

AGREEMENT TO REGULATE USE OF HENDERSON/PRESTON WASTEWATER
DISPOSAL SYSTEM

This agreement is made this _____ day of _____, 2007, by and between the California Department of Corrections and Rehabilitation, a California State Agency ("CDCR"), the City of Ione, a municipality formed pursuant to the laws of the State of California ("Ione"), and the Amador Regional Sanitation Authority, a joint powers agency formed pursuant to the laws of the State of California ("ARSA") (collectively, CDCR, Ione, and ARSA, shall be referred to as the "Parties"). The Parties hereby agree as follows:

WHEREAS, as settlement of past litigation, Ione and ARSA entered into an agreement and grant of easement entitled "Preston Farmlands Wastewater Disposal Contract and Grant of Easement" dated July 30, 1990 ("1990 Settlement Agreement"); and,

WHEREAS, the 1990 Settlement Agreement has been amended or assigned by the parties to the 1990 Settlement Agreement; and,

WHEREAS, this agreement will reallocate and govern the wastewater disposal rights and obligations among the Parties, but will not alter the 1990 Settlement Agreement, any and all amendments thereto, and any agreements implementing the 1990 Settlement Agreement, as those agreements govern the relationship and obligations between Ione or ARSA and any developer of the Preston Farmlands, as referred to in the agreements and amendments, and their successors and assigns and except as those agreements govern the relationship and obligations between Ione or ARSA and the present and future owners, operators, and lessees of the Castle Oaks Golf Course and their successors and assigns; and,

WHEREAS, pursuant to the 1990 Settlement Agreement, as amended, Ione was required to pay ARSA an annual payment (currently \$20,000.00), which payment Ione in turn imposed on Castle Oaks Golf Course. The Parties intend to eliminate such fee for Ione and for Castle Oaks Golf Course by not including it herein as part of this agreement; and,

WHEREAS, this agreement does not extend to, or otherwise affect, Portlock International, Ltd.'s obligation to pay for operation of the Ione Tertiary Plant, which obligation ends December 31, 2013 and is governed by other agreements; and,

WHEREAS, CDCR owns a series of pipelines and reservoirs, including Henderson Reservoir, Preston Forebay and Preston Reservoir, each of which is interconnected so as to allow the transport of water and or wastewater from a point of diversion along Sutter Creek to the Preston Reservoir, in Ione, California ("Henderson/Preston System") (described in Exhibit 1); and,

WHEREAS, CDCR and ARSA have in place a lease agreement whereby ARSA has the right to use the Henderson/Preston System, subject to the terms and conditions contained therein, which lease expires in July 2008 ("ARSA/CDCR Lease"); currently ARSA uses the Henderson/Preston System to transport ARSA's secondary-treated wastewater to Preston Reservoir and then to Ione for treatment, disposal and use; and,

WHEREAS, ARSA and CDCR intend to execute a new lease or extend the existing ARSA/CDCR lease governing the use of the Henderson/Preston System. The new or extended lease will be for thirty (30) years. With regard to the lower system (as hereinafter described), the lease will contain a five (5) year cancellation clause that can be invoked by either party, subject to ARSA's continuing obligations to supply secondary treated wastewater to the CDCR's Preston Youth Correctional Facility and to maintain CDCR's water right from Sutter Creek, which obligations shall remain in effect unaffected by any such cancellation as will their rights to usage to the extent necessary to carry out those obligations; and,

WHEREAS, this agreement will govern the relationship and respective rights between the Parties with regard to the Henderson/Preston System; and,

WHEREAS, the upper Henderson/Preston System as referred to in this agreement includes the parts of the Henderson/Preston System from the outfall of the Sutter Creek Treatment Plant to Preston Youth Correctional Facility, including all pipelines, rights of way, reservoirs, water rights, etc; and,

WHEREAS, the lower Henderson/Preston System as referred to in this agreement includes the components of the Henderson/Preston System from below Preston Forebay to the outfall of the pipeline where it enters Castle Oaks property, including Preston Reservoir; and,

WHEREAS, ARSA will continue to deliver effluent to the Ione tertiary plant subject to the five-year termination clause provided herein in sections 8a and 8b; and,

WHEREAS, CDCR operates Mule Creek State Prison ("MCSP") and the Preston Youth Correctional Facility, both located within Ione City limits, and which two facilities along with the California Department of Forestry utilize the wastewater treatment plant at MCSP for their wastewater disposal; and,

WHEREAS, Ione operates two wastewater treatment plants, a portion of one treatment plant is located within the boundaries of Ione providing secondary level treatment of wastewater, and the other located in Amador County providing tertiary treatment of wastewater; and,

WHEREAS, each of the Parties' wastewater disposal systems are interrelated and interconnected; and,

WHEREAS, all of the Parties wish to work together to achieve a solution that addresses their respective wastewater needs; and,

WHEREAS, a water balance study was conducted by Lee and Ro, Inc. and completed on April 11, 2007 to determine the amount, if any, of surplus disposal capacity that currently exists in the Henderson/Preston System; and

WHEREAS, the water balance study resulted in an estimated surplus capacity that is allocated pursuant to this agreement.

IT IS AGREED by and among the parties hereto as follows:

1. Pursuant to the water balance and on the effective date of this agreement, the surplus capacity described above is allocated and each party's total allowable discharge to Preston Reservoir is as follows:

	Total Allowable Discharge to Henderson/Preston System
ARSA	650 acre-feet (af)
CDCR	350 af (counted against ARSA's 650 af disposal amount)
Ione	150 af (this amount is essentially a negative capacity amount to the extent that it relieves Ione of the obligation to take this amount from the other Parties)

2. Ione shall be obligated annually to accept from ARSA/CDCR a combined total of 650 af of secondarily treated wastewater for disposal. The method and location of disposal shall be the concern and obligation of Ione.

3. CDCR may dispose of up to 350 af (increased from its current allowance of 130 af) of treated wastewater into Preston Reservoir annually. CDCR's 350 af allowance shall be counted against ARSA's 650 af disposal right.

4. The effluent discharged to Preston Reservoir must be in compliance with the Waste Discharge Requirements established by the Regional Water Quality Control Board for the discharging party, and shall not contain constituents that cause the Ione tertiary plant to violate its Waste Discharge Requirements. Each party agrees to share all non-privileged wastewater effluent quality data with the other parties including monthly, quarterly, and annual reports submitted to the Central Valley Regional Water Quality Control Board. This information shall be furnished in a timely fashion to permit the City of Ione tertiary plant staff to evaluate potential impacts to operation of the plant. If requested, data shall be transmitted by facsimile or email. Such requests shall include all public information and shall not be limited to monitoring data that the party is required to provide pursuant to its Waste Discharge Requirements.

5. Unless otherwise agreed upon by the parties, discharges from Preston Reservoir to Ione, on a monthly basis, shall be as follows:

- a. October 1 through March 31st: discharges shall be limited to 10 af per month;
- b. April 1 through September 31st: discharges shall be limited to 95 af per month; and

- c. The above limitations may be waived by agreement of the parties in the event of an emergency and where necessary for the prevention of environmental damage or civil liabilities attendant to wastewater violations, and in such event and prior to any deviation from these limits the parties agree to meet and confer and attempt to reach mutual agreement regarding the exceedance amounts necessary to accomplish the prevention or mitigation of the emergency.

6. Subject to five-year termination clauses in sections 8a and 8b, in any year, ARSA and CDCR will continue to provide effluent from Preston Reservoir to the Ione tertiary plant for use on the Castle Oaks Golf Course, if such effluent is available. As provided for in the 1990 Agreement, as amended, Castle Oaks Golf Course will continue to utilize wastewater treated at the Ione tertiary plant prior to using water from any other source until December 31, 2013.

7. From the effective date of this agreement, ARSA agrees to eliminate all flows to Ione's secondary treatment ponds within four years. ARSA holds existing deeded disposal rights, transmittal rights, and rights of way and easements, to dispose of 1300 acre feet of treated effluent on the former Noble Ranch (County Assessor parcel numbers: 011330001501; 011330002501; and 011330003501) comprising approximately 850 acres of arable ranch land. A golf course resort has been entitled to be constructed on the property to be known as "Gold Rush Golf, LLC." A mitigated negative declaration for this project, including effluent disposal options, was adopted February 18, 2003, under City of Sutter Creek Resolution Number 02-03-27. Portions of the project have been constructed (e.g. conduit construction under the Highway 49 Bypass) and the remainder will be completed prior to the four-year deadline described in this section. The completion of the effluent disposal options are independent of the construction of the golf course resort project.

8. This agreement will be in effect for thirty (30) years from the time of its enactment, subject to the following:

- a. With regard to the lower Henderson/Preston System, ARSA agrees to eliminate all flows to the lower Henderson/Preston System within five years of receiving a written request to this effect from Ione, CDCR, or MCSP. Such written notice may only be given after Ione and CDCR have resolved how to provide adequate reclaimed water for both Castle Oaks Golf Course and Preston Youth Correctional Facility. Such resolution may include completing any necessary environmental review pursuant to CEQA for the new source of water; a contract between the new provider of water, MCSP, Ione, the golf course operator; and any necessary permits of modifications to existing permits pursuant to the Porter-Cologne Water Quality Control Act (Cal. Water Code, §§ 13000 et. seq.).
- b. ARSA shall have a right to cancel all discharges to the lower Henderson/Preston System five (5) years after it gives written notice to Ione and CDCR of its intent. ARSA agrees to work with the Parties to

attempt to coincide its withdrawal with the other parties' ability to find an alternate water source.

9. Beginning January 1, 2015, each party whose wastewater is being treated at the Ione Tertiary Plant agrees to pay a proportionate share of the tertiary plant operation and maintenance costs based on the amount of flows the party contributes to the tertiary plant. If any of the parties has withdrawn flows prior to 2014, that party will have no such operation and maintenance obligation. Each party's "proportionate share" will be defined by the JPA proposed herein, if it is formed. If the JPA is not formed, "proportionate share" will be defined by joint agreement of the Parties. To the extent that additional treatment, beyond what the discharging party is required to perform, is necessary to allow recycled water use of water treated at the Ione Tertiary Plant, that party will not be required to pay for such additional treatment, unless required under this agreement. Where the tertiary treated water from the Ione Tertiary Plant is sold to a recycled water user, the revenue generated from the sale will be distributed to the Parties in proportion to the amount of water the each party contributed to the tertiary plant.

10. MCSP shall endeavor to reduce its wastewater disposal into Preston Reservoir as soon as possible by implementing projects, which may include some or all of the following:

- a. Installing flushometers on toilets located in cells at MCSP; and
- b. Installing shower timers, as able, at MCSP.

In addition, CDCR shall conduct a preliminary feasibility study to determine the cost and feasibility for CDCR to increase the Preston Reservoir Dam height by sixteen (16) inches, increasing the capacity of the reservoir thereby.

11. To implement the provisions of this agreement, the Parties may prepare implementation memoranda, as opposed to amendments to this agreement, unless all Parties agree an amendment is necessary. Such implementation agreements may be executed by authorized representatives of the Parties.

12. The Parties to this agreement agree to explore and work towards creating a Joint Powers Authority to develop a sub-regional wastewater master plan for the Ione Valley. This plan may involve the following elements:

- a. Developing a permanent source of reclaimed water for the Castle Oaks Golf Course, Preston Youth Correctional Facility and other potential reclaimed water users within the Ione area.
- b. Developing a master plan and joint projects to improve the treatment and disposal capabilities of the MCSP and Ione wastewater facilities.
- c. ARSA's participation in the JPA will end when ARSA's discharges to the lower Henderson/Preston System end pursuant to sections 8a and 8b of this agreement.

13. Each of the Parties shall work to obtain all necessary permits, approvals, and authorizations to carry out this agreement in compliance with all pertinent Federal, State, and local laws and regulations.

14. In the event of a breach or default of this agreement, the aggrieved party will give written notice to the other parties within ten (10) days. After receiving such written notice, the Parties will meet and confer in an attempt to bring the violating party into compliance with this agreement. If, after meeting and conferring, the Parties fail to agree upon a plan to bring the violating party into compliance, the Parties may pursue mediation or other means agreed upon by the parties, including other remedies available by law.

15. Such non-performance provisions shall not apply if the nature of the breach or default is the result of a force majeure occurrence or is otherwise of a nature such that it cannot be fully cured within thirty (30) days, the party in default shall have such additional time as is reasonably necessary to cure the default so long as the party in default is proceeding diligently to complete the necessary cure after service of written notice by a non-defaulting party.

16. Each party retains any and all remedies it may have at law or in equity against each and every party hereto for breach of any duty established by this agreement.

17. Invalidation of any of the provisions contained in this agreement, or of the application thereof to any party by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other party and said agreement shall remain in full force and effect except for the invalidated provision.

18. This agreement may be amended only by written instrument signed by all the parties.

19. Any notice to any party shall be in writing and by fax or email and given by delivering the notice to such party in person or by sending the notice by registered or certified mail, return receipt requested with postage prepaid, to the party's mailing address. The respective mailing addresses of the parties are:

City:	City Manager City of Ione Post Office Box 398 Ione, CA 95640
ARSA:	Rob Duke General Manager 18 Main Street Sutter Creek, CA 95685

CDCR: Warden
Mule Creek State Prison
4001 Highway 104
Ione, CA 95640

Either party may change its mailing address at any time by giving written notice of such change to the other parties in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices shall be deemed given, received, made or communicated on the delivery date or attempted delivery date shown on the return receipt.

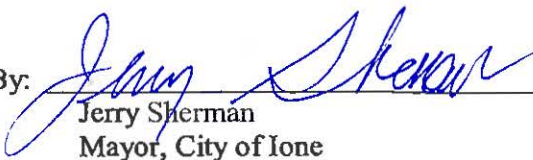
20. Nothing contained in this agreement shall act as a prohibition on the formation of additional contracts and agreements by and between the Parties to further implement the intentions of the Parties.

21. Failure of a party to insist upon the strict performance of any of the provisions of this agreement by any other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by the other party in the future. No waiver by a party of an act constituting breach or default shall be effective or binding upon such party unless the waiver is made in writing by such party, and no such waiver shall be implied from any omission by a party to take any action with respect to such breach or default under any provision of this agreement.

22. This agreement may be signed in counterparts, and shall have the same force and effect as if all signatures existed on the same document.

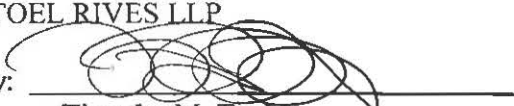
CITY OF IONE

Dated: 9-20-07

By: 
Jerry Sherman
Mayor, City of Ione

Approved as to form:

Dated: 9-26-07

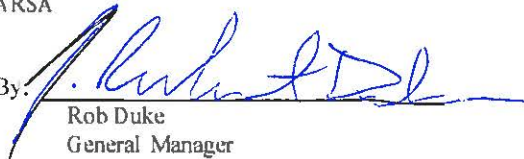
STOEL RIVES LLP
By: 
Timothy M. Taylor
Attorneys for the City of Ione

ARSA

Dated:

9-18-07

By:


Rob Duke
General Manager

Approved as to form:

Dated:

9/24/07

By:

MCDONOUGH HOLLAND & ALLEN

Harriet Steiner
Attorneys for ARSA

Dated:

CDCR

By:

Deborah Hysen
Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, OFFICE OF LEGAL
AFFAIRS

Dated:

By:

Chris Swanberg
Senior Staff Counsel
Attorneys for CDCR

ARSA

Dated: _____

By: _____
Rob Duke
General Manager

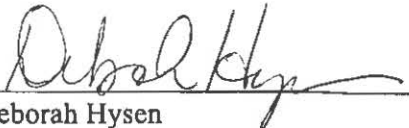
Approved as to form:

MCDONOUGH HOLLAND & ALLEN

Dated: _____

By: _____
Harriet Steiner
Attorneys for ARSA

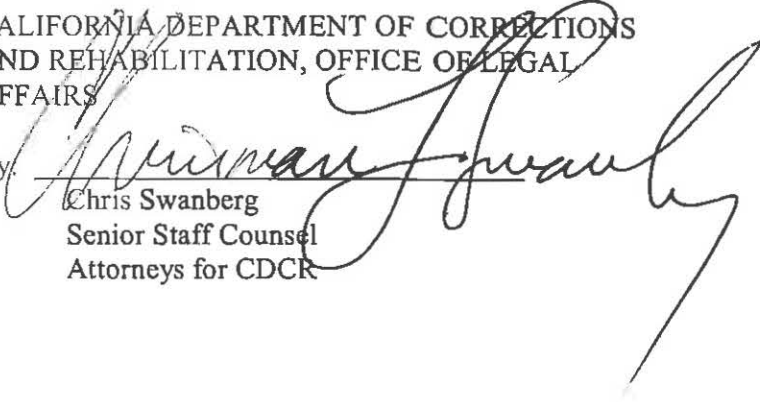
Dated: _____

CDCR
By: 
Deborah Hysen
Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, OFFICE OF LEGAL
AFFAIRS

Dated: _____

By: 
Chris Swanberg
Senior Staff Counsel
Attorneys for CDCR