

5 White Fence Farms 17

AGREEMENT BETWEEN ANTELOPE VALLEY-EAST KERN WATER AGENCY
AND WHITE FENCE FARMS.
TO STORE WATER AT THE
WATER SUPPLY STABILIZATION PROJECT NO. 2

THIS Agreement, ("AGREEMENT") made and entered into on this 4TH day of March, 2013, by and between the Antelope Valley-East Kern Water Agency, (hereinafter referred to as "AVEK"), and, White Fence Farms (hereinafter referred to as "DISTRICT,") and together hereinafter referred to as "PARTIES":

WITNESSETH

WHEREAS, the DISTRICT is located entirely within the boundaries of AVEK and purchases imported water from AVEK each year for delivery to its customers; and

WHEREAS, the DISTRICT and AVEK both support the maximum beneficial use of water supplies available within their respective service areas; and

WHEREAS, AVEK owns and operates the Water Supply Stabilization Project No. 2 ("WSSP2"), which is utilized to store imported water within the groundwater basin for subsequent retrieval and use within AVEK's service area; and

WHEREAS, AVEK encourages its customers to purchase imported water from AVEK for use in lieu of native groundwater whenever such imported supplies are available; and

WHEREAS, the PARTIES wish to set up a DISTRICT storage account where imported water provided through the California State Water Project from outside the PARTIES service areas may be banked in the WSSP2 for later withdrawal and beneficial use by the DISTRICT;

NOW, THEREFORE, in consideration of the benefits to be derived by the PARTIES and of the promises herein contained, it is hereby agreed as follows:

(1) AVEK AGREES:

- a) To deliver and recharge up to 220 acre-feet of imported water from the State Water Project to WSSP2, 90% of which will be credited to the DISTRICT's account, between the date of execution of this AGREEMENT and April 1, 2013, as such water, delivery capacity and recharge capability are determined by AVEK to be available for that purpose.

- b) By February 1 of any year in which the DISTRICT has water in its storage account in WSSP2, the DISTRICT may request delivery of all or any portion of the stored water from WSSP2 to the DISTRICT at a rate of up to 6 million gallons per day (MGD) between April 1 and October 1 of the same year, in addition to any other water that AVEK will deliver to the DISTRICT from AVEK's allocation of water from the State Water Project in that year, and upon receipt of request after February 1, AVEK will utilize its best efforts to satisfy the DISTRICT's request by delivering stored water from WSSP2 or an equivalent quantity of other water to the DISTRICT, subject to any capacity or delivery constraints that may affect AVEK's ability to satisfy the requested deliveries of stored water.
- c) All water delivered to the DISTRICT under this AGREEMENT shall satisfy potable drinking water standards then in effect.
- d) The DISTRICT's storage account will be credited by AVEK with having stored 90% of the water delivered to WSSP2 for the DISTRICT's account pursuant to this AGREEMENT.
- e) The water in the DISTRICT's storage account in WSSP2 shall be retained for the sole use and benefit of the DISTRICT and shall not be withdrawn for the benefit of any other person or entity, including AVEK. AVEK further agrees to support the DISTRICT's claim of ownership of such water in the Antelope Valley Groundwater Adjudication, and in any other legal or administrative proceeding, including but not limited to proceedings before a watermaster that may have authority over said banked water. AVEK will not take any action to inhibit or impair the DISTRICT'S claim to sole ownership of the water banked for the account of the DISTRICT pursuant to this AGREEMENT.
- f) AVEK will not commingle the DISTRICT's storage account in WSSP2 with that of any other person or entity without the express written agreement of the DISTRICT.

(2) DISTRICT AGREES:

- a) To pay AVEK per the current Banking rate of \$216.00 per acre-foot for each acre-foot requested to be banked in WSSP2.
- b) To pay AVEK's then current extraction costs (pumping and treatment) at the time AVEK returns water from the DISTRICT'S storage account to the DISTRICT pursuant to the DISTRICT's request.
- c) To utilize the stored water within the DISTRICT's service area, or outside the DISTRICT'S service area but within the AVEK's service area under the following conditions:

- AVEK does not have sufficient supplies to meet the out of DISTRICT service area demand, and
- The DISTRICT's charges to others for delivering the stored water for use outside the DISTRICT's service area do not exceed the charges paid to AVEK under this AGREEMENT and the DISTRICT's own costs incurred in delivering the water for use outside its service area.

(3) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- a) A one-time 10% loss factor shall be applied to the quantity of water delivered to WSSP2 for DISTRICT's account pursuant to this AGREEMENT. Such loss will be calculated at the time the water is transported and arrives to the WSSP2 for storage.
- b) The PARTIES recognize the DISTRICT'S sole ownership of, and right to recover at DISTRICT's sole discretion, the quantity of water credited to DISTRICT's storage account at WSSP2 pursuant to this AGREEMENT
- c) AVEK will retain independent control and sole ownership of AVEK's infrastructure and property utilized to deliver water to or extract water from WSSP2.
- d) This AGREEMENT may be amended or modified only by mutual written consent of both PARTIES.
- e) The obligation to return stored water pursuant to the terms set forth in this AGREEMENT shall continue for a term of ten (10) years after the date of execution, with two (2) five (5) year automatic extensions unless either PARTY provides written notice of non-renewal to the other PARTY at least five (5) years prior to commencement of either extension.
- f) Any water that remains in DISTRICT's storage account upon termination of the AGREEMENT shall remain the property of the DISTRICT notwithstanding termination of the AGREEMENT. This provision shall survive termination of this AGREEMENT.
- g) To the extent that liability is imposed on either party pursuant to the provisions of Government Code § 895.2, each party shall indemnify, defend, protect, hold harmless, and release the other, their elected bodies, officers, agents, and employees, from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any negligent act or omission or willful, misconduct of such indemnifying party. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation

payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts. This provision shall survive termination of this AGREEMENT.

- h) Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following by certified mail:

ANTELOPE VALLEY-EAST KERN WATER AGENCY:

Mr. Dan Flory
General Manager
6500 East Avenue N
Palmdale, CA 93

WHITE FENCE FARMS:

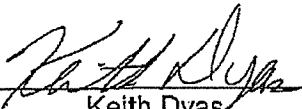
Mr. John Ukkestad
General Manager
41901 North 20th Street W
Palmdale, CA 93551

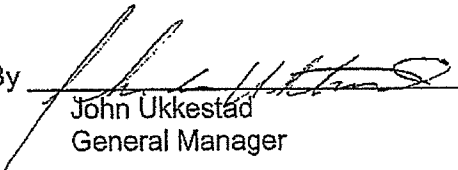
- i) This AGREEMENT constitutes the full and complete understanding of the parties. This AGREEMENT supersedes any prior or contemporaneous agreements between the parties regarding the foregoing matters.
- j) Except as provided herein, this AGREEMENT is intended solely for the benefit of AVEK and the DISTRICT, not any third parties.
- k) Each person signing this AGREEMENT represents to have the necessary power and authority to bind the entity on behalf of which said person is signing and the other party can rely on that representation.
- l) Each PARTY has received independent legal advice from its attorneys with respect to the advisability of executing this AGREEMENT and the meaning of the provisions hereof. This AGREEMENT has been drafted through a joint effort of the PARTIES and their counsel and therefore shall not be construed against either of the Parties in its capacity as draftsman but in accordance with its fair meaning.

IN WITNESS WHEREOF, the PARTIES hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized;

ANTELOPE VALLEY-EAST KERN
WATER AGENCY

WHITE FENCE FARMS

By 
Keith Dyas
President

By  3/6/2013
John Ukkestad
General Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By 
Michael Riddell
AVEKWA Counsel

By _____
White Fence Farms Counsel

WHITE FENCE FARMS MUTUAL WATER CO.
41901 20TH STREET WEST
PALMDALE, CA 93551

WELLS FARGO BANK, N.A.
CALIFORNIA
WELLSFARGO.COM

14681

16-24-1220
03/05/2013

PAY TO THE ORDER OF AVEK

\$**47,520.00

Forty-Seven Thousand Five Hundred Twenty and 00/100***** DOLLARS

AVEK
6500 W. Ave. N
Palmdale, CA 93551

Barbara T. Young
[Signature]

CSMA/RF ID2 Bank Proof
Prevention & ID Retrieval

MEMO Water Banking

WHITE FENCE FARMS MUTUAL WATER CO.

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
03/05/2013	Bill	Water Banking	47,520.00	47,520.00		47,520.00
				Check Amount		47,520.00

03/05/2013

14681

Wells Fargo - #045-55 Water Banking

47,520.00

WHITE FENCE FARMS MUTUAL WATER CO.

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				Check Amount		47,520.00

03/05/2013

14681

Wells Fargo - #045-55 Water Banking

47,520.00

Printed on back
Resistor Features Included

White Fence Farms

From: "John U" <johnnyu40@yahoo.com>
To: "White Fence Farms" <wff@qnet.com>
Sent: Wednesday, March 13, 2013 5:12 PM
Subject: Fw: banking agreements

----- Forwarded Message -----

From: Chad Reed <CReed@qhwd.org>
To: Dwayne Chisam <dchisam@avek.org>
Cc: johnnyu40@yahoo.com
Sent: Wednesday, March 13, 2013 2:01 PM
Subject: Re: banking agreements

Dwayne,
Thank you for dropping them off we will cut the check next Tuesday on our normal check run and they will sign it at our normal BOD meeting Thursday night and I will drop it off next Friday.
Thank you again
Chad

Sent from my iPhone

On Mar 13, 2013, at 11:07 AM, "Dwayne Chisam" <dchisam@avek.org> wrote:

Your banking agreements were signed last night, I will drop by the originals to you Chad for signature, with an invoice. John you can bring by your check at your convenience. Given the anticipated increases in water banking due to energy costs over the next few years you have done your customers a great service.

I look forward to working with you in the future to obtain our mutual goal of an affordable long term reliable water supply for our customers.

Dwayne Chisam P.E.
Assistant General Manager
Antelope Valley East Kern Water Agency
(661) 943-3201,
dchisam@AVEK.org

03/14/2013

INVOICE



**ANTELOPE VALLEY
EAST KERN WATER AGENCY**
6500 WEST AVENUE N
PALMDALE, CA 93551-2855
PH: (661) 943-3201 FAX: (661) 943-3204
Fax: 661 - 943-3204

INVOICE NUMBER: 18988
INVOICE DATE: 3/14/13
PAGE: 1

SOLD TO:

White Fence Farms MWC
41901 N 20th Street West
Palmdale, CA 93551

(661) 943-3316

CUSTOMER ID	CUSTOMER P.O.	PAYMENT TERMS		
WFF 1 & 2		Net 40 Days		
SALES REPT ID	SHIPPING METHOD	SHIP DATE	DUPLICATE	
	US Mail	4/23/13		
QUANTITY	ITEM NUMBER	DESCRIPTION	UNIT PRICE	EXTENSION

220.00	Banking Rate	Water Banking - WSSP-2 Agreement Approved March 12, 2013	216.00	47,520.00
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AVEK Water Agency
Paid
 MAR 14 2013
 Amount \$47,520.00
 CK # 14681

Subtotal	47,520.00
Sales Tax	
Total Invoice Amount	\$47,520.00
Payment Received	0.00
TOTAL DUE	\$47,520.00

cc: White Fence Farms MWC
41901 N 20th Street West
Palmdale, CA 93551