

MP-822
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DEC 18 1965

San Benito County
Board of Supervisors
440 Fifth Street
Room 206, Courthouse
Hollister, CA 95023

Ladies and Gentlemen:

Transmitted is an executed original of Cooperative Agreement No. 4-FC-20-01430 for your records. The document is the Management Agreement for San Justo Reservoir.

The Bureau of Reclamation previously stated they would prepare the Reservoir Management Plan (RAMP) and include it in the cost sharing provisions of Cooperative Agreement No. 4-FC-20-01430. However, current conditions and staffing levels prohibit our complete participation in the development of the RAMP. We can offer to contract this effort for completion but we would prefer San Benito County prepare the plan or contract to have it done. We shall continue to provide you with information for preparation of the RAMP and provide review of the RAMP as developed.

Enclosed for your information is a sample outline for a Land Management Plan (Reclamation Instructions, part 215). Additional examples are available upon your request.

Contact Rose C. Ortiz, telephone (916) 978-5204, if further information is desired.

Sincerely,

(sgd) DENNIS M. SIENKO

Dennis M. Sienko
Regional Grants and
Cooperative Agreements Officer

Enclosures (2)

bc:

Project Construction Engineer, Gilroy

MP-371, MP-820

(each with original executed Agreement and copy of outline)

MP-420, MP-920

(each with conformed copy of Agreement and copy of outline)

MP-800, -822

(each without copy of enclosures)

MANAGEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND THE COUNTY OF SAN BENITO FOR THE DEVELOPMENT, ADMINISTRATION
OPERATION, AND MAINTENANCE OF RECREATION AT SAN JUSTO RESERVOIR,
SAN FELIPE DIVISION, CENTRAL VALLEY PROJECT, CALIFORNIA

Article No.	Table of Contents	Page No.
1	Terms of Agreement	2
2	Transfer of Responsibility	2
3	Operation & Termination	2
4	Variation in Water Level	4
5	Bureau of Reclamation Use Paramount	4
6	Reclamation Zone	5
7	Adjustment to Land Areas Shown on Exhibit "A"	5
8	Debris Removal	5
9	Miscellaneous Provisions	6
10	Soil and Water Conservation	7
11	Use of Existing Facilities	7
12	Reservations	8
13	Reservoir Area Management Plan	9
14	Third Party Contracts and Permits	10
15	Transfer of Concessioner's Interest	14
16	Fees and Charges	15
17	Use of Revenues	15
18	Examination of Records	16
19	Facility Development and Cost Sharing	17
20	Charge for Late Payments	22
21	Liability of Contractors and Permittees	23
22	Title to Land, Improvement and Restoration	23
23	Review of Administration	24
24	Certification of Nonsegregated Facilities	24
25	Construction Materials and Mining	26
26	Risk - Damages	26
27	Notices	27
28	Contingent on Appropriation or Allotment of Funds	28
29	Officials or Employees Not To Benefit	28
30	No Rights Created and None Waived	29
	Exhibit "A" - San Justo Reservoir Area	
	Exhibit "B" - Reclamation Land-Use Stipulation	
	Exhibit "C" - Equal Opportunity Requirements	
	Exhibit "D" - Title VI, Civil Rights Act of 1964	

MANAGEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND THE COUNTY OF SAN BENITO FOR THE DEVELOPMENT, ADMINISTRATION,
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SAN FELIPE DIVISION, CENTRAL VALLEY PROJECT, CALIFORNIA

THIS AGREEMENT, made as of this 2nd day of December 1985, in accordance with the Act of Congress of June 17, 1902, (32 Stat. 388) and acts amendatory thereof and supplementary thereto, collectively known and referred to as Federal reclamation laws, the Federal Water Project Recreation Act of July 9, 1965, Public Law 89-72 (79 Stat. 213), and the Act of August 27, 1967, Public Law 90-72 (81 Stat. 174), by and between the UNITED STATES OF AMERICA, acting by and through the Bureau of Reclamation, Department of the Interior, hereinafter styled the UNITED STATES, represented by the officer executing this instrument on its behalf, which officer, his successor and his duly authorized representative are hereinafter severally called the Contracting Officer, and SAN BENITO COUNTY, acting through its duly elected board of supervisors, hereinafter styled COUNTY.

WITNESSETH, THAT:

WHEREAS, San Justo Reservoir, will be constructed by the UNITED STATES as part of the San Felipe Division, Central Valley Project as authorized by Public Law 90-72 and will be operated and maintained for water supply and other purposes; and

WHEREAS, the parties hereto recognize that recreation is an authorized purpose of the San Felipe Division; and

WHEREAS, the UNITED STATES, and the COUNTY desire to provide for public outdoor recreation facilities on the San Felipe Division lands

and water areas at San Justo Reservoir, California, for effective administration of recreation in the reservoir area:

NOW, THEREFORE, it is agreed as follows:

TERMS OF AGREEMENT

1. The term of this agreement shall continue for a period of fifty (50) years from the date hereof unless sooner terminated as provided herein.

TRANSFER OF RESPONSIBILITY

2. Subject to the terms, conditions, limitations, exceptions, and reservations contained in this agreement, the UNITED STATES hereby transfers to COUNTY and COUNTY hereby accepts responsibility for the site-planning, development, construction, administration, operation and maintenance, and replacement of public recreation facilities, and other related purposes as agreed upon by both parties within the San Justo Reservoir Recreation Area (Recreation Area), including the water surface thereof, all as shown on Exhibit "A" which is more or less 587 acres.

OPERATION & TERMINATION

3. The COUNTY shall promptly make any and all repairs of the recreation area, including replacement of facilities thereon or therein, which it determines necessary to protect the health and safety of the public using the Recreation Area or necessary for the proper care, operation, and maintenance of the Recreation Area. In case of neglect or failure of the COUNTY to make such repairs within sixty (60) days following

written notification by the UNITED STATES, the UNITED STATES may cause the repairs to be made, and the cost thereof shall be paid by the COUNTY, as prescribed by the UNITED STATES. Repair of the Recreation Area by the UNITED STATES does not relieve the COUNTY of any repayment obligation it may have incurred for the Recreation Area.

(a) The UNITED STATES may elect to take over from the COUNTY the care, operation, and maintenance of the Recreation Area at any time that the COUNTY violates any term of this agreement and fails to take corrective action satisfactory to the UNITED STATES within one hundred eighty (180) days after written notification by the UNITED STATES of the specific violation. The UNITED STATES will give written notice to the COUNTY of such election and the effective date thereof. At least 60 days prior to the effective date of such an election, the UNITED STATES will bill the COUNTY for the estimated operation, maintenance and replacement costs of the Recreation Area from the effective date of the election to the following September 30. On or before each August 1 following the effective date of the election, the UNITED STATES will bill the COUNTY for the estimated operation, maintenance and replacement costs of the Recreation Area from October 1 of that year to September 30 of the following year. The COUNTY will pay those bills within 60 days after receipt. Any COUNTY funds not expended by the UNITED STATES by September 30 of the year in which the election becomes effective, and September 30 of each year thereafter, will be returned to the COUNTY by December 1 of that year. Operation of the Recreation Area by the UNITED STATES does not relieve the COUNTY of any repayment obligation it may have incurred for the Recreation Area. The care, operation, and maintenance of the Recreation Area may be retransferred to the COUNTY in the manner originally transferred.

(b) Upon termination of this agreement by default or expiration, the COUNTY shall vacate and return possession of the Recreation Area to the UNITED STATES within a period after the date of termination specified by the UNITED STATES; such period shall not be less than one hundred eighty (180) days. The COUNTY may remove its personal or movable property and such property owned by third parties. All facilities developed or constructed by the COUNTY at no expense to the UNITED STATES, except replacements for facilities originally developed or constructed in whole or in part with UNITED STATES funds, shall be considered property of the COUNTY.

VARIATION IN WATER LEVEL

4. San Justo Reservoir will be constructed by the UNITED STATES and operated by the United States and the San Benito County Water Conservation and Flood Control District primarily as a regulating reservoir for supplying irrigation and other water. The fulfillment of this purpose will require the level of the Reservoir to be fluctuated to meet use demand. The UNITED STATES reserves the right to vary the water level to the extent necessary or desirable for purposes of Project operation.

BUREAU OF RECLAMATION USE PARAMOUNT

5. The rights of County under this agreement are subordinate to the rights of the UNITED STATES, its agents, employees, or assigns, relating to use the lands and water areas shown on Exhibit "A" for water regulation and storage pursuant to Federal reclamation law. Public use of the premises will be restricted whenever the Contracting Officer determines that such restriction is necessary in the interest of Project operations, public safety, or national security.

RECLAMATION ZONE

6. The UNITED STATES retains exclusive jurisdiction over the area designated on Exhibit "A" as the Reclamation Zone. Jurisdiction is retained for the purposes of operation and maintenance of the dam and appurtenances, but such operation and maintenance shall not preclude use of the Reclamation Zone for recreation purposes pursuant to the terms of this agreement when and if such use is specifically approved by the Contracting Officer: Provided, That the Reclamation Zone may be closed to use by the public with notice to the COUNTY whenever the Contracting Officer determines such closure to be necessary; and Provided further, That upon written notice by the Contracting Officer to COUNTY, the boundaries of the Reclamation Zone may be revised by the UNITED STATES.

ADJUSTMENT TO LAND AREAS SHOWN ON EXHIBIT "A"

7. (a) If future needs arise which the UNITED STATES determines will require changes in land use within the area administered by COUNTY, COUNTY will be consulted and full consideration will be given to means of minimizing any resulting adverse effects relating to COUNTY'S responsibility.

(b) The parties agree that in connection with land acquisition activities hereunder, they will comply with the provisions of the Uniform Relocation Assistance and Land Acquisition Policy Act of 1970 (P.L. 91-646).

DEBRIS REMOVAL

8. COUNTY agrees, it shall dispose of floatable debris in the Reservoir and undermined or felled trees within the Reservoir area except for that debris or fallen trees resulting from UNITED STATES activity,

and shall otherwise maintain the area in a condition suitable for use by the public. COUNTY shall not be responsible for disposal of debris within the Reclamation Zone except for that debris resulting from COUNTY'S activities.

MISCELLANEOUS PROVISIONS

9. (a) The attached statement marked Exhibit "B", entitled Reclamation Land-Use Stipulation, wherein COUNTY is referred to as "permittee," is by reference incorporated herein and made a part hereof.

(b) All work done by COUNTY within the Recreation Area shall be subject to all current State and Federal environmental requirements.

(c) The COUNTY and all applicable contracts issued by the COUNTY its contractors, or permittees relative to this agreement within the San Justo Recreation Area shall be subject to the Equal Opportunity Requirements set fourth in Exhibit "C" attached hereto and incorporated herein.

(d) COUNTY agrees that it and its employees will not discriminate because of race, color, age, religion, sex, or national origin against any person by refusing to furnish such person any accommodation, facility, service, or privilege offered to or enjoyed by the general public. Nor shall COUNTY or its employees publicize the accommodations, facilities, services, or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person because of race, color, age, religion, sex, or national origin. COUNTY agrees to include and require compliance with a provision similar to the foregoing provision in any contract made with respect to the operations to be carried out hereunder.

(e) This agreement is subject to Title VI, Civil Rights Act of 1964 (78 Stat. 241) and Interior Regulations issued pursuant thereto in 43 CFR 17, as modified or amended, and set forth in Exhibit "D" attached hereto and incorporated herein, wherein COUNTY is referred to as "Contractor".

SOIL AND WATER CONSERVATION

10. To prevent siltation and for protection of the water in the Reservoir and desirable vegetative cover of the San Justo Reservoir area, COUNTY, in cooperation with the UNITED STATES shall be responsible for erosion control, control over noxious land weeds detrimental to agriculture, prevention and suppression of fire, and other watershed management practices, and shall include suitable provisions for such control in all licenses and permits issued and contracts entered into hereunder, including such provisions as are required by the UNITED STATES. Such conservation measures shall be spelled out in the RAMP.

USE OF EXISTING FACILITIES

11. Existing structures or facilities owned by the UNITED STATES located within the Recreation Area which the UNITED STATES determines are available and suitable may be used by COUNTY for recreation purposes upon receipt of notice of the availability of such structure or facility. COUNTY shall maintain all such structures and facilities used by it under the terms of this article in reasonable repair: Provided, however, That COUNTY shall be under no obligation to restore or replace any such structure or facility which may be destroyed by fire or other cause

without negligence of COUNTY or its authorized permittees or contractors, its agents, assignees, licensees, or employees. COUNTY may add to, alter, or modify any such structure or facility upon approval by the UNITED STATES of the plan for such addition, modification, or alteration. Such additions to a structure constructed in part from UNITED STATES funds thereupon shall become the property of the UNITED STATES.

RESERVATIONS

12. The privileges herein granted to COUNTY are subject to:

(a) Existing rights, privileges, or interests in the lands shown on Exhibit "A" to which the title of the UNITED STATES may be subject, and COUNTY agrees not to interfere with such rights, privileges, or interests. The UNITED STATES will furnish to COUNTY a record of all existing authorizations to use the land within the area covered by this agreement.

(b) Existing easements and rights-of-way, and easements or rights-of-way which may be acquired by the UNITED STATES for highway, railroad, irrigation works, or any other purposes.

(c) The right of properly authorized officers, assignees, agents, employees, licensees, permittees, and lessees of the UNITED STATES to enter upon the lands described herein without charge for the purpose of enforcing, protecting, and exercising the rights reserved to the UNITED STATES and protecting the rights vested in those not party to this agreement.

(d) Reservations relative to construction materials and mining set forth in Article 25 herein.

RESERVOIR AREA MANAGEMENT PLAN

13. (a) A Reservoir Area Management Plan (hereinafter referred to as RAMP) shall be prepared by the COUNTY in consultation with San Benito County Water Conservation and Flood Control District and approved by the UNITED STATES and shall be completed prior to initiation of construction of recreation facilities. In the administration and development of the Recreation Area, the COUNTY shall follow said RAMP. Parties acting under authority granted by COUNTY shall be required by appropriate provision in their agreement with the COUNTY to comply with the requirements of said RAMP. The COUNTY may request the BUREAU to develop a RAMP for San Justo Reservoir. Prior to developing the RAMP the BUREAU will provide an estimate to the COUNTY of the proposed cost of preparing the RAMP. The development of the RAMP will be cost shared under provisions identified in Article 19 of this agreement. The RAMP shall include the following:

- (1) A General Recreation Development Plan identifying initial and future development, location of facilities, and a program of planned development of the area.
- (2) Sites and location of COUNTY'S maintenance facilities that may be located at San Justo Reservoir.
- (3) A statement of goals and objectives to be used as a basis for development and management of the Recreation Area.
- (4) A statement of policies, practices, and procedures to be followed in the management of the area.
- (5) A schedule of fees and charges and public use regulations.

(6) Planting plans, agricultural policies, and policy regarding use of reservoir water.

(7) Forms of instruments to be issued by COUNTY to others and a list of reports to be made.

(8) Reference to local and State laws affecting reservoir area management with respect to water and air pollution, sanitation, fire protection, soil and moisture conservation, control of boating, and the regulation public use.

(b) The RAMP shall be updated periodically which shall become effective upon approval by the Contracting Officer.

(c) All recreational developments shall be in accordance with the General Recreation Development Plan as it is updated, and shall emphasize adequate facilities of satisfactory quality to accommodate the day use recreation user, i.e., sightseeing, hiking, picnicking, public water access and use of the reservoir for water associated recreation.

(d) Business enterprises or activities not provided for in the RAMP shall not be permitted within the Recreation Area.

THIRD PARTY CONTRACTS AND PERMITS

14. (a) COUNTY may issue and administer permits or concession contracts with persons or associations for the purpose of providing services, goods, and facilities for the use and convenience of the visiting public, in accordance with the current RAMP. All such contracts and permits shall be submitted to the Contracting Officer for review and

approval by the Contracting Officer before issuance. They shall contain language subjecting the rights and privileges thereunder to all terms, conditions, exceptions, and reservations in this agreement, shall recognize the right of paramount use by the UNITED STATES of the lands and water area for purposes of the San Felipe Division, and include a provision holding the UNITED STATES, its officers, agents, employees, contractors, and assigns harmless from any and all liability resulting from the construction and operation and maintenance of Project works. The COUNTY may, at its discretion, assign the obligations imposed onto it by this contract to the San Benito County Water Conservation and Flood Control District (SBCWC&FCD). Any assignment to SBCWC&FCD must be with the approval of the UNITED STATES. The respective obligations of the COUNTY and SBCWC&FCD shall be set forth in the RAMP as defined in Paragraph 13 of this agreement.

(b) No concession contract or permit entered into or granted by COUNTY shall purport to transfer or convey any interest in the land, and the right given to COUNTY to enter into such contracts and permits shall not be construed as a right to grant or convey interest in land. No assignment or transfer of a concession contract or permit or interest therein, whether as security or otherwise, shall be effective until such assignment or transfer has been reviewed and approved by COUNTY and the UNITED STATES.

(c) The term of any concession contract or permit shall not extend beyond the duration of this agreement. The rights granted to COUNTY herein shall not include authority to grant easements for public utility or road rights-of-way, which upon request and approval of necessary plans therefor, will be granted by the UNITED STATES.

(d) Concessioners or permittees shall follow the RAMP for any species of plants proposed for planting in land or water covered by the contract or permit.

(e) Concessioners and permittees shall comply with all provisions of Federal and State pesticide laws.

(f) A concession contract is an instrument which sets forth conditions enabling private persons, associations, or corporations to provide and operate facilities and services for the accommodation and enjoyment of the public. The issuance of any concession contract shall be subject to the following limitation:

(1) The length of the contract term should, in general, be commensurate with the size of the investment. It shall not extend beyond the duration of this management agreement.

(2) The concession contract shall set forth the extent of the services to be provided by the concessioner.

(3) COUNTY may, through the use of concession contracts, assign land, tenants, water surface areas, or other Government improvements for use by the concessioner during the term of the contract. Title to the assigned property shall remain with the UNITED STATES.

(4) Subject to the provisions of subparagraph (f) (7) the concessioner shall have a possessory interest in all of the concessioner's improvements consisting of all incidents of ownership except legal title, which shall be vested in the UNITED STATES. However, such possessory interest shall not be construed to include or imply any authority, privilege or right to operate or engage in any business or other activity not specifically authorized in the concession contract.

(5) The use or enjoyment of any structure or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and Federal, State, and COUNTY laws, ordinances and regulations.

(6) All contracts and agreements proposed to be entered into by the concessioner with respect to the exercise by others of the privileges granted by the contract shall be reviewed and approved by the UNITED STATES.

(7) When a structure is built or erected by a concessioner for his own convenience and the Government receives no benefit therefrom, concessioner shall, upon request by the UNITED STATES, provide for the removal of the structure at his expense upon termination of the concession contract.

(g) A permit is an instrument giving a personal privilege or authorization by consent which usually will be temporary and revocable. The issuance of any permit is subject to the following limitation: Permits shall contain provisions for thirty (30) day(s) written cancellation notice, without cause.

TRANSFER OF CONCESSIONER'S INTEREST

15. If during the term of this agreement any concessioner shall cease to be authorized to conduct the operations provided for in his concession contract for any reason other than termination of his contract by direct action of COUNTY and COUNTY determines, with the concurrence of the Contracting Officer that such operations are to be conducted by a successor, then the rights, if any, of the concessioner to sell or obtain compensation from his successor shall be controlled by the provisions of his concession contract with respect to which the UNITED STATES shall have no financial or other obligation whatsoever, except where the UNITED STATES is such successor.

(a) The Concessioner shall be afforded a reasonable time to sell his interest in any structure, facility, and other improvement on the premises to a successor who is approved in writing by the UNITED STATES and COUNTY.

(b) Said successor, as a condition to the granting of a permit or contract to conduct such operations shall be required to purchase such interest from the concessioner and pay the concessioner an amount equal to the value of his interest in such structure, facility, or improvement, determined upon the basis of replacement cost less depreciation as evidenced by its condition and prospective serviceability, in comparison with a unit of like kind, but not to exceed fair market value. If the concessioner and the proposed purchaser cannot agree upon the value of any item or items, such amount will be determined by the majority vote of a board of three appraisers selected as follows: The concessioner and

the proposed purchaser shall each name one member of such board, and the COUNTY shall select the third member. All compensation and expenses of the board shall be shared and paid equally by the concessioner and the proposed purchaser. Before reaching its decision, the board shall give each of the parties a full and fair opportunity to be heard on the matters in dispute.

FEES AND CHARGES

16. COUNTY may levy entry and user fees. It may permit its authorized permittees and concessioners to make charges for services and/or sale of products and goods. Prices charged for services and sale of products and goods shall not exceed those charged for similar services, products or goods in comparable areas, and COUNTY and the UNITED STATES shall approve such service fees and product and food prices before they are placed in effect. Entry and user fees will be set in accordance with fees established for other recreation areas.

USE OF REVENUES

17. The UNITED STATES and the District agree that the COUNTY shall retain and expend only for the administration, maintenance, and development in accordance with the RAMP, the Recreation Area as described herein, all receipts from licenses, permits, or contracts which it is authorized to issue or administer, and receipts from entry to and user fees within the reservoir area. The County shall accumulate the excess of revenues over operation and maintenance expenditures, in a special fund and all such funds will be expended for the development and administration of recreational facilities in accordance with the RAMP.

(a) The COUNTY shall furnish to the UNITED STATES, not later than March of each year, a report of all receipts, expenditures for operation, maintenance, administration, and development of facilities, and transfers to the facility development fund. At a minimum this report should include:

1. A balance sheet at December 31.
2. A statement of income and expense (showing major categories of each) and retained earnings for the year ended December 31.
3. A statement of changes in financial position for the year ended December 31.
4. A schedule of plant and equipment as of December 31. The COUNTY shall maintain such accounting records as are necessary to satisfy the requirements of this Article and make them available for inspection by the UNITED STATES upon request.

(b) Each year, not later than January 20, the COUNTY shall furnish to the UNITED STATES a record of visitation and use by the public and expenditures of funds for capital improvements for the previous calendar year on forms to be supplied by the UNITED STATES.

EXAMINATION OF RECORDS

18. COUNTY agrees that the Comptroller General of the UNITED STATES or any of his duly authorized representatives or the Secretary of the Interior or his duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of COUNTY involving transactions related to this agreement.

FACILITY DEVELOPMENT AND COST SHARING

19. The UNITED STATES and COUNTY intend to develop public outdoor recreation facilities at San Justo Reservoir and share the costs on a 50-50 matching basis in accordance with this agreement. Site planning, recreation facility construction and land acquisition will be accomplished on a mutually agreeable incremental basis as user demands require and/or as fund availability will permit. All development shall be in accordance with the RAMP. Each increment of development may be accomplished by the UNITED STATES and/or COUNTY on the basis of mutually agreeable plans. The following will govern sharing costs and transferring of funds from the UNITED STATES to COUNTY:

(a) Costs to be shared as provided in this Article shall include, but not be limited to:

(1) Payments made to contractors and force account costs for performance of construction work including contractor's retentions.

(2) Surveys, exploration, designs, preparation and review of plans and specifications in support of the construction of the facilities, the supervision and inspection of construction work and other administrative expenses attributable to the planning and construction work.

(3) Cost of road and utility replacement and other relocations specifically required for installation or construction of facilities.

(4) Indirect costs distributed in the customary manner of the agency which incurred such costs. COUNTY'S indirect costs shall

be limited to overhead in accordance with the terms of this agreement and with provisions of Federal Procurement Regulations 41, Part 1-15. The UNITED STATES' indirect costs will be determined in accordance with the "Manual of Reclamation Instructions" and the Mid-Pacific Region supplement as they or either of them may be amended or superseded.

(5) Other reasonable costs actually incurred in the design and construction of the facilities, including the payment of claims directly related to the construction work.

(6) Inspection of facilities upon completion of construction to determine their suitability for transfer from construction status to administration, operation and maintenance status.

(7) Costs incurred in acquiring title to lands and interest in lands which are acquired specifically for recreation purposes, including condemnation court deposits and legal, appraisal, and other administrative expenses directly attributable to such acquisition work.

(b) Expenditures made by either COUNTY or the UNITED STATES for facilities not included in the RAMP are specifically excluded from cost sharing under this agreement.

(c) The United States will reimburse to the COUNTY the allowable costs incurred.

(1) The COUNTY shall submit, in such form and reasonable detail as the Contracting Officer may require, monthly invoices supported by a statement of costs for allowable costs incurred during the previous month. In recognition of the COUNTY's need for sufficient funds to meet cash flow requirements of the Operation and Maintenance activity, payment

will be promptly processed after receipt of each invoice. The COUNTY will normally receive payment within 15 days after receipt of the invoices by the Contracting Officer.

(2) By October 31 of each year, the COUNTY shall submit a voucher for all allowable costs for the year which ended the preceding September 30 which were not previously paid. This final voucher for each year will be accompanied by a statement detailing the total incurred costs for the entire year which ended the preceding September 30. This statement will be in such format and provide such detail as the Contracting Officer requires.

(3) A master work schedule showing the estimated cost of the entire work proposed to be undertaken, initiated, or contracted for by the COUNTY in each Federal fiscal year (October 1 through the following September 30) during the entire cost-sharing program;

(4) A quarterly cost statement submitted not less than fifteen (15) days prior to October 1, January 1, April 1 and July 1 of each quarter, detailing the estimated cost (both UNITED STATES and COUNTY costs) of the portion of the work proposed to be undertaken, initiated, or contracted for throughout the quarter;

(5) A monthly progress report submitted not later than the 15th day of each month, fully describing the status, progress and cost of work performed by the COUNTY or for which costs have been incurred or funds obligated by the COUNTY pursuant to this agreement through the end of the preceding month. Said reports shall be prepared in such form and in such manner as the Contracting Officer may from time to time prescribe; and

(6) A letter request submitted no later than the 10th of each month showing the next month's proposed expenditures. Adjustments for under or over financing based on the actual monthly expenditures will be adjusted on the following monthly request for funds. The Contracting Officer at his election may withhold any payment of funds contemplated by this article at any time when, in his opinion, the COUNTY is in default or delinquent with respect to performance of any of the terms or conditions of this agreement.

(d) Payments made by the UNITED STATES shall be used for expenditures as described in subarticle (a) above: Provided, That said expenditures shall be limited to such costs as normally would be incurred by the UNITED STATES if it were constructing the facilities or such other costs as reasonably may be incurred in the exercise of sound engineering, construction, and business practices. The determination of what costs are properly chargeable hereunder and the amount thereof shall be made conclusively by the Contracting Officer.

(e) The COUNTY shall be responsible for site plans, detailed drawings and construction specifications for all recreation facilities, water supply and sewage disposal systems to be constructed under this agreement or by concessioners or permittees and shall submit them for approval to the Contracting Officer sixty (60) days prior to issuing specifications for the construction work or prior to the construction date by force account. Said site plans shall be prepared in sufficient detail to show facility location and to permit an analysis of the development.

The General Recreation Development Plan shall serve as a guide in preparing said plans and specifications. The Contracting Officer shall use due diligence in processing, checking, and approving plans and specifications submitted by COUNTY. Any approval, disapproval, or requirements for modification of said plans and specifications by the Contracting Officer shall be transmitted to COUNTY in writing within sixty (60) days of receipt. In the event COUNTY does not receive any disapproval or requirements for modifications within sixty (60) days, said plans shall be deemed approved.

The COUNTY may, during the course of this agreement contract with a third party to assume the COUNTY'S planning responsibilities as noted above. Any plans, detailed drawings, and construction specifications developed by the third party shall be submitted in the same manner as if the COUNTY had performed the work.

(f) During the term of this agreement, COUNTY shall keep an adequate set of records to substantiate costs that are matched by the UNITED STATES. Separate accounts are to be maintained for these costs. Copies of invoices, purchase orders, and receiving reports shall be retained for audit purposes. Copies of timesheets shall be retained for support of force account labor. All books and records which support entries to the accounts shall be retained until destruction is permitted by the Contracting Officer. COUNTY may contract with a recognized firm of certified public accountants to provide this service. No funds will be reimbursed on facilities turned over to COUNTY by the UNITED STATES until accounting arrangements have been approved by the Contracting Officer.

(g) All applicable costs incurred by the UNITED STATES for surveys, investigations, contract negotiations, project formulation, contract specification preparation and construction and in its performance or administration of this contract, including, but not limited to the cost or proportionate part of the cost of salaries, travel, per diem, leave of employees, and legal, overhead, and general expense of the UNITED STATES which are allocable to inspection and approval of work performed hereunder by COUNTY or the inspection and auditing of accounts and records of COUNTY relating to such work or the examination and approval of title to lands and interests in lands transferred to the UNITED STATES, shall be charged against the UNITED STATES' share of the costs as described in section (a) of this article: Provided, That all such costs incurred by the UNITED STATES shall be held to the minimum amount deemed necessary by the Contracting Officer for protection of the interests of the UNITED STATES.

(h) COUNTY may utilize in connection with this contract such independent expert consulting services as COUNTY may desire, and the reasonable cost of such services shall be considered hereunder to be a part of the cost of the work as set forth in this Article.

CHARGE FOR LATE PAYMENTS

20. The Contractor shall pay a late payment charge on installments or charges which are received after the due date. The late payment charge percentage rate calculated by the Department of the Treasury and published quarterly in the Federal Register shall be used: Provided,

That the late payment charge percentage rate will not be less than 0.5 percent per month. The late payment charge percentage rate applied on an overdue payment will remain in effect until payment is received. The late payment rate for a 30-day period will be determined on the day immediately following the due date and will be applied to the overdue payment for any portion of the 30-day period of delinquency. In the case of partial late payments, the amount received will first be applied to the late charge on the overdue payment and then to the overdue payment.

LIABILITY OF CONTRACTORS AND PERMITTEES

21. COUNTY shall require all contractors and permittees to carry such public liability and property damage insurance as is customary among prudent operators of similar businesses under comparable circumstances.

TITLE TO LAND, IMPROVEMENT AND RESTORATION

22. (a) Upon commencement of this agreement, and from time to time thereafter, COUNTY shall notify the Contracting Officer in writing, of those structures and improvements installed or constructed by COUNTY at its sole cost or expense and shall keep a current and accurate inventory of such structures and improvements installed or constructed solely at its own expense. Title to all such facilities will remain with the COUNTY.

(b) For a period of ninety (90) days after termination or expiration of this agreement, or such longer period as may be determined

by the UNITED STATES to be reasonable, COUNTY shall have the privilege of selling, salvaging, and/or removing structures or facilities on the premises installed or constructed by COUNTY at its sole costs or expense. Provided, That the UNITED STATES does not advise the COUNTY of an intent to Purchase any of the COUNTY facilities at a price determined by an appraisal financed or performed by the UNITED STATES. After the expiration of such period, the title to all remaining such COUNTY-financed structures or facilities remaining on the premises shall vest in the UNITED STATES. The exercise of the privilege of removal of structures or facilities shall include the obligation to restore the land occupied by such structures to its original condition as determined to be satisfactory to the UNITED STATES.

(c) The UNITED STATES shall be vested with title to all land, structures, and facilities paid for in part or entirely from funds expended by the UNITED STATES.

REVIEW OF ADMINISTRATION

23. Upon request of either the UNITED STATES or the COUNTY, the parties hereto will review the administration, operation, and development of the San Justo Recreation Area under this agreement. The UNITED STATES may make inspections of the area at any time and consult with COUNTY concerning development, operation, and land use.

CERTIFICATION OF NONSEGREGATED FACILITIES

24. COUNTY certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments,

and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. COUNTY certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. COUNTY agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation and entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. COUNTY agrees that (except where it has obtained identical certification from proposed subcontractors for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certification in its files.

NOTE: The penalty for making false statements in offers is prescribed in 17 U.S.C. 1001.

CONSTRUCTION MATERIALS AND MINING

25. There is reserved to the UNITED STATES, their agents, contractors, lessors, or permittees, the right to remove from the Recreation Area and Reclamation Zone any and all materials necessary for construction, operation and maintenance of San Felipe Division works and facilities, the right to prospect for, extract, and carry on the development for oil, gas, coal, and other minerals, and the right to issue leases or permits to prospect for oil, gas, or other minerals on said lands under the Act of February 25, 1920 (41 Stat. 437), and acts amendatory thereof or supplementary thereto, and the Act of August 7, 1947 (61 Stat. 913). COUNTY will be consulted and the UNITED STATES will give full consideration to COUNTY'S interest concerning any proposal prior to the exercise of these rights within the San Justo Recreation Area, supplementary thereto, and the Act of August 7, 1947 (61 Stat. 913). COUNTY will be consulted and the UNITED STATES will give full consideration to COUNTY'S interest concerning any proposal prior to the exercise of these rights within the San Justo Recreation Area.

RISK - DAMAGES

26. (a) The COUNTY shall indemnify and hold the UNITED STATES, their nominees, agents, and employees, free and harmless against any and all damages and expenses (including legal fees), claims, liabilities, causes of action and demands of any nature whatsoever, arising out of, or in any manner connected with the development, administration, operation and maintenance, or use by anyone of a recreational facility at San Justo Reservoir as set forth in this agreement.

(b) The UNITED STATES shall indemnify and hold the COUNTY, its nominees, agents, and employees, free and harmless against any and all damages and expenses (including legal fees), claims, liabilities, causes of action and demands of any nature whatsoever, arising out of or in any manner connected with its use of San Justo Reservoir for water conservation for storage and irrigation uses.

NOTICES

27. (a) Any notice, demand, or request required or authorized by this agreement to be given or made to or upon the UNITED STATES shall be deemed properly given or made if delivered by mail, postage-prepaid, to the Regional Director, Mid-Pacific Region, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825-1898.

(b) Any notice, demand, or request required or authorized by this agreement to be given or made to or upon COUNTY shall be properly given or made if delivered by mail, postage-prepaid, or franked envelope, to the Administrative Officer, County of San Benito, Room 206, Courthouse, Hollister, California 95023.

(c) The designation of the person to or upon whom any notice, demand, or request is to be given or made, or the address of any such person, may be changed at any time by notice given in the same manner as provided in this section for other notices.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

28. The expenditure or advance of any money or the performance of any work by the UNITED STATES hereunder which may require appropriation of money by the Congress or the allotment of funds shall be contingent upon such appropriation or allotment being made. The failure of Congress to appropriate funds or the absence of any allotment of funds shall not relieve the Contractor from any obligation under this contract. No liability shall accrue to the UNITED STATES in case such funds are not appropriated or allotted.

OFFICIALS OR EMPLOYEES NOT TO BENEFIT

29. No member or delegate to Congress or Resident Commissioner, and no officer, agent, or employee of the Department of the Interior, or official or employee of COUNTY shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this agreement if made with a company or corporation for its general benefit.

NO RIGHTS CREATED AND NONE WAIVED

30. Nothing in this agreement shall be construed as an acknowledgment, grant, or creation of any right in COUNTY to the use of water or to the operation, maintenance or management of any facilities of the San Felipe Division, nor shall anything in this agreement constitute or be construed as a modification, alteration or waiver of any right to the use of water held or owned by the UNITED STATES, the COUNTY or any other person, organization, group, Indian tribe, or any entity of any kind whatever, whether based on a claim of reserved rights or otherwise.

IN WITNESS WHEREOF, the parties hereto have executed this agreement
as of the date first above written.

THE UNITED STATES OF AMERICA

By Dennis M. Sienko
Dennis M. Sienko
Regional Grants and
Cooperative Agreements Officer
Bureau of Reclamation

COUNTY OF SAN BENITO

By Steve Lydon
Administrator,
San Benito County Board of Supervisors

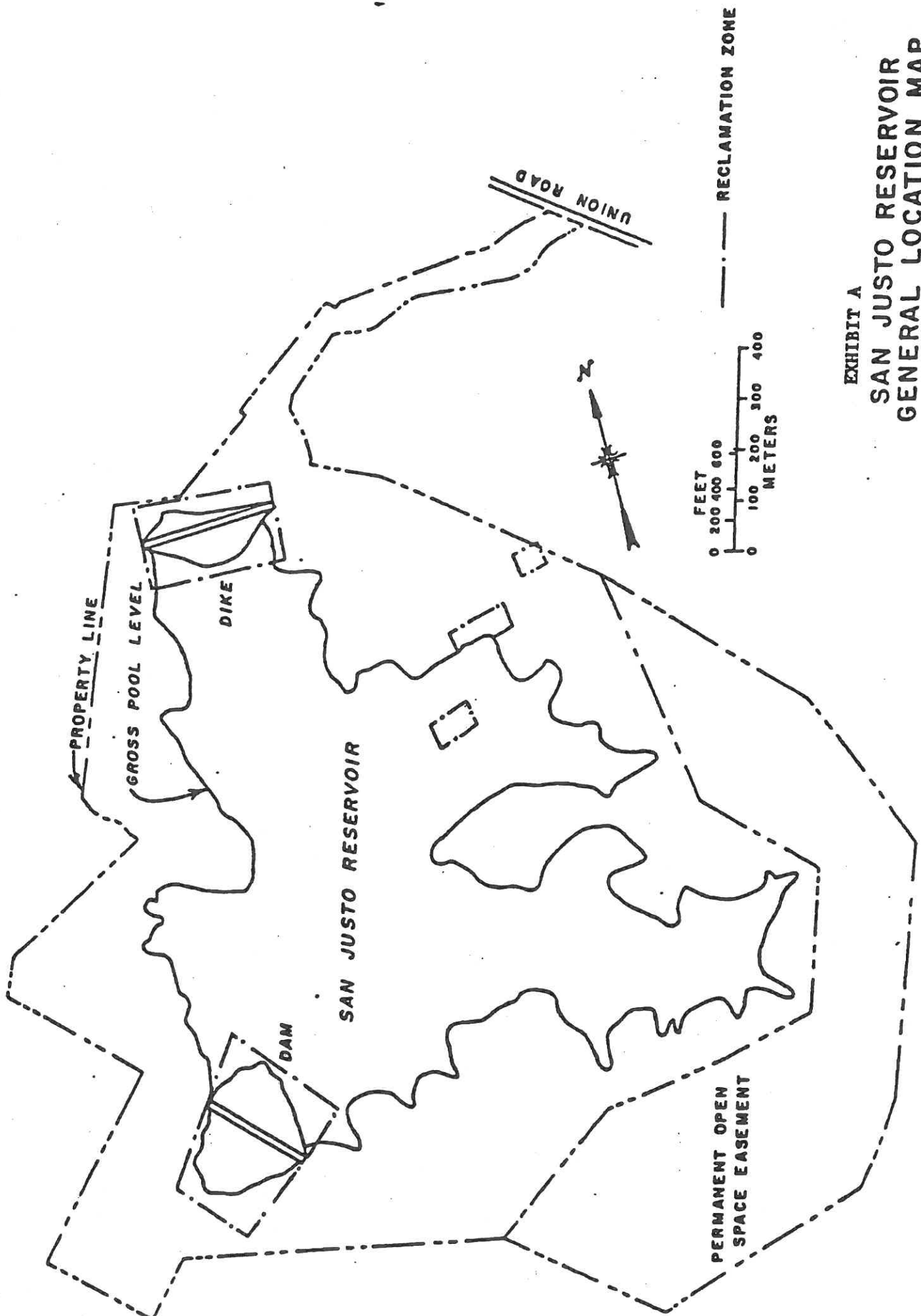


EXHIBIT A
SAN JUSTO RESERVOIR
GENERAL LOCATION MAP

RECLAMATION LAND-USE STIPULATION

There is reserved to the UNITED STATES, its successors or assigns, the prior right to use any of the lands herein described to construct, operate, and maintain all structures and facilities including, but not limited to, canals, wasteways, laterals, ditches, roadways, electrical transmission lines, dams, dikes, reservoirs, pipelines, telephone and telegraph lines, communication structures generally, substations, switchyards, powerplants and any other appurtenant irrigation and power structures and facilities, without any payment made by the UNITED STATES or its successors for such right.

The permittee further agrees that if the construction of any or all of such structures and facilities across, over, or upon said lands should be made more expensive by reason of the existence of improvements or works of the permittee thereon, such additional expense is to be estimated by the Contracting Officer whose ruling is to be final and binding upon the parties hereto. Within thirty (30) days after demand is made upon the permittee for payment of any such sums, the permittee will make thereof to the UNITED STATES or any of its successors or assigns constructing such structures and facilities across, over, or upon said lands. As an alternative to payment, the permittee, at its sole cost and expense and within time limits established by the Government, may remove or adapt facilities constructed and operated by it on said lands to accommodate the aforementioned structures and facilities of the UNITED STATES.

The permittee shall bear the cost to the Government of any costs occasioned by the failure of the permittee to remove or adapt its facilities within the time limits specified.

There is also reserved to the UNITED STATES the right of its officers, agents, employees, licensees and permittees, at all proper times and places freely to have ingress to, passage over, and egress from all of said lands for the purpose of exercising, enforcing, and protecting the rights reserved herein.

The permittee further agrees that the UNITED STATES, its officer, agents, and employees and its successors and assigns shall not be held liable for any damage to the permittee's improvements or works by reason of the exercise of the rights here reserved; nor shall anything contained in this paragraph be construed as in any manner limiting other reservations in favor of the UNITED STATES contained in this permit.

EQUAL OPPORTUNITY REQUIREMENTS

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, age, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity Clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contracting Officer, advising the labor union or worker's representative of the

Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the Equal Opportunity Clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended, in whole or part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rules, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through in every subcontract or purchase order unless exempted by rules,

regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing such provisions, including sanctions for non-compliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Contracting Officer, the Contractor may request the UNITED STATES to enter into such litigation to protect the interests of the UNITED STATES.

TITLE VI, CIVIL RIGHTS ACT OF 1964

(a) The Contractor agrees that it will comply with Title VI of the Civil Rights Act of July 2, 1964 (78 Stat. 241), and all requirements imposed by or pursuant to the Department of the Interior Regulation (43 CFR 17) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the regulation, no person in the UNITED STATES shall, on the ground of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Contractor receives financial assistance from the UNITED STATES and hereby gives assurance that it will immediately take any measures to effectuate this agreement.

(b) If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Contractor by the UNITED STATES, this assurance obligates the Contractor, or in the case of any transfer of such property, any transferee for the period during which the real property or structure is used for a purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance obligates the Contractor for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Contractor for the period during which the Federal financial assistance is extended to it by the UNITED STATES.

(c) This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property,

discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the UNITED STATES, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the UNITED STATES shall receive the right to seek judicial enforcement of this assurance. This assurance is binding on the Contractor, its successors, transferees, and assigns.