

**AGREEMENT FOR THE CONVEYANCE OF WATER
AMONG
THE SAN DIEGO COUNTY WATER AUTHORITY,
THE SAN LUIS REY SETTLEMENT PARTIES, AND
THE UNITED STATES**

This Agreement is entered into as of the 10th day of October, 2003, among the San Diego County Water Authority, a county water authority organized and incorporated under the County Water Authority Act of the State of California, hereinafter referred to as “SDCWA;” the United States of America acting by and through its Secretary of the Interior (“Secretary”), hereinafter referred to as “United States;” the La Jolla, Pala, Pauma, Rincon, and San Pasqual Bands of Mission Indians, acting through the governing bodies of each respective Band as duly recognized by the Secretary, hereinafter referred to as “Indian Bands;” the San Luis Rey River Indian Water Authority, a permanent intertribal entity established pursuant to duly adopted ordinances of the Indian Bands recognized and approved by Public Law 100-675, hereinafter referred to as “Indian Water Authority;” the City of Escondido, a city organized under the provisions of the general laws of the State of California, hereinafter referred to as “Escondido;” and the Vista Irrigation District, an irrigation district organized and incorporated under the Irrigation District Law of the State of California, hereinafter referred to as “Vista.” Each of the above is sometimes referred to individually as “Party,” and all of the above are sometimes collectively referred to as “Parties.”

DEFINITIONS

1. “All American Canal Lining Project” means that portion of the works authorized in Title II of Public Law 100-675 which will result in a lined All American Canal from one mile west of Pilot Knob to Drop 3 – a distance of approximately 23 miles.
2. “Allocation Agreement” means the agreement entered into by the Secretary and others to allocate the water conserved from the All American Canal Lining Project and the Coachella Canal Lining Project.
3. “SDCWA” means the San Diego County Water Authority.
4. “Coachella Canal Lining Project” means that portion of the works authorized in Title II of Public Law 100-675 which will result in a lined Coachella Branch of the All American Canal from Siphons 7 to 32 – a distance of approximately 34.6 miles.
5. “Escondido” means the City of Escondido.

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6. "Indian Bands" means the La Jolla, Pala, Pauma, Rincon, and San Pasqual Bands of Mission Indians, acting through the governing bodies of each respective Band as duly recognized by the Secretary.
7. "Indian Water Authority" means the San Luis Rey River Indian Water Authority, a permanent intertribal entity pursuant to duly adopted ordinances recognized and approved by Public Law 100-675.
8. "Local Entities" means Escondido and Vista.
9. "Local Water" means locally produced water developed by facilities owned and operated by Escondido and Vista in the watershed of the San Luis Rey River upstream from the Escondido Canal.
10. "Metropolitan" means The Metropolitan Water District of Southern California, a metropolitan water district organized and incorporated under the Metropolitan Water District Act of the State of California.
11. "Metropolitan's Treatment Charges" means the average amount charged by Metropolitan to its member public agencies for water treatment.
12. "Packard Amendment" means Section 211 of Public Law 106-377 Appendix B, 114 Stat.1441A-70.
13. "Reservations" means the reservations of the La Jolla, Pala, Pauma, Rincon, and San Pasqual Bands of Mission Indians located in San Diego County, California.
14. "Secretary" means the Secretary of the Interior of the United States of America.
15. "Settlement Act" means Title I of Public Law 100-675, enacted on November 17, 1988, 102 Stat. 4000, Title I (as amended by section 117 of the Act of November 13, 1991, Public Law 102-154, 105 Stat. 990, 1012-1013; section 1017 of the Act of October 14, 1998, Public Law 105-256, 112 Stat. 1896, 1899; and Section 211 of the Act of October 27, 2000, 106 Public Law 377 Appendix B, 114 Stat. 1441A-70) and known more fully as the "San Luis Rey Indian Water Rights Settlement Act."
16. "Settlement Agreement" means the agreement referred to in Section 104 of the Settlement Act among the United States, Escondido, Vista, and the Indian Bands providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings in the United States District Court for the Southern District of California and before the Federal Energy Regulatory Commission.
17. "Settlement Parties" means the Indian Water Authority, the Indian Bands, and the Local Entities.

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18. "Supplemental Water" means water available for the benefit of the Settlement Parties under the Allocation Agreement, including water provided by Metropolitan pursuant to the certain Agreement Relating to Supplemental Water among The Metropolitan Water District of Southern California, the San Luis Rey Settlement Parties, and the United States dated October __, 2003.

19. "United States" means the United States of America acting by and through its Secretary of the Interior.

20. "Vista" means the Vista Irrigation District.

21. "Year" means calendar year.

EXPLANATORY RECITALS

- A. WHEREAS, the water in the San Luis Rey River, located in San Diego County, California, is insufficient to supply the needs of the Indian Bands and the Local Entities;
- B. WHEREAS, litigation involving the United States, the Indian Bands, and the Local Entities was commenced in Federal District Court to determine the rights of the Indian Bands and the Local Entities to the water of the San Luis Rey River, and a related contested proceeding was commenced among the same parties before the Federal Energy Regulatory Commission;
- C. WHEREAS, SDCWA is not a party to the pending litigation or the related proceeding before the Federal Energy Regulatory Commission;
- D. WHEREAS, pursuant to Title I of Public Law 100-675, enacted on November 17, 1988, the Congress of the United States passed the San Luis Rey Indian Water Rights Settlement Act to provide for the settlement of the disputes that were the subject of the above-referenced litigation and related proceeding;
- E. WHEREAS, pursuant to the Settlement Act, the United States was authorized to arrange for a supplemental water supply for the Settlement Parties of not more than 16,000 acre-feet per year from the following sources: (1) supplemental water which is developed from public lands within the State of California outside the service area of the Central Valley Project, (2) water conserved through projects to line portions of the All-American Canal and its Coachella Branch, authorized in Title II of said Public Law 100-675, and (3) water obtained through a contract with Metropolitan ;

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- F. WHEREAS, on October 27, 2000, Section 211 of Public Law 106-377 – Appendix B (the “Packard Amendment”) amended the Settlement Act by adding subsection 106(f), which directed the Secretary, in order to fulfill the trust responsibility to the Bands, acting through the Commissioner of Reclamation, to furnish annually to the San Luis Rey Settlement Parties in accordance with the Settlement Agreement: (1) a permanent supply of up to 16,000 acre-feet of the water conserved by lining certain unlined portions of the All-American Canal and its Coachella Branch; and (2) a permanent supply of power capacity and energy through a contract with the Yuma Area Contractors at no cost and at no further expense to the United States and the San Luis Rey Settlement Parties in an amount sufficient to convey the Settlement Parties’ portion of the conserved water from Lake Havasu through the Colorado River Aqueduct and to the places of use on the Bands’ reservations or in the service areas of Escondido and Vista;
- G. WHEREAS, the Parties anticipate that the Supplemental Water will become available incrementally, according to the Allocation Agreement, as certain unlined portions of the All American Canal and its Coachella Branch are lined;
- H. WHEREAS, the All-American Canal Lining Project and the Coachella Canal Lining Project are being constructed for the purpose of conserving water from the Colorado River which is now lost due to seepage, and as said projects are constructed, the Secretary will make water available pursuant to the Allocation Agreement;
- I. WHEREAS, the Parties also recognize that Section 106 of the Settlement Act provides that the Secretary may utilize existing programs and authorities to facilitate the development of water for the Settlement Parties;
- J. WHEREAS, the Parties recognize that arrangements with SDCWA and Metropolitan for exchange, acquisition, and conveyance of the Supplemental Water offer the most practical means for making the Supplemental Water available for the use by and benefit of the Settlement Parties, and, accordingly, all Parties have an interest in insuring the availability of the physical and economic infrastructure necessary to enable the use of the Supplemental Water developed under the Settlement Act;
- K. WHEREAS, the Parties wish to finalize a set of arrangements that provide SDCWA with equitable and sustainable consideration for its role in providing for the timely utilization of the Supplemental Water by the Settlement Parties;
- L. WHEREAS, the Parties are committed to achieving the completion of these efforts which will allow them to commit staff and resources to the remaining

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critical activities necessary to implement the All American Canal Lining Project, the Coachella Canal Lining Project and the Settlement Act;

- M. WHEREAS, all Parties recognize that the Settlement Parties have made significant contributions to the lining of the All American Canal and its Coachella Branch, and that the Department of the Interior has utilized and will continue to utilize its existing programs and authorities to promote mutually advantageous relationships among the Parties ; and
- N. WHEREAS, according to the Allocation Agreement and the Agreement Relating to Supplemental Water among the Metropolitan Water District of Southern California, the San Luis Rey Settlement Parties, and the United States, the United States has agreed to furnish Metropolitan with up to 16,000 acre-feet of Supplemental Water per year, some or all of which Metropolitan has agreed to exchange for a like quantity of water to be delivered to the United States for the benefit of the Settlement Parties at the delivery point or points for delivery of water from Metropolitan to SDCWA.

TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the mutual covenants contained herein, SDCWA, the United States, the Indian Water Authority, the Bands, and the Local Entities agree to the conveyance of Supplemental Water in accordance with the following terms and conditions:

1. Term.

This Agreement shall commence on its effective date as defined in Section 25 and shall remain in effect for so long as Supplemental Water conserved by the All American Canal and Coachella Canal Lining Projects is available for use by the Settlement Parties.

2. Delivery Points of Supplemental Water to SDCWA.

The United States shall furnish all Supplemental Water to be conveyed by SDCWA at the delivery point or points for delivery of water from Metropolitan to SDCWA, or at such other locations as are mutually agreed by the Parties.

3. Conveyance of the Supplemental Water.

SDCWA shall convey the Supplemental Water furnished to it by the United States for use by the Settlement Parties, provided, however, that SDCWA shall not be obligated to convey such Supplemental Water at times when all of the available capacity in that portion of its facilities which is needed to convey the Supplemental Water is being used

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for the delivery of SDCWA's water to its member public agencies. Availability of capacity shall be determined by SDCWA at its reasonable discretion.

4. Payments to SDCWA for Conveying Supplemental Water.

a. SDCWA shall not impose any charges on any Supplemental Water delivered to the Settlement Parties directly from Metropolitan's water distribution system without the use of any portion of SDCWA's water distribution system.

b. On a monthly basis, the Settlement Parties shall pay SDCWA the lesser of the following amounts for conveying Supplemental Water through any portion of SDCWA's water distribution system:

i. A transportation charge of \$55.00 for each acre-foot of Supplemental Water conveyed by SDCWA for use by the Settlement Parties in 2004. Thereafter, the transportation charge will increase at the rate of one and fifty-five hundredths percent (1.55%) per year for as long as this Agreement is in effect.

or

ii. SDCWA's transportation rate in effect for conveying water through the SDCWA facilities.

c. SDCWA shall not impose any rates or charges other than those set forth in subsection b for, or based on, any Supplemental Water delivered to the Indian Water Authority or the Indian Bands for use on the Reservations either directly or indirectly, including Supplemental Water received by Escondido or Vista in exchange for Local Water delivered by or allocated by them for use on the Reservations.

d. Except for the Supplemental Water that is delivered or exchanged for the sole benefit of the Indian Water Authority or the Indian Bands for use on the Reservations as referred to in subsection c, Supplemental Water conveyed to Escondido or Vista for use within the service areas of those entities may be included within SDCWA's calculation of water delivered to Escondido and Vista for the purpose of determining any SDCWA rates or charges that are calculated based on total water deliveries to SDCWA's member public agencies using SDCWA facilities, to the same extent that such rates and charges are imposed on SDCWA's member public agencies.

e. If SDCWA establishes a charge for treated water, then on a monthly basis, the Settlement Parties shall pay SDCWA's treatment charges applicable to treated water delivered to the Local Entities or SDCWA's member public agencies in the immediate vicinity of the Reservations. .

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f. No other fees or charges, including but not limited to taxes, in lieu taxes, or annexation fees, shall be assessed or imposed by SDCWA on the United States or the Settlement Parties in return for conveying Supplemental Water.

g. Nothing in this Agreement shall preclude SDCWA from imposing fees or charges, including but not limited to taxes, in lieu taxes, or annexation fees, for provision of services other than those provided for by this Agreement, or as a result of inclusion of land within the service territory of SDCWA or a member public agency of SDCWA.

h. The Parties intend that, notwithstanding any future modifications to SDCWA's rate structure, the benefits set forth in subsections a through f shall not be impaired and the burdens shall not be increased. Provided, however, that nothing in subsections b through f is intended to excuse Escondido or Vista from any of the obligations of member public agencies of the SDCWA except as those obligations relate specifically to Supplemental Water as addressed in those subsections.

i. Before delivery of Supplemental Water, SDCWA and the Settlement Parties will develop a protocol for determining the actual monthly quantity and flow rates of Supplemental Water delivered or exchanged to the Indian Water Authority or the Indian Bands for use on the Reservations and the actual monthly quantity of Supplemental Water delivered or exchanged for the use of the Local Entities. The protocol shall subject Supplemental Water delivered by Metropolitan into SDCWA facilities for conveyance to the Settlement Parties but not taken, or rejected, by the Settlement Parties to provisions which are comparable to those applicable to other water ordered by SDCWA's member public agencies and delivered into SDCWA facilities but not taken, or rejected, by them. The protocol shall also include provisions for invoices to the Settlement Parties and payments to the SDCWA. All invoices and payments shall be coordinated through the Indian Water Authority. The protocol shall be consistent with Section 5 of this Agreement.

j. In the event the Settlement Parties fail to make the payments required by this Agreement, SDCWA shall give notice of such failure to the Settlement Parties, along with a statement of the amount of the payment necessary to cure, and the Settlement Parties shall have thirty (30) days from the date of such notice within which to cure. Only if the Settlement Parties do not timely cure may SDCWA, in its sole discretion, terminate deliveries of Supplemental Water until all delinquent payments, including any applicable delinquency and additional charges, have been paid.

k. Termination of deliveries of Supplemental Water until delinquent payments have been made, as provided in subsection j, above, and the procedures described in Sections 12, 13, and 14, below, shall be SDCWA's sole remedies for the failure of the United States or the Settlement Parties to make payments required by this agreement, provided that if SDCWA has not been paid all amounts required by an arbitrator's award which has determined the amount owed within six months after a court of competent jurisdiction has entered a judgment or decree enforcing such arbitrator's

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award and that judgment or decree has become final, this Agreement shall automatically terminate with no further action required by SDCWA.

5. Provision of Water by SDCWA.

a. To the extent that it is operationally feasible, the Indian Water Authority or the Indian Bands shall be permitted, at no expense to SDCWA, to have one or more direct connections to SDCWA's water distribution system constructed, either by themselves or in conjunction with one or more SDCWA member public agencies. Any such connection(s) shall be constructed either using the procedures established by the SDCWA for installation of service connections by its member public agencies or pursuant to separate agreement with SDCWA, and shall be subject to applicable environmental compliance.

b. The water conveyed by SDCWA pursuant to this Agreement shall be metered at the point or points of transfer from SDCWA's water distribution system. SDCWA shall not be responsible for any loss of water after the water leaves its distribution system.

c. All requests for conveyance of water pursuant to this Agreement shall be made as follows:

i. For water to be conveyed to direct connections to SDCWA's water distribution system, requests shall be made directly to SDCWA in accordance with SDCWA's procedures in effect at the time of the request for similar requests by its member public agencies.

ii. For water that is to be conveyed via facilities that are not owned by the Indian Water Authority or the Indian Bands, requests shall be made in conjunction with requests by the facility owner.

d. SDCWA shall not be responsible for any costs incurred in conveying the water beyond SDCWA's existing distribution system.

e. The Settlement Parties shall also provide SDCWA with an estimate of the schedule for the conveyance of Supplemental Water before April 1 of each year, in form provided by SDCWA, with an estimate of the amounts of Supplemental Water to be conveyed through any direct connection to SDCWA's distribution system. Each estimate shall contain, at a minimum, for each direct connection to SDCWA's distribution system and for each month of the year beginning with the succeeding July 1, and for all service connections collectively for each month of the succeeding four years, the quantity of Supplemental Water to be conveyed directly by SDCWA to the United States for the use of the Settlement Parties. The estimate shall constitute the Settlement Parties' initial request for deliveries for the first of the five years covered therein.

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6. Quality of Water Provided by SDCWA.

The United States may obtain either treated or untreated water from SDCWA for use by the Settlement Parties pursuant to this Agreement, and SDCWA shall only be obligated to provide water of the same quality as is or would be provided to its member public agencies at the same point for treated or untreated water, as the case may be.

7. Use of Supplemental Water.

a. Subject to any applicable federal approvals, the Supplemental Water shall only be:

- i. used by the Bands on their reservations,
- ii. used by the Local Entities within their service areas,
- iii. exchanged for water from other sources for use on the Bands' reservations or in the Local Entities' service areas, and/or
- iv. leased by the Bands for use by the Local Entities in their service areas.

b. Supplemental Water shall not be used in any manner that results in such water or water exchanged for such water being used outside of the reservations or outside of the service areas of the Local Entities or in a manner that would permit or result in a displacement of a sale of water by SDCWA to persons other than the Settlement Parties.

c. Any conveyance of Supplemental Water using facilities owned by persons or entities who are not parties to this Agreement will be the subject of a separate agreement or agreements between the United States and/or the Settlement Parties and such persons or entities.

d. Nothing in this section shall be construed as consent by SDCWA to use of Supplemental Water outside of the boundaries of the reservations or the service areas of the Local Entities.

e. Nothing in this Agreement shall be construed as a waiver by SDCWA of any right it may otherwise have to object to a potential direct connection, as contemplated in the Agreement Relating to Supplemental Water among the Metropolitan Water District of Southern California, the San Luis Rey Settlement Parties, and the United States, from the Metropolitan aqueducts to the Settlement Parties for purposes of conveying Supplemental Water, on the grounds that such connections may result in a loss of capacity or interruption or diminishment of service provided by Metropolitan to SDCWA, nor shall it be construed as an agreement by the Settlement Parties that SDCWA has any such right to object.

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8. Reliability of Deliveries.

Except as provided in Section 3, deliveries of Supplemental Water to the United States for the use of the Settlement Parties will be made in the same manner as deliveries of water to SDCWA's member public agencies that receive deliveries from the same pipeline(s). Whenever repairs or maintenance of SDCWA's distribution system shall require suspension of delivery of water, such delivery may be suspended without liability on the part of SDCWA provided, that except in cases of emergency, as determined by the General Manager of SDCWA, notice of such suspension of service shall be given to the Settlement Parties in advance of such suspension.

9. Indemnity and Hold Harmless.

Except for the United States, which shall be neither benefited nor burdened by this indemnity and hold harmless provision, each Party agrees to defend, indemnify and hold harmless the other Parties, their directors, agents, officers, employees, and authorized volunteers, from all costs, damages, liability, and claims caused by or arising out of or relating to that Party's own negligence. To the extent that more than one Party is determined to have been negligent, the Parties agree that each Party shall bear its own portion or percentage of liability based on principles of comparative fault and to indemnify and hold harmless the other Parties from that share.

10. Amendment.

Except as expressly provided herein, this Agreement contains the entire agreement between the Parties relating to the transactions contemplated hereby, and prior or contemporaneous agreements, understandings, or representations and statements, oral or written, are merged herein. No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by the Parties against whom enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

11. Assignment; Successors in Interest.

No Party may assign or transfer any of its rights or obligations under this Agreement without the express written consent of all of the other Parties hereto. This Agreement shall be binding on and inure to the benefit of the Parties and their successors in interest.

12. Dispute Resolution; Mediation.

a. If a dispute not involving the United States arises out of or relates to this Agreement, or the breach thereof, and it is not resolved informally, the Parties shall attempt to resolve it by using the procedures set forth in this section before resorting to arbitration or litigation. A Party requesting resolution of a dispute shall send written

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notice to all other Parties that shall set forth in detail the position of the Party requesting resolution. Within 60 days of the notice being sent, the Secretary, the General Manager of the Indian Water Authority, the chairperson of each of the Indian Bands, the General Manager of SDCWA, the Utilities Director of Escondido, and the General Manager of Vista or the respective authorized representatives of the Parties shall schedule a meeting, meet and attempt to resolve the dispute by a unanimous decision. In the event that all Parties' representatives are not present, a letter with the proposed action, signed by all the attending Parties' representatives, shall be sent to the absent Party's (Parties') representative(s) by certified mail, postage prepaid, return receipt requested. If no written protest from the absent Party's (Parties') representative is received by the other Parties within 60 days of the date of receipt of the letter with the proposed action, the decision shall be deemed unanimous and become final. Any written protest shall be mailed to each other Party's representative, and to each of the Parties by certified mail, postage prepaid, return receipt requested. Each Party shall bear its own expense for the dispute resolution proceedings. Any resolution shall be in writing and be binding on the Parties to this Agreement.

b. If said dispute cannot be settled through negotiation or through the procedure described above within 90 days of the conclusion of the dispute resolution meeting, the Parties agree to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association.

13. Dispute Resolution by Arbitration if Mediation Fails.

a. In the event that any dispute not involving the United States is not resolved using the procedure set forth in Section 12 above, said dispute shall be resolved by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules except as provided herein and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

b. Within thirty days after commencement of arbitration, the Settlement Parties/United States and SDCWA shall each select one person to act as arbitrator, and the two selected shall select a third arbitrator within thirty days of their appointment. If the arbitrators selected by the Parties are unable to or fail to agree upon a third arbitrator, the American Arbitration Association shall select the third arbitrator. The third arbitrator shall act as chairperson of the arbitration panel and shall be independent from all Parties, having no past, present or pending relationship with any of the parties, unless unanimously consented thereto by the Parties to the dispute.

c. Arbitration shall be limited to the consideration and resolution of the issue(s) submitted. The panel of arbitrators shall not rewrite, change, or amend this Agreement. Any payment adjustments shall accrue interest monthly at the average rate earned by SDCWA on its funds from the date the adjusted payment should have been paid until paid in full.

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d. The award of the arbitrators shall be in writing, shall be accompanied by a reasoned opinion, shall be signed by a majority of the arbitrators, and shall be rendered within 120 days after the date of the selection of the third arbitrator. Each Party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence. The administrative fees of arbitration and arbitrators' fees shall be borne 50 percent by SDCWA and 50 percent by the Indian Water Authority, Vista, and Escondido, jointly.

14. Disputes Involving the United States.

Disputes under this Agreement involving the United States shall be presented first to the Regional Director of the Lower Colorado Region of the Bureau of Reclamation. The Regional Director shall be deemed to have denied the other Party's(ies') contention or claim if it is not acted upon within 30 days of its having been presented. The decision of the Regional Director shall be subject to appeal to the Commissioner of Reclamation by a notice of appeal accompanied by a statement of reasons filed with the Commissioner of Reclamation within 30 days after such decision. The decision of the Commissioner of Reclamation shall be subject to appeal to the Secretary by a notice of appeal accompanied by a statement of reasons filed with the Secretary within 30 days after such decision. The Secretary shall be deemed to have denied the appeal if it is not acted upon within 30 days of its having been presented. The decision of the Secretary may then be appealed to the federal courts to the extent permitted by and in accordance with federal law.

15. Waiver of Sovereign Immunity.

The Indian Water Authority and the Indian Bands hereby each grant a limited waiver of sovereign immunity from an unconsented suit for the sole purpose of permitting or compelling arbitration as provided in Section 13 and consent to the jurisdiction of, and to be sued in, the United States District Court for the Southern District of California, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court for the purpose of compelling arbitration or enforcing an arbitration award or judgment. If the United States District Court for the Southern District of California lacks jurisdiction, the Indian Water Authority and the Indian Bands consent to be sued in the California state court system, or any other court of competent jurisdiction. The Indian Water Authority and the Indian Bands hereby waive any requirement of exhaustion of tribal remedies. The Indian Water Authority and the Indian Bands do not waive any aspect of their sovereign immunity with respect to actions by persons or entities not parties to this Agreement. This waiver of sovereign immunity from suit is limited to (i) an action to compel arbitration pursuant to Section 13 of this Agreement; and (ii) enforcement of a determination by the arbitrators that the Indian Water Authority or the Indian Bands owe money pursuant to the terms of this Agreement.

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16. Agreement Not a Precedent.

This Agreement shall not be regarded as a precedent for future conveyance agreements or other arrangements.

17. Settlement Act Not Affected.

Nothing in this Agreement shall be deemed to modify or affect the obligations and responsibilities of the United States and the Settlement Parties under the Settlement Act.

18. Agreement between Settlement Parties and Metropolitan Not Affected.

Nothing in this Agreement shall be deemed to modify or affect the obligations and responsibilities of the United States, Metropolitan, and the Settlement Parties under the Agreement for Exchange or Acquisition of Water among those parties.

19. Non-Waiver.

None of the provisions of this Agreement shall be considered waived by any Party except when such waiver is given in writing. The failure of any Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or their relinquishment of any such rights for the future, but such provisions and rights shall continue and remain in full force and effect.

20. No Third-Party Rights.

The Parties do not intend to create rights in or to grant remedies to any third party or others as a beneficiary of this Agreement or of any duty, covenant, obligation or undertaking established hereunder.

21. Uncontrollable Force.

None of the Parties shall be considered to be in default in the performance of any of its obligations under this Agreement when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" shall mean an action of the elements, excluding severe and/or prolonged low-flow conditions on the Colorado River; the act or threat of any public enemy; Acts of God; court order; war and war defense conditions; and strikes or other labor disputes; or other causes beyond its control. Each Party shall use reasonable diligence to avoid any such delay or default and to resume performance under this Agreement as promptly as possible after any such delay or default. However, nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force shall give prompt written notice of such fact to the other Parties and shall exercise due

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diligence to remove such inability to the fullest extent practicable with all reasonable dispatch.

22. Governing Law.

This Agreement shall be interpreted, governed by and construed under applicable federal law and the laws of the State of California to the extent such state laws are not inconsistent with any applicable federal law.

23. Notices.

Any notice given under this Agreement shall be effective when deposited postage prepaid with the United States Postal Service, addressed to the respective parties as follows:

Secretary of the Interior
U.S. Department of the Interior
18th and C Streets, Northwest
Washington, D. C. 20240

General Manager
San Diego County Water Authority
4677 Overland Drive
San Diego, California 92123

General Manager
San Luis Rey River Indian Water Authority
1010 Pauma Reservation Road
P.O. Box 428
Pauma Valley, California 92061

City Manager
(With additional copy to City Attorney)
City of Escondido
201 North Broadway
Escondido, California 92025

General Manager
Vista Irrigation District
1391 Engineer Street
Vista, California 92081-8836

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La Jolla Band of Mission Indians
Attn: Chairperson
22000 Hwy. 76
Pauma Valley, California 92061

Pala Band of Mission Indians
Attn: Chairperson
35955 Pala Temecula Road
P.O. Box 50
Pala, California 92059-0043

Pauma Band of Mission Indians
Attn: Chairperson
1010 Pauma Reservation Road
P.O. Box 369
Pauma Valley, California 92061

Rincon Band of Mission Indians
Attn: Chairperson
33750 Valley Center Road
P.O. Box 68
Valley Center, California 92082

San Pasqual Band of Mission Indians
Attn: Chairman
27458 N. Lake Wohlford Road
P.O. Box 365
Valley Center, California 92082

24. Change of Address.

Any Party may change the addressee or address to which notices are to be sent by giving notice of such change of addressee or address in conformity with the provisions of Section 23 for the giving of notice.

25. Effective Date and Approval.

The effective date of this Agreement shall be the last date on which all of the following events shall have occurred:

a. Approval by the governing bodies of SDCWA, Escondido, Vista, the Indian Water Authority, and each of the Indian Bands, and due execution of this Agreement by all such parties.

b. Execution of this Agreement by the Secretary.

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c. The Allocation Agreement has become effective.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

UNITED STATES OF AMERICA

By: *Gale A. Norton*
Secretary of the Interior

Approved as to form:

By: *[Signature]*

SAN DIEGO COUNTY WATER AUTHORITY

By: _____
General Manager

Approved as to form:

By: _____
General Counsel

SAN LUIS REY RIVER INDIAN WATER
AUTHORITY

By: _____

Approved as to form:

By: _____

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c. The Allocation Agreement has become effective.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

UNITED STATES OF AMERICA

By: _____
Secretary of the Interior

Approved as to form:

By: Katherine Ott Verburg

SAN DIEGO COUNTY WATER AUTHORITY

By: _____
General Manager

Approved as to form:

By: _____
General Counsel

SAN LUIS REY RIVER INDIAN WATER AUTHORITY

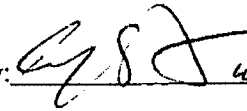
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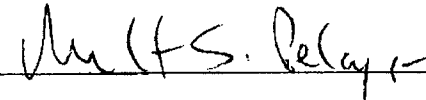
By: M. S. Delgado

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LA JOLLA BAND OF MISSION INDIANS

By:  Wendy Schlater
Chairwoman

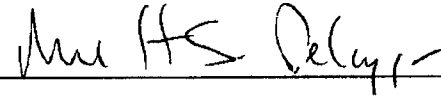
Approved as to form:

By: 

RINCON BAND OF MISSION INDIANS

By: 

Approved as to form:

By: 

SAN PASQUAL BAND OF MISSION INDIANS

By: 

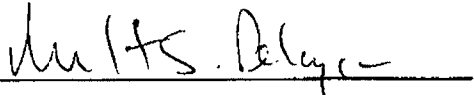
Approved as to form:

By: Joseph R. Mendicino by RSP

PAUMA BAND OF MISSION INDIANS

By: 

Approved as to form:

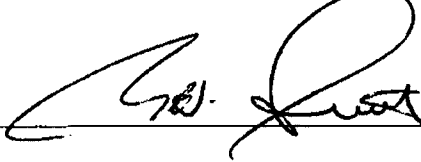
By: 

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October 10, 2003

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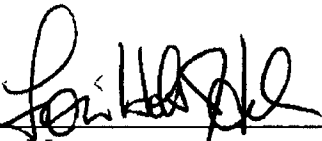
PALA BAND OF MISSION INDIANS

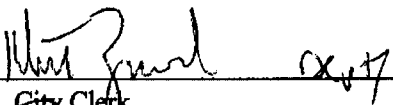
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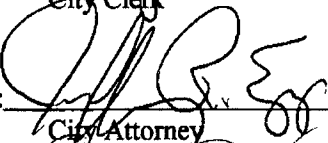
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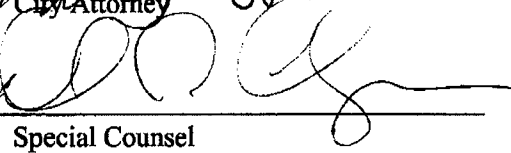
CITY OF ESCONDIDO

By:  _____
Mayor

By:  _____
City Clerk

Approved as to form:

By:  _____
City Attorney

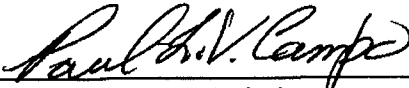
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Special Counsel

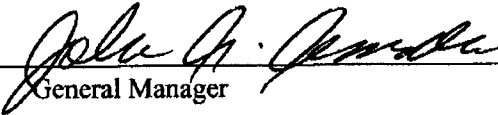
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VISTA IRRIGATION DISTRICT

By: 
President, Board of Directors

By: 
General Manager

Approved as to form:

By: 
General Counsel