

<b>Subject: Report of Water Allocation Review Committee and Approve Staff Recommendations</b>	
<b>Meeting Date: October 9, 1998</b> <b>Agenda Item: 4b</b>	<b>Information/Action</b>

**RECOMMENDATION:**

It is recommended that the Board take the following actions:

- Shift 25 afy from Polygon 8a to UC and 15 afy to the County
- Shift an additional 30 afy from reserves to UC, giving them a total of 230 afy.
- Authorize a loan of 150 afy each to Del Rey Oaks, Marina, Seaside and Monterey County from the reserve for interim use.

**INTRODUCTION:**

Last year the FORA Board asked that the Administrative Committee undertake a review of the water allocations it had previously set by Board action and to report back its findings. Since October of 1997, the Administrative Committee has studied this matter in several formats, including as part of the Economic Development Conveyance Working Group negotiations with the US Army. After eleven months of frank discussion, FORA staff is prepared to present some tentative conclusions. The Administrative Committee reviewed the material in this report on July 16, July 30, and September 1, 1998. The FORA Board reviewed the original report on August 14, 1998 and made a number of suggestions that have been incorporated in this draft.

**BACKGROUND:**

It is recognized that although periodic review of the water allocation is necessitated by change over time in development plans and market realities, it is also fully understood how difficult it was to make the original allocations. Any changes should be the result of measured study and open discussion. FORA staff believes that such a process has taken place, and that it is now time to present options for decision.

Much of the background and discussion has been presented previously to the Board and Committee members in the form of reports, charts and correspondence. This report will not rehash that material other than to note that the major approach here has been to compare the original water allocations with the jurisdictions' own latest assessment of their development plans. FORA's consulting Engineer, Reimer & Associates facilitated this comparison by doing additional study that was shared with the Administrative Committee over the past year. Each land use jurisdiction is short of its 2015 Business Plan requirement, but within an acceptable range of achieving its reuse objectives.

## **DISCUSSION:**

FORA staff has determined the following:

- New information is available from a variety of sources that alters the overall water allocation picture.
- Some users exceed their needs through 2015, others do not have sufficient or equitable resources to meet their needs through 2015.
- Minor adjustments to the allocation policy would work to more equitably distribute resources and strengthen policies to establish a reserve.

FORA staff accepted the idea that any adjustments to current water allocations should be predicated on the simple premise that each jurisdiction should receive an equitable share of available water. Because there is a limited supply of the resource, this simple concept is to some extent easier said than done, and jurisdictions are understandably concerned about their ability to meet their obligations and development targets.

Several FORA members have expressed concerns about water supply over the past year. To recap, UCSC expressed concern that its 175 acre feet/feet (afy) allocation would not provide for its 2015 buildout, which was estimated by FORA Staff and Consultants to be 287afy. Del Rey Oaks, Marina, and Monterey County have expressed concern that present allocations do not allow them to complete their proposed projects. The City of Marina has argued that water has not been distributed equitably and does not reflect the true buildout. Jurisdictions are also concerned about the need for interim water during the five-year period before the proposed regional reclaimed water project comes on line. Seaside has also expressed concern about their ability to meet various obligations.

With this recap in mind, FORA consultants have concluded that no jurisdiction has been allocated 100% of its water needs. It is also concluded that no wholesale reworking of water allocations is in order, but a number of minor adjustments can be made that will address certain issues.

## **RECOMMENDATIONS: (DETAIL)**

FORA staff believes that there are several approaches that can be taken. The basic premise is that a system of cooperation and sharing of resources is advisable. In this sense, adjacent jurisdictions with overlapping projects may mutually negotiate or agree upon approaches to development within those jurisdictions and may share or swap resources in the process. In addition, non contiguous agencies are free to combine their efforts in various ways by pooling or lending of resources, joint financing, and so on.

Two jurisdictions, the U.S. Army and CSUMB are expected to achieve conservation targets, freeing up additional water for allocation.

Staff recommends the Board adopt the following adjustments to the allocation program:

- a. Shift 25afy from Polygon 8a to UC for use as they see fit, and 15afy to the County for projected uses. This would reverse an earlier allocation to a polygon rather than to a jurisdiction.
- b. Shift an additional 30afy from proposed reserves to UC, giving them a total of 230afy. FORA staff believes this results in UC receiving a total allocation in line with the percentage of buildout found in the other jurisdictions, for the 2015 time period.

Staff also believes that a preliminary commitment should also be made to provide interim water for those jurisdictions that will be developing visitor/tourist serving, commercial recreation projects prior to receiving their allocations from the proposed regional reclamation project. The most promising approach is to treat the FORA strategic reserve (surplus) as a source for jurisdictions to pool resources. This is problematic because the Army and CSUMB have an allocation of water resources that exceeds the usage under conservation measures. Therefore, staff recommends that the allocation program assume a portion of the Army retention of 1729afy can be utilized for strategic borrowing purposes. Similarly, CSUMB's allocation of 1160afy is already projected to be reduced to 1035afy, assuming effective implementation and attainment of conservation. Final resolution of this will likely take place upon conclusion of FORA's ongoing negotiations with both the Army on conveyance and through CSUMB retrofits. Successfully folding into these discussions the issue of water allocation would allow FORA to establish a strategic reserve in the range of 500-700 afy, enough to provide interim water on a mutually agreeable, equitable basis.

In particular, the newly expanded surplus could be made available to those jurisdictions willing to commit to the regional reclaimed water project in the form of amortized buy-in for capital projects or other appropriate financial commitments. Those jurisdictions, such as Del Rey Oaks, Marina, or the County, with potential early projects, can go forward without delay. Also by this method, Seaside would be able to provide for any chosen obligations out of its own allocation, with reclaimed water replacing loaned water when it comes online. The Board noted that there would need to be clear time frames and guidelines for this process. Staff is recommending a five year limit to any loan from the surplus reserve, not to exceed 150 afy to any one jurisdiction, with the loaned water returned to the surplus at the end of the 5 year period, available for re-allocation or another loan. This would not preclude individual jurisdictions from making separate arrangements among themselves for loan or transfer of previously allocated water.

It is therefore further recommended that:

- c. Del Rey Oaks, Marina, Seaside, and the County of Monterey, be allocated 150afy apiece from the strategic reserve for an interim five year period, effective from the date of EDC transfer to the jurisdictions, for the express purpose of initial construction of their respective visitor serving, commercial recreation projects.

The allocation returns to the strategic reserve as reclaimed water resources become available or after five years. Any jurisdiction accepting interim water from the strategic

reserve would have to commit to the rate based capital cost of participation in the regional reclaimed water project.

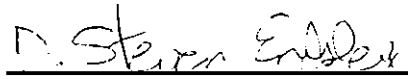
**ADDITIONAL INFORMATION:**

Please see the attached letters from CSUMB and responses regarding proposed water usage. This information was requested by the Board at the August meeting. Staff also accepted the recommendation that an annual report on water usage be made to the Board. Language to this effect is included in FORA's agreement with the Marina Coast Water District (MCWD).

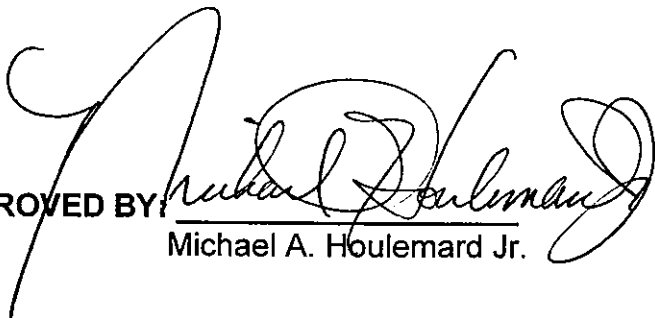
**COORDINATION:**

EDC WORKING GROUP

PREPARED BY:

  
D. Steve Endsley

APPROVED BY:

  
Michael A. Houlemard Jr.

## APPENDIX I

## WATER ALLOCATION TABLE

8/14/98

JURISDICTION	BASIS OF ALLOCATION	FINAL ADJUSTMENT Reduction Due to Water Conservation in Existing Units	Column G Total (Rounded)
ARMY Assumes Golf Course Irrigation Transferred to Seaside	1728afy as requested less line loss of 10% = 1570afy	1590 DU's Reduced from .4 to .3afy -160afy	1410 afy
CSUMB	Based upon Development Acreage & Current Estimated Use = 1160afy	1253 DU's Reduced from .4 to .3afy -125afy	1035 afy
UC MBEST	Based upon Development/Park Acreage = 175afy	+ 40 afy for 8a Polygon Use Based on .25 x Area	230 afy
COUNTY OF MONTEREY	Based upon Development/Park Acreage (Including E. Garrison Historic Area) = 545afy		560 afy
COUNTY/STATE PARKS & REC.	Based upon Disturbed Habitat as Park Acreage = 45afy		45 afy
COUNTY/DEL REY OAKS ANNEX	Based upon Development Acreage (Golf Co. Requires Reclaimed Water) = 75afy		75 afy
COUNTY/ MONTEREY ANNEX	Based upon Development/Park Acreage = 65afy		65 afy
COUNTY/ MARINA SPHERE	Based upon Development/Park Acreage = 10afy		10 afy
CITY OF SEASIDE	Based upon Development/Park Acreage = 710 afy	Allow 230 afy of Water for Golf Co. Irrigation as Interim Use Only	710 afy
CITY OF MARINA	Based upon Development/Park Acreage & Current Estimated Use = 1350afy	1733 DU's Reduced from .4 to .3afy -175afy	1175 afy
		TOTAL EXCLUDING LINE LOSSES	5290 afy
		TOTAL INCLUDING LINE LOSSES	5820 afy
	STRATEGIC RESERVE TO 6600 afy TOTAL	Encumbered Reserve until consumption is proved for	750 afy
		Army DU's after metering	-160 afy
		CSUMB DU'S after metering	-125 afy
		Seaside Golf Co. Irrigation until reuse water avail.	-230 afy

\*

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765  
afy

\*

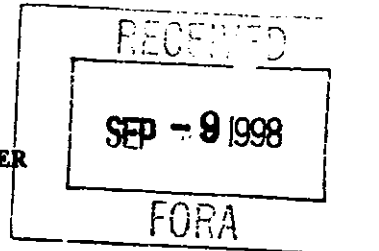
235  
afy



DEPARTMENT OF THE ARMY  
DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER  
AND PRESIDIO OF MONTEREY

PRESIDIO OF MONTEREY, CA 93944-5006

September 8, 1998



REPLY TO  
ATTENTION OF:

Office of the Garrison Commander

Mr. Michael Houlemard, Executive Director  
Fort Ord Reuse Authority  
100 12<sup>th</sup>. Street, Bldg. # 2880  
Marina, California 93933

Dear Mr. Houlemard:

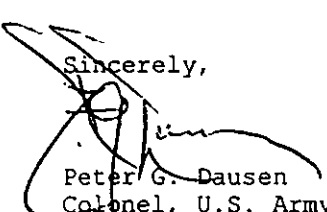
The purpose of this letter is to address the Water Allocation Table from the Fort Ord Reuse Authority meeting on August 14, 1998, and ensure a common understanding exists between the Army and FORA. The aforementioned table indicates a projected use by the Army of water after theoretical water conservation factors derived by FORA are applied to the 1729 acre feet the Army will be retaining. The Army objects to any number presented that is not agreed to through mutual agreement.

As the Army has continually stated, we will be retaining 1729 acre feet of water from the 6600 acre feet authorized to the Army from the Salinas basin on the former Fort Ord. Any adjustments to the 1729 acre feet of water the Army retains will be made in the future, and only after the Army has had the opportunity to install meters on housing units and support facilities, and then implement, survey, and appraise the conservation measures it will enact. The effects of renovation, and new unit construction, of family housing to take place under the Army's housing privatization initiative will be an integral component of this future assessment.

The Army is committed to working with FORA and partnering with all the local communities. The Presidio of Monterey, an Army community, has been a part of the Monterey Peninsula for the last 90 years and will continue to be an active partner.

I am requesting that this letter be part of the next FORA Board Packet for the September 11, 1998 FORA Board meeting. Personally, I look forward to working with you and the community as the Garrison Commander of the Presidio of Monterey.

Sincerely,

  
Peter G. Dausen  
Colonel, U.S. Army  
Garrison Commander

Copy Furnished:

Installation Commander, DLIFLC & Presidio of Monterey



# CALIFORNIA STATE UNIVERSITY MONTEREY BAY

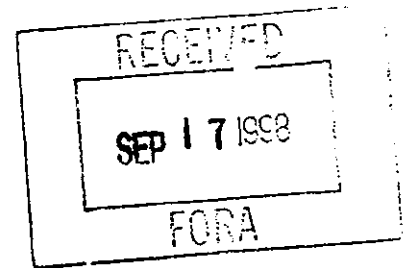
## Office of the President

100 Campus Center Seaside, California 93955-8001

Phone: (408) 582-3530 Fax: (408) 582-3540

Sept. 15, 1998

Ken White, Mayor  
Carmel By The Sea  
Box CC  
Carmel-By-The-Sea, CA 93921



Dear Mayor White,

As you recall, President Smith asked that I review the materials you supplied at our recent meeting relating to the Fort Ord Reuse Authority and CSUMB's water allocation. I think there are two separate issues which are apparent, and which were discussed at our recent meeting. The first, is the campus water allocation from FORA, based on our projections and needs. The second issue was the status of the reserve, and the conditions under which the university and FORA would reconsider how the reserve is used.

I was grateful you supplied all the background relative to water from your files. It became clear to me, and regrettably so that we did not respond directly to your questions to us and FORA about CSUMB's projected water demand, and I apologize for that oversight.

We did however follow your direction and produced a comparative study of water use from other colleges and universities in our state. The data became an important part of our Final Environmental Impact Report, and I am attaching a summary table to this letter for your review. On that score, it appears that CSUMB's water needs compare favorably to other colleges and universities. I will point out that CSUMB's residential water use is projected to be approx. 25% less than that used in Marina for residential dwellings. For reference, our 72 gpcd residential cap also compares favorably with residential water use from Carmel-By-The-Sea, which uses 167 gpcd, Seaside's 173 gpcd, or Del Rey Oaks' 158 gpcd (figures cited from Monterey Peninsula Water Management Agency).

From your letter of 30 January, you reference information relating to UC Santa Cruz attributed to Graham Bice. We took Mr. Bice's comments very seriously, not only because he appeared to raise an important comparison, but also because the UC Santa Cruz campus is so well known for its environmental ethic. Our response to Mr. Bice, and your concerns are specifically included in our EIR, and are as follows:

Appendix B of the DEIR presents a detailed listing of planned CSUMB uses and associated water demand rates. The water rates were developed based on review of other regional rates, including those used by the Army, FORA, the Monterey Peninsula Water Management District, and the Monterey County Water Resources Agency. The CSUMB water demand was then factored based on water use rates used by FORA and was estimated for each CSUMB use, thus accounting for all possible on-campus water consumption, both potable and non-potable irrigation demands. It is believed that this method yields the most accurate estimate of potential future water consumption. The CSUMB water demand was then further reduced from FORA rates taking into account conservation efforts, and thus, is approximately 25% less than what could be expected using the FORA rates.

Prior to finalizing the CSUMB water demand estimates, water usage at other CSU campuses, as well as UC campuses were analyzed. As shown on the attached table, water use at the CSU campuses contacted averages between 25 and 52 gallons per capita pre day (gpcd) with all users factored into the calculation. The generalized rate per student at UCSC (that is provided by the commentor) was calculated by taking the total campus water use and dividing it by the number of FTE students. However, the total water use includes on-campus residents, commuting students, faculty, employees and all water use associated with a range of campus buildings, facilities and activities. The average water demand per day is approximately 31 gpcd with all users taken into account or 46 gpcd as stated by commentor based only on FTE.

While these comparisons are useful to help develop some water demand benchmarks, the other campuses are not completely comparable to CSUMB in terms of water demand. Specifically, none of the campuses have a high on-campus residential population as is planned at CSUMB. CSUMB has a higher on-campus residency planned for 2015 than exists at any other surveyed university and any other university in the State of California. For example, UCSC has a lower percentage of on-campus population as residents (approximately 30%) compared to 54% projected for CSUMB (60% target for students and 30% target for faculty and staff). UCSC also has a lower average daily campus population (approximately 15,450) compared to that planned at CSUMB (17,000). The CSU campuses surveyed, having a strong residential component, range from 7-29% population as residents. UC Santa Barbara and UC Irvine accommodate 12% and 15% of total population as residents, respectively. Therefore, it is not appropriate to use the generalized student rate as conditions at the other campuses are not directly comparable to those envisioned at CSUMB.

The water demand methodology utilized for the CSUMB Master Plan and EIR carefully accounts for all water users, and is believed to be an accurate and conservative estimate

of future water demand. CSUMB water demand occurs in two locations: the main campus where classrooms, office space, dining halls, recreation facilities, residence halls, etc. are located; and the family residential areas in Frederick and Schoonover Parks. The water demand differs for each location. The main campus (West Campus) demand can be compared to similar California universities, while the residential area (East Campus) demands can be compared to local residential cities such as Marina.

As previously stated, CSUMB water demand is 25% lower than FORA's rates, reflecting incorporation of water conservation measures and practices into the Master Plan process. Furthermore, the water demand projections include an underlying assumption that reclaimed wastewater will be available for non-potable irrigation water demands. However, until such time that such a system is developed (see DEIR text on page 7-6), CSUMB non-potable water use will be taken from its allocated water sources. For these reasons, no further revisions to CSUMB water demand estimates or allocation are warranted. This is consistent with findings of the FOR A Board in its approval of the 1,160 afy water allocation to CSUMB.

The level of commercial development at the UCSC campus is not directly comparable to the auxiliary uses proposed by CSUMB as CSUMB proposes a campus with a much higher residential component than exists at UCSC. Residential demand for support services is much higher than academic uses, such as classrooms and offices. CSUMB's target is to house 60% of its traditional enrollment and 30% of its faculty and staff plus household members of students, faculty and staff. In comparison, UCSC supports only 30% of its population as residents. In addition, CSUMB includes residential dining commons in its calculation of auxiliary needs, unlike UCSC. These significant differences in resident population is the primary reason for the differences between UCSC's level of auxiliary services and CSUMB's proposed Master Plan program for auxiliary uses

In summary, I hope you can at least understand why we believe that our water projections represent an enviable environmental objective, and hardly one of a "water hog". And again, I apologize for not providing this information to you separately prior to finalizing the EIR.

The second matter, that concerning the 125 a/f/y Reserve is more simply understood by President Smith and the CSU Chancellor's Office. In April 1996 CSU requested that the FORA Board make a formal allocation of water to CSU Monterey Bay. The purpose of that request was clear - the CSU and local community leaders had made representations to appropriate state and federal regulatory agencies about the availability of water in our collective attempts to establish a new CSU campus at Fort Ord. The development of CSU Monterey Bay could not, and would not have been possible without a formal assurance of adequate water to support its buildout, and the State would not have made any investment in a campus without such an assurance. At the FORA Board meeting on April 12, 1997 the

board adopted a water allocation plan for the former Fort Ord base which included an allocation for CSUMB of 1,160 afy less 125 afy to be realized through water conservation practices. It was provided that if CSUMB cannot achieve the water savings, the campus would then be assured 1,160 afy. Those assurances were made by the previous, and current Executive Officer of FORA, and subsequently confirmed by the current Chairman.

The University will be willing to discuss how, and when an assessment process can begin to determine the extent to which the university's conservation efforts are being successful, and thus the extent to which FORA can redirect some or all of that afy. On the one hand, the campus has instituted sound water conservation measures, and has monitoring programs in place to begin assessing our rate of conservation success. At the same time, we have not yet installed meters in every building and for every campus use category. The campus is too young and too small to have adequate data to analyze all of our water use, and it is too soon to project how successful our water conservation measures will ultimately be. For the time being, we need to rely on the availability of the 125-afy reserve, but with that said, we can, and should begin to discuss how and when those reserves may become available.

In discussions with the Army, it appears to us that CSUMB, and the Army have responded in the same way to FORA's request to discuss their respective water reserves.

As President Smith said during our meeting, the CSU needs to legally rely on the FORA allocation, as stated in the allocation correspondence to CSUMB. We hope to be successful in our water conservation plans, and as such we hope that reserve water can assist FORA and our other neighbor jurisdictions with base-wide redevelopment. We have expressed a willingness to begin discussing the reserve issue with FORA, even though we believe that it is too early to actually declare that the reserve will be available for other uses.

Mayor White, I hope we have been able to provide you with some additional information and insight into our water requirements, our

**TABLE 6-3**  
**COMPARISON OF WATER USE FOR SELECTED UNIVERSITIES**

[illegible]

conservation and monitoring plans and our willingness to begin discussions with FORA about alternative uses for the reserve.

If you have further questions, we would be pleased to try to provide you with our best answers. Please don't hesitate contacting me at your convenience.

Sincerely

A handwritten signature in black ink, appearing to read "S. Reed", written in a cursive style.

Stephen M. Reed

Associate Vice President, External Relations &  
Special Assistant to the President

Cc: President Peter Smith  
Michael Houlemard  
Executive Officer, FOR A

October 23, 1998

FORA Special Mtg. 4 pm

To FORA Board & Staff

For the Administrative  
Record

Fr: Debra J. Mickelson P.O. Box 7591 Carmel, CA 93921

Re: Agenda 5.b. "Approve Staff Recommendation Concerning Water Allocation"

Please do not approve the water allocation as suggested. The Staff recommendation raises unaddressed problems and issues:

1. Using FORA FEIR Vol II pg 53 Table 3.11-2, "Allocation of Existing Potable Water Supply" as approved by FORA by resolution on 4/12/96 (attached):

FORA allocated	5,285 AF	of the total 6,600 AF
today's new allocation	+ 600 AF	150AF @ to DRO, Mar, Sea, MoCo
Army's request for 1,729	+ 319 AF	as per Army's ltr dtd 9/18/98
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	6,204 AF	
10% line loss	+ 621 AF	as per 4/96 FORA formula
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	6,825 AF	
9 yr organic farm contract	+ 400 AF	not disclosed in 5.b. information
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	7,225 AF	
10% line loss	+ 40 AF	as per 4/96 FORA formula
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	7,265 AF	

If the new water allocation is approved, FORA will be allocating water supply beyond 6,600 AFY. This action can not be taken without environmental review.

2. Pages 3 and 4 of today's staff report refers to "reclaimed water" obtained from the "regional reclaimed water project," that might be delivered to the former Fort Ord. The 5/95 Contract No. 5-07-20-W1283 between the U.S. Bureau of Reclamation and Monterey County Water Resources Agency For a Loan for Construction of a Small Reclamation Project, Section 10.(a) pgs 19,20, states, "Project water may be delivered...for use as M[unicipal] & I[ndustrial] Water...outside the Project Service Area only after the appropriate environmental reviews and compliance actions have been completed, including, but not limited to, compliance with the National Environmental Policy Act and the Endangered Species Act." Identical language exists in the 1995 low interest loan contract between the Bureau of Reclamation and the Monterey Regional Water Pollution Control Agency.

Neither the MCWRA nor MRWPCA has initiated an EIS/EIR to analyze the environmental impacts of taking reclaimed wastewater from the Project Service Area and delivery to the former Fort Ord.

Until this process is complete, FORA's contemplation of obtaining reclaimed wastewater from the MRWPCA regional plant is speculative. FORA can not guarantee today any future delivery of reclaimed wastewater from the regional plant to the former Fort Ord, therefore, the water re-allocation as submitted today should be rejected.

**TABLE 3.11-2**  
**Allocation of Existing Potable Water Supply**  
**By Jurisdiction**  
**(Based on FORA's April 12, 1996 Resolution)**

<u>JURISDICTION</u>	<u>TOTAL WATER ALLOCATION (AFY)</u>	<u>NOTES</u>
City of Seaside	710	
County/City of Del Rey Oaks	75	Plus reclaimed water for golf course
County/City of Monterey	65	
City of Marina	1,185	
Monterey County	545	
ARMY	1,410	
CSUMB	1,035	Plus reclaimed water for irrigation
UCMBEST	165	Plus reclaimed water for irrigation
County/State Parks and Recreation	45	
County/Marina Sphere Polygon 8a	50	
<b>SUBTOTAL</b>	<b>5,285 AFY</b>	
Line Loss (10%)	530	
FORA Strategic Reserve		
Encumbered Reserve:		
Army - 160 AFY <sup>1</sup>		
CSUMB - 125 AFY <sup>1</sup>		
Seaside - 230 AFY <sup>2</sup>		
Unencumbered - 270 AFY	785	
<b>TOTAL</b>	<b>6,600 AFY</b>	

**ENCUMBRANCES TO FORA'S STRATEGIC RESERVE:**

<sup>1</sup> 160 AFY at the POM Annex and 125 AFY at CSUMB polygon 10 are available upon metering of existing dwelling units.

<sup>2</sup> 230 AFY loaned to Seaside is available to Seaside for golf course irrigation until reclaimed replacement water is provided.

R.O. Draft 03/01-1995  
R.O. Draft 03/07-1995  
R.O. Draft 03/14-1995  
R.O. Draft 03/16-1995

Contract No.  
5-07-20-W1283

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

CONTRACT BETWEEN THE UNITED STATES  
AND THE  
MONTEREY COUNTY WATER RESOURCES AGENCY  
FOR A LOAN FOR CONSTRUCTION OF A SMALL RECLAMATION PROJECT

THIS CONTRACT, made this 26th day of May, 1995, pursuant to the Small Reclamation Project Act of 1956 (43 U.S.C. §422a et seq.), as amended, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and the MONTEREY COUNTY WATER RESOURCES AGENCY, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in Monterey County, California.

WITNESSETH, That:

EXPLANATORY RECITALS

WHEREAS, the Small Reclamation Projects Act of 1956 provides for participation of non-Federal agencies in Federal Reclamation projects and for Federal assistance in similar projects developed by non-Federal organizations; and

obligation of the Contractor to pay the United States as provided in this contract shall be payable only from the net revenues of the Contractor remaining after payment therefrom of O&M of Project facilities, operation and maintenance costs payable by the Contractor to the Monterey Regional Water Pollution Control Agency for the purchase of reclaimed wastewater, and Project Indebtedness. The Contractor warrants and guarantees to the United States that it will, if needed to meet its repayment obligations to the United States, increase the aforementioned property assessments to the maximum amounts authorized by the pertinent ordinances and increase the water delivery charges as necessary.

(j) The Contractor warrants and represents to the United States that, as of the date of this contract, it has not issued, incurred, or entered into contracts or other obligations with the State to finance or refinance the construction cost of the Project.

#### USE OF PROJECT WATER

10. (a) Until the loan obligation evidenced by this contract is fully repaid, the Contractor cannot provide Project water for any use other than as Irrigation Water within the Project Service Area except as provided below in this article.

(b) Project water may be delivered, on a temporary or long term basis, for use as M&I Water within or outside of the Project Service Area only after the appropriate environmental reviews and compliance actions have been completed, including, but not limited to, compliance with the National Environmental Policy Act and the Endangered Species Act. The Contractor cannot proceed with deliveries of M&I

Water until the Contracting Officer gives written notice that such reviews and actions have been completed to the Contracting Officer's satisfaction.

(c) If the Contractor, subject to subdivision (b) above, delivers Project water to any party for use as M&I Water, either within or outside of the Project Service Area, on a one-time, temporary basis not exceeding one year, then there will be no reallocation of the then outstanding, unamortized balance of the loan from the function of providing Irrigation Water to the function of providing M&I Water. However, if the Contractor, subject to subdivision (b) above, commits to deliver Project water for more than one year to any party for use as M&I Water, even if such deliveries will be interruptable and/or seasonal in nature, then the Contracting Officer will reallocate the then outstanding, unamortized balance of the loan from the function of providing Irrigation Water to the function of providing M&I Water and the amounts so reallocated will bear interest in accordance with Article 9(b). Said reallocation shall become effective for the Year in which the Contractor agrees to initiate deliveries of M&I Water.

#### CHARGES FOR DELINQUENT PAYMENTS

11. (a) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty charge of 6 percent per Year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to