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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

Coordination Proceeding Special Title (Rule 1550b) PUTAH CREEK WATER CASES	JUDICIAL COUNCIL COORDINATION PROCEEDING NUMBER 2565 SACRAMENTO COUNTY SUPERIOR COURT CASE NUMBER 515766
PUTAH CREEK COUNCIL, Plaintiff, v. SOLANO IRRIGATION DISTRICT, and SOLANO COUNTY WATER AGENCY, Defendants.	SOLANO COUNTY SUPERIOR COURT CASE NUMBER 108552 **PROPOSED SECOND AMENDED JUDGMENTS** DATE: November 1, 2002 TIME: 9:30 a.m. DEPT: 47
CITY OF DAVIS, Cross-Complainant, v. SOLANO IRRIGATION DISTRICT, SOLANO COUNTY WATER AGENCY, CITY OF VALLEJO, CITY OF SUISUN and MAINE PRAIRIE WATER DISTRICT, Cross-Defendants.	
SOLANO IRRIGATION DISTRICT, SOLANO COUNTY WATER AGENCY et al. Plaintiffs, v. THE NAMES OF ALL APPROPRIATIVE WATER RIGHTS HOLDERS IN UPPER BASIN, et al. Defendants	

The attached Proposed Second Amended Judgments are hereby submitted to the Court in the above referenced cases for the court's consideration regarding the MOTION TO AMEND JUDGMENTS PURSUANT TO STIPULATION AMONG ALL PARTIES IN ACCORDANCE WITH SECTION VI OF AMENDED JUDGMENTS (NO OPPOSITION) filed herewith.

Dated: September 6, 2002

HERUM CRABTREE BROWN
A California Professional Corporation

By _____
JEANNE M. ZOLEZZI
Attorneys for Solano County Water Agency

Exhibit 1

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

Coordination Proceeding Special Title (Rule 1550b) PUTAH CREEK WATER CASES	JUDICIAL COUNCIL COORDINATION PROCEEDING NUMBER 2565
PUTAH CREEK COUNCIL, Plaintiff, v. SOLANO IRRIGATION DISTRICT, and SOLANO COUNTY WATER AGENCY, Defendants.	SACRAMENTO COUNTY SUPERIOR COURT CASE NUMBER 515766 **SECOND AMENDED JUDGMENT**

The case of Putah Creek Council v. Solano Irrigation District and Solano County Water Agency, Sacramento County Superior Court No. 515766, was regularly tried before the Court sitting without a jury. This trial occurred in coordination with the trials of all the causes of action of the cross-complaint filed by the City of Davis, and the second cause of action of the cross-complaint filed by the Regents of the University of California in Solano Irrigation District et. al. v. the Names of all Appropriative Water Rights Holders, et. al., Solano County Superior Court No. 108552. This Second Amended Judgment, however, is entered only in Putah Creek Council v. Solano Irrigation District and Solano County Water Agency, Sacramento County Superior Court No. 515766.

The trial was held on March 4, 1996 through April 5, 1996. Appearing as attorneys for plaintiff Putah Creek Council were Beveridge & Diamond, by Daniel J. O'Hanlon, Lawrence S. Bazel and Brett P. Moffatt. Appearing as attorneys for defendants Solano Irrigation District and Solano County Water Agency were Minasian, Minasian, Minasian, Spruance, Baber, Meith & Soares, by Tim O'Laughlin and William C. Paris, III.

Following the trial, the Court, having heard the testimony and considered the evidence, rendered its Judgment in this action. Judgment was entered on August 23, 1996. The cross-defendants appealed from the Judgment.

On December 4, 1996, the Court entered an Order Awarding Attorneys Fees, awarding fees and costs to the Putah Creek Council, its attorneys, and its experts. The defendants appealed from that Order.

While the Judgment and Order were on appeal, and before any decision on the appeals, the parties reached a stipulated settlement of the issues raised in this action. Pursuant to the terms of the settlement, the Court of Appeal referred the action to this Court for the limited purpose of considering the proposed settlement and amended judgments.

By motion filed on August 28, 2000, the parties jointly requested that the Court amend its Judgment in this action and its Order Awarding Attorneys Fees to conform to the terms of a settlement stipulated to among the parties. The Court considered the proposed amendments to the Judgment and the Order, and the briefs and evidence offered by the parties in support of the proposed amendments. The Court found that the proposed amendments to the Judgment and the Order were consistent with the requirements of Article X, Section 2 of the California Constitution, the public trust doctrine, and section 5937 of the California Fish and Game Code. Accordingly, the Court found that the Judgment and Order should be amended as requested, and entered the Amended Judgment requested and stipulated to by the parties on September 8, 2000.

By motion pursuant to Section VI of the Amended Judgment, the parties have jointly requested that the Court amend the Amended Judgment in this action to conform to the

terms of an amended settlement stipulated to among the parties. The Court has considered the proposed amendments to the Amended Judgment, and the briefs and evidence offered by the parties in support of the proposed amendments. The Court finds that the proposed amendments to the Amended Judgment are consistent with the requirements of Article X, Section 2 of the California Constitution, the public trust doctrine, and section 5937 of the California Fish and Game Code. Accordingly, the Court finds that the Amended Judgment should be amended as requested, and that the Second Amended Judgment requested and stipulated to by the parties should be entered.

WHEREFOR, the Amended Judgment entered in this action on September 8, 2000 is hereby AMENDED and superseded by this Second Amended Judgment, and the Court now ORDERS AND ADJUDGES AS FOLLOWS:

I. PERMANENT INJUNCTION

The Solano Irrigation District ("SID") and Solano County Water Agency ("SCWA") forthwith shall modify their operations of, and other conduct regarding, the Solano Project as specified in Exhibit "A" attached hereto and incorporated herein fully by reference.

II. ENFORCEMENT ACTIONS

If the Solano Project is operated to comply with the release and instream flow requirements specified in Exhibit "A" hereto, then the Putah Creek Council shall not pursue an action or proceeding for contempt of this Second Amended Judgment based on a violation or violations of one or more of the minimum mean daily flow requirements established in Exhibit "A" section A.(2), B.(2), C.(1), C.(2), C.(3), C.(4) and D.(3), or one or more of the minimum instantaneous flow requirements established in Exhibit "A" section A.(2), B.(2), C.(1), C.(2), C.(3), and C.(4), so long as:

A. The failure to comply was solely the result of an unanticipated and unforeseeable increase in a diversion or diversions from, or reduction in an inflow or inflows into, Putah Creek downstream of the Putah Diversion Dam, by some person or entity besides SID or SCWA, and the increase or reduction occurred so rapidly that the Solano Project could not reasonably

maintain compliance by increasing the releases from the Putah Diversion Dam into lower Putah Creek; and

B. The four-day running mean flow at the relevant compliance point equaled or exceeded the applicable minimum mean daily flow; and

C. The instantaneous flow at the relevant compliance point was not more than 5 cfs less than the applicable minimum mean daily flow if the violation occurred during the period from January through July, and was not more than 3 cfs less than the applicable minimum mean daily flow if the violation occurred during the period from August through December.

III. LOWER PUTAH CREEK COORDINATING COMMITTEE

A. The parties shall, within six months after the filing of the Amended Judgment, form a Lower Putah Creek Coordinating Committee ("LPCCC") to carry out the responsibilities assigned to the LPCCC under this Amended Judgment.

The LPCCC shall be organized and governed in a manner that, at a minimum, incorporates the following:

(1) Membership: The LPCCC shall consist of ten members with five members representing the Putah Creek Council, the City of Davis, and the Regents of the University of California (the "Yolo parties") and five members representing the Solano County Water Agency, the Solano Irrigation District, the Maine Prairie Water District, and the Cities of Vacaville, Fairfield, Vallejo and Suisun City (the "Solano parties"). The selection of the Yolo parties' representatives shall be undertaken in a manner to be determined by the Yolo parties; the selection of the Solano parties' representatives shall be undertaken in a manner to be determined by the Solano parties.

(2) Voting:

(a) Full LPCCC Membership: Matters before the LPCCC shall be deemed approved only if a majority of the Yolo members and a majority of the Solano members approve the action. A quorum shall be deemed present if a minimum of three members is present from each side. Alternates may be selected and shall have the voting rights of the regular members not in attendance.

(b) Rotation of Chairmanship: A chairman and vice-chairman shall be elected (or selected by agreement of all LPCCC members) to serve on an annual basis. If the first chairman elected (or selected) is a Solano party representative, then the first vice-chairman shall be a Yolo party representative, and conversely if the first chairman selected is a Yolo party representative, then the first vice-chairman shall be a Solano party representative. Thereafter, the chairman and vice-chairman shall alternate between a Yolo party representative and a Solano party representative. The chairman and vice-chairman together shall constitute an executive committee. In situations where emergency actions must be taken before the LPCCC or the Core Group can be convened, either in person or by conference telephone call, the executive committee shall be authorized to act without the full LPCCC or the Core Group. In that event, the executive committee immediately shall report its actions to the full LPCCC by fax or e-mail, and shall obtain ratification or further directions from the full LPCCC.

(c) Core Group: A "Core Group" shall be formed. It shall be comprised of six members, of whom three shall be representatives of the three Yolo parties, and three shall be selected by the Solano parties' representatives.

At the discretion and written request of any member of the Core Group, a matter otherwise subject to vote by the full LPCCC shall be dealt with solely by the Core Group. Any action dealt with by the Core Group shall only be approved if at least two of the Core Group members representing the Yolo parties and two of the Core Group members representing the Solano parties shall have voted to approve the action.

(3) Scope of Authority: The LPCCC shall have the responsibility to undertake the following:

(a) To monitor implementation of the Putah Creek Settlement Agreement and to make an annual report to the Court and to the parties to the settlement agreement.

(b) Through the Streamkeeper and any other means that may be approved by the LPCCC, to monitor the condition of Putah Creek from Putah Diversion Dam to the Yolo Bypass ("lower Putah Creek") and to make recommendations to appropriate agencies

about the condition of the waterway and actions appropriate to preserve and protect this stretch of Putah Creek.

(c) To undertake maintenance, restoration and enhancement measures with respect to lower Putah Creek resources and to support and coordinate the efforts of public agencies, private property owners and non-profit associations in furtherance of such maintenance, restoration and enhancement.

(d) To serve as a forum for discussion and possible resolution of lower Putah Creek related concerns and issues. Provided, however, this provision shall not be construed to give the LPCCC any authority to amend this Second Amended Judgment.

(e) To coordinate with the Reclamation Board and the Department of Water Resources on flood control issues regarding Putah Creek.

(f) To develop a system to share data regarding lower Putah Creek.

(g) To develop an active public education/information program on Lower Putah Creek.

(h) To seek grants and funds where appropriate for projects in pursuit of the above goals.

(i) To oversee the Streamkeeper. The Streamkeeper shall be employed by SCWA except as otherwise determined by the LPCCC after entry of this Second Amended Judgment.

(j) To establish standing and ad hoc committees, including a Technical Committee, as may be necessary or appropriate to further the LPCCC's responsibilities.

(4) The LPCCC and any standing committees shall comply with the Ralph M. Brown Act, Government Code sections 54950—54962.

(5) SCWA shall provide administrative support for the LPCCC, any standing or ad hoc committees and the Streamkeeper.

(6) As part of the Parties' ongoing efforts to protect and enhance the instream values associated with lower Putah Creek, SCWA shall contribute, in coordination with the

contributions and activities specified in Section III.H. hereof, the following amounts of money, which shall be utilized for the specified activities. Each specific expenditure of money shall be authorized in advance by the LPCCC, and the LPCCC shall supervise the specified activities.

(a) $10,000 per year for native vegetation preservation and enhancement, including the identification of areas along the lower Putah Creek dominated by non-native species, and their removal and replacement with native trees and grasses. This work will be coordinated with efforts by other individuals and entities involved in similar removal and replacement efforts.

(b) $55,000 per year for the monitoring of wildlife, including birds, mammals, reptiles and amphibians which live in and around lower Putah Creek.

(c) Amounts, if any, to be determined by SCWA for acquisition of easements from voluntary, willing sellers, for the maintenance and enhancement of the biological resources of lower Putah Creek. These acquisitions shall be coordinated with the development of a long-term plan. The development of this plan shall be coordinated with other interested entities and individuals.

(d) $55,000 per year for the monitoring of native fish in lower Putah Creek.

(e) $40,000 per year for a Streamkeeper for lower Putah Creek, whose duties shall include, without limitation, preparing reports to the LPCCC regarding all aspects of lower Putah Creek, attending all LPCCC meetings, weekly monitoring and recording of flows at specified locations, weekly monitoring and recording of all diversions from lower Putah Creek, coordinating field trips and public projects to improve lower Putah Creek natural values, and identification and reporting to the LPCCC of any activities that are harmful to the health of lower Putah Creek.

(f) General grants totaling $250,000 in the aggregate for the preservation and enhancement of the natural values of lower Putah Creek, which shall be allocated by the LPCCC.

(g) The amounts provided for in subsections (a), (b), (d) and (e) to

the extent not allocated by the LPCCC in any given year shall not carry over to subsequent years. Amounts not expended on the matters enumerated above, however, as authorized by the LPCCC, may be expended for the following additional purposes:

(i) For preservation and enhancement of birds, mammals, reptiles and amphibians that live in and around lower Putah Creek; and

(ii) For preservation and enhancement of native fish in lower Putah Creek.

(h) The contributions specified in subparagraphs (6)(a), (b), (d) and (e) shall be annually adjusted, up or down, in proportion to any changes in the first quarterly IPD published, in the relevant year, in the Survey of Current Business, by the United States Department of Commerce. If the IPD no longer is available, then the most comparable available index shall be used instead.

B. If the parties to this Second Amended Judgment have not reached agreement on the exact form and functions of the LPCCC within six months after the filing of the Amended Judgment, then the Court, exercising its reserved jurisdiction, shall mediate the development of a final agreement with respect to the form and functions of the LPCCC and, if the parties fail to agree during the mediation, shall have the authority to mandate the form and functions of the LPCCC after considering any arguments of the parties. If the LPCCC ever is unable to decide how to spend any of the moneys that are described in subsection III.A.(6) hereof, then the Court, exercising its reserved jurisdiction, shall mediate the development of an appropriate plan to spend such moneys, and, if the LPCCC fails to approve such a plan, then the Court shall have the authority to mandate an appropriate plan for the expenditure of such moneys.

C. The LPCCC shall specify the general duties and responsibilities of the Streamkeeper and shall review and evaluate the Streamkeeper's performance at least once each year. The Streamkeeper shall report directly to the Executive Committee of the LPCCC, and the Executive Committee of the LPCCC shall supervise the Streamkeeper's day-to-day duties and responsibilities.

D. The LPCCC shall determine the scopes of the work to be performed under subparagraphs A.(3)(a), (b), (c) and (d) of this Second Amended Judgment. No expenditures under subparagraphs A.(6)(a), (b), (c), (d), (e) and (f) of this Second Amended Judgment shall be made without the advance approval of the LPCCC.

E. The LPCCC shall pursue and support the following types of measures for anadromous fish, through the fish surveys and the Streamkeeper's work described in subparagraphs A.(6)(d) and (e) and other actions that may be taken by the LPCCC, including seeking additional funding where already identified sources are insufficient and coordinating with other applicable planning efforts:

(1) A survey and analysis of existing spawning gravels for anadromous fish in the reach of lower Putah Creek from the Putah Diversion Dam to Pedrick Road, and the potential for enhancement of these spawning gravels;

(2) A survey and analysis of any obstacles to anadromous fish passage in lower Putah Creek, includes for the purposes of this survey and analysis, the Putah Diversion Dam and any structures downstream therefrom;

(3) The development of a sedimentation management plan for lower Putah Creek that would prevent or mitigate for any damage to fish habitat that may be caused by releases of sediment at the Putah Diversion Dam;

(4) Monitoring of lower Putah Creek to determine the extent and timing of chinook salmon, steelhead trout and Pacific lamprey in lower Putah Creek;

(5) Provided, however, that if an HCP process has been initiated within one year of entry of the Amended Judgment and includes a proposed Safe Harbor provision with activities delineated in both the proposed Safe Harbor provision and subparagraphs III.E.(l) – (4), then the LPCCC shall not undertake the activities until either the HCP is finalized or five years have passed since entry of the Amended Judgment.

F. The Core Group may approve changes to any provision of this Section III, provided that such changes do not alter, and are not inconsistent with, any other provision of this Second Amended Judgment. The Core Group shall file any such changes and an explanation of

the reasons for the change with the court, for filing with this Second Amended Judgment, within 30 days after the Core Group approves the changes.

G. All data collected during any of the activities referenced in this Section III and all reports and other documents provided to the LPCCC shall be immediately made available for inspection and copying by any party to this Amended Judgment or any interested member of the public during normal business hours. To the extent feasible and reasonable, SCWA shall post on its Internet website, or make available to the public by similar electronic means, all data and reports that must be made available for inspection and copying under the preceding sentence of this paragraph within 15 days after SCWA receives each set of such data and each such report.

H. The parties are encouraged to augment, to the degree permitted by applicable law, the sums of money herein committed by SCWA, in order to further the work outlined herein. The parties will provide notice to and coordinate with the LPCCC regarding actions that may affect the scope of the LPCCC's authority and responsibilities with respect to lower Putah Creek as is provided for in this Amended Judgment.

IV. LIMIT ON AVERAGE ANNUAL ALLOCATIONS

Solano Project Contract Allocations are defined as the amount of all Solano Project Water delivered to Participating Agencies pursuant to the agreements between SCWA and the Participating Agencies. Solano Project Contract Allocations also include Solano Project Water not delivered during the allocation year and instead stored in Lake Berryessa pursuant to Article 4(c) of the Contract Between the United States and Solano County Water Agency Providing For Water Service (Contract No. 14-06-200-4090R). Putah South Canal Conveyance losses (Canal inflows minus deliveries from Canal) are not included in Solano Project Contract Allocations. During each year, Solano Project Contract Allocations shall be limited such that there are never ten (10) successive years during which, over those ten years, the average Solano Project Contract Allocations exceed 192,350 af per year. The Parties acknowledge that the 10-year average amount of Solano Project Water delivered to Participating Agencies may exceed 192,350 af in certain years due to the delivery of the aforementioned stored water.

V. AWARD OF FEES AND EXPENSES

SCWA and SID have paid to the Putah Creek Council's attorneys, the Putah Creek Council itself, and to the Putah Creek Council's expert witnesses, respectively, the amount listed below for each:

1.	Beveridge & Diamond, LLP	$ 1,115,882
2.	Morrison & Foerster	$ 178,991
3.	Latham & Watkins	$ 209,644
4.	Putah Creek Council	$ 27,769
5.	Eugene Yates	$ 33,057
6.	Steven Chainey	$ 6,972

VI. RESERVED JURISDICTION

This Court reserves continuing jurisdiction over the parties to provide for the administration and enforcement of this Second Amended Judgment, including jurisdiction to modify this Second Amended Judgment in accordance with applicable law.

DATED: _____, 2002

_____
HONORABLE RICHARD A. PARK
JUDGE OF THE SUPERIOR COURT

Exhibit "A"

Solano Project Releases and Instream Flows for Lower Putah Creek

A. Rearing Flows ((1), (2) & (3) all shall be maintained)

(1) Solano Irrigation District ("SID") and Solano County Water Agency ("SCWA") shall, for each month as set forth below, maintain mean daily releases from the Putah Diversion Dam to Creek downstream of the Putah Diversion Dam (hereinafter "lower Putah Creek") that are equal to or in excess of the following rates, expressed in cubic feet per second ("cfs"):

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Mean Daily Release (cfs)	20	25	25	25	16	26	46	43	43	43	34	20

These mean daily releases shall be measured at the Putah Diversion Dam and made from the Putah Diversion Dam into lower Putah Creek immediately downstream of the Putah Diversion Dam. The instantaneous releases at the Putah Diversion Dam shall at all times equal or exceed ninety percent (90%) of the applicable mean daily release requirement.

(2) SID and SCWA shall, for each month as set forth below, release sufficient water from the Putah Diversion Dam into lower Putah Creek immediately downstream of the Putah Diversion Dam to maintain mean daily flows in lower Putah Creek that are equal to or in excess of the following rates, expressed in cubic feet per second ("cfs"):

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Mean Daily Flows (cfs)	5	10	10	15	15	25	30	20	15	15	10	5

These mean daily flows shall be maintained and measured at or in the near vicinity of the Interstate 80 Bridge. The instantaneous flow at the Interstate 80 Bridge shall at all times equal or exceed ninety percent (90%) of the applicable mean daily flow requirement.

(3) SID and SCWA shall at all times of the year release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a continuous flow of surface water in Putah Creek from the Old Davis Road Bridge to the western boundary of the Yolo Bypass, identified as River Mile 0.0 on trial exhibit number 41.

B. Spawning Flows ((1), (2) & (3) all shall be maintained)

(1) At a time between February 15 and March 31 of every calendar year, SID and SCWA shall release a three-consecutive-day pulse of water from the Putah Diversion Dam into lower Putah Creek equal to or in excess of the following rates:

(a) 150 cfs for the first 24 hours;

(b) 100 cfs for the second 24 hours; and

(c) 80 cfs for the third 24 hours.

SID and SCWA may, in their discretion, time this pulse so as to utilize any uncontrolled flows that may provide some or all of the water needed to comply with this requirement.

(2) In every year, for the 30 days that follow the three-day pulse release described in paragraph B.(1), SID and SCWA shall release sufficient water from the Putah Diversion Dam into lower Putah Creek to maintain a mean daily flow equal to or in excess of 50 cfs at the Interstate 80 Bridge. During this period, the instantaneous flows at the Interstate 80 Bridge shall at all times equal or exceed 45 cfs.

(3) In every year, at the conclusion of the 30th day of the 50 cfs spawning flows described in subsection B.(2), SID and SCWA then shall ramp down the controlled releases from the Putah Diversion Dam gradually over a seven-day period until the flows are in compliance with the applicable requirements set forth in subsections A.(2), A.(3), C.(3) and C.(4) of this Exhibit "A".

C. Supplemental Flows ((1), (2), (3), & (4) all shall be maintained)

The requirements set forth thus far herein are intended to protect the aquatic and related resources found in lower Putah Creek. It has been agreed, however, that in addition to maintaining these resources, SID and SCWA shall provide supplemental flows in an attempt to enhance the aquatic and related resources of lower Putah Creek above that baseline. Accordingly:

(1) SID and SCWA shall, during the period from November 1 through December 15 of each calendar year, release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 5 cfs, and an instantaneous flow of at least 2 cfs, at the point where Putah Creek discharges into the Toe Drain on the eastern side of the Yolo Bypass (the "East Toe Drain").

(2) Beginning sometime between November 15 and December 15 of each calendar year, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 50 cfs, and an instantaneous flow of at least 45 cfs, for five consecutive days at the point where Putah Creek discharges into the East Toe Drain. If a flash board dam is present on Putah Creek near the East Toe Drain during that period, and if the flash boards are removed during that period, then to the extent feasible the first day of the 50 cfs pulse flow at the East Toe Drain shall follow the removal of the flash boards. The precise timing of the initiation of the 50 cfs pulse flow shall be set each year by the Lower Putah Creek Coordinating Committee established in accordance with section III of the Second Amended Judgment (the "LPCCC"). The objective of the LPCCC shall be to time the release so as to maximize the potential for such flows to attract anadromous fish into Putah Creek. If the exact date of releases has not been established or agreed upon by the LPCCC, then the releases dealt with in this subparagraph shall commence on December 1 of the affected calendar year.

(3) Beginning on the sixth day after initiation of the above described 50 cfs pulse flow, and continuing each day thereafter through March 31, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 19 cfs, and an instantaneous flow of at least 14 cfs, at I-80.

(4) Beginning on April 1 of each calendar year, and continuing each day thereafter through May 31, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 5 cfs, and an instantaneous flow of at least 2 cfs, at the point where Putah Creek discharges into the East Toe Drain.

D. Drought Year Flows

(1) During years when total storage in Lake Berryessa is less than 750,000 acre feet ("af") as of April 1 (a "Drought Year"), the release and instream flow requirements set forth in sections D.(2), D.(3) and D.(4) below ("Drought Year Requirements") shall apply instead of the release and instream flow requirements set forth in sections A., B. and C. above ("Non-Drought Year Requirements"). Provided, however, that if after April 1 the total storage in Lake Berryessa rises to 750,000 af or more, then the Non-Drought Year Requirements shall immediately take effect.

(2) During a Drought Year, releases of water from the Putah Diversion Dam into lower Putah Creek shall equal or exceed the following amounts (mean daily values, in cfs, with instantaneous releases always equal to or exceeding 90 % of the listed values):

Oct	Nov	Dec	Jan	Feb	Mar	Apr	Ma	Jun	Jul	Aug	Sep
15	25	25	25	16	26	46	33	33	33	26	15

(3) During a Drought Year, SID and SCWA shall release sufficient water from the Putah Diversion Dam to maintain a continuous flow of surface water in Putah Creek from

Putah Diversion Dam to the Interstate 80 Bridge, and further shall release sufficient water from the Putah Diversion Dam to maintain a minimum mean daily instream flow of 2 cfs at the Interstate 80 Bridge, with instantaneous flows always equal to or exceeding 1 cfs. Under these conditions, SID and SCWA shall not be required to maintain a continuous flow of surface water in the reach of Putah Creek below the Interstate 80 Bridge.

(4) Whenever the release and instream flow requirements set forth in sections D.(2) and D.(3) are in effect for two consecutive years, then during the next year thereafter the Non-Drought Year Requirements shall apply and shall remain in effect for an entire period from April 1 through March 31, unless total storage in Lake Berryessa on April 1 is less than 400,000 af. If the Drought Year Requirements are ever in effect for three or more consecutive years, then the Non-Drought Year Requirements shall apply and remain in effect for an entire period from April 1 through March 31 in the first subsequent year during which total storage in Lake Berryessa on April 1 exceeds 400,000 af.

(5) For the purposes of this section D, "total storage in Lake Berryessa" shall be the actual amount of water that physically is stored in Lake Berryessa (including all carryover storage) plus a Storage Adjustment. As of the date of entry of the Amended Judgment, the Storage Adjustment shall be zero. Thereafter, the amount of any controlled release of water from Lake Berryessa that is not for the purpose of (i) Solano Project Diversions, or (ii) maintaining the flows in lower Putah Creek that are required by the Amended Judgment shall be added to the Storage Adjustment. When Lake Berryessa spills, and all carryover storage has been spilled or otherwise eliminated, the Storage Adjustment shall be re-set to zero. The Storage Adjustment shall never be less than zero. "Solano Project Diversions," for the purpose of this paragraph, means water delivered to Solano Project Participating Agencies and Putah South Canal Conveyance losses (Canal inflows minus deliveries from canals).

(6) If Solano Project Water that is not within the scope of Solano Project Contract Allocations, as is defined in Section IV of the Second Amended Judgment, ever is stored in an offstream reservoir or reservoirs or underground storage, and, as a result, Lake Berryessa storage levels are reduced below the levels that would occur in the absence of such storage, then the 750,000 af amount in paragraph D.(l) and the 400,000 af amount in paragraph D.(4) shall be adjusted so that Drought Year Requirements will continue to occur at the same frequencies as they would have occurred in the absence of such storage.

E. Illegal Diversion Account

If there is any risk that illegal diversions may take place from lower Putah Creek to a degree that water released by the Solano Project for the purposes of maintaining the minimum flows set forth herein will be significantly depleted, then the procedures set forth in the attached Exhibit "A-1" shall be implemented.

F. Monitoring Requirements ((1), (2), (3), & (4) all shall be satisfied)

(1) SID and SCWA shall continuously measure and record releases from the Putah Diversion Dam to lower Putah Creek, and shall determine and record each day's mean daily release.

(2) SID and SCWA shall forthwith install and maintain flow measurement gauges capable of measuring instream flows on a continuous basis at the Interstate 80 Bridge and near the East Toe Drain. SID and SCWA shall collect and maintain the data recorded by each of these gauges as is necessary to demonstrate their compliance with the flow requirements imposed by this Second Amended Judgment. In addition, SID and SCWA shall make regular measurements of instream flows at Stevenson Road Bridge, Pedrick Road Bridge and Old Davis Road Bridge. If the instream flow measured at Stevenson Road Bridge, Pedrick Road Bridge, or at Old Davis Road Bridge, is less than the minimum instream flow requirements in section A.(2) above on more than an

infrequent basis, then the paragraph A.(2) flow requirements shall start to apply at such measurement point or points, in addition to still applying at the Interstate 80 Bridge. SID and SCWA shall install, maintain, repair, calibrate and operate gauging equipment at such compliance points as may be necessary to ensure and demonstrate their compliance with the provisions of this Exhibit "A". Gaging equipment shall be installed to provide a range of measurement from 0 cfs to at least 200 cfs.

(3) SID and SCWA shall monitor flows in the entire reach of lower Putah Creek from Old Davis Road Bridge to River Mile 0.0 with sufficient frequency and by sufficient means to ensure compliance with the requirement in part A.(3) of this Second Amended Judgment that continuous flow of surface water be maintained in this reach at all times of the year. All measurements and observations of this reach made for purposes of compliance with this requirement shall be recorded.

(4) SID and SCWA shall maintain records, in both paper and electronic format, of all release and flow measurements, all calculated mean daily releases and flows, and all observations required by this Second Amended Judgment. Promptly upon request, these records shall be made available for review and copying by any person during normal business hours at the offices of SID or SCWA.

Exhibit "A-1"

Effects of Illegal Diversions of Water from Lower Putah Creek on Solano Project's Obligations to Maintain Exhibit A Instream Flow Requirements

1. The Solano Project shall satisfy all of the release and instream flow requirements that are specified in Exhibit A at all times, whether or not any illegal diversions of water from lower Putah Creek are occurring, except to the extent that exceptions to the instream flow requirements are authorized by this Exhibit "A-1". These exceptions shall only be authorized during the irrigation season. "Irrigation season" shall mean the period from March 1 through October 31 of each year.

2. To determine the Solano Project's obligations to satisfy the instream flow requirements specified in Exhibit A during times when illegal diversions from lower Putah Creek are occurring, an Illegal Diversion Account shall be established. Starting at the beginning of the sixth irrigation season during which this Illegal Diversion Account is drawn upon, the balance in this account shall be set to 1,000 acre feet at the beginning of each irrigation season, regardless of the account's balance at the end of the prior irrigation season. Prior to the sixth irrigation season in which the Illegal Diversion Account is drawn upon, the balance in the Illegal Diversion Account at the beginning of each irrigation season shall be set to 2,000 acre feet. Any credits made pursuant to Paragraph 9 of this Exhibit "A-1" for any irrigation season shall be in addition to the initial balance. SCWA shall maintain an accurate accounting of all credits to and deductions from this account, and shall provide all members of the LPCCC with an updated accounting of the credits to and deductions from this account on at least a weekly basis whenever such credits or deductions are made.

3. At the beginning of each irrigation season, SCWA shall provide written notice to all riparian landowners of SCWA's projections of the time period during which such landowners legally may divert from each reach of lower Putah Creek during the irrigation season. This notice shall encourage each riparian landowner to provide SCWA with the dates and amounts of the landowner's planned diversions of water from lower Putah Creek during the irrigation season. SCWA may, in its discretion, provide additional notices, making updated SCWA projections of the amounts of water that such landowners legally may divert from lower Putah Creek, to these landowners as the irrigation season progresses. The calculations in these notices shall be based on the formulas and procedures described in Exhibit "A-2". SCWA shall provide a copy of one of each type of all such notices to all of the members of the LPCCC at the same time that SCWA provides such notices to any riparian landowners.

4. The term "illegal diversion" in this Exhibit "A-1" means a diversion that is illegal based on the formulas and procedures described in Exhibit "A-2". The sole purposes of this definition are for implementing the provisions of this Exhibit "A-1" regarding deductions from the Illegal Diversion Account pursuant to this paragraph 4 and modifying the Solano Project's release requirements pursuant to paragraph 6 of this Exhibit "A-1". If SCWA has filed, and is diligently pursuing, a court action against a landowner with an illegal diversion, and if SCWA has complied with all of the provisions of paragraph 3 of this Exhibit "A-1", and is complying with all of the provisions of paragraph 5 of this Exhibit "A-1", then deductions shall be made from the Illegal Diversion Account for any amounts of water that the Solano Project releases from the Putah Diversion Dam into lower Putah Creek during the irrigation season solely for the purpose of compensating for that illegal diversion

while maintaining the instream flows specified in Exhibit "A". "Diligently pursuing" means seeking, at the earliest possible opportunities, a temporary restraining order, a preliminary injunction and a permanent injunction stopping the illegal diversion, and a declaratory judgment regarding the illegality of the diversion. If there is more than one illegal diversion, then all of the provisions of this paragraph shall apply to each illegal diversion.

5. During any period during which deductions are being made from the Illegal Diversion Account, SCWA shall make streamflow measurements on a continuous basis at sufficient locations along lower Putah Creek to make the calculations and determinations described in Exhibit "A-2". During such periods, SCWA shall provide copies of all of the streamflow measurement data, the calculations and determinations described in Exhibit "A-2" and the accurate accounting of all credits to and deductions from the Illegal Diversions Account to all members of the LPCCC at least once each week, and shall post all such data, calculations and determinations on its Internet website, or make such information available to members of the LPCCC and the public by similar electronic means, and shall update such posted information at least once each day.

6. If the balance in the Illegal Diversion Account ever reaches zero, then, during the remainder of the irrigation season during which the Account balance reached zero and while SCWA continues to diligently pursue the court action described in the paragraph 4 above and continues to make available the data, calculations, determinations and reports described in paragraph 5 above, and while the court action is pending, the Solano Project shall not be required to fully comply with any instream flow requirement that is specified in Exhibit "A" for a point that is located downstream of any illegal diversion that is subject to the court action and that occurs after the Illegal Diversion Account balance reaches zero.

Instead, under these conditions, the Solano Project shall release from the Putah Diversion Dam into lower Putah Creek at least the amounts of water that would be sufficient to satisfy all of the instream flow requirements in Exhibit "A", if the illegal diversion that is subject to the court action were not occurring. Under these circumstances, the Solano Project's release obligations shall be adjusted as frequently as necessary to reflect changes in hydrological conditions or changes in the rate of the illegal diversion. Immediately upon the cessation of such illegal diversion, the conclusion, dismissal or cessation of diligent pursuit of the court action, or the end of the irrigation season, whichever occurs first, the Solano Project shall satisfy all of the instream flow requirements in Exhibit "A". If court actions regarding more than one illegal diversion are pending, then the provisions of this paragraph shall apply to all such illegal diversions.

7. Deductions from the Illegal Diversion Account for an illegal diversion may be made only for a maximum of two years after the court action described in paragraph 4 above is filed against the landowner with the illegal diversion. Even if a final judgment is not issued in such court action within two years after the action is filed, and even if such court action is dismissed for any reason, the Solano Project nevertheless thereafter shall be required to maintain all of the instream flows described in Exhibit "A", and no further deductions shall ever be made from the Illegal Diversion Account for any illegal diversion that is or was the subject of the court action. However, if a new illegal diversion with neither a point of diversion nor a place of use that is within the scope of the court action described in paragraph 4 above occurs, then the provisions of paragraphs 4, 5 and 6 above, and this paragraph, shall apply to the new illegal diversion. If there is more than one such new illegal

diversion, then the provisions of paragraphs 4, 5 and 6 above, and this paragraph, shall apply to each such new illegal diversion.

8. If a court of competent jurisdiction issues a final judgment specifying the legality or illegality of any particular diversion from lower Putah Creek, then SCWA shall adjust the formulas and calculations in Exhibit "A-2" to be consistent with the court's judgment, and the adjusted formulas and calculations shall be applied thereafter. Immediately upon making such adjustment, SCWA shall advise all members of the LPCCC of the adjustment. If any party to this Second Amended Judgment disagrees with SCWA's adjustment, then that party may ask the LPCCC to try to resolve the disagreement, or may ask the court that issued this Second Amended Judgment, by noticed motion, to determine what the appropriate adjustment should be.

9. If any adjustments to the formulas or calculations in Exhibit "A-2" are made pursuant to paragraph 8 of this Exhibit A-1, then appropriate adjustments shall be made to the Illegal Diversion Account, for example, credits shall be made for the total amount of all debits that previously were made from the Account for diversion that were treated by SCWA as illegal, but which would have been legal under the adjusted formulas and calculations. If SCWA ceases to diligently pursue any court action described in paragraph 4 of this Exhibit "A-1" before a final judgment is entered, then credits shall be made to the Illegal Diversion Account for the total amount of all debits that previously were made from the Account for the diversion that was the subject of the court action. The credits described in this paragraph shall be spread equally over the same number of irrigation seasons as the number of irrigation seasons during which debits from the Account were made. If the court issues its final judgment during an irrigation season, then the first year of such credits shall be made

immediately to the Account. If the court issues its final judgment not during an irrigation season, then the first year of such credits shall be made during the next irrigation season. Subsequent credits shall be made during the immediately following irrigation seasons.

Exhibit "A-2"

Solano County Water Agency's Methodology for Monitoring and Quantifying the Availability and Use of Riparian Water in Lower Putah Creek

This document provides the Solano County Water Agency's ("SCWA") explanation and basis for its methodology for monitoring and quantifying the availability and use of riparian water in Putah Creek, downstream of the Putah Diversion Dam. SCWA's methodology, hereafter referred to as the Lower Putah Creek Riparian Water Program ("PRWP"), will be used by SCWA to (1) differentiate between and quantify the availability of riparian versus non-riparian waters in Putah Creek, downstream of the Putah Diversion Dam, and (2) identify and quantify illegal water diversions, downstream of the Putah Diversion Dam. SCWA anticipates that implementation of the PRWP will increase the efficiency with which the instream flow requirements of the Solano Project, as specified by the Putah Creek Settlement Agreement, are satisfied, and facilitate the lawful diversion of riparian water downstream of the Putah Diversion Dam.

1.0 OVERVIEW

1.1 Key Elements of Lower Putah Creek Riparian Water Program

The PRWP consists of two components: Pre-irrigation season water availability forecasts, and real-time stream flow monitoring during the irrigation season, where "irrigation season" is defined as March 1 through October 31. Annual water availability

forecasts will be provided to riparian water users prior to the irrigation season, so they and other interested parties can plan and, if necessary, make other arrangements for obtaining irrigation water, before significant time and financial resources are committed to the cultivation of a given crop. Real-time monitoring will be conducted to: (1) determine, on a daily basis, the quantities of riparian water that are available to water users in Lower Putah Creek, and (2) differentiate and quantify, on a daily basis, legal versus illegal riparian diversions.

1.2 Definition of Riparian Water

For the purposes of the PRWP, riparian stream flows are defined as any surface water derived from precipitation or rising groundwater that, given prevailing hydrologic conditions, would occur in Lower Putah Creek in the absence of the Solano Project. Non-riparian water, such as treated wastewater and agricultural return flows originating from a non-riparian source (e.g., pumped groundwater that would not otherwise be tributary to the creek) cannot, by definition, be diverted by riparian water right claimants and, therefore, is not included as a source of riparian water from Lower Putah Creek.

2.0 WATER AVAILABILITY FORECASTS

SCWA's riparian water availability forecasts for Lower Putah Creek will be based on stream flow conditions observed in the Putah Creek drainage, upstream of the Putah Diversion Dam, in the prior (i.e., antecedent conditions) and current water year. Forecasts

will be made on January 1, March 1 and May 1. The January 1 and March 1 forecasts, which will be made before the current rainy season is over, will be based in part on projected stream flow conditions for the balance of the rainy season, while the May 1 forecast, the final forecast for the water year, will be based on actual runoff measured to date. Both the January 1 and March 1 forecasts will include three scenarios, based on the assumption that the balance of the rainy season will either be "wet" (25% exceedance), "normal" (50% exceedance) or "dry" (75% exceedance).

In order to address the differing sources and durations of riparian stream flows (surface stream flows from Putah Creek and/or tributaries to Putah Creek, or rising groundwater), Lower Putah Creek has been divided into five reaches. Water availability forecasts will be made for each reach. Stream reach designations and the analytic framework for making water availability forecasts are presented in "Attachment 1".

3.0 REAL-TIME MONITORING

3.1 Quantifying Available Riparian Water Supply

Stream flows and the associated stream flow gains and losses will be monitored by reach, on a continuous basis, and the availability of riparian water and extent of illegal diversions will be determined daily, using a series of water mass balance equations to track the quantities of both riparian and non-riparian water entering and leaving each stream reach.

A summary of the equations used to define riparian water availability, by stream reach, is presented in Attachment 1.

Although the determination of net riparian flow is based on real-time stream flow measurements, there are situations where real-time stream flow measurements are not practical and therefore simplifying assumptions must be used, much as they are in the Condition 12 Settlement Agreement for the Upper Putah Creek drainage. For example, under existing conditions it is difficult to measure accurately real-time stream flow losses in the stream reach now inundated by Lake Solano. Consequently, a "fixed" loss figure previously adopted by the United States Bureau of Reclamation may be used in the water mass balance calculation for this reach. In all cases, the simplifying assumptions used to quantify the availability of riparian water are purposely conservative in the sense that they tend to overstate the availability of riparian stream flows. Overstating riparian water availability is preferred, since it presumably increases the enforceability of the PRWP and its acceptability to riparian water users.

3.1.1 Data Collection

3.1.1.1 Measurement of Riparian Diversions

Riparian diversions will either be measured directly, using an appropriate meter and assuming landowner/operator permission is obtained, or indirectly, via measurement of creek stream flows in the vicinity of the diversion. Riparian diversions typically constitute a

readily measurable fraction of the total stream flow in any given reach (500-2,000 gallons per minute, or about 1-5 cubic feet per second), and are therefore easily detected by continuously measuring stream flows entering and leaving a given stream segment.

3.1.1.2 Measurement of Agricultural Return Flows and Wastewater Discharges

The agricultural return flows entering Lower Putah Creek are for the most part non riparian water sources, as are the treated wastewater discharges from the University of California - Davis (U.C. Davis) water treatment facility, which enter Lower Putah Creek near Old Davis Road. Nevertheless, these water sources must be quantified for water mass balance accounting purposes. The University's treated wastewater discharges are measured and recorded by the treatment plant operators. Most of the agricultural return flows are too small and/or sporadic to warrant direct measurement, and will therefore be estimated, or if insignificant relative to the total creek stream flow, ignored. However, one notable exception is the Willow Canal, which discharges into Lower Putah Creek just upstream of Pedrick Road. Discharges from the Willow Canal, which is operated by the Yolo County Flood Control and Water Conservation District (YCFC&WCD), will be measured as necessary.

3.1.1.3 Measurement of Groundwater Seepage and Evapotranspiration

The amounts of groundwater seepage (into or out of the creek) and water lost to open-water evaporation and transpiration by riparian vegetation vary gradually over time, in comparison to the fluctuating gains and losses associated with water diversions and

agricultural return flows. For the purposes of the PRWP, the net flow gain or loss from these factors (groundwater seepage, evaporation and transpiration) are combined into a single term that represents the natural or "background" net stream flow gain or loss rate within a given reach. Background gains and losses are most easily quantified as the difference in stream flow over a given reach ("top of reach" stream flow versus "bottom of reach" stream flow), in the absence of any diversions or "intra reach inflows."

Groundwater seepage along the reach from I-505 to Stevenson Bridge typically transitions from net loss (seepage out of the creek) to net gain (seepage into the creek). The location of the transition point and the total amount of influent seepage along the gaining stretch depend on the regional groundwater levels in the underlying groundwater basin. This reach will be subdivided into two sub-reaches when necessary to calculate riparian water availability. The upstream end of the gaining segment will be detected by periodic stream flow measurements and/or temperature changes in the creek.

3.1.1.4 Special Situations

Pumping from Riparian Wells

There is no clear boundary between wells that induce additional seepage from the creek and wells that pump regional groundwater; the percentage of pumped water that consists of induced seepage decreases gradually with depth and horizontal distance from the creek. A pragmatic approach adequate for the purpose of the PRWP is to include in the accounting the effects of a well if its effect on stream flow can be detected by the stream flow

monitoring program. The philosophy behind this approach is that well pumping does not matter if its effects on stream flow are not measurable; and if the effects are measurable, then the evidence and justification for including the well as a riparian diverter are already at hand. In practice, it is unlikely that wells more than about 500 feet from the creek or more than 100 feet deep will measurably affect stream flow.

Impoundments Below Mace Boulevard

Riparian water accounting is slightly more complicated at the downstream end of Putah Creek, between Mace Boulevard and the Toe Drain in the Yolo Bypass. Two impoundments are created in the creek channel each year to provide pumping pools for irrigation operations. The lower impoundment is a flashboard dam operated jointly by Los Rios Farms and the California Department of Fish and Game. Frequently, some of the water impounded behind this dam is water that is diverted from the Toe Drain of the Yolo Bypass at a pumping station about 1 mile north of the dam and conveyed to the impoundment by a canal. It may be necessary to gage the inflows from this canal into Putah Creek to determine the availability of Putah Creek riparian water in the impoundment. The issue may be moot, however, because the downstream compliance point for resident native fish flows is at river mile 0, which is upstream of the impoundment.

The upper impoundment is a temporary dirt berm across the channel that provides a crossing for farm vehicles in addition to creating a pumping pool. The berm is at about river mile 1.0 (aligned with country road 106B), and the impounded water derives entirely from Putah Creek. Irrigation return flows from adjacent fields may include water that originated

from Toe Drain diversions, and these return flows will be measured or estimated in the same manner as for return flows in other reaches of the creek.

Riparian Diversions from Pools in the Creekbed

Prior to construction of the Solano Project, landowners in a few locations were able to pump water from natural or constructed pools in the creekbed after live flow in the creek had ceased in summer. These pools were separate from the well-documented gaining reach above Stevenson Bridge, where groundwater seepage into the creekbed can create surface water stream flows in the absence of surface water inflows from upstream reaches. The accounting methodology described here does not encompass the water in isolated pools that would have been present in the absence of the Solano Project. The historical number of pools is thought to be small, and the pumping rates they could sustain also were probably small.

The possible availability of riparian water from isolated pools will be dealt with on a case-by-case basis. If a landowner can provide evidence that persistent pools existed on his or her property during periods of discontinuous streamflow prior to the Solano Project construction, then the sustained pumping yield of those pools will be estimated to quantify the amount of riparian water presently available to the landowner from that source. The yield will be estimated from the pool volume and the permeability of the surrounding streambed materials, which may release shallow groundwater when the pool level is lowered by pumping.

New Diversions and Return Flows

As parcels change ownership or existing landowners modify their farming operations, some diversions and return flows may be added and others discontinued. Word of mouth and the annual riparian water forecast mailing should be sufficient to inform any newcomers that riparian diversions from Lower Putah Creek are monitored and regulated. The new users will be encouraged to join the cooperative effort to manage and utilize riparian water supplies. Any changes in discharges by U.C. Davis, YCFC&WCD, and other agencies or industries hopefully will also be communicated to the Solano County Water Agency to facilitate a smooth transition. Any unreported changes will eventually be detected by the stream flow monitoring program, periodic field surveys, neighboring landowners, or the streamkeeper.

Uncooperative Riparian Diverters

It is hoped that all riparian diverters will cooperate with each other and with the Solano County Water Agency to make efficient use of the available riparian water supply without any illegal diversions. However, it is possible that some landowners will attempt to conceal their diversions or refuse to provide information about when and how much water they are diverting, or when and where return flows occur. Fortunately, all of this information can be obtained anyway. It would be impossible to conceal a significant diversion for very long because the pumping equipment and power supplies are large, visible, and make sound and because the effects of the diversion will be detected by the stream flow monitoring program. The pumping rate at any diversion can be measured fairly accurately by gaging the stream flow immediately upstream and downstream of the diversion. Return flows can

similarly be estimated by surveys of the field drainage patterns and the direct observation of the return flows.

3.2 Quantifying Illegal Diversions

Any diversion in excess of the calculated net riparian flow is considered illegal. Illegal diversions, like net riparian flow, will be monitored and quantified by reach, and to the extent possible, by individual diverters. A summary of the equations used to quantify illegal diversions is presented in Attachment 1.

If total riparian diversions in any given reach exceed the available riparian supply and the diverters are unwilling to voluntarily reduce their total diversions to match the available supply, and these actions adversely affect the Solano County Water Agency, then the Agency may sue some or all of the active diverters and seek court orders addressing the illegal diversions. It is hoped that this type of enforcement action will not be necessary. The PRWP will provide all of the data needed on a real-time basis to enable the active riparian diverters to manage their activities and restrict the locations and rates of their diversions so that they remain within the legally available supply.

3.3 Public Access to Riparian Water Accounting Data and Calculations

The Solano County Water Agency will conduct the data collection activities and complete the calculations necessary to generate the pre-irrigation season water availability

forecasts and the real-time riparian water availability determinations. All data collected for these purposes and all formulas and computer programs used in the calculations will be available on request to any interested agency, group or individual. The Solano County Water Agency will publish the data and results on its website and update the information approximately daily during the irrigation season.

The Solano County Water Agency will deliver the first (January) pre-season water availability forecast by mail to all riparian landowners along Lower Putah Creek. Landowners may at that time request that the subsequent forecasts (March and May) also be sent by mail if the landowner is unable to access the information by Internet. It would not be practical to disseminate the real-time monitoring data by mail because it will be updated daily during the irrigation season. Active diverters who need the daily information will be able to view it on the Solano County Water Agency's website or call the Agency to obtain the information by telephone.

ATTACHMENT 1 TO EXHIBIT "A-2"

1.0 Pre-Irrigation Season Predictions

A) Objective:

To estimate future availability of riparian stream flows, based on projected and/or prior hydrologic conditions in the Putah Creek drainage. For pre-irrigation season prediction purposes, assume riparian stream flows consist of surface runoff from precipitation and rising groundwater.

B) Analytic Approach:

i) Divide Lower Putah Creek into the following reaches:
   a) Putah Diversion Dam to Highway 505 Bridge (a "losing reach")
   b) Highway 505 Bridge to Stevenson Bridge (a "gaining reach")
   c) Stevenson Bridge to I-80 Bridge (a "losing reach")
   d) I-80 Bridge to Mace Boulevard (a "losing reach")
   e) Mace Boulevard to Yolo Bypass (a "losing reach")

(Reach designations based on hydrogeologic features, proximity of suitable stream flow gaging sites and existing riparian diversions. When necessary, reach "b" will be subdivided into two sub-reaches.)

ii) Predict average monthly flow and date of zero flow for each of the above riparian water sources, in each of the five reaches:
   a) Surface runoff: calculate using statistical relationships derived from historical data.
      - Stream flow recession curves derived from stream flow gaging data for "At Winters", "Near Winters" and "Near Davis" stream flow gaging stations.
      - Stream reach percolation/evapotranspiration loss estimating algorithms developed for the Solano County Water Agency's Lower Putah Creek stream flow model.

   b) Rising groundwater: calculate using statistical relationships derived from historical data.
      - Stream reach groundwater gain/loss estimating algorithms developed for the Solano County Water Agency's Lower Putah Creek streamflow model.

C) Timing of Pre-Irrigation Season Predictions:

i) January 1 – Predictions based on hydrology of water year to date and three scenarios for the remainder of the year's rainy season: "wet year" (25% Lake

Berryessa inflow exceedance), "normal year" (50% Lake Berryessa inflow exceedance) and "dry year" (75% Lake Berryessa inflow exceedance).

ii) March 1 – Predictions based on hydrology of water year to date and projected 25%, 50% and 75% exceedance runoff rates for the remainder of the year's rainy season .

iii) May 1 – Final prediction based on hydrology of the water year through April.

2.0 Methodology for Quantifying Riparian Streamflows During Irrigation Season

Note: Riparian stream flows are defined here as any surface water derived from precipitation or rising groundwater that, given prevailing hydrologic conditions, would occur in Lower Putah Creek in the absence of the Solano Project. Non riparian water, such as treated wastewater and agricultural return flows originating from a non riparian source (e.g., pumped groundwater) cannot, by definition, be diverted by riparian water right claimants and therefore, are not included as a source of riparian water from Lower Putah Creek.

A) Overview:

i) Calculate, on a daily basis, pre Solano Project stream flows (i.e., stream flow that would occur if there were no dams – no Solano Project) at the Putah Diversion Dam site .

ii) Compare computed daily pre Solano Project stream flow (i.e., stream flow that would occur if there were no dams – no Solano Project) with current Putah Diversion Dam release – determine what fraction of the current release is stored water or any other non riparian water source, versus riparian stream flows .

iii) Using real-time stream flow monitoring data to quantify prevailing percolation/evapotranspiration losses and any non riparian water sources, calculate riparian flows by stream reach. The total quantity of riparian water in any given reach is defined here as the sum of all riparian water sources less percolation/evapotranspiration losses.

B) Analytical Approach:

i) Riparian stream flows at Putah Diversion Dam site;

$$USRSF = LBI + IDTI - IDCL$$

Where: USRSF = Riparian stream flow at Putah Diversion Dam

LBI = Computed/measured Lake Berryessa inflow (less any associated non riparian flow)

IDTI = Inter Dam Reach tributary inflow (less any associated non riparian flow)

IDCL = channel percolation/evapotranspiration losses that would occur in the Inter Dam Reach in the absence of Lake Solano

(A stream gage will be placed on Pleasants Creek to facilitate real-time estimation of inflow from inter-dam tributaries. For accounting purposes, seepage and evaporation losses from Lake Solano are assumed to be constant and will therefore be characterized by a fixed continuous loss rate term).

ii) Riparian stream flows in first reach downstream of Putah Diversion Dam (Putah Diversion Dam to 505 Bridge):

1RRSF = USRSF + TRSF + 1RAG – 1RCL

Where: 1RRSF = Computed riparian stream flow in Reach 1
USFSF = Computed riparian stream flow at Putah Diversion Dam
TRSF = Measured stream flow from tributaries (Dry Creek, McCune aka Pleasant Creek), less any associated non riparian flow
1RAG = Ag return flow water originating from a riparian source in = reach 1
1RCL = Measured channel percolation/evapotranspiration losses in reach 1

Notes:
(1) Agricultural return flow water that originates from a riparian water source (riparian water diverted from Putah Creek or associated tributaries) is classified as riparian water and therefore can be lawfully diverted by other riparian water right claimants.

iii) Riparian stream flows in second reach downstream of Putah Diversion Dam (505 Bridge to Stevenson Bridge):

2RRSF = 1RRSF – 1RD (+/-) 2RCL + 2RAG

Where: 2RRSF = Computed riparian stream flow in Reach 2
1RRSF = Computed riparian stream flow in Reach 1
2RCL = Combined sum of groundwater "gains", channel percolation/evapotranspiration losses in reach 2
2RAG = Ag return flow water in reach 2 originating from a riparian source
1RD = Riparian diversion in Reach 1

Notes:

(1) There are no significant tributaries entering Putah Creek in this Reach .

(2) Due to the spatial and temporal variability of rising groundwater, portions of the so called "gaining reach" (generally the upstreammost third of the reach) frequently lose rather than gain water. Accordingly, there are instances when some of the riparian diverters within Reach 2 have access

to rising groundwater, while others do not. When necessary, Reach 2 will be broken into two sub reaches for the purpose of quantifying riparian stream flows.

iv) Riparian stream flows in third reach downstream of Putah Diversion Dam (Stevenson Bridge to I-80):

3RRSF = 2RRSF – 2RD – 3RCL + 3RAG

Where: 3RRSF = Computed riparian stream flow in Reach 3
2RRSF = Computed riparian stream flow in Reach 2
2RD = Riparian diversions in Reach 2
3RCL = Measured channel percolation/evapotranspiration losses in reach 3
3RAG = Ag return flow water in reach 3 originating from a riparian source

v) Riparian stream flows in fourth reach downstream of Putah Diversion Dam (I-80 to Mace Boulevard) :

4RRSF = 3RRSF– 3RD – 4RCL + 4RAG

Where: 4RRSF = Computed riparian stream flow in Reach 4
3RRSF = Computed riparian stream flow in Reach 3
3RD = Riparian diversion in Reach 3
4RCL = Measured channel percolation/evapotranspiration losses in reach 4
4RAG = Ag return flow water in reach 4 originating from a riparian source

vi) Riparian stream flows in fifth reach downstream of Putah Diversion Dam (Mace Boulevard to RM 0.0 aka Yolo Bypass) :

5RRSF = 4RRSF– 4RD –5RCL + 5RAG

Where: 5RRSF = Computed riparian stream flows in Reach 5
4RRSF = Computed riparian stream flows in Reach 4
4RD = Riparian diversions in Reach 4
5RCL = Measured channel percolation/evapotranspiration losses in reach 5
5RAG = Ag return flow water in reach 5 originating from a riparian source

Note: The above formulas will be adjusted as necessary to reflect changing conditions such as new or terminated diversions or discharges.

3.0 Methodology for Quantifying Illegal Riparian Diversion During Irrigation Season

Note: Diversions in excess of the available riparian stream flow (i.e., diversion of water released from storage or other non riparian flow) are considered illegal.

A) Overview:

For each reach, calculate difference between daily riparian diversions and computed riparian streamflow. If riparian diversions exceed computed riparian streamflow, the difference is considered to be the result of illegal diversions.

B) Analytical Approach:

i) Illegal riparian diversions in first through fifth reaches downstream of Putah Diversion Dam:

If: (ith)RD>(ith)RRSF
Then: (ithIRD) = (ithRD) – (ithRRSF)

Where: (ith)RD = Riparian diversions in Reach 1, 2, 3, 4 or 5
(ithRRSF) = Computed riparian streamflow in Reach 1, 2, 3, 4 or 5
(ithIRD) = Computed illegal diversions in Reach 1, 2, 3, 4 or 5

The Solano County Water Agency is under no obligation to enforce against any illegal riparian diverters whose actions do not adversely affect the Agency's ability to comply with any contractual or legal obligation.

Exhibit 2

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

Coordination Proceeding Special Title (Rule 1550b) PUTAH CREEK WATER CASES REGENTS OF THE UNIVERSITY OF CALIFORNIA, Cross-Complainant, v. SOLANO COUNTY WATER AGENCY, SOLANO IRRIGATION DISTRICT, CITY OF FAIRFIELD, CITY OF VACAVILLE, CITY OF VALLEJO, CITY OF SUISUN CITY and MAINE PRAIRIE WATER DISTRICT, Cross-Defendants.	JUDICIAL COUNCIL COORDINATION PROCEEDING NUMBER 2565 SOLANO COUNTY SUPERIOR COURT CASE NUMBER 108552 **SECOND AMENDED JUDGMENT**

The second cause of action of the cross-complaint of the Regents of the University of California in Solano Irrigation District et. al. v. the Names of all Appropriative Water Rights Holders, et. al., Solano County Superior Court No. 108552, was regularly tried before the Court sitting without a jury. This trial occurred in coordination with the trials of the second cause of action of the cross-complaint filed by the City of Davis in this action and Putah Creek Council v. Solano Irrigation District and Solano County Water Agency, Sacramento County Superior Court No. 515766. This Second Amended Judgment, however, is entered only on the Regents of the University of California's cross-complaint in Solano Irrigation District et. al. v. the Names of all Appropriative Water Rights Holders, et. al., Solano County Superior Court No. 108552.

The trial was held on March 4, 1996 through April 5, 1996. Appearing as attorneys for cross-complainant Regents of the University of California were Bartkiewicz, Kronick & Shanahan, P.C., by Alan B. Lilly. Appearing as attorneys for cross-defendants Solano Irrigation District and Solano County Water Agency were Minasian, Minasian, Minasian, Spruance, Baber, Meith & Soares, by Tim O'Laughlin and William C. Paris, III.

Following the trial, the Court, having heard the testimony and considered the evidence, rendered its Judgment in this action. Judgment was entered on August 23, 1996. The cross-defendants appealed from the Judgment.

On November 27, 1996, the Court entered an Order Awarding Attorneys Fees, awarding fees and costs to the Regents of the University of California. The cross-defendants appealed from that Order.

While the Judgment and Order were on appeal, and before any decision on the appeals, the parties reached a stipulated settlement of the issues raised in this action. Pursuant to the terms of the settlement, the Court of Appeal referred the action to this Court for the limited purpose of considering the proposed settlement.

By motion filed on August 28, 2000, the parties jointly requested that the Court amend its Judgment in this action and its Order Awarding Attorneys Fees to conform to the terms of a settlement stipulated to among the parties. The Court considered the proposed amendments to the Judgment and the Order, and the briefs and evidence offered by the parties in support of the proposed amendments. The Court found that the proposed amendments to the Judgment and the Order were consistent with the requirements of Article X, Section 2 of the California Constitution, the public trust doctrine, and section 5937 of the California Fish and Game Code. Accordingly, the Court found that the Judgment and Order should be amended as requested, and entered the Amended Judgment requested and stipulated to by the parties on September 8, 2000.

By motion filed pursuant to Section VI of the Amended Judgment, the parties jointly requested that the Court amend the Amended Judgment in this action to conform to the terms of an amended settlement stipulated to among the parties. The Court has considered the proposed amendments to the Amended Judgment, and the briefs and evidence offered by the parties in

support of the proposed amendments. The Court finds that the proposed amendments to the Amended Judgment are consistent with the requirements of Article X, Section 2 of the California Constitution, the public trust doctrine, and section 5937 of the California Fish and Game Code. Accordingly, the Court finds that the Amended Judgment should be amended as requested, and that the Second Amended Judgment requested and stipulated to by the parties should be entered.

WHEREFOR, the Amended Judgment entered in this action on September 8, 2000 is hereby AMENDED and superseded by this Second Amended Judgment, and the Court now ORDERS AND ADJUDGES AS FOLLOWS:

I. PERMANENT INJUNCTION

The Solano Irrigation District ("SID") and Solano County Water Agency ("SCWA") forthwith shall modify their operations of, and other conduct regarding, the Solano Project as specified in Exhibit "A" attached hereto and incorporated herein fully by reference.

II. ENFORCEMENT ACTIONS

If the Solano Project is operated to comply with the release and instream flow requirements specified in Exhibit "A" hereto, then the Regents of the University of California shall not pursue an action or proceeding for contempt of this Second Amended Judgment based on a violation or violations of one or more of the minimum mean daily flow requirements established in Exhibit "A" section A.(2), B.(2), C.(1), C.(2), C.(3), C.(4) and D.(3), or one or more of the minimum instantaneous flow requirements established in Exhibit "A" section A.(2), B.(2), C.(1), C.(2), C.(3), and C.(4), so long as:

A. The failure to comply was solely the result of an unanticipated and unforeseeable increase in a diversion or diversions from, or reduction in an inflow or inflows into, Putah Creek downstream of the Putah Diversion Dam, by some person or entity besides SID or SCWA, and the increase or reduction occurred so rapidly that the Solano Project could not reasonably maintain compliance by increasing the releases from the Putah Diversion Dam into lower Putah Creek; and

B. The four-day running mean flow at the relevant compliance point equaled or exceeded the applicable minimum mean daily flow; and

C. The instantaneous flow at the relevant compliance point was not more than 5 cfs less than the applicable minimum mean daily flow if the violation occurred during the period from January through July, and was not more than 3 cfs less than the applicable minimum mean daily flow if the violation occurred during the period from August through December.

III. LOWER PUTAH CREEK COORDINATING COMMITTEE

A. The parties shall, within six months after the filing of the Amended Judgment, form a Lower Putah Creek Coordinating Committee ("LPCCC") to carry out the responsibilities assigned to the LPCCC under the Amended Judgment.

The LPCCC shall be organized and governed in a manner that, at a minimum, incorporates the following:

(1) Membership: The LPCCC shall consist of ten members with five members representing the Putah Creek Council, the City of Davis, and the Regents of the University of California (the "Yolo parties") and five members representing the Solano County Water Agency, the Solano Irrigation District, the Maine Prairie Water District, and the Cities of Vacaville, Fairfield, Vallejo and Suisun City (the "Solano parties"). The selection of the Yolo parties' representatives shall be undertaken in a manner to be determined by the Yolo parties; the selection of the Solano parties' representatives shall be undertaken in a manner to be determined by the Solano parties.

(2) Voting:

(a) Full LPCCC Membership: Matters before the LPCCC shall be deemed approved only if a majority of the Yolo members and a majority of the Solano members approve the action. A quorum shall be deemed present if a minimum of three members is present from each side. Alternates may be selected and shall have the voting rights of the regular members not in attendance.

(b) Rotation of Chairmanship: A chairman and vice-chairman shall be elected (or selected by agreement of all LPCCC members) to serve on an annual basis. If the first chairman elected (or selected) is a Solano party representative, then the first vice-chairman shall be a Yolo party representative, and conversely if the first chairman selected is a Yolo party

representative, then the first vice-chairman shall be a Solano party representative. Thereafter, the chairman and vice-chairman shall alternate between a Yolo party representative and a Solano party representative. The chairman and vice-chairman together shall constitute an executive committee. In situations where emergency actions must be taken before the LPCCC or the Core Group can be convened, either in person or by conference telephone call, the executive committee shall be authorized to act without the full LPCCC or the Core Group. In that event, the executive committee immediately shall report its actions to the full LPCCC by fax or e-mail, and shall obtain ratification or further directions from the full LPCCC.

(c) Core Group: A "Core Group" shall be formed. It shall be comprised of six members, of whom three shall be representatives of the three Yolo parties, and three shall be selected by the Solano parties' representatives.

At the discretion and written request of any member of the Core Group, a matter otherwise subject to vote by the full LPCCC shall be dealt with solely by the Core Group. Any action dealt with by the Core Group shall only be approved if at least two of the Core Group members representing the Yolo parties and two of the Core Group members representing the Solano parties shall have voted to approve the action.

(3) Scope of Authority: The LPCCC shall have the responsibility to undertake the following:

(a) To monitor implementation of the Putah Creek Settlement Agreement and to make an annual report to the Court and to the parties to the settlement agreement.

(b) Through the Streamkeeper and any other means that may be approved by the LPCCC, to monitor the condition of Putah Creek from Putah Diversion Dam to the Yolo Bypass ("lower Putah Creek") and to make recommendations to appropriate agencies about the condition of the waterway and actions appropriate to preserve and protect this stretch of Putah Creek.

(c) To undertake maintenance, restoration and enhancement measures with respect to lower Putah Creek resources and to support and coordinate the efforts

of public agencies, private property owners and non-profit associations in furtherance of such maintenance, restoration and enhancement.

(d) To serve as a forum for discussion and possible resolution of lower Putah Creek related concerns and issues. Provided, however, this provision shall not be construed to give the LPCCC any authority to amend this Second Amended Judgment.

(e) To coordinate with the Reclamation Board and the Department of Water Resources on flood control issues regarding Putah Creek.

(f) To develop a system to share data regarding lower Putah Creek.

(g) To develop an active public education/information program on Lower Putah Creek.

(h) To seek grants and funds where appropriate for projects in pursuit of the above goals.

(i) To oversee the Streamkeeper. The Streamkeeper shall be employed by SCWA except as otherwise determined by the LPCCC after entry of this Second Amended Judgment.

(j) To establish standing and ad hoc committees, including a Technical Committee, as may be necessary or appropriate to further the LPCCC's responsibilities.

(4) The LPCCC and any standing committees shall comply with the Ralph M. Brown Act, Government Code sections 54950—54962.

(5) SCWA shall provide administrative support for the LPCCC, any standing or ad hoc committees and the Streamkeeper.

(6) As part of the Parties' ongoing efforts to protect and enhance the instream values associated with lower Putah Creek, SCWA shall contribute, in coordination with the contributions and activities specified in Section III.H. hereof, the following amounts of money, which shall be utilized for the specified activities. Each specific expenditure of money shall be authorized in advance by the LPCCC, and the LPCCC shall supervise the specified activities.

(a) $10,000 per year for native vegetation preservation and

enhancement, including the identification of areas along the lower Putah Creek dominated by non-native species, and their removal and replacement with native trees and grasses. This work will be coordinated with efforts by other individuals and entities involved in similar removal and replacement efforts.

(b) $55,000 per year for the monitoring of wildlife, including birds, mammals, reptiles and amphibians which live in and around lower Putah Creek.

(c) Amounts, if any, to be determined by SCWA for acquisition of easements from voluntary, willing sellers, for the maintenance and enhancement of the biological resources of lower Putah Creek. These acquisitions shall be coordinated with the development of a long-term plan. The development of this plan shall be coordinated with other interested entities and individuals.

(d) $55,000 per year for the monitoring of native fish in lower Putah Creek.

(e) $40,000 per year for a Streamkeeper for lower Putah Creek, whose duties shall include, without limitation, preparing reports to the LPCCC regarding all aspects of lower Putah Creek, attending all LPCCC meetings, weekly monitoring and recording of flows at specified locations, weekly monitoring and recording of all diversions from lower Putah Creek, coordinating field trips and public projects to improve lower Putah Creek natural values, and identification and reporting to the LPCCC of any activities that are harmful to the health of lower Putah Creek.

(f) General grants totaling $250,000 in the aggregate for the preservation and enhancement of the natural values of lower Putah Creek, which shall be allocated by the LPCCC.

(g) The amounts provided for in subsections (a), (b), (d) and (e) to the extent not allocated by the LPCCC in any given year shall not carry over to subsequent years. Amounts not expended on the matters enumerated above, however, as authorized by the LPCCC, may be expended for the following additional purposes:

(i) For preservation and enhancement of birds, mammals,

reptiles and amphibians that live in and around lower Putah Creek; and

(ii) For preservation and enhancement of native fish in lower Putah Creek.

(h) The contributions specified in subparagraphs (6)(a), (b), (d) and (e) shall be annually adjusted, up or down, in proportion to any changes in the first quarterly IPD published, in the relevant year, in the Survey of Current Business, by the United States Department of Commerce. If the IPD no longer is available, then the most comparable available index shall be used instead.

B. If the parties to this Second Amended Judgment have not reached agreement on the exact form and functions of the LPCCC within six months after the filing of the Amended Judgment, then the Court, exercising its reserved jurisdiction, shall mediate the development of a final agreement with respect to the form and functions of the LPCCC and, if the parties fail to agree during the mediation, shall have the authority to mandate the form and functions of the LPCCC after considering any arguments of the parties. If the LPCCC ever is unable to decide how to spend any of the moneys that are described in subsection III.A.(6) hereof, then the Court, exercising its reserved jurisdiction, shall mediate the development of an appropriate plan to spend such moneys, and, if the LPCCC fails to approve such a plan, then the Court shall have the authority to mandate an appropriate plan for the expenditure of such moneys.

C. The LPCCC shall specify the general duties and responsibilities of the Streamkeeper and shall review and evaluate the Streamkeeper's performance at least once each year. The Streamkeeper shall report directly to the Executive Committee of the LPCCC, and the Executive Committee of the LPCCC shall supervise the Streamkeeper's day-to-day duties and responsibilities.

D. The LPCCC shall determine the scopes of the work to be performed under subparagraphs A.(3)(a), (b), (c) and (d) of this Second Amended Judgment. No expenditures under subparagraphs A.(6)(a), (b), (c), (d), (e) and (f) of this Second Amended Judgment shall be made without the advance approval of the LPCCC.

E. The LPCCC shall pursue and support the following types of measures for

anadromous fish, through the fish surveys and the Streamkeeper's work described in subparagraphs A.(6)(d) and (e) and other actions that may be taken by the LPCCC, including seeking additional funding where already identified sources are insufficient and coordinating with other applicable planning efforts:

(1) A survey and analysis of existing spawning gravels for anadromous fish in the reach of lower Putah Creek from the Putah Diversion Dam to Pedrick Road, and the potential for enhancement of these spawning gravels;

(2) A survey and analysis of any obstacles to anadromous fish passage in lower Putah Creek, includes for the purposes of this survey and analysis, the Putah Diversion Dam and any structures downstream therefrom;

(3) The development of a sedimentation management plan for lower Putah Creek that would prevent or mitigate for any damage to fish habitat that may be caused by releases of sediment at the Putah Diversion Dam;

(4) Monitoring of lower Putah Creek to determine the extent and timing of chinook salmon, steelhead trout and Pacific lamprey in lower Putah Creek;

(5) Provided, however, that if an HCP process has been initiated within one year of entry of the Amended Judgment and includes a proposed Safe Harbor provision with activities delineated in both the proposed Safe Harbor provision and subparagraphs III.E.(l)—(4), then the LPCCC shall not undertake the activities until either the HCP is finalized or five years have passed since entry of the Amended Judgment.

F. The Core Group may approve changes to any provision of this Section III, provided that such changes do not alter, and are not inconsistent with, any other provision of this Second Amended Judgment. The Core Group shall file any such changes and an explanation of the reasons for the change with the court, for filing with this Second Amended Judgment, within 30 days after the Core Group approves the changes.

G. All data collected during any of the activities referenced in this Section III and all reports and other documents provided to the LPCCC shall be immediately made available for inspection and copying by any party to this Second Amended Judgment or any interested

member of the public during normal business hours. To the extent feasible and reasonable, SCWA shall post on its Internet website, or make available to the public by similar electronic means, all data and reports that must be made available for inspection and copying under the preceding sentence of this paragraph within 15 days after SCWA receives each set of such data and each such report.

H. The parties are encouraged to augment, to the degree permitted by applicable law, the sums of money herein committed by SCWA, in order to further the work outlined herein. The parties will provide notice to and coordinate with the LPCCC regarding actions that may affect the scope of the LPCCC's authority and responsibilities with respect to lower Putah Creek as is provided for in this Amended Judgment.

IV. LIMIT ON AVERAGE ANNUAL ALLOCATIONS

Solano Project Contract Allocations are defined as the amount of all Solano Project Water delivered to Participating Agencies pursuant to the agreements between SCWA and the Participating Agencies. Solano Project Contract Allocations also include Solano Project Water not delivered during the allocation year and instead stored in Lake Berryessa pursuant to Article 4(c) of the Contract Between the United States and Solano County Water Agency Providing For Water Service (Contract No. 14-06-200-4090R). Putah South Canal Conveyance losses (Canal inflows minus deliveries from Canal) are not included in Solano Project Contract Allocations. During each year, Solano Project Contract Allocations shall be limited such that there are never ten (10) successive years during which, over those ten years, the average Solano Project Contract Allocations exceed 192,350 af per year. The Parties acknowledge that the 10-year average amount of Solano Project Water delivered to Participating Agencies may exceed 192,350 af in certain years due to the delivery of the aforementioned stored water.

V. AWARD OF FEES AND EXPENSES

The cross-defendants shall not be required to pay the Regents of the University of California any amount of money on account of the attorney fees and expenses incurred by the Regents in this action before or on the date of this Second Amended Judgment.

VI. RESERVED JURISDICTION

This Court reserves continuing jurisdiction over the parties to provide for the administration and enforcement of this Second Amended Judgment, including jurisdiction to modify this Second Amended Judgment in accordance with applicable law.

DATED: _____, 2002

_____
HONORABLE RICHARD A. PARK
JUDGE OF THE SUPERIOR COURT

Exhibit "A"

Solano Project Releases and Instream Flows for Lower Putah Creek

A. Rearing Flows ((1), (2) & (3) all shall be maintained)

(1) Solano Irrigation District ("SID") and Solano County Water Agency ("SCWA") shall, for each month as set forth below, maintain mean daily releases from the Putah Diversion Dam to Creek downstream of the Putah Diversion Dam (hereinafter "lower Putah Creek") that are equal to or in excess of the following rates, expressed in cubic feet per second ("cfs"):

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Mean Daily Release (cfs)	20	25	25	25	16	26	46	43	43	43	34	20

These mean daily releases shall be measured at the Putah Diversion Dam and made from the Putah Diversion Dam into lower Putah Creek immediately downstream of the Putah Diversion Dam. The instantaneous releases at the Putah Diversion Dam shall at all times equal or exceed ninety percent (90%) of the applicable mean daily release requirement.

(2) SID and SCWA shall, for each month as set forth below, release sufficient water from the Putah Diversion Dam into lower Putah Creek immediately downstream of the Putah Diversion Dam to maintain mean daily flows in lower Putah Creek that are equal to or in excess of the following rates, expressed in cubic feet per second ("cfs"):

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Mean Daily Flows (cfs)	5	10	10	15	15	25	30	20	15	15	10	5

These mean daily flows shall be maintained and measured at or in the near vicinity of the Interstate 80 Bridge. The instantaneous flow at the Interstate 80 Bridge shall at all times equal or exceed ninety percent (90%) of the applicable mean daily flow requirement.

(3) SID and SCWA shall at all times of the year release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a continuous flow of surface water in Putah Creek from the Old Davis Road Bridge to the western boundary of the Yolo Bypass, identified as River Mile 0.0 on trial exhibit number 41.

B. Spawning Flows ((1), (2) & (3) all shall be maintained)

(1) At a time between February 15 and March 31 of every calendar year, SID and SCWA shall release a three-consecutive-day pulse of water from the Putah Diversion Dam into lower Putah Creek equal to or in excess of the following rates:

(a) 150 cfs for the first 24 hours;

(b) 100 cfs for the second 24 hours; and

(c) 80 cfs for the third 24 hours.

SID and SCWA may, in their discretion, time this pulse so as to utilize any uncontrolled flows that may provide some or all of the water needed to comply with this requirement.

(2) In every year, for the 30 days that follow the three-day pulse release described in paragraph B.(1), SID and SCWA shall release sufficient water from the Putah Diversion Dam into lower Putah Creek to maintain a mean daily flow equal to or in excess of 50 cfs at the Interstate 80 Bridge. During this period, the instantaneous flows at the Interstate 80 Bridge shall at all times equal or exceed 45 cfs.

(3) In every year, at the conclusion of the 30th day of the 50 cfs spawning flows described in subsection B.(2), SID and SCWA then shall ramp down the controlled releases from the Putah Diversion Dam gradually over a seven-day period until the flows are in compliance with the applicable requirements set forth in subsections A.(2), A.(3), C.(3) and C.(4) of this Exhibit "A".

C. Supplemental Flows ((1), (2), (3), & (4) all shall be maintained)

The requirements set forth thus far herein are intended to protect the aquatic and related resources found in lower Putah Creek. It has been agreed, however, that in addition to maintaining these resources, SID and SCWA shall provide supplemental flows in an attempt to enhance the aquatic and related resources of lower Putah Creek above that baseline. Accordingly:

(1) SID and SCWA shall, during the period from November 1 through December 15 of each calendar year, release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 5 cfs, and an instantaneous flow of at least 2 cfs, at the point where Putah Creek discharges into the Toe Drain on the eastern side of the Yolo Bypass (the "East Toe Drain").

(2) Beginning sometime between November 15 and December 15 of each calendar year, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 50 cfs, and an instantaneous flow of at least 45 cfs, for five consecutive days at the point where Putah Creek discharges into the East Toe Drain. If a flash board dam is present on Putah Creek near the East Toe Drain during that period, and if the flash boards are removed during that period, then to the extent feasible the first day of the 50 cfs pulse flow at the East Toe Drain shall follow the removal of the flash boards. The precise timing of the initiation of the 50 cfs pulse flow shall be set each year by the Lower Putah Creek Coordinating Committee established in accordance with section III of the Second Amended Judgment (the "LPCCC"). The objective of the LPCCC shall be to time the release so as to maximize the potential for such flows to attract anadromous fish into Putah Creek. If the exact date of releases has not been established or agreed upon by the LPCCC, then the releases dealt with in this subparagraph shall commence on December 1 of the affected calendar year.

(3) Beginning on the sixth day after initiation of the above described 50 cfs pulse flow, and continuing each day thereafter through March 31, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 19 cfs, and an instantaneous flow of at least 14 cfs, at I-80.

(4) Beginning on April 1 of each calendar year, and continuing each day thereafter through May 31, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 5 cfs, and an instantaneous flow of at least 2 cfs, at the point where Putah Creek discharges into the East Toe Drain.

D. Drought Year Flows

(1) During years when total storage in Lake Berryessa is less than 750,000 acre feet ("af") as of April 1 (a "Drought Year"), the release and instream flow requirements set forth in sections D.(2), D.(3) and D.(4) below ("Drought Year Requirements") shall apply instead of the release and instream flow requirements set forth in sections A., B. and C. above ("Non-Drought Year Requirements"). Provided, however, that if after April 1 the total storage in Lake Berryessa rises to 750,000 af or more, then the Non-Drought Year Requirements shall immediately take effect.

(2) During a Drought Year, releases of water from the Putah Diversion Dam into lower Putah Creek shall equal or exceed the following amounts (mean daily values, in cfs, with instantaneous releases always equal to or exceeding 90 % of the listed values):

Oct	Nov	Dec	Jan	Feb	Mar	Apr	Ma	Jun	Jul	Aug	Sep
15	25	25	25	16	26	46	33	33	33	26	15

(3) During a Drought Year, SID and SCWA shall release sufficient water from the Putah Diversion Dam to maintain a continuous flow of surface water in Putah Creek from

Putah Diversion Dam to the Interstate 80 Bridge, and further shall release sufficient water from the Putah Diversion Dam to maintain a minimum mean daily instream flow of 2 cfs at the Interstate 80 Bridge, with instantaneous flows always equal to or exceeding 1 cfs. Under these conditions, SID and SCWA shall not be required to maintain a continuous flow of surface water in the reach of Putah Creek below the Interstate 80 Bridge.

(4) Whenever the release and instream flow requirements set forth in sections D.(2) and D.(3) are in effect for two consecutive years, then during the next year thereafter the Non-Drought Year Requirements shall apply and shall remain in effect for an entire period from April 1 through March 31, unless total storage in Lake Berryessa on April 1 is less than 400,000 af. If the Drought Year Requirements are ever in effect for three or more consecutive years, then the Non-Drought Year Requirements shall apply and remain in effect for an entire period from April 1 through March 31 in the first subsequent year during which total storage in Lake Berryessa on April 1 exceeds 400,000 af.

(5) For the purposes of this section D, "total storage in Lake Berryessa" shall be the actual amount of water that physically is stored in Lake Berryessa (including all carryover storage) plus a Storage Adjustment. As of the date of entry of the Amended Judgment, the Storage Adjustment shall be zero. Thereafter, the amount of any controlled release of water from Lake Berryessa that is not for the purpose of (i) Solano Project Diversions, or (ii) maintaining the flows in lower Putah Creek that are required by the Amended Judgment shall be added to the Storage Adjustment. When Lake Berryessa spills, and all carryover storage has been spilled or otherwise eliminated, the Storage Adjustment shall be re-set to zero. The Storage Adjustment shall never be less than zero. "Solano Project Diversions," for the purpose of this paragraph, means water delivered to Solano Project Participating Agencies and Putah South Canal Conveyance losses (Canal inflows minus deliveries from canals).

(6) If Solano Project Water that is not within the scope of Solano Project Contract Allocations, as is defined in Section IV of the Second Amended Judgment, ever is stored in an offstream reservoir or reservoirs or underground storage, and, as a result, Lake Berryessa storage levels are reduced below the levels that would occur in the absence of such storage, then the 750,000 af amount in paragraph D.(l) and the 400,000 af amount in paragraph D.(4) shall be adjusted so that Drought Year Requirements will continue to occur at the same frequencies as they would have occurred in the absence of such storage.

E. Illegal Diversion Account

If there is any risk that illegal diversions may take place from lower Putah Creek to a degree that water released by the Solano Project for the purposes of maintaining the minimum flows set forth herein will be significantly depleted, then the procedures set forth in the attached Exhibit "A-1" shall be implemented.

F. Monitoring Requirements ((1), (2), (3), & (4) all shall be satisfied)

(1) SID and SCWA shall continuously measure and record releases from the Putah Diversion Dam to lower Putah Creek, and shall determine and record each day's mean daily release.

(2) SID and SCWA shall forthwith install and maintain flow measurement gauges capable of measuring instream flows on a continuous basis at the Interstate 80 Bridge and near the East Toe Drain. SID and SCWA shall collect and maintain the data recorded by each of these gauges as is necessary to demonstrate their compliance with the flow requirements imposed by this Second Amended Judgment. In addition, SID and SCWA shall make regular measurements of instream flows at Stevenson Road Bridge, Pedrick Road Bridge and Old Davis Road Bridge. If the instream flow measured at Stevenson Road Bridge, Pedrick Road Bridge, or at Old Davis Road Bridge, is less than the minimum instream flow requirements in section A.(2) above on more than an

infrequent basis, then the paragraph A.(2) flow requirements shall start to apply at such measurement point or points, in addition to still applying at the Interstate 80 Bridge. SID and SCWA shall install, maintain, repair, calibrate and operate gauging equipment at such compliance points as may be necessary to ensure and demonstrate their compliance with the provisions of this Exhibit "A". Gaging equipment shall be installed to provide a range of measurement from 0 cfs to at least 200 cfs.

(3) SID and SCWA shall monitor flows in the entire reach of lower Putah Creek from Old Davis Road Bridge to River Mile 0.0 with sufficient frequency and by sufficient means to ensure compliance with the requirement in part A.(3) of this Second Amended Judgment that continuous flow of surface water be maintained in this reach at all times of the year. All measurements and observations of this reach made for purposes of compliance with this requirement shall be recorded.

(4) SID and SCWA shall maintain records, in both paper and electronic format, of all release and flow measurements, all calculated mean daily releases and flows, and all observations required by this Second Amended Judgment. Promptly upon request, these records shall be made available for review and copying by any person during normal business hours at the offices of SID or SCWA.

Exhibit "A-1"

Effects of Illegal Diversions of Water from Lower Putah Creek on Solano Project's Obligations to Maintain Exhibit A Instream Flow Requirements

1. The Solano Project shall satisfy all of the release and instream flow requirements that are specified in Exhibit A at all times, whether or not any illegal diversions of water from lower Putah Creek are occurring, except to the extent that exceptions to the instream flow requirements are authorized by this Exhibit "A-1". These exceptions shall only be authorized during the irrigation season. "Irrigation season" shall mean the period from March 1 through October 31 of each year.

2. To determine the Solano Project's obligations to satisfy the instream flow requirements specified in Exhibit A during times when illegal diversions from lower Putah Creek are occurring, an Illegal Diversion Account shall be established. Starting at the beginning of the sixth irrigation season during which this Illegal Diversion Account is drawn upon, the balance in this account shall be set to 1,000 acre feet at the beginning of each irrigation season, regardless of the account's balance at the end of the prior irrigation season. Prior to the sixth irrigation season in which the Illegal Diversion Account is drawn upon, the balance in the Illegal Diversion Account at the beginning of each irrigation season shall be set to 2,000 acre feet. Any credits made pursuant to Paragraph 9 of this Exhibit "A-1" for any irrigation season shall be in addition to the initial balance. SCWA shall maintain an accurate accounting of all credits to and deductions from this account, and shall provide all members of the LPCCC with an updated accounting of the credits to and deductions from this account on at least a weekly basis whenever such credits or deductions are made.

3. At the beginning of each irrigation season, SCWA shall provide written notice to all riparian landowners of SCWA's projections of the time period during which such landowners legally may divert from each reach of lower Putah Creek during the irrigation season. This notice shall encourage each riparian landowner to provide SCWA with the dates and amounts of the landowner's planned diversions of water from lower Putah Creek during the irrigation season. SCWA may, in its discretion, provide additional notices, making updated SCWA projections of the amounts of water that such landowners legally may divert from lower Putah Creek, to these landowners as the irrigation season progresses. The calculations in these notices shall be based on the formulas and procedures described in Exhibit "A-2". SCWA shall provide a copy of one of each type of all such notices to all of the members of the LPCCC at the same time that SCWA provides such notices to any riparian landowners.

4. The term "illegal diversion" in this Exhibit "A-1" means a diversion that is illegal based on the formulas and procedures described in Exhibit "A-2". The sole purposes of this definition are for implementing the provisions of this Exhibit "A-1" regarding deductions from the Illegal Diversion Account pursuant to this paragraph 4 and modifying the Solano Project's release requirements pursuant to paragraph 6 of this Exhibit "A-1". If SCWA has filed, and is diligently pursuing, a court action against a landowner with an illegal diversion, and if SCWA has complied with all of the provisions of paragraph 3 of this Exhibit "A-1", and is complying with all of the provisions of paragraph 5 of this Exhibit "A-1", then deductions shall be made from the Illegal Diversion Account for any amounts of water that the Solano Project releases from the Putah Diversion Dam into lower Putah Creek during the irrigation season solely for the purpose of compensating for that illegal diversion

while maintaining the instream flows specified in Exhibit "A". "Diligently pursuing" means seeking, at the earliest possible opportunities, a temporary restraining order, a preliminary injunction and a permanent injunction stopping the illegal diversion, and a declaratory judgment regarding the illegality of the diversion. If there is more than one illegal diversion, then all of the provisions of this paragraph shall apply to each illegal diversion.

5. During any period during which deductions are being made from the Illegal Diversion Account, SCWA shall make streamflow measurements on a continuous basis at sufficient locations along lower Putah Creek to make the calculations and determinations described in Exhibit "A-2". During such periods, SCWA shall provide copies of all of the streamflow measurement data, the calculations and determinations described in Exhibit "A-2" and the accurate accounting of all credits to and deductions from the Illegal Diversions Account to all members of the LPCCC at least once each week, and shall post all such data, calculations and determinations on its Internet website, or make such information available to members of the LPCCC and the public by similar electronic means, and shall update such posted information at least once each day.

6. If the balance in the Illegal Diversion Account ever reaches zero, then, during the remainder of the irrigation season during which the Account balance reached zero and while SCWA continues to diligently pursue the court action described in the paragraph 4 above and continues to make available the data, calculations, determinations and reports described in paragraph 5 above, and while the court action is pending, the Solano Project shall not be required to fully comply with any instream flow requirement that is specified in Exhibit "A" for a point that is located downstream of any illegal diversion that is subject to the court action and that occurs after the Illegal Diversion Account balance reaches zero.

Instead, under these conditions, the Solano Project shall release from the Putah Diversion Dam into lower Putah Creek at least the amounts of water that would be sufficient to satisfy all of the instream flow requirements in Exhibit "A", if the illegal diversion that is subject to the court action were not occurring. Under these circumstances, the Solano Project's release obligations shall be adjusted as frequently as necessary to reflect changes in hydrological conditions or changes in the rate of the illegal diversion. Immediately upon the cessation of such illegal diversion, the conclusion, dismissal or cessation of diligent pursuit of the court action, or the end of the irrigation season, whichever occurs first, the Solano Project shall satisfy all of the instream flow requirements in Exhibit "A". If court actions regarding more than one illegal diversion are pending, then the provisions of this paragraph shall apply to all such illegal diversions.

7. Deductions from the Illegal Diversion Account for an illegal diversion may be made only for a maximum of two years after the court action described in paragraph 4 above is filed against the landowner with the illegal diversion. Even if a final judgment is not issued in such court action within two years after the action is filed, and even if such court action is dismissed for any reason, the Solano Project nevertheless thereafter shall be required to maintain all of the instream flows described in Exhibit "A", and no further deductions shall ever be made from the Illegal Diversion Account for any illegal diversion that is or was the subject of the court action. However, if a new illegal diversion with neither a point of diversion nor a place of use that is within the scope of the court action described in paragraph 4 above occurs, then the provisions of paragraphs 4, 5 and 6 above, and this paragraph, shall apply to the new illegal diversion. If there is more than one such new illegal

diversion, then the provisions of paragraphs 4, 5 and 6 above, and this paragraph, shall apply to each such new illegal diversion.

8. If a court of competent jurisdiction issues a final judgment specifying the legality or illegality of any particular diversion from lower Putah Creek, then SCWA shall adjust the formulas and calculations in Exhibit "A-2" to be consistent with the court's judgment, and the adjusted formulas and calculations shall be applied thereafter. Immediately upon making such adjustment, SCWA shall advise all members of the LPCCC of the adjustment. If any party to this Second Amended Judgment disagrees with SCWA's adjustment, then that party may ask the LPCCC to try to resolve the disagreement, or may ask the court that issued this Second Amended Judgment, by noticed motion, to determine what the appropriate adjustment should be.

9. If any adjustments to the formulas or calculations in Exhibit "A-2" are made pursuant to paragraph 8 of this Exhibit A-1, then appropriate adjustments shall be made to the Illegal Diversion Account, for example, credits shall be made for the total amount of all debits that previously were made from the Account for diversion that were treated by SCWA as illegal, but which would have been legal under the adjusted formulas and calculations. If SCWA ceases to diligently pursue any court action described in paragraph 4 of this Exhibit "A-1" before a final judgment is entered, then credits shall be made to the Illegal Diversion Account for the total amount of all debits that previously were made from the Account for the diversion that was the subject of the court action. The credits described in this paragraph shall be spread equally over the same number of irrigation seasons as the number of irrigation seasons during which debits from the Account were made. If the court issues its final judgment during an irrigation season, then the first year of such credits shall be made

immediately to the Account. If the court issues its final judgment not during an irrigation season, then the first year of such credits shall be made during the next irrigation season. Subsequent credits shall be made during the immediately following irrigation seasons.

Exhibit "A-2"

Solano County Water Agency's Methodology for Monitoring and Quantifying the Availability and Use of Riparian Water in Lower Putah Creek

This document provides the Solano County Water Agency's ("SCWA") explanation and basis for its methodology for monitoring and quantifying the availability and use of riparian water in Putah Creek, downstream of the Putah Diversion Dam. SCWA's methodology, hereafter referred to as the Lower Putah Creek Riparian Water Program ("PRWP"), will be used by SCWA to (1) differentiate between and quantify the availability of riparian versus non-riparian waters in Putah Creek, downstream of the Putah Diversion Dam, and (2) identify and quantify illegal water diversions, downstream of the Putah Diversion Dam. SCWA anticipates that implementation of the PRWP will increase the efficiency with which the instream flow requirements of the Solano Project, as specified by the Putah Creek Settlement Agreement, are satisfied, and facilitate the lawful diversion of riparian water downstream of the Putah Diversion Dam.

1.0 OVERVIEW

1.1 Key Elements of Lower Putah Creek Riparian Water Program

The PRWP consists of two components: Pre-irrigation season water availability forecasts, and real-time stream flow monitoring during the irrigation season, where "irrigation season" is defined as March 1 through October 31. Annual water availability

forecasts will be provided to riparian water users prior to the irrigation season, so they and other interested parties can plan and, if necessary, make other arrangements for obtaining irrigation water, before significant time and financial resources are committed to the cultivation of a given crop. Real-time monitoring will be conducted to: (1) determine, on a daily basis, the quantities of riparian water that are available to water users in Lower Putah Creek, and (2) differentiate and quantify, on a daily basis, legal versus illegal riparian diversions.

1.2 Definition of Riparian Water

For the purposes of the PRWP, riparian stream flows are defined as any surface water derived from precipitation or rising groundwater that, given prevailing hydrologic conditions, would occur in Lower Putah Creek in the absence of the Solano Project. Non-riparian water, such as treated wastewater and agricultural return flows originating from a non-riparian source (e.g., pumped groundwater that would not otherwise be tributary to the creek) cannot, by definition, be diverted by riparian water right claimants and, therefore, is not included as a source of riparian water from Lower Putah Creek.

2.0 WATER AVAILABILITY FORECASTS

SCWA's riparian water availability forecasts for Lower Putah Creek will be based on stream flow conditions observed in the Putah Creek drainage, upstream of the Putah Diversion Dam, in the prior (i.e., antecedent conditions) and current water year. Forecasts

will be made on January 1, March 1 and May 1. The January 1 and March 1 forecasts, which will be made before the current rainy season is over, will be based in part on projected stream flow conditions for the balance of the rainy season, while the May 1 forecast, the final forecast for the water year, will be based on actual runoff measured to date. Both the January 1 and March 1 forecasts will include three scenarios, based on the assumption that the balance of the rainy season will either be "wet" (25% exceedance), "normal" (50% exceedance) or "dry" (75% exceedance).

In order to address the differing sources and durations of riparian stream flows (surface stream flows from Putah Creek and/or tributaries to Putah Creek, or rising groundwater), Lower Putah Creek has been divided into five reaches. Water availability forecasts will be made for each reach. Stream reach designations and the analytic framework for making water availability forecasts are presented in "Attachment 1".

3.0 REAL-TIME MONITORING

3.1 Quantifying Available Riparian Water Supply

Stream flows and the associated stream flow gains and losses will be monitored by reach, on a continuous basis, and the availability of riparian water and extent of illegal diversions will be determined daily, using a series of water mass balance equations to track the quantities of both riparian and non-riparian water entering and leaving each stream reach.

A summary of the equations used to define riparian water availability, by stream reach, is presented in Attachment 1.

Although the determination of net riparian flow is based on real-time stream flow measurements, there are situations where real-time stream flow measurements are not practical and therefore simplifying assumptions must be used, much as they are in the Condition 12 Settlement Agreement for the Upper Putah Creek drainage. For example, under existing conditions it is difficult to measure accurately real-time stream flow losses in the stream reach now inundated by Lake Solano. Consequently, a "fixed" loss figure previously adopted by the United States Bureau of Reclamation may be used in the water mass balance calculation for this reach. In all cases, the simplifying assumptions used to quantify the availability of riparian water are purposely conservative in the sense that they tend to overstate the availability of riparian stream flows. Overstating riparian water availability is preferred, since it presumably increases the enforceability of the PRWP and its acceptability to riparian water users.

3.1.1 Data Collection

3.1.1.1 Measurement of Riparian Diversions

Riparian diversions will either be measured directly, using an appropriate meter and assuming landowner/operator permission is obtained, or indirectly, via measurement of creek stream flows in the vicinity of the diversion. Riparian diversions typically constitute a

readily measurable fraction of the total stream flow in any given reach (500-2,000 gallons per minute, or about 1-5 cubic feet per second), and are therefore easily detected by continuously measuring stream flows entering and leaving a given stream segment.

3.1.1.2 Measurement of Agricultural Return Flows and Wastewater Discharges

The agricultural return flows entering Lower Putah Creek are for the most part non riparian water sources, as are the treated wastewater discharges from the University of California - Davis (U.C. Davis) water treatment facility, which enter Lower Putah Creek near Old Davis Road. Nevertheless, these water sources must be quantified for water mass balance accounting purposes. The University's treated wastewater discharges are measured and recorded by the treatment plant operators. Most of the agricultural return flows are too small and/or sporadic to warrant direct measurement, and will therefore be estimated, or if insignificant relative to the total creek stream flow, ignored. However, one notable exception is the Willow Canal, which discharges into Lower Putah Creek just upstream of Pedrick Road. Discharges from the Willow Canal, which is operated by the Yolo County Flood Control and Water Conservation District (YCFC&WCD), will be measured as necessary.

3.1.1.3 Measurement of Groundwater Seepage and Evapotranspiration

The amounts of groundwater seepage (into or out of the creek) and water lost to open-water evaporation and transpiration by riparian vegetation vary gradually over time, in comparison to the fluctuating gains and losses associated with water diversions and

agricultural return flows. For the purposes of the PRWP, the net flow gain or loss from these factors (groundwater seepage, evaporation and transpiration) are combined into a single term that represents the natural or "background" net stream flow gain or loss rate within a given reach. Background gains and losses are most easily quantified as the difference in stream flow over a given reach ("top of reach" stream flow versus "bottom of reach" stream flow), in the absence of any diversions or "intra reach inflows."

Groundwater seepage along the reach from I-505 to Stevenson Bridge typically transitions from net loss (seepage out of the creek) to net gain (seepage into the creek). The location of the transition point and the total amount of influent seepage along the gaining stretch depend on the regional groundwater levels in the underlying groundwater basin. This reach will be subdivided into two sub-reaches when necessary to calculate riparian water availability. The upstream end of the gaining segment will be detected by periodic stream flow measurements and/or temperature changes in the creek.

3.1.1.4 Special Situations

Pumping from Riparian Wells

There is no clear boundary between wells that induce additional seepage from the creek and wells that pump regional groundwater; the percentage of pumped water that consists of induced seepage decreases gradually with depth and horizontal distance from the creek. A pragmatic approach adequate for the purpose of the PRWP is to include in the accounting the effects of a well if its effect on stream flow can be detected by the stream flow

monitoring program. The philosophy behind this approach is that well pumping does not matter if its effects on stream flow are not measurable; and if the effects are measurable, then the evidence and justification for including the well as a riparian diverter are already at hand. In practice, it is unlikely that wells more than about 500 feet from the creek or more than 100 feet deep will measurably affect stream flow.

Impoundments Below Mace Boulevard

Riparian water accounting is slightly more complicated at the downstream end of Putah Creek, between Mace Boulevard and the Toe Drain in the Yolo Bypass. Two impoundments are created in the creek channel each year to provide pumping pools for irrigation operations. The lower impoundment is a flashboard dam operated jointly by Los Rios Farms and the California Department of Fish and Game. Frequently, some of the water impounded behind this dam is water that is diverted from the Toe Drain of the Yolo Bypass at a pumping station about 1 mile north of the dam and conveyed to the impoundment by a canal. It may be necessary to gage the inflows from this canal into Putah Creek to determine the availability of Putah Creek riparian water in the impoundment. The issue may be moot, however, because the downstream compliance point for resident native fish flows is at river mile 0, which is upstream of the impoundment.

The upper impoundment is a temporary dirt berm across the channel that provides a crossing for farm vehicles in addition to creating a pumping pool. The berm is at about river mile 1.0 (aligned with country road 106B), and the impounded water derives entirely from Putah Creek. Irrigation return flows from adjacent fields may include water that originated

from Toe Drain diversions, and these return flows will be measured or estimated in the same manner as for return flows in other reaches of the creek.

Riparian Diversions from Pools in the Creekbed

Prior to construction of the Solano Project, landowners in a few locations were able to pump water from natural or constructed pools in the creekbed after live flow in the creek had ceased in summer. These pools were separate from the well-documented gaining reach above Stevenson Bridge, where groundwater seepage into the creekbed can create surface water stream flows in the absence of surface water inflows from upstream reaches. The accounting methodology described here does not encompass the water in isolated pools that would have been present in the absence of the Solano Project. The historical number of pools is thought to be small, and the pumping rates they could sustain also were probably small.

The possible availability of riparian water from isolated pools will be dealt with on a case-by-case basis. If a landowner can provide evidence that persistent pools existed on his or her property during periods of discontinuous streamflow prior to the Solano Project construction, then the sustained pumping yield of those pools will be estimated to quantify the amount of riparian water presently available to the landowner from that source. The yield will be estimated from the pool volume and the permeability of the surrounding streambed materials, which may release shallow groundwater when the pool level is lowered by pumping.

New Diversions and Return Flows

As parcels change ownership or existing landowners modify their farming operations, some diversions and return flows may be added and others discontinued. Word of mouth and the annual riparian water forecast mailing should be sufficient to inform any newcomers that riparian diversions from Lower Putah Creek are monitored and regulated. The new users will be encouraged to join the cooperative effort to manage and utilize riparian water supplies. Any changes in discharges by U.C. Davis, YCFC&WCD, and other agencies or industries hopefully will also be communicated to the Solano County Water Agency to facilitate a smooth transition. Any unreported changes will eventually be detected by the stream flow monitoring program, periodic field surveys, neighboring landowners, or the streamkeeper.

Uncooperative Riparian Diverters

It is hoped that all riparian diverters will cooperate with each other and with the Solano County Water Agency to make efficient use of the available riparian water supply without any illegal diversions. However, it is possible that some landowners will attempt to conceal their diversions or refuse to provide information about when and how much water they are diverting, or when and where return flows occur. Fortunately, all of this information can be obtained anyway. It would be impossible to conceal a significant diversion for very long because the pumping equipment and power supplies are large, visible, and make sound and because the effects of the diversion will be detected by the stream flow monitoring program. The pumping rate at any diversion can be measured fairly accurately by gaging the stream flow immediately upstream and downstream of the diversion. Return flows can

similarly be estimated by surveys of the field drainage patterns and the direct observation of the return flows.

3.2 Quantifying Illegal Diversions

Any diversion in excess of the calculated net riparian flow is considered illegal. Illegal diversions, like net riparian flow, will be monitored and quantified by reach, and to the extent possible, by individual diverters. A summary of the equations used to quantify illegal diversions is presented in Attachment 1.

If total riparian diversions in any given reach exceed the available riparian supply and the diverters are unwilling to voluntarily reduce their total diversions to match the available supply, and these actions adversely affect the Solano County Water Agency, then the Agency may sue some or all of the active diverters and seek court orders addressing the illegal diversions. It is hoped that this type of enforcement action will not be necessary. The PRWP will provide all of the data needed on a real-time basis to enable the active riparian diverters to manage their activities and restrict the locations and rates of their diversions so that they remain within the legally available supply.

3.3 Public Access to Riparian Water Accounting Data and Calculations

The Solano County Water Agency will conduct the data collection activities and complete the calculations necessary to generate the pre-irrigation season water availability

forecasts and the real-time riparian water availability determinations. All data collected for these purposes and all formulas and computer programs used in the calculations will be available on request to any interested agency, group or individual. The Solano County Water Agency will publish the data and results on its website and update the information approximately daily during the irrigation season.

The Solano County Water Agency will deliver the first (January) pre-season water availability forecast by mail to all riparian landowners along Lower Putah Creek. Landowners may at that time request that the subsequent forecasts (March and May) also be sent by mail if the landowner is unable to access the information by Internet. It would not be practical to disseminate the real-time monitoring data by mail because it will be updated daily during the irrigation season. Active diverters who need the daily information will be able to view it on the Solano County Water Agency's website or call the Agency to obtain the information by telephone.

ATTACHMENT 1 TO EXHIBIT "A-2"

1.0 Pre-Irrigation Season Predictions

A) Objective:

To estimate future availability of riparian stream flows, based on projected and/or prior hydrologic conditions in the Putah Creek drainage. For pre-irrigation season prediction purposes, assume riparian stream flows consist of surface runoff from precipitation and rising groundwater.

B) Analytic Approach:

i) Divide Lower Putah Creek into the following reaches:
   a) Putah Diversion Dam to Highway 505 Bridge (a "losing reach")
   b) Highway 505 Bridge to Stevenson Bridge (a "gaining reach")
   c) Stevenson Bridge to I-80 Bridge (a "losing reach")
   d) I-80 Bridge to Mace Boulevard (a "losing reach")
   e) Mace Boulevard to Yolo Bypass (a "losing reach")

(Reach designations based on hydrogeologic features, proximity of suitable stream flow gaging sites and existing riparian diversions. When necessary, reach "b" will be subdivided into two sub-reaches.)

ii) Predict average monthly flow and date of zero flow for each of the above riparian water sources, in each of the five reaches:
   a) Surface runoff: calculate using statistical relationships derived from historical data.
      - Stream flow recession curves derived from stream flow gaging data for "At Winters", "Near Winters" and "Near Davis" stream flow gaging stations.
      - Stream reach percolation/evapotranspiration loss estimating algorithms developed for the Solano County Water Agency's Lower Putah Creek stream flow model.

   b) Rising groundwater: calculate using statistical relationships derived from historical data.
      - Stream reach groundwater gain/loss estimating algorithms developed for the Solano County Water Agency's Lower Putah Creek streamflow model.

C) Timing of Pre-Irrigation Season Predictions:

i) January 1 – Predictions based on hydrology of water year to date and three scenarios for the remainder of the year's rainy season: "wet year" (25% Lake

Berryessa inflow exceedance), "normal year" (50% Lake Berryessa inflow exceedance) and "dry year" (75% Lake Berryessa inflow exceedance).

ii) March 1 – Predictions based on hydrology of water year to date and projected 25%, 50% and 75% exceedance runoff rates for the remainder of the year's rainy season .

iii) May 1 – Final prediction based on hydrology of the water year through April.

2.0 Methodology for Quantifying Riparian Streamflows During Irrigation Season

Note: Riparian stream flows are defined here as any surface water derived from precipitation or rising groundwater that, given prevailing hydrologic conditions, would occur in Lower Putah Creek in the absence of the Solano Project. Non riparian water, such as treated wastewater and agricultural return flows originating from a non riparian source (e.g., pumped groundwater) cannot, by definition, be diverted by riparian water right claimants and therefore, are not included as a source of riparian water from Lower Putah Creek.

A) Overview:

i) Calculate, on a daily basis, pre Solano Project stream flows (i.e., stream flow that would occur if there were no dams – no Solano Project) at the Putah Diversion Dam site .

ii) Compare computed daily pre Solano Project stream flow (i.e., stream flow that would occur if there were no dams – no Solano Project) with current Putah Diversion Dam release – determine what fraction of the current release is stored water or any other non riparian water source, versus riparian stream flows .

iii) Using real-time stream flow monitoring data to quantify prevailing percolation/evapotranspiration losses and any non riparian water sources, calculate riparian flows by stream reach. The total quantity of riparian water in any given reach is defined here as the sum of all riparian water sources less percolation/evapotranspiration losses.

B) Analytical Approach:

i) Riparian stream flows at Putah Diversion Dam site:

$$USRSF = LBI + IDTI - IDCL$$

Where: USRSF = Riparian stream flow at Putah Diversion Dam

LBI = Computed/measured Lake Berryessa inflow (less any associated non riparian flow)

IDTI = Inter Dam Reach tributary inflow (less any associated non riparian flow)

IDCL = channel percolation/evapotranspiration losses that would occur in the Inter Dam Reach in the absence of Lake Solano

(A stream gage will be placed on Pleasants Creek to facilitate real-time estimation of inflow from inter-dam tributaries. For accounting purposes, seepage and evaporation losses from Lake Solano are assumed to be constant and will therefore be characterized by a fixed continuous loss rate term).

ii) Riparian stream flows in first reach downstream of Putah Diversion Dam (Putah Diversion Dam to 505 Bridge):

1RRSF = USRSF + TRSF + 1RAG – 1RCL

Where: 1RRSF = Computed riparian stream flow in Reach 1
USFSF = Computed riparian stream flow at Putah Diversion Dam
TRSF = Measured stream flow from tributaries (Dry Creek, McCune aka Pleasant Creek), less any associated non riparian flow
1RAG = Ag return flow water originating from a riparian source in = reach 1
1RCL = Measured channel percolation/evapotranspiration losses in reach 1

Notes:
(1) Agricultural return flow water that originates from a riparian water source (riparian water diverted from Putah Creek or associated tributaries) is classified as riparian water and therefore can be lawfully diverted by other riparian water right claimants.

iii) Riparian stream flows in second reach downstream of Putah Diversion Dam (505 Bridge to Stevenson Bridge):

2RRSF = 1RRSF – 1RD (+/-) 2RCL + 2RAG

Where: 2RRSF = Computed riparian stream flow in Reach 2
1RRSF = Computed riparian stream flow in Reach 1
2RCL = Combined sum of groundwater "gains", channel percolation/evapotranspiration losses in reach 2
2RAG = Ag return flow water in reach 2 originating from a riparian source
1RD = Riparian diversion in Reach 1

Notes:

(1) There are no significant tributaries entering Putah Creek in this Reach.

(2) Due to the spatial and temporal variability of rising groundwater, portions of the so called "gaining reach" (generally the upstreammost third of the reach) frequently lose rather than gain water. Accordingly, there are instances when some of the riparian diverters within Reach 2 have access

to rising groundwater, while others do not. When necessary, Reach 2 will be broken into two sub reaches for the purpose of quantifying riparian stream flows.

iv) Riparian stream flows in third reach downstream of Putah Diversion Dam (Stevenson Bridge to I-80):

3RRSF = 2RRSF – 2RD – 3RCL + 3RAG

Where: 3RRSF = Computed riparian stream flow in Reach 3
2RRSF = Computed riparian stream flow in Reach 2
2RD = Riparian diversions in Reach 2
3RCL = Measured channel percolation/evapotranspiration losses in reach 3
3RAG = Ag return flow water in reach 3 originating from a riparian source

v) Riparian stream flows in fourth reach downstream of Putah Diversion Dam (I-80 to Mace Boulevard) :

4RRSF = 3RRSF– 3RD – 4RCL + 4RAG

Where: 4RRSF = Computed riparian stream flow in Reach 4
3RRSF = Computed riparian stream flow in Reach 3
3RD = Riparian diversion in Reach 3
4RCL = Measured channel percolation/evapotranspiration losses in reach 4
4RAG = Ag return flow water in reach 4 originating from a riparian source

vi) Riparian stream flows in fifth reach downstream of Putah Diversion Dam (Mace Boulevard to RM 0.0 aka Yolo Bypass) :

5RRSF = 4RRSF– 4RD –5RCL + 5RAG

Where: 5RRSF = Computed riparian stream flows in Reach 5
4RRSF = Computed riparian stream flows in Reach 4
4RD = Riparian diversions in Reach 4
5RCL = Measured channel percolation/evapotranspiration losses in reach 5
5RAG = Ag return flow water in reach 5 originating from a riparian source

Note: The above formulas will be adjusted as necessary to reflect changing conditions such as new or terminated diversions or discharges.

3.0 Methodology for Quantifying Illegal Riparian Diversion During Irrigation Season

Note: Diversions in excess of the available riparian stream flow (i.e., diversion of water released from storage or other non riparian flow) are considered illegal.

A) Overview:

For each reach, calculate difference between daily riparian diversions and computed riparian streamflow. If riparian diversions exceed computed riparian streamflow, the difference is considered to be the result of illegal diversions.

B) Analytical Approach:

i) Illegal riparian diversions in first through fifth reaches downstream of Putah Diversion Dam:

If: (ith)RD>(ith)RRSF
Then: (ithIRD) = (ithRD) – (ithRRSF)

Where: (ith)RD = Riparian diversions in Reach 1, 2, 3, 4 or 5
(ithRRSF) = Computed riparian streamflow in Reach 1, 2, 3, 4 or 5
(ithIRD) = Computed illegal diversions in Reach 1, 2, 3, 4 or 5

The Solano County Water Agency is under no obligation to enforce against any illegal riparian diverters whose actions do not adversely affect the Agency's ability to comply with any contractual or legal obligation.

Exhibit 3

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

Coordination Proceeding Special Title (Rule 1550b) PUTAH CREEK WATER CASES	JUDICIAL COUNCIL COORDINATION PROCEEDING NUMBER 2565
CITY OF DAVIS, Cross-Complainant, v. SOLANO IRRIGATION DISTRICT, SOLANO COUNTY WATER AGENCY, CITY OF FAIRFIELD, CITY OF VACAVILLE, CITY OF VALLEJO, CITY OF SUISUN and MAINE PRAIRIE WATER DISTRICT, Cross-Defendants.	SOLANO COUNTY SUPERIOR COURT CASE NUMBER 108552 **SECOND AMENDED JUDGMENT**

All causes of action of the cross-complaint of the City of Davis in Solano Irrigation District et. al. v. the Names of all Appropriative Water Rights Holders, et. al., Solano County Superior Court No. 108552, were regularly tried before the Court sitting without a jury. This trial occurred in coordination with the trials of the second cause of action of the cross-complaint filed by the Regents of the University of California in this action and Putah Creek Council v. Solano Irrigation District and Solano County Water Agency, Sacramento County Superior Court No. 515766. This Second Amended Judgment, however, is entered only in Solano Irrigation District et. al. v. the Names of all Appropriative Water Rights Holders, et. al., Solano County Superior Court No. 108552.

The trial was held on March 4, 1996 through April 5, 1996. Appearing as attorneys for cross-complainant City of Davis was Law Offices of Martha H. Lennihan, by Martha H. Lennihan. Appearing as attorneys for cross-defendants Solano Irrigation District and Solano County Water Agency were Minasian, Minasian, Minasian, Spruance, Baber, Meith & Soares, by Tim O'Laughlin and William C. Paris, III.

Following the trial, the Court, having heard the testimony and considered the evidence, rendered its Judgment in this action. Judgment was entered on August 23, 1996. The cross-defendants appealed from the Judgment.

On December 19, 1996, the Court entered an Order Awarding Attorneys Fees, awarding fees and costs to the City of Davis and its experts. The cross-defendants appealed from that Order.

While the Judgment and Order were on appeal, and before any decision on the appeals, the parties reached a stipulated settlement of the issues raised in this action. Pursuant to the terms of the settlement, the Court of Appeal referred the action to this Court for the limited purpose of considering the proposed settlement and amended judgments.

By motion filed on August 28 , 2000, the parties jointly requested that the Court amend its Judgment in this action and its Order Awarding Attorneys Fees to conform to the terms of a settlement stipulated to among the parties. The Court considered the proposed amendments to the Judgment and the Order, and the briefs and evidence offered by the parties in support of the proposed amendments. The Court found that the proposed amendments to the Judgment and the Order were consistent with the requirements of Article X, Section 2 of the California Constitution, the public trust doctrine, and section 5937 of the California Fish and Game Code. Accordingly, the Court found that the Judgment and Order should be amended as requested, and entered the Amended Judgment requested and stipulated to by the parties on September 8, 2000.

By motion pursuant to Section VI of the Amended Judgment, the parties have jointly requested that the Court amend the Amended Judgment in this action to conform to the terms of an amended settlement stipulated to among the parties. The Court has considered the proposed amendments to the Amended Judgment, and the briefs and evidence offered by the parties in

support of the proposed amendments. The Court finds that the proposed amendments to the Amended Judgment are consistent with the requirements of Article X, Section 2 of the California Constitution, the public trust doctrine, and section 5937 of the California Fish and Game Code. Accordingly, the Court finds that the Amended Judgment should be amended as requested, and that the Second Amended Judgment requested and stipulated to by the parties should be entered.

WHEREFOR, the Amended Judgment entered in this action on September 8, 2000 is hereby AMENDED and superseded by this Second Amended Judgment, and the Court now ORDERS AND ADJUDGES AS FOLLOWS:

I. PERMANENT INJUNCTION

The Solano Irrigation District ("SID") and Solano County Water Agency ("SCWA") forthwith shall modify their operations of, and other conduct regarding, the Solano Project as specified in Exhibit "A" attached hereto and incorporated herein fully by reference.

II. ENFORCEMENT ACTIONS

If the Solano Project is operated to comply with the release and instream flow requirements specified in Exhibit "A" hereto, then the City of Davis shall not pursue an action or proceeding for contempt of this Second Amended Judgment based on a violation or violations of one or more of the minimum mean daily flow requirements established in Exhibit "A" section A.(2), B.(2), C.(1), C.(2), C.(3), C.(4) and D.(3), or one or more of the minimum instantaneous flow requirements established in Exhibit "A" section A.(2), B.(2), C.(1), C.(2), C.(3), and C.(4), so long as:

A. The failure to comply was solely the result of an unanticipated and unforeseeable increase in a diversion or diversions from, or reduction in an inflow or inflows into, Putah Creek downstream of the Putah Diversion Dam, by some person or entity besides SID or SCWA, and the increase or reduction occurred so rapidly that the Solano Project could not reasonably maintain compliance by increasing the releases from the Putah Diversion Dam into lower Putah Creek; and

B. The four-day running mean flow at the relevant compliance point equaled or exceeded the applicable minimum mean daily flow; and

C. The instantaneous flow at the relevant compliance point was not more than 5 cfs less than the applicable minimum mean daily flow if the violation occurred during the period from January through July, and was not more than 3 cfs less than the applicable minimum mean daily flow if the violation occurred during the period from August through December.

III. LOWER PUTAH CREEK COORDINATING COMMITTEE

A. The parties shall, within six months after the filing of the Amended Judgment, form a Lower Putah Creek Coordinating Committee ("LPCCC") to carry out the responsibilities assigned to the LPCCC under the Amended Judgment.

The LPCCC shall be organized and governed in a manner that, at a minimum, incorporates the following:

(1) Membership: The LPCCC shall consist of ten members with five members representing the Putah Creek Council, the City of Davis, and the Regents of the University of California (the "Yolo parties") and five members representing the Solano County Water Agency, the Solano Irrigation District, the Maine Prairie Water District, and the Cities of Vacaville, Fairfield, Vallejo and Suisun City (the "Solano parties"). The selection of the Yolo parties' representatives shall be undertaken in a manner to be determined by the Yolo parties; the selection of the Solano parties' representatives shall be undertaken in a manner to be determined by the Solano parties.

(2) Voting:

(a) Full LPCCC Membership: Matters before the LPCCC shall be deemed approved only if a majority of the Yolo members and a majority of the Solano members approve the action. A quorum shall be deemed present if a minimum of three members is present from each side. Alternates may be selected and shall have the voting rights of the regular members not in attendance.

(b) Rotation of Chairmanship: A chairman and vice-chairman shall be elected (or selected by agreement of all LPCCC members) to serve on an annual basis. If the first chairman elected (or selected) is a Solano party representative, then the first vice-chairman shall be a Yolo party representative, and conversely if the first chairman selected is a Yolo party

representative, then the first vice-chairman shall be a Solano party representative. Thereafter, the chairman and vice-chairman shall alternate between a Yolo party representative and a Solano party representative. The chairman and vice-chairman together shall constitute an executive committee. In situations where emergency actions must be taken before the LPCCC or the Core Group can be convened, either in person or by conference telephone call, the executive committee shall be authorized to act without the full LPCCC or the Core Group. In that event, the executive committee immediately shall report its actions to the full LPCCC by fax or e-mail, and shall obtain ratification or further directions from the full LPCCC.

(c) Core Group: A "Core Group" shall be formed. It shall be comprised of six members, of whom three shall be representatives of the three Yolo parties, and three shall be selected by the Solano parties' representatives.

At the discretion and written request of any member of the Core Group, a matter otherwise subject to vote by the full LPCCC shall be dealt with solely by the Core Group. Any action dealt with by the Core Group shall only be approved if at least two of the Core Group members representing the Yolo parties and two of the Core Group members representing the Solano parties shall have voted to approve the action.

(3) Scope of Authority: The LPCCC shall have the responsibility to undertake the following:

(a) To monitor implementation of the Putah Creek Settlement Agreement and to make an annual report to the Court and to the parties to the settlement agreement.

(b) Through the Streamkeeper and any other means that may be approved by the LPCCC, to monitor the condition of Putah Creek from Putah Diversion Dam to the Yolo Bypass ("lower Putah Creek") and to make recommendations to appropriate agencies about the condition of the waterway and actions appropriate to preserve and protect this stretch of Putah Creek.

(c) To undertake maintenance, restoration and enhancement measures with respect to lower Putah Creek resources and to support and coordinate the efforts

of public agencies, private property owners and non-profit associations in furtherance of such maintenance, restoration and enhancement.

(d) To serve as a forum for discussion and possible resolution of lower Putah Creek related concerns and issues. Provided, however, this provision shall not be construed to give the LPCCC any authority to amend this Second Amended Judgment.

(e) To coordinate with the Reclamation Board and the Department of Water Resources on flood control issues regarding Putah Creek.

(f) To develop a system to share data regarding lower Putah Creek.

(g) To develop an active public education/information program on Lower Putah Creek.

(h) To seek grants and funds where appropriate for projects in pursuit of the above goals.

(i) To oversee the Streamkeeper. The Streamkeeper shall be employed by SCWA except as otherwise determined by the LPCCC after entry of this Second Amended Judgment.

(j) To establish standing and ad hoc committees, including a Technical Committee, as may be necessary or appropriate to further the LPCCC's responsibilities.

(4) The LPCCC and any standing committees shall comply with the Ralph M. Brown Act, Government Code sections 54950—54962.

(5) SCWA shall provide administrative support for the LPCCC, any standing or ad hoc committees and the Streamkeeper.

(6) As part of the Parties' ongoing efforts to protect and enhance the instream values associated with lower Putah Creek, SCWA shall contribute, in coordination with the contributions and activities specified in Section III.H. hereof, the following amounts of money, which shall be utilized for the specified activities. Each specific expenditure of money shall be authorized in advance by the LPCCC, and the LPCCC shall supervise the specified activities.

(a) $10,000 per year for native vegetation preservation and

enhancement, including the identification of areas along the lower Putah Creek dominated by non-native species, and their removal and replacement with native trees and grasses. This work will be coordinated with efforts by other individuals and entities involved in similar removal and replacement efforts.

(b) $55,000 per year for the monitoring of wildlife, including birds, mammals, reptiles and amphibians which live in and around lower Putah Creek.

(c) Amounts, if any, to be determined by SCWA for acquisition of easements from voluntary, willing sellers, for the maintenance and enhancement of the biological resources of lower Putah Creek. These acquisitions shall be coordinated with the development of a long-term plan. The development of this plan shall be coordinated with other interested entities and individuals.

(d) $55,000 per year for the monitoring of native fish in lower Putah Creek.

(e) $40,000 per year for a Streamkeeper for lower Putah Creek, whose duties shall include, without limitation, preparing reports to the LPCCC regarding all aspects of lower Putah Creek, attending all LPCCC meetings, weekly monitoring and recording of flows at specified locations, weekly monitoring and recording of all diversions from lower Putah Creek, coordinating field trips and public projects to improve lower Putah Creek natural values, and identification and reporting to the LPCCC of any activities that are harmful to the health of lower Putah Creek.

(f) General grants totaling $250,000 in the aggregate for the preservation and enhancement of the natural values of lower Putah Creek, which shall be allocated by the LPCCC.

(g) The amounts provided for in subsections (a), (b), (d) and (e) to the extent not allocated by the LPCCC in any given year shall not carry over to subsequent years. Amounts not expended on the matters enumerated above, however, as authorized by the LPCCC, may be expended for the following additional purposes:

(i) For preservation and enhancement of birds, mammals, reptiles and amphibians that live in and around lower Putah Creek; and

(ii) For preservation and enhancement of native fish in lower Putah Creek.

(h) The contributions specified in subparagraphs (6)(a), (b), (d) and (e) shall be annually adjusted, up or down, in proportion to any changes in the first quarterly IPD published, in the relevant year, in the Survey of Current Business, by the United States Department of Commerce. If the IPD no longer is available, then the most comparable available index shall be used instead.

B. If the parties to this Second Amended Judgment have not reached agreement on the exact form and functions of the LPCCC within six months after the filing of the Amended Judgment, then the Court, exercising its reserved jurisdiction, shall mediate the development of a final agreement with respect to the form and functions of the LPCCC and, if the parties fail to agree during the mediation, shall have the authority to mandate the form and functions of the LPCCC after considering any arguments of the parties. If the LPCCC ever is unable to decide how to spend any of the moneys that are described in subsection III.A.(6) hereof, then the Court, exercising its reserved jurisdiction, shall mediate the development of an appropriate plan to spend such moneys, and, if the LPCCC fails to approve such a plan, then the Court shall have the authority to mandate an appropriate plan for the expenditure of such moneys.

C. The LPCCC shall specify the general duties and responsibilities of the Streamkeeper and shall review and evaluate the Streamkeeper's performance at least once each year. The Streamkeeper shall report directly to the Executive Committee of the LPCCC, and the Executive Committee of the LPCCC shall supervise the Streamkeeper's day-to-day duties and responsibilities.

D. The LPCCC shall determine the scopes of the work to be performed under subparagraphs A.(3)(a), (b), (c) and (d) of this Second Amended Judgment. No expenditures under subparagraphs A.(6)(a), (b), (c), (d), (e) and (f) of this Second Amended Judgment shall be made without the advance approval of the LPCCC.

E. The LPCCC shall pursue and support the following types of measures for anadromous fish, through the fish surveys and the Streamkeeper's work described in subparagraphs A.(6)(d) and (e) and other actions that may be taken by the LPCCC, including seeking additional funding where already identified sources are insufficient and coordinating with other applicable planning efforts:

(1) A survey and analysis of existing spawning gravels for anadromous fish in the reach of lower Putah Creek from the Putah Diversion Dam to Pedrick Road, and the potential for enhancement of these spawning gravels;

(2) A survey and analysis of any obstacles to anadromous fish passage in lower Putah Creek, includes for the purposes of this survey and analysis, the Putah Diversion Dam and any structures downstream therefrom;

(3) The development of a sedimentation management plan for lower Putah Creek that would prevent or mitigate for any damage to fish habitat that may be caused by releases of sediment at the Putah Diversion Dam;

(4) Monitoring of lower Putah Creek to determine the extent and timing of chinook salmon, steelhead trout and Pacific lamprey in lower Putah Creek;

(5) Provided, however, that if an HCP process has been initiated within one year of entry of the Amended Judgment and includes a proposed Safe Harbor provision with activities delineated in both the proposed Safe Harbor provision and subparagraphs III.E.(l)—(4), then the LPCCC shall not undertake the activities until either the HCP is finalized or five years have passed since entry of the Amended Judgment.

F. The Core Group may approve changes to any provision of this Section III, provided that such changes do not alter, and are not inconsistent with, any other provision of this Second Amended Judgment. The Core Group shall file any such changes and an explanation of the reasons for the change with the court, for filing with this Second Amended Judgment, within 30 days after the Core Group approves the changes.

G. All data collected during any of the activities referenced in this Section III and all reports and other documents provided to the LPCCC shall be immediately made available for

inspection and copying by any party to this Second Amended Judgment or any interested member of the public during normal business hours. To the extent feasible and reasonable, SCWA shall post on its Internet website, or make available to the public by similar electronic means, all data and reports that must be made available for inspection and copying under the preceding sentence of this paragraph within 15 days after SCWA receives each set of such data and each such report.

H. The parties are encouraged to augment, to the degree permitted by applicable law, the sums of money herein committed by SCWA, in order to further the work outlined herein. The parties will provide notice to and coordinate with the LPCCC regarding actions that may affect the scope of the LPCCC's authority and responsibilities with respect to lower Putah Creek as is provided for in this Second Amended Judgment.

IV. LIMIT ON AVERAGE ANNUAL ALLOCATIONS

Solano Project Contract Allocations are defined as the amount of all Solano Project Water delivered to Participating Agencies pursuant to the agreements between SCWA and the Participating Agencies. Solano Project Contract Allocations also include Solano Project Water not delivered during the allocation year and instead stored in Lake Berryessa pursuant to Article 4(c) of the Contract Between the United States and Solano County Water Agency Providing For Water Service (Contract No. 14-06-200-4090R). Putah South Canal Conveyance losses (Canal inflows minus deliveries from Canal) are not included in Solano Project Contract Allocations. During each year, Solano Project Contract Allocations shall be limited such that there are never ten (10) successive years during which, over those ten years, the average Solano Project Contract Allocations exceed 192,350 af per year. The Parties acknowledge that the 10-year average amount of Solano Project Water delivered to Participating Agencies may exceed 192,350 af in certain years due to the delivery of the aforementioned stored water.

V. AWARD OF FEES AND EXPENSES

SCWA and SID have paid to the City of Davis the amount of Five Hundred Fifty-Six Thousand Two Hundred Eighty-Seven Dollars ($556,287.00).

VI. RESERVED JURISDICTION

This Court reserves continuing jurisdiction over the parties to provide for the administration and enforcement of this Second Amended Judgment, including jurisdiction to modify this Second Amended Judgment in accordance with applicable law.

DATED: _____, 2002

_____
HONORABLE RICHARD A. PARK
JUDGE OF THE SUPERIOR COURT

Exhibit "A"

Solano Project Releases and Instream Flows for Lower Putah Creek

A. Rearing Flows ((1), (2) & (3) all shall be maintained)

(1) Solano Irrigation District ("SID") and Solano County Water Agency ("SCWA") shall, for each month as set forth below, maintain mean daily releases from the Putah Diversion Dam to Creek downstream of the Putah Diversion Dam (hereinafter "lower Putah Creek") that are equal to or in excess of the following rates, expressed in cubic feet per second ("cfs"):

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Mean Daily Release (cfs)	20	25	25	25	16	26	46	43	43	43	34	20

These mean daily releases shall be measured at the Putah Diversion Dam and made from the Putah Diversion Dam into lower Putah Creek immediately downstream of the Putah Diversion Dam. The instantaneous releases at the Putah Diversion Dam shall at all times equal or exceed ninety percent (90%) of the applicable mean daily release requirement.

(2) SID and SCWA shall, for each month as set forth below, release sufficient water from the Putah Diversion Dam into lower Putah Creek immediately downstream of the Putah Diversion Dam to maintain mean daily flows in lower Putah Creek that are equal to or in excess of the following rates, expressed in cubic feet per second ("cfs"):

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Mean Daily Flows (cfs)	5	10	10	15	15	25	30	20	15	15	10	5

These mean daily flows shall be maintained and measured at or in the near vicinity of the Interstate 80 Bridge. The instantaneous flow at the Interstate 80 Bridge shall at all times equal or exceed ninety percent (90%) of the applicable mean daily flow requirement.

(3) SID and SCWA shall at all times of the year release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a continuous flow of surface water in Putah Creek from the Old Davis Road Bridge to the western boundary of the Yolo Bypass, identified as River Mile 0.0 on trial exhibit number 41.

B. Spawning Flows ((1), (2) & (3) all shall be maintained)

(1) At a time between February 15 and March 31 of every calendar year, SID and SCWA shall release a three-consecutive-day pulse of water from the Putah Diversion Dam into lower Putah Creek equal to or in excess of the following rates:

(a) 150 cfs for the first 24 hours;

(b) 100 cfs for the second 24 hours; and

(c) 80 cfs for the third 24 hours.

SID and SCWA may, in their discretion, time this pulse so as to utilize any uncontrolled flows that may provide some or all of the water needed to comply with this requirement.

(2) In every year, for the 30 days that follow the three-day pulse release described in paragraph B.(1), SID and SCWA shall release sufficient water from the Putah Diversion Dam into lower Putah Creek to maintain a mean daily flow equal to or in excess of 50 cfs at the Interstate 80 Bridge. During this period, the instantaneous flows at the Interstate 80 Bridge shall at all times equal or exceed 45 cfs.

(3) In every year, at the conclusion of the 30th day of the 50 cfs spawning flows described in subsection B.(2), SID and SCWA then shall ramp down the controlled releases from the Putah Diversion Dam gradually over a seven-day period until the flows are in compliance with the applicable requirements set forth in subsections A.(2), A.(3), C.(3) and C.(4) of this Exhibit "A".

C. Supplemental Flows ((1), (2), (3), & (4) all shall be maintained)

The requirements set forth thus far herein are intended to protect the aquatic and related resources found in lower Putah Creek. It has been agreed, however, that in addition to maintaining these resources, SID and SCWA shall provide supplemental flows in an attempt to enhance the aquatic and related resources of lower Putah Creek above that baseline. Accordingly:

(1) SID and SCWA shall, during the period from November 1 through December 15 of each calendar year, release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 5 cfs, and an instantaneous flow of at least 2 cfs, at the point where Putah Creek discharges into the Toe Drain on the eastern side of the Yolo Bypass (the "East Toe Drain").

(2) Beginning sometime between November 15 and December 15 of each calendar year, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 50 cfs, and an instantaneous flow of at least 45 cfs, for five consecutive days at the point where Putah Creek discharges into the East Toe Drain. If a flash board dam is present on Putah Creek near the East Toe Drain during that period, and if the flash boards are removed during that period, then to the extent feasible the first day of the 50 cfs pulse flow at the East Toe Drain shall follow the removal of the flash boards. The precise timing of the initiation of the 50 cfs pulse flow shall be set each year by the Lower Putah Creek Coordinating Committee established in accordance with section III of the Second Amended Judgment (the "LPCCC"). The objective of the LPCCC shall be to time the release so as to maximize the potential for such flows to attract anadromous fish into Putah Creek. If the exact date of releases has not been established or agreed upon by the LPCCC, then the releases dealt with in this subparagraph shall commence on December 1 of the affected calendar year.

(3) Beginning on the sixth day after initiation of the above described 50 cfs pulse flow, and continuing each day thereafter through March 31, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 19 cfs, and an instantaneous flow of at least 14 cfs, at I-80.

(4) Beginning on April 1 of each calendar year, and continuing each day thereafter through May 31, SID and SCWA shall release sufficient water from Putah Diversion Dam to lower Putah Creek to maintain a mean daily flow of at least 5 cfs, and an instantaneous flow of at least 2 cfs, at the point where Putah Creek discharges into the East Toe Drain.

D. Drought Year Flows

(1) During years when total storage in Lake Berryessa is less than 750,000 acre feet ("af") as of April 1 (a "Drought Year"), the release and instream flow requirements set forth in sections D.(2), D.(3) and D.(4) below ("Drought Year Requirements") shall apply instead of the release and instream flow requirements set forth in sections A., B. and C. above ("Non-Drought Year Requirements"). Provided, however, that if after April 1 the total storage in Lake Berryessa rises to 750,000 af or more, then the Non-Drought Year Requirements shall immediately take effect.

(2) During a Drought Year, releases of water from the Putah Diversion Dam into lower Putah Creek shall equal or exceed the following amounts (mean daily values, in cfs, with instantaneous releases always equal to or exceeding 90 % of the listed values):

Oct	Nov	Dec	Jan	Feb	Mar	Apr	Ma	Jun	Jul	Aug	Sep
15	25	25	25	16	26	46	33	33	33	26	15

(3) During a Drought Year, SID and SCWA shall release sufficient water from the Putah Diversion Dam to maintain a continuous flow of surface water in Putah Creek from

Putah Diversion Dam to the Interstate 80 Bridge, and further shall release sufficient water from the Putah Diversion Dam to maintain a minimum mean daily instream flow of 2 cfs at the Interstate 80 Bridge, with instantaneous flows always equal to or exceeding 1 cfs. Under these conditions, SID and SCWA shall not be required to maintain a continuous flow of surface water in the reach of Putah Creek below the Interstate 80 Bridge.

(4) Whenever the release and instream flow requirements set forth in sections D.(2) and D.(3) are in effect for two consecutive years, then during the next year thereafter the Non-Drought Year Requirements shall apply and shall remain in effect for an entire period from April 1 through March 31, unless total storage in Lake Berryessa on April 1 is less than 400,000 af. If the Drought Year Requirements are ever in effect for three or more consecutive years, then the Non-Drought Year Requirements shall apply and remain in effect for an entire period from April 1 through March 31 in the first subsequent year during which total storage in Lake Berryessa on April 1 exceeds 400,000 af.

(5) For the purposes of this section D, "total storage in Lake Berryessa" shall be the actual amount of water that physically is stored in Lake Berryessa (including all carryover storage) plus a Storage Adjustment. As of the date of entry of the Amended Judgment, the Storage Adjustment shall be zero. Thereafter, the amount of any controlled release of water from Lake Berryessa that is not for the purpose of (i) Solano Project Diversions, or (ii) maintaining the flows in lower Putah Creek that are required by the Amended Judgment shall be added to the Storage Adjustment. When Lake Berryessa spills, and all carryover storage has been spilled or otherwise eliminated, the Storage Adjustment shall be re-set to zero. The Storage Adjustment shall never be less than zero. "Solano Project Diversions," for the purpose of this paragraph, means water delivered to Solano Project Participating Agencies and Putah South Canal Conveyance losses (Canal inflows minus deliveries from canals).

(6) If Solano Project Water that is not within the scope of Solano Project Contract Allocations, as is defined in Section IV of the Second Amended Judgment, ever is stored in an offstream reservoir or reservoirs or underground storage, and, as a result, Lake Berryessa storage levels are reduced below the levels that would occur in the absence of such storage, then the 750,000 af amount in paragraph D.(1) and the 400,000 af amount in paragraph D.(4) shall be adjusted so that Drought Year Requirements will continue to occur at the same frequencies as they would have occurred in the absence of such storage.

E. Illegal Diversion Account

If there is any risk that illegal diversions may take place from lower Putah Creek to a degree that water released by the Solano Project for the purposes of maintaining the minimum flows set forth herein will be significantly depleted, then the procedures set forth in the attached Exhibit "A-1" shall be implemented.

F. Monitoring Requirements ((1), (2), (3), & (4) all shall be satisfied)

(1) SID and SCWA shall continuously measure and record releases from the Putah Diversion Dam to lower Putah Creek, and shall determine and record each day's mean daily release.

(2) SID and SCWA shall forthwith install and maintain flow measurement gauges capable of measuring instream flows on a continuous basis at the Interstate 80 Bridge and near the East Toe Drain. SID and SCWA shall collect and maintain the data recorded by each of these gauges as is necessary to demonstrate their compliance with the flow requirements imposed by this Second Amended Judgment. In addition, SID and SCWA shall make regular measurements of instream flows at Stevenson Road Bridge, Pedrick Road Bridge and Old Davis Road Bridge. If the instream flow measured at Stevenson Road Bridge, Pedrick Road Bridge, or at Old Davis Road Bridge, is less than the minimum instream flow requirements in section A.(2) above on more than an

infrequent basis, then the paragraph A.(2) flow requirements shall start to apply at such measurement point or points, in addition to still applying at the Interstate 80 Bridge. SID and SCWA shall install, maintain, repair, calibrate and operate gauging equipment at such compliance points as may be necessary to ensure and demonstrate their compliance with the provisions of this Exhibit "A". Gaging equipment shall be installed to provide a range of measurement from 0 cfs to at least 200 cfs.

(3) SID and SCWA shall monitor flows in the entire reach of lower Putah Creek from Old Davis Road Bridge to River Mile 0.0 with sufficient frequency and by sufficient means to ensure compliance with the requirement in part A.(3) of this Second Amended Judgment that continuous flow of surface water be maintained in this reach at all times of the year. All measurements and observations of this reach made for purposes of compliance with this requirement shall be recorded.

(4) SID and SCWA shall maintain records, in both paper and electronic format, of all release and flow measurements, all calculated mean daily releases and flows, and all observations required by this Second Amended Judgment. Promptly upon request, these records shall be made available for review and copying by any person during normal business hours at the offices of SID or SCWA.

Exhibit "A-1"

Effects of Illegal Diversions of Water from Lower Putah Creek on Solano Project's Obligations to Maintain Exhibit A Instream Flow Requirements

1. The Solano Project shall satisfy all of the release and instream flow requirements that are specified in Exhibit A at all times, whether or not any illegal diversions of water from lower Putah Creek are occurring, except to the extent that exceptions to the instream flow requirements are authorized by this Exhibit "A-1". These exceptions shall only be authorized during the irrigation season. "Irrigation season" shall mean the period from March 1 through October 31 of each year.

2. To determine the Solano Project's obligations to satisfy the instream flow requirements specified in Exhibit A during times when illegal diversions from lower Putah Creek are occurring, an Illegal Diversion Account shall be established. Starting at the beginning of the sixth irrigation season during which this Illegal Diversion Account is drawn upon, the balance in this account shall be set to 1,000 acre feet at the beginning of each irrigation season, regardless of the account's balance at the end of the prior irrigation season. Prior to the sixth irrigation season in which the Illegal Diversion Account is drawn upon, the balance in the Illegal Diversion Account at the beginning of each irrigation season shall be set to 2,000 acre feet. Any credits made pursuant to Paragraph 9 of this Exhibit "A-1" for any irrigation season shall be in addition to the initial balance. SCWA shall maintain an accurate accounting of all credits to and deductions from this account, and shall provide all members of the LPCCC with an updated accounting of the credits to and deductions from this account on at least a weekly basis whenever such credits or deductions are made.

3. At the beginning of each irrigation season, SCWA shall provide written notice to all riparian landowners of SCWA's projections of the time period during which such landowners legally may divert from each reach of lower Putah Creek during the irrigation season. This notice shall encourage each riparian landowner to provide SCWA with the dates and amounts of the landowner's planned diversions of water from lower Putah Creek during the irrigation season. SCWA may, in its discretion, provide additional notices, making updated SCWA projections of the amounts of water that such landowners legally may divert from lower Putah Creek, to these landowners as the irrigation season progresses. The calculations in these notices shall be based on the formulas and procedures described in Exhibit "A-2". SCWA shall provide a copy of one of each type of all such notices to all of the members of the LPCCC at the same time that SCWA provides such notices to any riparian landowners.

4. The term "illegal diversion" in this Exhibit "A-1" means a diversion that is illegal based on the formulas and procedures described in Exhibit "A-2". The sole purposes of this definition are for implementing the provisions of this Exhibit "A-1" regarding deductions from the Illegal Diversion Account pursuant to this paragraph 4 and modifying the Solano Project's release requirements pursuant to paragraph 6 of this Exhibit "A-1". If SCWA has filed, and is diligently pursuing, a court action against a landowner with an illegal diversion, and if SCWA has complied with all of the provisions of paragraph 3 of this Exhibit "A-1", and is complying with all of the provisions of paragraph 5 of this Exhibit "A-1", then deductions shall be made from the Illegal Diversion Account for any amounts of water that the Solano Project releases from the Putah Diversion Dam into lower Putah Creek during the irrigation season solely for the purpose of compensating for that illegal diversion

while maintaining the instream flows specified in Exhibit "A". "Diligently pursuing" means seeking, at the earliest possible opportunities, a temporary restraining order, a preliminary injunction and a permanent injunction stopping the illegal diversion, and a declaratory judgment regarding the illegality of the diversion. If there is more than one illegal diversion, then all of the provisions of this paragraph shall apply to each illegal diversion.

5. During any period during which deductions are being made from the Illegal Diversion Account, SCWA shall make streamflow measurements on a continuous basis at sufficient locations along lower Putah Creek to make the calculations and determinations described in Exhibit "A-2". During such periods, SCWA shall provide copies of all of the streamflow measurement data, the calculations and determinations described in Exhibit "A-2" and the accurate accounting of all credits to and deductions from the Illegal Diversions Account to all members of the LPCCC at least once each week, and shall post all such data, calculations and determinations on its Internet website, or make such information available to members of the LPCCC and the public by similar electronic means, and shall update such posted information at least once each day.

6. If the balance in the Illegal Diversion Account ever reaches zero, then, during the remainder of the irrigation season during which the Account balance reached zero and while SCWA continues to diligently pursue the court action described in the paragraph 4 above and continues to make available the data, calculations, determinations and reports described in paragraph 5 above, and while the court action is pending, the Solano Project shall not be required to fully comply with any instream flow requirement that is specified in Exhibit "A" for a point that is located downstream of any illegal diversion that is subject to the court action and that occurs after the Illegal Diversion Account balance reaches zero.

Instead, under these conditions, the Solano Project shall release from the Putah Diversion Dam into lower Putah Creek at least the amounts of water that would be sufficient to satisfy all of the instream flow requirements in Exhibit "A", if the illegal diversion that is subject to the court action were not occurring. Under these circumstances, the Solano Project's release obligations shall be adjusted as frequently as necessary to reflect changes in hydrological conditions or changes in the rate of the illegal diversion. Immediately upon the cessation of such illegal diversion, the conclusion, dismissal or cessation of diligent pursuit of the court action, or the end of the irrigation season, whichever occurs first, the Solano Project shall satisfy all of the instream flow requirements in Exhibit "A". If court actions regarding more than one illegal diversion are pending, then the provisions of this paragraph shall apply to all such illegal diversions.

7. Deductions from the Illegal Diversion Account for an illegal diversion may be made only for a maximum of two years after the court action described in paragraph 4 above is filed against the landowner with the illegal diversion. Even if a final judgment is not issued in such court action within two years after the action is filed, and even if such court action is dismissed for any reason, the Solano Project nevertheless thereafter shall be required to maintain all of the instream flows described in Exhibit "A", and no further deductions shall ever be made from the Illegal Diversion Account for any illegal diversion that is or was the subject of the court action. However, if a new illegal diversion with neither a point of diversion nor a place of use that is within the scope of the court action described in paragraph 4 above occurs, then the provisions of paragraphs 4, 5 and 6 above, and this paragraph, shall apply to the new illegal diversion. If there is more than one such new illegal

diversion, then the provisions of paragraphs 4, 5 and 6 above, and this paragraph, shall apply to each such new illegal diversion.

8. If a court of competent jurisdiction issues a final judgment specifying the legality or illegality of any particular diversion from lower Putah Creek, then SCWA shall adjust the formulas and calculations in Exhibit "A-2" to be consistent with the court's judgment, and the adjusted formulas and calculations shall be applied thereafter. Immediately upon making such adjustment, SCWA shall advise all members of the LPCCC of the adjustment. If any party to this Second Amended Judgment disagrees with SCWA's adjustment, then that party may ask the LPCCC to try to resolve the disagreement, or may ask the court that issued this Second Amended Judgment, by noticed motion, to determine what the appropriate adjustment should be.

9. If any adjustments to the formulas or calculations in Exhibit "A-2" are made pursuant to paragraph 8 of this Exhibit A-1, then appropriate adjustments shall be made to the Illegal Diversion Account, for example, credits shall be made for the total amount of all debits that previously were made from the Account for diversion that were treated by SCWA as illegal, but which would have been legal under the adjusted formulas and calculations. If SCWA ceases to diligently pursue any court action described in paragraph 4 of this Exhibit "A-1" before a final judgment is entered, then credits shall be made to the Illegal Diversion Account for the total amount of all debits that previously were made from the Account for the diversion that was the subject of the court action. The credits described in this paragraph shall be spread equally over the same number of irrigation seasons as the number of irrigation seasons during which debits from the Account were made. If the court issues its final judgment during an irrigation season, then the first year of such credits shall be made

immediately to the Account. If the court issues its final judgment not during an irrigation season, then the first year of such credits shall be made during the next irrigation season. Subsequent credits shall be made during the immediately following irrigation seasons.

Exhibit "A-2"

Solano County Water Agency's Methodology for Monitoring and Quantifying the Availability and Use of Riparian Water in Lower Putah Creek

This document provides the Solano County Water Agency's ("SCWA") explanation and basis for its methodology for monitoring and quantifying the availability and use of riparian water in Putah Creek, downstream of the Putah Diversion Dam. SCWA's methodology, hereafter referred to as the Lower Putah Creek Riparian Water Program ("PRWP"), will be used by SCWA to (1) differentiate between and quantify the availability of riparian versus non-riparian waters in Putah Creek, downstream of the Putah Diversion Dam, and (2) identify and quantify illegal water diversions, downstream of the Putah Diversion Dam. SCWA anticipates that implementation of the PRWP will increase the efficiency with which the instream flow requirements of the Solano Project, as specified by the Putah Creek Settlement Agreement, are satisfied, and facilitate the lawful diversion of riparian water downstream of the Putah Diversion Dam.

1.0 OVERVIEW

1.1 Key Elements of Lower Putah Creek Riparian Water Program

The PRWP consists of two components: Pre-irrigation season water availability forecasts, and real-time stream flow monitoring during the irrigation season, where "irrigation season" is defined as March 1 through October 31. Annual water availability

forecasts will be provided to riparian water users prior to the irrigation season, so they and other interested parties can plan and, if necessary, make other arrangements for obtaining irrigation water, before significant time and financial resources are committed to the cultivation of a given crop. Real-time monitoring will be conducted to: (1) determine, on a daily basis, the quantities of riparian water that are available to water users in Lower Putah Creek, and (2) differentiate and quantify, on a daily basis, legal versus illegal riparian diversions.

1.2 Definition of Riparian Water

For the purposes of the PRWP, riparian stream flows are defined as any surface water derived from precipitation or rising groundwater that, given prevailing hydrologic conditions, would occur in Lower Putah Creek in the absence of the Solano Project. Non-riparian water, such as treated wastewater and agricultural return flows originating from a non-riparian source (e.g., pumped groundwater that would not otherwise be tributary to the creek) cannot, by definition, be diverted by riparian water right claimants and, therefore, is not included as a source of riparian water from Lower Putah Creek.

2.0 WATER AVAILABILITY FORECASTS

SCWA's riparian water availability forecasts for Lower Putah Creek will be based on stream flow conditions observed in the Putah Creek drainage, upstream of the Putah Diversion Dam, in the prior (i.e., antecedent conditions) and current water year. Forecasts

will be made on January 1, March 1 and May 1. The January 1 and March 1 forecasts, which will be made before the current rainy season is over, will be based in part on projected stream flow conditions for the balance of the rainy season, while the May 1 forecast, the final forecast for the water year, will be based on actual runoff measured to date. Both the January 1 and March 1 forecasts will include three scenarios, based on the assumption that the balance of the rainy season will either be "wet" (25% exceedance), "normal" (50% exceedance) or "dry" (75% exceedance).

In order to address the differing sources and durations of riparian stream flows (surface stream flows from Putah Creek and/or tributaries to Putah Creek, or rising groundwater), Lower Putah Creek has been divided into five reaches. Water availability forecasts will be made for each reach. Stream reach designations and the analytic framework for making water availability forecasts are presented in "Attachment 1".

3.0 REAL-TIME MONITORING

3.1 Quantifying Available Riparian Water Supply

Stream flows and the associated stream flow gains and losses will be monitored by reach, on a continuous basis, and the availability of riparian water and extent of illegal diversions will be determined daily, using a series of water mass balance equations to track the quantities of both riparian and non-riparian water entering and leaving each stream reach.

A summary of the equations used to define riparian water availability, by stream reach, is presented in Attachment 1.

Although the determination of net riparian flow is based on real-time stream flow measurements, there are situations where real-time stream flow measurements are not practical and therefore simplifying assumptions must be used, much as they are in the Condition 12 Settlement Agreement for the Upper Putah Creek drainage. For example, under existing conditions it is difficult to measure accurately real-time stream flow losses in the stream reach now inundated by Lake Solano. Consequently, a "fixed" loss figure previously adopted by the United States Bureau of Reclamation may be used in the water mass balance calculation for this reach. In all cases, the simplifying assumptions used to quantify the availability of riparian water are purposely conservative in the sense that they tend to overstate the availability of riparian stream flows. Overstating riparian water availability is preferred, since it presumably increases the enforceability of the PRWP and its acceptability to riparian water users.

3.1.1 Data Collection

3.1.1.1 Measurement of Riparian Diversions

Riparian diversions will either be measured directly, using an appropriate meter and assuming landowner/operator permission is obtained, or indirectly, via measurement of creek stream flows in the vicinity of the diversion. Riparian diversions typically constitute a

readily measurable fraction of the total stream flow in any given reach (500-2,000 gallons per minute, or about 1-5 cubic feet per second), and are therefore easily detected by continuously measuring stream flows entering and leaving a given stream segment.

3.1.1.2 Measurement of Agricultural Return Flows and Wastewater Discharges

The agricultural return flows entering Lower Putah Creek are for the most part non riparian water sources, as are the treated wastewater discharges from the University of California - Davis (U.C. Davis) water treatment facility, which enter Lower Putah Creek near Old Davis Road. Nevertheless, these water sources must be quantified for water mass balance accounting purposes. The University's treated wastewater discharges are measured and recorded by the treatment plant operators. Most of the agricultural return flows are too small and/or sporadic to warrant direct measurement, and will therefore be estimated, or if insignificant relative to the total creek stream flow, ignored. However, one notable exception is the Willow Canal, which discharges into Lower Putah Creek just upstream of Pedrick Road. Discharges from the Willow Canal, which is operated by the Yolo County Flood Control and Water Conservation District (YCFC&WCD), will be measured as necessary.

3.1.1.3 Measurement of Groundwater Seepage and Evapotranspiration

The amounts of groundwater seepage (into or out of the creek) and water lost to open-water evaporation and transpiration by riparian vegetation vary gradually over time, in comparison to the fluctuating gains and losses associated with water diversions and

agricultural return flows. For the purposes of the PRWP, the net flow gain or loss from these factors (groundwater seepage, evaporation and transpiration) are combined into a single term that represents the natural or "background" net stream flow gain or loss rate within a given reach. Background gains and losses are most easily quantified as the difference in stream flow over a given reach ("top of reach" stream flow versus "bottom of reach" stream flow), in the absence of any diversions or "intra reach inflows."

Groundwater seepage along the reach from I-505 to Stevenson Bridge typically transitions from net loss (seepage out of the creek) to net gain (seepage into the creek). The location of the transition point and the total amount of influent seepage along the gaining stretch depend on the regional groundwater levels in the underlying groundwater basin. This reach will be subdivided into two sub-reaches when necessary to calculate riparian water availability. The upstream end of the gaining segment will be detected by periodic stream flow measurements and/or temperature changes in the creek.

3.1.1.4 Special Situations

Pumping from Riparian Wells

There is no clear boundary between wells that induce additional seepage from the creek and wells that pump regional groundwater; the percentage of pumped water that consists of induced seepage decreases gradually with depth and horizontal distance from the creek. A pragmatic approach adequate for the purpose of the PRWP is to include in the accounting the effects of a well if its effect on stream flow can be detected by the stream flow

monitoring program. The philosophy behind this approach is that well pumping does not matter if its effects on stream flow are not measurable; and if the effects are measurable, then the evidence and justification for including the well as a riparian diverter are already at hand. In practice, it is unlikely that wells more than about 500 feet from the creek or more than 100 feet deep will measurably affect stream flow.

Impoundments Below Mace Boulevard

Riparian water accounting is slightly more complicated at the downstream end of Putah Creek, between Mace Boulevard and the Toe Drain in the Yolo Bypass. Two impoundments are created in the creek channel each year to provide pumping pools for irrigation operations. The lower impoundment is a flashboard dam operated jointly by Los Rios Farms and the California Department of Fish and Game. Frequently, some of the water impounded behind this dam is water that is diverted from the Toe Drain of the Yolo Bypass at a pumping station about 1 mile north of the dam and conveyed to the impoundment by a canal. It may be necessary to gage the inflows from this canal into Putah Creek to determine the availability of Putah Creek riparian water in the impoundment. The issue may be moot, however, because the downstream compliance point for resident native fish flows is at river mile 0, which is upstream of the impoundment.

The upper impoundment is a temporary dirt berm across the channel that provides a crossing for farm vehicles in addition to creating a pumping pool. The berm is at about river mile 1.0 (aligned with country road 106B), and the impounded water derives entirely from Putah Creek. Irrigation return flows from adjacent fields may include water that originated

from Toe Drain diversions, and these return flows will be measured or estimated in the same manner as for return flows in other reaches of the creek.

Riparian Diversions from Pools in the Creekbed

Prior to construction of the Solano Project, landowners in a few locations were able to pump water from natural or constructed pools in the creekbed after live flow in the creek had ceased in summer. These pools were separate from the well-documented gaining reach above Stevenson Bridge, where groundwater seepage into the creekbed can create surface water stream flows in the absence of surface water inflows from upstream reaches. The accounting methodology described here does not encompass the water in isolated pools that would have been present in the absence of the Solano Project. The historical number of pools is thought to be small, and the pumping rates they could sustain also were probably small.

The possible availability of riparian water from isolated pools will be dealt with on a case-by-case basis. If a landowner can provide evidence that persistent pools existed on his or her property during periods of discontinuous streamflow prior to the Solano Project construction, then the sustained pumping yield of those pools will be estimated to quantify the amount of riparian water presently available to the landowner from that source. The yield will be estimated from the pool volume and the permeability of the surrounding streambed materials, which may release shallow groundwater when the pool level is lowered by pumping.

New Diversions and Return Flows

As parcels change ownership or existing landowners modify their farming operations, some diversions and return flows may be added and others discontinued. Word of mouth and the annual riparian water forecast mailing should be sufficient to inform any newcomers that riparian diversions from Lower Putah Creek are monitored and regulated. The new users will be encouraged to join the cooperative effort to manage and utilize riparian water supplies. Any changes in discharges by U.C. Davis, YCFC&WCD, and other agencies or industries hopefully will also be communicated to the Solano County Water Agency to facilitate a smooth transition. Any unreported changes will eventually be detected by the stream flow monitoring program, periodic field surveys, neighboring landowners, or the streamkeeper.

Uncooperative Riparian Diverters

It is hoped that all riparian diverters will cooperate with each other and with the Solano County Water Agency to make efficient use of the available riparian water supply without any illegal diversions. However, it is possible that some landowners will attempt to conceal their diversions or refuse to provide information about when and how much water they are diverting, or when and where return flows occur. Fortunately, all of this information can be obtained anyway. It would be impossible to conceal a significant diversion for very long because the pumping equipment and power supplies are large, visible, and make sound and because the effects of the diversion will be detected by the stream flow monitoring program. The pumping rate at any diversion can be measured fairly accurately by gaging the stream flow immediately upstream and downstream of the diversion. Return flows can

similarly be estimated by surveys of the field drainage patterns and the direct observation of the return flows.

3.2 Quantifying Illegal Diversions

Any diversion in excess of the calculated net riparian flow is considered illegal. Illegal diversions, like net riparian flow, will be monitored and quantified by reach, and to the extent possible, by individual diverters. A summary of the equations used to quantify illegal diversions is presented in Attachment 1.

If total riparian diversions in any given reach exceed the available riparian supply and the diverters are unwilling to voluntarily reduce their total diversions to match the available supply, and these actions adversely affect the Solano County Water Agency, then the Agency may sue some or all of the active diverters and seek court orders addressing the illegal diversions. It is hoped that this type of enforcement action will not be necessary. The PRWP will provide all of the data needed on a real-time basis to enable the active riparian diverters to manage their activities and restrict the locations and rates of their diversions so that they remain within the legally available supply.

3.3 Public Access to Riparian Water Accounting Data and Calculations

The Solano County Water Agency will conduct the data collection activities and complete the calculations necessary to generate the pre-irrigation season water availability

forecasts and the real-time riparian water availability determinations. All data collected for these purposes and all formulas and computer programs used in the calculations will be available on request to any interested agency, group or individual. The Solano County Water Agency will publish the data and results on its website and update the information approximately daily during the irrigation season.

The Solano County Water Agency will deliver the first (January) pre-season water availability forecast by mail to all riparian landowners along Lower Putah Creek. Landowners may at that time request that the subsequent forecasts (March and May) also be sent by mail if the landowner is unable to access the information by Internet. It would not be practical to disseminate the real-time monitoring data by mail because it will be updated daily during the irrigation season. Active diverters who need the daily information will be able to view it on the Solano County Water Agency's website or call the Agency to obtain the information by telephone.

ATTACHMENT 1 TO EXHIBIT "A-2"

1.0 Pre-Irrigation Season Predictions

A) Objective:

To estimate future availability of riparian stream flows, based on projected and/or prior hydrologic conditions in the Putah Creek drainage. For pre-irrigation season prediction purposes, assume riparian stream flows consist of surface runoff from precipitation and rising groundwater.

B) Analytic Approach:

i) Divide Lower Putah Creek into the following reaches:
   a) Putah Diversion Dam to Highway 505 Bridge (a "losing reach")
   b) Highway 505 Bridge to Stevenson Bridge (a "gaining reach")
   c) Stevenson Bridge to I-80 Bridge (a "losing reach")
   d) I-80 Bridge to Mace Boulevard (a "losing reach")
   e) Mace Boulevard to Yolo Bypass (a "losing reach")

(Reach designations based on hydrogeologic features, proximity of suitable stream flow gaging sites and existing riparian diversions. When necessary, reach "b" will be subdivided into two sub-reaches.)

ii) Predict average monthly flow and date of zero flow for each of the above riparian water sources, in each of the five reaches:
   a) Surface runoff: calculate using statistical relationships derived from historical data.
      - Stream flow recession curves derived from stream flow gaging data for "At Winters", "Near Winters" and "Near Davis" stream flow gaging stations.
      - Stream reach percolation/evapotranspiration loss estimating algorithms developed for the Solano County Water Agency's Lower Putah Creek stream flow model.

   b) Rising groundwater: calculate using statistical relationships derived from historical data.
      - Stream reach groundwater gain/loss estimating algorithms developed for the Solano County Water Agency's Lower Putah Creek streamflow model.

C) Timing of Pre-Irrigation Season Predictions:

i) January 1 – Predictions based on hydrology of water year to date and three scenarios for the remainder of the year's rainy season: "wet year" (25% Lake

Berryessa inflow exceedance), "normal year" (50% Lake Berryessa inflow exceedance) and "dry year" (75% Lake Berryessa inflow exceedance).

ii) March 1 – Predictions based on hydrology of water year to date and projected 25%, 50% and 75% exceedance runoff rates for the remainder of the year's rainy season .

iii) May 1 – Final prediction based on hydrology of the water year through April.

2.0 Methodology for Quantifying Riparian Streamflows During Irrigation Season

Note: Riparian stream flows are defined here as any surface water derived from precipitation or rising groundwater that, given prevailing hydrologic conditions, would occur in Lower Putah Creek in the absence of the Solano Project. Non riparian water, such as treated wastewater and agricultural return flows originating from a non riparian source (e.g., pumped groundwater) cannot, by definition, be diverted by riparian water right claimants and therefore, are not included as a source of riparian water from Lower Putah Creek.

A) Overview:

i) Calculate, on a daily basis, pre Solano Project stream flows (i.e., stream flow that would occur if there were no dams – no Solano Project) at the Putah Diversion Dam site .

ii) Compare computed daily pre Solano Project stream flow (i.e., stream flow that would occur if there were no dams – no Solano Project) with current Putah Diversion Dam release – determine what fraction of the current release is stored water or any other non riparian water source, versus riparian stream flows .

iii) Using real-time stream flow monitoring data to quantify prevailing percolation/evapotranspiration losses and any non riparian water sources, calculate riparian flows by stream reach. The total quantity of riparian water in any given reach is defined here as the sum of all riparian water sources less percolation/evapotranspiration losses.

B) Analytical Approach:

i) Riparian stream flows at Putah Diversion Dam site:

$$USRSF = LBI + IDTI - IDCL$$

Where: USRSF = Riparian stream flow at Putah Diversion Dam

LBI = Computed/measured Lake Berryessa inflow (less any associated non riparian flow)

IDTI = Inter Dam Reach tributary inflow (less any associated non riparian flow)

IDCL = channel percolation/evapotranspiration losses that would occur in the Inter Dam Reach in the absence of Lake Solano

(A stream gage will be placed on Pleasants Creek to facilitate real-time estimation of inflow from inter-dam tributaries. For accounting purposes, seepage and evaporation losses from Lake Solano are assumed to be constant and will therefore be characterized by a fixed continuous loss rate term).

ii) Riparian stream flows in first reach downstream of Putah Diversion Dam (Putah Diversion Dam to 505 Bridge):

1RRSF = USRSF + TRSF + 1RAG – 1RCL

Where: 1RRSF = Computed riparian stream flow in Reach 1
USFSF = Computed riparian stream flow at Putah Diversion Dam
TRSF = Measured stream flow from tributaries (Dry Creek, McCune aka Pleasant Creek), less any associated non riparian flow
1RAG = Ag return flow water originating from a riparian source in = reach 1
1RCL = Measured channel percolation/evapotranspiration losses in reach 1

Notes:
(1) Agricultural return flow water that originates from a riparian water source (riparian water diverted from Putah Creek or associated tributaries) is classified as riparian water and therefore can be lawfully diverted by other riparian water right claimants.

iii) Riparian stream flows in second reach downstream of Putah Diversion Dam (505 Bridge to Stevenson Bridge):

2RRSF = 1RRSF – 1RD (+/-) 2RCL + 2RAG

Where: 2RRSF = Computed riparian stream flow in Reach 2
1RRSF = Computed riparian stream flow in Reach 1
2RCL = Combined sum of groundwater "gains", channel percolation/evapotranspiration losses in reach 2
2RAG = Ag return flow water in reach 2 originating from a riparian source
1RD = Riparian diversion in Reach 1

Notes:

(1) There are no significant tributaries entering Putah Creek in this Reach .

(2) Due to the spatial and temporal variability of rising groundwater, portions of the so called "gaining reach" (generally the upstreammost third of the reach) frequently lose rather than gain water. Accordingly, there are instances when some of the riparian diverters within Reach 2 have access

to rising groundwater, while others do not. When necessary, Reach 2 will be broken into two sub reaches for the purpose of quantifying riparian stream flows.

iv) Riparian stream flows in third reach downstream of Putah Diversion Dam (Stevenson Bridge to I-80):

3RRSF = 2RRSF – 2RD – 3RCL + 3RAG

Where: 3RRSF = Computed riparian stream flow in Reach 3
2RRSF = Computed riparian stream flow in Reach 2
2RD = Riparian diversions in Reach 2
3RCL = Measured channel percolation/evapotranspiration losses in reach 3
3RAG = Ag return flow water in reach 3 originating from a riparian source

v) Riparian stream flows in fourth reach downstream of Putah Diversion Dam (I-80 to Mace Boulevard) :

4RRSF = 3RRSF– 3RD – 4RCL + 4RAG

Where: 4RRSF = Computed riparian stream flow in Reach 4
3RRSF = Computed riparian stream flow in Reach 3
3RD = Riparian diversion in Reach 3
4RCL = Measured channel percolation/evapotranspiration losses in reach 4
4RAG = Ag return flow water in reach 4 originating from a riparian source

vi) Riparian stream flows in fifth reach downstream of Putah Diversion Dam (Mace Boulevard to RM 0.0 aka Yolo Bypass) :

5RRSF = 4RRSF– 4RD –5RCL + 5RAG

Where: 5RRSF = Computed riparian stream flows in Reach 5
4RRSF = Computed riparian stream flows in Reach 4
4RD = Riparian diversions in Reach 4
5RCL = Measured channel percolation/evapotranspiration losses in reach 5
5RAG = Ag return flow water in reach 5 originating from a riparian source

Note: The above formulas will be adjusted as necessary to reflect changing conditions such as new or terminated diversions or discharges.

3.0 Methodology for Quantifying Illegal Riparian Diversion During Irrigation Season

Note: Diversions in excess of the available riparian stream flow (i.e., diversion of water released from storage or other non riparian flow) are considered illegal.

A) Overview:

For each reach, calculate difference between daily riparian diversions and computed riparian streamflow. If riparian diversions exceed computed riparian streamflow, the difference is considered to be the result of illegal diversions.

B) Analytical Approach:

i) Illegal riparian diversions in first through fifth reaches downstream of Putah Diversion Dam:

If: (ith)RD>(ith)RRSF
Then: (ithIRD) = (ithRD) – (ithRRSF)

Where: (ith)RD = Riparian diversions in Reach 1, 2, 3, 4 or 5
(ithRRSF) = Computed riparian streamflow in Reach 1, 2, 3, 4 or 5
(ithIRD) = Computed illegal diversions in Reach 1, 2, 3, 4 or 5

The Solano County Water Agency is under no obligation to enforce against any illegal riparian diverters whose actions do not adversely affect the Agency's ability to comply with any contractual or legal obligation.