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Appendix H: Soboba Settlement Agreement

SOBOBA BAND OF LUISEÑO INDIANS
SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is entered into by the Soboba Band of Luiseño Indians on behalf of itself and its members (collectively, the “Soboba Tribe”); the United States of America solely in its capacity as trustee for the Soboba Tribe (the “United States”); the Eastern Municipal Water District (“EMWD”); the Lake Hemet Municipal Water District (“LHMWD”); and The Metropolitan Water District of Southern California (“MWD”).

ARTICLE 1- RECITALS

1.1 The Soboba Tribe has made claims against EMWD and LHMWD (collectively, the “Local Districts”) for alleged infringement of its water rights in the San Jacinto River (“River”) and the Canyon Sub-basin and the Intake portion of the Upper Pressure Sub-basin associated therewith (collectively “Basin”) in Riverside County, California, and for damages related to historical interference with the Soboba Tribe’s rights and the unauthorized use of its water. Specifically, the Soboba Tribe alleges that the Local Districts, through their longstanding diversion of waters from the River and pumping of Groundwater from the Basin, have interfered with the Soboba Tribe’s water resources and its rights to the beneficial use and enjoyment of the Reservation.

1.2 The Soboba Tribe also has filed a lawsuit against MWD styled *Soboba Band of Luiseño Indians v. Metropolitan Water District of Southern California*, United States District Court Case No. 00-04208 GAF (MANx) (the “Action”). The Action alleges that MWD, by the construction and operation of the San Jacinto Tunnel (the “Tunnel”), has interfered with the Soboba Tribe’s water resources and its rights to the beneficial use and enjoyment of the Reservation.

1.3 The Parties have agreed to settle the Soboba Tribe’s claims on the terms set forth in this Settlement Agreement.

1.4 MWD also contends that it has legal indemnification claims and other rights against EMWD for the Action arising out of MWD Board Resolution 3940 (EMWD's Terms of Annexation into MWD). In 1951, EMWD was created and annexed into MWD for the purposes of resolving claims that MWD's construction and operation of the Tunnel interfered with local water rights in the Basin and to obtain a supplemental supply of water for the area. The Terms of Annexation required EMWD to resolve potentially conflicting rights to the Tunnel seepage water and that MWD annually credit EMWD for the entire amount of Tunnel seepage, which MWD has done every year since 1951. In exchange for the benefits of being annexed into the MWD service area and the return of the Tunnel seepage water to EMWD, EMWD was required to defend and indemnify Metropolitan from certain claims seeking recovery for loss or injury as a consequence of the Tunnel seepage, specifically including claims brought by the Tribe. In response to the Tribe's Action, MWD tendered the defense and indemnity of the Tribe's claims to EMWD, which EMWD declined on the grounds that the Action allegedly exceeded the scope of its obligations under the Terms of Annexation. MWD subsequently filed a third party action against EMWD seeking to enforce the defense and indemnity provisions contained in the Terms of Annexation. EMWD and MWD dispute each other's contentions.

1.5 EMWD and MWD have agreed as part of this settlement to resolve their dispute over the scope of EMWD's defense and indemnity obligations to MWD reflected in the EMWD's Terms of Annexation.

NOW, THEREFORE, in consideration of the promises and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE 2 - DEFINITIONS

This Settlement Agreement employs abbreviated terms that have the meanings below. To the extent that the definitions below conflict with those terms defined in other sections of the Settlement Agreement, the definitions in Article 2 shall prevail.

2.1 "Act" unless otherwise indicated, shall mean the Soboba Settlement Act approving this Settlement Agreement, attached as Exhibit A.

2.2 “Action” means the Soboba Tribe’s lawsuit against MWD styled Soboba Band of Luiseño Indians v. Metropolitan Water District of Southern California, United States District Court Case No. 00-04208 GAF (MANx) and includes MWD’s third party claim against EMWD.

2.3 “AFA” means acre-foot of water per annum.

2.4 “Basin” means collectively the Canyon Sub-basin and the Intake portion of the Upper Pressure Sub-basin as depicted on Exhibit B (map) and described in Exhibit C.

2.5 “Best Efforts” means that the Districts will take all commercially reasonable actions to fulfill the referenced contractual obligation.

2.6 “Canyon Sub-basin” means the groundwater basin as depicted on Exhibit B (map) and described in Exhibit C.

2.7 “Court” shall mean the Federal District Court for the Central District of California, Central Division, which has exercised jurisdiction over the Action.

2.8 “Decree Court” means the court with jurisdiction over the judgment and decree entered in accordance with this Settlement Agreement.

2.9 “Districts” means EMWD, LHMWD, and MWD.

2.10 “Effective Date” means the date on which the Secretary causes to be published in the Federal Register a statement of findings that the conditions in Section 3.1 have been fulfilled.

2.11 “EMWD” means the Eastern Municipal Water District.

2.12 “Groundwater” for the purposes of this Settlement Agreement means all water beneath the surface of the earth.

2.13 “Imported Water” means water sold by MWD to EMWD pursuant to Section 4.4 and is not intended to have the same meaning as the term “Imported Water” as used in MWD’s Administrative Code.

2.14 “Intake Sub-basin” means the portion of the Upper Pressure groundwater Sub-basin as depicted on Exhibit B (map) and described in Exhibit C.

2.15 “LHMWD” means the Lake Hemet Municipal Water District.

2.16 "Local Districts" means EMWD and LHMWD.

2.17 "MWD" means The Metropolitan Water District of Southern California.

2.18 "Party" is the singular form of "Parties," which means the entities represented by the signatories to this Settlement Agreement.

2.19 "Recharge Facilities" means those facilities to be constructed by the Local Districts pursuant to Section 4.4.G of this Settlement Agreement for the purpose of recharging the Imported Water into the Basin.

2.20 "Reservation" means the Soboba Indian Reservation as depicted on Exhibit D (map), comprising approximately 5,935 acres, as established by Executive Order on June 19, 1883; thereafter expanded by Executive Orders on January 29, 1887, and December 29, 1891, the purchase of 709.65 acres known as "Tract 8" in 1911, the issuance of a trust patent for 68.9 acres in 1913, and the transfer of 880 acres pursuant to the Southern California Indian Land Transfer Act, Pub. L. No. 100-581, 102 Stat. 2946 (1988); and, thereafter modified by Executive Orders of March 22, 1886, and January 29, 1887, and the issuance of a fee patent for 32.84 acres in 1900. It does not include the 950 acres northwest of and contiguous to the Reservation known as the "Jones Ranch," purchased by the Soboba Tribe in fee on July 21, 2001, and placed into trust on January 13, 2003, nor the 535 acres southeast of and contiguous to the Reservation known as the "Horseshoe Grande," purchased by the Soboba Tribe in fee in seven separate transactions in June and December 2001, December 2004; June 2006 and January 2007, nor the 478 acres north of and contiguous to the Reservation known as "The Oaks," purchased by the Soboba Tribe in fee on April 4, 2004.

2.21 "River" means the surface flow of the San Jacinto River and its tributaries from its origins in the San Jacinto Mountains into and across the Basin as shown on Exhibit B (map).

2.22 "Secretary" means the Secretary of the Interior or her designee.

2.23 "Settlement Agreement" means this document including all exhibits, which are incorporated by reference, as amended to be consistent with the Act.

2.24 "Soboba Tribe" means the Soboba Band of Luiseño Indians, a body politic and federally recognized Indian tribe, and its individual members.

2.25 "Surface Water" means all surface water flows of the River.

2.26 "Terms of Annexation" means Metropolitan Resolution No. 3940 which sets forth the terms of EMWD's annexation to MWD.

2.27 "Tribal Water Right" means the Soboba Tribe's rights to water set forth in Section 4.1.

2.28 "Tunnel" means that portion of the Colorado River Aqueduct known as the San Jacinto Tunnel.

2.29 "United States," unless otherwise indicated, means the United States of America solely in its capacity as trustee on behalf of the Soboba Tribe or its members.

2.30 "Untreated Replenishment Water" means untreated water sold pursuant to the Replenishment Service program as defined by MWD's Administrative Code at sections 4104, 4114 and 4514.

2.31 "Upper Pressure Sub-basin" means the groundwater basin as depicted on Exhibit B (map).

2.32 "WMP" means the Water Management Plan that will be developed by EMWD, LHMWD, the City of Hemet, the City of San Jacinto and other Basin users, pursuant to Section 4.8.A of this Settlement Agreement, to manage the Canyon Sub-basin, the Upper Pressure Sub-basin downstream to Bridge Street, and the Hemet Basins. The principles of the Water Management Plan are attached as Exhibit E. The area covered by the Water Management Plan is depicted on Exhibit F (map) and described in Exhibit G.

ARTICLE 3 – CONDITIONS PRECEDENT AND ENFORCEMENT

3.1 This Settlement Agreement shall become enforceable, and the releases and waivers of Article 5 effective, as of the date the Secretary causes to be published in the Federal Register a statement of findings that the following conditions have been fulfilled:

A. the Act has been enacted;

B. to the extent that the Settlement Agreement conflicts with the Act, the Settlement Agreement has been revised to conform with the Act;

C. the Settlement Agreement, as so revised, and the Waivers and Releases have been executed by the Parties and the Secretary;

D. warranty deeds for the property to be conveyed in fee to the Soboba Tribe pursuant to Section 4.6 have been placed in escrow with instructions that they shall be delivered to the Soboba Tribe by close of business on the first business day following the date that all of the conditions in this paragraph have been fulfilled;

E. the Soboba Tribe and the United States have approved the WMP; and

F. the Judgment and Decree attached to the Settlement Agreement as Exhibit H or a judgment and decree substantially the same as Exhibit H has been approved by the United States District Court, Eastern Division of the Central District of California, and that judgment and decree has become final and nonappealable.

3.2 Other than to take all necessary steps to cause the events described in this Article to occur, no Party shall be required to perform any of the obligations, or be entitled to any of the benefits, under this Settlement Agreement before all conditions precedent have been fulfilled. After the fulfillment of all conditions precedent, the Parties shall be bound by all provisions of this Settlement Agreement.

3.3 If all of the conditions listed in Section 3.1 have not been fulfilled by March 1, 2012, this Settlement Agreement shall be null and void, and any consideration, together with any income earned thereon, shall be returned to the depositing entity.

ARTICLE 4 - TRIBAL WATER RIGHTS

4.1 Water Rights. The Parties ratify, confirm, declare to be valid and agree not to object to or dispute or challenge in any judicial or administrative proceedings the rights of the Soboba Tribe and the United States solely in its capacity as trustee for the Soboba Tribe, to the water rights set forth in this Section. In so doing, the Parties acknowledge that these rights are the result of bargained for and exchanged concessions, as a result of which the Local Districts

have agreed to supply water to the Soboba Tribe if it is unable, except for mechanical failure of its wells, pumps or water facilities, to produce the water to which it is entitled under this Article. Therefore, the Soboba Tribe shall have the following water rights which shall be held in trust by the United States for the benefit of the Soboba Tribe:

A. The prior and paramount right, superior to all others, to pump 9,000 AFA from the Basin for any use on the Reservation and lands now owned or hereafter acquired by the Soboba Tribe contiguous to the Reservation or within the Basin.

B. The Soboba Tribe's right to pump a total of 9,000 AFA from the Basin is without regard to whether the water was naturally or artificially recharged.

C. In the event the Soboba Tribe is unable, except for mechanical failure of its wells, pumps or water facilities, to produce from its existing wells or equivalent replacements up to 3,000 AFA production from the Canyon Sub-basin and the remainder of its Tribal Water Right from the Intake Sub-basin, subject to Section 4.3.A, the Local Districts shall deliver any shortage to the Soboba Tribe. Any shortage shall be delivered at such locations as the Soboba Tribe and the Local Districts may agree, or if there is no agreement, at the wellheads where the shortage occurred. Such water may be supplied from Local District wells in either the Canyon or Intake Sub-basins, or from other sources. For any water delivered pursuant to this paragraph, the Soboba Tribe shall pay an acre-foot charge equal to its then current cost of production, and any avoided cost of treatment, from the wells where the shortage occurred, assuming pumping lifts equal to the Soboba Tribe's averages in the respective Sub-basins over the preceding ten years.

4.2 Water Quality. Recharged water placed in the Canyon Sub-basin by Local Districts and/or the WMP and any replacement water delivered to the Soboba Tribe pursuant to Section 4.3.C shall conform to all applicable State water quality regulations and, without prior written approval from the Soboba Tribe, shall neither exceed (1) any Federal or State of California primary or secondary drinking water standards (except with respect to recharged water, turbidity, color, or coliform bacteria) nor (2) 0.3 milligrams per liter (mg/l) boron or 0.05 mg/l lithium. Recharged water placed in the Intake Sub-basin by EMWD, LHMWD, and/or the

WMP shall conform to all applicable State water quality regulations. Nothing in this paragraph shall affect the water quality obligations assumed by Metropolitan for Imported Water set forth in Section 4.4.

4.3 Soboba Tribe's Water Use. Beginning on the Effective Date, the Soboba Tribe's right to pump groundwater in the exercise of its Tribal Water Right shall be subject to the following provisions:

A. The Soboba Tribe agrees to limit its exercise of the Tribal Water Right to 4,100 AFA for a period of fifty (50) years commencing with the Effective Date, according to the schedule set forth in Exhibit I to this Settlement Agreement. Should the Soboba Tribe during that period identify a need for water in addition to the Schedule set forth in Exhibit I, the Soboba Tribe shall have the right to purchase water from the WMP at the rate then being charged to the WMP's municipal producers.

B. Any use of the Tribal Water Right by an individual member of the Soboba Tribe shall be satisfied out of the water resources provided to the Soboba Tribe in this Settlement Agreement.

C. In addition to the limitation in Section 4.3.A, the Soboba Tribe may enter into contracts and options to lease or contracts and options to exchange water made available to it under this Settlement Agreement, or enter into contracts and options to postpone existing water uses or postpone undertaking new or expanded water uses. Any such water thereby made available to others shall only be used by participants in, or other users within the area of, the WMP. No contract shall be for a term exceeding one hundred (100) years, nor shall any contract provide for permanent alienation of any portion of the Tribal Water Right.

4.4 Purchase of Imported Water [see definition of Imported Water in Section 2.13 of this Settlement Agreement]. In order to provide water to the Soboba Tribe and to reduce the overdraft of the Basin, EMWD and MWD agree to enter into a contract pursuant to which MWD will sell and EMWD on behalf of the WMP will purchase the Imported Water under the following terms:

A. Price. The Imported Water will be sold by MWD to EMWD at the then prevailing service rate charged by MWD for Untreated Replenishment Water, which rate is reflected in MWD's Administrative Code at section 4401(a)(2). As of the date this Settlement Agreement is signed by MWD, the service rate for such water is \$238 per acre foot. Changes in the rates charged for Imported Water shall be effective the same date that the new rates for Untreated Replenishment Water become applicable to MWD's member agencies. Should MWD ever discontinue the delivery of Untreated Replenishment Water, the service rate for water supplied pursuant to this contract shall initially be determined by taking the last published service rate for Untreated Replenishment Water and charged to EMWD under this contract. Thereafter, the rate for Imported Water would continue to be adjusted on the same percentage basis as MWD's service rate for the non-interruptible untreated water deliveries to its member agencies, which adjustments shall become effective on the same date that the new service rates become applicable to MWD's member agencies.

B. Use. For purposes of the Imported Water only, MWD releases EMWD from all covenants that now, or may in the future, require that water purchased at the service rate for Untreated Replenishment Water be left in the ground or otherwise not used for any period of time.

C. Duration. The contract shall commence upon the Effective Date and will expire on December 31, 2035. EMWD and MWD agree to negotiate in good faith a possible extension of this water sale contract for an additional period which, when added to the original term expiring on December 31, 2035, would provide for a total term of 50 years. In determining whether or not to extend the term of this contract for this additional period, MWD will consider the current status of its replenishment water program, the status of MWD's State Water Project contract, the implementation of this Settlement Agreement, and any other information that MWD deems relevant to the possible extension of the water sale contract. Nothing in this paragraph shall be construed to require MWD to extend the water sale contact.

D. Water Quality. Water sold by MWD pursuant to this contract shall be of a quality

that is consistent with MWD's operational and water quality goals. MWD agrees to make Best Efforts to meet water quality objectives set by the Santa Ana Regional Water Quality Control Board for recharged water being put into the Basin. MWD takes no risks associated with any discrepancy between the water quality obligations assumed by MWD pursuant to this paragraph and water quality standards applicable to recharged water set by the Santa Ana Regional Water Quality Control Board or other regulatory body.

E. Deliveries. Deliveries under this contract shall not begin until the Effective Date. Once deliveries are commenced, MWD shall use Best Efforts to deliver 7,500 AFA for the duration of the contract based upon 15-year averages. Annual deliveries shall be calculated on a January 1 to December 31 calendar year and shall be pro rated for any portion of a year during which the contract is in force. MWD reserves the right to deliver water at any time of the year. MWD shall give EMWD advance notice of Imported Water deliveries as provided for in MWD's then current Administrative Code and implementing guidelines for replenishment water deliveries, which presently is reflected in section 4514(c) of MWD's Administrative Code.

F. Point of Delivery. Deliveries shall be made by MWD to EMWD at the connection known as EM-14 or, upon mutual agreement of MWD and EMWD, at one or more additional existing or future connections. The Parties acknowledge that the suspension or termination of deliveries to EM-14 may, at any time, as determined by MWD's Chief Executive Officer, be required to meet MWD's operational needs. If deliveries to this location are suspended or terminated, then EMWD and MWD agree to negotiate in good faith to identify an alternative delivery point or points and, if MWD and EMWD are unable to reach agreement, the dispute shall be resolved by the Decree Court.

G. Recharge Facilities. The Local Districts, through the WMP, shall construct, operate, and maintain facilities for artificial Groundwater recharge and banking of the Imported Water. Said facilities shall be sufficient to accommodate a flow rate of 42 cubic feet per second and to store up to 40,000 acre feet of Imported Water in the Basin. MWD shall have a paramount right to use capacity in the Recharge Facilities sufficient to accommodate a flow rate of 42 cubic

feet per second and a paramount right to store up to 40,000 acre feet of Imported Water to meet its obligations under this Settlement Agreement, provided that MWD's sole remedy if the required storage capacity is not made available is to reduce its obligation by the amount of water that it was prepared but unable to deliver due to the lack of storage capacity. MWD's obligations under this Section 4.4 shall not arise until the Recharge Facilities are capable of meeting the capacity and storage requirements set forth in this paragraph.

H. Postponed Deliveries. EMWD shall have the right to postpone deliveries during periods when the Recharge Facilities are not capable of meeting the capacity and storage requirements set forth in Section 4.4.G, provided that each of the following four conditions are met: (i) the inability to meet capacity and storage requirements is the result of events beyond the control of the Local Districts and/or the WMP; (ii) the inability to meet capacity and storage requirements is not the result of negligence on the part of the Local Districts and/or the WMP; (iii) the inability to meet capacity and storage requirements is not the result of water quality limitations that are more restrictive than those established pursuant to Section 4.4.D, and (iv) that the Local Districts use Best Efforts to make necessary repairs and/or take other actions necessary to make the Recharge Facilities fully operational.

(1) If the conditions for postponed deliveries are met as required herein, MWD shall make up such deferred deliveries at a later time, to the extent that MWD has Untreated Replenishment Water available.

(2) If the conditions for postponed deliveries are not met as required herein, then MWD's obligation to deliver water shall be reduced by the amount of water that MWD was prepared to deliver, subject to the 42 cubic feet per second maximum flow rate, and the existence of unused storage capacity up to the 40,000 acre-foot maximum.

I. Pre-Deliveries. MWD shall have complete discretion concerning use of the 40,000 acre feet of storage capacity for the pre-delivery of Imported Water, including the right not to use such capacity. As such, MWD makes no commitments to pre-deliver any amount of Imported Water.

4.5 Funding for Infrastructure. In accordance with the Act, the United States shall establish in the Treasury of the United States a fund in the amount of \$10,000,000, managed by the Secretary of the Interior, which may be drawn upon by EMWD to pay or reimburse costs associated with constructing, operating, and maintaining that portion of the Recharge Facilities necessary to accommodate deliveries of the Imported Water.

4.6 Land Transfer.

A. EMWD Property. In settlement of the Action, EMWD shall place into escrow a warranty deed conveying to the Soboba Tribe in fee all of the property presently owned by EMWD at Domenigoni Parkway and Highway 79, consisting of approximately 106 acres which is described and illustrated in Exhibit J to this Settlement Agreement. The escrow instructions shall provide that the warranty deed shall be delivered to the Soboba Tribe by close of business on the first business day following the Effective Date.

B. MWD Property. In settlement of the Action, MWD shall place into escrow a warranty deed conveying to the Soboba Tribe in fee property presently owned by MWD at Domenigoni Parkway and Patterson Avenue, consisting of approximately 21.7 acres which is described and illustrated in Exhibit K to this Settlement Agreement. The escrow instructions shall provide that the warranty deed shall be delivered to the Soboba Tribe by close of business on the first business day following the Effective Date.

C. Use of Property. Management and development by the Soboba Tribe of the lands transferred by this paragraph shall comply with all applicable Federal law. Any regulation by the Soboba Tribe of the environment on, under or above such lands that impacts MWD's operations, including but not limited to its operations related to Diamond Valley Reservoir, shall be consistent with, and no more stringent than, comparable regulation by the United States and the State of California.

4.7 Development Funds.

A. Local Districts. No later than 120 days after the Effective Date and before any funds are released to the Local Districts under Section 4.5, the Local Districts shall pay to the

Soboba Tribe the sum of \$7,000,000 plus interest at the average daily prime rate (as reported by the Wall Street Journal) plus two and one-quarter percent (2.25%) per annum from the Effective Date until paid. No later than 120 days after any funds are released to the Local Districts under Section 4.5, the Local Districts shall pay to the Soboba Tribe a sum equal in amount to the funds so released plus interest at the average daily prime rate (as reported by the Wall Street Journal) plus two and one-quarter percent (2.25%) per annum from the date of the release of such funds until paid. All sums paid to the Tribe by the Local Districts pursuant to this Section 4.7.A are determined to be non-trust funds and shall be managed by the Soboba Tribe in its sole discretion. The United States shall have no responsibility with respect to the funds provided to the Soboba Tribe pursuant to this paragraph.

B. United States. In accordance with the Act, the United States shall establish in the Treasury of the United States a trust fund in the amount of \$11,000,000, managed by the Secretary of the Interior in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) and this Settlement Agreement. There shall be no expenditures from the trust fund until the conditions in Section 3.1 are fulfilled.

(1) Investment of the Fund. The Secretary shall invest amounts in this fund in accordance with the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161), the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a), and this paragraph.

(2) Fund Uses. This fund may be drawn upon by the Soboba Tribe with the approval of the Secretary to pay or reimburse costs associated with constructing, operating, and maintaining water and sewage infrastructure or other water-related development projects.

4.8 Other Terms.

A. The Local Districts, with the cooperation of other Groundwater producers in the Basin, shall develop and implement a WMP for the Basin that will address the current Basin overdraft, and recognize and take into account the Tribal Water Right. The WMP shall not be final or deemed effective for the purposes of this Settlement until it is approved by the Soboba Tribe and the United States. No implementation or subsequent modification of the WMP shall

threaten or adversely affect the rights of the Soboba Tribe hereunder, and the Soboba Tribe and the United States reserve the right under the continuing jurisdiction of the Decree Court to litigate any such issue.

B. EMWD will credit to the Soboba Tribe the sum of \$1,000,000 to be deducted from the cost of water and sewage financial participation fees (connection fees) and similar fees charged by EMWD for any property owned by the Soboba Tribe within EMWD's then existing service area for which service is sought pursuant to an agreement for service between the Soboba Tribe and EMWD. The Soboba Tribe and EMWD agree to negotiate in good faith concerning any future agreement for service which shall be funded in whole or in part by the credit established pursuant to this paragraph.

C. LHMWD will make available for habitat preservation and/or environmental mitigation purposes property it owns in the San Jacinto River bed, consisting of approximately 12 acres which is described and illustrated in Exhibit L to this Settlement Agreement. This property shall be used for habitat preservation and/or environmental mitigation to assist in meeting the requirements of applicable Federal and State environmental laws relating to the Recharge Facilities.

D. The Soboba Tribe agrees to provide the Local Districts with all information reasonably available to the Soboba Tribe that the Local Districts and the Soboba Tribe agree is required to implement this Settlement Agreement and the WMP.

E. MWD shall not be joined in any legal proceeding to enforce the Tribal Water Right described in Sections 4.1 through 4.3 or which concerns the duties and obligations reflected at Section 4.8, paragraphs A through E, unless said proceeding relates to MWD's failure to perform its obligations to deliver water set forth in Section 4.4.

ARTICLE 5 - RELEASES AND WAIVERS

5.1 Soboba Tribe

A. The Soboba Tribe, on behalf of itself and its members, and the United States solely in its capacity as trustee for the Tribe releases EMWD, LHMWD, and MWD for:

(1) Past, present and future claims to Surface and Groundwater rights for the Reservation, arising from time immemorial through the Effective Date and anytime thereafter, except claims to enforce this Settlement Agreement or claims based on water rights acquired after the Effective Date;

(2) Past, present and future claims for injury of any kind arising from interference with Surface water and Groundwater resources and water rights of the Reservation, including, but not limited to, all claims for injury to the Soboba Tribe's use and enjoyment of the Reservation, economic development, religion, language, social structure and culture, and injury to the natural resources of the Reservation, from time immemorial through the Effective Date;

(3) Past, present and future claims for injury of any kind arising from, or in any way related to, continuing interference with Surface water and Groundwater resources and water rights of the Reservation, including the full scope of claims defined in Section 5.1.A(2), to the extent that such continuing interference began prior to the Effective Date, from time immemorial through the Effective Date and anytime thereafter;

(4) Past, present and future claims for injury of any kind arising from, or in any way related to, seepage of water into the Tunnel, including the full scope of claims defined in Section 5.1.A(2), from time immemorial through the Effective Date and anytime thereafter; and

(5) Past, present and future claims for injury of any kind arising from, or in any way related to, the WMP as approved in accordance with this Settlement Agreement, from time immemorial through the Effective Date and anytime thereafter.

B. The Soboba Tribe, on behalf of itself and its members, releases the United States for:

(1) Claims described in Section 5.1.A(1)-(5);

(2) Past, present and future claims for failure to acquire or develop water rights and water resources of the Reservation arising from time immemorial through the Effective Date and anytime thereafter;

(3) Past, present and future claims for failure to protect water rights and water

resources of the Reservation arising from time immemorial through the Effective Date, and any past, present and future claims for any continuing failure to protect water rights and water resources of the Reservation, arising from time immemorial through the Effective Date and, to the extent that such continuing failure to protect began before the Effective Date, anytime thereafter;

(4) Past, present and future claims arising from the failure of any non-federal Party to fulfill the terms of this Settlement Agreement at anytime.

(5) Past, present, and future claims arising out of the negotiation of this Settlement Agreement or the negotiation and enactment of the Act, or any specific terms or provisions thereof, including but not limited to the Soboba Tribe's consent to limit the number of participant parties to this Settlement Agreement.

C. The releases contained in Section 5.1.B shall take effect on the date on which the all of the amounts under Sections 4.5 and 4.7.B are appropriated.

(1) All periods of limitation and time-based equitable defenses applicable to the claims set forth in Section 5.1.B are tolled for the period between the date of enactment of the Act until the date on which all of the amounts under Sections 4.5 and 4.7.B are appropriated.

(2) This Section 5.1.C neither revives any claim nor tolls any period of limitation or time-based equitable defense that may have expired before the date of enactment of the Act.

(3) The making of the amounts of appropriations under Sections 4.5 and 4.7.B shall constitute a complete defense to any claim which involves the claims set forth in Section 5.1.B pending in any court of the United States on the date on which the appropriations are made.

D. The Soboba Tribe, on behalf of itself and its members, expressly preserves as against all Parties all rights and remedies relating to:

(1) The enforcement of this Settlement Agreement;

(2) The infringement of any water rights arising under Federal or State law which may be appurtenant to property, other than the Reservation, that is now owned or hereafter acquired by the Soboba Tribe, excepting claims identified in Section 5.1.A(4), which relate to

Tunnel seepage, and any challenge to approved portions of the WMP.

E. The Soboba Tribe agrees to defend, indemnify, and hold harmless EMWD, LHMWD, MWD, and the United States for any claim seeking damages or other form of relief based upon the rights released by the Soboba Tribe in Section 5.1.A and B, and all of their respective subparts.

F. Notwithstanding the waivers and releases in Section 5.1.A, the United States retains all claims relating to violations of the Clean Water Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, Resource Conservation and Recovery Act, and the regulations implementing these Acts, including, but not limited to claims related to water quality.

5.2 EMWD

A. EMWD shall release LHMWD, MWD, the Soboba Tribe, and the United States from:

(1) All past and present claims arising from or in any way related to the claims released by the Soboba Tribe and the United States solely in its capacity as trustee for the Soboba Tribe in Section 5.1, A and B, and all of their respective subparts; and

(2) All past and present claims arising from, or in any way related to, interference with EMWD's Surface and Groundwater rights under Federal or State law from time immemorial through the Effective Date, including, but not limited to, all rights originally belonging to EMWD's predecessors and/or otherwise acquired by EMWD prior to the Effective Date .

B. Notwithstanding the dispute between EMWD and MWD over the scope of EMWD's defense and indemnity obligations reflected in Section 8 of Resolution 3940 (the Terms of Annexation) or the language of Section 8, EMWD shall defend and indemnify MWD against all demands, claims, suits, or other administrative or legal proceedings arising from, or in anyway connected to, the infiltration of water into the Tunnel. This obligation shall apply irrespective of when the claim arose or the alleged infringement, harm, or injury occurred.

- C. EMWD expressly preserves all rights and remedies relating to:
- (1) As against all Parties, the enforcement of this Settlement Agreement;
 - (2) As against all Parties, the infringement of any water rights arising under State law acquired in the future by EMWD; and
 - (3) As against MWD, the Terms of Annexation, except as expressly agreed to in Section 5.2.B.

5.3 LHMWD

A. LHMWD shall release EMWD, MWD, the Soboba Tribe, and the United States from:

- (1) All past and present claims arising from or in any way related to the claims released by the Soboba Tribe and the United States solely in its capacity as trustee for the Soboba Tribe in Section 5.1.A and B, and all of their respective subparts; and
- (2) All past and present claims arising from, or in any way related to, interference with LHMWD's Surface and Groundwater rights under Federal or State law from time immemorial through Effective Date.

B. LHMWD expressly preserves all rights and remedies relating to:

- (1) As against all Parties, the enforcement of this Settlement Agreement; and
- (2) As against all Parties, the infringement of any water rights arising under State law acquired in the future by LHMWD.

5.4 MWD

A. MWD shall release EMWD, LHMWD, the Soboba Tribe, and the United States from:

- (1) All past and present claims arising from or in any way related to the claims released by the Soboba Tribe and the United States solely in its capacity as trustee for the Soboba Tribe in Section 5.1.A and B, and all of their respective subparts; and
- (2) All past and present claims arising from, or in any way related to, interference with MWD's Surface and Groundwater rights under Federal or State law from time immemorial

through the Effective Date .

B. MWD expressly preserves all rights and remedies relating to:

(1) As against all Parties, the enforcement of this Settlement Agreement;

(2) As against all Parties, the infringement of any water rights arising under State law acquired in the future by MWD; and

(3) As against EMWD, the Terms of Annexation, except as expressly agreed to in Section 5.2.B.

5.5 All Parties Release of Unknown Claims.

A. Each Party acknowledges and agrees that certain of the releases reflected in Sections 5.1 through 5.5 apply to all claims whether known or unknown to the releasing Party.

B. Each Party certifies that it has read the following provisions of California Civil Code Section 1542:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

C. Each Party waives the application of California Civil Code Section 1542. In doing so, each Party acknowledges that it is consciously releasing claims that may exist as of the date of this release but which it does not know exist, and which, if known, would materially affect its decision to execute this Settlement Agreement, regardless of whether the Parties' lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

5.6 Consent to Jurisdiction. The United States consents to jurisdiction in the Action for the purpose of obtaining approval for a judgment and decree substantially the same as the judgment and decree attached to this Settlement Agreement as Exhibit H.

A. Nothing in this Agreement restricts, enlarges, or otherwise determines the subject matter jurisdiction of any Federal, State, or Tribal court.

B. Nothing in this Agreement confers jurisdiction on any State court to enforce Federal environmental laws regarding the duties of the United States or conduct judicial review

of Federal agency action.

ARTICLE 6- ADMINISTRATION AND OTHER CONSIDERATIONS

6.1 Disclaimer. Nothing in this Settlement Agreement shall be construed as establishing any standard to be used for the quantification of Federal reserved rights, aboriginal claims, or any other Indian claims to water or lands in any judicial or administrative forum or proceeding. Nothing in this Settlement Agreement shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any California tribe, band or community other than the Soboba Tribe.

6.2 Evidentiary Effect of Negotiations. This Settlement Agreement has been arrived at in the process of good faith negotiation for the purpose of resolving legal disputes, including pending litigation, and all Parties agree that no conduct, statements, offers, or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal forum or proceeding other than one for approval, confirmation, interpretation, or enforcement of this Settlement Agreement.

6.3 Authorship. The Parties agree that this Settlement Agreement reflects the joint drafting efforts of all Parties. In the event that any dispute, disagreement, or controversy arises regarding this Settlement Agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.

6.4 Authorization to Execute. Each Party represents and warrants that she or he is authorized to execute this Settlement Agreement on behalf of the respective Parties to this Settlement Agreement and does so freely and voluntarily.

6.5 Effect of Execution by the Districts. Execution of this Settlement Agreement by the Districts signifies that provisions of this Settlement Agreement affecting the Districts have been approved by their respective Boards of Directors, and these agencies assume the obligations of and are entitled to the benefits of this Settlement Agreement.

6.6 No Inducements. Each Party acknowledges and represents that in executing this Settlement Agreement it has not relied upon any inducements, promises, or representations made by the other Parties which are not reflected in this Settlement Agreement.

6.7 Advice of Counsel. Each Party warrants and represents that, in executing this Settlement Agreement, it has relied upon legal advice from counsel of its choice; that the terms of this Settlement Agreement have been read and its consequences have been completely explained to it by counsel; and that it fully understands the terms of this Settlement Agreement.

6.8 Contingent on Appropriation of Funds. The expenditure or advance of any money or the performance of any obligation by the United States under this Settlement Agreement is contingent upon appropriation of funds therefor. If funds are not appropriated, the United States shall accrue no liability.

6.9 Officials Not to Benefit. No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Settlement Agreement or to any benefit that may arise from this Settlement Agreement. This restriction shall not be construed to extend to this Settlement Agreement if made with a corporation or company for its general benefit.

6.10 Counterparts. This Settlement Agreement may be signed in counterparts by one or more of the Parties, and those counterparts, when taken together, shall have the same force and effect as if a single, original document had been signed by all the Parties.

6.11 Jurisdiction. The Decree Court retains jurisdiction over the Judgment and Decree and the Settlement Agreement.

6.12 Governing Law. This Settlement Agreement shall be construed in accordance with Federal laws and where appropriate the laws of the State of California.

6.13 Successors and Assigns. This Settlement Agreement and the attached waivers and agreements shall, unless otherwise indicated, be binding on and inure to the benefit of the Parties, and their respective successors and assigns.

6.14 Integration. This Settlement Agreement incorporates all the exhibits and sets forth the entire agreement of the Parties with respect to the subject matter hereof, with the exception that EMWD and MWD have resolved certain rights and obligations by way of a Partial Settlement Agreement dated November 14, 2001 which shall remain binding on those two Parties only. This Settlement Agreement may be amended only by written agreement executed by the Parties.

ARTICLE 7- NOTICE AND SIGNATURES

7.1 Notices. Any notice or other communication given under this Settlement Agreement must be in writing and delivered by overnight courier service or certified mail, return receipt requested, postage prepaid and properly addressed to the Parties at the addresses listed below (or to any other or further addresses the Parties may subsequently designate by notice in this manner). All these notices and communication shall be effective when delivery to the required recipient is completed in accordance with this paragraph:

To the Soboba Tribe:

Chairperson
Soboba Band of Luiseño Indians
P.O. Box 487
San Jacinto, CA 92581

To the United States of America:

Asst. Secretary for Indian Affairs
U.S. Department of the Interior
1849 C St. NW 4104 MIB
Washington, DC 20240-0001

Chief, U.S. Dept. of Justice
Indian Resources Section
P.O. Box 44378
L'Enfant Plaza Station
Washington, DC 20026-4378

cc: Regional Director
Bureau of Indian Affairs
Pacific Region
2800 Cottage Way
Sacramento, CA 95825

To EMWD:

General Manager
Eastern Municipal Water District
P.O. Box 8300
Perris, CA 92572-8300

To LHMWD:

General Manager
Lake Hemet Municipal Water District
P.O. Box 5039
Hemet, CA 92544

To MWD:

Chief Executive Officer
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, California 90054-0153

General Counsel
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, California 90054-0153

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the day and year written below.

SOBOBA BAND OF LUISEÑO INDIANS

Date: March 12, 2008

By: Rosemary Morillo
Rosemary Morillo, Vice Chairwoman

THE UNITED STATES OF AMERICA

Date: _____

By: _____

THE EASTERN MUNICIPAL WATER DISTRICT

Date: _____

By: _____
David J. Slawson, President

THE LAKE HEMET MUNICIPAL WATER DISTRICT

Date: _____

By: _____
Frank Douglas Marshall III, President

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Date: _____

By: _____
Jeffrey Kightlinger, General Manager

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the day and year written below.

SOBOBA BAND OF LUISEÑO INDIANS

Date: _____

By: _____
Rosemary Morillo, Vice Chairwoman

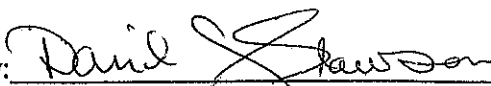
THE UNITED STATES OF AMERICA

Date: _____

By: _____

THE EASTERN MUNICIPAL WATER DISTRICT

Date: _____

By:  _____
David J. Slawson, President

THE LAKE HEMET MUNICIPAL WATER DISTRICT

Date: _____

By: _____
Frank Douglas Marshall III, President

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Date: _____

By: _____
Jeffrey Kightlinger, General Manager

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the day and year written below.

SOBOBA BAND OF LUISEÑO INDIANS

Date: _____

By: _____
Rosemary Morillo, Vice Chairwoman

THE UNITED STATES OF AMERICA

Date: _____

By: _____

THE EASTERN MUNICIPAL WATER DISTRICT

Date: _____

By: _____
David J. Slawson, President

THE LAKE HEMET MUNICIPAL WATER DISTRICT

Date: _____

By:  _____
Frank Douglas Marshall III, President

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Date: _____

By: _____
Jeffrey Kightlinger, General Manager

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the day and year written below.

SOBOBA BAND OF LUISEÑO INDIANS

Date: _____

By: _____
Rosemary Morillo, Vice Chairwoman

THE UNITED STATES OF AMERICA

Date: _____

By: _____

THE EASTERN MUNICIPAL WATER DISTRICT

Date: _____

By: _____
David J. Slawson, President

THE LAKE HEMET MUNICIPAL WATER DISTRICT

Date: _____

By: _____
Frank Douglas Marshall III, President

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Date 3/11/08

By: _____
Jeffrey Kightlinger, General Manager