

AMENDED AND RESTATED WASHOE COUNTY, NEVADA
DISTRICT NUMBER 24 (GROUNDWATER REMEDIATION)
AGREEMENT FOR OWNERSHIP, OPERATION AND MAINTENANCE
OF CERTAIN REMEDIATION FACILITIES AND FOR
REIMBURSEMENT OF CERTAIN EXPENSES

1. PARTIES

This Agreement is entered into between Washoe County, a political subdivision of the State of Nevada, ("County") and Truckee Meadows Water Authority, a joint powers entity created by cooperative agreement among the County and the cities of Reno and Sparks, Nevada ("TMWA"), or collectively referred to herein as the "Parties".

2. RECITALS

2.1 Pursuant to an Asset Purchase Agreement effective June 11, 2001, TMWA acquired the water operations of Sierra Pacific Power Company ("Sierra") and assumed certain contracts of Sierra, including that certain "District Number 24 (Groundwater Remediation) Agreement for Ownership, Operation and Maintenance of Certain Remediation Facilities and for Reimbursement of Certain Expenses" (hereinafter the "Sierra Reimbursement Agreement"). County and TMWA desire to amend and restate the Sierra Reimbursement Agreement and Exhibits to clarify their ongoing rights and obligations. This Amended and Restated Agreement and Exhibits (the "Agreement") are intended to supersede the Sierra Reimbursement Agreement and Exhibits in their entirety.

2.2 TMWA owns and operates, as part of its drinking water distribution system, five groundwater wells, more commonly known as the Corbett, Kietzke, Mill, Morrill and High wells (the "Wells"), to which PCE treatment facilities and equipment have been installed.

2.3 Pursuant to Washoe County Ordinance 1000 (November, 1997) and enabling state legislation -- Chapter 540A, Nevada Revised Statutes, the County has established a PCE (perchloroethylene) Remediation District (District No. 24) necessary to remedy PCE contamination as set forth in the Remediation Management Plan ("Remediation Plan") and established a PCE remediation fund to reimburse certain expenses for remediation of such contamination.

2.4 County and TMWA have determined that TMWA shall remove PCE contamination using the Wells in a mutually agreeable and prescribed manner pursuant to a State-approved pumping plan, and that such PCE removal substantially contributes to remedying the condition of PCE contamination. Accordingly, County is authorized, pursuant to the provisions of NRS 540A.270 and Washoe County Ordinance 1000, to reimburse TMWA for certain of its expenses as provided in this Agreement.

3. OPERATION AND MAINTENANCE

3.1 TMWA will inspect, operate, repair and maintain the Wells, and all PCE remediation equipment and facilities, including without limitation, piping, pumps, blowers, air-stripping towers, conduits, fixtures, and any other facilities,

appurtenances or improvements necessary for PCE remediation ("PCE Treatment Facilities") related to the Wells. Attached hereto and incorporated herein by reference is Exhibit "A" which contains a list of all PCE Treatment Facilities._

3.2 TMWA will be solely responsible for finished water quality entering its water distribution system from the Wells, and will hold County harmless from any violations of water quality agreements or regulations applicable to water extracted from the Wells.

3.3 To assure PCE remediation facility effectiveness, TMWA will analyze both the pre-treatment and post-treatment water for volatile organic compounds. Such analysis will be performed on a quarterly basis, and TMWA will provide to the County Remediation District Manager on or before March 1st an annual report of the water quality analysis results from the Wells and PCE Treatment Facilities.

3.4 Upon reasonable, advance notice to TMWA, County, at its discretion, is authorized to access, inspect and test the Wells and related PCE Treatment Facilities.

3.5 TMWA will be responsible for all inspection, testing, repair, operation, and maintenance costs associated with the normal operation of the Wells, excluding certain approved costs solely associated with remediation, as determined pursuant to Section 3.6 below.

3.6 County will reimburse TMWA for certain approved operation and maintenance costs associated solely with remediation, determined as follows:

3.6(1) Commencing with the 2006 calendar year, remedial benefit will be attained by TMWA's operation of each of the Wells in accordance with the Pumping Plan Schedule, as amended from time to time. The Pumping Plan Schedule is attached hereto and incorporated herein by reference as Exhibit "B". The Pumping Plan Schedule may be amended from time to time by mutual agreement of the Parties and incorporated by reference herein without the necessity of formal amendment of this Agreement. County acknowledges that TMWA may operate its Wells by producing more or less water from the Wells than the amounts set forth in the Pumping Plan Schedule. Pursuant to Section 3.6(2), the County shall reimburse TMWA for actual and necessary costs to achieve remedial benefit up to the pumping volumes set forth in the Pumping Plan Schedule, but any costs attributed to pumping volumes that exceed the per-well pumping amounts identified or that exceed the cumulative total amount identified for the Wells shall be borne by TMWA at its sole cost and expense.

3.6(2) The County's reimbursement obligation shall be determined according to the following procedure: Commencing with the 2006 calendar year and each calendar year thereafter, TMWA shall determine its annual production costs

in dollars per million gallons for: 1) water produced from its Chalk Bluff and Glendale Treatment Plants and all wells other than the Wells (the "Blended Non-PCE Unit Production Cost"); and 2) water produced from the Wells (the "PCE Unit Production Cost"). The PCE Unit Production Cost shall include, without limitation, all actual and necessary costs of chemicals, contract or professional services, electricity and other services and miscellaneous supplies deemed necessary to perform such PCE remediation. County's reimbursement obligation shall be determined by multiplying the difference between the PCE Unit Production cost and the Blended Non-PCE Unit Production Cost times the actual annual amount of water produced from the PCE Wells, not to exceed the individual per-well or total volumes specified in the Pumping Plan Schedule required to attain remedial benefit.

3.6(3) TMWA shall submit its demand for reimbursement to County no later than March 1 following the calendar year for which reimbursement is sought, together with a full accounting of any necessary costs for PCE remediation, and all supporting documentation and production data to substantiate its reimbursement demand. County shall review such accounting, supporting documentation and production data, and reserves the right to audit the same at its own expense. If County approves the accounting, it will budget the same and submit for approval and payment by October 1 of the calendar year received. If County does not approve the

accounting, both Parties agree to negotiate in good faith to determine a mutually acceptable amount due.

4. ADDITIONAL, REPLACEMENT EQUIPMENT AND COMPLIANCE WITH THE REMEDIATION PLAN

4.1 The Parties hereto agree that one of the goals of this Agreement is to further accomplish the Remediation Plan, as established by and defined in Washoe County Ordinance 1000, adopted November 14, 1997, as amended from time to time with respect to the Wells. The Parties recognize that the Remediation Plan may be revised from time to time as is necessary. The Parties further recognize that if PCE remediation continues, it will be necessary from time to time to replace certain of the PCE Treatment Facilities listed on Exhibit "A" and possibly to install additional or different PCE Treatment Facilities. As the Remediation Plan is revised, amendments to this Agreement and the Exhibits may be necessary to authorize payment for the cost of additional, different or replacement PCE Treatment Facilities. The Parties agree to negotiate in good faith to make such amendments or modifications to this Agreement and Exhibits, as are necessary to accomplish the goals of the Remediation Plan and, at such time as PCE remediation is no longer necessary, to terminate this Agreement.

4.2 Additional, different or replacement PCE Treatment Facilities costing less than \$5,000 (including installation costs) shall be treated as incidental operating and maintenance expenses as described in Section 3.6.

4.3 Additional, different or replacement PCE Treatment Facilities costing more than \$5,000, but less than \$25,000 (including installation costs) shall require the prior written approval of County's Remediation District Manager, who shall have authority to approve and budget payment for the following year.

4.4 Additional, different or replacement PCE Treatment Facilities costing \$25,000 or more (including installation costs) shall require an amendment to the Exhibits hereto and payment of the cost thereof shall be subject to negotiation. Nothing in this Section 4.4 obligates County to pay the cost of such additional, different or replacement PCE Treatment Facilities.

4.5 The Parties recognize that at some point the PCE remediation contemplated by this Agreement may no longer be necessary, either upon effective written notification of such a finding from the Administrator of the Nevada Department of Environmental Protection, the Washoe County District Health Officer or from another regulatory body with jurisdiction over the matter. In such event, TMWA may purchase, at its option, the PCE Treatment Facilities owned by the County at the Wells, at a price equal to its fair market value. TMWA will provide written notice to County of its intent to exercise its option to purchase within thirty (30) days after the date of determination, by the Nevada Division of Environmental Protection or other regulatory body with jurisdiction over the matter, that PCE remediation is no longer required at the Wells.

4.5(1) The Parties agree to negotiate in good faith to determine a mutually acceptable price.

4.5(2) If TMWA does not exercise its option to purchase, County will, at its own expense, remove the remediation facilities, within 1 year after the date of determination defined in Section 4.5 above.

5. MISCELLANEOUS PROVISIONS

5.1 The Parties will execute all further documents required to accomplish the terms and conditions of this Agreement.

5.2 This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

5.3 This Agreement is made in, and shall be governed, enforced and construed under the laws of the State of Nevada.

5.4 This Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof, and shall supersede and replace all prior understandings and agreements, whether verbal or in writing, with respect to the subject matter hereof.

5.5 This Agreement may not be modified, terminated, or amended in any respect, except pursuant to an instrument in writing duly executed by the Parties.

5.6 If, after good faith negotiations to resolve any dispute arising out of or relating to this Agreement, the Parties are unable to agree upon a mutually acceptable resolution, the complaining party must first demand in writing that the dispute

be submitted to mediation. The Parties shall meet in mediation within thirty (30) days of a selection of a mediator. The mediator shall be agreed to by the mediating parties within 10 days of the delivery of the demand. In the absence of an agreement, the parties shall each select a representative that is a practicing attorney, licensed in the State of Nevada for a minimum of fifteen (15) years. Those two individuals will then select a practicing attorney, licensed in the State of Nevada for a minimum of fifteen (15) years to serve as the mediator.

The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a demand for arbitration under section 5.7 without first meeting in mediation and making good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but no more than ten (10) days, unless the maximum time is extended by the parties.

5.7 Arbitration. After mediation any remaining unresolved dispute or claim arising out of or relating to this Agreement shall be settled by arbitration in accordance with the NRS Chapter 38 Nevada Arbitration Rules. Either party may demand arbitration in writing. The parties shall set a date for arbitration within ten (10) days of selection of an arbitrator. The parties shall agree to the arbitrator within ten (10) days of the delivery of the demand. In the absence of an agreement, the

parties shall each select a representative that is a practicing attorney, licensed in the State of Nevada for a minimum of fifteen (15) years. Those two individuals will then select a practicing attorney, licensed in the State of Nevada for a minimum of fifteen (15) years to serve as the arbitrator. Each party shall bear its own costs of arbitration and neither party shall be deemed the prevailing party.

5.8 Except as set forth in Sections 5.6 and 5.7, in the event either party shall bring any legal action or other proceeding with respect to the breach, interpretation, or enforcement of this Agreement, or with respect to any dispute relating to any transaction covered by this Agreement, the prevailing party in such action or proceeding shall be entitled to recover costs and reasonable attorneys' fees. The Parties hereby consent to the jurisdiction of, and agree to exclusive venue in, the Second Judicial District Court of the State of Nevada in Washoe County in the event any such legal action or proceeding is commenced.

5.9 No delay or omission by either party in exercising any right or power hereunder shall impair any such right or power or be construed to be a waiver thereof, unless this Agreement specifies a time limit for the exercise of such right or power or unless such waiver is set forth in a written instrument duly executed by the person granting such waiver. A waiver of any person of any of the covenants, conditions, or agreements hereof

to be performed by any other party shall not be construed as a waiver of any succeeding breach of the same or any other covenants, agreement, restrictions or conditions hereof.

5.10 All notices, demands or other communications required or permitted to be given in connection with this Agreement, shall be in writing, and shall be deemed delivered when personally delivered to a party (by personal delivery to an officer or authorized representative of a corporate party) or, if mailed, three (3) business days after deposit in the United States mail, postage prepaid, certified or registered mail, addressed to the Parties as follows:

County: Washoe County Manager
P. O. Box 11130
Reno, NV 89520

and

Remediation District Program Manager
Washoe County Department of Water Resources
4930 Energy Way
Reno, NV 89502-4106

TMWA:
Truckee Meadows Water Authority
General Manager
P.O. Box 30013
Reno, NV 89520-3013

Any party may change its address for notice by written notice given in accordance with the foregoing provisions.

5.11 This Agreement may be executed in one or more counterpart copies, and each of which so executed, shall be deemed to be an original, and all such counterparts together shall constitute one and the same instrument.

6.0 APPROPRIATION REQUIREMENTS

Pursuant to the provisions of NRS 354.626, County's obligations to make payments under this Agreement except by bonding, are subject to the Board of County Commissioners lawfully making an appropriation to pay the amounts required and are binding upon County only to the extent such an appropriation is made.

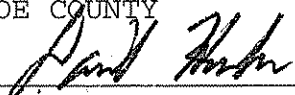
7.0 EFFECTIVE DATE AND TERM

This Agreement shall be effective upon the date the last signing party signs this Agreement ("Effective Date") and shall continue in effect for a period of twenty (20) years thereafter unless earlier terminated by mutual written consent of the Parties.

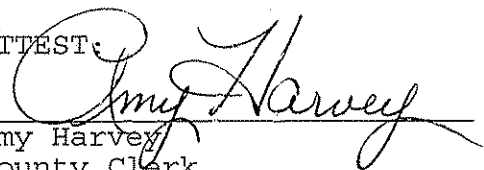
8.0 TERMINATION.

The County or TMWA may terminate this Agreement without cause upon 120 days prior written notice.

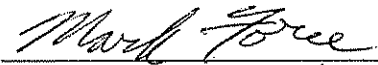
WASHOE COUNTY

By  6/9/09
Chairman
Board of Commissioners

ATTEST:


Amy Harvey
County Clerk

TRUCKEE MEADOWS WATER AUTHORITY

By 
Mark Foree, Interim General Manager