

Memorandum

To: Avenal Energy File
Docket No. 08-AFC-1

Date: August 1, 2008
Telephone: (916) 654-3836

From : **California Energy Commission** – Michelle Woods
1516 Ninth Street Project Manager
Sacramento CA 95814-5512

Subject: Westland Water District Agreements

Please docket the attached agreements between John A. Kochergen Properties, Inc. and the Westlands Water District, submitted to the Energy Commission by the Westlands Water District:

- Agreement for Participation in Groundwater Management Program and for Operations and Maintenance of Transferred Facilities.
- Agreement for Transfer of Groundwater Pumping Facilities.

DOCKET	
08-AFC-1	
DATE	AUG 01 2008
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cc: Proof of Service List

Attachments

AGREEMENT
FOR TRANSFER OF GROUNDWATER PUMPING FACILITIES

This Agreement between JOHN AKOCHERGEN PROPERTIES INC, hereinafter referred to as "Participant," and Westlands Water District, hereinafter referred to as "District," to effect the transfer to District of certain of Participant's groundwater pumping facilities in order to allow the Participant to participate in the District's Groundwater Management Program ("Program") under the terms of the Agreement for Participation in Groundwater Management Program and For Operations and Maintenance of Transferred Facilities ("Participation and O&M Agreement") and the Groundwater Management Program Procedures ("Procedures"), attached thereto as Exhibit A.

RECITALS

WHEREAS, Participant and District have entered into the Participation and O&M Agreement; and

WHEREAS, Participant owns the hereinafter described groundwater pumping facilities consisting of a pumping unit(s), motor(s), starting equipment, customer furnished portions of electrical service installations, valves, pipeline and related appurtenances used to pump groundwater; and

WHEREAS, Participant desires to transfer these groundwater pumping facilities, with full operational control, to the District in order to receive District groundwater service under the Program and to facilitate the District's implementation of its Groundwater Management Plan.

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:

1. Participant transfers to the District, effective Sept 14, 1999, all of its right, title and interest in the following groundwater pumping facilities ("Transferred Facilities") consisting of the following described pumping unit(s) and motor(s):

<u>District</u> <u>Well No.</u>	<u>Pump</u> <u>Make</u>	<u>Pump</u> <u>Serial No.</u>	<u>Motor</u> <u>Make</u>	<u>Motor</u> <u>Serial No.</u>	<u>Motor</u> <u>HP</u>
18-1	Peerless		NEWMAN	1212601	200
18-4	Peerless		G.E.	SJJ501008	250
24-3	Peerless		G.E.	5448892	125

together with related starting equipment, customer furnished portions of the electrical service installations, valves, pipeline and related appurtenances located at the above District well sites, provided that the length of pipeline transferred shall extend only to a point five feet beyond the water meter.

24-5	Peerless		U.S.	744212	150
12-1	Peerless		G.E.	ZD6729421	150

2. Participant grants to District, effective _____, an easement for the District to convey District water through Participant's pipeline(s).
3. All costs of title transfer, including both existing obligations to PG&E and any incremental charges claimed by PG&E for provision or installation of electric facilities at or to the site, shall be borne by Participant.
4. Participant warrants that it will satisfy all outstanding obligations which it has incurred in connection with the purchase and installation of the Transferred Facilities and agrees to reimburse the District for any expense which the District might incur by reason of Participant's failure to satisfy any of such obligations.
5. Participant will hold the District and its officers and employees harmless from any and all claims, loss, damage, injury and liability of every kind, nature and description directly or indirectly arising out of Participant's care, operation and maintenance of the Transferred Facilities, and from any potential claims Participant may have arising out of its participation in or the implementation of the Program.

Dated: 3/31/2000

WESTLANDS WATER DISTRICT

By: Shirley L. Butler

PARTICIPANT

JOHN A. KOCHERGEN PROPERTIES INC.

By: John A. Kochergen Pres,

AGREEMENT
FOR PARTICIPATION IN GROUNDWATER MANAGEMENT PROGRAM
AND FOR OPERATIONS AND MAINTENANCE OF TRANSFERRED
FACILITIES

This Agreement between JOHN A. KOCHERGEN PROPERTIES INC hereinafter referred to as "Participant," and Westlands Water District, hereinafter referred to as "District," to provide for Participant's participation in the District's Groundwater Management Program ("Program") pursuant to the Groundwater Management Program Procedures ("Procedures"), attached hereto as Exhibit A and incorporated by reference as part of this Agreement, and to provide for Participant's operation and maintenance of facilities transferred under the terms of the Agreement For Transfer of Groundwater Pumping Facilities ("Transfer Agreement").

RECITALS

WHEREAS, the District has created the Program as part of the implementation of the District's Groundwater Management Plan; and

WHEREAS, the goal of the Program is to integrate local groundwater resources into the District's overall water supply through the Program's groundwater management and conjunctive use planning procedures to enable the District to improve overall supply reliability while minimizing total water supply costs; and

WHEREAS, the District has determined that the Participant's facilities to be transferred pursuant to the Transfer Agreement ("Transferred Facilities") meet the minimum efficiency and safety standards set forth by the District in the Procedures, and that the transfer will enable the District to pursue the goal of the Program; and

WHEREAS, the District is willing to provide groundwater service to Participant for a cost-based charge through the Transferred Facilities acquired under the Program, consistent with its water service contracts with the United States and applicable District rules and regulations; and

WHEREAS, Participant and District have entered into the Transfer Agreement, wherein Participant agreed to transfer the following Transferred Facilities to the District,

<u>District</u> <u>Well No.</u>	<u>Pump</u> <u>Make</u>	<u>Pump</u> <u>Serial No.</u>	<u>Motor</u> <u>Make</u>	<u>Motor</u> <u>Serial No.</u>	<u>Motor</u> <u>HP</u>
18-1	Peerless		NEWMAN	1212601	200
18-4	PEERLESS		GE	SJJ501008	250
24-3	PEERLESS		GE	5448892	125
24-5	PEERLESS		US	744212	150
12-1	PEERLESS		GE	ZD6729421	150

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together with related starting equipment, customer-furnished portions of the electrical service installations, valves, pipeline and related appurtenances located at the above District well sites; and

WHEREAS, Participant can effect certain economies if it, subject to the supervision and control of the District, operates and maintains the Transferred Facilities at its expense; and

WHEREAS, the District is willing to permit Participant to undertake the operation and maintenance of the Transferred Facilities; and

WHEREAS, Participant is willing to undertake the operation and maintenance of the Transferred Facilities.

NOW THEREFORE, IT IS HEREBY MUTUALLY AGREED AS FOLLOWS;

1. Participant hereby elects to participate in the Program according to the terms and conditions contained herein and in the Procedures and the Transfer Agreement.
2. Participant shall operate the Transferred Facilities at its expense, with no cost to the District, in accordance with the terms contained in the Procedures.
3. Participant shall maintain in force, for the term of the Agreement, policies of liability insurance, providing limits of not less than \$1,000,000.00 for each person and \$2,000,000.00 for each occurrence for bodily injury or death, and not less than \$1,000,000.00 property damage. Said policies shall name the District as additional insured (with the ISO CG 2010 endorsement form or equivalent) and shall provide that they will not be canceled or reduced in coverage without ten (10) days' prior written notice to the District. Prior to commencement of pumping, the Participant shall cause to be delivered to the District a copy of the certificate of insurance reflecting all essential coverage.
4. Participant shall maintain the Transferred Facilities at its expense, with no cost to the District. Maintenance requirements shall include the performance of overall plant efficiency tests, paid for by Participant, at intervals no greater than every two years following the initial efficiency test provided by Participant to determine Program eligibility. Participant shall bear any costs necessary to bring plant efficiency up to a minimum of 60% following any such efficiency test.
5. Participant hereby grants District a right of entry onto Participant's property for facility inspections, emergency repairs and routine maintenance.
6. Participant shall make, at its own cost and expense, any changes in the facilities that may be required pursuant to any statute, code or regulation by any federal, state or local agency having jurisdiction over such installations. If Participant fails to correct

such problems or perform needed repairs, the District shall have the option of making the necessary changes or repairs and charging the cost to the Participant.

7. Participant will hold the District and its officers and employees harmless from any and all claims, loss, damage, injury and liability of every kind, nature and description directly arising out of Participant's care, operation and maintenance of the Transferred Facilities, and from any potential claims Participant may have arising out of its participation in or the implementation of the Program.
8. This Agreement may be terminated at will by either party with 48-hour written notice.
9. For consideration of prior operations and maintenance obligations, Participant or his heirs or assigns shall have a first right refusal for acquisition of the Transferred Facilities from the District in the event that this Agreement is terminated.

Dated 3/31/2000

WESTLANDS WATER DISTRICT

By Shadell S. Bette

PARTICIPANT

JOHN A KOCHERGEN PROPERTIES INC,

By John A. Kochergen Pres,

EXHIBIT A
WESTLANDS WATER DISTRICT
GROUNDWATER MANAGEMENT PROGRAM
PROCEDURES

Introduction

Under the Groundwater Management Program ("Program"), Westlands Water District ("District") will install or acquire title to groundwater pumps and integrate them into its comprehensive water supply system. The Program provides for the pumping of groundwater from District-owned groundwater pumps by Program Participants, who have entered into agreements with the District to transfer groundwater pumping facilities to the District ("Transferred Facilities") and to operate and maintain those facilities. Participants will pump groundwater according to District schedules. Participants will be charged a cost-based fee by the District for groundwater pumped under the Program.

The Program is an important step in the implementation of the District's Groundwater Management Plan. By integrating local groundwater resources into the District's overall water supply through the Program's groundwater management and conjunctive use planning procedures, the District will be able to improve overall supply reliability while minimizing total water supply costs.

Eligibility

Groundwater pumping facilities are eligible for inclusion in the Program if they attain a 60% minimum overall plant efficiency and meet applicable safety standards. Participant must provide to the District the result of an overall plant efficiency test that reflects the facility's current condition. The Participant must also ensure that the pumping plant and related facilities meet applicable electrical and safety codes prior to transfer to the District. Groundwater pumping facilities must be equipped with a District-approved meter prior to transferring title of the equipment to the District.

District Regulations

District regulations applicable to the ordering, delivery, and payment for water, including the Terms and Conditions of Agricultural Water Service, a copy of which is attached hereto as Exhibit 1, shall be applicable to Participant's pumping and use of Program groundwater through Transferred Facilities, except to the extent there is a conflict between these Procedures and other regulations, in which case these Procedures shall prevail.

Participants who have signed the DIP Agreement may pump groundwater into District facilities pursuant to the terms and conditions of that agreement, provided that such pumping is also in compliance with the terms and conditions of the Program and these Procedures. Participants incorporating DIP pumping into their Program groundwater pumping will be responsible for water charges under the Program and for any applicable DIP charges.

Billing

Participant shall be billed for groundwater pumped under the Program on an acre-foot basis pursuant to a water charge to be established by the Board of Directors. The water charge for Program groundwater shall be based on the District's cost of delivery and will reflect a Transferred Facility's pumping depth and efficiency. The District will attempt to structure water charges so that the average cost of energy per kWh is the same for all pumping facilities.