

Section 15. CONTROL AND DISPOSITION OF SEWAGE-
CONTRACTING AGENCIES RIGHT OF PURCHASE OF TREATED OR
RECLAIMED EFFLUENT

A. General

Subject to the provisions of this Section 15 and Section 16, IEUA shall have total ownership and control of all sewage delivered into the Regional Sewerage System for the purpose of transmission, treatment and disposal thereof; subject to the right of first purchase by any Contracting Agency, the use of all treated effluent from the Regional Sewerage System shall be within the sole discretion of IEUA. If any Contracting Agency exercises its right of first purchase of treated effluent, then such agency shall have the total ownership and control of all treated effluent delivered to it and the use thereof shall be within the sole discretion of that agency.

1. The Contracting Agencies acknowledge that IEUA is currently meeting the Santa Ana River Judgment obligation with recycled water.

B. Right of Purchase of Treated or Reclaimed Effluent

Each Contracting Agency, at its option, shall have the right of first purchase of treated or reclaimed effluent under either of the following two alternatives:

1. Each Contracting Agency shall have the right of first purchase of treated effluent, as provided in Section 16 hereof; or

2.

Section 16. SALE, BENEFICIAL USE OR DISPOSAL OF TREATED
EFFLUENT

A. Purchase of Treated Effluent from IEUA

1. Contracting Agencies' Right of Purchase

Each Contracting Agency shall have the right of first purchase from IEUA of treated effluent in a total quantity not exceeding the base entitlement of the Contracting Agency.

2. Base Entitlement of Contracting Agencies

A Contracting Agency's entitlement will be based on wastewater contribution, future external supplies and any acquisition of another contracting agency's unused entitlement.

- i. This entitlement will be used for each contracting agency's Santa Ana River discharge obligations, direct use and/or regional recharge.

a. Contracting Agency Use Above Base Entitlement

Contracting Agency use above entitlement, as described in Section 16 A, 2, will require replacement water (i.e., stored water, supplemental water, surcharge, acquisition of another contracting agency's unused entitlement, etc.) be passed on to contracting agencies with surplus entitlement, with the exception of 3.ii below.

- i. This entitlement may be used for Santa Ana River discharge obligations, direct use or regional recharge.
- ii. If a Contracting Agency's current direct use exceeds entitlement, current direct use corresponding to existing customers will be temporarily substituted for entitlement until June 30, 2023, as defined in Section 16 A, 2. In addition, groundwater recharge allocations will

be curtailed and redistributed to other agencies under entitlement during the temporary period. Any new connections that require additional supplies above an agency's entitlement and the current grandfathered amount will require replacement water.

3. Delivery Points

Unless otherwise agreed by IEUA, the delivery point or points of any Contracting Agency exercising its rights of first purchase of treated effluent shall be the discharge point or points of each Regional Treatment Plant or any disposal facility of IEUA which provides further treatment and disposal of wastewater from any Regional Treatment Plant.

4. Recycled Water System Operation

A. The regional recycled water system will be operated based on the following priorities for recycled water deliveries:

i. Minimal operational discharges (instrumentation, environmental obligations, etc.)

ii. Contracting agency deliveries

iii. Regional groundwater recharge

B. IEUA and the Contracting Agencies shall meet peak recycled water direct demands through coordinated demand management of recycled water deliveries.

i. Large users will have pressure sustaining valves to ensure that

overall regional demands are reliably met.

5. Delivery Facilities and Costs of Delivery of Treated Effluent

Delivery facilities shall consist of any facilities for the delivery of treated effluent from the point of discharge of any Regional Treatment Plant to the point of use of the effluent. This contract and the service charge provided herein shall not apply to any such delivery facilities or to the financing thereof. IEUA or any Contracting Agency may, at its own expense, acquire, construct, or make a contribution toward the financing of capital costs and maintenance and operation of any delivery facilities. IEUA, or any Contracting Agency or Agencies or any combination thereof, may provide for delivery facilities by contract entered into between or among themselves or with any other person or public or private entity.

6. Price for Purchase of Treated Effluent

Any Contracting Agency exercising the right of first purchase of treated effluent shall be entitled to take delivery thereof at no cost, except for the costs of delivery, if any, of IEUA.

7. Use of Purchased Treated Effluent

Any Contracting Agency exercising its right of first purchase of treated effluent may make any lawful use thereof, including beneficial use, sale, or other disposal and shall be entitled to retain all revenues received by it as a result thereof.

8. Contract for Joint Exercise or Transfer of Rights of First Purchase

Subject to the rights of IEUA hereunder, any or all of the Contracting

Agencies may be contract provided for the joint exercise of any of their respective rights of first purchase of treated effluent or for the sale, exchange or transfer of such rights. Certified copies of all such contracts shall be filed with IEUA by the parties thereto.

B. Disposition by IEUA of Unclaimed Treated Effluent

To the extent that any of the Contracting Agencies fail to exercise their respective rights of first purchase of treated effluent, IEUA may make any lawful use of such effluent, including beneficial use, sale or other disposition inside or outside the Chino Basin; provided, that:

1. IEUA shall not, for a consideration, sell or otherwise dispose of any treated effluent for beneficial use inside the Chino Basin without review and approval by a majority of the Contracting Agencies; and

2. If IEUA, for a consideration, sells or otherwise disposes of any treated effluent for beneficial use inside or outside the Chino Basin, any portion of the consideration in excess of IEUA's net audited costs of reclamation and delivery shall be apportioned and credited:

a. 85% to the Regional Sewerage System Maintenance and Operation Fund, and

b. 15% to the Regional Wastewater Capital Improvement Fund.

C. Measurement of Treated Effluent

IEUA shall install, maintain, and operate measuring devices and equipment for the measurement of deliveries of treated effluent to the Contracting Agencies at a location or locations mutually agreed upon by IEUA and the Contracting Agencies. The

measuring devices and equipment shall be examined, tested and serviced regularly to insure their accuracy. At any time, IEUA or any Contracting Agency may inspect any measuring devices and equipment and all records and measurements taken therefrom.

D. Notice of Proposed Delivery

Prior to the commencement of each fiscal year, notice of the delivery of treated effluent shall be given as follows:

1. Request by IEUA

Between the first day of January and the first day of March of each year, IEUA shall request each Contracting Agency to provide IEUA with a schedule of the estimated flow and quantity of treated effluent to be delivered to each person or agency during the next fiscal year and the proposed points of delivery. The rates of flow and quantity shall not exceed the delivery capability of the facilities then in operation.

2. Response by Contracting Agencies

Within 30 days of the date of each such request by IEUA, each Contracting Agency shall provide IEUA with the schedule requested pursuant to subpart 1 above; provided that if a Contracting Agency does not intend to exercise its right of first purchase, it need not respond in any manner to IEUA.

3. Allocation of Treated Effluent

On or before the first day of May of each year, IEUA shall allocate treated effluent to the Contracting Agencies that have submitted schedules pursuant to subpart 2 above.

4. Additional Allocation of Treated Effluent

At any time during the fiscal year and upon 60 days written notice to IEUA, a Contracting Agency may apply for the delivery of any treated effluent then available at a rate of flow or quantity greater than that allocated pursuant to subpart 3 above. However, the rates of flow and quantity shall not exceed the delivery capability of the treatment facilities then in operation. (Amended April 12, 1984)