

Agreement for Public Water Supply and  
Energy Generation from Eklutna Lake, Alaska

I.  
Parties to this Agreement

This Agreement is entered into between the Alaska Power Administration ("APA"), an entity of the United States Department of Energy; and the Municipality of Anchorage ("MOA"), a unified municipal government with home rule powers, organized pursuant to the laws of the State of Alaska. Reference in this Agreement to the "Parties" shall be deemed to refer to APA and MOA.

II.  
Recitation of Facts

This Agreement is made with reference to the following facts, among others:

A. APA operates the Eklutna Power Plant (the "Power Plant") under federal statutory authorization (64 Stat. 382 (1950), 48 U.S.C. 312, as amended) for the production of electrical energy, the entirety of which it sells to electric utilities serving the Anchorage and Matanuska Valley areas.

B. The Power Plant produces electrical energy from turbines driven by water from Eklutna Lake. APA possesses federal authority, in the form of a federal reserved water right pursuant to 48 U.S.C. 312, to appropriate water from Eklutna Lake for electrical generation purposes. APA was authorized by the 1953 amendment to 48 U.S.C. 312, at Sec. 2 of 67 Stat. 574, to purchase the then-existing City of Anchorage electrical generation plant in the Eklutna River downstream from Eklutna Lake, including any appurtenant water appropriation rights then owned by the City. APA subsequently made such purchase. APA also possesses a certificate of appropriation of water issued by the Alaska Department of Natural Resources on January 26, 1973, to take 660 cubic feet per second of water from Eklutna Lake on a daily basis for the production of electricity. The APA water appropriation from Eklutna Lake comprises all water contained in the Lake from lake elevation 871 feet to lake elevation 793 feet, and in fact encompasses all water which may be feasibly appropriated from Eklutna Lake.

C. MOA has proposed to design and build the Eklutna Water Project (the "Water Project") for the purpose of supplying the residents of the Municipality with an adequate future supply of potable water. The source of water for the Water Project is Eklutna Lake, from which certain quantities of water will be required to be diverted for the purpose of public water supply.

D. The diversion of Eklutna Lake water from Power Plant use to Water Project use will reduce the amount of water available to generate energy at the Power Plant.

E. Federal legislation, and federal and state agency authorizations, are deemed necessary and desirable to establish the right of MOA to take Eklutna Lake water for purposes of the Water Project, based upon the provision of adequate compensation to APA.

F. The purpose of this Agreement is to make binding upon the Parties those agreements and representations which are now made between them with regard to the effect of the Water Project upon the Eklutna Power Project, and the methods and schedules of adequate compensation to be made by MOA to APA to mitigate such effect, and the cooperation which will occur between the Parties regarding federal and state authorizations, construction of the Water Project, and concurrent operation of the Power Plant and Water Project.

G. APA has separate arrangements with the Alaska Department of Natural Resources ("DNR") with respect to recreation management for Eklutna Lake and surrounding lands and with Cook Inlet Aquaculture Association ("CIAA") with respect to their Eklutna fish hatchery. Those arrangements are outside the scope of this Agreement, and the Parties intend that this Agreement not require any changes in APA's relationships with DNR and CIAA.

H. MOA's water treatment facility is located within the Matanuska Electric Association Service Area. It is recognized that terms of electric service to the treatment facility are outside the scope of this Agreement, except that nothing in this Agreement shall prevent MOA from using a portion of the energy recovered at the treatment plant for requirements of the treatment plant.

I. The parties intend that, with the compensation as provided under this Agreement, the amounts and value of power and energy available to the electrical utilities under their wholesale power contracts with APA will not be diminished.

### III. Agreement

NOW, THEREFORE, the Parties, in consideration of the mutual covenants to be kept and performed by each of them, agree as follows:

1. Effective Date. This Agreement shall become effective on the date it is duly executed by the Parties and approved by the Anchorage Assembly.

2. Legislative Amendment and Regulatory Approvals. MOA will seek amendment to the Eklutna Project Act so as to permit use of a portion of water supply presently reserved by that

Act for public water supply. APA will support MOA in its efforts to obtain such amendment. Subsequent provisions of this Agreement will become operative only upon enactment of such amendment.

Proposed amendatory legislation and a statement of legislative intent, which are each in preliminary form, are attached as Exhibits A and B of this Agreement, and are incorporated herein by reference. APA will also support MOA in its efforts to obtain administrative and regulatory agency approvals needed to permit diversion from Eklutna Lake for the Water Project.

3. Contemplation of Subsequent Agreements. The Parties recognize that this Agreement is intended to obligate them to the commitments and guarantees made by each of them herein; that this Agreement is intended to state the concepts and major principles of agreement between them in general terms; and that subsequent agreements will be necessary to implement the details occasioned by this Agreement, as those details become known and resolved in accordance with the concepts and principles stated herein.

4. Compensation. MOA will compensate APA for all reductions in electrical energy generation at the Power Plant which result from water diversions for the Water Project. The compensation will be in kind and will consist of electrical energy recovered by the Water Project and other replacement energy in quantities determined by APA to equal the reductions. The compensation will be calculated and accounted for in the manner stated in Exhibit C. of this Agreement, which is incorporated herein by reference. The recovered energy and the replacement energy will be delivered by MOA to APA. All costs associated with such deliveries, including provision of capacity to accompany the replacement energy and metering, will be borne by MOA.

MOA will reimburse APA for APA's actual expenses for administering this Agreement.

5. Recovery of Energy from Diverted Water. MOA, to the maximum extent feasible and taking into account financial and engineering considerations, will design and build the Water Project so as to maximize the recovery of power, in the form of capacity and energy, during its delivery of water from Eklutna Lake for purposes of the Water Project.

6. Reservoir Operations. APA will retain full authority and responsibility to manage and allocate the water in Eklutna Lake in accordance with the requirements of the Power Plant and the Water Project. The basis for water scheduling and allocations is set forth in Exhibit C. of this Agreement.

7. Assurance of Water Project Allocation and Quality. APA will operate the Eklutna Lake reservoir in such a manner that

the projected allocations of water to the Water Project are available to MOA at the times they have been requested. APA will take no action regarding Eklutna Lake which has the effect of reducing the quality or increasing the turbidity of the lake water from those conditions which presently exist; nor will APA take or authorize any other action with regard to Eklutna Lake which may have the effect of reducing its present suitability for use as a source of public water supply.

This provision is not intended to preclude or inhibit maintenance and repair activities determined to be necessary by APA, nor does it apply to management of the lake surface and surrounding areas for public recreation, which is outside the scope of this Agreement.

8. Pre-construction and Construction Activities. Prior to commencement of construction of the Eklutna Lake-Eklutna Village segment of the Water Project ("Eklutna Segment"), MOA will furnish to APA copies of all plans, specifications and schedules regarding the design and construction phases of the Water Project. MOA will coordinate all construction activities on the Eklutna Segment with APA, through its designated representative, in order to avoid or minimize disruption of APA's activities at the Power Plant to the maximum extent possible.

9. Water Project Connection to Eklutna Lake. Notwithstanding the preceding paragraph, MOA will obtain specific plan approval from APA before initiating construction on any facilities within Eklutna Lake for the delivery of water to the Water Project, including any facilities which are proposed to be joined to the present APA water intake for its Power Plant. MOA will take every reasonable step to minimize its effect upon energy generation from the Power Plant. The Parties recognize that construction of this phase of the Water Project may have a short-term effect upon the Power Plant, and may necessitate closing the Power Plant to complete this construction. MOA will reimburse APA, by payment of lost revenues to APA or by replacement energy, as may be mutually agreed by MOA and APA, for any such losses incurred by APA which are attributable to construction of the water intake phase of the Water Project including, without limitation, any special supervisory, maintenance and repair costs, and for all actual losses of electrical energy.

10. Reliance Upon Water Project Water. MOA will take reasonable steps, in good faith, to encourage public water conservation practices and to maintain the capacity and continue the use of existing sources of water by MOA, with due consideration of operation and maintenance requirements, the economics of water supply and demand, and the need to maintain flexibility. An objective of MOA will be to operate the Water Project in a manner which will minimize the effect of the Water Project upon the Power Plant. MOA will prepare and publish on an annual basis a report summarizing its activities relevant to this paragraph.

and will furnish copies of such reports to APA by August 1 of each year.

11. Term. Unless agreed otherwise by MOA and APA, this Agreement will continue in full force and effect until the year 2025, unless MOA earlier permanently ceases to divert water from Eklutna Lake for the Water Project, or the Power Plant earlier permanently ceases to generate electricity. Upon its expiration, this Agreement may be extended or renegotiated by agreement between the parties.

12. Successors in Interest. This Agreement shall be binding upon, and shall inure to the benefit of, APA and MOA and to their respective successors in interest and assigns.

13. Force Majeure. Neither Party shall be considered to be in default in the performance of any of the obligations hereunder (other than obligations of the Parties to pay costs and expenses) if a failure of performance shall be due to uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond the control of the Party affected, including but not limited to failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, labor dispute, sabotage, and restraint by court order or public authority, or failure to obtain approval from a necessary governmental authority, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to avoid, and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed so as to require a Party to settle any strike, labor dispute, or lawsuit in which it may be involved. A Party rendered unable to fulfill any obligation by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

14. Amendments. This Agreement shall not be amended, except by a written instrument executed by the Parties.

15. Consistency in Terms. The terms and provisions of this Agreement, together with the documents attached hereto as Exhibits, and any amendments hereto, shall be read and construed as a whole. If any term or provision is found to be illegal or inconsistent or incompatible with the provisions as a whole, said provision is hereby eliminated and the remaining provisions are to remain in full force and effect; provided, however, if the absence of the eliminated provision substantially renders this Agreement destructive of the original intentions of the Parties, the Parties agree to negotiate in good faith to amend this Agreement in order to restore, to the maximum extent practicable, the original intentions of the Parties.

16. Relationship of Parties. The covenants, obligations, and liabilities of the Parties are intended to be several and not joint or collective, and nothing contained herein shall

be construed to create an association, joint venture, trust, or partnership, or to impose a trust or partnership covenant, obligation, or liability on or with regard to either of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities as provided in this Agreement. Neither Party shall, by virtue of this Agreement, be under the control of, or be deemed to control, the other Party. Neither Party shall be the agent of, or have a right or power to bind, the other Party without its express written consent, except as may be expressly provided in this Agreement, or as may be otherwise provided by existing law.

17. Agreement for Benefit of Parties Only. The Parties do not intend by this Agreement to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement, or as a beneficiary of any duty, covenant, obligation, or undertaking established by, or performed pursuant to, this Agreement.

18. Regulatory Authorities and Governing Law. This Agreement is subject to all valid and applicable laws, and to all valid and applicable orders, rules, and regulations of duly-constituted regulatory authorities having jurisdiction. However, it is not the intent of this Agreement that by virtue of its execution, any jurisdiction or control in any form over a Party hereto will be extended to any local, state, or federal agency not otherwise having jurisdiction or control over such Party.

This Agreement is made under, and is governed by, the laws of the State of Alaska, and the laws of the United States where applicable.

19. Resolution of Disputes. Any dispute between the Parties which arise under this Agreement or as a consequence of application of any of its terms, and which cannot be resolved by mutual agreement or by amendment of this Agreement if otherwise required, will be resolved by the arbitration procedure set forth in this paragraph. Arbitration may be initiated only after the dispute has first been referred for resolution to the Mayor of MOA and the Administrator of APA. If thirty days has elapsed without resolution following such referral, either Party may thereafter call for submission of such dispute to arbitration, which call will be binding upon the Parties.

The Party calling for arbitration will give written notice by certified mail to the other Party, setting forth in such notice in adequate detail the nature of the dispute, the amount, if any, involved in the dispute, and the remedy sought by such arbitration proceedings. Within twenty days following receipt of such notice, the other Party may, by written notice to the first Party, give its own reply statement of the dispute, including any additional related matters or issues to be arbitrated. Thereafter, the Party first submitting its statement

of the dispute will have ten days in which it may give a rebuttal statement. The questions which may be submitted to arbitration may include the question of whether the right to arbitrate exists.

Within fifteen days following receipt of the reply or rebuttal statement, as applicable, the Parties will meet for the purpose of selecting arbitrators. Each Party will designate an arbitrator. The arbitrators so selected will meet within twenty days following their selection to select one additional arbitrator. If the arbitrators selected by the Parties fail to select such additional arbitrator within said twenty day period, then such third arbitrator will be selected by the Chief Judge of the Federal District of Alaska, consistent with the qualifications required herein. Each arbitrator shall be a person skilled and experienced in the field or discipline involved in the dispute, and no arbitrator may be an officer or employee of, or person otherwise interested in, either of the Parties to the dispute or in the matter to be arbitrated.

The arbitrators will hear evidence submitted by the respective Parties and may call for additional information, which additional information will be furnished by the Parties having such information. The decision of a majority of the arbitrators will be binding upon both Parties. This Agreement to arbitrate shall be specifically enforceable, and the award of the arbitrators shall be final and binding upon the Parties to the extent provided by the laws of the State of Alaska and of the United States, if applicable. Any award or decision will be specifically enforceable and may form the basis of a declaratory judgment or other similar relief in any court having jurisdiction.

The fees and expenses of the arbitrators will be shared equally by the Parties, unless the decision of the arbitrators specifies some other apportionment of fees and expenses. All other expenses and costs of arbitration will be borne by the Party which incurred them.

## 20. Miscellaneous Provisions.

A. Both Parties agree, upon request of the other Party, to make, execute, and deliver any and all documents reasonably required to implement this Agreement.

B. Captions and headings appearing in this Agreement are included to facilitate reference to the Agreement, and they are not to be read as a part of this Agreement, nor shall they have bearing on its interpretation.

C. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

21. Acceptance. IN WITNESS WHEREOF, the Parties have executed this Agreement on this 17<sup>th</sup> day of September, 1984.

MUNICIPALITY OF ANCHORAGE

UNITED STATES DEPARTMENT OF ENERGY  
ALASKA POWER ADMINISTRATION

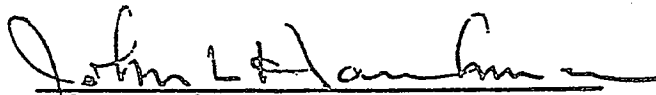
  
\_\_\_\_\_  
Tony Knowles  
Mayor

  
\_\_\_\_\_  
Robert J. Cross  
Administrator

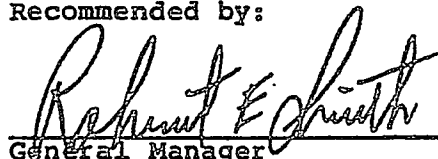
Attest:

  
\_\_\_\_\_  
Ruby E. Smith  
Municipal Clerk

Recommended by:

  
\_\_\_\_\_  
John Harshman  
Executive Manager  
Public Utilities

Recommended by:

  
\_\_\_\_\_  
Robert E. Smith  
General Manager  
Anchorage Water and  
Wastewater Utility

Approved as to form:

  
\_\_\_\_\_  
Assistant Municipal Attorney



STATE OF ALASKA }  
THIRD JUDICIAL DISTRICT } ss.

THIS IS TO CERTIFY THAT on this \_\_\_\_\_ day of \_\_\_\_\_, 1984, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared John L. Harshman, who stated that he is the Executive Manager, Public Utilities for the Municipality of Anchorage, a Party named in the foregoing Agreement, and he acknowledged to me that he, in his official capacity as aforesaid, had executed the foregoing Agreement as the free act and deed of the Municipality of Anchorage, for the use and purposes stated therein.

WITNESS my hand and official seal the day and year stated above.

\_\_\_\_\_  
Notary Public in and for  
Alaska  
My Commission Expires:  
\_\_\_\_\_

STATE OF ALASKA }  
THIRD JUDICIAL DISTRICT } ss.

THIS IS TO CERTIFY THAT on this 17<sup>th</sup> day of September, 1984, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Robert J. Cross, who stated that he is the Administrator of the United States Department of Energy, Alaska Power Administration, a Party named in the foregoing Agreement, and he acknowledged to me that he, in his official capacity as aforesaid, had executed the foregoing Agreement as the free act and deed of the Alaska Power Administration, for the use and purposes stated therein.

WITNESS my hand and official seal the day and year stated above.

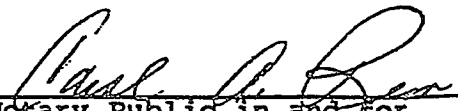
  
\_\_\_\_\_  
Notary Public in and for  
Alaska  
My Commission Expires:  
10-24-87

Exhibit A

To Agreement for Public Water Supply and  
Energy Generation from Eklutna Lake, Alaska

The Act of July 31, 1950, ch. 510, 1, 64 Stat. 382, as amended by the Act of August 31, 1953, ch. 430, 1, 67 Stat. 574 (codified at 48 U.S.C. 312) is amended by the addition of a proviso to the last sentence of Section 312, as follows:

. . . The water of Eklutna Lake and its tributaries which are required for the operation of the Eklutna project are reserved for that purpose(.), Provided, that a portion of the waters so reserved may be diverted from Eklutna Lake for public water supply purposes, if compenstion for reduced electric energy production due to such diversions is made as required by the February, 1984 agreement between the Municipality of Anchorage and the Alaska Power Administration.

Exhibit B

To Agreement for Public Water Supply and  
Energy Generation from Eklutna Lake, Alaska

Explanation of Proposed Amendment to  
48 U.S.C. 312 (Eklutna Power Project, Alaska)

The Eklutna Project Act of July 31, 1950, as amended, provides for construction and operation of the Eklutna Hydroelectric Project and for disposition of the power produced at the project, and reserves the waters of Eklutna Lake and its tributaries for purposes of the project.

After exhaustive studies of its long-term municipal water supply requirements and alternative sources, the Municipality of Anchorage determined that its most desirable and feasible long term water supply source would be Eklutna Lake. The Municipality has developed plans and arranged financing for its Eklutna Water Project which would divert a portion of the Eklutna Lake water supply for municipal purposes.

The Alaska Power Administration, a unit of the Department of Energy, has responsibility for operation, maintenance, and power marketing for the Eklutna Hydroelectric Project, as assigned in Section 302 of the DOE Organization Act. The Alaska Power Administration concurs in the Municipality's plans, subject to (1) Congressional action to permit use of a portion of the Eklutna water supply for municipal purposes, and (2) appropriate compensation for diminished energy production.

The Municipality of Anchorage and the Alaska Power Administration have reached agreement on terms of compensation which are equitable to all concerned, protect fully the purpose of the Project to supply electric energy, and assure that construction and operation of the Water Project will not impact adversely on repayment of the Federal investment in the Eklutna Hydroelectric Project.

The proposed amendment to the Eklutna Project Act of 1950 as amended, would permit diversion of a portion of the Eklutna Lake water supply, subject to the agreed-upon provision for compensation.

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Exhibit C

To Agreement for Public Water Supply and  
Energy Generation from Eklutna Lake, Alaska

Water scheduling and compensation for reduced energy  
production at Eklutna Power Plant.

I.  
Scope

This exhibit provides procedures for:

1. Water scheduling and water allocations to be administered by APA.
2. Determining reduced energy production at the Power Plant attributable to the Water Project, and compensation in the form of energy recovered by the Water Project and replacement energy from other sources provided by MOA.
3. Determining capacity to be provided by MOA associated with the replacement energy.

II.  
Intent

It is intended that the procedures set forth in this Agreement provide:

1. A reasonable basis for water allocation to the Water Project, revisions of the allocations when appropriate, and assurance that water needed by the Water Project will be available in a manner that is fully consistent with APA minimum flow criteria.
2. An outline of responsibilities and methods for assuring that recovered energy and replacement energy adequately and fairly compensate for reduced energy production at the Power Plant.
3. A definition of the capacity which must be acquired or otherwise provided by MOA in order to deliver replacement energy.
4. Sufficient lead time in estimates of water requirements to permit APA to administer the water scheduling and allocations effectively.
5. Sufficient lead time in estimates of replacement energy and capacity to allow MOA to acquire and deliver or otherwise provide for the capacity.

III.  
Method of Compensation

1. Energy recovered by the Eklutna Water Treatment Plant except for such portion as may be consumed at the treatment plant will be treated as if it had been produced by the Power Plant, and will be delivered by MOA to APA without cost to APA.

2. APA will calculate the amount of energy which would have been produced at the Power Plant by the water diverted to the Water Project. To the extent that this value exceeds the recovered energy delivered under (1) above, MOA will compensate with replacement energy acquired from another source and delivered to APA without cost to APA. The amount of compensation will be determined monthly. Such energy will be delivered on demand, after adequate notice, during the following month.

3. MOA will acquire or otherwise provide power capacity to enable MOA to deliver the replacement energy. That capacity will also be the maximum rate of demand for delivery of replacement energy.

4. MOA will provide, install, and calibrate all necessary water and electricity measuring devices without cost to APA, and will provide the opportunity for APA to witness all calibration tests or meter adjustments.

5. MOA will reimburse APA for the actual expenses incurred by APA for administering this Agreement. It is expected this work will involve less than 1/10 man-year per year to cover accounting systems, calculations, and verification of accuracy of measuring devices.

IV.  
Procedures

1. Prior to August 1 of each year, MOA will furnish to APA its estimate of:

(a) Anticipated annual diversions for Eklutna Water Project for the next five water years (October 1 - September 30), and estimated energy recovery, by year, for that same period.

(b) Anticipated monthly diversions and energy recovery for the next water year.

2. Prior to September 1 of each year, APA will furnish to MOA its estimates of:

(a) Annual amounts of replacement energy and peak rate for replacement energy for each of the next five water years, and

(b) Anticipated amounts of replacement energy for each month of the next water year.

(c) Monthly and seasonal water allocations for the next water year.

3. Prior to October 1 of each year, MOA will furnish APA assurances that the required replacement energy will be available in the subsequent water year. Such assurances shall be in the form of written evidence satisfactory to APA that MOA has acquired the capacity and full capability to deliver the necessary replacement energy, and that such capacity will actually be available for dispatch by the dispatch center designated by APA. In the event of a generation system emergency, MOA may suspend the delivery of replacement energy.

4. The capacity to be acquired and the maximum rate of delivery shall be the larger of:

(a) The capacity necessary to deliver the largest estimated monthly amount of replacement energy within a 30-day period with a monthly load factor of 70 percent, or

(b) The capacity necessary to deliver the estimated annual replacement energy with an annual load factor of 55 percent.

5. MOA will furnish APA, on a monthly basis, the actual meter readings showing (a) water used by the Water Project, and (b) recovered energy returned to APA.

6. On the basis of the data furnished in 5 above, APA will compute (a) the amount of energy owed to APA in the preceding month based on the actual average kilowatt-hour per acre-foot (Kwh/AF) recorded at the Power Plant for that month, and (b) the replacement energy obligation incurred during that month.

7. APA, working with its customers, will make diligent efforts to schedule the receipt of replacement energy within the month after the replacement obligation is incurred.

8. Unused portions of MOA water allocations will revert to APA on a quarterly basis, and MOA may at any time release portions of its future allocations to APA. APA will use its best efforts to assure application of any unused allocations and reduced allocations to power production.

9. Reservoir Spillage

(a) In the event of a reservoir spill over Eklutna Lake dam, APA will determine the extent to which unused or released allocations to MOA contributed to the spill, and will calculate the additional energy owed to APA as a result. That

calculation will be based on the estimated amount of unused or released MOA allocation which was spilled, and the actual Kwh/AF recorded at the Power Plant during the spill.

(b). APA will make a case-specific evaluation of each spill to determine its cause. If MOA and APA's power customers each have no current unused water or power allocation, respectively, the spill will represent unuseable water, and no liability for the spill will be incurred by any of them. If an unused allocation exists when the spill began, APA will be entitled to receive compensation from the holder of such allocation. If the total of all unused allocations exceeds the amount of spill, liability to APA will be apportioned among MOA and the power customers in proportion to the unused allocation of each of them.

(c). Water actually diverted by MOA during periods of spillage will not be considered as diminishing power production at the Power Plant. The additional energy owed APA as a result of a spill will be compensated by recovered energy and replacement energy in a manner similar to that outlined in paragraphs 5, 6, and 7 above, except that scheduling the receipt of the replacement energy may extend for a period of up to four months.

10. APA will normally observe a minimum power production of 7 megawatts (MW) (single unit) at the Power Plant for purposes of efficiency. It is not anticipated that MOA diversions will adversely affect this minimum production for many years into the future. However, it is conceivable that unanticipated, large diversions by MOA during periods of low water supply at the Power Plant may require APA to operate below 7 MW. In that event, APA will estimate the actual loss of energy due to lower efficiency, and will add that estimate to other energy owed to it by MOA, on the following basis:

(a) For the period of time that the Power Plant operates below 7 MW, the amount of water used and energy produced will be determined from APA operating records and efficiency tables.

(b) For that same period, the average efficiency, expressed in kwh/AF, will be determined on the basis of 7 MW, single unit operation, based on prevailing reservoir levels and APA efficiency tables.

(c) The average efficiency from paragraph (b) above will be applied to the water actually used, to determine the energy that would have been produced at the 7 MW operating level. Actual energy produced, as calculated in paragraph (a) above, will be subtracted from such calculation to determine the energy loss due to lower efficiency.

END

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