

(September 17, 1982)

AN AGREEMENT AMENDING A JOINT EXERCISE OF POWERS AGREEMENT BETWEEN THE COUNTY OF AMADOR, THE CITY OF AMADOR CITY, THE CITY OF JACKSON, AND THE CITY OF SUTTER CREEK FOR THE PURPOSE OF CREATING AN AGENCY FOR IMPLEMENTING A REGIONAL WASTEWATER DISPOSAL PLAN

THIS AGREEMENT is entered into this 15 day of November, 1982, by and between the County of Amador, and the cities of Amador City, Jackson, and Sutter Creek, on the following terms and conditions.

WHEREAS, on September 19, 1978, a joint exercise of powers agreement between and among the aforementioned entities was entered into in order to implement a regional wastewater development plan, specifically Appendix "L" of the Amador County Wastewater Management Plan, dated November, 1977, approved by the Division of Water Quality of the State Water Resources Control Board, which plan required, inter alia, the development and construction of a regional outfall and appurtenant facilities to extend from a point immediately west of the City of Sutter Creek treatment plant to the California Youth Authority facility near Ione, known as Preston School of Industry (hereinafter referred to as the "1978 Regional Outfall"); and

WHEREAS, the City of Jackson ("Jackson" hereinafter) desires to terminate its participation in said 1978 Regional Outfall and to discharge directly from its treatment plant into Jackson Creek after making extensive improvements to said treatment plant; and

WHEREAS, the remaining members of the joint powers

1 agency created by the 1978 agreement ("ARSA" hereinafter)
2 desire to continue the joint powers agency formed by said
3 1978 agreement, but on an amended basis to allow Jackson to
4 terminate its participation therein on certain terms and
5 conditions;

6 THEREFORE, the board of supervisors of the County
7 ("County" hereinafter) and the city councils of the cities
8 of Amador City and Sutter Creek ("Amador City" and "Sutter
9 Creek" hereinafter) for and in consideration of the mutual
10 promises and agreements herein contained do agree that ARSA
11 shall continue in the form set forth herein, and the city
12 council of Jackson promises and agrees that Jackson shall
13 not be a party to ARSA; provided, however, that the
14 agreement set forth as Attachment I hereto, between ARSA and
15 Jackson, shall be in full force and effect and binding, and
16 all amounts due and owing from Jackson to ARSA set forth
17 therein paid, as conditions precedent to Jackson's
18 withdrawal from ARSA as formed in 1978:

19 ARTICLE I - AUTHORITY

20 Section 1.1 Creation of Authority. Pursuant to
21 Articles I and II (commencing with Section 6500) of Chapter
22 5, Division 7, of Title I of the California Government Code
23 (hereinafter referred to as the "Act"), there is hereby
24 continued in full force and effect a public entity known as
25 the "Amador Regional Sanitation Authority", hereinafter
26 referred to as the "Authority". The Authority is a public
27 entity separate and apart from the members and shall
28 administer this agreement.

ARTICLE II - PURPOSE

Section 2.1 Purpose. The purpose of this agreement shall be to continue the agency established in 1978, allowing the withdrawal of Jackson. After all conditions precedent have occurred after execution hereof, Jackson shall cease immediately to be a member of the Authority. The public entity, the Authority, shall have as a specific purpose the continued maintenance and operation of the 1978 Regional Outfall currently in place, or as set forth herein, or as may be amended by the legislative bodies of all of the members hereto, excluding Jackson, and, in addition, to design, construct, maintain and operate other wastewater facilities which the Authority determines will have regional benefits.

ARTICLE III - GOVERNING BOARD

Section 3.1 Governing Board. The Authority shall be administered by a Governing Board which shall initially consist of five (5) directors. One (1) director shall be appointed by the city council of Amador City, two (2) directors shall be appointed by the city council of Sutter Creek, and two (2) directors shall be appointed by the board of supervisors of Amador County. The Governing Board shall be called the "Governing Board of the Amador Regional Sanitation Authority." All voting power of the Authority shall reside in the Governing Board.

Section 3.2 Directors' Terms. Each director shall serve at the pleasure of the member which appointed him. Vacancies on the Governing Board shall be filled by the

1 respective appointing members.

2 Section 3.3 Compensation. The directors of the
3 Governing Board may receive compensation as may be from time
4 to time established by said Governing Board and also actual
5 expenses for travel as may be authorized from time to time
6 by said Governing Board.

7 Section 3.4 Regular Meetings. The Governing Board
8 shall provide for its regular meetings; provided, however,
9 that at least one regular meeting shall be held each year.
10 The date, hour and place of the holding of regular meetings
11 shall be fixed by resolution of the Governing Board and a
12 copy of such resolution shall be filed with each member
13 thereof.

14 Section 3.5 Ralph M. Brown Act. All meetings of the
15 Governing Board, including without limitation, regular,
16 adjourned regular and special meetings, shall be called
17 noticed, held and conducted in accordance with the
18 provisions of the Ralph M. Brown Act (commencing with
19 Section 54950 of the Government Code.)

20 Section 3.6 Minutes. The Secretary of the Authority
21 shall cause to be kept minutes of the meetings of the
22 Governing Board and shall, as soon as possible after each
23 meeting, cause a copy of the minutes to be forwarded to each
24 director and to each member.

25 Section 3.7 Quorum. A majority of the Governing Board
26 shall constitute a quorum for the transaction of business;
27 provided, however, that the affirmative vote of a majority
28 of all directors shall be necessary for the approval of any

1 action of the Governing Board.

2 Section 3.8 Rules. The Governing Board of the
3 Authority may adopt from time to time such rules and
4 regulations for the conduct of its meetings and affairs as
5 are necessary for the purposes hereof.

6 ARTICLE IV - OFFICERS AND EMPLOYEES

7 Section 4.1 Chairman, Vice-Chairman and Secretary.

8 The Governing Board shall elect a Chairman and Vice-Chairman
9 and shall appoint a Secretary who may, but need not, be a
10 director. The officers shall perform the duties normal to
11 said offices; and

12 (a) the Chairman shall sign all contracts on behalf of
13 the Authority, and perform such other duties as may be
14 imposed by the Governing Board; and

15 (b) the Vice-Chairman shall act, sign contracts and
16 perform all of the Chairman's duties in the absence of the
17 Chairman; and

18 (c) the Secretary shall countersign all contracts on
19 behalf of the Authority, perform such other duties as may be
20 imposed by the Governing Board and cause a copy of this
21 agreement to be filed with the Secretary of State pursuant
22 to the provisions of California Government Code Section
23 6503.5.

24 Section 4.2 Treasurer. The Treasurer-Tax Collector of
25 Amador County is hereby designated as the Treasurer of the
26 Authority, and as the depository to have custody of all of
27 the money of the Authority from whatever source. The
28 Clerk-Auditor of Amador County is hereby designated as the

1 Auditor-Controller of the Authority. The Treasurer and the
2 Auditor-Controller shall have the duties and obligations set
3 forth in Government Code Sections 6505 and 6505.5 and shall
4 assure that there shall be strict accountability of all
5 funds and report of all receipts and disbursements of the
6 Authority. The Board of Supervisors of Amador County shall
7 determine charges to be made against the Authority for the
8 services of the Treasurer-Tax Collector and Clerk-Auditor,
9 such charges not to exceed actual costs to the County for
10 such services.

11 Section 4.3 Bonding Persons Having Access to Property.
12 From time to time, the Governing Board shall designate the
13 public officers or persons, in addition to the Treasurer and
14 Auditor-Controller, having charge of handling or having
15 access to any property of the Authority, and the respective
16 amounts of the official bonds of the Treasurer and
17 Auditor-Controller and such other persons pursuant to
18 Section 6505.1 of the Act.

19 Section 4.4 General Manager. The Governing Board
20 shall have the power to appoint a General Manager of the
21 Authority. The General Manager shall perform such duties as
22 may be imposed on him by the Governing Board and shall
23 report to said Board at such times and concerning such
24 matters as said Board may require.

25 Section 4.5 Legal Advisor. The Governing Board shall
26 have the power to appoint a legal advisor of the Authority,
27 which person shall be any person who is licensed to practice
28 law in the State of California, and who shall perform such

1 duties as may be prescribed by the Governing Board. Said
2 Governing Board may change legal advisors at any time.

3 Section 4.6 Other Employees. The Governing Board
4 shall have the power to appoint and employ such other
5 officers, employees, consultants, advisors and independent
6 contractors as may be necessary for the purposes hereof,
7 including a chief engineer who shall be any person who is a
8 registered engineer in the State of California, and who
9 shall perform such duties as may be prescribed by the
10 Governing Board.

11 ARTICLE V - POWERS

12 Section 5.1 General Powers. The Authority created by
13 this agreement shall exercise in the manner hereafter
14 provided the powers, and only the powers, common to each of
15 the entities and necessary to the accomplishment of the
16 purposes of this agreement. The Authority shall be a public
17 entity separate from the members hereof. The Authority
18 shall have the power to design, construct, and operate the
19 Regional Outfall, which may be amended, and shall have the
20 power to finance, acquire, construct, manage, operate and
21 maintain the facilities related thereto and other wastewater
22 collection, treatment, and transportation facilities,
23 subject to the provisions of this agreement.

24 Section 5.2 Specific Powers. The Authority is hereby
25 authorized, in its own name, to do all acts necessary for
26 the exercise of the foregoing general powers for the
27 purposes of this agreement, including, but not limited to,
28 any or all of the following:

- 1 (a) to make and enter into contracts;
- 2 (b) to employ agents or employees;
- 3 (c) to acquire, construct, manage, maintain or operate
- 4 any buildings, work, or improvements;
- 5 (d) to acquire, hold or dispose of property;
- 6 (e) to sue and be sued in its own name;
- 7 (f) to incur debts, liabilities or obligations;
- 8 (g) to apply for, accept, receive and disburse grants,
- 9 loans and other aids from any agency of the United States of
- 10 America or of the State of California;
- 11 (h) to invest any money in the treasury pursuant to
- 12 Government Code Section 6505.5 that is not required for the
- 13 immediate necessities of the Authority, as the Authority
- 14 determines is advisable, in the same manner and upon the
- 15 same conditions as local agencies, pursuant to Section 53601
- 16 of the Government Code; and
- 17 (i) to carry out and enforce all of the provisions of
- 18 this agreement.

19 ARTICLE VI - METHOD OF PROCEDURE AND DUTIES OF AUTHORITY

20 Section 6.1 Assumption of Responsibilities. Upon

21 completion of the initial organization of the Governing

22 Board, as amended, the Authority shall assume responsibility

23 for maintaining and operating the Regional Outfall; the

24 implementing and administering of the Regional Outfall and

25 constructing, operating, and maintaining it and other

26 facilities required therefor in accordance with law and the

27 terms and conditions of all relevant grants, agreements, and

28 contracts.

ARTICLE VII - COSTS

1
2 Section 7.1 Annual Budget. The Governing Board shall
3 adopt a budget for administrative expenses, capital reserve
4 expenses, and operation and maintenance expenses, annually
5 prior to July 1 of each year.

6 Section 7.2 Records of Accounts. The Authority shall
7 cause to be kept accurate and correct books of account,
8 showing in detail the costs of administration, maintaining
9 capital reserves, operation and maintenance, and all
10 financial transactions of the Authority. Said books of
11 account shall be open to inspection at all times by any
12 representative of any of the members hereof, or by any
13 accountant or other person authorized by any party hereto to
14 inspect said books of account. The Auditor-Controller
15 shall, in accordance with Section 6505 of the Act, cause the
16 books of account and other financial records of the
17 Authority to be audited annually by an independent certified
18 public accountant.

19 Section 7.3 Allocation of Expenses; Generally. After
20 adoption of the annual budget and prior to July 1 of each
21 year, the Authority shall furnish to each of the members
22 hereof, an estimate of the total annual administrative
23 expenses, or other expenses, and of the proportion thereof
24 allocated to each of the members hereof for the ensuing
25 fiscal year.

26 Section 7.4 Payment of Costs. Each of the members
27 hereof and Jackson agree to pay the Authority its allocated
28 share of the total estimated annual expenses of the

1 Authority in four (4) equal installments payable on or
2 before the last day of September, December, March and June
3 of each fiscal year. The Authority shall submit to each of
4 the members hereof a final detailed statement of the final
5 expenses for the fiscal year allocated in the same manner as
6 estimated expenses were allocated within three (3) months
7 after the close of each fiscal year, whereupon final
8 adjustments of the debits and credits shall be made by the
9 Authority. If the amount of any allocated share of any
10 estimated item of expense due from any member was less than
11 the final allocation of such item to such member, such
12 member shall forthwith pay the difference to the Authority.
13 If the amount of any allocated share of any estimated item
14 of expense due from any member was in excess of the final
15 allocation of such item to such member, the Authority shall
16 credit such excess to the appropriate account of such
17 member.

18 Section 7.5 Members' Contributions Prior to Operation
19 of Outfall. Until the Outfall is operating so that the
20 contributions of the members are determined by the
21 provisions of subsection 7.6, each member shall contribute
22 expenses in accordance to the ratio of its population to the
23 whole of the population of all the members together;
24 provided, however, that Amador County's population for the
25 purposes of this agreement shall be limited to the
26 population of the Martell County Service Area. The
27 population of the respective members for the purpose of this
28 subsection is County, 9%; Sutter Creek, 84%; and Amador

1 City, 7%.

2 Section 7.6 Formula for Allocating Expenses.

3 Commencing with the fiscal year which begins after the City
4 of Sutter Creek commences treatment of wastewater from
5 Martell, each member shall contribute expenses in accordance
6 with the ratio of that member's quantity of wastewater
7 disposed of through the Outfall to the total quantity of
8 wastewater disposed of through the Outfall, adjusted at the
9 beginning of each fiscal year; provided, however, that the
10 Governing Board may make adjustments in said ratio to
11 accommodate differences in the physical or chemical
12 qualities of wastewater emanating from the respective
13 members hereof, to the extent said differences make disposal
14 of said wastewater more difficult or costly.

15 Section 7.7 Initial Payment. Upon organization, the
16 Governing Board shall determine the initial sum required to
17 fund the operations of the Authority. Within thirty (30)
18 days from the date the Governing Board so requires, the
19 members hereof shall pay to the Authority an amount
20 determined in accordance with the provisions of subsection
21 7.5, said amount being the estimated initial expense of the
22 Authority for fiscal year 1982-83.

23 Section 7.8 Sources of Funds. Each party hereto shall
24 provide the funds required to be paid by it to the Authority
25 under this agreement from any source of funds legally
26 available to such party for such purposes, subject to the
27 limitations of law.

1 Section 7.9 Pumping Costs, The costs of pumping
2 primary treated wastewater from Amador City to the Sutter
3 Creek treatment plant or untreated wastewater from the
4 Martell County Service Area to the Sutter Creek treatment
5 plant shall not be shared by the respective members but
6 shall be borne according to the contracts by and between
7 Sutter Creek and Amador City, and by and between the County
8 and Sutter Creek.

9 ARTICLE VIII - OPERATIONAL PROVISIONS

10 Section 8.1 Boundary Modification. Modification of
11 the boundaries of any member which may cause an increase in
12 the member's flow of wastewater into the Outfall shall
13 require the approval of the Governing Board, which approval
14 shall not be withheld unless the boundary modification may
15 reduce the ability of the Authority to dispose of all
16 wastewater created in the jurisdictions of all the members.

17 Section 8.2 Flow Metering. The Authority shall
18 install and maintain in good working order (or require said
19 installing and maintaining) meters to measure the flow of
20 wastewater originating from each member and flowing to or
21 into the Regional Outfall, and to report said flows to the
22 members hereof in the form, manner and at the times
23 prescribed by the Governing Board.

24 Section 8.3 Flow and Strength Limitation. The
25 Authority shall have the power to prohibit the discharge to
26 the Outfall of any substance in a concentration which may
27 damage the Regional Outfall or cause quality of Regional
28 Outfall wastewater to be lower than that acceptable for its

1 intended use as irrigation or industrial water, and the
2 Authority may establish by resolution or ordinance standards
3 for treatment of wastewater as necessary to safeguard the
4 wastewater disposal and/or treatment processes or facilities
5 of the Authority.

6 Section 8.4 Grant Conditions. Each of the members
7 hereof agrees that the Authority shall be empowered, in any
8 case in which the Authority is a party to a grant contract
9 with the state or the United States of America, to impose to
10 the extent permitted by law on each of the members hereof
11 the duty of compliance with any conditions in such grant
12 contract and each member agrees to comply with such
13 conditions by enactment of appropriate ordinances,
14 regulations or otherwise. Each of the members hereof
15 specifically agrees to pay promptly their shares of the
16 initial capital cost of the project.

17 Section 8.5 Enforcement by Authority. The Authority
18 is hereby authorized to take any or all legal or equitable
19 actions including, but not limited to, specific performance
20 necessary or permitted by law to enforce this agreement.

21 ARTICLE IX - TERMINATION

22 Section 9.1 Term. (a) This amended agreement shall
23 be dated the date of execution of this agreement by the last
24 of the members hereof that executes this amended agreement
25 and shall be effective on said date and shall continue until
26 terminated by agreement of a majority of the members hereof;
27 provided, however, that the term of this agreement shall be
28 a minimum of thirty (30) years from said date of execution.

1 (b) The members of the Governing Board hereof may
2 decide to form immediately upon creation and organization of
3 the Authority a special district encompassing no less than
4 the same area included in the Authority through its members.
5 Any such district shall have the legal power and authority
6 to succeed to all of the rights, duties, and powers of the
7 Authority as established herein. Upon creation and
8 organization of said district, the Governing Board of the
9 Authority may then transfer and assign all of the rights,
10 duties, and powers of the Authority to said district and
11 said district shall thereupon operate, maintain, and pay for
12 the Regional Outfall as a successor in interest to the
13 Authority. Upon said formation and organization of said
14 district, and said district's accepting said assignment and
15 transfer of the Authority's rights, duties, and powers, the
16 Authority may terminate as set forth in subparagraph (a)
17 hereof; provided, however, that such termination may occur
18 earlier than thirty (30) years from the creation of the
19 Authority as set forth in subparagraph (a) hereof.

20 Section 9.2 Disposition of Assets. On the termination
21 of this agreement, unless the Authority is superseded by a
22 special district as set forth in subparagraph 9.1(b) hereof,
23 all surplus money of the Authority shall be returned to the
24 respective members hereof in the same proportions that the
25 total of all amounts paid by each member hereof pursuant to
26 this agreement bears to the total of such amounts paid by
27 all the parties hereto, excluding Jackson. On the
28 termination of this agreement, all property of the

1 Authority, both real and personal, shall be divided among
2 the members hereof in such manner as shall be agreed upon by
3 the members hereof and, until such division is agreed upon,
4 shall be held in trust by Amador County for all the members
5 hereof.

6 ARTICLE X - MISCELLANEOUS PROVISIONS

7 Section 10.1 Notices. Notices hereunder shall be
8 deemed sufficient if delivered to:

9 City of Amador City
10 Amador City Council
Amador City, CA 95601

11 City of Sutter Creek
12 Sutter Creek City Council
Post Office Box 366
13 Sutter Creek, CA 95685

14 County of Amador
15 Board of Supervisors
108 Court Street
Jackson, CA 95642

16 City of Jackson
17 Jackson City Council
33 Broadway
18 Jackson, CA 95642

19 Section 10.2 Headings. The section headings in this
20 agreement are for convenience only and are not to be
21 construed as modifying or governing the language in the
22 section referred to.

23 Section 10.3 Law Governing. This agreement is made in
24 the State of California under the Constitution and laws of
25 such State and is to be so construed.

26 Section 10.4 Amendments. This agreement may be
27 amended at any time, or from time to time, except as limited
28 by applicable regulations or laws of any jurisdiction having

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authority, which amendments shall be by supplemental agreement executed by the members hereof, as required in order to carry out any of the provisions of this agreement, or for any other purpose in pursuance of the purposes of this agreement.

Section 10.5 Partial Invalidity. If any one or more of the terms, provisions, sections, promises, covenants or conditions of this agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever, by a court of competent jurisdiction, each and all of the remaining terms, provisions, sections, promises, covenants and conditions of the agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 10.6 Successors. This agreement shall be binding upon and shall inure to the benefit of the successors of the members, but may not be assigned without consent of the Governing Board.


IN WITNESS WHEREOF, the members hereof have caused this agreement to be executed and attested by their proper officers thereunto duly authorized and their official seals to be hereto affixed, on the day and year set opposite the name of each of the members.

George Maloney
CITY OF SUTTER CREEK

[Signature] *[Signature]* ATTEST
CITY OF AMADOR CITY *Harold H. Brown*
city Clerk

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CITY OF JACKSON


COUNTY OF AMADOR