

SETTLEMENT AGREEMENT

By and Between

**SIERRA PACIFIC POWER COMPANY
and
WASHOE COUNTY WATER CONSERVATION DISTRICT**

and

SIERRA VALLEY WATER COMPANY

TABLE OF CONTENTS

	Page
ARTICLE I	4
Recitals Part of Agreement	4
ARTICLE II	4
Interim Procedure For Relating The Water Company Priority To Orr Ditch	
Priorities	4
Section 2.1 Agreement to Use Best Efforts.	4
Section 2.2 Computation of Natural Flow.	5
Section 2.3 Reservoir Evaporation.	5
Section 2.4 Computation of Demand.	6
Section 2.5 Computation of Sierra Demand	7
Section 2.6 Water Company to Cease Diversions.	7
Section 2.7 Other Provisions Not Affected	7
Section 2.8 Water Master	8
Section 2.9 Interim Procedure	8
ARTICLE III	8
Recoupment of Water	8
ARTICLE IV	8
Dismissal of Action Without Prejudice	8
ARTICLE V	8
Miscellaneous	8
Section 5.1 Settlement No Admission	8
Section 5.2 Agreement Executed Without Coercion	9
Section 5.3 Independent Expert Advice	9
Section 5.4 Notices.	9
Section 5.5 Consent	10
Section 5.6 Entire Agreement	11
Section 5.7 Waiver	11
Section 5.8 Captions	11
Section 5.9 Binding on Successors	11
Section 5.10 Authorship	11

Section 5.11 Good Faith and Fair Dealing	11
Section 5.12 Reliance and Mistake of Fact	12
Section 5.13 Denial of Liability	12
Section 5.14 Costs and Fees	12
Section 5.15 Force Majeure	12
Section 5.16 Counterparts	13

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into effective this 31st day of October, 1993, by and between SIERRA PACIFIC POWER COMPANY ("Sierra") and the WASHOE COUNTY WATER CONSERVATION DISTRICT ("District") and the SIERRA VALLEY WATER COMPANY ("Water Company").

WITNESSETH:

A. Sierra is a Nevada corporation and a public utility engaged in the generation, purchase, transmission, distribution and sale of electric energy in the States of Nevada and California. It is also engaged in the purchase, transmission, distribution and sale of gas and in the treatment, distribution and sale of water for municipal and industrial use in the Cities of Reno, Sparks, and Washoe County, Nevada.

B. The District is an irrigation district organized and existing under the laws of the State of Nevada. It provides stored water from Boca Reservoir on the Little Truckee River to water right owners within its boundaries for agricultural and domestic use.

C. Water Company is a California corporation which operates as a mutual water company for the benefit of its members, and for the distribution of its water rights and waters incident thereto, to its stockholders in proportion to their stockholding interest.

D. On September 8, 1944, in an action entitled "United States of America, Plaintiff vs. Orr Water Ditch Company, et al., Defendants," in the United States District Court for the District of Nevada in Equity No. A-3 ("Orr Ditch"), the Court entered a final decree adjudicating rights and priorities to water from the Truckee River and its tributaries (the "Orr Ditch Decree").

E. On October 24, 1958, in an action entitled the "United States of America, Plaintiff v. Sierra Valley Water Company, Defendant and Sierra Valley Water Company, Cross-Complainant v. United States of America, Washoe County Water Conservation District and Sierra Pacific Power Company, Cross-Defendants," ("Sierra Valley") the United States District Court for the Northern Division of the Northern District of California entered a decree (the "Sierra Valley Decree") adjudicating the water right of the Water Company to water from the Little Truckee River, a tributary of the Truckee River.

F. Sierra is the owner of water rights adjudicated by the Orr Ditch Decree with priorities which are senior to an 1870 priority.

G. The Little Truckee River is a tributary to and flows into the Truckee River near Boca, California.

H. Paragraph 7 of the Sierra Valley Decree provides:

It is further understood that all priorities in the waters of the Truckee River as set out in the final decree in United States of America, Plaintiff, vs. Orr Water Ditch Company, et al., Defendants, Equity A3, in the District Court of the United States, in and for the District of Nevada, shall determine the order of priorities as the basis for the distribution of water to the defendant with a priority of 1870, under this decree.

I. During the summer of 1992, a dispute arose between Sierra and the District on the one hand and the Water Company on the other concerning the point at which the Water Company was required to cease its diversions of water from the Little Truckee River as a result of the provision of the Sierra Valley Decree concerning the priority of its water right and the priorities under the Orr Ditch Decree.

J. On June 26, 1992, Sierra and the District filed a Verified Petition for

Injunctive Relief, Request for Order to Show Cause, for Recoupment of Water and for Declaratory and Injunctive Relief (the "Action") in Orr Ditch .

K. In the Action, Sierra and the District seek an injunction restraining the Water Company's diversions of water from the Little Truckee River, recoupment of water which they allege was unlawfully diverted from the Little Truckee River by the Water Company and a declaration as to the conditions under which the Water Company must cease its diversions of water from the Little Truckee River as a result of the provision of the Sierra Valley Decree concerning the priority of the Water Company water right and the priorities under the Orr Ditch Decree.

L. The Water Company denies the material allegations in the Action and contends that the United States District Court for the District of Nevada lacks personal jurisdiction over it and jurisdiction over the subject matter of the Action.

M. In 1990, the Congress of the United States enacted and the President of the United States signed Public Law 101-618, 104 Stat. 3324, (the "Settlement Act").

N. The Settlement Act involves, among other things, an allocation of the waters of the Truckee River between Nevada and California and provides for the negotiation of a comprehensive operating agreement among the United States, California and Nevada in consultation with such other interested parties as they may designate (the "Truckee River Operating Agreement").

O. The parties to this Agreement anticipate that the Truckee River Operating Agreement will include provisions concerning the relationship of the Water Company's priority under the Sierra Valley Decree to the priorities of Sierra and others under the Orr

Ditch Decree.

P. Sierra and the District and the Water Company wish to settle and dispose of all differences between them with respect to the matters alleged in the Action, subject however, to the provisions of the Truckee River Operating Agreement when that agreement enters into effect.

NOW, THEREFORE, the parties hereto intending to be legally bound hereby and in consideration of the mutual covenants and promises herein contained, agree as follows:

ARTICLE I

Recitals Part of Agreement

The foregoing recitals are incorporated herein by this reference and shall form a part of this Agreement as if recited herein at length.

ARTICLE II

Interim Procedure For Relating The Water Company Priority To Orr Ditch Priorities

Section 2.1 Agreement to Use Best Efforts. The parties to this Agreement acknowledge that there are parties to Orr Ditch and Sierra Valley who have not participated in the Action and who are not parties to this Agreement and that it would be impractical to obtain their approval of this Agreement. In addition the water master appointed by the court in Orr Ditch (the "Water Master") cannot become a party to this Agreement without the approval of the Orr Ditch court, which approval would involve notice to all Orr Ditch parties. However, Sierra and the District have informed the Water Master of the terms and conditions of this Agreement and expect the Water Master to follow it unless and until the Orr Ditch Court directs otherwise. The parties agree to use

their best efforts to have the Water Master follow the terms of this Agreement and to avoid a challenge to it by other parties to Orr Ditch and Sierra Valley. If an action is brought which seeks to impose a different procedure than that set forth in this Article for relating the Water Company's 1870 priority to the priorities set forth in the Orr Ditch Decree, the parties hereto agree to mutually support in any such action the procedure set forth in this Article at least until the effective date of the Truckee River Operating Agreement.

Section 2.2 Computation of Natural Flow. For purposes of relating the Water Company priority to Orr Ditch priorities, the parties hereto agree that the Water Master shall compute the daily natural flow at Farad as follows:

$$Q_{FN} = Q_F + \Delta S_D + \Delta S_P + \Delta S_I + \Delta S_S + \Delta S_B + SVDIV + E_P + E_S + E_B$$

where

Q_{FN}	is the natural flow at Farad in cfs,
Q_F	is the measured flow at Farad in cfs,
ΔS_D	is change in storage in Donner in cfs,
ΔS_P	is change in storage in Prosser in cfs,
ΔS_I	is change in storage in Independence in cfs,
ΔS_S	is change in storage in Stampede in cfs,
ΔS_B	is change in storage in Boca in cfs,
SVDIV	is the Sierra Valley diversion in cfs,
E_P	is the evaporation from Prosser in cfs,
E_S	is the evaporation from Stampede in cfs,
E_B	is the evaporation from Boca in cfs.

The parties agree that the natural flow at Farad that will be used to determine the Water Company cut off date will be the 3-day running average of the daily natural flow as computed by the above equation. The Water Company will not be cut off until the Water Master is reasonably certain that the natural flow will stay below the cut off level.

Section 2.3 Reservoir Evaporation. The parties agree that the reservoir

evaporation used by the Water Master will be estimated using pan evaporation measurements made by the National Oceanic and Atmospheric Administration (NOAA) at the Boca climatological station and the pan evaporation will be adjusted by the standard pan coefficient of 0.7. The parties agree that the Water Master shall not consider evaporation at Donner and Independence Lakes.

Section 2.4 Computation of Demand. The parties agree that on or near April 1 of each year the Water Master will determine the quantity of Orr Ditch irrigation rights with a priority date senior to 1870 which will be exercised in the upcoming irrigation season. The Water Master will then convert these rights into a rate of flow based on the expected length of the irrigation season and the efficiency of each ditch used to deliver such water rights. Table 1 provides an example of this procedure. This example uses 1991 data and is not intended to define current irrigation rights under the Orr Ditch Decree.

Table 1 - Ditch Rights (1991)

Ditch	Yr. of Priority	Volume (Ac-Ft)	Effic.	Flow Rate (cfs)	
				120 Day ¹	160 Day ²
Pioneer	1861	4331	0.85	21.4	16.1
Cochran	1862	1055	0.76	5.8	4.4
Steamboat	1862	161	0.61	1.1	0.8
Lake	1865	3467	0.70	20.8	15.6
N.Truckee	1865	445	0.60	3.1	2.3
Steamboat	1867	1690	0.80	8.8	6.6
Total				61.0	45.8

¹ 120-day Season: Rate in cfs = Volume in ac-ft/(1.98347 x 120 x Effic.)

² 160-day Season: Rate in cfs = Volume in ac-ft/(1.98347 x 160 x Effic.)

Section 2.5 Computation of Sierra Demand. The parties agree that when the Water Master deems it necessary to follow the procedure provided herein, Sierra will provide to the Water Master a projection of its river diversions for the next seven (7) days using appropriate ditch transit losses. Sierra will also provide the Water Master with a listing of its Orr Ditch water rights which are senior to an 1870 priority and the Water Master will verify that listing. Sierra's Orr Ditch water rights which have an original point of diversion in the Orr Ditch Decree which is downstream from Vista will not be considered by the Water Master, even if such rights have a priority date which are senior to 1870.

Section 2.6 Water Company to Cease Diversions. When the natural flow at Farad, computed as set forth in section 2.2 above, is less than that required to satisfy demand of Truckee Meadows water right holders holding water rights with priorities which under the Orr Ditch Decree are senior to an 1870 priority computed as set forth in sections 2.4 and 2.5 above, the Water Company would on notice from the Water Master cease diversions from the Little Truckee River as soon as reasonably practicable but in no event later than twelve (12) daytime hours after receipt of such notice. The parties agree that the Water Master will verify the projected diversion with actual diversion estimates before making a decision regarding the Water Company diversion.

Section 2.7 Other Provisions Not Affected. The procedure set forth in this Article relates only to the relationship of the Water Company priority to Orr Ditch priorities. It is not intended to change the Water Company's duty to comply with other provisions of the Sierra Valley Decree, including, without limitation, fish flow requirements and

reductions in diversions required as a result of the flow in Weber Creek.

Section 2.8 Water Master. The "Water Master" referred to in this Article is the water master appointed by the Court pursuant to the Orr Ditch Decree.

Section 2.9 Interim Procedure. The procedure provided herein for relating the Water Company's 1870 priority to the priorities set forth in the Orr Ditch Decree is an interim procedure to be in effect until superseded by the Truckee River Operating Agreement. Sierra, the District and the Water Company are each free to propose and/or support a different or modified procedure with respect to this matter in the Truckee River Operating Agreement.

ARTICLE III

Recoupment of Water

Sierra and the District waive any claim to recoupment of water from the Water Company as a result of the events of 1992 as alleged in the Action.

ARTICLE IV

Dismissal of Action Without Prejudice

Simultaneous with the execution of this Agreement the parties shall cause their respective attorneys to execute and promptly file a Stipulation for Dismissal without Prejudice in the Action. The Stipulation will provide that each party shall bear its own costs and attorneys' fees.

ARTICLE V

Miscellaneous

Section 5.1 Settlement No Admission. Neither this settlement nor any of its terms

shall be offered or received in evidence in any action or proceeding, except to the extent allowed by applicable law. Nothing contained herein, however, shall prevent this Agreement or any of its terms from being used, offered or received in evidence in any proceeding to enforce any or all of the terms hereof.

Section 5.2 Agreement Executed Without Coercion. The parties hereto acknowledge that each is making this Agreement of its own free will and volition, and acknowledge that no coercion, force, pressure or undue influence has been used against either party in the making of this Agreement either by the other party to this Agreement or by any other person or persons.

Section 5.3 Independent Expert Advice. The parties hereto declare that each of them has had independent expert advice by persons of their own selection, including attorneys and hydrologists, and that each has signed this Agreement freely and voluntarily upon such advice.

Section 5.4 Notices. All notices required or permitted to be given by law or by the terms of this Agreement shall be in writing and shall be considered given upon personal service of a copy on the party to be served, or twenty-four (24) hours after mailing such notice by certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

- (a) If to the Water Company, such notices shall be sent to:

Sierra Valley Water Company
c/o Gordon Van Vleck, President
P.O. Box 33
Sierraville, California 96126

With a required copy to:

Kevin M. O'Brien
Downey, Brand, Seymour & Rohwer
555 Capitol Mall, 10th Floor
Sacramento, CA 95814-4086

(b) If to Sierra, such notices shall be sent to:

Water Production Director
Westpac Utilities, a Division of
Sierra Pacific Power Company
6100 Neil Road
P.O. Box 10100
Reno, Nevada 89520

With a required copy to:

Gordon H. DePaoli, Esq.
Woodburn and Wedge
P.O. Box 2311
Reno, Nevada 89505

(c) If to District, such notices shall be sent to:

Washoe County Water Conservation District
275 Hill Street
Reno, Nevada 89501

With a required copy to:

George N. Benesch
Benesch & Fermoile
427 Ridge Street
P.O. Box 3197
Reno, Nevada 89505

The parties may change the address to which notices are sent by a notice in writing to the other.

Section 5.5 Consent. Whenever the approval or consent of Sierra or the District or the Water Company, is required for any purpose under this Agreement, that approval

or consent will not be unreasonably withheld or delayed.

Section 5.6 Entire Agreement. This Agreement constitutes the entire and only understanding between Sierra and the District and the Water Company, concerning its subject matter, and supersedes any and all prior agreements, arrangements, communications or representations, whether oral or written with respect thereto. No alteration, amendment, change, modification or waiver to this Agreement shall be valid or binding unless the same is in writing and signed by duly authorized representatives of the parties hereto.

Section 5.7 Waiver. Neither a course of conduct, nor any waiver by either party with respect to a default or breach of any provision of this Agreement by the other party shall operate or be construed as a waiver of any subsequent default or breach, or as a modification of this Agreement.

Section 5.8 Captions. The captions of this Agreement do not in any way limit or amplify its terms and provisions.

Section 5.9 Binding on Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective successors and assigns for all time.

Section 5.10 Authorship. This Agreement has been reviewed by attorneys representing the respective parties. For the purposes of interpretation of this Agreement, no party shall be deemed to have been the drafter of this Agreement.

Section 5.11 Good Faith and Fair Dealing. The parties shall implement the provisions of this Agreement in good faith and shall observe all standards of fair dealing

with respect thereto.

Section 5.12 Reliance and Mistake of Fact. Each of the undersigned further warrants, represents, and agrees that there is no reliance upon, and there has been no reliance upon, any representation or statement made by either of them with respect to the facts involved in any matters referred to in this Agreement, or with respect to any rights or asserted rights of either of them. In that connection, each of the undersigned hereby assumes the risk of any mistake of fact in connection with the true facts involved in said matters, or with regard to any of the facts which are now unknown to them relating any of such matters.

Section 5.13 Denial of Liability. This Agreement effects the settlement of claims and contentions which are disputed, denied and contested by the parties hereto and neither anything contained herein nor the payment provided for herein shall be construed as an admission by any party hereto of any liability of any kind to any other party. Each party acknowledges that the dispute between the parties referred to herein involves complicated issues of law and fact which the parties hereto have settled and compromised, without admitting or considering the propriety or truth or falsity of any contentions as to such issues of law and fact which were or could be alleged by any of the parties.

Section 5.14 Costs and Fees. Each party to this Agreement shall bear its own costs, expenses, and attorneys' fees incurred in or arising out of or in any way connected with the circumstances and disputes that are the subject of the Action or this Agreement.

Section 5.15 Force Majeure. No party to this Agreement shall be deemed in violation of it, if it is prevented from performing any of the obligations hereunder by

reasons of boycotts, labor disputes, embargoes, shortage of material, acts of God, strikes, lockouts, labor troubles, inability to procure labor or materials, fire, accident, riots, civil commotion, laws or regulations of general applicability, acts of tenant(s), public enemy, act of superior governmental authority, weather conditions, rebellion, sabotage, or any other cause or circumstances for which it is not responsible and beyond its control (financial inability excepted).

Section 5.16 Counterparts. This Agreement may be executed in one or more counterparts, and each counterpart shall constitute an original instrument, but all such separate counterparts shall constitute only one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date and year first above written.

SIERRA VALLEY WATER COMPANY

By *Gordon K. Van Fleet*

Its *President*

SIERRA PACIFIC POWER COMPANY

By _____

Its _____

WASHOE COUNTY WATER CONSERVATION
DISTRICT

By _____

Its _____

reasons of boycotts, labor disputes, embargoes, shortage of material, acts of God, strikes, lockouts, labor troubles, inability to procure labor or materials, fire, accident, riots, civil commotion, laws or regulations of general applicability, acts of tenant(s), public enemy, act of superior governmental authority, weather conditions, rebellion, sabotage, or any other cause or circumstances for which it is not responsible and beyond its control (financial inability excepted).

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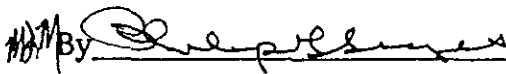
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SIERRA VALLEY WATER COMPANY

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Its _____

SIERRA PACIFIC POWER COMPANY

By  _____

Its _____

WASHOE COUNTY WATER CONSERVATION
DISTRICT

By _____

Its _____

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SIERRA VALLEY WATER COMPANY

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Its _____

SIERRA PACIFIC POWER COMPANY

By _____

Its _____

WASHOE COUNTY WATER CONSERVATION DISTRICT

By Dasozza

Its President