

Agreement Number 11-LC-20-0223

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

ADMINISTRATION, OPERATION, MAINTENANCE, AND DEVELOPMENT  
OF RECREATION AT LAKE CACHUMA

**STRIKETHROUGH VERSION**

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA,  
AND THE COUNTY OF SANTA BARBARA FOR THE  
MANAGEMENT OF THE RECREATION AT LAKE CACHUMA

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

MANAGEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA,  
AND THE COUNTY OF SANTA BARBARA FOR THE  
MANAGEMENT OF THE RECREATION AT LAKE CACHUMA

THIS AGREEMENT, made this 10<sup>th</sup> day of January 2012, the Act of June 17, 1902, (32 Stat. 388) and amendatory and supplementary Acts collectively referred to as Federal Reclamation Laws, particularly the Federal Water Project Recreation Act (Public Law 89-72, as amended) by the United States of America acting by and through the Regional Director, Mid-Pacific Region, Bureau of Reclamation, or his duly authorized representative, hereinafter styled "Reclamation" and the County of Santa Barbara, in the State of California, hereinafter referred to as the "Managing Partner," with its principal place of business in Santa Barbara, California, acting by and through the Santa Barbara County Board of Supervisors.

WITNESSETH THAT:

WHEREAS, the United States has constructed the Cachuma Project, hereinafter referred to as the "Project," including Bradbury Dam and Cachuma Reservoir (also known as "Lake Cachuma"), the Tecolote Tunnel, the South Coast Conduit, and related facilities and appurtenances, pursuant to section 9(a) of the Reclamation Project Act of 1939, for diversion, storage, conveyance and distribution of waters of the Santa Ynez River and its tributaries for irrigation, municipal, domestic, and industrial uses; and other beneficial uses; and

WHEREAS, the County of Santa Barbara has managed the recreation resources at Lake Cachuma under Contract No. 14-06-200-600 “Agreement to Administer Recreational Area,” and extensions thereof since January 12, 1953 to promote the development and operation of lands and facilities in the public interest for recreation purposes; and

WHEREAS, Reclamation recognizes that the Cachuma Project offers good recreational opportunities and a definite existing recreational need which benefits the public; and

WHEREAS, the parties desire to enter into a new long-term Agreement for the administration, operation, maintenance and development of recreation and natural and cultural resource enhancement at Lake Cachuma in accordance with the Lake Cachuma Resource Management Plan, as amended; and

WHEREAS, the parties desire that the new long-term Agreement will provide mechanisms to maximize the potential for the management of recreation resources at Lake Cachuma to be financially self-supporting, including but not limited to establishment of appropriate entry and use fee schedules.

**NOW, THEREFORE**, it is agreed as follows:

**1. DEFINITIONS**

(a) “CEQA” means the California Environmental Quality Act, California Public Resource Code §§ 21000, et. seq.

(b) “Commercial Filming Fees” means a fee collected by Reclamation for use of the Recreation Area such as commercial filming, recording of television productions, feature movies or

commercials. Revenues will be collected and expended pursuant Public Law 106-206 (Commercial Filming on Public Lands Act).

(c) “Concession” means a non-Federal commercial business that supports appropriate public recreational uses and provides facilities, goods, or services for which revenues are collected. A Concession generally involves use of the Recreation Area and may involve the use or development of fixed assets.

(d) “Concessionaire” means an entity contracted by the Managing Partner through a third-party Concessions contract to operate a Concession.

(e) “Equipment” means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, consistent with 43 CFR 12.

(f) “Federal Fiscal Year” means that annual period, from October 1 of one calendar year to September 30 of the next calendar year, on which the United States government bases its budget.

(g) “Good Repair” means maintaining functional use and longevity of facilities and Equipment through use of appropriate actions including, but not limited to, controlled maintenance, standard operating procedures, and maintenance manuals; meeting Federal, State and applicable local health department standards; meeting public safety needs and standards; and maintaining facilities in a safe, neat, clean, and well-kept condition.

(h) “Managing Partner” means the Santa Barbara County, or its duly authorized representative(s).

(i) “Management of the Recreation Area” means to administer, operate, maintain, and develop that portion of the Recreation Area identified in Exhibit “A” – Area Map; including management of resources, conditions and recreation opportunities and Recreation Facilities, and keep Recreation Facilities and associated equipment in Good Repair and usable working condition.

(j) “NEPA” means the National Environmental Policy Act 42 USC Sect. 4321, et. seq.

(k) “Primary Jurisdiction Zone” (PJZ) means those areas as shown on Exhibit “A” Map of Lake Cachuma Recreation Area identified as Primary Jurisdiction Zones.

(l) “Project Works” shall mean all Cachuma Project facilities, appurtenances, and property.

(m) “Property Record Inventory” means a list of all fixed assets at the time of execution of this Agreement. The list shall include a description of each fixed asset, a serial number or identification number, the source of the item, who holds title, the acquisition date and cost of the item, the percentage of Federal participation in the cost, and the location and condition of the item.

(n) “Recreation Area” means the federal land and water areas or any part thereof as shown on Exhibit “A” Map of Lake Cachuma Recreation Area identified as Recreation Area with the exception of the Primary Jurisdiction Zones.

(o) “Recreation Facilities” means those facilities constructed or installed within the Recreation Area for recreational use by the public or for support of such recreational use. Said facilities may include, but are not limited to, buildings and other structures (such as park headquarters, visitor centers, maintenance shops), campgrounds, picnic grounds, boat docks and



ramps, electrical lines, water systems, roads, trails, parking areas, sewer systems, signs, trash facilities, and boundary and interior fencing.

(p) “Resource Management Plan or Plan” means the plan prepared in accordance with Title XXVIII of Public Law 102-575 and Reclamation’s Resource Management Plan Guidebook.

(q) “Revenues” means all receipts derived from entry and other use fees which the Managing Partner is permitted to collect pursuant to their authority under this Agreement; including, but not limited to fees, charges, tolls, and rents, charged by the Managing Partner for public recreation use and concessionaire agreements issued or administered by the Managing Partner.

(r) “Rights-of-Use” means various land use or resource management documents or instruments including, but not limited to, license agreements, contracts, rights-of-way, easements, leases, permits, and other rights of use issued or granted by Reclamation on, over, across or under the Federal Lands and Water pursuant Public Law 102-575, Section 2805(a)(1).

(s) “Service Contracts” means are third party contracts issued by the Managing Partner for services such as trash removal, janitorial, pest control, and construction projects, which assist the Managing Partner in the Management of the Recreation Area.

(t) “Special Use” means the temporary use of specific Recreation Facilities of the Recreation Area as a venue which does not require any change in the condition of Recreation Area lands, including, but not limited to, fairs, festivals, concerts, group gatherings, wedding, reunions, fishing tournaments and boating events, fundraiser, and all other recreation activities and amenities as described in the Resource Management Plan.

(u) “Special Use Fees” means a fee charged to Concessionaires or third parties by the Managing Partner for special uses of the Recreation Area for special events such as fairs and festivals, and concessions, which the Managing Partner is permitted to collect pursuant to their authority under this Agreement.

(v) “State” means the State of California, or its duly authorized representative(s).

(w) “Third Party Agreements” means agreements, and contracts, including Special Use contracts or permits, Concession contracts and Service Contracts, issued by the Managing Partner to another entity to provide recreation related services and facilities for the Recreation Area other than Commercial Filming and Rights-of-Use.

## 2. TRANSFER OF RESPONSIBILITY

(a) Reclamation hereby transfers to the Managing Partner and the Managing Partner hereby accepts responsibility for the Management of the Recreation Area and Recreation Facilities for the purposes of public recreation and natural and cultural resource enhancement resources management, and related purposes and responsibilities. This transfer of responsibility is subject to:

(1) All existing Rights-of-Use, or those subsequently granted in accordance with Article ~~18~~19 of this Agreement, in favor of the public or third parties, provided that the proposed grant of any new Right-of-Use will not be granted if, in the opinion of Reclamation, it will interfere with the Project water operations in the Recreation Area, and;

(2) All existing rights of (1) Project Water Rights (2) Santa Barbara County Water Agency and downstream water rights holders and public trust resources under Project ~~w~~Water

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~~Contract No. I75r-1802R, (3) the Cachuma Member Units under their individual Project water~~ service contracts with the Santa Barbara County Water Agency, and (4) Cachuma Operations and Maintenance Board (COMB) under Contract No. 14-06-200-5222R with Reclamation.

(b) This Agreement does not provide for Santa Barbara County Water Agency or COMB to instruct the Managing Partner on rights granted within this Agreement. The Managing Partner is directed to coordinate projects which may affect water operations with Reclamation as provided for under Article 7. In case of conflict regarding rights granted by this Agreement, the Managing Partner may request Reclamation to provide assistance in resolution of these issues.

(c) The Managing Partner will coordinate with Reclamation regarding Management of the Recreation Area and activities pursuant to this Agreement that could affect any Project Works, water management, operation, and maintenance activities of Reclamation or its agents within the Recreation Area. This Agreement does not require the Managing Partner to construct any specific project set forth in the Plan. If, however, the Managing Partner seeks construction of structures or improvements to real property within the Recreation Area or disposal of the same by the Managing Partner, these shall only be done: 1) with the prior written approval of Reclamation; 2) in accordance with Articles 22 and 23; and 3) after the completion of any necessary environmental review required by NEPA and CEQA.

(d) Reclamation will coordinate with the Managing Partner regarding any operation and maintenance activities including changes in water level, which may affect the Recreation Area.

(e) The parties will ensure that adequate personnel are available to accomplish the agreed upon work.

(f) The Recreation Area may be enlarged, reduced, or modified in accordance with Article ~~28~~ 27.

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### 3. TERM OF AGREEMENT

(a) The term of this Agreement will be twenty-five (25) years from the date first written above, unless terminated sooner as provided in Article ~~29~~ 30.

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(b) If a renewal agreement is anticipated, the parties hereto agree that it will be beneficial to commence discussions at least five (5) years in advance of the expiration date of the Agreement in order to facilitate environmental evaluations and other aspects of the renewal process.

(c) Upon expiration of this Agreement and prior to entering into a new long-term agreement, the parties may enter into one or more interim agreements by mutual written consent.

### 4. CONTINGENT ON APPROPRIATIONS OR ALLOTMENT OF FUNDS

(a) The expenditure of any money and the performance of any work by Reclamation as provided for by the terms of this Agreement is made contingent on Congress making the necessary appropriations or the allotment of funds and shall be contingent upon such appropriation or allotment being made. The failure of Congress to appropriate funds or the absence of any allotment of funds shall not impose any liability on Reclamation. If the appropriations and allocations necessary to carry out this Agreement are not made for any Federal Fiscal Year, the parties hereto

agree to cooperate to reach a temporary course of action. Absence of appropriation or allotment of funds shall not relieve the Managing Partner from any obligations under this Agreement.

(b) The Managing Partner shall be responsible for the full cost of any and all development, replacement, or alterations of Recreation Facilities for which cost sharing has not been negotiated. Reclamation will review and approve all development plans before construction begins. Reclamation will not unreasonably withhold its approval.

**5. FEES AND REVENUES**

(a) ~~Public recreation entrance~~ **Revenues** and Special Use Fees will be set in accordance with the fee schedule established by the Managing Partner and in accordance with Reclamation rules, regulations or guidelines. The Managing Partner will have the right to collect Revenues derived from Third Party Agreements, as provided in this Agreement, for activities within the Recreation Area. The Managing Partner is authorized to develop Third Party Agreements for special events and festivals, and set and collect Special Use Fees for such events. Not less than 100 percent of the Revenues and Special Use Fees that are collected by the Managing Partner shall remain available for the expenditure, without further appropriation, until expended for Management of the Recreation Area.

(b) The Managing Partner will maintain accounting records for the requirements of the Agreement and shall furnish to Reclamation a copy of the State required Comprehensive Annual Financial report within thirty (30) days of its completion, but no later than January 15<sup>th</sup> of the calendar year.

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(c) Reclamation reserves the right to establish and collect fees for Rights-of-Use pursuant to Public Law 102-575 (Title 28) Section 2805 (a)(1)(A), and establish and collect Commercial Filming Fees pursuant Public Law 106-206 (Commercial Filming on Public Lands Act), as amended. Fees collected or recovered under the Commercial Filming on Public Lands Act shall be available for expenditure by the Secretary, without further appropriation, at the site where collected. All costs recovered shall remain available until expended.

(d) The Managing Partner shall assist Reclamation by informing an applicant to complete the appropriate Right-of-Use authorization application form (7-2540 or SF-299) and submit the form to Reclamation with the application fee.

## **6. RESOURCE MANAGEMENT PLAN**

### Resource Management Plan (“Plan”)

(a) The Managing Partner’s Management of the Recreation Area shall be consistent with the Reclamation approved Plan. Parties acting under authority granted by Reclamation or the Managing Partner shall be required to comply with the requirements of the Plan consistent with Reclamation Directives Standards for the development of a Resource Management Plan as provided for under Exhibit “H”.

(b) The Plan designates allowable recreational uses in different geographic units of the Plan area, but this Agreement does not require the Managing Partner to implement, facilitate, or encourage any of those designated uses. If, however, the Managing Partner seeks to enhance recreational opportunities at Cachuma Lake or develop any Recreation Facilities, or implement

recreational uses, these shall only occur: 1) in accordance with the Plan; and 2) after the completion of any necessary environmental review required by NEPA and CEQA.

(c) The Plan provides direction, consistent with authorized Project purposes, and establishes a desired future condition of the Recreation Area's resources to assure conformance and good stewardship. The Plan addresses management frameworks and partnerships, water resources, recreation and visual resources, natural and cultural resources, and land management. The Plan includes sections addressing the manner in which Reclamation and the Managing Partner will meet the requirements of sections 106 and 110 of the National Historic Preservation Act (NHPA).

(d) The Plan requires the Managing Partner to develop, implement and maintain various plans including, but not limited to, Fire Management, Integrated Pest Management, Waste Recycling and Reduction, Boating Capacity and Safety, Grazing, and Erosion Control that meet Federal and State standards. These plans shall be completed no more than 3 years from date of signing and be approved by Reclamation subject to any necessary environmental reviews required by NEPA and CEQA.

## **7. RECLAMATION USE PARAMOUNT, PJZ**

(a) The rights of the Managing Partner under this Agreement are subordinate to the prior rights of Reclamation and its agents, to use any portion of the Recreation Area for the primary purposes of the Project pursuant to Federal Reclamation Law. Reclamation will give written notice to the Managing Partner, if Reclamation determines that changes in use of the Federal Land for Reclamation purposes within the Recreation Area are necessary.

(b) Reclamation and its agents retain primary jurisdiction over any PJZ as shown in Exhibit "A". Jurisdiction is retained to provide proper operation, maintenance, and protection of Project Works, including, but not limited to the dam and appurtenant works, and conveyance and distribution works. Any use of the PJZ for recreation purposes by the Managing Partner must have specific prior written approval by Reclamation's designated representative, and shall not interfere with the operation of the Project Works. Any such written approval or disapproval by Reclamation's designated representative will be made within forty-five (45) calendar days of receipt of a written proposal from the Managing Partner.

(c) Reclamation may close the Recreation Area, or any portion thereof, including the PJZ, to public use whenever Reclamation determines such restriction is necessary in the interest of Project Works operation, public safety, or national security of the Project Works. Reclamation's designated representative will give written notice to the Managing Partner of any such closure. This notice will be given as soon as practicable after a determination for closure is made and will include the date when the closure becomes effective. The Managing Partner will coordinate enforcement of such closure and restriction of public access to any portion of the Recreation Area that is permanently or temporarily closed, including the PJZs, to the limits of its legal ability. Such enforcement shall include coordination and cooperation with Reclamation, and its agents or assigns.

(d) Reclamation may revise the boundaries of the PJZ at any time, as it deems necessary. Reclamation's designated representative will give written notice to the Managing Partner of any



such revision. This notice will be given as soon as practicable after a determination for revision is made and will include the date when the revision becomes effective.

**8. LAW ENFORCEMENT, SAFETY, AND FIRE SUPPRESSION**

~~a) Reclamation disclaims responsibility for the safety of the public in the Recreation Area managed by the Managing Partner.~~

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~~(a) (b) The Managing Partner will provide for law enforcement services within the~~

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Recreation Area to maintain and preserve law and order and to protect the Recreation Area and Recreation Facilities from unauthorized uses. The Managing Partner may rely on the Santa Barbara County Sheriff's Department and/or other law enforcement agency to exercise its law enforcement authority to enforce applicable Federal, State and County laws within the Recreation Area as shown on Exhibit "A".

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~~(b) (e) The Managing Partner shall ensure that land use and Management of the Recreation~~

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Area will conform to all applicable Federal laws, Federal regulations, and Federal Executive Orders.

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Where variations exist in Federal laws, orders, regulations, and Federal policies, the most stringent will be the required standard. Where State or County policy, law, and/or regulations are more stringent, but do not conflict with Federal policy, law, and/or regulations, the more stringent standard shall be the required standard.

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~~(c) (d) The Managing Partner shall, within the limits of its authority, adopt and enforce rules~~

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and regulations for the recreational use of the Recreation Area as are necessary and desirable to protect the health and safety of persons using the area, for the preservation of law and order; and for

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the protection of the resources and facilities. Rules and regulations shall be consistent with Title 43 CFR 423 Public Conduct Code on Reclamation Land and all other applicable Federal laws, regulations, and policies currently in place or as may be adopted in the future.

~~(d)~~ ~~(e)~~ The Managing Partner shall be required to comply with all applicable provisions of Federal, State, and local laws, rules and regulations, Executive Orders, and Reclamation Policies, in force now or as may be promulgated or changed in the future.

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~~(e)~~ ~~(f)~~ To enhance protection of the Recreation Area, law enforcement personnel representing the Managing Partner shall exchange law enforcement information with Reclamation's designated Law Enforcement Administrator (LEA) or Regional Special Agent (RSA). Law enforcement personnel representing the Managing Partner and the designated LEA or RSA shall collaborate in the exchange of law enforcement information in the protection of the Recreation Area and associated federal land and water shown in Exhibit "A". The Managing Partner will maintain incident reports and ranger logs, which the Managing Partner will make available within 5 working days to Reclamation upon request.

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~~(f)~~ ~~(g)~~ Additional law enforcement services may be provided by a federal agency, such as the United State Forest Service, under USBR Agreement #09-LC-20-9885 (USFS Agreement #09-FI11050700001) Cooperative Fire Protection Agreement between the USDA Forest Service Los Padres National Forest and Department of the Interior Bureau of Reclamation: Lake Casitas/Lake Cachuma dated November 2008, or as amended.

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~~(g)~~ ~~(h)~~ The Managing Partner shall establish and maintain such protective services as may be necessary and practicable for fire prevention in the Recreation Area and shall coordinate and cooperate with Reclamation and its designees in providing adequate fire protection for the Recreation Area. The Managing Partner shall cooperate with US Forest Service in accordance with USBR Agreement #09-LC-20-9885 (USFS Agreement #09-FI11050700001) Cooperative Fire Protection Agreement between the USDA Forest Service Los Padres National Forest and Department of the Interior Bureau of Reclamation: Lake Casitas/Lake Cachuma dated November 2008, or as amended.

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~~(h)~~ ~~(i)~~ In the event an incident arises where more than one law enforcement agency responds, the federal law enforcement agency shall have precedence over State and County law enforcement agencies.

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## 9. RISK AND DAMAGES / HOLD HARMLESS

(a) The parties hereto shall each be responsible and liable only for the negligent acts or omissions of their respective employees or assigns to the extent provided by law. However, nothing in this contract shall be construed to be an admission of fault or liability, and nothing shall limit the defenses and immunities legally available to each party against each other and third parties.

(b) The Managing Partner agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising from the Managing Partner's activities under this Agreement.

**10. ACCIDENT REPORTING**

The Managing Partner shall investigate, or cooperate in the investigation by the agency having jurisdiction, all accidents involving death, serious injury or significant property damage, or other incidents of a serious nature within the Recreation Area. The Managing Partner shall make an initial verbal report on such incidents to Reclamation's designated representative within one working day of knowledge of the incident. The Managing Partner shall submit a written accident report to Reclamation's designated representative within four (4) calendar days of the verbal notice.

**11. HAZARDOUS MATERIALS, RECYCLING AND WASTE REDUCTION**

(a) The Managing Partner may not allow contamination or pollution of the Recreation Area, waters or facilities and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.

(b) The Managing Partner shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in the Recreation Area.

(c) "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of

1980, as amended, 42 U.S.C Section 9601, et seq., and the regulations promulgated pursuant to that Act.

(d) Upon discovery of any event which may or does result in contamination or pollution of the Recreation Area, the Managing Partner shall initiate any necessary emergency measures to protect health, safety and the environment and shall report such discovery and full details of the actions taken to Reclamation's authorized representative. Reporting may be within a reasonable time period. A reasonable time period means within twenty-four (24) hours of the time of discovery if it is an emergency or by the first working day if it is a non-emergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

(e) Violation of any of the provisions of this Article may constitute grounds for termination of this Agreement. Such violations require immediate corrective action by the Managing Partner and shall make the Managing Partner liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

(f) The Managing Partner agrees to include the provisions contained in paragraph (a) through (e) of this Article in any Concession contracts or Third Party Agreements it may enter into pursuant to this Agreement.

(g) Reclamation agrees to provide information necessary for the Managing Partner, using reasonable diligence, to comply with the provisions of this Article.

**12. PEST CONTROL**

(a) The Managing Partner shall take steps to prevent the introduction and spread of, and to otherwise control undesirable plants and animals, as defined by the Managing Partners Integrated Pest Management Plan (IPM), submitted and approved by Reclamation's authorized representative, directly associated with use of the Recreation Area. The Managing Partners shall submit an updated IPM to Reclamation as pesticide use changes by the Managing Partner operations or by revised regulatory requirements.

(b) Programs for the control of these undesirable plants and animals in the Recreation Area will incorporate the Managing Partner's IPM as may be amended, and shall be consistent with Reclamation's regulations and policies concerning such programs.

(c) The Managing Partner agrees to include the provisions contained in paragraphs (a) through (c) of this Article in any Third Party Agreements it may enter into pursuant to this Agreement.

**13. MONITORING PROGRAM**

At the discretion of the Managing Partner's governing body (Santa Barbara County Board of Supervisors) and subject to any necessary environmental review required under CEQA and NEPA, the Managing Partner may maintain an invasive species inspection, monitoring and prevention program for all boating and water recreation vessels. Program employed shall utilize industry best practices.

**14. DEBRIS AND WASTE REMOVAL**

The Managing Partner shall dispose of incidental floating debris and undermined or fallen trees within the Recreation Area to the extent necessary to maintain the Recreation Area in a safe condition suitable for public recreational use. The Managing Partner shall not be held responsible for removal of large amounts of debris that may be generated from time to time by flood flows into the reservoir from the Lake Cachuma watershed. The Managing Partner shall provide litter control and trash removal in all areas where public recreation use is permitted. The Managing Partner shall properly dispose of all waste, discarded or abandoned items, and debris generated by its management, operation, and maintenance activities in the Recreation Area. Operation and maintenance of the Recreation Area is not normally funded by the Federal government. Reclamation will cooperate and may assist the Managing Partner in the removal of debris and waste within the Recreation Area in the event of an extraordinary or catastrophic occurrence, as resources allow.

**15. VARIATION IN WATER LEVEL**

a) Reclamation has and reserves the right to vary the reservoir water level as necessary for Project purposes. The water level will not fluctuate below the dead and/or conservation pool elevation, except in an emergency. Reclamation's designated representative will, to the extent reasonably practicable, provide timely notice to the Managing Partner of any special or emergency increases or decreases in water level that would significantly adversely affect recreation facilities and public use of the Recreation Area.

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b) Cachuma Reservoir may see an increase in top water level up to elevation 760 feet during flood surcharge events and up to elevation 753 feet for extended periods during controlled surcharge operations to capture flood waters for public trust resource purposes. Given these potential surcharge elevations, the Managing Partner shall locate all Recreation Facilities above elevation 760 feet, except for facilities that will not be affected by submersion, such as boat launch ramps, movable docks and similar facilities.

**16. PROTECTION OF NATURAL AND CULTURAL RESOURCES**

(a) The Managing Partner, its contractors, Concessionaires or permittees shall be subject to the Environmental Requirements set forth in Exhibit “B” attached hereto and incorporated herein.

(b) Cultural resources shall be considered prior to the implementation of any development activities or surface disturbing actions. Managing Partner personnel shall coordinate with Reclamation to ensure that compliance with section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C 470f), and implementing regulations at 36 CFR Part 800, is completed prior to project implementation. The management of cultural resources located within the Recreation Area shall be consistent with Reclamation’s Cultural Resources Management Policy (LND P01) and Cultural Resources Directives and Standards (LND 02-01).

(c) In the event that human remains are found within the Recreation Area, then the Reclamation Area Manager shall be immediately notified and provisions of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 et seq.) and Reclamation’s Directives and



Standards for the Inadvertent Discovery of Human Remains on Reclamation Lands (LND 07-01) shall be followed.

(d) The collection of prehistoric or historic artifacts from the Recreation Area must be approved by Reclamation. The unauthorized excavation of such items is prohibited by the Archaeological Resources Protection Act (ARPA) (16 U.S.C. 470aa et seq.). Planned collections of such items are subject to Reclamation's issuance of a permit pursuant to ARPA. Any archaeological or historical items removed from the Recreation Area, including items collected and turned in by members of the public, shall be assessed by Reclamation to determine whether they constitute federal museum property. If so, they will be managed by Reclamation in a manner consistent with 36 CFR Part 79, the Curation of Federally-Owned and Administered Archaeological Collections.

**17. CONSUMPTIVE USE OF WATER BY THE MANAGING PARTNER FOR RECREATION AND RELATED ACTIVITIES**

(a) Subject to State water law and water availability, the Managing Partner shall arrange for provision of water, for the operation of the on-land Recreation Facilities within the Recreation Area, and water for related activities including, but not limited to, fire suppression as provided for under Article 8.

(b) When the Managing Partner or its Concessionaire or other holders of Third Party Agreements furnishes potable water to the public at the Recreation Area, it shall furnish only suitably treated, ~~wholesome and sanitary~~ water which meets appropriate Federal, State, and local

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health standards. Reclamation does not warrant the quality of the available water supply as to its suitability either for domestic purposes or for human consumption.

**18. NON-ASSIGNMENT OF RESPONSIBILITIES**

During the term of this Agreement, the responsibilities of the Managing Partner as described herein shall not be assigned to others, without the express written consent of Reclamation.

**19. THIRD PARTY AGREEMENTS, CONCESSION CONTRACTS, SPECIAL USE, AND RIGHTS-OF-USE**

The Managing Partner shall not issue any Rights-of-Use or any other form of permission to use the Recreation Area except as expressly provided herein.

(a) The Managing Partner may issue and administer Third Party Agreements, such as Concessions, Special Use and Service Contracts to persons or associations for the purpose of providing appropriate and necessary services, goods, and facilities for the use of the visiting public consistent with the intent and conditions of this Agreement and in accordance with any current or future planning documents. The Managing Partner shall submit all Concession Contracts to Reclamation for its review and approval before issuance. Reclamation shall not unreasonably withhold such approval. Concession Contracts and Third Party Agreements shall contain language subjecting the rights and privileges there under to all terms, conditions, exceptions, and reservations in this Agreement; shall recognize the right of paramount use of the Recreation Area for Project purposes; and shall hold harmless and indemnify Reclamation and the Managing Partner, its officers, agents, employees, contractors, and assigns from any loss or damage and from any liability on

account of injury, damage or death due to construction, operation and maintenance activities related to Project purposes and any other terms and conditions at Reclamation's discretion. The Managing Partner will require all Concessionaires and other holders of Third Party Agreements operating within the Recreation Area to carry adequate liability and property damage insurance. Said insurance will be of sufficient amount to cover, as a minimum, the Managing Partner's liability under its governmental liability statutes and will be consistent with the services and facilities provided and the potential for injury or damage to life and property. Reclamation will be named as an additional insured on all such insurance, and a certificate of insurance will be provided to the Managing Partner by the Concessionaires and other holders of Third Party Agreements to ensure that the insurance is in effect.

(b) No Third Party Agreement issued by the Managing Partner as provided in subsection (a) above shall purport to transfer or convey any interest in the Recreation Area or any public facilities; and, the right given to the Managing Partner to enter into such Third Party Agreements shall not be construed as a right to grant or convey an interest in Recreation Area or any public facilities. No assignment or transfer of a Third Party Agreement or interest therein, whether as security or otherwise, shall be effective until such assignment or transfer has been reviewed and approved in writing by the Managing Partner and Reclamation. All Concession contracts issued by the Managing Partner must comply with Reclamation's Concession Management Policy and Directive and Standards, attached as Exhibit "F".

(c) Third Party Agreements issued by the Managing Partner shall also provide that in the event of the termination of this Agreement, such agreements shall simultaneously terminate. In the event of termination of this Agreement and at Reclamation's discretion, Reclamation may issue a new ~~Concession Contract~~ ~~Third Party Agreements with the previous holder~~ that is in compliance with ~~the Concession Management~~ ~~Reclamation~~ Policy and Directives and Standards. In the event this Agreement is terminated, the Managing Partner shall pay to Reclamation the pro-rated unexpended portion of any fees or rents paid to the Managing Partner by such Concessionaires or other holders of Third Party Agreements as appropriate.

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(d) The term for a Third Party Agreement may not extend beyond the term of this Agreement. Reclamation will work with the Managing Partner to determine reasonable lengths of term.

(e) ~~Concessionaires and other~~ ~~H~~olders of Third Party Agreements shall be required to comply with all applicable provisions of Federal, State, and local laws, rules and regulations, Executive Orders, and Reclamation Policies, in force now or as may be promulgated or changed in the future.

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(f) In accordance with the Concession Management Policy and Directives and Standards, and the Recreation Management Policy (LND P04, as amended), the Managing Partner shall not issue, or allow to be issued, directly or through the actions of its Concessionaires or other holders of Third Party Agreements, any forms of agreements that allow for the development of privately

owned exclusive uses, such as, but not limited to, cabin sites; mobile homes or travel trailer sites; private boat docks; ski clubs; boat clubs; or, the issuance of livestock grazing permits.

(g) Only Reclamation may issue Rights-of-Use for land use and resource management within the Recreation Area.

(1) Reclamation will, prior to approval of any Rights-of-Use, provide the Managing Partner a copy of any Rights-of-Use application for review and comment by the Managing Partner. The Managing Partner shall review any such application and make written comment to Reclamation and will consider the written comments of the Managing Partner during the approval process and, if applicable, incorporate them into the rights-of-use. Reclamation shall include in each Right-of-Use reasonable measures to protect Recreation Facilities, or repair of damages which may occur to Recreation Facilities and a provision that holder of any such Rights-of-Use indemnifies and holds harmless the Managing Partner, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the land use or resource management granted by Reclamation, except for any such Rights-of-Use issued to the Managing Partner. Any ~~Special Use Fees~~ Revenues collected by Reclamation or the Managing Partner shall be consistent with the provisions of Article 5 of this Agreement.

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(2) As permitted by law or regulation, administrative fees incurred by Reclamation and the Managing Partner for miscellaneous costs associated with the review of

Rights-of-Use applications and ongoing administrative expenses incurred may be charged by Reclamation. Such administrative fees will be collected by Reclamation and the Managing Partner's share of the costs will be reimbursed to the Managing Partner from such fees by Reclamation. The value of the Rights-of-Use is based on the appraised value of such use as determined by Reclamation. The payment for the value of such Rights-of-Use will be collected by Reclamation only.

**20. UNAUTHORIZED USE**

The primary responsibility for identifying and preventing unauthorized uses or encroachment within the Recreation Area belongs to the Managing Partner. In cooperation with Reclamation, the Managing Partner shall take all reasonable measures necessary to identify, investigate, and resolve incidents of unauthorized land, resource, or Recreation Facility use within the Recreation Area. This includes any legal actions necessary to prevent or prosecute such unauthorized use. Reclamation hereby delegates to the Managing Partner the right to bring action in the Managing Partner's name in order to protect each party's interests. Property boundary disputes shall be verified and resolved by Reclamation in cooperation with the Managing Partner. The Managing Partner shall notify Reclamation's designated representative of boundary disputes or unauthorized incidents within ten (10) calendar days of discovery.

**21. ON-SITE RESIDENCE USE**

(a) The Managing Partner may maintain and operate up to three (3) year-round residences for Managing Partner's current employees. The residences are restricted to employees of

the Managing Partner approved by Reclamation who directly provide emergency maintenance or security services, on a 24-hours-per-day, 7-days-per-week basis. These employees would be providing the actual services, not just alerting off-site employees or contractors to address the incident. Once employees are no longer providing these services, they must vacate the premises with all of their personal property. Justification for the need for each residence will be submitted 60 days in advance to Reclamation for review and approval. Managing Partner and Reclamation may modify the number of residences by mutual agreement in writing.

## 22. RESERVATIONS

The Managing Partner and their Concessionaires, and other holders of Third Party Agreements are subject to:

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(a) Existing land uses, rights, or interests within the Recreation Area lawfully held by Reclamation or persons or entities not party to this Agreement, such as but not limited to private rights which have lawfully attached to all lands prior to the date of this Agreement; the rights-of-way for ditches and canals provided by the Act of August 30, 1890 (26 Stat 391); and the rights-of-way heretofore acquired or initiated for highways, railroads, irrigation works, or for any other purposes.

(b) The right of Reclamation, its employees, agents and assigns, to enter upon the Recreation Area on official business without charge, for the purpose of enforcing, protecting, and exercising the rights of Reclamation and also to protect the rights of those not party to this Agreement.

(c) The right of Reclamation, its agents, employees, assigns, contractors, lessees, or permittees, to remove from the Recreation Area, any and all materials necessary for the construction, operation, and maintenance of Project Works and facilities. All such removal activities shall not encroach on developed sites without mutual agreement of the parties hereto.

(d) The right of Reclamation, and its assigns, permittees, or lessees to prospect for, extract, and carry on the management of oil, gas, coal, and other minerals, and the right to issue leases or permits to prospect for oil, gas, or other minerals under the Act of February 25, 1920 (41 Stat. 437), and amendatory acts, the Act of August 4, 1939 (53 Stat. 1187), as amended, and the Act of August 7, 1947, (61 Stat. 913).

(e) Except in emergency situations, Reclamation's designated representative will give written notice to the Managing Partner thirty (30) calendar days prior to the exercise of the above rights.

**23. TITLE TO LAND AND FIXTURES AND MANAGEMENT OF PERSONAL PROPERTY**

(a) United States retains title to land, roads and bridges within the Recreation Area.

(b) Permanent structures and improvements constructed on the Recreation Area that were funded, or partially funded, by Reclamation shall remain the property of the United States except as may otherwise be provided, upon agreement by Reclamation pursuant to Title 43 CFR 12.

(c) Reclamation personal property is property provided at Reclamation's expense for

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performance of this Agreement including, but not limited to, property provided by the following methods:

(1) Reclamation furnished personal property is property that is transferred from Reclamation's stocks, or purchased directly by Reclamation, and delivered into the Managing Partner's custody for performance of this Agreement. Title to Reclamation furnished personal property remains with Reclamation.

(2) Managing Partner's acquired Reclamation personal property is property or Equipment purchased or fabricated by the Managing Partner at a cost of \$5,000 or more; the cost of which is reimbursable by Reclamation pursuant to Exhibit "E" this Agreement. Title to personal property purchased by the Managing Partner upon reimbursement of the cost thereof by Reclamation in whole or in part, vests in Reclamation on its delivery by the supplier. Title to personal property drawn from the Managing Partner's stocks or stores or fabricated by the Managing Partner's vests in Reclamation upon reimbursement of the cost thereof by Reclamation in whole or in part.

~~(d) (b)~~ The Managing Partner may purchase personal property and equipment and replace ~~it~~ Reclamation permanent and personal property, if necessary, during the term of this Agreement to the extent deemed necessary by the Managing Partner. The Managing Partner must receive Reclamation's advance written approval for such purchases and may also seek reimbursement for such expenditures.

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~~(e)~~ ~~(e)~~ The Managing Partner will meet the basic requirements prescribed in Exhibit “E” of this Agreement to establish and maintain control over Reclamation personal property in its possession.

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~~(f)~~ ~~(f)~~ The Managing Partner will return to Reclamation all Reclamation-titled personal property that becomes excess to the performance requirements of this Agreement.

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~~(g)~~ ~~(e)~~ The Managing Partner shall provide a current and accurate Property Record Inventory and identify Equipment installed or constructed within the Recreation Area consistent with Reclamations Nonexpendable Government Property Requirement as provided for in Exhibit “E”, Reclamations Nonexpendable Government Property Requirements.

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#### 24. REVIEW OF MANAGEMENT OF THE RECREATION AREA

The parties hereto shall meet annually or more often if requested by either party, to review and inspect the Management of the Recreation Area. The purpose of this review and inspection is to ensure that Management of the Recreation Area procedures are adequate; to identify and correct deficiencies and problems; and to ensure the Management of the Recreation Area is in accordance with the intended purposes. Said reviews will include, but are not necessarily limited to: monitoring items in the Resource Management Plan; health and safety; appropriate use of the Recreation Area; land interests and resources; and inspections of facilities and operations, including Concession contracts or Third Party Agreements within the Recreation Area. Deficiencies and problems within the Recreation Area shall be corrected in a timely manner by the Managing Partner. Conclusions and recommendations based upon such reviews and inspections shall provide direction for, and

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possible modification of, the Management of the Recreation Area responsibilities transferred to the Managing Partner pursuant to this Agreement.

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**25. EXAMINATION OF RECORDS**

(a) The Managing Partner agrees that Reclamation shall have the right to access and examine any pertinent books, documents, papers, and records of the Managing Partner and/or the Managing Partner’s Concessionaires and other holders of Third Party Agreements involving transactions related to this Agreement.

(b) Reclamation and the Managing Partner, at the request of either party, shall share and exchange information that either party possesses on property boundaries, easements, and rights-of-way on lands administered by the Managing Partner.

(c) Each party hereto will provide to the other party any additional reports or information which may be reasonably requested.

(d) Reclamation's designated representative may at any time request an independent audit of the Managing Partner’s financial activities for the Recreation Area. Such independent audit shall be performed at the cost of Reclamation. Any discrepancies found during such audits shall be corrected by the responsible party.

(e) Reclamation's designated representative may at any time request an independent audit or examination of records of ~~Third Party commercial concessions Agreements~~ or other Service Contracts. Such independent audit or examination of records shall be performed at the cost of

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Reclamation. Any discrepancies found during such audits shall be corrected by the responsible party.

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**26. RECREATION USE DATA REPORT**

On or before March 31 of each year, the Managing Partner will furnish to Reclamation's designated representative an annual summary of recreation related uses and/or resources at the Recreation Area for the previous calendar year. Reclamation will provide the forms for this report, which is currently titled "Recreation Use Data Report," as set forth in Exhibit "G".

**27. EQUAL OPPORTUNITY**

The Managing Partner, its holder of Third Party Agreement, Concessionaires or permittees shall be subject to the Equal Opportunity requirements set forth in Exhibit "C" and Title VI of the Civil Rights Act of 1964 set forth in Exhibit "D" attached hereto and incorporated herein.

**28. NOTICE TO CURE/DISPUTE RESOLUTION**

(a) Notification of non-compliance with the terms and conditions of this Agreement shall be in writing, giving a period of time in which the non-compliance shall be corrected. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time shall be grounds for closure of all or part of the Recreation Area, temporary suspension of operation or termination of the Agreement after notice in writing of such intent, in accordance with Article ~~29~~ 30.

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(b) In the event the designated representatives cannot mutually agree on a proposed action within sixty (60) calendar days, or longer period as may be agreed to by the parties hereto, the proposed action shall be submitted to the Director of the Mid-Pacific Region of the Bureau of

Reclamation and to both the Chair of the Board of Supervisors and the Director of the Managing Partner and its delegated representative. If within 45 calendar days after submitting to the respective authorities, there is still no mutual agreement on the proposed action, Reclamation's determination shall stand. However, should this ~~occur, determination remain unacceptable~~, both parties shall have the right to terminate this Agreement as set forth in Article ~~29, 30~~.

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### 29. MODIFICATION OF AGREEMENT

This Agreement may be modified, amended, or superseded at any time during its term upon mutual written agreement by the parties hereto.

### 30. TERMINATION

(a) This Agreement will terminate and all rights and obligations of the parties under this Agreement will cease under the following conditions:

(1) Upon expiration of the term of this Agreement, as provided in Article 3; or

~~(2) 90 days after receipt of a written notice of termination; or~~

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(b) If the U.S. Congress fails to provide adequate funding to enable Reclamation to carry out its respective obligations under this Agreement, either party may give written notice that this Agreement shall terminate on a certain date at least 180 days after the date of notice.

(c) For conditions other than those expressed in (a) and (b) herein, Reclamation or the Managing Partner will give the other party at least 180 days written notice of the intent to terminate this Agreement.

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**31. DESIGNATED REPRESENTATIVES / NOTICES**

The parties hereto agree that the designated representatives for administration of this Agreement are as follows, or as may be further delegated in writing by the following:

Reclamation - Area Manager, South-Central California Area Office, Bureau of Reclamation,  
1243 N Street, Fresno, California 93721

Managing Partner – Director of Parks, Santa Barbara County Parks Department, 610 Mission  
Canyon Road, Santa Barbara, California 93105.

Any written notice, demand, or request, as required or authorized by this Agreement, shall be properly given if delivered by hand, or by mail, postage prepaid, to the other party as above listed. Both parties hereto are responsible for notifying all affected parties of any subsequent change of address, organizational changes, responsibility adjustments, and other related changes, as they take place.

**32. SEVERABILITY**

Each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this Agreement shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provision, or this Agreement as a whole.

**33. OFFICIALS OR EMPLOYEES NOT TO BENEFIT**

No member of or delegate to Congress, or resident commissioner, employee of the Department of Interior, or officer of the Managing Partner shall be admitted to any share or part of this Agreement, or to any benefit other than as a member of the general public that may arise here from.

**34. SURVIVOR CLAUSE**

Terms and conditions that require action by the Managing Partner or its Concessionaires, or other holders of Third Party Agreements, agents or assigns as authorized under Articles ~~18, 19~~ of this Agreement may survive the termination of this Agreement when they are deemed by Reclamation to be for the benefit of the United States.

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

COUNTY OF SANTA BARBARA

THE UNITED STATES OF AMERICA

By: \_\_\_\_\_  
DOREEN FARR  
Chair, Board of Supervisors

By: \_\_\_\_\_  
Regional Director, Mid-Pacific Region  
Bureau of Reclamation

ATTEST:  
  
CHANDRA L. WALLAR  
CLERK OF THE BOARD

APPROVED AS TO FORM:  
DENNIS A. MARSHALL  
COUNTY COUNSEL

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:  
ROBERT W. GEIS  
AUDITOR-CONTROLLER

APPROVED AS TO FORM:  
RAY AROMATORIO  
RISK MANAGEMENT

By: \_\_\_\_\_  
Deputy Auditor-Controller

By: \_\_\_\_\_  
Deputy Manager



APPENDIX 1: LIST OF ACRONYMS

ARPA	Archaeological Resources Protection Act
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
COMB	Cachuma Operation and Maintenance Board
EIS	Environmental Impact Statement
ESA	Endangered Species Act
IPM	Integrated Pest Management
LEA	Law Enforcement Administrator
LND	Land Development
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
PJZ	Primary Jurisdiction Zone
RMP	Resource Management Plan
RSA	Regional Special Agent

EXHIBIT A: MAP OF LAKE CACHUMA RECREATION AREA

RECREATION AREA: Except for the Primary Jurisdiction Zones described below, the Managing Partner shall provide for Management of the Recreation Area the following described area (Exhibit "A") in the County of Santa Barbara, State of California: A parcel of land lying in the Tequepiz Rancho, San Marcos Rancho, Rancho Lomas de la Purificacion, Rancho Canada de Los Pinos or College Rancho, and in fractional Sections 16, 17, and 20 in Township 6 North of Range 29 West of the San Bernadino Meridian, in the County of Santa Barbara, State of California.

PRIMARY JURISDICION ZONES: A described area in the County of Santa Barbara, State of California: Project Works operated and maintained by Reclamation and or COMB, consisting of features such as Bradbury Dam, Hilton Creek, Tecolote Tunnel, and appurtenants. All Federal Lands and Water situated to the west of a line described as follows:

Beginning at a point located at Station 676+85.00 on relocated State Highway 150 (now identified as State Highway 154) and proceeding in a general northerly direction downstream along the water course which intersects the highway at that point to the point of interception of said water course by the reservoir at the maximum controlled flow line at contour elevation 768 feet: thence in a general easterly direction along the said contour line to a point on the shore approximately 1,500 feet in a direct line easterly from the upstream lip of the spillway; thence in a general northerly direction across the reservoir at a point on the maximum controlled flow line approximately 1,000 feet east of the north abutment; thence in a generally westerly direction through the points of maximum elevation to the point of intersection with a line representing a northerly projection of the center line of the service roadway across the dam, thence northerly to the northern boundary of the Cachuma Reservoir lands.

All Federal Water situated within a 1,500-foot radius of the intake tower of the Tecolote Tunnel, together with those lands situated north of relocated State Highway 150 (now identified as State Highway 154) and within 1,000 feet on either side of the center line of said Tecolote Tunnel.

EXHIBIT B: ENVIRONMENTAL REQUIREMENTS

1. The Managing Partner shall operate, maintain, and manage all structures, facilities and lands to minimize environmental consequences. Consideration will be given to alleviating potential harmful effects on landscape, soils, water, wildlife, cultural resources, timber, population, or other resources. Prior to any action which would modify the environment beyond those currently covered by existing NEPA documents, the Managing Partner will submit any necessary environmental reports as directed by the United States. No such modifications of the environment shall be undertaken without prior written approval of the United States.
2. Violation of any of the provisions of this Exhibit may constitute grounds for termination of this Agreement. Such violations require immediate corrective action by the Managing Partner and shall make the Managing Partner liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.
3. The Managing Partner agrees to include the provisions contained in this Exhibit in any subcontractor or third-party contract it may enter into pursuant to this Agreement.
4. Reclamation agrees to provide information necessary for the Managing Partner using reasonable diligence, to comply with the provision of this Exhibit.
5. The Managing Partner shall comply fully with all applicable Federal laws, orders, and regulations, and the laws of the State of California concerning the pollution of streams, reservoirs, ground water, or water courses.
6. In accordance with the National Historic Preservation Act of 1966 and Executive Order 11593, cultural resources will be given full consideration in any proposed actions initiated by the Managing Partner beyond those approved in existing plans and documents. Cultural resources (including archaeological, historical, structural, and Native American resources) that may be impacted will be adequately considered and, if necessary, any identified adverse effects will be mitigated or minimized prior to development. If, during construction or development, cultural resources are exposed, activities in the surrounding area will be halted while the resource is evaluated. Reclamation will be notified immediately and will provide direction on how to proceed in compliance with 36 CFR 800.13. The cost of any recovery work, if necessary, and

any required consultation between Reclamation and the State Historic Preservation Officer will be borne by the Managing Partner. The Managing Partner will provide Reclamation with copies of any cultural resource reports concerning the identification, evaluation, and treatment of cultural resources within the Recreation Area. Any cultural resources sites identified by the Managing Partner during its management activities will be recorded on the appropriate Managing Partner site record forms and copies provided to Reclamation. No surface disturbing operations can proceed until the requirements of the article have been met. This provision will be included in all construction contracts.

7. The Endangered Species Act of 1974 will be given full consideration in all activities.
8. The Managing Partner shall insure that recognized standards and proper uses are achieved on the lands covered by this Agreement. Land use planning and administration of the Federal Land will conform to all applicable Federal laws, regulations, and Executive Orders. Following is a list of some of the more important of these:
  - a. Executive Order 11990, Protection of Wetlands.
  - b. Executive Order 11988, Floodplain Management.
  - c. Safe Drinking Water Act of 1974, (Public Law 93-523, U.S.C. 300, 88 Stat.1660).
  - d. Federal Land Policy and Management Act of 1976, (Public Law 94-579, 43 U.S.C. 1701).
  - e. Executive Orders 11664 and 11989 for Off-Road Use.
  - f. National Trails System Act, (Public Law 95-43, 16 U.S.C. 1241 Et seq.).
  - g. Fish and Wildlife Coordination Act, (Public Law 85-624, 16 U.S.C., 661, 662).
  - h. Antiquities Act of 1906, (34 Stat. 225, 16 U.S.C., 431).
  - i. National Historic Preservation Act of 1966 (NHPA), (Public Law 89-665, 80 Stat. 915, 16 U.S.C. 470) as amended by Public Laws 91-243, 93-54, 94-422, 94-458, and 96-515).
  - j. Archaeological Resources Protection Act of 1979, (Public Law 95-95, 93 Stat. 721).

- k. Archaeological and Historic Preservation Act (Public Law 93-291).
- l. Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 et seq.).
- m. Executive Order 11593, Protection and Enhancement of the Cultural Environment
- n. National Environmental Policy Act, (Public Law 91-190, 83 Stat. 852).
- o. Endangered Species Act, (Public Law 93-205, 16 U.S.C. 1531 et seq.).
- p. Executive Order 12088, Federal compliance with Pollution Control Standards.
- q. The Clean Air Act, (Public Law 88-206, as amended, 42 U.S.C., 7401 et seq.).
- r. Clean Water Act of 1978, (Public Law 95-217, 33 U.S.C., 1288 et seq.).
- s. Resource Conservation and Recovery Act (RCRA), (Public Law 94-580).
- t. Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or Superfund), Public Law 96-510.
- u. 43 Code of Federal Regulation, Part 420 (off-road vehicle use on Bureau of Reclamation lands).
- v. 36 Code of Federal Regulation, Part 800, Protection of Historical and Cultural Properties.
- w. Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. P.L. 100-460, 100-464, to 100-526 and 100-532).
- x. Rehabilitation Act of 1973, Section 504, as amended (29 U.S.C. 700, et seq., P.L. 93-516 and P.L. 95-602).
- y. Architectural Barriers Act of 1968, as amended (ABA) (42 U.S.C. 4151-4157, P.L. 90-480).
- z. Uniform Federal Accessibility Standards (UFAS) (49 CFR 31528), August 7, 1984.

EXHIBIT C : EQUAL OPPORTUNITY REQUIREMENTS

During the performance of this Agreement, the Managing Partner agrees as follows:

1. The Managing Partner will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, or national origin. The Managing Partner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Managing Partner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the United States setting forth the provisions of this Equal Opportunity clause.
2. The Managing Partner will, in all solicitations or advertisements for employees placed by or in behalf of the Managing Partner; state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, or national origin.
3. The Managing Partner will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the United States, advising the labor union or workers representative of the Managing Partner's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Managing Partner will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Managing Partner will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant, thereto, and will permit access to its books, records, and accounts by the United States and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Managing Partner's noncompliance with the Equal Opportunity clause of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be

canceled, terminated, or suspended, in whole or in part, by the United States and the Managing Partner may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

7. The Managing Partner will include the provisions of paragraphs 1) through 6) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The Managing Partner will take such action with respect to any subcontract or purchase order the United States may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event the Managing Partner becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the United States, the Managing Partner may request the United States to enter into such litigation to protect the interests of the United States.

#### CERTIFICATION OF NONSEGREGATED FACILITIES

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

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

EXHIBIT D : TITLE VI, CIVIL RIGHTS ACT OF 1964

1. The Managing Partner agrees that it will comply with Title VI of the Civil Rights Act of July 2, 1964 (78 Stat. 241), and all requirements imposed by or pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Managing Partner receives financial assistance from the United States and hereby gives assurance that it will immediately take any measures to effectuate this Agreement.
2. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Managing Partner by the United States, this assurance obligates the Managing Partner; or in the case of any transfer of such property or structure is used for a purpose involving the provision of similar service or benefits. If any personal property is so provided, this assurance obligates the Managing Partner for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Managing Partner for the period during which the Federal financial assistance is extended to it by the United States.
3. This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Managing Partner by the United States, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Managing Partner recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall reserve the right to seek judicial enforcement of this assurance. This assurance is binding on the Managing Partner, its successors, transferees, and assignees.



EXHIBIT E PROPERTY RECORD INVENTORY  
RECORD OF PROPERTY and EQUIPMENT

Also refer to Reclamation Directive and Standards LND 01-03

(To be provided by Managing Partner upon execution of Agreement)

NONEXPENDABLE GOVERNMENT PROPERTY REQUIREMENTS

1. Nonexpendable government property is equipment which is complete in itself and does not ordinarily lose its identity or become a component part of another piece of equipment when put into use. Nonexpendable Government property includes the following:

- a. Any single item, having a useful life of 1 year or more, which is acquired at a cost of, or valued at \$5000 or more;
- b. Sensitive items identified in article 5 below, regardless of acquisition cost;
- c. All office furnishings and furniture.

2. For each item of nonexpendable United States property, the State is required to maintain an individual item record which will adequately satisfy the requirements set forth in Article 22 of this Agreement. In establishing and maintaining control over United States' property, the State will include, at the minimum, the following information in their property accounting system:

- a. Contract number
- b. Name of item
- c. Manufacturer's name
- d. Manufacturer's model number
- e. Manufacturer's serial number
- f. Acquisition document reference and date
- g. Guarantee and warranty lapse date

h. Location

i. Unit price

3. Accessory and component equipment that is attached to, part of, or acquired for use with a specific item or equipment must be recorded on the record of the basic item. Any accessory or component item that is not attached to, part of, or acquired for use with a specific item of equipment must be recorded separately. Useable accessory or component items that are permanently removed from items of Government property must also be separately recorded.

4. The unit price of each item of government property must be contained in the State's property control system. The State's quantitative inventory record must contain the unit prices. The supplementary records containing this information must be identified and recognized as a part of the unit price of the item (less discount).

5. Firearms, museum property, motor vehicles and heavy equipment are sensitive items of nonexpendable property which shall be included in the State's property accountability system, even if the original acquisition cost is under \$5000.

EXHIBIT F CONCESSIONS MANAGEMENT STANDARDS AND DIRECTIVES

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**Reclamation Manual/Policy LND P02**

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**Subject:** Concessions Management

**Purpose:** Sets forth the policy for planning, development, management, and operation of concessions at Reclamation projects.

**Authority:** Reclamation Act of 1902, as amended and supplemented; the Reclamation Project Act of 1939; and the Federal Water Project Recreation Act of 1965, as amended.

**Contact:** Land, Recreation, and Cultural Resources Office, D-5300

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**1. Concessions Management Policy.**

- A. **Stewardship.** Reclamation and its managing partners will ensure that concessions are planned, developed, and managed to meet public needs, are compatible with the natural and cultural resources, and provide a variety of services which are consistent with authorized project purposes.
- B. **Authorization of Concessions.** Based on the principles contained in this policy, Reclamation will authorize concessions which establish or continue to provide necessary and appropriate facilities and services.

**2. Definition.**

A. **Concession.** A concession is a non-Federal commercial business that supports appropriate public recreation uses and provides facilities, goods, or services for which revenues are collected. A concession involves the use of the Federal estate and usually involves the development of real property improvements.

3. **Concessions Principles.** The following principles guide the planning, development, and management of concessions:

- A. Concessions will provide quality recreation facilities and services accessible to persons with disabilities, and appropriate visitor goods and services at reasonable rates.
- B. Concession operations will provide for the protection, conservation, and preservation of natural, historical, and cultural resources.
- C. Commercial facilities and services will be planned and developed through a commercial services planning and public involvement process, in cooperation with other public agencies.
- D. Concessionaires will be provided with opportunities for a reasonable profit and may be

compensated for Reclamation-approved improvements that will remain the property of the United States.

E. Reclamation will ensure fair competition in the awarding of concessions contracts and will not allow preferential rights of renewal.

F. Exclusive use of the Federal estate will not be allowed and existing exclusive use will be removed as soon as possible.

G. Concessions will comply with applicable Federal, State, and local laws.

4. **Supporting Directives and Standards and Guidelines.** Implementation of the Concessions Management Policy is accomplished through the use of the Reclamation Manual Directives and Standards, and Guidelines.

- Concessions Management by the Bureau of Reclamation, LND 04-01.
- Concessions Management by Non-Federal Partners, LND 04-02.
- Concessions Management Guidelines.

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(154) 3/4/02

Supersedes (73) 4/3/98

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**Reclamation Manual / Directives and Standards LND 04-02**

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**Subject:** Concessions Management by Non-Federal Partners

**Purpose:** Establishes minimum approval standards for all new, modified, or renewed non-Federal concession contracts.

**Authority:** Reclamation Act of 1902, as amended and supplemented; the Reclamation Project Act of 1939; and the Federal Water Project Recreation Act of 1965, as amended.

**Contact:** Land, Recreation, and Cultural Resources Office, D-5300

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1. **Non-Federal Partners.** Reclamation may transfer to non-Federal partners the responsibility to develop and manage public recreation areas and concession services. Transferred areas are managed by a partner under Federal authorities, the partner's authorities, specific contracts, and agreements with Reclamation. Well-planned and -managed concessions on the Federal estate are of mutual interest to Reclamation and its partners. Reclamation is responsible for continuous management oversight of managing partners and their concessions operations.

2. **Compliance With Directives and Standards.** New concession contracts issued by managing partners must comply with these directives and standards. Existing concession contracts issued by managing partners must, at the first opportunity, be brought into compliance with these directives and standards. If a concession contract is amended or terminated because of contract default or for other reasons and a subsequent concession contract is issued by the non-Federal partner, the subsequent concession contract must be in compliance with these directives and standards.

3. **Definitions.**

A. **Concession.** A concession is a non-Federal commercial business that supports appropriate public recreation uses and provides facilities, goods, or services for which revenues are collected. A concession involves the use of the Federal estate and usually involves the development of real property improvements.

**B. Exclusive Use.** Exclusive use is any use that excludes other appropriate public recreation use or users for extended periods of time. Exclusive use includes, but is not limited to, boat docks, cabins, trailers, manufactured or mobile homes, structures, or amenities that are determined by Reclamation to be exclusive use.

**C. Federal Estate.** The Federal land and water areas under the primary jurisdiction of the Department of the Interior, Bureau of Reclamation.

**D. Fixed Assets.** Fixed assets are any structures, fixtures, or capital improvements permanently attached to the Federal estate.

**E. Improvement.** An addition to real property that increases its value or utility or that enhances its appearance.

**F. Management Agreement.** A management agreement is a binding contract between Reclamation and a partner to provide public recreation opportunities and concession services on the Federal estate.

**G. Non-Federal Partner.** A non-Federal partner is a non-Federal public entity that manages recreation and other resources through a contractual agreement with Reclamation.

**H. Total Benefits to the Government.** Total benefits include:

(1) **Direct Returns.** These are fees generated by authorized concession contracts and paid directly to the managing entity or to the United States Treasury.

(2) **Direct Benefits.** These are fees paid into a contractually designated special account for resource and capital improvements that directly benefit the public in the area of operations where the fees are collected.

(3) **Indirect Benefits.** These are services performed by the Concessionaire that benefit the public or improvements made to the Federal estate by the Concessionaire.

#### **4. Managing Partner Agreements.**

**A. Third-Party Concession Agreements.** Third-party concession agreements are agreements between the non-Federal managing partner and another entity to provide concession related services and facilities.

(1) **Agreement Standards.** Any concession contract, including a contract renewal or modification, issued by the non-Federal managing partner must meet the requirements of these Concessions Management Directives and Standards.

(2) **Contract Approval.** Before issuing or renewing a non-Federal concession contract, the contract must be approved by Reclamation.

(3) **Stand In Stead Conditions.** All concession contracts must state that Reclamation will not stand

instead for the managing partner should the management agreement expire or be terminated. At Reclamation's discretion, Reclamation may issue a new concession contract that is in compliance with Reclamation Manual (RM), *Concessions Management by Reclamation*, LND 04-01. Reclamation will not issue a new contract until all exclusive use has been removed.

**B. Review and Evaluation.** All management agreements will require Reclamation to conduct annual concession operation reviews and evaluations. Reclamation may also conduct unplanned reviews, as necessary. If a review identifies operational or administrative deficiencies in the operation of a concession, a timetable must be established by the area office to correct these deficiencies.

**C. Exclusive Use.** New, renewed, or modified management agreements and concession contracts will include clauses that prohibit new exclusive use and require that existing exclusive use be phased out. When existing concession contracts issued by the partner are modified or renewed, Reclamation and the partner must establish a timetable in the concession contract that phases out existing exclusive use before the expiration of the contract. This timetable must be established before the concession contract is resubmitted to Reclamation for approval. The Concessionaire and a person hired to guard the Concessionaires investment may reside on the Federal estate, with the written approval of Reclamation.

**D. Disposition of Fees.** Unless State or local laws direct how concession fees paid to the partner will be used, the following will apply: (1) fees will be returned to the area to provide for operation, maintenance, and replacement of recreation facilities and new facility development; (2) any excess fees (profit) will be returned to Reclamation and disposed of according to RM, *Crediting of Incidental Revenues*, PEC 03-01.

**E. Statistical Data.** Each year, the managing partner will be required to provide Reclamation with the information specified in Reclamation's Recreation Use Data Report. Other information may be required, as necessary. This information will provide an accurate inventory of facilities. The report will also contain other data about the managing partner's recreation and concession operations on the Federal estate.

**5. Concessions Planning.** Concession development will adhere to the concessions principles listed in RM, *Concessions Management* (LND P02), will be based on appropriate plans developed by the partner or Reclamation, and will be approved by the Regional Director or delegate. Reclamation can provide direction and assistance in the process, as necessary, to accomplish effective commercial services planning.

6. **Concessions Contracting.** The following items will be addressed in all new and renewed concessions contracts issued by non-Federal partners.

A. **Sale and Transfer.** The sale and transfer of existing concessions must be approved according to the management agreement and reported to Reclamation in a timely manner.

B. **Contract Language.** The partner will develop and use contract language that complies with all applicable Federal laws, rules, regulations, and Executive Orders. Reclamation can provide examples of standard contract structure and language.

C. **Length of Term.** The term for a concession may not exceed the term of the management agreement between Reclamation and the partner. In general, terms should be as short as possible and based on the new investment required as determined by a financial feasibility evaluation.

D. **Subconcessions.** All subconcessions must meet the terms and conditions of the prime concession contract. The partner must approve all subconcessions and notify Reclamation in advance of any authorization that needs Reclamation approval. Generally, subconcessions are discouraged in order to keep operations under single management.

E. **Concessions Building and Improvement Program.** All designs and construction must comply with applicable Federal, State, and local environmental and historic preservation laws and regulations and building code requirements. In areas where no State or local construction standards exist, Reclamation may provide appropriate standards. Where required and before construction, building permits must be obtained from local authorities by the Concessionaire. All facilities will be harmonious in form, line, color, and texture with the surrounding landscape.

F. **Operation and Maintenance Plan.** Concessionaires will prepare an annual operation and maintenance plan, which must be approved by the partner. The concession contract must clearly state what the plan will contain. Reclamation can provide examples of such plans for the partner and the Concessionaire.

G. **Reimbursement for Fixed Assets.**

(1) A right to reimbursement may exist when a Concessionaire places Reclamation-approved fixed assets on the Federal estate. Title to fixed assets must be established in the concession contract. Reimbursement of a Concessionaire for fixed assets is the responsibility of the partner. The method for determining the amount of reimbursement and the method of payment will be specifically addressed in the concession contract between the partner and the Concessionaire.

(2) In the event the partner's agreement with Reclamation expires or is terminated without a commitment by both Reclamation and the partner to enter into another agreement, all the Concessionaires' fixed assets and personal property must be removed from the Federal estate unless



Reclamation decides to issue a new concessions contract and decides to retain the fixed assets. [See paragraph 4A(3).] The partner will be responsible for ensuring that the concession area is returned in a condition satisfactory to Reclamation.

(3) It must be clearly stated that no financial obligation or risk will reside in the Federal Government for reimbursement for fixed assets or personal property as a result of the partner awarding a concession contract. All new concession contracts issued by the partner will address rights for reimbursement to the Concessionaire for fixed assets. Interests in a Concessionaire's fixed assets may not extend beyond the term of the management agreement. In addition, the concession contract must provide appropriate language regarding interests in fixed assets and methods of reimbursement, if any, to the Concessionaire by the partner.

**H. Area of Operation.** Each concession contract will authorize and define only the physical area necessary to conduct the business activities allowed by the contract. Concession boundaries must be surveyed by the partner and easily recognizable by the visiting public.

**I. Additional Facilities or Services.** Any proposal for expansion of facilities or services must be reviewed by Reclamation and approved by the partner before the expansion takes place.

**J. Exclusive Use.** The contract must state that no new facility, service, or site determined by Reclamation to be exclusive use will be allowed. New, renewed, or modified concession contracts issued by the partner will include clauses that establish a timetable for phasing out existing exclusive use before the contract expires.

**K. Reclamation Rights.** All concession contracts must be subject to the rights of Reclamation and its agents to use the subject lands and waters for project purposes.

**L. Termination of Concession Contract.** Concession contracts will acknowledge the right of Reclamation to terminate, for cause, any concession contract authorized by a non-Federal partner.

**M. Total Benefits.** The partner will establish and recover fair benefits, including direct return and direct and indirect benefits, for the uses, rights, and privileges granted by a concession contract. For disposition of fees, see paragraph 4D.

**N. Rates and Merchandise.** Rates charged by Concessionaires for services, food, lodging, and merchandise will be based on charges for comparable facilities, services, and merchandise provided by the private sector in similar situations. The partner must approve the rates requested by Concessionaires.

**O. Concessions Safety Program.** Concessionaires are responsible for providing and ensuring a safe and healthful environment for both the visiting public and employees by developing, implementing, and administering health, safety, and educational programs to ensure that concession areas are managed in compliance with Federal, State, and local laws, rules, and regulations.

**P. Environmental Compliance.** Concession contracts will address all activities with potential environmental impacts resulting from the release of hazardous materials to the environment including, but not limited to, the following: pesticides, herbicides, sewage effluents, petroleum products, and liquid waste (gray water). Concessionaires are required to follow all applicable Federal, State, and local laws, rules, and regulations related to hazardous substance use, storage, and disposal. Application for and acquisition of all required certifications and permits are the responsibility of the Concessionaire.

**Q. Food Sanitation.** Concessionaires' food services will comply with Federal, State, and local food handling and sanitation regulations.

**R. Advertising and Signs.** The Reclamation logo or name, along with the non-Federal partner logo or name, will be displayed at all concession entrances used by the public. Outdoor signs or other forms of advertising on the Federal estate must be approved by Reclamation before they are displayed.

**S. Sale of Personal Property.** The sale of personal property other than the approved concessions inventory is prohibited on the Federal estate. No party will be permitted to sell personal property, including vehicles, manufactured or mobile homes, house trailers, travel trailers, boats, or personal water craft, on the Federal estate.

**T. Utility Services Provided by Reclamation.** The fee charged for utility services provided by Reclamation will be based on the recovery of full operating and replacement costs for utility capital investments and comparable utility rates. Utility services include, but are not limited to, electricity, power, water, waste disposal, gas, and communication systems.

**U. Insurance Program.** Concessionaires must have and maintain an appropriate insurance policy that will indemnify the United States and meet applicable State requirements. All liability policies will provide that the insurance company will have no right of subrogation against the United States and must provide that the United States is named as an additional insured. The partner may establish similar requirements itself, but it must provide Reclamation with a copy of the insurance certificate that identifies the above conditions.

**V. System of Recordkeeping.** Financial reports and records necessary for management and oversight of concessions must be maintained and available to the partner and to Reclamation upon request. At a minimum, each Concessionaire will complete Reclamation's Annual Financial Report form(s).

## **7. Concessions Administration.**

**A. Annual Review and Evaluation.** All concession agreements issued by the non-Federal partner will require Reclamation and the non-Federal partner to conduct annual concession reviews and evaluations. The review should identify problems, solutions, and a timetable for resolving the problems in a written report. The non-Federal partner must ensure that any operational or administrative deficiencies noted by the review are corrected in accordance with the established timetable.

**B. Nonprofit Organizations.** In certain circumstances, it may be suitable for cooperative associations or nonprofit organizations to sell goods or provide visitor services to meet the goals and objectives of both Reclamation and the partner. These associations and organizations must be approved by the partner if the cooperating association operates within a concession or elsewhere on the Federal estate. The cooperating association will be responsible for maintaining its accounting system, and the system cannot be combined with a Concessionaire's annual financial report. Nonprofit organizations will also be given very clear instructions identifying the type of business they are authorized to conduct and the types of goods and services they may provide. All organizations must provide written proof of their nonprofit status to Reclamation and the partner.

**C. Employment of Reclamation Personnel or Family Members<sup>(1)</sup>.** Reclamation employees or family members may not be owners, partners, board members, corporate officers, general managers, or employees of any business providing commercial services on the Federal estate, nor may they have any financial interest in such a company. Ownership of stock shares traded in a recognized open market is not considered a financial interest under these directives and standards. Reclamation employees are further prohibited from using their public office for private or family gain. A Reclamation employee involved in preparing specifications, awarding a contract, or administering a concession may not be involved in that activity if the employee or a family member is involved in any phase or operation of that concession. Any Reclamation employee or family member responsible for any phase of a concession contract will be excused from duties related to the concession contract if the employee or a family member is involved in competing for the contract or if the Reclamation employee may benefit financially from the awarding of the contract.

<sup>1</sup>Guidance on this issue should be obtained from an ethics counselor in the servicing Reclamation Personnel/Human Resources Office. (159) 4/29/02 [Supersedes (74) 4/3/98]

EXHIBIT G: RECREATION USE DATA REPORT

## EXHIBIT H: RESOURCE MANAGEMENT PLAN GUIDELINES

The Resource Management Plan (Plan) is to be developed with the following goals:

Planning, through Resource Management Plans (RMPs), provides specific direction for Reclamation to accomplish its mission at water resource development projects for lands directly managed by Reclamation and for lands cooperatively managed with another Federal or non-Federal entity.

The guidance provided herein is discretionary, and are to be considered only as reference materials; however, the guidance provided will result in an RMP document that can effectively assist Reclamation in planning, decision-making, and implementing actions and activities affecting the resources under its jurisdiction. Because resource situations/issues differ greatly among the different Reclamation regions and from State to State, creativity and flexibility are allowed in preparing RMP documents so that they can address specific issues that meet local public expectations and address specific resource conditions. This *Resource*

*Management Plan Guidebook* is intended to be a dynamic document which will be updated, as necessary. The RMP is to chart the desired future condition for the area in question—the resultant biological, physical, and social condition that Reclamation desires to see once all the RMP management actions have been implemented. The RMP document should be sufficiently detailed to direct future development, but it should be flexible enough to allow resolution of day-to-day problems.

### **Goals**

The demand for Reclamation lands and water is increasing at a phenomenal rate.

Recreation use is currently expanding by an estimated 1.2 million visitors per year at Reclamation reservoirs. Because there is increasing competition for the use of Federal lands by a variety of users (e.g., recreationists, power companies, oil and gas companies, and special interest groups), RMPs are a valuable tool that will help Reclamation make informed decisions affecting competing uses of its lands. In addition, the overall objectives for completing an RMP should be consistent with the objectives identified in Reclamation's

*2000 – 2005 Strategic Plan*, which include the following:

- P Manage, develop, and protect water and related resources to meet the needs of current and future generations
- P Operate, maintain, and rehabilitate facilities safely, reliably, and efficiently to provide Reclamation Project (Project) benefits
- P Advance Reclamation's organizational effectiveness

An RMP provides management direction consistent with authorized Project purposes while, at the same time, recognizing the rights and interests of existing contracts, legislation, and other entities concerning an identified land area that is under the jurisdiction of Reclamation.

An RMP identifies measures necessary to achieve a desired future condition of the resources within a management area<sup>2</sup> covered by the RMP. Management direction is set forth in the form of goals, objectives, standards, and guidelines. These, in turn, set the stage for management actions, activities, and uses that affect management frameworks and partnerships, land management, and water, recreation, visual, natural, and cultural resources.

The management direction could be general in nature to the management area (area-wide) or unique to a portion of the management area (site specific). Monitoring and evaluation of an RMP are intended to ensure conformance and good stewardship.

For complete guidance on preparation of a Plan see below

<http://www.usbr.gov/pmts/planning/RMPG/RMPG.pdf>

EXHIBIT I: CONTRACT GUIDANCE for CONCESSIONAIRE CONTRACTS

When Managing Partner is considering a third party contract with a Concessionaire the following guidelines shall be followed.

- (a) When soliciting third part concessions proposals, the Managing partner will prepare and distribute a prospectus as part of the proposal solicitation. The prospectus must include historical information about the concession; area details; projected concessionaire revenue and costs; area map; operation, maintenance and environmental plans; risk management plan; list of available utilities; Property Record Inventory and associated depreciation schedules; fee schedule; schedule of underground storage tanks; and area interpretive themes, if available.
- (b) The solicitation and prospectus shall not include proprietary information of current or former Concessionaire and prescription of future concession organization and operation.
- (c) Contract proposals shall be evaluated on five principles:
  - i. Responsiveness of proposal to the objectives of preserving and protecting resources of the area;
  - ii. Responsiveness of proposal to the objectives of providing high quality visitor services;
  - iii. Experience and related background of offeror;
  - iv. Financial capability to meet necessary financial obligations; and
  - v. Financial benefit to the government.
- (d) Reclamation will review solicitations prior to the Managing Partner issuing the solicitation. Reclamation will review contract proposals and contract award with Managing Partner, prior to Managing Partner issuing contract award.
- (e) The contract will provide authorization to the Concessionaire to collect fees for the identified goods and services. The Concessionaire will pay operating costs associated with the concessions. The contract will provide no guarantee of profit for

the Concessionaire. The contract will establish a Special Use Fee based on a percentage of gross receipts, which the Concessionaire will pay the Managing Partner.

- (f) The third party concessions contract will include the following items. For additional guidance on each item, refer to the RM.
- i. Statement of parties;
  - ii. Contract term;
  - iii. Termination clause;
  - iv. Notice of bankruptcy or insolvency;
  - v. Requirements in event of termination or expiration;
  - vi. Contract suspension and extension;
  - vii. Right of revenue;
  - viii. Contract sale or transfer of interests;
  - ix. Assignment, sale, or encumbrance of interests;
  - x. Statement of no subcontract allowed;
  - xi. Required and authorized services;
  - xii. Scope of concessions and operating plan;
  - xiii. Legal, regulatory and policy compliance;
  - xiv. Rates for goods and services;
  - xv. Nondiscrimination of service employment;
  - xvi. Concessionaire employee conduct and conditions;
  - xvii. Land and facility used in concession;
  - xviii. Protection and interpretation of resource area; and



- xix. Inventory record requirements for Fixed Assets and Equipment.
- (g) Reclamation will review and approve the third party concessions contract prior to contract execution.