

77-264

OPERATING AGREEMENT NO. 1

AGREEMENT BETWEEN
BIG BEAR AREA REGIONAL WASTEWATER AGENCY,
BIG BEAR LAKE SANITATION DISTRICT,
BIG BEAR CITY COMMUNITY SERVICES DISTRICT
AND COUNTY OF SAN BERNARDINO
ON BEHALF OF IMPROVEMENT ZONE "B" OF
SAN BERNARDINO COUNTY SERVICE AREA 53 REGARDING
CAPACITY IN AND OPERATION AND MAINTENANCE OF
REGIONAL SEWERAGE SYSTEM FOR THE BIG BEAR VALLEY AREA

THIS AGREEMENT is entered into as of this 3rd day of May, 1977, by and between the Big Bear Area Regional Wastewater Agency (hereinafter referred to as "BBARWA"), the Big Bear Lake Sanitation District (hereinafter referred to as "BBLSD"), the Big Bear City Community Services District (hereinafter referred to as "BBCCSD"), and the County of San Bernardino (hereinafter referred to as "County") on behalf of Improvement Zone "B" of San Bernardino County Service Area 53 (hereinafter referred to as "CSA 53-B").

RECITALS

(1) Status of Parties. BBARWA is a joint exercise of powers agency operating under Chapter 5, Division 7, Title 1 of the Government Code (§6500, et seq.), and was created by agreement dated March 22, 1974, between the other parties to this Agreement. BBLSD is a county sanitation district organized and existing under Chapter 3, Part 3, Division 5

of the Health & Safety Code (§4700, et seq.). County is a county of the State of California. BBCCSD is a community services district organized and existing under Division 3, Title 6 of the Government Code (§61000, et seq.).

(2) BBARWA's Purpose. BBARWA was created for the purpose of constructing a regional sewerage system for the Big Bear Valley Area, obtaining state and federal grants for such construction, financing the local portion of the cost of such construction and operating such regional sewerage system ("Regional System").

(3) Collecting Agencies. BBLSD and BBCCSD each operate and maintain sewage collection systems, interceptor sewers and sewage treatment and disposal facilities for the collection, transmission, treatment and disposal of sewage and wastewater from within their service areas. County will construct and operate a sewage collection system on behalf of CSA 53-B. It is anticipated that construction of this sewage collection system will be completed in late 1978, and that it will commence operation in 1979.

(4) Bond Authorization. At a special election held on March 2, 1976, the voters in Big Bear Valley authorized BBARWA to issue and sell \$3 million of revenue bonds to pay the local portion of the cost of the Regional System, i.e., the acquisition, construction, improving and financing of an enterprise, to wit, a revenue producing improvement, building,

system, plant, works, facilities and undertaking used for and useful for the collection, treatment, and disposal of sewage and wastewater.

(5) Grants. BBARWA has received Step 2 grants from the State Water Resources Control Board (hereinafter referred to as "the State Board") and the U.S. Environmental Protection Agency (hereinafter referred to as "the EPA") in the combined total amount of \$552,300 to design the Regional System. It is anticipated that the plans and specifications for the Regional System will be completed and submitted to the State Board and the EPA in April of 1977, that upon approval of such plans and specifications by said agencies, BBARWA will receive Step 3 grants from said agencies in an amount equal to approximately 87-1/2% of the cost of constructing the Regional System, and that construction of the Regional System will commence in July of 1977.

(6) Operation and Maintenance. The Regional System when completed will be operated and maintained by BBARWA and each of the Collecting Agencies will operate and maintain its sewage collection system, which will be connected to the Regional System, and will thus deliver all sewage and wastewater collected thereby to the Regional System for treatment and disposal.

(7) Purpose. For the foregoing reasons, it is necessary that the parties enter into an agreement regarding

the relationships which will exist between BBARWA and the Collecting Agencies when the Regional System is completed and commences operation and matters related thereto.

AGREEMENT

In consideration of the foregoing and the mutual covenants and promises hereinafter contained, the parties agree as follows:

Section 1. DEFINITIONS.

The following words where used in this Agreement shall have the meaning hereafter ascribed to them:

1.01 Regional System. "Regional System" means:

(1) the regional sewage and wastewater treatment plant to be constructed at the site of the existing BBCCSD sewage and wastewater treatment plant, (2) the outfall pipeline from the regional treatment plant to the disposal site in Lucerne Valley, (3) the regional lift station to be located adjacent to the regional treatment plant for delivering effluent from said treatment plant to said outfall pipeline, (4) the hydroelectric generating facilities, if any, located along said outfall pipeline, (5) turn-outs and other facilities, if any, located along said outfall pipeline for delivery of effluent to parties who may contract with BBARWA for such deliveries, (6) the interceptor sewer line from the CSA 53-B sewage collection system to the existing BBCCSD interceptor at Division Drive and Aeroplane Boulevard, and all lift stations located along said interceptor sewer, (7) the

BBCSD interceptor sewer line from Division Drive and Aeroplane Boulevard to the regional treatment plant, which interceptor will be acquired by BBARWA, (8) the interceptor sewer line from the BBLSD sewage collection system to the regional treatment plant, (9) the lift station for delivering sewage and wastewater from the BBLSD sewage collection system to the said interceptor, (10) the disposal facilities, including irrigation facilities, in Lucerne Valley, and (11) the existing BBLSD sewage and wastewater treatment plant.

1.02 Collecting Agency. "Collecting Agency" means BBLSD, BBCSD or County on behalf of CSA 53-B.

1.03 Sewage Collection System. "Sewage Collection System" means the sanitary sewer system of each of the Collecting Agencies including sewer lines and main sewers the purpose of which is to transport sewage and wastewater from house sewers to the Regional System. It is the sewer system which will collect sewage and wastewater from houses and business establishments within the service area of each Collecting Agency and deliver the same to the Regional System. County's sewage collection system is the CSA 53-B sewage collection system.

1.04 Infiltration. "Infiltration" means water entering a sewer system from the ground.

1.05 Inflow. "Inflow" means water discharged into a sewer system and service connections from sources such as,

but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street washwaters, or drainage.

1.06 Infiltration/Inflow. "Infiltration/Inflow" means the total quantity of water entering a sewer system as a result of infiltration and inflow.

1.07 Capital Replacement. "Capital Replacement" means amounts reserved by BBARWA, pursuant to the regulations and guidelines of the State Board and the EPA to fund, inter alia, replacement or preservation of the functional value of capital facilities or the expansion and improvement of treatment works (as defined in the regulations and guidelines of the State Board).

1.08 Service Area. "Service Area" means the area wherein each of the Collecting Agencies provides sewage collection service. County's service area is the area served by the CSA 53-B sewage collection system and areas served directly by and through the North Shore Interceptor.

1.09 Equivalent Dwelling Unit. "Equivalent Dwelling Unit" means a single family dwelling unit (residence) or a business establishment which will not contribute substantially more sewage and wastewater to the Regional System than the average daily quantity contributed by a single family residence and which will not contribute sewage

and wastewater to the Regional System having a pollutant loading greater than that of the sewage and wastewater from a single family residence. For other sewer users such as hotels, motels, apartment buildings, restaurants, laundromats, ski areas, schools and governmental buildings, that have multiple plumbing fixtures or that will contribute substantially more sewage and wastewater to the Regional System than the average daily quantity contributed by a single family residence or that will contribute sewage and wastewater to the Regional System having a pollutant loading greater than that of a single family residence, "Equivalent Dwelling Unit" means a quantity of sewage and wastewater equivalent to the average daily quantity produced by a single family residence and having a pollutant loading equivalent to that of the sewage and wastewater from a single family residence. Thus, depending upon the total average daily quantity or pollutant loading of sewage and wastewater that such a sewer user will contribute to the Regional System, such a sewer user may be assigned more than one Equivalent Dwelling Unit.

1.10 Operating Agreement No. 2. "Operating Agreement No. 2" means the agreement between the parties to this Agreement regarding the sale and transfer of facilities and real property by BBLSD and BBCCSD to BBARWA, the right of BBARWA to purchase surplus real property from BBLSD and BBCCSD, the interim operation of such facilities prior to the commencement of operation of the Regional System, and

capacity and connection rights of BBLSD, BBCCSD and County in and to certain facilities.

1.11 Operation and Maintenance Expense. "Operation and Maintenance Expense" means the amount or amounts included in BBARWA's annual budgets for the operation and routine maintenance of the Regional System and for general administrative expenses.

1.12 Capital Expense. "Capital Expense" means the amounts included in BBARWA's annual budgets for Capital Replacement, for payment of principal and interest on bonds, for payment of annual installments on the purchase price and interest for the facilities and real property purchased by BBARWA from BBLSD and BBCCSD, and for other such capital expenditures.

Section 2. TERM.

2.01 This Agreement shall become effective upon its having been executed on behalf of all the parties hereto, and shall continue in full force and effect until such time as all revenue bonds that may be issued by BBARWA and the interest thereon have been paid in full or for a period of fifty (50) years, whichever shall first occur; provided, however, that this Agreement may be extended by written agreement of the parties.

Section 3. REGIONAL SYSTEM--CONSTRUCTION, OPERATION AND MAINTENANCE.

3.01 Design and Construction. BBARWA shall cause

the Regional System to be designed in conformance with the regulations and requirements of the State Board and the EPA. Upon approval of the plans and specifications for the Regional System by said agencies and the execution of Step 3 grant contracts with said agencies, BBARWA shall advertise for bids for the construction of the Regional System and shall accept the bid of the responsible bidder submitting the lowest regular bid therefor, and shall cause the Regional System to be constructed in a timely and proper manner.

3.02 Issuance of Bonds. BBARWA shall issue and sell a sufficient amount of its revenue bonds to pay the local portion of the cost of the design and construction of the Regional System and such legally permissible associated incidental expenses as the BBARWA Governing Board may in its absolute discretion include in the amount of bonds to be issued. Such bonds shall be issued and sold at such time or times as the BBARWA Governing Board may designate.

3.03 Operation and Maintenance. BBARWA shall operate the Regional System in an efficient and economical manner and shall at all times during the term of this Agreement maintain the Regional System in a state of good repair and in good working condition. BBARWA shall include an amount in its budget for each fiscal year which will be adequate to provide for the necessary maintenance and repair of the Regional System.

3.04 Capacity. At such time as the Regional System commences operation (See Part 3.06), each Collecting Agency shall, subject to the availability of hydraulic and treatment capacity in the Regional System as provided in Part 8.04, be entitled to transport to and discharge into the Regional System all of the sewage and wastewater collected by the Collecting Agency's sewage collection system, and BBARWA shall receive, transport, treat and dispose of all such sewage and wastewater through the Regional System. However, notwithstanding the foregoing, until the "Modifications to the BBCCSD Treatment Plant," as defined in Part 1.09 of Operating Agreement No. 2, are completed and in operation, the right of BBLSD and County to transport and discharge sewage and wastewater collected by their respective sewage collection systems into the Regional System shall be subject to the requirements and limitations of Section 7 of Operating Agreement No. 2.

3.05 Other Treatment Works. Upon the commencement of the operation of the Regional System, BBLSD and BBCCSD shall discontinue the operation of their existing sewage and wastewater treatment plants, and thereafter, during the remainder of the term of this Agreement, none of the Collecting Agencies shall construct, install, acquire or operate any plant, enterprise, works or facilities, of any nature whatsoever, for the treatment and disposal of any sewage or wastewater from any area whether within or without its service

area, without the consent of BBARWA; nor shall any of the Collecting Agencies contract with any agency other than BBARWA for such treatment and disposal. During the term of this Agreement all sewage and wastewater collected by the sewage collection system of each of the Collecting Agencies shall be transported and delivered to the Regional System for treatment and disposal therein.

3.06 Commencement of Operation. The Regional System shall be considered to have commenced operation on July 1, 1978.

Section 4. ANNUAL PAYMENTS--BUDGET--EQUIVALENT DWELLING UNIT INVENTORY.

4.01 Total Annual Charge. The Collecting Agencies shall pay to BBARWA for receiving, transporting, treating and disposing of sewage and wastewater from the Collecting Agencies' sewage collection systems during each fiscal year -- July 1 through June 30 -- a "Total Annual Charge" consisting of the "Service Charge" and the "Infiltration/Inflow Charge", all as hereinafter specified. The Total Annual Charge for each fiscal year shall be payable by each Collecting Agency in two (2) installments. The first installment shall be 75% of the Total Annual Charge and shall be paid on August 31, and the second installment shall be 25% of the Total Annual Charge and shall be paid on November 30.

4.02 Service Charge. Each Collecting Agency's Service Charge shall be based upon the ratio of the

number of Equivalent Dwelling Units within its service area to the total number of Equivalent Dwelling Units in the entire BBARWA service area. Each Collecting Agency's Service Charge for each fiscal year shall be determined by applying the ratio thus arrived at to the total amount of BBARWA's budget for the fiscal year less the portions of the budget which are allocable to infiltration/inflow and projected revenues from connection fees and stand-by or availability charges. The amount thus determined shall be the Collecting Agency's Service Charge.

4.03 Infiltration/Inflow Charge. In addition to paying the Service Charge, each Collecting Agency shall also pay to BBARWA an Infiltration/Inflow Charge which shall be the Collecting Agency's proportionate share of all expenses contained in BBARWA's budget for the ensuing fiscal year which are allocable to hydraulic capacity included in the Regional System for infiltration/inflow. Each Collecting Agency's Infiltration/Inflow Charge for the ensuing fiscal year shall be based upon the actual infiltration/inflow into its sewage collection system during the preceding fiscal year. BBARWA's engineers shall in conjunction with the engineers for the Collecting Agencies determine the method whereby infiltration/inflow into the sewage collection systems of the Collecting Agencies shall be determined. The method thus arrived at shall be set forth in a memorandum of agreement between the parties to this Agreement.

4.04 Budget and Statement of Charges. On or before the 1st day of May of each year, BBARWA shall submit to the Collecting Agencies its budget for the ensuing fiscal year. BBARWA's budgets shall be prepared in compliance with the guidelines and regulations of the State Board and the EPA relating to revenue programs for wastewater agencies and shall contain all items required thereby. In general, BBARWA's budgets shall include amounts for (1) Operation and Maintenance Expense and (2) Capital Expense, and (3) a contingency amount not to exceed 10% of the foregoing items. BBARWA's budgets may also include, if necessary, an amount for Bond Service Coverage pursuant to Part 4.06. If BBARWA's actual expenditures for a fiscal year have or will exceed its revenues for said fiscal year, BBARWA's budget for the succeeding fiscal year shall contain an amount equal to such deficit. Any surplus of revenues over expenses for any fiscal year, excluding surplus resulting from reserves for Capital Replacement and surplus for Bond Service Coverage, shall be carried forward and credited to the budget for the succeeding fiscal year. At the time of submitting each such budget, BBARWA shall also submit to each Collecting Agency a statement of the Collecting Agency's Total Annual Charge for the ensuing fiscal year, which shall contain a breakdown showing the Collecting Agency's Service Charge and Infiltration/Inflow Charge. This statement shall also show the manner in which the Infiltration/Inflow Charge was computed.

4.05 Capital Replacement. The BBARWA budget for each fiscal year shall include a sufficient amount for Capital Replacement so that BBARWA will from time to time be able to make required modifications, improvements and additions to the Regional System that are necessary to enable the Regional System to meet the increasing sewage transmission, treatment and disposal needs of the Big Bear Valley Area. The Capital Replacement reserve may be used at any time for any purpose permitted by law or the rules, regulations and guidelines of the State Board and the EPA.

4.06 Bond Service Coverage. To comply with covenants contained in the resolution of BBARWA's Governing Board regarding the issuance and sale of BBARWA's bonds, relating to the availability of surplus revenues to serve as bond coverage or to insure the adequacy of reserves to pay principal and interest on bonds, BBARWA may include in its budget for each fiscal year a surplus amount sufficient to satisfy such requirements. In including such an amount in its budget for any fiscal year, BBARWA shall take into consideration all amounts which are to be budgeted for said fiscal year for Capital Replacement and which will be available for bond coverage.

4.07 Equivalent Dwelling Unit Inventory. On or before the 1st day of March of each year each Collecting Agency shall prepare and submit to BBARWA an accurate inventory of the Equivalent Dwelling Units within its service area. Each

Collecting Agency shall prepare its Equivalent Dwelling Unit inventory based on guidelines or formulae presented to it by BBARWA. In the case of sewer users such as hotels, motels, apartment buildings, restaurants, laundromats, ski areas, schools and governmental buildings that have multiple plumbing fixtures or that will contribute substantially more sewage and wastewater to the Regional System than a single family residence or that will contribute sewage and wastewater to the Regional System having a pollutant loading greater than that of a single family residence, the Equivalent Dwelling Unit inventory shall give the name and address of each such sewer user and the total number of Equivalent Dwelling Units assigned to it.

4.08 Disputes. In the event of a dispute between BBARWA and one of the Collecting Agencies with regard to the amount of the Collecting Agency's Total Annual Charge for any fiscal year, the Collecting Agency must pay said Total Annual Charge as computed by BBARWA at the times and in the installments provided for in Part 4.01. However, such payments shall be deemed to have been made under protest and shall not in any way prejudice the Collecting Agency's rights or remedies with respect to such dispute.

4.09 CSA 53-B In-Lieu-of Total Annual Charge Payments. The CSA 53-B sewage collection system shall not be considered to be operational until July 1, 1980, and, accordingly, County shall not pay to BBARWA for CSA 53-B a

Total Annual Charge for either the 1978-1979 fiscal year or the 1979-1980 fiscal year. However, inasmuch as both BBLSD and BBCCSD will commence payment of Total Annual Charges upon commencement of the operation of the Regional System, County shall pay to BBARWA on behalf of CSA 53-B during each of said fiscal years an In-Lieu-of Total Annual Charge Payment, which payments shall be equal to CSA 53-B's proportionate share of the Capital Expense amounts contained in BBARWA's budgets for said fiscal years. CSA 53-B's proportionate share of said amounts shall be based upon the number of potential Equivalent Dwelling Units within the CSA 53-B service area as compared to the number of Equivalent Dwelling Units within the BBLSD and BBCCSD service areas during each of said fiscal years. On or before May 1, 1978 and May 1, 1979, BBARWA shall submit to County a written statement showing CSA 53-B's In-Lieu-of Total Annual Charge Payment for the ensuing fiscal year, which statement shall also show the manner in which such payment was computed, and County shall pay said payment to BBARWA in two (2) installments. The first installment shall be 75% of said payment and shall be payable on August 31, and the second installment shall be 25% of said payment and shall be paid on November 30. Notwithstanding the foregoing, if at any time during the 1979-1980 fiscal year residences or business establishments or other users are connected to the CSA 53-B sewage collection system and commence using said system, County shall collect

from each such user and pay to BBARWA, within thirty (30) days after such user commences using said sewage collection system, a proportionate amount of the part of BBARWA's User Charge per Equivalent Dwelling Unit which is attributable to BBARWA's Operation and Maintenance Expense for said fiscal year based on the number of months in said fiscal year during which said user will use said collection system.

Section 5. USER CHARGES.

5.01 User Charge System. Each Collecting Agency shall adopt a User Charge System based upon a model User Charge System prepared and furnished to it by BBARWA. Said model User Charge System shall be prepared in conformance with the provisions of the applicable regulations and guidelines of the State Board and the EPA, and shall generally contain formulae for assigning Equivalent Dwelling Units to different categories of sewer users and the amount of User Charge per Equivalent Dwelling Unit. The initial model User Charge System shall be presented by BBARWA to each Collecting Agency at least three (3) months prior to the commencement of the operation of the Regional System, and each Collecting Agency shall enact an ordinance or resolution adopting its said User Charge System within two (2) months after receipt of said model User Charge System.

5.02 Annual User Charge Statement--Collection--Deficiencies. Annually, BBARWA shall, concurrently with the submission of its budget and the statement of the Collecting

Agencies' Total Annual Charges for the ensuing fiscal year, also present to each Collecting Agency a statement showing the amount of the User Charge to be collected for each Equivalent Dwelling Unit during the ensuing fiscal year. The Collecting Agency shall levy said User Charges against all users of its sewage collection system based upon the Equivalent Dwelling Units assigned to each such user and shall collect the same in not more than twelve (12) installments. The amounts thus collected by the Collecting Agency shall be segregated from other revenues and deposited in a special account to be known as the "Regional System Account", and shall be used to pay the Collecting Agency's Total Annual Charge, as provided in Section 4. Any deficiencies in the Regional System Account shall be made up by the Collecting Agency from other revenues and the Collecting Agency shall pay to BBARWA the total amount of each installment on its Total Annual Charge notwithstanding any such deficiency. Any surplus remaining in the Collecting Agency's Regional System Account after payment of its Total Annual Charge may be used by the Collecting Agency for any lawful purpose.

5.03 Infiltration/Inflow Charge--Collection--Payment. The Collecting Agency may collect its Infiltration/Inflow Charge by levying a surcharge upon the users of its sewage collection system or by ad valorem taxes levied upon all property within its service area, or a combination of

the two. The amounts thus collected by the Collecting Agency shall be kept in its Regional System Account and shall be used to pay the Collecting Agency's Total Annual Charge. Notwithstanding the method and time of collection, the Collecting Agency shall remit its Infiltration/Inflow Charge to BBARWA along with the balance of the Total Annual Charge as provided in Part 4.01.

5.04 Guarantee of Regional System Account Deficiencies and Total Annual Charge. Each Collecting Agency by executing this Agreement guarantees to BBARWA and to the holders of BBARWA's revenue bonds that pursuant to Part 5.02 it will make up all deficiencies in its Regional System Account, and that it will pay its Total Annual Charge for each fiscal year promptly as provided in Section 4.

5.05 Collection of Delinquent Charges. The Collecting Agencies shall diligently pursue the collection of all delinquent User Charges and Infiltration/Inflow Charges and penalties and shall utilize all available legal remedies including those provided in Government Code Sections 54345-54357.

5.06 Collecting Agencies as Agents of BBARWA. The Collecting Agencies are hereby designated as and shall be the agents of BBARWA for purposes of collecting User Charges from all users of their respective sewage collection systems, and shall have and exercise all powers which could be exercised by BBARWA with respect to the collection of such User Charges.

5.07 Annual Review of User Charge System. The User Charge System of each Collecting Agency shall be reviewed by the Collecting Agency and BBARWA annually not later than January 15, to determine that it is in compliance with the applicable regulations and guidelines of the State Board and the EPA. At the same time, BBARWA and the Collecting Agency shall review the Collecting Agency's customer records to determine if there are any new classes of users using the Collecting Agency's sewage collection system. Upon the completion of such review, the Collecting Agency shall prepare any changes in its User Charge System ordinance or resolution that may be necessary to bring it into compliance with said regulations and guidelines, and shall thereafter amend its said ordinance or resolution so such changes it will be effective for the ensuing fiscal year.

5.08 Compliance with Bond Covenants. Prior to January 15, 1978 each Collecting Agency shall file with BBARWA an audited inventory of all users of the Collecting Agency's sewage collection system, and BBARWA shall prior to February 1, 1978 file said audited inventories with the "Fiscal Agent" named in the resolution of BBARWA's Governing Board authorizing the issuance and sale of BBARWA's bonds. Prior to May 1, 1978, BBARWA shall have held all necessary public hearings and adopted and filed with said Fiscal Agent its User Charge per Equivalent Dwelling Unit. Prior to said date, BBARWA shall also have adopted and filed with said

Fiscal Agent a budget forecast showing that revenues under the proposed User Charge per Equivalent Dwelling Unit will meet expenses during the 1978-1979 fiscal year.

Section 6. FUTURE CAPACITY--STAND-BY AND CONNECTION CHARGES.

6.01 Future Capacity. The Regional System shall be designed and constructed so as to provide reasonable hydraulic and treatment capacity for potential users of the Regional System, i.e., owners of vacant properties who may build residences or business establishments and connect the same to the sewage collection system of any of the Collecting Agencies after the commencement of operation of the Regional System (hereinafter referred to as "Future Capacity"). To insure that the annual capital and interest costs allocable to future capacity shall be borne to the fullest extent possible by such potential users, BBARWA shall adopt a schedule of connection fees to be paid by property owners who make application to connect residences or business establishments to the sewage collection system of one of the Collecting Agencies after the Regional System commences operation, and shall also adopt an annual schedule of stand-by or availability charges to be levied upon and paid by owners of vacant parcels of real property which are located within the service areas of the Collecting Agencies so that they could be connected to a sewage collection system and owners of improved parcels of real property which are so

located but which are not connected to the sewage collection system, all as hereinafter provided.

6.02 Connection Fee. Prior to the commencement of the operation of the Regional System, BBARWA shall adopt a schedule of connection fees to be paid by all property owners who make application to connect residences or business establishments to the sewage collection system of one of the Collecting Agencies after the Regional System commences operation (as provided in Part 3.06). BBARWA may adopt a schedule prescribing different connection fees for different categories of sewer users, e.g., users with multiple plumbing fixtures may be assigned a higher connection fee than single family residences. BBARWA may also adopt a graduated or incremental connection fee schedule providing for periodic increases in connection fees.

6.03 Collection of BBARWA Connection Fees. Each Collecting Agency shall require each property owner who makes application to connect a residence or business establishment to its sewage collection system after the commencement of the operation of the Regional System to pay the applicable BBARWA connection fee. Each Collecting Agency shall collect from each property owner who makes application to connect a residence or business establishment to its sewage collection system after the commencement of the operation of the Regional

System, the applicable BBARWA connection fee and shall remit the same to BBARWA within thirty (30) days. The Collecting Agency shall not permit any such property owner to connect his or her residence or business establishment to its sewage collection system until such connection fee has been paid in full. The Collecting Agency may also levy and collect its own connection fee.

6.04 Exemption for Existing Owners. Notwithstanding the foregoing, owners of residences or business establishments which are in existence at the time of the commencement of the operation of the Regional System and who do not have a sewage collection system available to them or who have been unable to connect to an available sewage collection system because of a limitation imposed by one of the Collecting Agencies upon the number of new connections to the sewage collection system, may make application to connect their said residences or business establishments to the sewage collection system within one (1) year after it becomes available to them or within one (1) year after the discontinuance of the connection limitation, as the case may be, without paying the BBARWA connection fee. However, if such an owner fails to complete the connection of his or her residence or business establishment to the sewage collection system within six (6) months after making such application, such owner shall be required to pay the BBARWA connection fee.

6.05 Stand-by Charges. On or before the 1st day of May of each year, commencing on May 1, 1978, BBARWA shall adopt and transmit to each Collecting Agency a schedule of stand-by or availability charges to be levied upon and paid during the succeeding fiscal year by owners of vacant parcels of real property which are located within the Collecting Agency's service area so that they could be connected to its sewage collection system and owners of residences or business establishments which are so located but which are not connected to the sewage collection system. Such stand-by charges shall reflect the benefit to such vacant properties, residences and business establishments of the availability of capacity in the Regional System for sewage and wastewater therefrom. BBARWA may adopt a schedule prescribing different stand-by charges for different sized properties, e.g., the stand-by charge for acreage parcels may be greater than that for standard size lots. Notwithstanding the foregoing, the owners of residences and business establishments referred to in Part 6.04 shall not be required to pay the BBARWA stand-by charge until the one (1) year time period therein referred to has expired.

6.06 Collection of Stand-by Charges. Each Collecting Agency shall require all owners of vacant properties within its service area which could be connected to its sewage collection system and all owners of residences or business establishments which are so located but which

are not connected to the sewage collection system to pay the applicable BBARWA stand-by charge. Upon receipt of BBARWA's schedule of stand-by charges, each Collecting Agency shall levy such charges upon and collect the same from all owners of vacant properties within its service area which could be connected to its sewage collection system and all owners of residences or business establishments which are so located but which are not connected to the sewage collection system, and shall remit the sums thus collected to BBARWA on or before November 30 of each year. The Collecting Agency shall make up any delinquencies in the collection of such stand-by charges out of other revenues and remit the same to BBARWA. The Collecting Agency may enforce payment of such delinquent stand-by charges in any manner which is legally permissible. The Collecting Agency shall not permit the owner of any such vacant property, residence or business establishment as to which delinquent stand-by charges are owing to connect his or her property, residence or business establishment to its sewage collection system until such delinquent stand-by charges, together with such interest thereon as may be legally permissible, are paid in full.

6.07 Collecting Agencies as Agents of BBARWA. The Collecting Agencies are hereby designated as and shall be the agents of BBARWA for purposes of collecting BBARWA's connection fees and stand-by or availability charges and shall

have and exercise all powers which could be exercised by BBARWA with respect to the collection of such fees and charges.

Section 7. RIGHTS TO AND USE OF WASTEWATER.

7.01 Rights to Wastewater. Throughout the term of this Agreement, all wastewater transported and delivered to the Regional System shall upon entering the Regional System become the sole and exclusive property of BBARWA, and the Collecting Agencies shall upon such entry have no further right, title, claim or interest in such wastewater or the product effluent from the Regional System. BBARWA may treat and dispose of such wastewater and effluent in any manner it deems to be in the best interests of the public health and well-being of the residents and property owners in the Big Bear Valley Area and in the area of disposal, and which conforms to the requirements of the Regional Water Quality Control Boards and the State Department of Public Health.

7.02 Sale or Use of Effluent. BBARWA may sell the effluent from the Regional System for beneficial use by other parties or BBARWA may itself make a beneficial use of such effluent. All revenues derived by BBARWA from the sale or use of effluent shall be applied by BBARWA to the cost of operating and maintaining the Regional System.

7.03 Use of Effluent by Collecting Agencies. Each of the Collecting Agencies shall have the right to purchase from BBARWA such quantity of effluent from the Regional System -- not to exceed on a daily basis the average quantity

of wastewater collected by its sewage collection system on a daily basis during the preceding six (6) months -- as it can put to beneficial use within its service area. Provided, however, that if BBARWA has already contracted with another party or parties to sell such effluent for beneficial use or if BBARWA itself is engaged in a project whereby such effluent is being put to beneficial use, and because of the commitments under such contract or contracts or the requirements of such a BBARWA project, BBARWA is unable to sell to a Collecting Agency all of the effluent which it could make a reasonable beneficial use of, BBARWA shall only be required to sell to the Collecting Agency such quantity of effluent as is available after satisfying the requirements of such pre-existing contract or contracts or BBARWA project. Provided, further, that if more than one of the Collecting Agencies wish to make a beneficial use of effluent in their service areas, and because of pre-existing contractual commitments or the requirements of any BBARWA project, BBARWA is unable to supply both or all of the Collecting Agencies with the quantities of effluent which they can make a reasonable beneficial use of, then the remaining effluent, after satisfying the requirements of such pre-existing contract or contracts or BBARWA project, shall be apportioned among the Collecting Agencies on the basis of quantities of wastewater collected by their respective sewage collection systems.

BBARWA shall not be required to sell effluent to any of the Collecting Agencies unless they can demonstrate (1) that they can make a reasonable beneficial use of such effluent, (2) that such beneficial use meets the requirements of the regulatory agencies having jurisdiction, (3) that such beneficial use will not have a significant effect on the environment, and (4) that they can provide facilities for receiving the effluent at the Regional Treatment Plant and conveying it to the area or areas of beneficial use.

7.04 Hold Harmless. BBARWA shall indemnify, defend and hold harmless the Collecting Agencies from any liability or expense resulting from any claims or causes of action arising out of the treatment or disposal of wastewater by BBARWA or the sale or beneficial use of the effluent from the Regional System by BBARWA or any other party, except beneficial use by a Collecting Agency. BBARWA shall also indemnify, defend and hold harmless the Collecting Agencies from any liability or expense resulting from any claims or causes of action arising out of the transfer of wastewater from the Big Bear Lake Watershed to the Baldwin Lake Watershed or to Lucerne Valley.

Section 8. COLLECTION SYSTEMS.

8.01 Mandatory Connection. Each Collecting Agency shall, pursuant to Government Code Section 54352, require all buildings inhabited or used by human beings and in which

any sewage is produced to be connected with the Collecting Agency's sewage collection system within thirty (30) days from the time when such a connection can be made, as may be prescribed by the Collecting Agency. Each Collecting Agency shall enforce such mandatory connection requirement utilizing, if necessary, the provisions of Health and Safety Code Sections 5463 and 5474. The owners of residences and business establishments referred to in Part 6.04 shall be exempted from complying with such mandatory connection requirements for the time period specified in said Part.

8.02 Repair and Maintenance. Each Collection Agency shall keep its sewage collection system in a state of good repair and in good working order at all times during the term of this Agreement, and shall provide an adequate amount for repairs and maintenance in its budget for each fiscal year during the term of this Agreement.

8.03 Infiltration/Inflow. Each Collecting Agency shall take all reasonable measures to control and reduce excessive infiltration/inflow into its sewage collection system. If during the term of this Agreement, BBARWA determines and notifies a Collecting Agency that infiltration/inflow into the Collecting Agency's sewage collection system is excessive, as defined in the regulations of the State Board and the EPA, the Collecting Agency shall determine the cause of such infiltration/inflow and undertake a program to

correct such condition. The Collecting Agency shall furnish BBARWA with a written report regarding the cause of such condition, the measures it proposes to undertake to alleviate such condition and the projected cost of such program. Thereafter, the Collecting Agency shall report to BBARWA at such times as may be specified by BBARWA's Governing Board -- not less than twice each year -- until such infiltration/inflow is reduced to a nonexcessive level, regarding the progress and results of such program.

8.04 Annexations. Each Collecting Agency shall, prior to commencing any annexation of territory to its service area, notify BBARWA in writing of such proposed annexation, and shall further notify BBARWA of (1) the number of proposed additional connections to its sewage collection system, (2) the number of proposed additional Equivalent Dwelling Units which will result therefrom, and (3) the estimated additional quantity of sewage and wastewater that will be generated thereby and delivered to the Regional System for treatment and disposal. Upon receipt of such notification, BBARWA shall have thirty (30) days within which to advise the Collecting Agency in writing whether or not there is sufficient hydraulic and treatment capacity in the Regional System to accommodate such additional quantity. If BBARWA does not respond within said time, it shall be assumed that such capacity is available and the Collecting Agency may

proceed with the annexation. If BBARWA notifies the Collecting Agency that there is not sufficient capacity in the Regional System to accommodate such additional quantity, the Collecting Agency shall not proceed with the annexation.

8.05 Assistance in Complying with Waste Discharge Requirements. The Collecting Agencies shall cooperate with and assist BBARWA in meeting the requirements of the National Pollution Discharge Elimination System Permit or the Waste Discharge Requirements for the Regional System or any of its components, and shall at all times throughout the term of this Agreement operate and maintain their sewage collection systems in a manner designed to enable BBARWA to meet such requirements.

Section 9. MONITORING AND PLANNING.

9.01 Monitoring. BBARWA shall at all times during the term of this Agreement monitor and accurately record the quantities of sewage and wastewater contributed by each of the Collecting Agencies to the Regional System as well as the total quantity of sewage and wastewater transported, treated and disposed of by the Regional System. BBARWA shall maintain such recordings on a monthly basis. At the end of each quarter of each fiscal year, BBARWA shall furnish to each Collecting Agency copies of all monitoring records for the preceding three (3) months.

9.02 Planning. On or before September 15 of each year, BBARWA shall furnish to each Collecting Agency a report

showing the average daily quantity of sewage and wastewater contributed by each Collecting Agency to the Regional System during the preceding fiscal year, the increase in such average quantity over the prior fiscal year, including the percentage of increase, the hydraulic and treatment capacities of the Regional System, and a projection, based on such percentages of increase, as to when the combined average daily quantities of sewage and wastewater contributed by the three Collecting Agencies to the Regional System will be equivalent to the hydraulic and treatment capacities of the Regional System. Such reports shall also contain a projection as to when it will be necessary to modify, improve and expand the Regional System so that its hydraulic capacity or treatment capacity will not be exceeded by the combined quantities of sewage and wastewater produced by and received from the Collecting Agencies.

9.03 Coordination. Each Collecting Agency shall cooperate with BBARWA in monitoring and planning pursuant to this Section by reporting to BBARWA on each October 15, January 15, April 15 and July 15 the number of active as well as inactive connections to its sewage collection system and the number of Equivalent Dwelling Units within its service area during the preceding three (3) months. The Collecting Agencies shall not commence making such reports until they are requested to do so in writing by BBARWA, and

BBARWA shall not make such requests until such information is necessary to BBARWA's monitoring program.

Section 10. BONDHOLDERS AS THIRD PARTY BENEFICIARIES.

10.01 It is understood and agreed by the parties hereto that BBARWA has conducted an election and has otherwise taken proceedings for the authorization, issuance and sale of \$3,000,000 of revenue bonds under and pursuant to the Revenue Bond Law of 1941 (Government Code §54300, et seq.) and intends to issue said revenue bonds so authorized at the special election of March 2, 1976, to pay the local portion of the cost of the design and construction of the Regional System, which was described in the election proceedings as "the acquisition, construction, improving and financing of an enterprise, to wit, a revenue producing improvement, building, system, plant, works, facilities and undertaking used for and useful for the collection, treatment and disposal of sewage and wastewater," and certain legally permissible associated incidental expenses. This Agreement is entered into, in addition to any other purpose herein stated, with the understanding that said bonds shall be issued and sold for such purpose, and the provisions herein are for the protection and benefit of the holders of said bonds, and the parties hereto agree, for the protection and benefit of the holders of said bonds, that they will carry out and perform all covenants, conditions and agreements contained in this Agreement and in the proceedings authorizing said revenue bonds,

and that said bondholders are entitled to enforce the same, or to cause BBARWA to enforce the same on their behalf, as third party beneficiaries of this Agreement.

Section 11. GENERAL PROVISIONS.

11.01 Notices. Any notice to be given hereunder by any party to another party may be effected by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of mailing. Mailed notices shall be addressed to the parties at their respective principal offices. Each party may change its address by written notice in accordance with this Part.

11.02 Entire Agreement. This instrument contains the entire agreement between the parties relating to the matters covered hereby. Any oral representations or modifications concerning this instrument shall be of no force or effect excepting a subsequent modification in writing, signed on behalf of all parties hereto.

11.03 Captions. The captions of sections and parts of this Agreement are for reference only and are not to be construed in any way as a part of this Agreement.

11.04 Partial Invalidity. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full

force and effect and shall in no way be affected, impaired or invalidated.

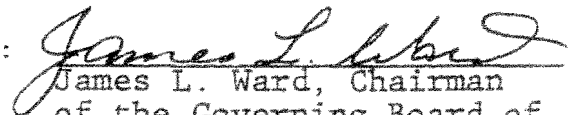
11.05 Successors. This Agreement shall be binding upon and inure to the benefit of the successors in interest of the parties.

11.06 Attorney's Fees. If any action, at law or in equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to a reasonable attorney's fee in addition to any other relief to which it may be entitled.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

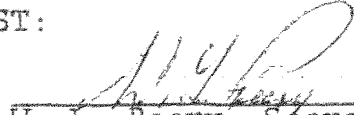
BIG BEAR AREA REGIONAL
WASTEWATER AGENCY

By:


James L. Ward, Chairman
of the Governing Board of
the Big Bear Area Regional
Wastewater Agency

ATTEST:

By:


W. L. Peery, Secretary
of the Governing Board
of the Big Bear Area
Regional Wastewater Agency

BIG BEAR CITY COMMUNITY SERVICES DISTRICT

By: W. L. Peery
W. L. Peery, President of the Board of Directors of Big Bear City Community Services District

ATTEST:

By: Earl L. Black
Earl L. Black, Secretary of the Board of Directors of Big Bear City Community Services District

BIG BEAR LAKE SANITATION DISTRICT and the COUNTY OF SAN BERNARDINO on behalf of Improvement Zone "B" of San Bernardino County Service Area 53

By: Robert O. Townsend
Robert O. Townsend, Chairman of San Bernardino County Board of Supervisors, Governing Body of Big Bear Lake Sanitation District and Improvement Zone "B" of San Bernardino County Service Area 53

MAY 9 1977

ATTEST:

LEONA RAPOPORT
Clerk of said Board

By: Leona Rapoport
Deputy Clerk

APPROVED AS TO FORM this 9th day of May, 1977.

M. CRANE KITCHELL, County Counsel
By: George J. Holden
Deputy County Counsel

APPROVED AS TO FORM this 3rd day of May, 1977.

BEST, BEST & KRIEGER
By: Richard T. Anderson
Richard T. Anderson
Attorneys for Big Bear Area Regional Wastewater Agency