

U Kern County Water Agency
Urban Bakersfield Advisory Committee
P. O. Box 58, Bakersfield, CA 93302-0058
661.634.1400

MEETING NOTICE & AGENDA

Stuart T. Pyle Water Resources Center

3200 Rio Mirada Drive

Bakersfield, California

January 25, 2012

1. Call to Order – 2:30 p.m.
2. Purveyor Reports
3. Public Comment
4. Approval of Urban Bakersfield Advisory Committee Meeting Minutes
December 13, 2011 – Regular Meeting Minutes
5. Report of the Improvement District No. 4 Manager
 - a. Annual Schedule of Urban Bakersfield Advisory Committee Meetings
 - b. Recommendation to Approve 2012 Water Transfers, Exchanges, and Purchases for Improvement District No. 4
 - c. Update on Discussions Regarding Fiscal Year 2012-13 Kern County Water Agency State Contract Payment Funding
6. Recommendation to Execute the Account Holder Registration Agreement with the Western Renewable Energy Generation Information System
7. Water Supply and Management Plan
 - a. Report on the December 2011 Water Supply and Management Plan
 - b. Report on the 2012 Water Supply and Management Plan
8. Report on the Henry C. Garnett Water Purification Plant
9. Recommendation to Retain a Supervisory Control and Data Acquisition Consultant for the Henry C. Garnett Water Purification Plant
10. Update on Kern Water Bank Activities
11. Update on Cross Valley Canal Activities
12. Adjourn

Requests for a disability-related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Urban Bakersfield Advisory Committee Secretary in advance of the meeting to ensure availability of the requested service or accommodation.

4. Approval of Urban Bakersfield Advisory Committee Meeting Minutes:

October 26, 2011 – Regular Meeting Minutes

David Aranda made a motion to approve the minutes from October 26, 2011, Tim Ruiz seconded and the motion was unanimously carried.

5. Report of the Improvement District No. 4 Manager

David Beard reported that Kern County Water Agency (Agency) staff has retained a consultant to perform an electrical coordination study at the Henry C. Garnett Water Purification Plant. The cost for the consultant was included as an asterisked item in the Fiscal Year 2011-12 budget. Mr. Beard also reported that members of the coalition for Clean Water and Jobs for California came to the Agency seeking contributions to fund research on the 2012 Water Bond. Mr. Beard recommended that an ad hoc committee be formed to discuss whether Improvement District No.4 (ID4) will make a contribution to help fund the research. Doug Nunneley asked the Budget ad hoc committee to consider the request. Mr. Beard stated he will schedule an ad hoc meeting in January 2012.

a. Update on the Improvement District No. 4 Solar Project

David Beard reported on the components of the Solar Photovoltaic Project Cost Offset and Rebate summary. Mr. Beard also stated that future monthly updates will be mailed to the Urban Bakersfield Advisory Committee (UBAC) instead of being presented at UBAC meetings.

b. Update on the Bay Delta Conservation Plan and Delta Habitat Conservation and Conveyance Program

Jim Beck reported on the recent activities related to the Bay Delta Conservation Plan and Delta Habitat Conservation and Conveyance Program.

c. Update on the Real Property Reimbursement Issue Between the Kern County Water Agency General Fund and Improvement District No. 4 Enterprise Fund

David Beard reported on the outcome of discussions between Agency staff and an ad hoc committee of the UBAC regarding the real property reimbursement issue between the Agency General Fund and ID4 Enterprise Fund. Doug Nunneley stated UBAC may request to revisit the issue at the conclusion of the Hageman Flyover Project.

6. Recommendation to Adopt the Kern Integrated Regional Water Management Plan

David Aranda made a motion to recommend adopting Resolution 61-11 adopting the Kern Integrated Regional Water Management Plan, Jason Meadors seconded and the motion was unanimously carried.

7. Water Supply Report

a. Report on the 2011 Year-to-Date Water Supply and Management Plan

Donna Semar reported on ID4's projected water supplies and demands for November 2011.

b. Report on the 2012 Water Supply and Management Plan

Donna Semar reported on ID4's 2012 projected water supplies and exchange obligations.

8. Report on the Henry C. Garnett Water Purification Plant

a. Update on Kern River Radionuclide Monitoring

Phil Holderness reported on the monitoring results of radioactive isotopes in the Kern River following the earthquake and tsunami in Northern Japan.

9. Update on Kern Water Bank Activities

David Beard reported on the Kern Water Bank meeting held on December 12, 2011.

10. Update on Cross Valley Canal Activities

Tim Ruiz reported on the Cross Valley Canal Advisory Committee meeting held on December 12, 2011.

11. Adjourn

Doug Nunneley adjourned the meeting at 2:47 p.m.

TO: Urban Bakersfield Advisory Committee
Agenda Item No. 5a

FROM: David Beard

DATE: January 25, 2012

SUBJECT: Annual Schedule of Urban Bakersfield Advisory Committee Meetings

Issue:

Establishment of the annual schedule of Urban Bakersfield Advisory Committee meetings.

Recommended Motion:

Adopt the annual schedule of Urban Bakersfield Advisory Committee meetings as outlined in the staff memorandum to the Urban Bakersfield Advisory Committee, Agenda Item No. 5a.

Discussion:

Kern County Water Agency (Agency) staff recommends adopting the following schedule as the regular Urban Bakersfield Advisory Committee (UBAC) meeting dates. The schedule assumes UBAC will continue to meet on the Wednesdays prior to regularly scheduled Agency Board of Directors (Board) meetings, typically the fourth Thursday of each month; except for November and December where the meetings will be held the Tuesday preceding the third Thursday of the month at 1:30 p.m. The proposed regular UBAC meeting dates are:

February 22, 2012	August 22, 2012
March 21, 2012	September 26, 2012
April 25, 2012	October 24, 2012
May 23, 2012	November 13, 2012
June 27, 2012	December 18, 2012
July 25, 2012	January 23, 2013

Meetings will begin at 2:30 p.m. and will be held in the Agency Board Room of the Stuart T. Pyle Water Resources Center, located at 3200 Rio Mirada Drive, Bakersfield, California.

TO: Urban Bakersfield Advisory Committee
Agenda Item No. 5b

FROM: David Beard

DATE: January 25, 2012

SUBJECT: Recommendation to Approve 2012 Water Transfers, Exchanges and Purchases for Improvement District No. 4

Issue:

Consider authorizing the General Manager to approve 2012 water transfers, exchanges and purchases for Improvement District No. 4.

Recommended Motion:

Authorize the General Manager, for Improvement District No. 4, subject to approval of General Counsel as to legal form, as outlined in the January 25, 2012 staff memorandum to the Urban Bakersfield Advisory Committee, Agenda Item No. 5b to:

- a) Approve and enter into contracts providing for the purchase and/or exchange of high-flow water supplies from the State Water Project, Kern River and Central Valley Project through January 31, 2013; and
- b) Expend up to \$1,000,000 from the Zone of Benefit No. 7 Fund for the acquisition of State Water Project Article 21 water and Central Valley Project Section 215 water supplies; and
- c) Expend up to \$200,000 from the Improvement District No. 4 Additional Water Acquisition Reserve Fund for the acquisition of Kern River water, or other water supplies as available.

Discussion:

Improvement District No. 4 (ID4) has access to high-flow waters from the State Water Project (SWP) and the Central Valley Project (CVP) during certain hydrologic conditions. ID4 has historically acquired these water supplies using Zone of Benefit No. 7 funds reserved for this purpose. Often it is necessary to obtain approval with little advance notice in order to maximize water deliveries. Kern County Water Agency (Agency) staff is recommending the General Manger be authorized to enter into contracts and to expend money to purchase SWP Article 21 water and CVP Section 215 water for ID4.

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Staff is also recommending the General Manager be authorized to approve contracts and to expend up to \$200,000 from the Additional Water Acquisition Reserve Fund to purchase and/or exchange Kern River water or other water supplies if they become available.

Agency staff will continue to review proposed transfers, exchanges and/or purchases of water for ID4 with an ad hoc exchange committee of the Urban Bakersfield Advisory Committee (UBAC) prior to entering into agreements. A report will also be provided at the next regular meeting of UBAC on agreements authorized by the General Manager.

20.1.1

TO: Urban Bakersfield Advisory Committee
Agenda Item No. 6

FROM: David Beard

DATE: January 25, 2012

SUBJECT: Recommendation to Execute the Account Holder Registration Agreement with the Western Renewable Energy Generation Information System

Issue:

Consider adopting Resolution No. 06-12 authorizing the General Manager to execute the Account Holder Registration Agreement with the Western Renewable Energy Generation Information System.

Recommendation:

Adopt Resolution No. 06-12 authorizing the General Manager to execute the Account Holder Registration Agreement with the Western Renewable Energy Generation Information System and to expend \$850 in registration fees, subject to approval of General Counsel as to legal form, as outlined in the January 25, 2012 staff memorandum to the Urban Bakersfield Advisory Committee, Agenda Item No. 6.

Discussion:

The Western Renewable Energy Generation Information System (WREGIS) is an independent renewable energy registry and tracking system that receives data on renewable energy generation and creates marketable renewable energy certificates (RECs). WREGIS tracks all renewable energy generation in the geographic region of the Western Electricity Coordinating Council, whose area extends from Canada to Mexico and includes all or portions of fourteen Western states. The Improvement District No. 4 Solar Photovoltaic Project (ID4 Solar Project) is eligible to be enrolled in WREGIS and may accrue RECs based on energy production. The Account Holder Registration Agreement for WREGIS (Registration Agreement) needs to be executed in order to establish an account where RECs will be deposited. Kern County Water Agency (Agency) staff is recommending the General Manager be authorized to execute the Registration Agreement thereby creating an Agency account. The annual fee to maintain an Agency account is \$850.

BEFORE THE BOARD OF DIRECTORS
OF THE
KERN COUNTY WATER AGENCY

In the matter of:

AUTHORIZING THE EXECUTION OF THE *
ACCOUNT HOLDER REGISTRATION *
AGREEMENT WITH THE WESTERN *
RENEWABLE ENERGY GENERATION *
INFORMATION SYSTEM *

I, Lucinda J. Infante, Secretary of the Board of Directors of the Kern County Water Agency, of the County of Kern, State of California, do hereby certify that the following resolution proposed by Director _____, and seconded by Director _____, was duly passed and adopted by said Board of Directors at an official meeting hereof this 26th day of January, 2012, by the following vote, to wit:

Ayes:

Noes:

Absent:

Secretary of the Board of Directors
of the Kern County Water Agency

Resolution No. 06-12

WHEREAS, the Board of Directors of the Kern County Water Agency (Agency) is also empowered as the Board of Directors of the Agency Improvement District No. 4 (ID4); and

WHEREAS, The Western Renewable Energy Generation Information System (WREGIS) is an independent renewable energy registry and tracking system that receives data on renewable energy generation and creates marketable renewable energy certificates (RECs); and

WHEREAS, the ID4 Solar Photovoltaic Project is eligible to be enrolled in WREGIS and may accrue RECs based on energy production; and

WHEREAS, the Account Holder Registration Agreement for WREGIS needs to be executed in order to establish an account where RECs will be deposited; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Kern County Water Agency that:

1. The foregoing recitals are true and correct.
2. The General Manager is authorized, subject to approval of General Counsel as to legal form, to execute the Account Holder Registration Agreement with the Western Renewable Energy Generation Information System, attached hereto as Exhibit A, and to expend \$850 in registration fees.



Western Renewable Energy Generation Information System

WREGIS

ACCOUNT HOLDER REGISTRATION AGREEMENT

(Also referred to as the “TERMS OF USE”)

June 22, 2007

Revised May 1, 2008

Revised August 6, 2008

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ACCOUNT HOLDER REGISTRATION AGREEMENT OR TERMS OF USE

This Account Holder Registration Agreement (Agreement) is entered into on this date _____ by and between (enter the legal name of the Account Holder) _____ having its principal place of business at (address, city, state and zip)

(Account Holder) and the Western Electricity Coordinating Council (WECC), having its principal place of business at 155 North 400 West, Suite 200, Salt Lake City, UT 84103. The Account Holder Registration Agreement is abbreviated throughout as “Terms of Use” or “Agreement.” Capitalized terms used throughout the document have the meanings given when introduced or in Attachment 1 - Definitions.

Recitals

WHEREAS:

1. The Western Renewable Energy Generation Information System (WREGIS) is an independent and automated web-based renewable energy registry and tracking system that receives Data on renewable energy generation, creates merchantable renewable energy certificates (“RECs” or “Certificates”), registers the transfer of Certificates within and without the WREGIS system, and allows reporting on such transfers. When used herein, “WREGIS” is meant to encompass all hardware, software, and interfaces that are used in the operation of and/or that comprise the system and are made available to Account Holders by WECC under this Agreement. A Certificate is created in increments of one megawatt hour (MWh) of reported renewable energy generation.
2. WREGIS covers the same geographic region as the Western Interconnection and WECC. WREGIS will issue Certificates for registered renewable energy Generating Units located within the Western Interconnection and for registered renewable energy Generating Units located in states and provinces within WECC.
3. WREGIS is not a trading system for either RECs or energy but instead emulates a banking system. WREGIS Certificates are the currency of the banking system and may be used to verify compliance with state and provincial policy mandates, and to protect the integrity of voluntary green power markets.
4. WREGIS is a joint effort of the Western Governors’ Association, the Western Regional Air Partnership and the California Energy Resources Conservation and Development Commission (Energy Commission),

- collectively known as the Founding Sponsors. WECC has agreed to be the institutional home of WREGIS, and the Energy Commission has agreed to provide funding for WREGIS development and initial operations at WECC. WREGIS is intended to be financially self-supporting through fees paid by Account Holders.
5. A goal of WREGIS is to provide accurate and reliable Certificates reflecting actual renewable energy generation. WREGIS is intended to be policy neutral and will not determine whether Certificates are eligible for particular regulatory programs or voluntary markets.
 6. Another goal of WREGIS is to protect against double or multiple counting of the same renewable energy. The Energy Commission is sponsoring WREGIS to meet California's legislative mandates to ensure that renewable generation output sold in California is counted only once for the purposes of the renewables portfolio standard (RPS) in California or any other state.
 7. WREGIS is not intended to establish legal title to Certificates but instead to accurately track who is registered as possessing Certificates. Persons must address any issues regarding ownership or security interests in the Certificates outside of WREGIS.
 8. Any person who wishes to use WREGIS must register as an Account Holder and establish an account within WREGIS.
 9. All Account Holders must enter into this Agreement with WECC before using WREGIS. Only Account Holders may create or register Certificates.
 10. WECC administers WREGIS consistent with WECC's Bylaws and reliability mission, and is subject to obligations set forth in a contract between WECC and the Energy Commission, which is posted at the WREGIS Website: www.wregis.org.
 11. WREGIS is governed by the WREGIS Committee, which is a committee of the WECC Board of Directors, and is established under WECC's Bylaws. A Charter approved by the WECC Board of Directors authorizes governance by the WREGIS Committee. The WREGIS Committee represents both industry and governmental interests.
 12. The WREGIS Director oversees the day-to-day operations of WREGIS. The WREGIS Director is employed by WECC to manage WREGIS on behalf of WECC. The WREGIS Director is assisted by the WREGIS Staff and where necessary, contracts with service providers to perform the program and administrative operation functions needed to support the information system and WREGIS participants. Initially, the Energy

Commission has contracted with APX, Inc. to provide the software (including technical operations and maintenance) and to host web services for the software.

13. WREGIS accounts can be accessed only by using the secure WREGIS Website. An Account Holder must be approved by the WREGIS Director, must agree to this Agreement, must abide by the Operating Rules, must follow applicable Interface Control Documents, and must pay the fees required by this Agreement. An Account Holder will be able to access its WREGIS accounts and Data on the WREGIS Website by logging into WREGIS using its username and password.
14. Some Generator Owners or their duly authorized agents may agree with their Balancing Authority for the Balancing Authority to act as their Qualified Reporting Entity in order to report their respective Output to WREGIS. A Balancing Authority Account Holder may report Output on behalf of Generator Owners or their duly authorized agents that have designated the Balancing Authority Account Holder as their Qualified Reporting Entity.
15. This Agreement states the terms and conditions for registering renewable energy Generating Units and establishing an account with WREGIS.

NOW, THEREFORE, acknowledging that the success of WREGIS will depend on the truth, accuracy and completeness of the declarations made below and on these terms and conditions, the undersigned agree and represent that:

(1) Parties

This is a binding contract between the Account Holder and WECC. Account Holder and WECC are individually referred to herein as “Party” and collectively as “Parties.”

(2) Acceptance of Terms

- a. Account Holder’s use of WREGIS (including the secure WREGIS Website located online at www.wregis.org) is subject to the following Agreement (and as it may be modified from time to time).
- b. Subject to the provisions of Section 2(e), by accessing its account through the secure WREGIS Website, Account Holder accepts and agrees to be bound by this Agreement. Account Holder’s use of WREGIS is governed by the version of the Agreement in effect on the date the WREGIS

Website is accessed by Account Holder. Account Holder agrees to comply with the requirements of this Agreement and, in the event of a failure to comply, agrees to be subject to the default and termination provisions of this Agreement. WECC will maintain a copy of the current version of this Agreement on the WREGIS Website.

- c. Subject to the provisions of Section 2(e), by signing this Agreement, Account Holder is also subject to the WREGIS Operating Rules in effect on the date the secure WREGIS Website is accessed by Account Holder. Account Holder agrees to comply with the requirements of the Operating Rules and, in the event of a failure to comply, agrees to be subject to the default and termination provisions of this Agreement. Each and all of the provisions of the Operating Rules are hereby incorporated by reference into this Agreement as though set forth fully herein. WECC will maintain a copy of the current version of the Operating Rules on the WREGIS Website.
- d. Subject to the provisions of Section 2(e), by using WREGIS, Account Holder is also subject to the protocols of the Interface Control Documents in effect on the date the secure WREGIS Website is accessed by Account Holder. Account Holder agrees to comply with the requirements of the applicable Interface Control Document and, in the event of a failure to comply, agrees to be subject to the default and termination provisions of this Agreement. Each and all of the provisions of the Interface Control Documents are hereby incorporated by reference into this Agreement as though set forth fully herein. WECC will maintain a current copy of the Interface Control Documents on the WREGIS Website.
- e. WECC or its successors in interest, if any, may modify or amend this Agreement, Operating Rules, or Interface Control Documents at any time, upon providing (1) a minimum of 15 days prior written notice to the Account Holder if such modification or amendment is a technical change necessary for the continued operation of WREGIS and, (2) a minimum of 60 days prior written notice to the Account Holder for any other proposed modification or amendment. Such notices shall contain the terms of the proposed modification or amendment. If practicable, such process shall (a) provide for at least a 30-day period for consideration of the proposed amendment prior to its adoption and, (b) afford each Account Holder with a reasonable opportunity to participate in such proceedings. Account Holder agrees that by accessing its account through the secure WREGIS website—after having received appropriate written notice of the modification of the Agreement, Operating Rules, or Interface Control Documents in accordance with this Section 2—Account Holder signifies agreement to be bound by the modified Agreement, Operating Rules, and Interface Control Documents.

- f. If at any time Account Holder no longer agrees to this Agreement, the Operating Rules, and the Interface Control Documents—as each is currently written or as they may be modified in the future—Account Holder shall provide written notice to WECC, in accordance with Section 10(c), of its termination of this Agreement and shall cease to access or otherwise use WREGIS and the secure WREGIS Website, but shall be entitled to a final statement of the Account Holder’s account and other information reasonably requested by the Account Holder, including an accounting of the number of Certificates attributable to the Account Holder.

(3) Service Description

- a. WREGIS is an independent, automated, web-based, renewable energy registry and tracking system that receives Data on renewable energy generation, logs generation Data, allows for the review and/or dispute of Output, uses the Output for issuing WREGIS Certificates and tracks, via Certificates, renewable energy transactions occurring within the Western Interconnection.
- b. WREGIS allows for differentiated roles and permissions for various types of authorized Account Holders of the system as to management of accounts, Data access and reporting as more fully specified in the Operating Rules.
- c. WREGIS will produce electronic Certificates based on Output. A WREGIS Certificate represents all of the attributes from one MWh of electricity generation from a renewable Generating Unit registered with the WREGIS tracking system. One Certificate will be created for each whole MWh of renewable energy that is produced.
- d. Each account will have sub-accounts established to allow the Account Holder to transfer Certificates. The rules on sub-accounts are specified in the Operating Rules.
- e. Account Holder agrees that WREGIS does not establish legal title to Certificates in any form. Any issues that might arise regarding the ownership or security interest in Certificates, or whether the transferred Certificate is considered a ‘forward contract’ under the laws of a state or the laws of the United States, will be addressed by the Account Holder outside of WREGIS. WECC will not address any such ownership issues or have liability with respect to any such ownership issues.

(4) Output Reporting

- a. WREGIS issues Certificates only for Output. It is the responsibility of the Generator Owner and/or its agent to supply Output in accordance with the timelines incorporated in the WREGIS Operating Rules. If the Qualified Reporting Entity, designated reporting entity (using protocols described in an Interface Control Document), a Self-Reporting Interface, or Account Holder or its Agents or assigns fails to supply all required Output on registered Generating Units to WECC according to the dates specified in the Operating Rules, the Account Holder and Generator Owner will automatically be notified of the missing Output. The WREGIS Director may request submission of reasonable and consistent supplemental or additional Data from the Account Holder responsible for the Generating Unit in order to secure the missing Output.
- b. If the WREGIS Director determines that Data from an Account Holder is required for the determination of compliance by another Account Holder with this Agreement, Operating Rules, or Interface Control Documents; the WREGIS Director shall so notify the Account Holder and the Account Holder shall have 30 days from such notice, or a mutually agreeable extension thereof, to provide the requested Data to the WREGIS Director. An Account Holder may also request the WREGIS Director to request from another Account Holder, Output or Data required for the requesting Account Holder's compliance; however, such a request shall not relieve the Account Holder of any obligations to provide requested Output.
- c. If any Data is requested of Account Holders that is not listed in Section 13(b) or Section 13(c), such request will first be submitted to the WREGIS Committee for review and action. The WREGIS Committee will notice and hold a public WREGIS Committee meeting to discuss the request and will make a determination of the confidentiality status of any new Data being requested. If approved, the request is subject to the WREGIS change control procedure as detailed in the Operating Rules.

(5) Authorized Users

- a. An Account Holder can be any Person with the capacity to sue or be sued under the law of a state or a federal government. An Account Holder may include one or more of the following types of organizations or entities: Generating Unit owner or representative, Generator Unit aggregator, community choice aggregator, small utility aggregator, investor-owned utility (IOU), municipal utility, rural electric cooperative, irrigation district, electricity service provider, joint power authority, retail marketer, broker, tribal organization, customer-owned utility, public interest organization,

federal marketer/power administration, wholesale marketer, state program director, provincial program director, qualified independent party, Balancing Authority, other load serving entity, or other legal entity.

- b. An Account Holder who has account Registration and permissions for an account may designate a Person outside of the Account Holder's organization to serve as an Agent or other authorized user on the account. This is accomplished by the Account Holder submitting a Notice of Agent Designation. The Agent shall have only those WREGIS permissions and privileges as expressly granted by the Account Holder in the Notice of Agent Designation. The Notice of Agent Designation shall not be effective until written acknowledgement is issued by WECC. Such Notice of Agent Designation must be revoked by written notification from the Account Holder in the Notice of Agency Termination. In such event, the Account Holder will provide such written notification to WECC and such termination of the Notice of Agent Designation will not be effective until written acknowledgement is issued by WECC. Such acknowledgement will be made to the Account Holder by the WREGIS Director within five business days of WECC's receipt of written notification of revocation of the Notice of Agent Designation.
- c. The rights granted herein are granted only to Account Holders and their Agents. In the case of an Agent, the terms of the Notice of Agent Designation specify who is to pay WREGIS fees to WECC. In the case of an assignment of Registration permissions by a Generating Owner, the Notice of Assignment of Registration Rights specifies that the Assigned Account Holder (the one registering the Generating Unit) is to pay to the WECC registration fees, if applicable. If an Affiliate wishes to use WREGIS, it must apply for its own Registration, agree to this Agreement, abide by the Operating Rules, follow the applicable Interface Control Document, and pay the required fees.
- d. The rights and obligations of this Agreement shall run to the named Parties and their Agents for those WREGIS permissions and privileges expressly granted to the Account Holder.
- e. The Account Holder agrees that any of its employees or Agents to whom the Account Holder has provided access to WREGIS will fully comply with this Agreement, Operating Rules and the applicable Interface Control Documents, and further agrees to make such compliance a condition of any agreement that Account Holder may create for this purpose.

(6) Grant

- a. WECC grants to Account Holder, and its authorized agents, a non-exclusive non-transferable license to use WREGIS software at the WREGIS Website subject to this Agreement, Operating Rules and Interface Control Documents in force. Before granting Account Holder access, Account Holder shall (1) complete and submit this Agreement to the WREGIS Director, (2) complete and submit Account Holder Registration Data (on-line after obtaining temporary status to use WREGIS as a Registrant) to the WREGIS Director, and (3) pay the applicable fees due under this Agreement and Operating Rules.
- b. Account Holder's use under the license shall be subject to the following limitations:
 - (i) Account Holder shall not (a) loan, share, publish, republish, disclose, transmit, display, sell, license, lease or distribute any portion of WREGIS software to any third party, (b) disassemble, decode, decompile or otherwise reverse engineer, copy, reproduce WREGIS software, or (c) loan, share, publish, republish, disclose, transmit, display, sell, license, lease, distribute, disassemble, decode, decompile, reverse engineer, copy, reproduce, or use WREGIS as a basis for a directory or database prepared for commercial sale or distribution. Account Holder shall not modify the format of any WREGIS generated report, but such restriction does not include the information contained therein.
 - (ii) Account Holder shall not remove any copyright, trademark, or other proprietary notices contained in WREGIS.
 - (iii) Account Holder shall not knowingly infringe or misappropriate WREGIS software.
 - (iv) WECC represents and warrants that it has received from the Energy Commission, all necessary rights to allow Account Holder to use WREGIS in accordance with this Agreement.
- c. WECC reserves all rights in WREGIS not expressly granted to Account Holder in this Agreement. Account Holder acknowledges that the WREGIS software does not belong to Account Holder. Except as provided in this Agreement, Account Holders shall not obtain, have, or retain any right, title, or interest in or to WREGIS or the WREGIS software or any part thereof pursuant to this Agreement.

- d. In using the WREGIS Website, Account Holder agrees:
- (i) Not to disrupt or interfere with the security of, or otherwise abuse, WREGIS or any services, system resources, accounts, servers, or networks connected to or accessible through the WREGIS Website or affiliated or linked sites;
 - (ii) Not to disrupt or interfere with any other user's use and enjoyment of the WREGIS Website or affiliated or linked websites;
 - (iii) Not knowingly to upload, post, or otherwise transmit through or on the WREGIS Website any viruses or other harmful, disruptive, or destructive files;
 - (iv) Not to copy, use, frame, or utilize framing techniques to enclose any WREGIS or WECC trademark, logo, or other proprietary information (including the images found at the WREGIS Website, the content of any text or the layout/design of any page or form contained on a page and expressly excluding information contained in reports) without WECC's express prior written consent;
 - (v) Not to use meta tags, cookies, or any other "hidden text" created by Account Holder utilizing the WREGIS or the WECC name, trademark or product name without WECC's express prior written consent;
 - (vi) Not to "deeplink" to the WREGIS Website without WECC's express prior written consent;
 - (vii) Not to create or use a false identity on the WREGIS Website;
 - (viii) Not to attempt to obtain unauthorized access to the WREGIS Website or portions of the WREGIS Website that are restricted from general access or portions of the WREGIS Website that are assigned specific Account Holder access permissions outside of the Account Holder's own access permissions;
 - (ix) Not to post any material that is knowingly false or defamatory, inaccurate, abusive, vulgar, hateful, harassing, obscene, profane, sexually oriented, threatening, invasive of a person's privacy, or otherwise in violation of any law;
 - (x) Not to post any copyrighted material unless the copyright is owned or lawfully licensed by Account Holder or by WECC; and

- (xi) In addition, Account Holder agrees to comply with all applicable local, state, national, and international laws and regulations, including but not limited to United States export restrictions, that relate to use of or activities on the WREGIS Website.

(7) Fees

Account Holder agrees to pay all applicable Fees, including Annual Fees and Volumetric Fees, collectively referred to herein as the “Fees”, that WECC charges for using WREGIS. All Volumetric Fees will be calculated monthly. Fees may change from time to time. WECC may, at its sole discretion, increase or decrease the Fees at any time, upon providing 60 days’ prior notice to the Account Holder. WECC shall notify Account Holder of any WECC process to change the Fees by first publishing the notice on the WREGIS Website. If practicable, such process shall (a) provide for at least a 30 day period for consideration of the proposed change prior to its adoption; and (b) afford each Account Holder with a reasonable opportunity to participate in such proceedings. Any changes in the fee structure will be publicly noticed and discussed at a public WREGIS Committee meeting and approved by the WREGIS Committee prior to being implemented. In no event shall any portion of the Fees paid to WECC be prorated or refunded to Account Holder upon termination of the Agreement. Likewise, Account Holder’s obligation to pay any and all Fees due to WECC shall survive the termination of such use or access.

- a. A schedule of Fees to be charged each type of Account Holder will be posted on the publicly accessible WREGIS Website. Initially, WECC will charge most Account Holders both an Annual Fee and a Volumetric Fee. The fee matrix on the WREGIS Website details which fees each type of Account Holder will be charged.
- b. Annual Fees will be calculated in the anniversary month that the account was approved. The full payment of the Annual Fee will be required prior to the WREGIS Director’s approval of the New Account Registration.
- c. No Annual Fee will be charged to: (1) non-transacting state, provincial, or federal regulators; (2) Qualified Reporting Entities whose sole purpose is to report generation output on behalf of a Generating Unit that is not owned by the reporting entity (e.g., the California Independent System Operator Corporation); and (3) voluntary program directors, such as; Green-e, Low-Impact Hydro, or Ecologo.
- d. **Certificate Issuance Volumetric Fee.** WECC shall assess Account Holder a Volumetric Fee for the issuance of a Certificate. Account Holder shall pay a fee per MWh of issued WREGIS Certificates. The Certificate Issuance Fee shall be calculated monthly based on the number of Certificates issued.

- e. **Certificate Transfer Volumetric Fee.** WECC shall assess Account Holder a Volumetric Fee for the transfer of a Certificate from one Account Holder to another. The Account Holder initiating the transfer shall pay the Fee on each Certificate transferred to another Account Holder, whether the transfer is scheduled (Standing Order Transfer or Forward Certificate Transfer) or non-scheduled (ad hoc). The Certificate Transfer Fee shall be calculated monthly based on the number of Certificates of which the transfer was initiated by the Account Holder and accepted by the intended recipient.
- f. **Certificate Retirement, Reserve, or Exported Volumetric Fee.** WECC shall assess a Volumetric Fee for retiring, reserving, or exporting a Certificate. All Account Holders that retire, reserve, or export Certificates shall pay the Volumetric Fee on each Certificate retired, reserved, or exported. The Certificate Retirement, Reserve, or Export Fee shall be calculated monthly based on the number of Certificates retired, reserved, or exported.

(8) *Payments and Taxes*

The Fees shall be non-refundable and are due and payable within 30 days from the date of WECC's invoice. Account Holder will pay all applicable sales, use, value added taxes, and other taxes levied in connection with Account Holder's use of WREGIS, other than taxes based on the income of WECC.

(9) *Late Fees*

Account Holder acknowledges that late payment of any Fees owed to WECC may cause WECC to incur extra administrative and other costs and expenses. If Account Holder fails to pay any amounts or charges that Account Holder is obligated to pay under the terms of the Agreement within fifteen days of the due date, then Account Holder shall be responsible to pay to WECC a late fee equal to one and one-half percent (monthly interest rate) computed on the overdue amount. Account Holder reserves the right to dispute the amount of the Volumetric Fee charges for a period of 90 days following payment by Account Holder. Acceptance of any late fee shall not constitute a waiver of Account Holder's default with respect to such late payment, nor prevent WECC from exercising any other rights or remedies available to WECC under the Agreement or applicable law.

(10) Term and Termination

- a. **Term.** This Agreement becomes operative on the date on which Account Holder has (1) completed and submitted to the WREGIS Director Account Holder Registration Data (on-line after obtaining temporary status to use WREGIS as a Registrant), (2) indicated on the WREGIS Website Account Holder's unqualified acceptance of this Agreement, (3) paid all Fees due under this Agreement and Operating Rules, and (4) submitted to the WREGIS Director two signed copies of this Agreement. This Agreement shall continue in effect until one of the Parties terminates this Agreement pursuant to the terms of this Section 10 (Term and Termination), or the Agreement expires or terminates by operation of law pursuant to the terms of this Section.

- b. **Termination for Default.** If WECC finds Account Holder in default in the performance of any of its obligations under Section 21 (Default; Remedies; Nonwaiver of Default) of this Agreement, WECC may terminate this Agreement, including Account Holder's access to WREGIS, upon giving 15 days written and electronic notice to Account Holder and an opportunity to cure in accordance with Section 21(a) hereof, unless otherwise provided herein.

- c. **Termination for Convenience by Either Party.** Either Party to this Agreement may terminate this Agreement and Account Holder's access to WREGIS, without cause, by providing at least 60 days written notice to the other Party. Account Holder's obligation to pay any and all Fees due to WECC shall survive the termination of such use or access.

- d. **Termination Required by Law.** WECC may terminate access to or Account Holder may cease use of WREGIS if required to do so by any statute, regulation, tariff, order, or ordinance enacted by a governmental authority having jurisdiction over Account Holder or WECC, or by any order or other decision of a court of law or governmental agency, as required by said statute, regulation, tariff, ordinance, order, or decision. At least 60 days written notice of said termination of access or cessation of use of WREGIS shall be given by the Party terminating the access to, or ceasing the use of, WREGIS under this subsection, unless a shorter notice period is required or permitted by the applicable statute, regulation, ordinance, order, or decision.

- e. **Provisions that Survive Termination.** The following Sections survive termination of this agreement : Sections 7 (Fees), 10 (Term and Termination), 11 (Ownership and Uses of Data), 12 (Intellectual Property),

13 (Confidentiality), 14 (Limited Warranty; Disclaimer of Warranty), 15 (Disclaimer of Responsibility for Message Boards and Links), 16 (Limitation of Liability; Remedies), 19 (No Assignment, Transfer, or Encumbrance by Account Holder), 20 (Force Majeure), 21 (Default; Remedies; Nonwaiver of Default), 22 (Waiver), 23 (Governing Law), 24 (Dispute Resolution), 25 (Audit; Continuing Duty to Report Errors; Audit Standard), 27 (Severability), and Attachment 1 (Definitions), and any other provisions which reasonably should or must survive termination or expiration of this Agreement, or which it is reasonable to conclude that the Parties intended to survive termination or expiration of this Agreement, shall survive termination of the Agreement.

- f. **Reinstatement.** WECC, at its sole discretion, may reinstate an Account Holder's access to WREGIS after the account has been terminated for Account Holder's Default, upon a determination that the problem that led to the Account Holder's termination has been satisfactorily resolved. There is no limit on the amount of time that WECC may place an Account on inactive status. If the Account Holder passed the date for his/her annual registration update while in termination, the Account Holder must update registration data before the WREGIS Director will reinstate any permission to access or use WREGIS. A new account must be created for this Account Holder and approved by the WREGIS Director for the Account Holder to have any permission to access or use WREGIS, at which time all forms must be resubmitted and the annual Account Holder fee must be paid.

- g. **Termination due to Intellectual Property Infringement Claim.** Either Party may immediately terminate the Agreement at any time after receiving notice from a third-party alleging infringement of the third-party's intellectual property rights. Termination will be effective upon delivery by one Party of written notice to the other Party. Account Holder information that WECC has control over shall be delivered to the Account Holder as promptly as feasible.

(11) Ownership and Uses of Data

- a. The Parties agree that Account Holder may directly, or through others on its behalf, report Data to WREGIS. The Parties also agree that the Account Holder will continue to own the Confidential Information reported to WREGIS by or on behalf of Account Holder. Once Data is received by WREGIS, it will be collected, stored, manipulated, and displayed in a manner unique to WREGIS. "Data" includes Static Data and Dynamic Data. "Data" does not include WREGIS software.

- b. The Parties agree that WECC has the right to use and allow others to use Data reported to WREGIS as WECC reasonably deems appropriate, provided however, that Confidential Information can only be used and disclosed pursuant to the terms of this Agreement.

- c. Data in WREGIS will be maintained to provide an accurate tracking database and to protect against double or multiple counting of the same Certificates. WECC has the right to retain Account Holder's Confidential Information in WREGIS even if Account Holder's account is terminated. If an Account Holder's account is terminated, WREGIS will continue to treat Account Holder's Confidential Information according to the provisions of Section 13.

(12) Intellectual Property

Copyright and/or other intellectual property laws may protect WREGIS, and any and all content of WREGIS, and any unauthorized use of the WREGIS software may violate such laws related to their protection. Except as expressly provided herein, WECC does not grant any express or implied right or license of any kind to Account Holder under any patents, copyrights, trademarks, or trade secret information with respect to WREGIS. Account Holder acknowledges that Account Holder does not acquire any ownership rights by downloading copyrighted material from WREGIS.

(13) Confidentiality

- a. WECC agrees not to use or disclose Confidential Information contained in WREGIS except as authorized by this Agreement.

- b. The following is deemed Confidential Information:
 - Gross generation (MWhs) of each electricity Generating Unit;
 - Net generation (MWhs) of each electricity Generating Unit;
 - Electricity (MWhs) consumed on site by the Generating Unit owner, other than for Generating Unit use (monthly);
 - Street address of the Generating Unit;
 - If aggregate metering of Generating Units, number and names of Generating Units on the meter;
 - Capacity factor of each electricity Generating Unit;
 - Total number of Certificates in Account Holder's Account and each Subaccount; and

- Those portions of communications between Account Holder and WECC regarding WREGIS that contain any of the aforementioned information that would be treated as Confidential Information.
 - The amount and timing of Certificate transfers, including transfers from one Account Holder to another and transfers among the subaccounts of an Account Holder will be treated as confidential (except with respect to a third party to whom the Account Holder has granted access).
- c. The following Data reported to WREGIS is considered public information and will not be treated as Confidential Information:
- Account Holder company name, address, and all contact information;
 - Agent's company name, address, and all other contact information;
 - Generating Unit Name;
 - Facility owner name, address, and all other contact information (other than the Generating Unit street address);
 - Nameplate capacity of the Generating Unit;
 - Generating Unit type of prime mover;
 - Energy source, and/or fuel type(s) used at Generating Units;
 - For multi-fueled Generating Units, the fuels consumed each month as a percentage of the total fuel used each month for electricity production;
 - Other eligibility characteristics;
 - Date when Generating Unit went into first commercial operation;
 - Name of facility operator, address, and contact information (other than the Generating Unit street address);
 - Meter serial or identification number;
 - Revenue meter by county, province, state, country;
 - Statement of fact that Generating Unit is or is not within WECC's region;
 - Name of Balancing Authority for the Generating Unit;
 - Name of utility to which Generating Unit is physically interconnected to;
 - Statement of fact that the Generating Unit is or is not a Qualifying Facility;
 - Facility Ownership type (a range of options);
 - Statement of fact that the Generating Unit has or has not received California Supplemental Energy Payments;
 - Statement of fact that the Facility has or has not received State/Provincial public benefits funds or support;
 - Statement of fact that the Facility has or has not received Federal Tax Credits;
 - FERC Hydro licensing information including license identifier, date of last license or application pending information;
 - Statement of fact that the Generating Unit has or has not been Repowered and date if it has been Repowered;
 - State/provincial program eligibility/certifications;

- State/provincial RPS eligibilities information as may be required for one or more states/provinces;
 - Statement of fact, whether the Facility is outside of United States-Defined Protected Areas indicator;
 - Certified “Low-impact” information for eligibility; and
 - Information on Certification or Eligibility for Voluntary or other Mandatory Programs such as Greene-e, Ecologo, and similar programs.
- d. The WECC shall protect Account Holder’s Confidential Information from inadvertent disclosure and from disclosure to any third party except as authorized by Account Holder or this Agreement. WECC, its employees, members, agents, and assigns will protect and maintain Confidential Information provided by Account Holder to WECC pursuant to the provisions of this Section 13, and WECC shall obtain from all its employees, members, agents, and assigns to whom such Confidential Information is provided their agreement to comply with this Agreement.
- e. Confidential Information may be aggregated with other information in WREGIS and included in Public Reports as described more fully in the WREGIS Operating Rules, so long as it is sufficiently aggregated such that a third-party reviewer could not determine the actual generation produced by a Generating Unit registered with WREGIS over any specified period of time or attribute any Confidential Information to a particular Account Holder. Information in WREGIS that is considered Confidential Information that cannot be sufficiently aggregated or masked (such as Generating Unit/Facility street addresses) such that a third-party reviewer could determine the actual Generating Unit registered with WREGIS, or attribute any Confidential Information to a particular Account Holder cannot be included in public reports.
- f. If WECC is requested or required, by subpoena, oral deposition, interrogatory, request for production of documents, administrative order, or other legal or regulatory process, to disclose any Confidential Information of Account Holder, the WREGIS Director shall notify the Account Holder in writing as promptly as feasible using commercially reasonable efforts so that Account Holder may, if it so chooses and at its own expense, challenge the disclosure or seek an appropriate protective order. WECC shall reasonably cooperate with Account Holder in resolving the dispute. To the extent that the WREGIS Director and WECC have complied with the preceding provisions of this Section 13, WECC shall not be deemed to have violated its confidentiality obligations under this Agreement as a result of disclosing Account Holder’s Confidential Information to a third party pursuant to a subpoena, oral deposition, interrogatory, request for production of documents, administrative order, or other legal or regulatory process.

- g. In addition to the confidentiality requirements as specified in this Agreement, WECC will require adherence by the WREGIS Director, the WREGIS Committee, the WECC Staff and any persons with access to such Confidential Information, to applicable confidentiality protocols designated by WECC. These documents will be available for review on WECC's website, <http://www.wecc.biz/>.
- h. For purposes of this Agreement, no arbitrator engaged pursuant to Section 24 of this Agreement shall be deemed a third-party so long as such person has agreed in writing to be bound by the confidentiality obligations applicable to WECC under this Agreement and the applicable rules of the American Arbitration Association (AAA).
- i. The obligations of confidentiality in this Agreement shall survive its termination without limitation in duration for so long as information continues to meet the definition of Confidential Information.

(14) *Limited Warranty; Disclaimer of Warranty*

- a. **NEITHER PARTY, EXCEPT AS OTHERWISE PROVIDED IN SECTION 25 (b), WARRANTS THAT THE DATA IN WREGIS IS ACCURATE, CORRECT, COMPLETE, OR CURRENT.**
- b. **SOFTWARE PROGRAMS USED FOR WREGIS AND THE WREGIS WEBSITE ARE PROVIDED "AS IS" TO THE ACCOUNT HOLDER. WECC MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS AGREEMENT OR TO THE ADEQUACY OR PERFORMANCE OF SOFTWARE PROGRAMS USED FOR WREGIS AND THE WREGIS WEBSITE; AND, EXCEPT AS SPECIFICALLY WARRANTED IN SECTION 6(b)(iv), WECC HEREBY DISCLAIMS ANY SUCH WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTIES ARISING FROM ANY COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WECC DOES NOT WARRANT THAT THE SOFTWARE PROGRAMS IN WREGIS WILL BE ERROR FREE OR BUG FREE. However, WECC will use commercially reasonable efforts to maintain the accuracy, correctness, completeness, and currentness of the WREGIS software, in accordance with updates and other information provided by the WREGIS software vendor.**

- c. WECC is not responsible for the acts or omissions of parties other than WECC who input Data into WREGIS or from whom Data is obtained for inclusion into WREGIS.
- d. Account Holder is solely responsible for the protection, security, and management of usage and security of its computer network. WECC will not compensate Account Holder for damages incurred to the extent due to security violations of the security of Account Holder's computer network, nor shall Account Holder make deductions or set offs of any kind for Fees due to WECC resulting from security violations of Account Holder's computer network.
- e. WECC will have no liability for any claims for intellectual property infringement, except for claims due to its own actions, but will flow down any rights it may have to indemnity that it receives by virtue of its contract with the Energy Commission and the rights that may flow from APX, Inc. to the Energy Commission and WECC.

(15) *Disclaimer of Responsibility for Message Boards and Links*

- a. WREGIS will have the capability to host message boards (Boards) on the area of the WREGIS Website open to the public. **WECC IS NOT RESPONSIBLE FOR ANY MATERIAL POSTED BY ANY PARTY OTHER THAN WECC IN ANY MESSAGE BOARD, BULLETIN BOARD, CHAT ROOM OR IN ANY OTHER FORUM AT WREGIS (TOGETHER, THE "BOARDS")**. WREGIS is merely providing access to the Boards for informational purposes. The Boards are not to be used for commercial transactions. Account Holders agree that all commercial transactions involving Certificates will take place outside of WREGIS.
- b. In using the Boards, the Account Holder will not post, upload, transmit, distribute, or otherwise publish on the Boards any material that is: libelous, defamatory, obscene, abusive, pornographic, threatening, or an invasion of privacy; or an infringement of intellectual property rights, including, but not limited to, copyrights and trademarks, of any person or entity; or material that is illegal in any way or advocates illegal activity; or a message posted by a user impersonating another; or personal information such as messages which identify social security numbers, account numbers, addresses, or employer references; or chain letters of any kind; or any advertisement or solicitation of funds, goods, or services. Account Holder agrees to limit the subject matter posted, uploaded, etc. to information directly related to WREGIS Certificates. WECC reserves the right to monitor and delete any postings deemed inconsistent with its policies, this Agreement or the Operating Rules. WECC also reserves the

right, at its discretion, to terminate access by any user of the Boards who violates any of the Agreement or Operating Rules. Although WECC will make reasonable efforts to monitor materials in Boards, in no event does it assume any particular obligation to do so or assume liability for failing either to monitor the Boards or to remove specific material.

- c. WECC makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature, or reliability of sites accessible by hyperlink from the WREGIS Website, or sites linking to the WREGIS Website. The linked sites are not under the control of WECC and WECC is not responsible for the content of any linked site or any link contained in a linked site, or any review, changes, or updates to such sites. The inclusion of any link does not imply affiliation, endorsement, or adoption by WECC or WREGIS of any information contained therein. When leaving the WREGIS Website, Account Holder understands that WREGIS' terms and policies do not govern the accessed website, and Account Holder will review the applicable terms and policies, including privacy and data-gathering practices, of that website.

(16) *Limitation of Liability; Remedies*

- a. **NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR DIRECT, GENERAL, SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR OTHER INDIRECT DAMAGES REGARDLESS OF CAUSE.**
- b. **EACH PARTY SHALL BE ENTITLED TO SEEK SPECIFIC PERFORMANCE OF THIS AGREEMENT.**

(17) *Passwords*

Account Holder agrees to assume sole responsibility for the security of any passwords issued by WREGIS to Account Holder for accessing WREGIS. Account Holder shall restrict and control the use, copying, and security of its username and password to WREGIS among Account Holder's employees and agents and, to the extent reasonably within its control, prevent access to WREGIS except by those permitted to have access according to this Agreement. Each Party agrees to immediately notify the other Party of any suspected unauthorized use of Account Holder's password(s), account, or any other suspected breach of security.

(18) Viruses

WECC shall take reasonable efforts to protect WREGIS from being infected by viruses, including supplying virus protection software. However, WECC assumes no responsibility, and shall not be liable for viruses that may infect Account Holder's equipment or other property on account of Account Holder's access to use of any information or the use of WREGIS.

(19) No Assignment, Transfer, or Encumbrance by Account Holder

Neither this Agreement nor any rights under this Agreement may be assigned, sublicensed, encumbered, pledged, mortgaged, or otherwise transferred by Account Holder, in whole or in part, whether voluntary, or by operation of law, without the express prior written consent of WECC, which consent shall not be unreasonably withheld.

(20) Force Majeure

Neither Party shall be deemed to have breached any provision of this Agreement, Operating Rules, Interface Control Documents, or other applicable agreements or protocols related to WREGIS as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, terrorism, fires, floods, riots, embargoes, transportation contingencies, fuel shortages, interruptions in third-party telecommunications, or Internet equipment or service, other catastrophes, or any other occurrences which are beyond the claiming Party's reasonable control and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided.

(21) Default; Remedies; Nonwaiver of Default

- a. **Default.** The occurrence of any of the following shall be considered a "Default":
 - (i) Account Holder has failed or refused to abide by the Operating Rules or the Interface Control Documents or failed or refused to perform any of its material duties or obligations under this Agreement, other than those set forth below in Sections 21(a)(ii), (a)(iii), (a)(iv), (a)(v), and (a)(vi), which default is not substantially cured within 15 days after written notice is given to Account Holder specifying such default; provided however that if the nature of Account Holder's default is such that more than 15 days are

reasonably required to cure, then such default shall be deemed to have been cured if Account Holder commences such performance within said 15 day period and thereafter diligently completes the required action within a reasonable time thereafter.

- (ii) Account Holder fails to pay any of the Fees or other charges due to WREGIS within 90 days of their due date.
 - (iii) Account Holder, its employees, agents, or contractors alter, tamper with, intentionally damage, or destroy (1) WREGIS, the WREGIS Website, or WREGIS Software or any portion thereof, or (2) the Data, Output, or other Confidential Information of other users of WREGIS.
 - (iv) Account Holder uses WREGIS in any manner that, directly or indirectly, violates any law, rule, code, or regulation or aids any unlawful act or undertaking.
 - (v) All or substantially all of Account Holder's assets are attached or levied under execution (and Account Holder does not discharge the same within 60 days thereafter); a petition in bankruptcy, insolvency, or for reorganization or arrangement is filed by or against Account Holder (and Account Holder fails to secure a stay or discharge thereof within 60 days thereafter); Account Holder is insolvent and unable to pay its debts as they become due; Account Holder makes a general assignment for the benefit of creditors; Account Holder takes the benefit of any insolvency action or law; the appointment of a receiver or trustee in bankruptcy for Account Holder or its assets if such receivership has not been vacated or set aside within 30 days thereafter; or, dissolution or termination of existence of Account Holder if Account Holder is not a natural person.
 - (vi) Knowingly, intentionally, or with willful ignorance, falsifying or misrepresenting any Output or Data input into WREGIS by Account Holder as required in Section 3(c).
- b. In addition to the defaults described above, the Parties agree that if Account Holder receives written notice of a violation of the performance of any particular material term or condition of this Agreement three or more times during any 12-month period, regardless of whether such violations are ultimately cured, then such conduct shall, at WECC's option, represent a separate Default.
- c. **Remedies.** Upon the occurrence of any Default, the Parties shall have the following rights and remedies, in addition to those stated elsewhere in

this Agreement and those allowed by law or in equity, any one or more of which may be exercised without further notice to Defaulting Party:

- (i) If any of the items enumerated in section (a) occurs, Account Holder is in default and WECC may suspend Account Holder's access to WREGIS, upon giving 15 days written and/or electronic notice to Account Holder. If there is a dispute regarding the occurrence of a default, the Parties shall follow the provisions of Section 24 (Dispute Resolution) to settle the matter. WECC, in its sole discretion, may reinstate an Account Holder's access to WREGIS after the account has been suspended for Account Holder's Default, upon a determination that the problem that led to the Account Holder's suspension has been satisfactorily resolved and payment made for all fees and late charges (sanctions) due and owing. There is no limit on the amount of time that WECC may suspend an Account. If the Account Holder passed the date for his/her Annual Registration Update while in suspension, the Account Holder must update Registration Data before all permissions will be reinstated by the WREGIS Director.
 - (ii) If a Party is in Default, the Party not in Default may terminate this Agreement as provided in Section 10 (Term and Termination).
 - (iii) Upon termination of the use of WREGIS, Account Holder shall be obligated to pay to WECC all monies due to WECC, which shall include any interest and late fees due hereunder.
- d. **Nonwaiver of Default by accepting partial payment.** WECC 's receipt of less than the full amount of Fees due shall not be construed to be a waiver of default but shall be construed as a payment on account then due, nor shall any statement on Account Holder's check or any letter accompanying Account Holder's check be deemed an accord and satisfaction or a waiver of default.

(22) Waiver

No waiver of any provision, condition, requirement, Default, or breach of this Agreement will be effective unless set forth in a written instrument executed by the Party granting the waiver. Any such waiver will be effective only in the specific instance and for the specific purpose for which it is given and will not be deemed a waiver of any other provision or of the same Default or breach upon any recurrence. No failure to exercise and no delay in exercising any right (including without limitation any remedy available to a Party) under this Agreement will operate as a waiver of such right, nor will any single or partial

exercise of any right preclude any other or further exercise of that right or any other right.

(23) Governing Law

Except for any state agency or governmental entity, Account Holders that are prohibited from using any other state's laws than their own (in which case their state law without regard to its rules on conflicts of laws shall be used), or in the case of a federal government Account Holder federal law shall apply, this Agreement shall be governed by the laws of the State of Utah without regard to its rules on conflicts of laws. Unless expressly preempted by the laws of the United States of America, the Parties expressly agree that the Uniform Computer Information Transactions Act shall not apply to this Agreement.

(24) Dispute Resolution

In the event of a dispute, controversy, or claim raised or asserted by the Account Holder, the Parties shall follow the following dispute resolution procedures.

- a. **FIRST STEP.** Account Holder and the WREGIS Director shall first attempt in good faith to resolve the dispute by informal oral and/or written discussion(s). The Account Holder shall identify the issues and the relief sought.
- b. **SECOND STEP.** If the Parties cannot resolve the dispute at the First Step and the Account Holder wishes to further pursue the matter, then Account Holder shall set forth the dispute in a writing entitled "Notice of Dispute" and send it, together with any supporting evidence, to the WREGIS Director. The Notice of Dispute shall in good faith describe the issue(s) in the dispute, the legal authority or other basis for the Account Holder's position, the evidence that supports the Party's position, and the remedy sought. The WREGIS Director (or designee) shall review the written dispute and confer with the appropriate Account Holder, and WECC to review and consider the dispute in good faith. The WREGIS Director (or designee) shall issue to the Parties a good faith written recommended resolution of the dispute within 15 business days after receipt of the Account Holder's Notice of Dispute. If the issues or evidence are complex, the WREGIS Director may for good cause extend the time for issuance of a recommended resolution by a reasonable amount of time not to exceed 20 calendar days. If the WREGIS Director invokes such an extension, the reason for the extension shall be stated in writing and immediately provided to Account Holder. The written recommendation of the WREGIS Director (or designee) shall include a recommended

resolution of the dispute together with a good faith informal explanation of the reasons for the recommended resolution. Neither Party shall be formally bound by the recommended resolution nor by any written submissions they may make to the WREGIS Director, although such submissions may be entered into evidence at a later dispute resolution process, if any, including arbitration or litigation.

- c. **THIRD STEP.** Should the Account Holder disagree with the WREGIS Director's recommended resolution of the dispute, Account Holder may appeal the matter in writing to the WREGIS Committee by forwarding a written "Notice of Appeal" along with the written materials previously submitted to the WREGIS Director and a copy of the WREGIS Director's written recommended resolution of the dispute. The WREGIS Committee shall consider and decide the dispute as soon as possible at the next committee meeting and issue a written decision thereon to the Account Holder.
- d. **FOURTH STEP.** Except for any state agency or governmental entity Account Holder's for which binding arbitration of disputes is not permitted by law, should the Account Holder disagree with the WREGIS Committee's decision and wish to further pursue the dispute, Account Holder may proceed to arbitration on the terms and conditions set forth below by sending the WREGIS Committee and the WREGIS Director a written Notice of Intent to Arbitrate, as described below, specifying the dispute and the relief sought. The dispute and any related controversy or claim arising out of or relating to these Terms of Use, or the breach thereof, or any other claim or controversy between the Parties, shall then be decided by binding arbitration administered by the AAA under its Commercial Arbitration Rules and Supplementary Procedures for Online Arbitration then in effect. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The Parties shall mutually select one arbitrator with legal expertise in intellectual property, web-based tracking systems, and/or any one area of legal expertise that is substantially involved in the dispute, within 30 days of instituting the arbitration; otherwise the AAA shall select the arbitrator. Any hearings will be held in Salt Lake City, Utah, the Parties hereby waiving any claim or defense that such venue is not convenient or proper. Neither Party may dispute the validity of this Agreement, the Operating Rules, the Interface Control Documents, and/or protocols related to WREGIS. Any request for emergency or injunctive relief may be submitted under the AAA's Optional Rules for Emergency Measures of Protection. The arbitrator shall have no authority to award punitive damages or any other damages other than specific performance, and may not in any event make any ruling, finding or award that does not conform to the terms and conditions of these Terms of Use. Unless required by law or mutually agreed in writing by the Parties, neither Party nor the

arbitrator may disclose the existence or results of any arbitration hereunder.

- e. Prior to initiating arbitration or any other form of legal or equitable proceeding hereunder, the Party seeking to arbitrate or resolve an issue (Demanding Party) shall give the other Party at least 30 days written Notice of Intent to Arbitrate describing the claim with particularity and the amount of the claim as to which it intends to initiate the action together with all supporting documentation available to the Demanding Party.
- f. Each Party shall be responsible for the payment of all of its defense costs associated with the resolution of said dispute whether in arbitration or before a court of law, including but not limited to any filing fees, arbitrator fees, attorney fees, and other costs incurred in such proceeding.
- g. For (i) State agency or governmental entity Account Holders for which binding arbitration of dispute is not permitted by law; or (ii) Account Holders (x) who are Balancing Authorities and are Qualified Reporting Entities acting solely in the capacity of reporting Output on behalf of a Generating Unit that is not owned by the Qualified Reporting Entity (e.g. an independent system operator) and (y) whose tariffs specify a dispute resolution process which governs the dispute; the Account Holder shall send the WREGIS Committee and the WREGIS Director a written Notice of Intent for Resolution, specifying the dispute, the relief sought, and a planned alternative course of action to resolve the dispute other than the binding arbitration process specified in this Agreement.
- h. The Parties agree that neither may bring a claim nor assert a cause of action against the other, in any forum or manner, more than one year after the cause of action accrued, except where the Party could not have reasonably discovered the facts giving rise to the claim within one year.

(25) *Audit; Continuing Duty to Report Errors; Audit Standard*

- a. WECC reserves the right to audit Account Holder's relevant records to verify any information submitted by Account Holder to WECC under this Agreement. This right shall survive for a period of three years after the expiration or termination of this Agreement and Account Holder shall maintain its records in accurate, complete, and readable form for at least that period of time after expiration or termination of this Agreement.
- b. The accuracy of all information provided by Account Holder to WREGIS is of the essence in this Agreement. Account Holder hereby agrees, represents, and warrants that it will use reasonable efforts to ensure that all the information it, its Agents, or its employees provides to WREGIS shall to its knowledge be true, complete, and accurate at the time the information is provided to WREGIS. Should Account Holder discover that

any information provided or that was previously provided to WREGIS is untrue, incomplete, or inaccurate, Account Holder shall immediately notify the WREGIS Director in writing of the particular untrue, incomplete, or inaccurate information and shall provide a true, accurate, and complete update of said information to the best of its ability, as soon as is practical. This shall be an ongoing obligation of Account Holder during the term of this Agreement.

(26) Order of Precedence

Any inconsistency in this Agreement, its attachments, the Operating Rules, the Interface Control Documents, and each of their respective most current effective versions, shall be resolved by giving precedence in the following order:

1. This Agreement;
2. Attachment(s) to this Agreement;
3. Operating Rules; and
4. Interface Control Documents.

(27) Severability

- a. If any provisions of this Agreement, including any provision of this Agreement and its Attachments, Operating Rules, and the Interface Control Documents, is held to be unenforceable, illegal, or in violation of a tariff or legal order of a governmental agency by a court of law or governmental agency with jurisdiction over the matter, then if the essential terms and conditions of the Agreement remain valid, legal and enforceable, such provision shall be deemed severed and shall not affect the validity of the other provisions of this Agreement, including the other provisions of the Attachments, Operating Rules, and the Interface Control Documents which will at all times remain in full force and effect.
- b. (i) Further, notwithstanding any other provision of this Agreement, no provision of this Agreement (including any provision of any Attachment or other agreement incorporated into this Agreement) shall operate to obligate an Account Holder which is:
 - (A) a Balancing Authority, and also

- (B) a Qualified Reporting Entity acting solely in the capacity of reporting Output on behalf of a Generating Unit that is not owned by the Qualified Reporting Entity

to undertake any action which the Account Holder determines to be in violation of the Account Holder's tariff, or of orders imposed upon such Account Holder by the Federal Energy Regulatory Commission ("FERC") or other governing agency/entity with jurisdiction over Balancing Authority-Account Holder.

- (ii) If such Account Holder reasonably believes that any portion of this Agreement might cause or is causing a violation of its tariff or orders imposed by FERC or other governing entity, then Account Holder shall deliver to the WREGIS Director written notice, signed by a senior executive (vice president, president, or person of equivalent capacity), of Account Holder's determination. This notice shall cite the relevant provisions of the Agreement and of the tariff or orders forming the basis of the notice. Upon receipt of this notice, the terms of the Agreement specified in the notice shall be immediately and temporarily suspended as they apply to this Account Holder.
- (iii) If this Agreement's essential terms and conditions are thereby affected and impaired, the Parties shall meet and confer, within three business days of such notice, or as otherwise mutually agreed. At this meeting, which may be by telephone, the Parties shall make good faith efforts to identify a mutually acceptable plan to resolve the issue, so long as its essential terms and conditions may be carried out. The Parties may, for example, develop amendments to the Agreement (and/or incorporated document), or agree to a waiver of the provision (subject to Section 22 [*Waiver*] of the Agreement), explore potential amendments to the tariff, or undertake any other actions to resolve the conflict identified by the Account Holder.
- (iv) In the event that the Parties are unable to reach a resolution or agree on a written plan to include action and timelines, within five business days after the date of the notice, then either Party may terminate this Agreement for convenience pursuant to Section 10 (c) [*Termination for Convenience by Either Party*] herein, except that the terminating Party may, at its option, set the termination date to be effective immediately or for any other time up to 60 days from the date of the notice of termination; and provided further that any provision suspended by the Account Holder's notice will remain suspended through to such termination.
- (v) If the Parties have agreed upon a mutually acceptable written plan pursuant to (iii) above, but one Party reasonably believes that actions

specified in the plan are not being carried out as agreed, then that Party may provide written notice to the other Party. That other Party will have 15 days following the date of the notice within which to demonstrate to the reasonable satisfaction of the first Party that the plan will be carried out as agreed. If the Party serving notice (i.e. the first Party) is not reasonably satisfied within the 15 day period, then either Party may, at its option, terminate the Agreement as provided in the preceding subsection.

(28) Notices

All notices required to be in writing under this Agreement, unless otherwise provided for herein, shall be delivered in person or by first class, registered, or certified mail (postage prepaid), or by overnight courier service to the address of the Party as either Party may specify in writing. Service shall be effective on the earlier of actual receipt or the second business day after the day of mailing (via first class mail). For service of electronic notice, it shall be deemed received on the first business day after said notice was sent to the other Party's e-mail address as designated in writing by such other Party.

(29) Capitalized Terms

Any capitalized terms contained herein that are not otherwise defined herein shall have the meanings as such terms are defined in the WREGIS Operating Rules.

(30) Entire Agreement

This Agreement, including any and all exhibits attached hereto, and the Operating Rules constitute the entire agreement of the Parties and supersede any preprinted or conflicting terms in any other prior or contemporaneous oral or written agreements and any and all other communication.

IN WITNESS WHEREOF, WECC and the Account Holder have each caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

WESTERN ELECTRICITY COORDINATING COUNCIL

By: _____ (signature)

Name: _____

Title: _____

(ACCOUNT HOLDER)

By: _____ (signature)

Name: _____

Title: _____

ATTACHMENT 1: Definitions

- a. Account Holder:** A WREGIS Account Holder is a party that has registered with WREGIS and has established an Account within WREGIS.
- b. Active Certificates:** An active WREGIS certificate is a certificate that is held in a WREGIS Active Sub-account. Such certificates may be traded, transferred, exported, retired, or reserved at the discretion of the holder of the Active Sub-account or their agent.
- c. Active Sub-account:** The Active Sub-account is the holding place for all active WREGIS certificates. If the Account Holder has Generating Units associated with the account, or is the designated representative of a Generating Unit owner, its Active Sub-account will be the first point of deposit for any WREGIS certificates created that are associated with the Generating Unit ID number, unless the certificate is subject to a Forward Certificate Transfer. An Active Sub-account may be associated with one or more Generating Units.
- d. Affiliate:** An Affiliate of an entity is any entity that: (1) is (a) a subsidiary of such entity or (b) any partnership, limited liability company or joint venture or other form of entity which acts commercially in which such entity or any subsidiary thereof is directly or indirectly a partner, member, or venturer; or (2) directly or indirectly controls, is controlled by, or is under common control with such entity, including any limited partnership of which such other entity or any Affiliate thereof is the general partner. For purposes of this Agreement, a ten percent or greater ownership interest shall be deemed to constitute a rebuttable presumption of "control." An entity controlled by or operating as a unit, agency, or subdivision of a local, state, or provincial government or the federal government shall not be considered an Affiliate of any other entity controlled by or operating as a unit, agency, or subdivision of the local, state, or provincial government, or a federal government.
- e. Agent:** An entity outside of the Account Holder's organization that has been authorized by the Account Holder to act on its behalf within WREGIS.
- f. Assignment of Registration Rights:** The process by which the owner of a Generating Unit can assign the right to register that Generating Unit in WREGIS to another entity.
- g. Balancing Authority:** The area operator that is responsible for matching generation and load, for maintaining scheduled interchange with other balancing authority areas, and for maintaining the frequency, in real-time, of

the electric power systems.

- h. Certificate:** The term “Certificate,” as used in this document, refers to a WREGIS Certificate. A WREGIS Certificate represents all of the renewable and environmental attributes from one MWh of electricity generation from a renewable energy Generating Unit registered with the WREGIS tracking system or a certificate imported from a Compatible Certificate Tracking System that has been converted to a WREGIS Certificate. WREGIS will create exactly one Certificate per MWh of generation that occurs from a Registered Generating Unit or that is imported from a Compatible Certificate Tracking System. Disaggregation of Certificates is not currently allowed within WREGIS.
- i. Compatible Certificate Tracking System (Compatible Registry and Tracking System):** A Compatible Certificate Tracking System is a generation tracking system that has an operating agreement with WREGIS regarding the Conversion and transfer of certificates between tracking systems pursuant to a protocol developed between the WREGIS Director and the Director of the other tracking system for converting certificates from another tracking system into WREGIS certificates.
- j. Confidential Information.** Information treated as Confidential Information is listed in Section 13. B. Confidential Information does not include information which can be established by written documentation (1) to have been publicly known prior to submittal to WECC; (2) to have become publicly known, without the fault of WECC, subsequent to submittal to WECC; (3) to have been received by WECC at any time from a source other than Account Holder, so long as with respect to information submitted by a third party WECC has no reason to believe that the third party (a) is not lawfully in possession of the information or (b) is in violation of any contractual, legal, or fiduciary obligation to Account Holder with respect to the information; (4) to have been independently developed by employees or agents of WECC without access to or use of such information disclosed by Account Holder or their agents to WECC; (5) is common technical information; and (6) to have been submitted to WECC by the Account Holder for purposes other than those relating to this Agreement and not otherwise protected by a confidentiality obligation.
- k. Conversion:** A process by which certificates from a Compatible Certificate Tracking System are made available for import into WREGIS. The process involves designating the certificate as exported from the Compatible Certificate Tracking System according to the protocol agreed upon jointly by the Director of the Compatible Certificate Tracking System and the WREGIS Director. After such designation is made, the WREGIS Director will issue a corresponding WREGIS Certificate that can be used within WREGIS.

- i. Customer-Sited Distributed Generation:** Distributed generation is a parallel or stand-alone electric Generating Unit generally located in or close to a load center or customer's site (near the point of consumption) and on the customer's side of the meter. The generation produced by the distributed generation Generating Unit is used to provide electricity to the customer for a portion of its load. For WREGIS purposes, these are typically smaller installations such as those located on residential premises.
- m. Data:** Data means all recorded information, including Output and Confidential Information, regardless of form or the media on which it may be recorded that is submitted to WECC and WREGIS pursuant to this Agreement.
- n. Dynamic Data:** Dynamic Data is variable information that is associated with a specific MWh from a registered Generating Unit, such as Certificate serial number or date of generation.
- o. Export Sub-account:** The Export Sub-account is the Account Holder's designated sub-account for Certificates that have been exported out of WREGIS to a Compatible Certificate Tracking System. WREGIS Account Holders may have multiple Export Sub-accounts corresponding to the various compatible tracking systems to which exports are made.
- p. Forward Certificate Transfer:** Normally, the first point of deposit for WREGIS Certificates is the account to which a Generating Unit is associated. With a Forward Certificate Transfer, the Account Holder to which the Generating Unit is registered requests that the Certificates be directly deposited into one of their own Export, Retirement, or Reserve Subaccounts or into another WREGIS Account Holder's Active Subaccount when the Certificates are created. As a result, the first point of deposit for Certificates subject to a Forward Certificate Transfer is their other specified sub-account or the specified Active Sub-account of another Account Holder. After this initial deposit, Certificates subject to Forward Certificate Transfers shall be treated like any other Certificate for all purposes.
- q. Generating Unit:** Any combination of physically connected generators, reactors, boilers, combustion turbines, and other prime movers operated together to produce electric power. When a single facility is electrically interconnected to the utility utilizing a single meter, but represents multiple Generating Units of the same renewable generating technology and fuel type, such facility may be registered and reported as a single Generating Unit within WREGIS.
- r. Generator Owner:** The persons or legal entity that owns Generating Unit(s).

- s. Interface Control Document (ICD):** An Interface Control Document contains the protocol for collecting and transferring data from other computer systems to the WREGIS application for the purposes of integrating data between the two systems in question. The Interface Control Document identifies the data formats, guidelines and processes that must be met in order for the data to be effectively transferred and accepted. Examples of Interface Control Documents that will be used in WREGIS are the Qualified Reporting Entity ICD (found in Appendix D of the Operating Rules), State, Provincial and Voluntary Program ICD (found in Appendix C of the Operating Rules) and the WECC Billing System ICD.
- t. Output.** Output shall mean reported renewable generation data from a Registered Generating Unit contained in standardized data files delivered to WREGIS by Qualified Reporting Entities, or by Account Holders, or by designated reporting entities using protocols described in an Interface Control Document, or a Self-Reporting Interface.
- u. Person:** A person includes any natural person, firm, association, organization, partnership, corporation, limited liability company, district, province, county, city and state, and any of the agencies and political subdivisions thereof.
- v. Qualified Reporting Entity:** An organization providing renewable Output on a unit-specific basis for the purpose of creating WREGIS Certificates that has met the Qualified Reporting Entity Guidelines established in the WREGIS Operating Rules and agreed to in the ICD.
- w. Registered Generating Unit:** A Generating Unit that has registered its facility with the WREGIS Director
- x. Registration:** The act of filling out the forms, providing required documents and paying Fees necessary to establish an Account or register a Generating Unit in WREGIS. Such forms may be obtained from the WREGIS Director.
- y. Renewables Portfolio Standard (RPS):** Generally, a Renewables Portfolio Standard is a legislative or administrative requirement on electrical utilities, wholesale markets, or load-serving entities in a jurisdiction to include a designated percentage of renewable electricity in their generation/retail portfolio.
- z. Retirement Sub-account:** A Retirement Sub-account is used as a repository for WREGIS Certificates that the Account Holder wants to designate as retired and remove from circulation. Once a Certificate has been transferred into a WREGIS Retirement Sub-account, it cannot be transferred again to any other account or Subaccount.

- aa. Retirement of Certificates:** Retirement of Certificates is an action taken to remove a Certificate from circulation within WREGIS. The WREGIS Account Holder may initiate retirement for Certificates in its own account(s) or the WREGIS Director can forcibly retire any Active Certificates for cause. Retirement is effectuated by transferring Certificates into a Retirement Sub-account.
- bb. Self-Reporting Interface:** A Generating Unit Self-Reporting input screen within the WREGIS application which allows Self-Reporting Generating Units to manually enter their Generating Unit output. The protocol for entering data via Self-Reporting Interface will be documented in the Interface Control Document for Reporting Entities (Appendix D of the Operating Rules).
- cc. Standing Order Transfer:** A recurring, automatic transfer of WREGIS certificates from an Account Holder's Active Sub-account to one of their other sub-accounts, or to an Active Sub-account held by a different Account Holder.
- dd. Static Data:** Static data is distinct from Dynamic Data and describes the attributes of the Generating Unit that do not change based on actual operation. Static information is entered at Registration and generally includes information related to the characteristics of the generation facility such as technology type, ownership or location. See Appendix B-1 and B-2 of the Operating Rules for a list of WREGIS Static Data Fields.
- ee. WECC:** The Western Electricity Coordinating Council (WECC) is a regional forum for coordinating and promoting regional electric service reliability in Western Canada and the Western United States. Its service territory extends from Canada to Mexico including the provinces of Alberta and British Columbia, the northern portion of Baja California, Mexico, and all or portions of the 14 western states in between. The States that are fully included in WECC are: Washington, Oregon, California, Nevada, Idaho, Utah, New Mexico, Arizona, Colorado, Wyoming, and Montana. Texas, South Dakota, and Nebraska are partially included within WECC. A map of WECC can be found at http://www.wecc.biz/documents/constant/nerc_int.pdf. All references in the Agreement to WECC as a "Party" to this Agreement shall also be deemed to apply to any duly-selected successor in interest to WECC, if any.
- ff. WECC Staff:** The WECC Staff means those employees of WECC, including personnel hired by WECC or on behalf of WREGIS on a contractual basis, designated as responsible for the administration of WREGIS.

- gg. Western Interconnection:** The interconnected electrical systems that encompass the region of the Western Electricity Coordinating Council of the North American Electric Reliability Council. The region extends from Canada to Mexico. It includes the provinces of Alberta and British Columbia, the northern portion of Baja California (Mexico), and all or portions of the 14 western states in between.
- hh. WREGIS Director:** The WREGIS Director is the individual hired by WECC with the authority to oversee the administration and implementation of WREGIS, and its Operating Rules and Interface Control Document on behalf of WECC.
- ii. WREGIS Software:** Certain software comprising part of WREGIS, including related source code, interface, and software applications but not hardware.
- jj. WREGIS Website:** The related collection of web pages and interfaces associated with WREGIS that is accessible via the Internet.

TO: Urban Bakersfield Advisory Committee
Agenda Item No. 7a

FROM: Donna Semar

DATE: January 25, 2012

SUBJECT: Report on the Improvement District No. 4 December 2011 Water Supply and
Management Plan

Issue:

A summary of the Improvement District No. 4 December 2011 Water Supply and Management Plan.

Recommended Motion:

None – information only.

Discussion:

A summary of the Improvement District No. 4 December 2011 water supply activities by source and point of delivery is provided as Attachment 1. Charts showing deliveries for December 2011 and deliveries to date are provided as Attachment 2.

Units in Acre Feet unless otherwise noted.

Improvement District No. 4

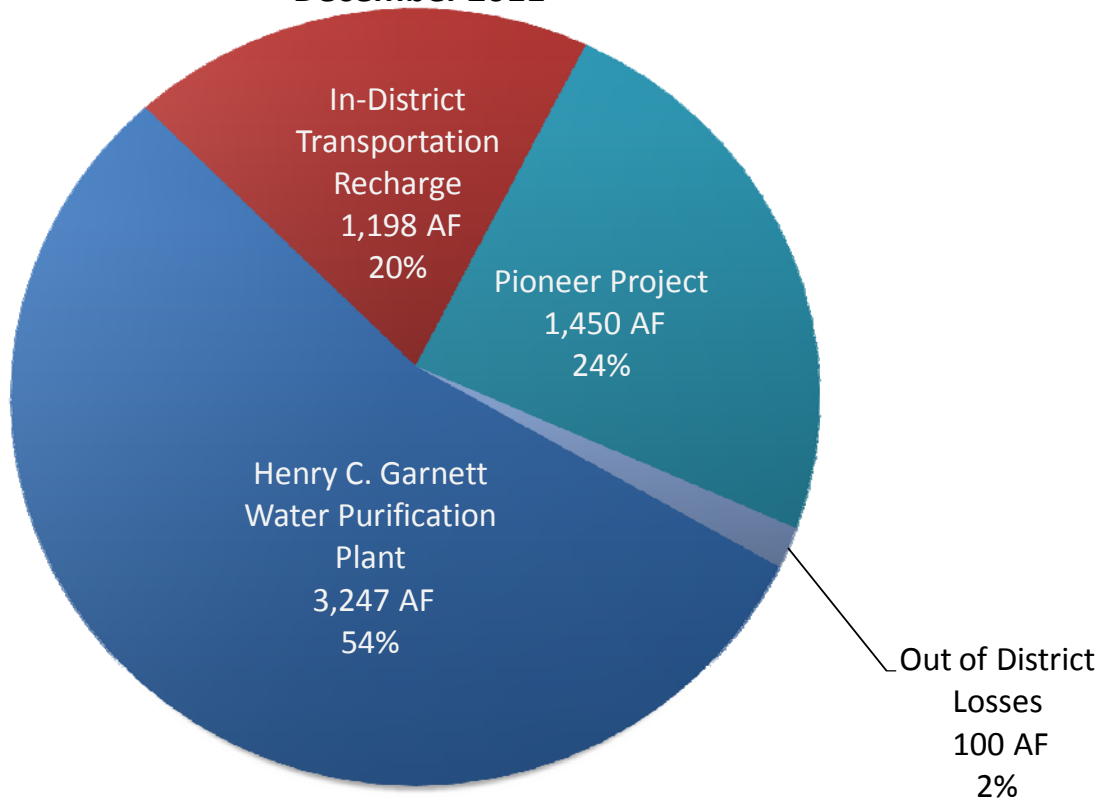
December 2011

Allocation: **80%**

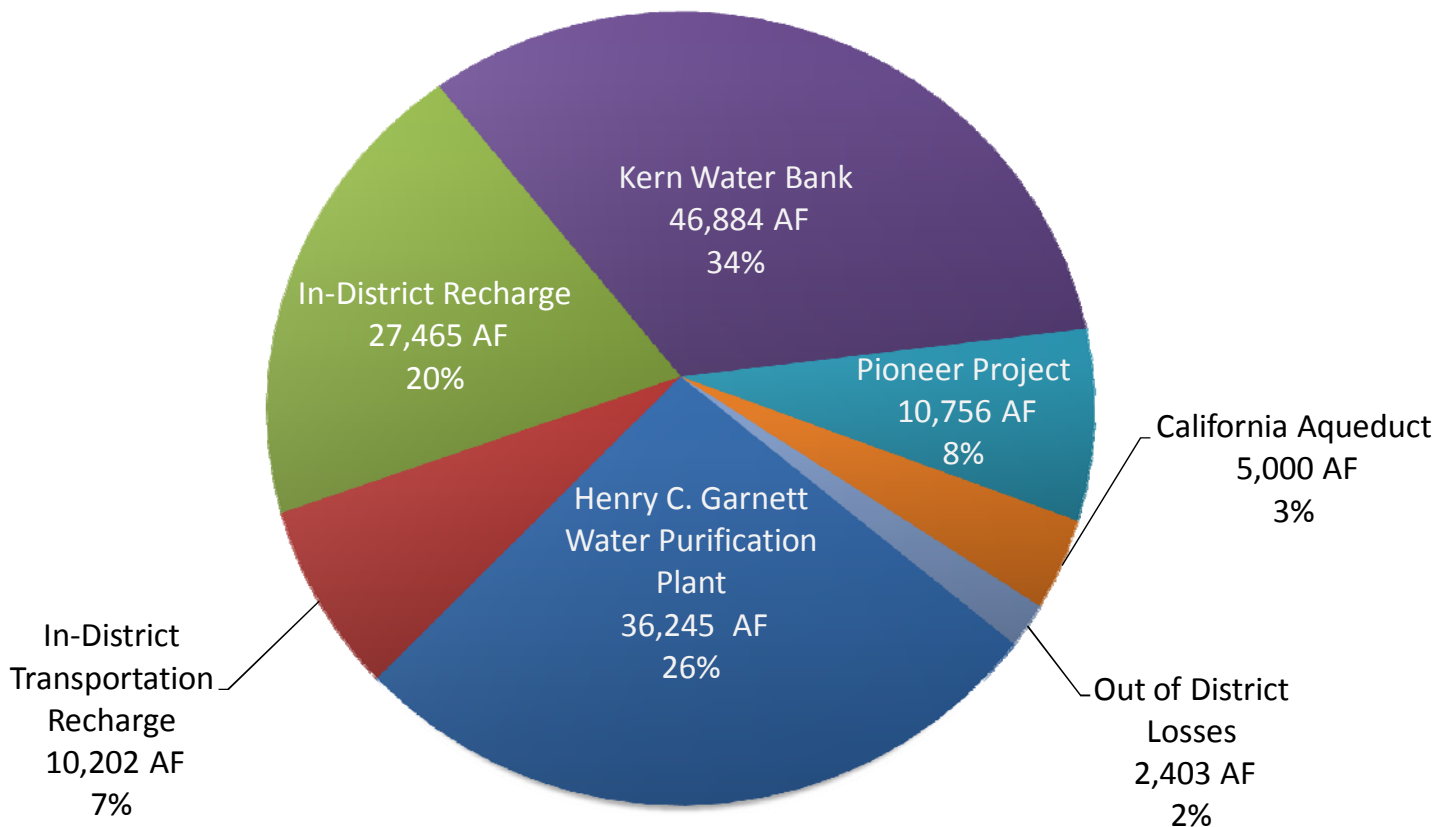
		SWP	SWP by Exchange*	Kern River	Central Valley Project	Bank Recovery	Total
ID4 SUPPLIES							
	SWP (M&I)	61,600					61,600
	SWP (Ag)	4,757					4,757
	Carryover from 2010	8,182					8,182
	Agency Table A	774					774
	Article 21	14,639					14,639
	Turn Back Pool A	383					383
	Turn Back Pool B	1,079					1,079
	Lower River			48,842			48,842
	Friant-Kern Section 215 Recovery				8,377		8,377
						8,995	8,995
	Subtotal	91,414	-	48,842	8,377	8,995	157,627
ID4 EXCHANGES / OBLIGATIONS							
	Agency Lower River	(7,000)		7,000			-
	Belridge WSD	(803)		803			-
	Berrenda Mesa WD	(705)		705			-
	City of Bakersfield	(6,100)	6,100				-
	City of Bakersfield NW Feeder		349				349
	Kern Tulare WD	(3,000)	3,000				-
	Kern Tulare WD 2010	(228)					(228)
	Kern Tulare WD 2011	(27,250)	27,250				-
	North Kern WSD Category A		940				940
	North Kern WSD Instantaneous (Feb 3-14)	(946)	946				-
	Pastoria Energy	(56)					(56)
	Tehachapi-Cummings County WD	(584)		584			-
	Total Exchanges/Obligations	(46,672)	38,585	9,092	-	-	1,005
	Available Supplies	44,742	38,585	57,934	8,377	8,995	158,632
ID4 DELIVERIES							
Month of	Henry C. Garnett Water Purification Plant			3,247			3,247
	In-District Transportation Recharge			1,198			1,198
	Pioneer Project	1,344					1,344
	Out of District Transportation Losses			100			100
	Total Deliveries Month to Date	1,344	-	4,545			5,889
YTD of	Henry C. Garnett Water Purification Plant	2,473	20,751	13,021			36,245
	In-District Transportation Recharge	762	5,252	4,188			10,202
	In-District Recharge	8,471	12,581	6,244	172		27,468
	Kern Water Bank	24,383		16,500	6,001		46,884
	Pioneer Project	8,526			2,193		10,719
	California Aqueduct			5,000			5,000
	Out of District Losses	127		2,299	11		2,437
	Total Deliveries Year to Date	44,742	38,584	47,252	8,377		138,955
Total Remaining Deliveries	-	-	10,682	-	8,995	19,677	
Balance	Deliveries Year To Date	44,742	38,584	47,252	8,377	-	138,955
	Total Deliveries	44,742	38,584	57,934	8,377	8,995	158,632
	Available Supplies	0	0	0	0	0	0

* SWP water delivered to the Henry C. Garnett Water Purification Plant by exchange with Kern River interests.

**Improvement District No. 4
Deliveries
December 2011**



**Improvement District No. 4
Deliveries January - December 2011**



20.2.1

TO: Urban Bakersfield Advisory Committee
Agenda Item No. 7b

FROM: Donna Semar

DATE: January 25, 2012

SUBJECT: Report on the Improvement District No. 4 2012 Water Supply and Management Plan

Issue:

A summary of Improvement District No. 4's 2012 Water Supply and Management Plan.

Recommended Motion:

None – information only.

Discussion:

A summary of Improvement District No. 4's 2012 projected water supplies and exchange obligations is provided as Attachment 1 (60 percent State Water Project (SWP) Allocation). Attachment 2 is a graphic of the proposed deliveries for 2012.

Improvement District No. 4

2012

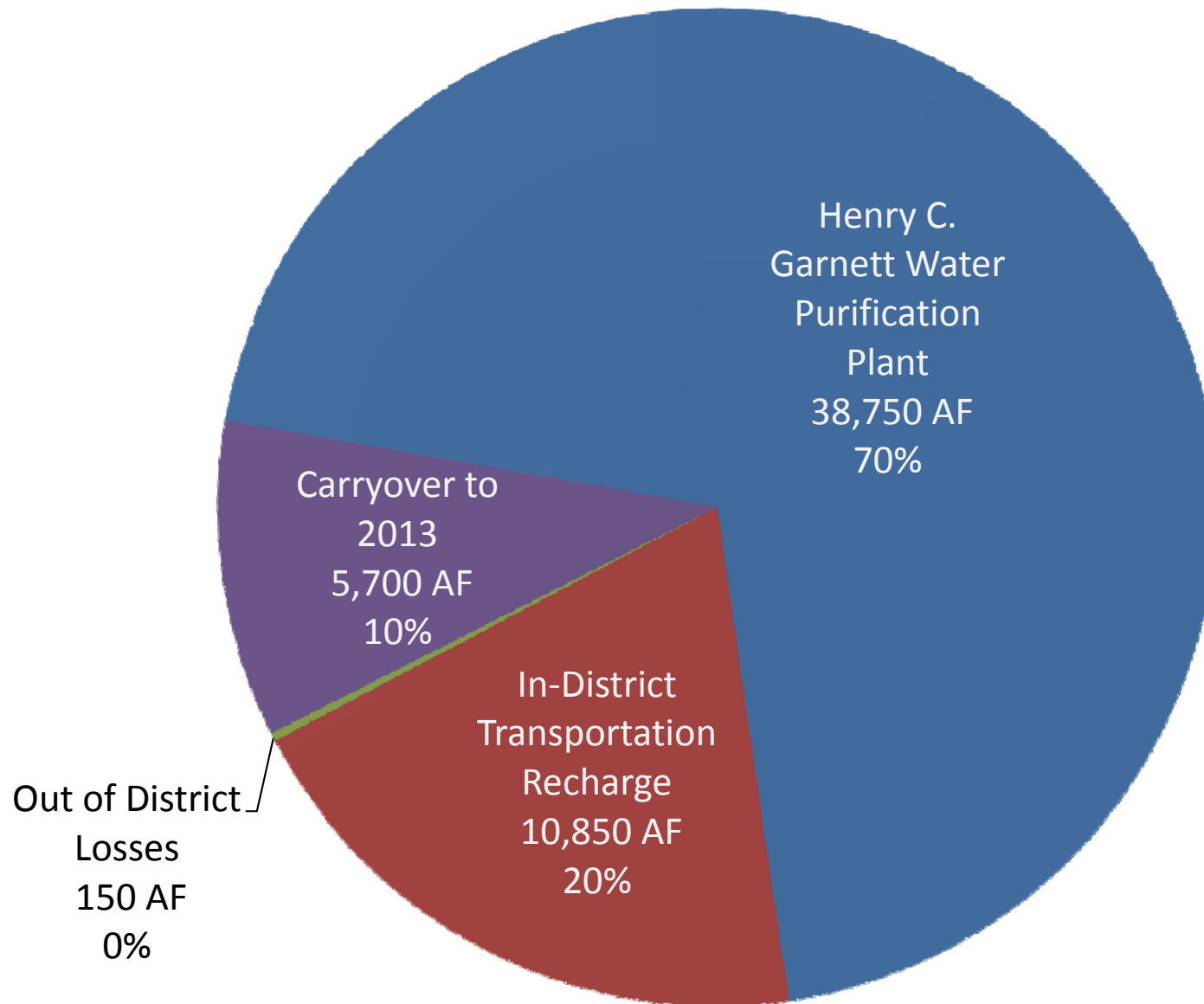
Allocation: **60%**

ID4 SUPPLIES		SWP	SWP by Exchange*	Kern River	Central Valley Project	Bank Recovery	Total
	SWP (M&I)	46,200					46,200
	SWP (Ag)	3,568					3,568
	Lower River Recovery			10,682		57,101	10,682
	Subtotal	49,768	-	10,682	-	57,101	117,551
ID4 EXCHANGES / OBLIGATIONS							
	Kern Tulare WD 2012	(27,250)	27,250				-
	California Aqueduct			(5,000)			(5,000)
	Total Exchanges/Obligations	(27,250)	27,250	(5,000)	-	-	(5,000)
	Available Supplies	22,518	27,250	5,682	-	57,101	112,551
ID4 DELIVERIES							
	Henry C. Garnett Water Purification Plant	14,602	20,000	4,148			38,750
	In-District Transportation Recharge	2,066	7,250	1,534			10,850
	Out of District Losses	150					150
	Carryover to 2013	5,700				57,101	62,801
	Total Remaining Deliveries	22,518	27,250	5,682	-	57,101	112,551
	Deliveries Year To Date	-	-	-	-	-	-
	Total Deliveries	22,518	27,250	5,682	-	57,101	112,551
	Available Supplies	(0)	-	0	-	0	0

Balance Projected of

* SWP water delivered to the Henry C. Garnett Water Purification Plant by exchange with Kern River interests.

Improvement District No. 4 Deliveries 2012



* No recovery presumed in 2012.

TO: Urban Bakersfield Advisory Committee
Agenda Item No. 9

FROM: Martin Varga

DATE: January 25, 2012

SUBJECT: Recommendation to Retain a Supervisory Control and Data Acquisition Consultant for the Henry C. Garnett Water Purification Plant

Issue:

Consider authorizing the General Manager to retain a Supervisory Control and Data Acquisition Consultant for the Henry C. Garnett Water Purification Plant.

Recommended Motion:

Authorize the General Manager to execute an agreement with Donald R. Garton for Supervisory Control and Data Acquisition consulting services for an amount not to exceed \$10,000, subject to approval of General Counsel as to legal form, as outlined in the January 25, 2012 staff memorandum to the Urban Bakersfield Advisory Committee, Agenda Item No. 9.

Discussion:

Donald R. Garton retired from the Kern County Water Agency (Agency) on January 13, 2012 after 27 years of service. Mr. Garton has historical knowledge and specialized expertise in several areas of the Agency, such as the Supervisory Control and Data Acquisition (SCADA).

Agency staff recommends entering into a contract with Mr. Garton as a consultant to assist in SCADA issues as necessary. Staff needs to make several major tests and changes to SCADA during the month of February. Mr. Garton will assist staff with the preparation, startup and testing of these modifications. A proposed agreement is provided as Attachment 1.

AGREEMENT
with
KERN COUNTY WATER AGENCY
for
PROFESSIONAL CONSULTING SERVICES

This Agreement is made this ___ day of January, 2012, by and between the Kern County Water Agency, a political subdivision of the State of California, hereinafter referred to as “Agency,” and Donald Garton, hereinafter referred to as “Consultant.”

WITNESSETH:

WHEREAS, the Agency requires programming, electrical and control consulting services; and

WHEREAS, said services require familiarity with the Agency’s organization and procedures, including Improvement District No. 4’s Henry C. Garnett Water Purification Plant, Electrical Service Entrance and substation facilities, and associated pumping and transmission pipeline facilities, and experience, expertise and education possessed by Consultant; and

WHEREAS, Consultant is knowledgeable and experienced in the areas required for successful completion of the activities set forth below and possesses special knowledge and expertise on the specific projects involved.

NOW, THEREFORE, in consideration of the covenants and conditions herein contained, the parties hereto agree as follows:

The Agency does hereby retain Consultant as an independent contractor and Consultant shall provide the necessary professional services as specified herein.

I. Scope of Service:

Consultant shall provide consulting services, advice and assistance as requested by the Agency’s General Manager or such other person or officer whom the Agency or the General Manager may designate. Consultant will be in charge of each project assigned by the Agency to Consultant pursuant to the terms of this Agreement, and will perform the services requested unless subcontracting is specifically approved in writing by the Agency. In that case, Consultant will direct and coordinate the work of subcontractors. Consultant shall be responsible for the competent performance of requested services.

II. Subcontract Services:

It is agreed that subcontracting of services shall not ordinarily be required. Subcontracts must be approved in writing by the Agency prior to commencement of any work which must be specifically authorized by the Agency.

III. Responsibility of Consultant:

Consultant is retained as an independent contractor to render a professional service only,

and not as an employee of the Agency. Consultant represents that he is in the business of providing such services, and that all appropriate reporting to local, State and federal governmental and taxing authorities will be made. Consultant further represents that all appropriate taxes will be paid by Consultant to the taxing authorities, and specifically, and without limitation, agrees to hold the Agency harmless from all loss which may result from administrative or judicial findings that Consultant is not properly characterized as represented.

IV. Assignments to Consultant:

In the performance of the services requested under this Agreement, Consultant shall report to and receive written assignments from the General Manager or such other person or officer whom the Agency or the General Manager may designate. Consultant shall not perform any services without a written assignment from the Agency.

V. Term of Agreement:

- A. This Agreement shall become effective on January 25, 2012 and shall terminate July 31, 2012.
- B. Before July 31, 2012, the Agency and/or Consultant may terminate this Agreement for any reason with thirty (30) days written notice.
- C. In the event of termination, all finished or unfinished data, studies, maps, reports and other documents prepared by Consultant for the Agency, shall become the Agency's property and Consultant shall deliver such items to the Agency.
- D. In the event of termination, the Agency shall pay Consultant for all authorized services performed and all authorized expenses incurred to date of termination of the Agreement.

VI. Compensation:

For the services to be performed hereunder, Consultant shall be compensated for Consultant's services at the following rates:

- A. Consultant will be compensated at an hourly rate of \$100 per hour.
- B. Consultant shall be paid portal to portal for all travel time; provided, however Consultant shall not be compensated for any travel time in excess of the most expeditious commercial method of travel. No more than 10 hours of travel time may be billed per day.
- C. Mileage for travel needed for performance of services shall be reimbursed at the mileage rate approved by the U.S. Internal Revenue Service. Other actual and necessary travel expenses shall be reimbursed to consultant. Travel expenses within a 25 mile radius of downtown Bakersfield shall be limited to mileage. Receipts for all non-mileage travel expenses shall be required and should be submitted by Consultant for reimbursement.

D. Consultant shall be reimbursed for all customary business expenses. Total compensation under this Agreement shall not exceed \$10,000.

VII. Payment of Compensation:

Charges shall be billed monthly to the Agency prior to the 10th of each month and payment by the Agency shall be made within 45 days of receipt of each undisputed monthly invoice. Detailed invoices shall include billing for all hours worked and expenses incurred by Consultant during each month of services rendered to the Agency in conformance with the Agreement plus any charges for approved subcontracted services. Invoices shall be submitted in duplicate to the Kern County Water Agency, P. O. Box 58, Bakersfield, CA 93302-0058, Attention: General Manager. Consultant shall keep adequate records of all services and charges to the Agency and make them available if requested by the Agency.

VIII. Documents:

All data, studies, maps, reports and other documents shall, upon payment in full for the services described in the Agreement, be furnished to and become the property of the Agency. Consultant at his option may retain copies of data, studies, maps, reports and other documents for his files.

IX. Insurance and Indemnification:

Consultant agrees with the Agency that:

A. To the fullest extent permitted by law, Consultant will defend, indemnify and hold harmless the Agency, its directors, officers, employees and authorized volunteers from and against any and all claims, costs, losses, damages and demands of all persons arising out of the performance of the work described herein.

B. By Consultant's signature hereunder, Consultant certifies that Consultant is aware of the provisions of section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions if employing individuals, but agrees that no employees will be utilized by Consultant without specific prior written approval of the Agency.

C. Consultant will file with the Agency, if requested, before beginning professional services, a certificate of insurance satisfactory to the Agency evidencing general liability coverage of not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage; auto liability of at least \$1,000,000 for bodily injury and property damage each accident limit. The general liability coverage shall give the Agency, its directors, officers, employees and authorized volunteers additional insured status. Any insurance, self-insurance or other coverage maintained by the Agency, its directors, officers, employees, or authorized volunteers shall not contribute to it. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A- :VII, or equivalent, or as otherwise approved by the Agency. In the event that the Consultant employs subcontractors as part of the work covered by this Agreement (subject to the prior written approval of the Agency), it shall be the Consultant's responsibility to require and confirm

that each subcontractor meets the minimum insurance requirements specified above.

D. If any of the required coverages expire during the term of this Agreement, the Consultant shall deliver the renewal certificate(s) including the general liability additional insured endorsement to the Agency at least ten (10) days prior to the expiration date.

E. Premiums for all insurance required hereunder are the responsibility of Consultant and not of the Agency.

F. Any permits required by governmental authorities will be obtained at Consultant's expense, and Consultant will comply with applicable local, State, and federal regulations and statutes including Cal/OSHA requirements.

X. Conflict of Interest:

Consultant shall review all potential new clients with the Agency to determine whether a conflict exists. Further, Consultant shall make all disclosures required by the conflict of interest code in accordance with the engineering consultant category. Consultant also agrees to make disclosure in compliance with the Agency's conflict of interest code if, at any time after execution of this Agreement, the Agency determines and notifies Consultant in writing that Consultant's duties under this Agreement warrant greater disclosure than was originally contemplated. Consultant shall make disclosures in the time, place and manner set forth in the Agency's conflict of interest code and as directed by the Agency.

XI. Attorneys' Fees:

In the event an action is commenced by a party to this Agreement against any other party or parties hereto to enforce its rights or obligations arising from this Agreement, the prevailing party in such action, in addition to any other relief and recovery awarded by the court, shall be entitled to recover all statutory costs plus a reasonable amount of attorneys' fees.

XII. Successors and Assigns:

All of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns; provided, however, that no assignment of this Agreement shall be made without written consent of the parties to this Agreement. It is acknowledged by Consultant that the primary interest of the Agency in entering the contract is to obtain the personal expertise and knowledge of Consultant and that acceptance or rejection of any proposed assignment is within the sole discretion of the Agency. The Agency hereby consents to Consultant's assignment of the rights and obligations under this Agreement to an entity owned or controlled by Consultant.

XIII. Notice:

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by personal delivery or by depositing the same in a United States Post Office, registered or certified, postage prepaid, addressed to:

AGENCY: Kern County Water Agency
P. O. Box 58

Bakersfield, CA 93302-0058
ATTN: General Manager

CONSULTANT: Mr. Donald Garton
6422 Bellorita Drive
Bakersfield, CA 93306

and shall be effective upon receipt thereof.

XIV. Legal Representation:

The parties represent and acknowledge that each of them has had the opportunity to be represented by legal counsel with respect to this Agreement and that each party has had the opportunity to be fully advised with respect to all rights that are affected by this Agreement.

XV. Integration:

This Agreement represents the entire understanding of the Agency and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except by an amendment to this Agreement evidenced in writing and executed by the parties hereto.

IN WITNESS WHEREOF, the Agency and Consultant have executed this Agreement on the day and year first herein above set forth.

KERN COUNTY WATER AGENCY

CONSULTANT

By: _____
James M. Beck, General Manager

By: _____
Donald Garton

TO: Urban Bakersfield Advisory Committee
Agenda Item No. 10

FROM: David Beard

DATE: January 25, 2012

SUBJECT: Update on Kern Water Bank Activities

Issue:

Update on Kern Water Bank activities.

Recommended Motion:

None – information only.

Discussion:

The Kern Water Bank Authority's January agenda and monthly status report are provided as Attachments 1 and 2, respectively.

KERN WATER BANK AUTHORITY



**Regular Meeting of Board of Directors
Monday, January 9, 2012, 3:00 P.M.
Kern Water Bank Authority Conference Room
1620 Mill Rock Way, Suite 500, Bakersfield, California**

This meeting is held in accordance with the Brown Act pursuant to Section 54950, et seq. of the California Government Code and the Kern Water Bank Authority Joint Powers Agreement.

- 1. Roll Call**
- 2. Approval of Minutes**
December 12, 2011 Regular Board of Directors Meeting
- 3. Treasurer's Report**
Submission of the December 2011 Treasurer's Report for approval.
- 4. Authorization to Pay Expenses of Authority**
Submission of accounts payable for approval to pay.
- 5. Reports**
 - A. Staff Report
Review and possibly act on previously submitted Staff Report and staff recommendations:
 1. 2011-12 Operations
 2. 3rd Party Facilities on Kern Water Bank
 3. Adjacent Properties
 4. 2011-12 Maintenance Activities
 5. KWBA HCP/NCCP
 6. 12-31-2011 Financial Statement / Auditor's Report
 - B. Directors, Counsel, and Committee Reports
The Board of Directors will hear and possibly act on reports and recommendations
 1. Groundwater Monitoring Committee
 2. Kern County Water Agency
- 6. Old Business**
This portion of the meeting is set aside for the discussion of matters which have been addressed at previous Board meetings.

7. New Business

This portion of the meeting is set aside to provide the Board an opportunity to bring to the attention of the other Board members and the public, matters which have come to their attention, subject to certain exceptions. No action can be taken on any matter discussed during this portion of the meeting, however, a Board member may request that a subject be placed on any future agenda.

8. Public Input

This portion of the meeting is set aside to provide the public an opportunity to bring to the attention of the Board members, matters of which the Board may not be aware, subject to certain exceptions. No action can be taken on any matter discussed during this portion of the meeting, however, a Board member may request that a subject be placed on any future agenda.

9. Closed Session

The Board will meet in a closed session and possibly act on the following:

- A. Conference with Legal Counsel - Existing Litigation (Govt. Code Section 54956.9(a))
 - (1) Various Applications filed for Kern River water and related proceedings before the State Water Resources Control Board
 - (2) City of Los Angeles, et al v. County of Kern, et al (United States Court of Appeals, Case No. 07-56564)
 - (3) Central Delta I: Central Delta Water Agency, et al v. California Department of Water Resources, et al (Sacramento County Superior Court, Case No. 34-2010-8000056)
 - (4) Central Delta II: Central Delta Water Agency, et al v. Kern County Water Agency, et al (Sacramento County Superior Court, Case No. 34-2010-80000719)
 - (5) Rosedale I: Buena Vista WSD, et al v. California Department of Water Resources, et al (Sacramento County Superior Court, Case No. 34-2010-80000703)
 - (6) Rosedale II: Buena Vista WSD, et al v. Kern Water Bank Authority (Kern County Superior Court, Case No. S-1500-CV-271619 DRL)
 - (7) Kern Water Bank Authority v. Grayson Service, Inc., a California Corporation (Kern County Superior Court Case No. 1500-CV-275141)

- B. Conference with Legal Counsel - Anticipated Litigation (Govt. Code Section 54956.9(b) - Significant Exposure to Litigation) - *Two Items*

10. Reconvene

11. Adjourn

KERN WATER BANK AUTHORITY

MEMORANDUM

To: KWBA Board of Directors, Ernest Conant

From: KWBA Staff

Date: January 4, 2012

Subject: Monthly Status Report

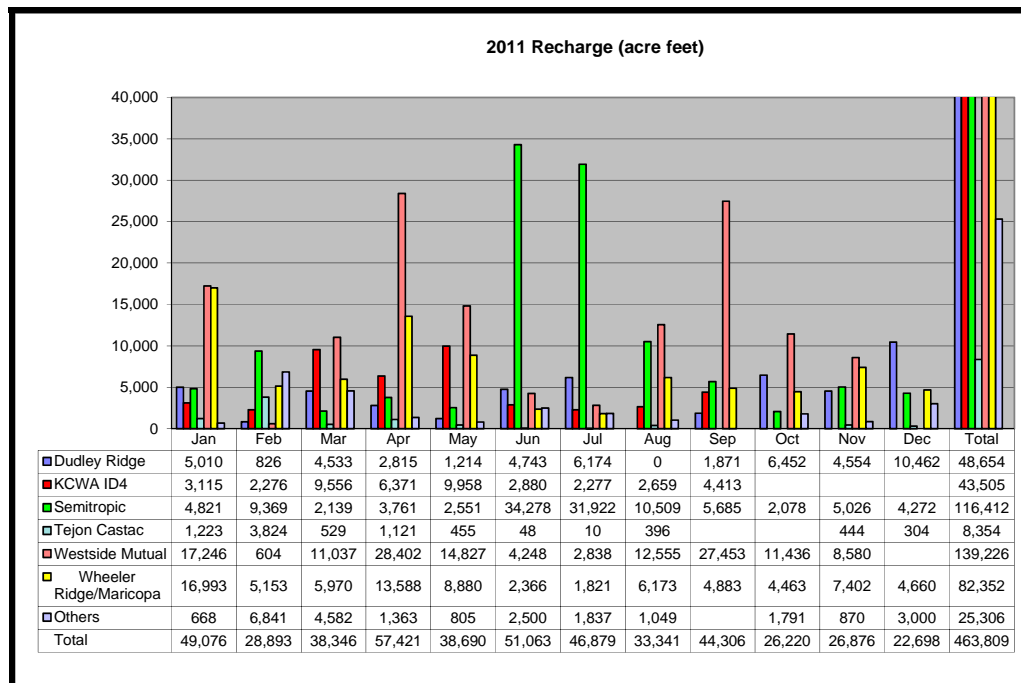
CALENDAR

- January 9 - KWBA Regular Board of Directors Meeting (3:00 P.M.)
 February 13 - KWBA Regular Board of Directors Meeting (3:00 P.M.)

OPERATIONS

Recharge

Recharge of water for December is estimated at 22,698 AF for an average delivery rate of 370 cfs. Approximately 15,122 AF were Friant-Kern water, and the balance of 7576 was SWP water. With the total 2011 recharge at 463,809 AF we have surpassed the 2005 record of 422,871 AF.



Recovery

No activity to report

FACILITIES

Vegetation Management

Cattle are currently grazing the Strand, Main, Central, West, James, River, and Conservation Bank Areas.

ADJOINING PROJECTS AND PROPERTIES

Section 1, T30S, R25E (Rosedale–Rio Bravo Water Storage District)

Rosedale is conducting a pilot recharge program. Staff is also developing a mutual operating agreement with Rosedale and Irvine for the Pioneer Canal and Strand Ranch.

Section 2, T30S, R25E (Irvine Ranch)

Construction of recharge facilities is complete, and five recovery wells have been constructed.

Section 3, T30S, R25E (Irvine Ranch)

Irvine Ranch Water District purchased a portion of Section 3 (329 acres) and is undertaking a pilot 2:1 banking program with Buena Vista Water Storage District.

Section 2 and 11, T30S, R24E (West Kern Water District)

West Kern purchased approximately 480 acres in these sections to expand its banking program and is constructing wells on the property and a pipeline across the Kern Water Bank to connect this new property to their existing well field.

McAllister Ranch

Buena Vista and Rosedale have purchased McAllister Ranch and announced a pilot recharge program.

THIRD PARTIES AND ENVIRONMENTAL CLEAN UP

Chevron

Wait-Midway Pipeline: Hydrocarbons were detected in one of five wells (at 120 ug/L) sampled by Chevron in June 2011. Monitoring will continue.

Cirque Resources

OXY Vintage leased mineral rights under the Tule Elk Reserve and Kern Water Bank Authority to Cirque Resources. Representatives of this company have met with staff and

consulted with USFWS and CDFG regarding drilling in Section 13, and drilling started in late November.

Crimson Resources

Crimson Resources, owner of the mineral right in Sections 13 and 14, T30S, R25E, informed KWBA staff that they are not considering operating their mineral right at this time.

Grayson Services

The Grayson lease provided for annual renewals with a final termination in March 2010. Staff sent a letter, via Certified Mail, in March 2009 notifying the tenant that the lease will not be extended or renewed. The site has not been vacated, and KWBA filed a complaint in Kern County Superior Court against Grayson Services, Inc.

Hondo Chemical

Hondo Chemical, located north of the KWB River Area in Section 6, T30S/R25E has received and stored wastewater containing salts and hydrocarbons. Kern County's Local Enforcement Agency (LEA) served a Notice and Order on May 15, 2007 requiring them to stop this practice. They also requested and received a work plan for an assessment of soil and groundwater at the site. The work plan has been implemented in part. Groundwater sampling indicates salts are present at elevated concentrations, and some monitoring wells have been installed. The LEA has reported that Hondo is currently removing fly ash from the property and transporting it to dairies in Tulare County.

Former Thomas Leases

In correspondence dated April 26, 2011, the Regional Water Quality Control Board requested work plans from the Division of Oil, Gas, and Geothermal Resources to abandon sumps at leases formerly operated by Thomas Oil Company.

Plains LPG Services Pipeline

Plains contacted KWBA staff regarding a gas pipeline across portions of the Water Bank property and has consulted with staff regarding potential alignments and environmental issues.

Uhler Facility

The remedial action plan for this site was implemented in August. 7095 yds³ of contaminated soil was excavated and disposed off site. Confirmation soil sampling indicated the remediation goals had been met. Groundwater monitoring will continue.

ENVIRONMENTAL – GENERAL AND HCP ISSUES

Conservation Bank

KWBA sold conservation credits in 2011, as summarized on the following chart.

DATE	CREDIT BUYER	PROJECT	NO. CREDITS
1-18-2011	Caltrans	Kettleman City Rehab, Kings County	8
3-27-2011	Griffith Company	Mendiburu Borrow Pit, Kern County	9
5-27-2011	Caltrans	Oily Wash, Kern County	1
6- 2-2011	Cirque Resources	Tupman Well, KWB, Kern County	1
8-10-2011	ExxonMobil	Hill Lease Diatomite, N. Belridge	1
8-15-2011	Semitropic WSD	In-lieu service facilities, Kern County	26
11-17-2011	Buena Vista WSD	Turnout, Kern County	5
			51

Minor Amendment No. 2

After researching the issue of the pending Minor Amendment to add the 495-acre acquisition to the KWBA HCP, USFWS staff reported that they could not authorize incidental take for facilities, such as recovery wells, on land purchased with federal grant funds and could not, therefore, approve adding the land to our HCP. Chairman Phillimore and staff met with representatives of USFWS in January 2007, and they expressed willingness to resolve the stalemate. In May 2007, KWBA submitted the revised amendment and supporting documents to USFWS and CDFG for review. CDFG recently renewed its efforts to complete the Minor Amendment.

Mitigation and Conservation Easements

In response to KWBA inquiries, the California Department of Fish and Game researched the status of mitigation and conservation easements submitted by KWBA. On September 16, 2010, the DWR Mitigation Easement (530 acres), the 1998-2000 Conservation Easements (122 acres) and the 2001 Conservation Easement (119 acres) were recorded. The State notified staff that the KWBA Mitigation Easement (635 acres) was recorded May 23, 2011.

ADMINISTRATIVE

Finance

DWR Loan: The principal balance, after the October 1, 2011 P&I payment, is \$2,954,100, and the annual interest rate is 2.7%. The next semi-annual principal and interest payment is due April 1, 2012.

Variable Rate Demand Bonds: The principal balance is \$18,360,000. The next annual principal payment, \$1,080,000, is due July 1, 2012. Per the Board's direction, swap agreements were executed for the balances of the Series A and B bonds, at 3.86% and 4.75%, respectively, which took effect as of September 1, 2005.

20.4/UBAC

TO: Urban Bakersfield Advisory Committee
Agenda Item No. 11

FROM: David Beard

DATE: January 25, 2012

SUBJECT: Update on Cross Valley Canal Activities

Issue:

Cross Valley Canal Advisory Committee Agenda.

Recommended Motion:

None – information only.

Discussion:

The Cross Valley Canal Advisory Committee's January Agenda is provided as Attachment 1.

KERN COUNTY WATER AGENCY
Cross Valley Canal Advisory Committee
P. O. Box 58, Bakersfield, California 93302-0058

A meeting of the Cross Valley Canal Advisory Committee has been scheduled for **Wednesday, January 25, 2012 at 1:30 p.m.** and will be held in the Board Room of the Kern County Water Agency's Stuart T. Pyle Water Resources Center, at 3200 Rio Mirada Drive, Bakersfield, California.

MEETING NOTICE & AGENDA

1. Call to order – 1:30 p.m.
2. Minutes of Cross Valley Canal Advisory Committee Meetings – December 12, 2011
3. Cross Valley Canal Advisory Committee Member Reports
4. Public Comment
5. Report on Operations, Maintenance and Deliveries
 - a. Operations and Maintenance Activities
 - b. Summary of 2011 Deliveries
6. Report of the Assistant Water Resources Manager
 - a. 2010 Cross Valley Canal Operations and Maintenance Budget Reconciliations
7. Update on the Cross Valley Canal Expansion Project
 - a. Recommendation to Execute Change Orders for the Greater Bakersfield Turnout No. 2 from the California Aqueduct and Outlet Canal Siphon Project – Contract No. KCWA 2006-05A
8. Recommendation to Increase the Expenditure Limit for the Cross Valley Canal Supervisory Control and Data Acquisition Consultant
9. Update on the Westside Parkway Project
 - a. Recommendation to Increase Expenditure for the Geotechnical Consultant for the Westside Parkway Toscopetro and Gulf Box Culvert Projects
10. Adjourn

Requests for a disability-related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Cross Valley Canal Secretary in advance of the meeting to ensure availability of the requested service or accommodation.