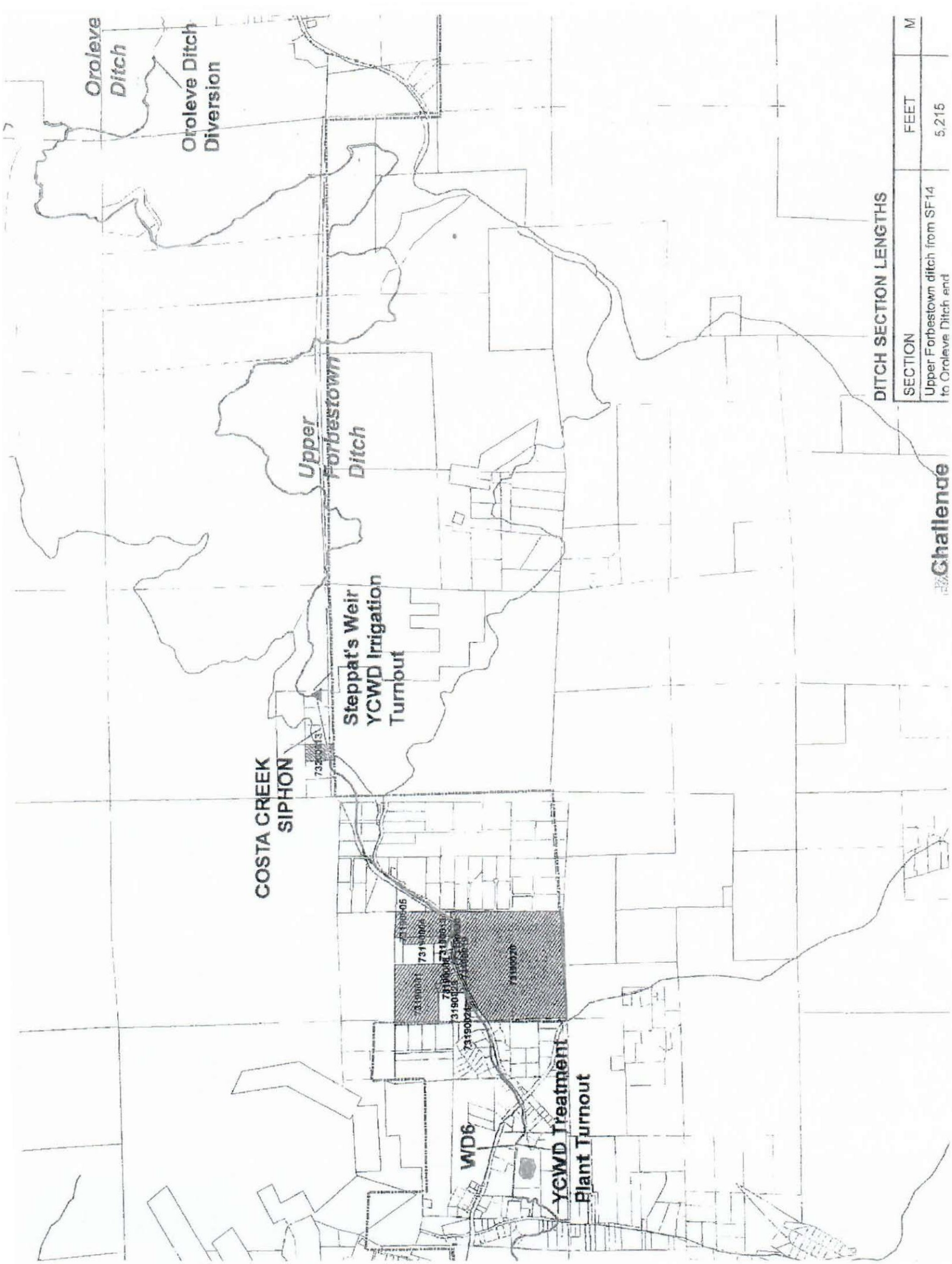
1. If Sly Creek and Lost Creek Reservoirs are both spilling and the amount delivered at SF-14 is less than the amount spilled at Lost Creek, then no cost will be assigned to the water; it will be considered "surplus" and will be delivered at no charge. If Lost Creek Reservoir is spilling for reasons other than an intentional or operational spill, and the

amount delivered at SF-14 is less than the amount spilled, then the water will also be considered "surplus" and will be delivered at no charge. If the amount delivered is greater than the amount spilled, and Woodleaf and Forbestown Powerhouses are available for service, then only the amount in excess of spill will cost the sum of WPH\$ and FPH\$. If only one of the powerhouses is available for service, then only the applicable powerhouse charge will apply. If both of the powerhouses are unavailable for service, then the water will be delivered at no charge. (Note: Lost Creek Reservoir may be intentionally spilled even though Sly Creek Reservoir is not spilling. If Woodleaf and/or Forbestown Powerhouse is available for operation under these conditions, then no "surplus" water exists.)

2. If Sly Creek and Lost Creek Reservoirs are not spilling, and Woodleaf and Forbestown Powerhouses are available for service, then the water delivered at SF-14 will cost the sum of WPH\$ and FPH\$. If only one of the powerhouses is available for service, only the applicable powerhouse charge will apply.

C. The cost of water delivered at SF-14 pursuant to Paragraph III.8 will be calculated as follows:

1. If Sly Creek and Lost Creek Reservoirs both are spilling and the amount delivered at SF-14 is less than the amount spilled at Lost Creek Reservoir, then no cost will be assigned to the water; it will be considered "surplus" and will be delivered at no charge. If Lost Creek Reservoir is spilling for reasons other than an intentional or operational spill, and the amount delivered at SF-14 is less than the amount spilled, then the water will also be considered "surplus" and will be delivered at no charge. If the amount delivered is greater than the amount spilled, and Woodleaf, Forbestown and/or Kelly Ridge Powerhouse is available for service, then the amount in excess of spill will cost the sum of WPH\$, FPH\$ and/or KPH\$, as applicable. (Note: Lost Creek Reservoir may be intentionally spilled even though Sly Creek Reservoir is not spilling. If Woodleaf and/or Forbestown Powerhouse is available for operation under these conditions, then no "surplus" water exists.)
2. If Sly Creek and Lost Creek Reservoirs are not spilling, and Woodleaf, Forbestown and Kelly Ridge Powerhouses are available for service, then the water delivered at SF-14 will cost the sum of WPH\$, FPH\$ and KPH\$. If one or more of the powerhouses is not available for service, then only the applicable powerhouse charges for those powerhouses in service will apply. If Ponderosa Dam is spilling and Kelly Ridge Powerhouse is operating at full capacity, then Kelly Ridge Powerhouse will be treated as not being available for service. If the California Department of Water Resources provides a credit to offset the non-operation of Kelly Ridge Powerhouse due to constraints at the Oroville Project (FERC No. 2100), then the amount of that credit will be used to determine the value of water that would otherwise be available to Kelly Ridge Powerhouse. However, the amount of this credit will not exceed the power-generation value that this water would have had if it had passed through the Kelly Ridge Powerhouse.



DITCH SECTION LENGTHS

SECTION	FEET	M
Upper Forbestown ditch from SF14 to Oroleve Ditch and	5,215	

Exhibit C
Formulas and Rules For Calculating Power Values
Under Paragraph IV.9

SFWPA may elect pursuant to Paragraph IV.9 to take less than its annual allotment of 3,720 acre-feet at Gauge WD-6 and at SFWPA's metered Upper Forbestown Ditch delivery points, and to leave the excess water in the SFPP to generate power. The power value of this water will be calculated as follows.

A. On or before March 15 of each year, SFWPA will provide YCWD with estimated monthly demand schedules for the amounts of water that SFWPA intends to deliver to YCWD at Turnout SF-14 for YCWD to convey through the Forbestown Ditch or alternate pipeline or pipelines and then to deliver to SFWPA at Gauge WD-6 or to SFWPA's metered Upper Forbestown Ditch customers pursuant to Paragraph VI.2. These monthly demand schedules will be for the months of April through November, will be consistent with a normal irrigation demand schedule, and will total 3,720 acre-feet for each year. (Although SFWPA may receive water in excess of 3,720 acre-feet in some years under Paragraph VI.2, if there is surplus conveyance capacity in the Forbestown Ditch and if SFWPA exercises its rights under Paragraph VI.2 to this surplus capacity, SFWPA's monthly demand schedules still will total 3,720 acre-feet per year in such years.) SFWPA will not specify any monthly demands for January, February, March or December. The estimated SFWPA monthly demand for water under Paragraph VI.2 will be divided by the number of days in the month to determine the estimated daily demand, which will not exceed 11 cfs. If the estimated demand schedule varies during any month, then the demand schedule will be stated for each day during that month, but will in no event exceed 11 cfs for any day.

B. From the estimated daily demand will be subtracted:

- 1) Flow measured at Gauge WD-6, Forbestown Ditch below YCWD Treatment Plant; and
- 2) Metered deliveries to SFWPA customers on Upper Forbestown Ditch.

Additional daily inputs will include:

- 1) Base energy price in \$/KWh;
- 2) Additional energy price (e.g., ancillary services) in \$/KWh;
- 3) Woodleaf Powerhouse availability status;
- 4) Forbestown Powerhouse availability status; and
- 5) Kelly Ridge Powerhouse availability status.

If the measured daily delivery is less than the estimated daily demand, then the difference will be considered available for generation at Woodleaf, Forbestown and Kelly Ridge powerhouses.

C. The value of an acre-foot of water at each powerhouse will be calculated as follows:

- 1) Woodleaf \$/AF (WPH\$) = [Base Price (\$/KWh) + Added Price (\$/KWh)] * 1,236
KWh/AF

2) Forbestown \$/AF (FPH\$) = [Base Price (\$/KWh) + Added Price (\$/KWh)] * 704
KWh/AF

3) Kelly Ridge \$/AF (KPH\$) = [Base Price (\$/KWh) + Added Price (\$/KWh)] * 519
KWh/AF

If any powerhouse is unavailable for generation on any day in which measured delivery is less than estimated demand, then the power value of the water at that powerhouse on that day will be zero.

If the total of actual deliveries from YCWD to SFWPA at Gauge WD-6 and to SFWPA's Upper Forbestown Ditch customers exceeds 3,720 acre-feet in any year, then there will be no payments from the SFPP Joint Facilities Operating Account to SFWPA's general account under Paragraph IV.9 in that year, and SFWPA's general account will refund to the SFPP Joint Facilities Operating Account any payments that already were made under Paragraph IV.9 in that year.

**AMENDMENT TO 2005 AGREEMENT BETWEEN
SOUTH FEATHER WATER AND POWER AGENCY
AND NORTH YUBA WATER DISTRICT**

RECITALS

A. On May 27, 2005 the South Feather Water and Power Agency (SFWPA) and the North Yuba Water District (NYWD), then known as the "Yuba County Water District," executed an agreement regarding the distribution of water and power revenues from the South Feather Power Project (SFPP) and related matters. This 2005 agreement is referred to in this Amendment as the "2005 Agreement."

B. In accordance with the 2005 Agreement, SFWPA transferred all of its right, title and interests in Water Rights Permits Nos. 11516 and 11518 to NYWD. The State Water Resources Control Board issued Amended Water Rights Permits 11516 and 11518 to NYWD on April 27, 2006.

C. On December 1, 1980, NYWD and Yuba City executed an agreement under which NYWD sells up to 4,500 acre-feet per year ("af/yr") of water to Yuba City. This agreement will expire on December 31, 2010.

D. The entitlements to the net proceeds of the revenues derived from water sales using water that is developed, stored, and delivered by the facilities of the SFPP, including water diverted, stored and delivered under Permits 11516 and 11518, are described in Part III of the 2005 Agreement. The 2005 Agreement sets forth, in Paragraphs III.4, III.6, and III.8, the blocks of water to be made available to NYWD under Permits 11516 and 11518, and the costs to NYWD, if any, of receiving such water at Turnout SF-14.

E. Yuba City has asked NYWD to enter into a new agreement to succeed the 1980 NYWD/Yuba City agreement (which terminates on December 31, 2010) and to go into effect on January 1, 2011. Water sold to Yuba City by NYWD is water made available to NYWD under Paragraphs III.6 and III.7 of the 2005 Agreement. However, NYWD will not enter into such new agreement if it would increase the cost of water delivered to NYWD at Turnout SF-14 above that cost that NYWD otherwise would incur for such water, "but for" the sale of water to Yuba City. Such additional costs would be

incurred if NYWD were required to order water for delivery to NYWD at Turnout SF-14 under Paragraph III.8 in lieu of receiving water under Paragraph III.6. Therefore, the cost to NYWD for the use of the water available under Paragraph III.8 of the 2005 Agreement must be adjusted to the extent the delivery of Paragraph III.8 water to NYWD at Turnout SF-14 would not have been required "but for" the sale of Paragraph III.6 water to Yuba City. SFWPA and NYWD are executing this Amendment to the 2005 Agreement to make this adjustment.

F. Under paragraph VI.6 of the 2005 Agreement, SFWPA is responsible for maintaining all reaches of the Upper Forbestown Ditch in good working order until January 1, 2011. As part of this maintenance work, following a joint inspection by NYWD and SFWPA officials, SFWPA agreed to replace all non-pressure-treated wood in the Hell-For-Stout Flume with pressure-treated wood. The estimated cost for this work is \$60,880. (SFWPA has removed the tree described in paragraph VI.6 that was in danger of falling on this flume.)

G. Until January 1, 2011, the costs of operations and maintenance of and repairs and improvements to the Upper Forbestown Ditch are divided 75% to SFWPA and 25% to NYWD. Accordingly, if SFWPA replaced all non-pressure-treated wood in the Hell-For-Stout Flume with pressure-treated wood, and if actual costs of this work equaled the estimated costs, then SFWPA's share of the costs of this work would be \$45,660 and NYWD's share would be \$15,220.

H. SFWPA and NYWD have met and agreed that SFWPA will be relieved of the obligation to replace the non-pressure-treated wood in the Hell-For-Stout Flume with pressure-treated wood, in exchange for NYWD's receiving a credit against costs that NYWD owes or will owe to SFWPA, as described hereafter. SFWPA and NYWD now desire to amend the provisions regarding the replacement of wood in the Hell-For-Stout Flume in paragraph VI.6 of the 2005 Agreement, as provided for in this Amendment.

NOW, THEREFORE, in consideration of these premises and the mutual promises in this Amendment and the 2005 Agreement, SFWPA and YCWD agree as follows:

1. The 2005 Agreement is amended by adding the following new paragraph III.8a (to be consistent with the nomenclature in the 2005 Agreement, the following new

paragraph III.8.a refers to NYWD as "YCWD"):

8.a. If YCWD sells all or a portion of the water available for delivery to YCWD at Turnout SF-14 under Paragraph III.6 to Yuba City pursuant to paragraph III.7, and if, due to demand within its service area, YCWD also receives delivery at Turnout SF-14 of a quantity of water pursuant to paragraph III.8 during the same calendar year, then the amounts that YCWD will pay into the SFPP Joint Facilities Operating Account pursuant to III.8 for the water received by YCWD will be adjusted according to this paragraph III.8.a. During any year when YCWD sells water to Yuba City pursuant to paragraph III.7, and YCWD also receives water at Turnout SF-14, the water that YCWD receives at Turnout SF-14 will be allocated to three sources. The first 3,700 acre-feet will be considered water made available to YCWD under Paragraph III.4. The next 4,500 acre-feet will be considered water made available to YCWD under Paragraph III.6, and charged for and paid for under Paragraph III.6. The balance of the water that YCWD receives at Turnout SF-14, in excess of the sum from the first two sources, will be considered water delivered under Paragraph III.8, and charged for and paid for under Paragraph III.8. This allocation method will be used regardless of the amounts of water that YCWD sells to Yuba City, but the total amount of water that YCWD sells to Yuba City will not exceed 4,500 acre-feet during any year. For example, if YCWD sells 4,500 acre-feet of water to Yuba City pursuant to paragraph III.7 during a particular year, and YCWD also receives 10,000 acre-feet of water at Turnout SF-14 during that same water year, then YCWD will pay nothing for the first 3,700 acre feet, YCWD will pay into the SFPP Joint Facilities Operating Account for the quantity of water delivered between 3,700 acre-feet and 8,200 acre feet (a total of 4,500 acre-feet) at the rates described in paragraph III.6, and YCWD will pay into the SFPP Joint Facilities Operating Account for the remaining 1,800 acre-feet of such water received at Turnout SF-14 at the

rates described in paragraph III.8.

2. The 2005 Agreement is amended by adding the following paragraph III.12.a (to be consistent with the nomenclature in the 2005 Agreement, the following new paragraph III.12.a refers to NYWD as "YCWD"):

12.a. Notwithstanding paragraph III.12, YCWD will be responsible for all costs necessary to prepare, implement and, if necessary, amend, the water-rights accounting plans that are required by term 12 of Amended Water Rights Permit 11518. YCWD will deduct such costs from the gross revenues (including revenues associated with any cost reimbursements) that YCWD receives from Yuba City for any sales of water that YCWD makes to Yuba City pursuant to paragraph III.7, and will pay the resulting net revenues that it receives from Yuba City for such sales into the SFPP Joint Facilities Operating Account pursuant to paragraph III.12.

3. The 2005 Agreement is amended by adding the following paragraph VI.6.a (to be consistent with the nomenclature in the 2005 Agreement, the following new paragraph VI.6.a refers to NYWD as "YCWD"):

6.a. Notwithstanding paragraph VI.6, SFWPA is hereby relieved of the obligation to replace the non-pressure-treated wood in the Hell-For-Stout Flume with pressure-treated wood, and such responsibility is assumed by YCWD. In lieu of making this replacement, SFWPA will, effective January 1, 2010, give YCWD a non-interest-bearing credit of \$45,660, to be applied by SFWPA against the amounts, including accrued interest, owed to SFWPA by YCWD for payments owing in 2009 for YCWD's 25% share of the operation and maintenance costs incurred on the Upper Forbestown Ditch during 2009, and, to the extent of available funds, to YCWD's share of such costs incurred during 2010. After January 1, 2011, if there is any remaining balance of the \$45,660, then it will be applied as a credit against YCWD's share of the FERC re-licensing expenses to be withdrawn by SFWPA from the SFPP Joint Facilities Operating Account pursuant to Paragraph IV.5 .

4. Exhibits A and C to the 2005 Agreement are replaced with the attached Exhibits A and C.

5. The 2005 Agreement is amended only as expressly stated in the preceding paragraphs 1 through 4, and otherwise will remain in full force and effect.

Agreed to this 27th day of April, 2010, at Oroville, California.

SOUTH FEATHER WATER AND POWER AGENCY

By: 
Louis F. Cecchi, President

Attest:


Michael C. Glaze, Secretary

Agreed to this 20th day of ~~April~~ ^{May}, 2010, at Brownsville, California.

NORTH YUBA WATER DISTRICT

By: 
President

Attest:



Secretary

Exhibit A
Formulas and Rules For Calculating Payment Rates Under Paragraphs III.6 and III.8

Water may be delivered from Turnout SF-14 ("SF-14") to YCWD at the head of the Forbestown Ditch pursuant to three different paragraphs of the Agreement: Part III, Paragraphs 4, 6 and 8. Water also may be delivered from SF-14 to YCWD for conveyance to SFWPA at Gauge WD-6 ("WD-6") or to SFWPA's Upper Forbestown Ditch customers pursuant to Part VI, Paragraph 2. It is necessary to track the total deliveries at Turnout SF-14, the deliveries to SFWPA at WD-6, and the deliveries to SFWPA's metered customers on the Upper Forbestown Ditch, to determine these amounts. A spreadsheet has been developed for purposes of tracking and accounting for the water and its value. Following is a text description of the inputs and formulas for the spreadsheet.

The 2010 Amendment to the 2005 Agreement between South Feather and Power Agency and North Yuba Water District (NYWD, formerly YCWD) specifies that if NYWD sells water to Yuba City, it may still take up to 4,500 acre-feet under the pricing structure of Part III, Paragraph 6. The spreadsheet is modified to include the 2010 Amendment and to revise pricing terms consistent with the 2009 Power Purchase Agreement between Pacific Gas & Electric Company and SFWPA.

INPUT (Sheets 1-12)

The following monthly values will be input manually:

- 1) Lost Creek minimum flow requirement; and
- 2) Estimated YCWD monthly demands for water under Paragraphs III.4, III.6, III.8; and SFWPA monthly demands under Paragraph VI.2.

The following daily values will be input manually:

- 1) Flow measured at USGS gauge 11396000 (SF-13) below Lost Creek Dam;
- 2) Flow measured at USGS gauge 11395500 (SF-14) at the release to Forbestown Ditch;
- 3) Flow measured at gauge WD-6, Forbestown Ditch below YCWD Treatment Plant;
- 4) Metered deliveries to SFWPA customers on Upper Forbestown Ditch;
- 5) Monthly Index Price in \$/KWh for Woodleaf and Forbestown powerhouses; and
- 6) Hourly Index Price for Kelly Ridge Powerhouse in \$/KWh.

In addition, the following status inputs will be entered daily, where "Yes"=0 and "No"=1:

- 1) Sly Creek Reservoir spilling;
- 2) Lost Creek Reservoir spilling;
- 3) Woodleaf Powerhouse available for generating;
- 4) Forbestown Powerhouse available for generating; and
- 5) Kelly Ridge Powerhouse available for generating.

The following inputs will be generated from the previous month's calculations (in months 2-12):

- 1) Carryover amounts under Paragraphs III.4 and III.6 (up to 4,500 acre-feet annually); and

- 2) Year-to-Date amounts delivered under Paragraphs III.4, III.6, III.8 and VI.2.

USAGE (Sheets 1-12)

Daily SF-14 deliveries in acre-feet are calculated as follows:

$$\text{SF14} = \text{Input SF-14} * 1.9835$$

Cumulative SF-14 deliveries are calculated daily throughout the month (ΣSF14).

Daily SFWPA Lower Forbestown Ditch and metered Upper Forbestown Ditch deliveries (together designated as LFD for simplicity) are calculated as follows:

$$\text{LFD} = (\text{Input WD-6} + \text{Input Metered UFD}) * 1.9835$$

Cumulative SFWPA deliveries are calculated daily throughout the month (ΣLFD).

Usage of the water is then assigned pursuant to one of the following Paragraphs of the agreement:

- 1) If ΣSF14 minus ΣLFD is less than or equal to the monthly request under Paragraph III.4, then there is no charge for the water delivered to YCWD.
- 2) If ΣSF14 minus ΣLFD is greater than the monthly request under Paragraph III.4 but less than or equal to the sum of the monthly requests under Paragraphs III.4 and III.6, then SF14 minus LFD is credited under Paragraph III.6 for that day.
- 3) If ΣSF14 minus ΣLFD is greater than the sum of the monthly requests under Paragraphs III.4 and III.6, then SF14 minus LFD is credited under Paragraph III.8 for that day.

If Lost Creek Reservoir is spilling, then the daily amount of spill in acre-feet is calculated as follows:

$$\text{SPILL} = (\text{SF13} - (\text{LCMIN}+1)) * 1.9835$$

Where SF13 is the flow measured in cfs at USGS gauge 11396000, and

LCMIN+1 is the required minimum flow downstream of Lost Creek Dam plus 1 cfs.

PAYMENT (Sheets 1-12)

A. The value of an acre-foot of water at each powerhouse will be calculated as follows:

- 1) Woodleaf \$/AF (WPH\$) = [Monthly Index Price (\$/KWh)] * 1,236 KWh/AF
- 2) Forbestown \$/AF (FPH\$) = [Monthly Index Price (\$/KWh)] * 704 KWh/AF
- 3) Kelly Ridge \$/AF (KPH\$) = [Hourly Index Price (\$/KWh)] * 519 KWh/AF

B. The cost of water delivered at SF-14 pursuant to Paragraph III.6 will be calculated as follows:

1. If Sly Creek and Lost Creek Reservoirs are both spilling and the amount delivered at SF-14 is less than the amount spilled at Lost Creek, then no cost will be assigned to the water; it will be considered "surplus" and will be delivered at no charge. If Lost Creek Reservoir is spilling for reasons other than an intentional or operational spill, and the amount delivered at SF-14 is less than the amount spilled, then the water will also be considered "surplus" and will be delivered at no charge. If the amount delivered is greater than the amount spilled, and Woodleaf and Forbestown Powerhouses are available for service, then only the amount in excess of spill will cost the sum of WPH\$ and FPH\$. If only one of the powerhouses is available for service, then only the applicable powerhouse charge will apply. If both of the powerhouses are unavailable for service, then the water will be delivered at no charge. (Note: Lost Creek Reservoir may be intentionally spilled even though Sly Creek Reservoir is not spilling. If Woodleaf and/or Forbestown Powerhouse is available for operation under these conditions, then no "surplus" water exists.)

If Sly Creek and Lost Creek Reservoirs are not spilling, and Woodleaf and Forbestown Powerhouses are available for service, then the water delivered at SF-14 will cost the sum of WPH\$ and FPH\$. If only one of the powerhouses is available for service, only the applicable powerhouse charge will apply.

C. The cost of water delivered at SF-14 pursuant to Paragraph III.8 will be calculated as follows:

1. If Sly Creek and Lost Creek Reservoirs both are spilling and the amount delivered at SF-14 is less than the amount spilled at Lost Creek Reservoir, then no cost will be assigned to the water; it will be considered "surplus" and will be delivered at no charge. If Lost Creek Reservoir is spilling for reasons other than an intentional or operational spill, and the amount delivered at SF-14 is less than the amount spilled, then the water will also be considered "surplus" and will be delivered at no charge. If the amount delivered is greater than the amount spilled, and Woodleaf, Forbestown and/or Kelly Ridge Powerhouse is available for service, then the amount in excess of spill will cost the sum of WPH\$, FPH\$ and/or KPH\$, as applicable. (Note: Lost Creek Reservoir may be intentionally spilled even though Sly Creek Reservoir is not spilling. If Woodleaf and/or Forbestown Powerhouse is available for operation under these conditions, then no "surplus" water exists.)
2. If Sly Creek and Lost Creek Reservoirs are not spilling, and Woodleaf, Forbestown and Kelly Ridge Powerhouses are available for service, then the water delivered at SF-14 will cost the sum of WPH\$, FPH\$ and KPH\$. If one or more of the powerhouses is not available for service, then only the applicable powerhouse charges for those powerhouses in service will apply. If Ponderosa Dam is spilling and Kelly Ridge Powerhouse is operating at full capacity, then Kelly Ridge Powerhouse will be treated as not being available for service. If the California Department of Water Resources provides a credit to offset the non-operation of Kelly Ridge Powerhouse due to constraints at the Oroville Project (FERC No. 2100), then the amount of that credit will be used to determine the value of water that would otherwise be available to Kelly Ridge Powerhouse. However, the amount of this credit will not exceed the power-generation value that this water would have had if it had passed through the Kelly Ridge Powerhouse.

Exhibit C

Formulas and Rules For Calculating Power Values Under Paragraph IV.9

SFWPA may elect pursuant to Paragraph IV.9 to take less than its annual allotment of 3,720 acre-feet at Gauge WD-6 and at SFWPA's metered Upper Forbestown Ditch delivery points, and to leave the excess water in the SFPP to generate power. The power value of this water will be calculated as follows.

- A. On or before March 15 of each year, SFWPA will provide YCWD with estimated monthly demand schedules for the amounts of water that SFWPA intends to deliver to YCWD at Turnout SF-14 for YCWD to convey through the Forbestown Ditch or alternate pipeline or pipelines and then to deliver to SFWPA at Gauge WD-6 or to SFWPA's metered Upper Forbestown Ditch customers pursuant to Paragraph VI.2. These monthly demand schedules will be for the months of April through November, will be consistent with a normal irrigation demand schedule, and will total 3,720 acre-feet for each year. (Although SFWPA may receive water in excess of 3,720 acre-feet in some years under Paragraph VI.2, if there is surplus conveyance capacity in the Forbestown Ditch and if SFWPA exercises its rights under Paragraph VI.2 to this surplus capacity, SFWPA's monthly demand schedules still will total 3,720 acre-feet per year in such years.) SFWPA will not specify any monthly demands for January, February, March or December. The estimated SFWPA monthly demand for water under Paragraph VI.2 will be divided by the number of days in the month to determine the estimated daily demand, which will not exceed 11 cfs. If the estimated demand schedule varies during any month, then the demand schedule will be stated for each day during that month, but will in no event exceed 11 cfs for any day.
- B. From the estimated daily demand will be subtracted:
- 1) Flow measured at Gauge WD-6, Forbestown Ditch below YCWD Treatment Plant; and
 - 2) Metered deliveries to SFWPA customers on Upper Forbestown Ditch.

Additional daily inputs will include:

- 1) Monthly Index price in \$/KWh for Woodleaf and Forbestown Powerhouses;
- 2) Hourly Index price in \$/KWh for Kelly Ridge Powerhouse;
- 3) Woodleaf Powerhouse availability status;
- 4) Forbestown Powerhouse availability status; and
- 5) Kelly Ridge Powerhouse availability status.

If the measured daily delivery is less than the estimated daily demand, then the difference will be considered available for generation at Woodleaf, Forbestown and Kelly Ridge powerhouses.

- C. The value of an acre-foot of water at each powerhouse will be calculated as follows:

1) Woodleaf \$/AF (WPH\$) = [Monthly Index Price (\$/KWh)] * 1,236 KWh/AF

2) Forbestown \$/AF (FPH\$) = [Monthly Index Price (\$/KWh)] * 704 KWh/AF

3) Kelly Ridge \$/AF (KPH\$) = [Hourly Index Price (\$/KWh)] * 519 KWh/AF

If any powerhouse is unavailable for generation on any day in which measured delivery is less than estimated demand, then the power value of the water at that powerhouse on that day will be zero.

If the total of actual deliveries from YCWD to SFWPA at Gauge WD-6 and to SFWPA's Upper Forbestown Ditch customers exceeds 3,720 acre-feet in any year, then there will be no payments from the SFPP Joint Facilities Operating Account to SFWPA's general account under Paragraph IV.9 in that year, and SFWPA's general account will refund to the SFPP Joint Facilities Operating Account any payments that already were made under Paragraph IV.9 in that year.

**SECOND AMENDMENT TO 2005 AGREEMENT BETWEEN
SOUTH FEATHER WATER AND POWER AGENCY
AND NORTH YUBA WATER DISTRICT**

RECITALS

A. On May 27, 2005 the South Feather Water and Power Agency (SFWPA) and the North Yuba Water District (NYWD), then known as the "Yuba County Water District," executed an agreement regarding the distribution of net water and power revenues from the South Feather Power Project (SFPP) and related matters. This 2005 agreement is referred to in this Amendment as the "2005 Agreement."

B. On May 20, 2010, SFWPA and NYWD executed an amendment to the 2005 Agreement.

C. Part IV, on pages 22-29, of the 2005 Agreement contains various provisions regarding the disposition of South Feather Power Project (SFPP) Joint Facilities net power revenues after 2010.

D. Paragraph IV.4, on page 25, of the 2005 Agreement, provides that, after the amount of SFPP Joint Facilities net power revenues for the preceding calendar year is determined under a detailed accounting completed by March 31 of the following year, such net power revenues will be divided and paid to SFWPA and NYWD on or before April 15 of the following year on a 50/50 basis. The Paragraph also provides that SFWPA and NYWD may agree to more-frequent distributions of these net power revenues, if more-frequent distributions can be made without jeopardizing the obligations of the SFPP Joint Facilities Operating Account to pay SFPP Joint Facilities operating and capital expenses.

E. SFWPA and NYWD desire to amend the 2005 Agreement to provide for more-frequent distributions of the minimum payment of net power revenues, to change the date for completion of the detailed accounting for the prior year's expenses and revenues, and to move the final distribution date for each year's net power revenues from April 15 to July 1 of the following year, according to the terms of this Amendment.

NOW, THEREFORE, in consideration of these premises and the mutual promises in the 2005 Agreement, as amended in 2010, SFWPA and NYWD agree to further amend the 2005 Agreement as follows:

1. For 2013 and all subsequent years, SFWPA will distribute the minimum payment

amounts specified in Paragraph IV.6 of the 2005 Agreement, by making, on a quarterly basis, equal net power revenue distributions of \$177,250 each to SFWPA and NYWD, less any "hold backs" from such quarterly distribution of the amounts that SFWPA believes are reasonably necessary for anticipated operating and capital expenses for succeeding twelve (12) months and to ensure that the total distributions of net power revenues for the year will not exceed the total net power revenues for that year. Any "hold backs" from net power revenue distributions to SFWPA and NYWD will be in equal amounts. These quarterly net power revenue distributions will be made no later than the dates on the following schedule:

<u>Generation Period</u>	<u>Distribution Date</u>
Jan.-March	June 1 of that year
April-June	September 1 of that year
July-Sept.	December 1 of that year
Oct.-Dec.	March 1 of the following year

SFWPA will complete the detailed accounting required under Paragraph IV.3 of the 2005 Agreement for each year's operations no later than June 30th of the following year and will make the final distributions of net power revenues for each year to SFWPA and NYWD under Paragraph IV.4 of the 2005 Agreement on or before July 1 of such following year. Except for this change in date, these final distributions will be made in accordance with the terms of the 2005 Agreement.

2. Within 10 business days after execution of this Amendment by both parties, SFWPA will make equal net power revenue distributions of \$177,250 each for the first quarter of 2013 to SFWPA and NYWD. SFWPA will distribute the remaining net power revenues for 2013 to SFWPA and NYWD according to the terms of the 2005 Agreement, as amended by this Amendment.

3. The 2005 Agreement is amended only as expressly stated in the preceding paragraphs 1 and 2, and otherwise will remain in full force and effect.

Agreed to this 25th day of June, 2013, at Oroville, California

SOUTH FEATHER WATER AND POWER AGENCY

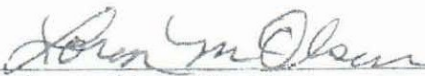
By: 
Lou Lodigiani, President

Attest:

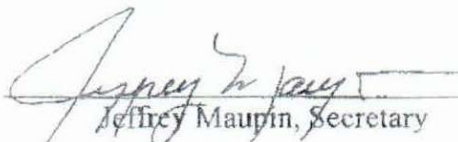

Michael C. Glaze, Secretary

Agreed to this 24th day of June, 2013, at Brownsville, California

NORTH YUBA WATER DISTRICT

By: 
Loren Olsen, President

Attest:


Jeffrey Maupin, Secretary

**THIRD AMENDMENT TO 2005 AGREEMENT BETWEEN
SOUTH FEATHER WATER AND POWER AGENCY
AND NORTH YUBA WATER DISTRICT**

RECITALS

A. On May 27, 2005 the South Feather Water and Power Agency (SFWPA) and the North Yuba Water District (NYWD), then known as the “Yuba County Water District” or “YCWD,” executed an agreement denominated “Agreement Between South Feather Water and Power Agency and Yuba County Water District (the “2005 Agreement”).

B. On May 20, 2010, SFWPA and NYWD executed an amendment to the 2005 Agreement (the “2010 Amendment”).

C. On June 25, 2013, SFWPA and NYWD executed a second amendment to the 2005 Agreement.

D. Following the 2005 Agreement, the State Water Resources Control Board issued Amended Water Right Permits 11516 and 11518 to NYWD in 2006.

E. Part III, on pages 14-22, of the 2005 Agreement contains various provisions regarding NYWD’s use of South Feather Power Project (SFPP) facilities.

F. The sixth sentence of Paragraph III.8.a of the 2005 Agreement, as amended by the 2010 Amendment, provides that the total amount of water that NYWD may sell to Yuba City will not exceed 4,500 acre-feet during any year.

G. Paragraph III.12, on page 20, of the 2005 Agreement, provides that, “All revenues from any transfers, sales, leases, or exchanges of water, however such transfers are denominated, including transfers of water for purposes of power generation to other hydroelectric projects, that are received for water supplies stored, diverted, transported or delivered by the SFPP Joint Facilities any time after June 30, 2010, will be paid into the SFPP Joint Facilities Operating Account and will be treated in this account in the same manner as revenues from power sales.” Paragraph III.12 further provides that “The costs to implement any such sale, transfer, lease, exchange or other conveyance of water will be the expense of the SFPP Joint Facilities Operating Account.”

H. Paragraph III.12.a of the 2005 Agreement, as amended by the 2010 Amendment, provides that, notwithstanding paragraph III.12, NYWD will be responsible for costs relating to water-rights accounting plans required by Amended Water Rights Permit 11518, allows for deductions of those costs from gross revenues NYWD receives from water sales to Yuba City, and states that NYWD will pay the resulting net revenues in to the SFPP Joint Facilities Operating Account pursuant to paragraph III.12.

I. SFWPA and NYWD desire to amend the 2005 Agreement to provide for a different method of processing revenues from the existing 4,500 acre-foot water transfer under NYWD's water-right permits to Yuba City and potentially an additional transfer, sale, lease, or exchange of water (collectively "sale of water") under NYWD's water-right permits to Yuba City of up to 5,500 acre-feet per year. This additional sale of water, together with NYWD's existing 4,500 acre-foot sale of water to Yuba City, will total up to 10,000 acre-feet per year.

J. Any additional sale of water by NYWD to Yuba City will not entail a change in SFWPA's operations of the SFPP or any of its facilities.

NOW, THEREFORE, in consideration of these recitals and the mutual promises in the 2005 Agreement, as amended in 2010 and 2013, SFWPA and NYWD agree to further amend the 2005 Agreement as follows:

1. The sixth sentence of Paragraph III.8.a of the 2005 Agreement, as amended by the 2010 Amendment, is further amended to state as follows: "This allocation method will be used regardless of the amounts of water that YCWD sells to Yuba City, but the total amount of water that YCWD sells to Yuba City will not exceed 10,000 acre-feet during any year. An essential component to SFWPA's consent to this Third Amendment and consent to additional YCWD sales of water to Yuba City, is the mutual understanding of SFWPA and YCWD that SFWPA will not be required to reoperate its reservoirs, modify or alter any facility outages or in any way modify its existing or future operations to accommodate NYWD's sales of water to Yuba City."

2. Paragraph III.12.a of the 2005 Agreement, added by the 2010 Amendment, is further amended to read as follows (to be consistent with the nomenclature in the 2005 Agreement, the following text refers to NYWD as "YCWD"):

12.a. Notwithstanding paragraph III.12, YCWD will be responsible for all costs necessary to prepare, implement, and, if necessary, amend, the water-rights accounting

plans that are required by term 12 of Amended Water Rights Permit 11518 and to negotiate and implement the sale of water to Yuba City. YCWD may deduct such costs from the gross revenues that YCWD receives from any sales of water that YCWD makes under the 2005 Agreement, as amended, and will pay the resulting net revenues (as defined in paragraph III.12.b.) that it receives for such sales into the YCWD/Yuba City Transfer Account pursuant to paragraph III.12.b.

3. The 2005 Agreement is further amended by adding the following new paragraph III.12.b (to be consistent with the nomenclature in the 2005 Agreement, the following amended paragraph III.12.b refers to NYWD as “YCWD”):

12.b. YCWD will create and maintain an account to deposit revenues from its sales of water to Yuba City. This account will be called the “NYWD/Yuba City Transfer Account” or, when following the nomenclature of the 2005 Agreement, the “YCWD/Yuba City Transfer Account.” Notwithstanding any other provision of this Agreement, all net revenues from any sales of water to Yuba City, however such sales of water are denominated, under Amended Water Rights Permit 11516 or Amended Water Rights Permit 11518 to Yuba City will be paid into the YCWD/Yuba City Transfer Account. As used in this paragraph III.12.b, “net revenues” means the total revenues from any sale of water by YCWD to Yuba City after deducting YCWD’s attorneys’ and engineers’ fees and expenses directly attributable to preparing or amending the water rights accounting plans and negotiating and implementing the sale of water and does not include deductions for time spent or expenses incurred by YCWD’s directors, officers and employees related to its sale of water to Yuba City. Before making the distributions described in the next sentence, YCWD may use money in the YCWD/Yuba City Transfer Account to pay any invoices for YCWD attorneys’ and engineers’ fees and expenses directly attributable to preparing or amending the water rights accounting plans and negotiating and implementing the sale of water that YCWD did not pay through deductions from gross revenues from sales of water to Yuba City before depositing revenues from such sales into this account. Within 6 months following the end of YCWD’s fiscal year, YCWD will make equal distributions in net revenues to SFWPA and YCWD of any remaining net water sales revenues in the YCWD/Yuba City Transfer

Account. YCWD will pay the amounts of such distributions to each Party's general account, for each Party to spend in any manner that it deems appropriate. The Parties will not be required to spend any such distributions on any SFPP Joint Facilities operating, maintenance, repair, replacement or improvement expenses. YCWD will provide an accounting of amounts paid into, distributions from, and expenses deducted from the YCWD/Yuba City Transfer Account to SFWPA contemporaneously with its distributions of net water-sales revenues from the YCWD/Yuba City Transfer Account.

4. The 2005 Agreement is further amended by adding the following new paragraph III.12.c (to be consistent with the nomenclature in the 2005 Agreement, the following amended paragraph III.12.c refers to NYWD as "YCWD"):

12.c. YCWD will use its best efforts to include in any new or amended agreement with Yuba City for the sale of water an indemnity clause by Yuba City and YCWD for the benefit of SFWPA in which Yuba City and YCWD, jointly and severally, agree to indemnify, defend, and hold SFWPA harmless from and against any and all claims, injuries, lawsuits, damages, causes of action or other legal proceedings by third parties arising out of or related to YCWD's sale of water to Yuba City, including claims of unauthorized diversion, injury to other water right holders, or that YCWD's sale of water is not "new water" available for diversion by Yuba City. YCWD's obligation as set forth in paragraph III.12.c, and any associated expenses of YCWD, will not be deemed an expense that is deducted from the gross revenues received from the sale of water to Yuba City.

5. The 2005 Agreement is further amended by adding the following new paragraph III.12.d (to be consistent with the nomenclature in the 2005 Agreement, the following amended paragraph III.12.d refers to NYWD as "YCWD"):


12.d. Advance consent of SFWPA's board of directors is required for any sale of water proposed by YCWD that would be to: (i) any buyer other than Yuba City, or (ii) to Yuba City in an amount greater than 10,000 acre-feet per year, and that: (A) would utilize SFWPA's facilities or all or any portion of the SFPP facilities, (B) would require reoperation of SFWPA's storage facilities or any modification to SFWPA's operations, or (C) may subject SFWPA to a refill criteria or other terms and conditions that may affect SFWPA's operations, water availability or hydroelectric power generation. SFWPA may

withhold consent to any such proposed YCWD sale, with or without cause, in SFWPA's sole discretion.

5. The 2005 Agreement is amended only as expressly stated in the preceding paragraphs 1-5, and otherwise will remain in full force and effect.

Agreed to this 20th day of December, 2016, at Oroville, California

SOUTH FEATHER WATER AND POWER AGENCY

By: 
Lou Lodigiani, President

Attest:


Rath T. Moseley, Secretary

Agreed to this 22nd day of December, 2016, at Brownsville, California

NORTH YUBA WATER DISTRICT

By: 
Donald C. Ferguson President

Attest:


Jeffrey Maupin, Secretary