

MEMORANDUM OF UNDERSTANDING

between the

U.S. ENVIRONMENTAL PROTECTION AGENCY
NATURAL RESOURCES CONSERVATION SERVICE
U.S. BUREAU OF RECLAMATION
U.S. FOREST SERVICE
U.S. FISH AND WILDLIFE SERVICE
NATIONAL MARINE FISHERIES SERVICE
BUREAU OF LAND MANAGEMENT
BUREAU OF INDIAN AFFAIRS

RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DEPARTMENT OF WATER RESOURCES
DEPARTMENT OF FISH AND GAME
DEPARTMENT OF FORESTRY AND FIRE PROTECTION
DEPARTMENT OF FOOD AND AGRICULTURE
DEPARTMENT OF PARKS AND RECREATION
DEPARTMENT OF CONSERVATION
DEPARTMENT OF PESTICIDE REGULATION
COASTAL CONSERVANCY
CONSERVATION CORPS

CALFED BAY-DELTA PROGRAM

I. PURPOSE

The purpose of this Memorandum of Understanding (hereinafter “MOU”) is to provide a framework for implementation of the Watershed Program Plan (hereinafter “Watershed Program Plan”) of the CALFED Bay-Delta Program (hereinafter “CALFED”). The Watershed Program Plan is an appendix to the CALFED Programmatic Environmental Impact Statement/Environmental Impact Report. An Implementation Plan will complement this MOU. The purpose of the Implementation Plan is to provide specific details on how CALFED Watershed Program Plan activities will be carried out.

II. INTRODUCTION

On August 28, 2000, the federal and state agencies that participate in CALFED, including the Resources Agency (hereinafter “Resources Agency”), State Water Resources Control Board (hereinafter “SWRCB”), and Natural Resources Conservation Service (hereinafter “NRCS”) signed the CALFED Record of Decision, and the lead agencies certified the CALFED Programmatic Environmental Impact Report/Environmental Impact Statement. At that time, these same agencies also signed the CALFED Implementation Memorandum of Understanding (hereinafter “Implementation MOU”).

The Implementation MOU assigns initial management of the CALFED Watershed Program (hereinafter “Watershed Program”) to CALFED staff and calls on the Resources Agency, SWRCB, and NRCS “to develop a recommendation in a MOU to the Policy Group, by February 2001, on the future program management of the Watershed Program.” The Implementation MOU also indicates that this recommendation will be developed “with input of other interested agencies and stakeholders.”

This MOU is not intended to expand or limit the legal authority of any signatory agency. This MOU is subject to all provisions, terms, and conditions of the Implementation MOU, as modified or amended. Nothing in this MOU modifies or supercedes the Implementation MOU or any other existing agreements, programs, MOUs, plans, regulations, or executive orders. Moreover, this MOU is not a contract; it defines a cooperative process to meet common goals shared by each signatory agency. Nothing in this MOU is intended to delegate, limit, or expand any agency's responsibilities, authority, or discretion.

The commitments and obligations under this MOU of each party that is a federal agency are subject to the requirements of the federal Anti-Deficiency Act and the availability of appropriated funds. The parties acknowledge that this MOU does not require any federal agency to expend its appropriated funds unless and until an authorized officer of that agency affirmatively acts to commit to such expenditures as evidenced in writing. Consistent with federal law, nothing in this document constrains the discretion of the President or his successor from making whatever budgetary or legislative proposals he or his successors deem appropriate or desirable.

This MOU can be executed in counterparts.

III. BACKGROUND

CALFED is composed of eight integrated elements; the Watershed Program is one of these elements. The Watershed Program was established as an aid to achieving the overarching goals of CALFED to restore ecological health and improve water management of the Bay-Delta system by working with the community at a watershed level. The goals of the Watershed Program are to provide financial and technical assistance for watershed

activities that help achieve the mission and objectives of CALFED, and to promote collaboration and integration among existing and future local watershed programs.

The Watershed Program is grounded on a set of principles outlined in the Watershed Program Plan. The principles were developed in meetings with interested stakeholders and agency representatives. The Watershed Program principles state that the CALFED agencies will support watershed activities that

- are community based,
- are collaborative and consistent with CALFED,
- address multiple watershed issues,
- are coordinated with and supported at multiple levels,
- provide for ongoing implementation,
- include monitoring protocols, and
- increase learning and awareness.

These principles will guide implementation of the Watershed Program Plan and will be the basis for criteria under which the CALFED agencies fund or support watershed activities through the Watershed Program. In addition to these principles, the Watershed Program ensures that implementation activities promote environmental justice and comply with relevant laws and regulations.

The Watershed Program Plan also includes a list of objectives for the Watershed Program. These objectives form the basis for the Roles and Responsibilities section of this MOU (*see Section VII. Roles and Responsibilities*). The objectives were developed in close collaboration with two groups that have been integral to the Watershed Program: the Watershed Work Group (*see Section IV. Public Involvement*) and the Interagency Watershed Advisory Team (hereinafter “IWAT”) (*see Section VI. Watershed Program Implementation Partners*).

Federal and state agencies are involved in watershed management programs throughout the state. The Watershed program is designed to achieve its goals by complementing these ongoing programs and by providing a forum for improved coordination and communication among the programs and agencies. The Watershed Program will also seek to identify areas where watershed activities do not exist and will support establishment of community based activities that help achieve the mission and objectives of CALFED.

IV. PUBLIC INVOLVEMENT

The Watershed Program is intended to enhance natural resource conservation, restoration, and management using a collaborative approach that encourages broad participation of all stakeholders and tribes in the greater watershed of the Bay-Delta system. All stakeholders will be encouraged to participate in the Watershed Program

through several different forums including public workshops, discussion boards (on the Watershed Program website), and Watershed Work Group meetings.

To date, the Watershed Work Group has been the most active forum to provide feedback and advice to the Watershed Program. The group was formed in August 1998 under the auspices of the Bay-Delta Advisory Council (hereinafter “BDAC”) to help guide the development and direction of the Watershed Program. Since its inception, the Watershed Work Group has had the participation of more than 300 stakeholders and has been integral to the development of the Watershed Program and Watershed Program Plan. The Watershed Work Group, or a successor advisory group, will continue to provide input and advice regarding the Watershed Program to CALFED, the IWAT, and other involved agencies throughout the implementation period. See Section VII for specific roles and responsibilities of the Watershed Work Group.

V. RELATIONSHIP WITH OTHER CALFED PROGRAMS

The Watershed Program is complemented by actions of other CALFED elements, particularly the Ecosystem Restoration Program, Environmental Water Program, Drinking Water Quality Program, Water Use Efficiency Program, and the Science Program.

Although CALFED was broken out into different elements for planning purposes, integrating these elements during the implementation stage is critical to the success of the Program. The management agencies (*see Section VI. Watershed Program Implementation Partners*), with advice from the Watershed Work Group and signatory agencies, will be responsible for integrating the Watershed Program with other CALFED elements. The Implementation Plan will identify methods for program integration.

VI. WATERSHED PROGRAM IMPLEMENTATION PARTNERS

Successful implementation of the Watershed Program Plan will require a dedicated effort from several entities. This MOU recognizes that those entities may change from year to year. Additional agencies may join this MOU, or an agency may change its status from a management to a designated or cooperating agency, or vice versa. To join this MOU or change status, an agency must only obtain the concurrence of the CALFED Management Group; no written amendment by the signatory agencies is required. The following are the identified agencies for the first year of Watershed Program Plan implementation:

Policy Committee: A subcommittee of the CALFED Policy Group that is responsible for overseeing Watershed Program Plan implementation. The Policy Committee is composed of senior policy agency representatives from NRCS, U.S. Environmental Protection Agency (hereinafter “EPA”), U.S. Fish and Wildlife Service (hereinafter, “USFWS”), SWRCB, Resources Agency, Department of Water Resources (hereinafter “DWR”), Department of Fish and Game and CALFED. The Policy Committee

shall meet from time to time as necessary to ensure coordination among the Watershed Program and other statewide watershed activities.

Signatory Agencies: Those agencies and departments that are signatories to this MOU.

Management Agencies: Those agencies and departments responsible for Watershed Program Plan implementation. Management agencies include EPA, DWR, and SWRCB. CALFED staff, though not an agency, will also undertake management responsibilities.

Designated Agencies: Those agencies and departments that receive funds specifically for Watershed Program Plan implementation. Designated agencies include Department of Fish and Game (hereinafter “DFG”), Department of Forestry and Fire Protection (hereinafter “CDF”), and Department of Food and Agriculture (hereinafter “CDFA”). Additionally, DWR has been allocated funds for Watershed Program implementation.

Cooperating Agencies: Those agencies and departments that will, to the fullest extent practicable, more fully use existing programs and authorities to support Watershed Program Plan implementation. Cooperating agencies include: NRCS, U.S. Bureau of Reclamation, U.S. Forest Service, U.S. Fish and Wildlife Service, Bureau of Land Management, Bureau of Indian Affairs, National Marine Fisheries Service, Resources Agency, Department of Parks and Recreation, Department of Conservation, Department of Pesticide Regulation, Coastal Conservancy, and Conservation Corps.

IWAT: A team consisting of a representative from each of the signatory agencies. The purpose of the IWAT is to facilitate Watershed Program Plan implementation through improved coordination and communication. This MOU designates a federal agency representative from EPA and a state agency representative from DWR to serve as co-chairs of the IWAT. The IWAT co-chairs may be reassigned by agreement of the Policy Committee; an amendment to the MOU is not required. Members of the IWAT will meet at least bimonthly; additional communication will be conducted as necessary. Members of the IWAT are responsible for ensuring effective communication between the Watershed Work Group, or its successor, and CALFED staff and their respective agencies.

Watershed Work Group: A collaboration of stakeholders and tribal representatives serving as an advisory body (under BDAC or the California Bay-Delta Public Advisory Committee [hereinafter “BDPAC”]) to the Watershed Program. Meetings of the Watershed Work Group are held on a monthly basis and are open to everyone.

CALFED Staff: The collection of federal and state staff members on assignment or detail to CALFED.

VII. ROLES AND RESPONSIBILITIES

This MOU describes and assigns the following roles and responsibilities for ongoing implementation of the Watershed Program Plan. Additional information and specific details of each task will be outlined in the Implementation Plan. The first Implementation Plan will be developed by August 31, 2002.

A. Provide Technical Assistance for Watershed Activities

Federal and state agencies have an extensive pool of expertise, talent, tools, and data that could significantly aid local operational watershed management. The Watershed Program will develop or support mechanisms to provide easier access to technical assistance and information available from the signatory agencies and other appropriate agencies or entities. The Implementation Plan will identify mechanisms for administering technical assistance, as well as the means to project how much technical assistance local communities need, how to monitor requests for technical assistance, and how to gauge the effectiveness of the technical assistance. All technical assistance will be provided in concert with, and at the request of, local interests in each watershed.

The following departments anticipate receiving funds to assist in Watershed Program Plan implementation: DWR, DFG, CDF, and CDFR. These departments are committed to providing technical assistance for local watershed activities that will directly contribute to the CALFED mission, goals, and objectives. These agencies will develop annual work plans describing their responsibilities with regard to Watershed Program Plan implementation. The annual work plans will be included in the Implementation Plan. Cooperating agencies and departments will also provide technical assistance for local watershed activities as resources allow.

Agency coordination of technical assistance to local communities will occur through the IWAT. The Implementation Plan will identify mechanisms to provide easier access to the technical assistance available from designated and cooperating agencies, and other appropriate entities. The mechanisms will provide clear and direct connections through which local groups can obtain appropriate and timely assistance in the development and implementation of watershed management activities. These activities may include, but are not limited to

- conducting watershed assessments,
- developing watershed management plans,
- developing monitoring protocols,
- applying for funding opportunities,
- managing contracts, and
- complying with environmental regulations and permits.

The Watershed Program has no set geographic boundary. Assistance will be provided to local community efforts that have an impact on the Bay-Delta watershed and

that promote the goals and objectives of CALFED, regardless of location. At a minimum, technical assistance will be provided by appropriate state and federal agency staff within the four major regions of the CALFED solution area. The following regions include tributaries of the Coastal, Cascade, and Sierra ranges:

- Sacramento River Watershed Region,
- San Joaquin Valley Region,
- Bay-Delta Region, and
- Southern California (including State Water Project service area).

B. Provide Financial Assistance for Watershed Activities

When appropriated by the Legislature or Congress, Watershed Program funds will be made available for local watershed activities that help achieve the CALFED mission through open solicitation or directed actions. A strategy for initial program implementation has been developed in collaboration with the IWAT and the Watershed Work Group (*see Attachment A*). This strategy identifies a set of three priorities for the first three years of Watershed Program Plan implementation:

- Build community capacity to assess and effectively manage watersheds that affect the Bay-Delta system.
- Develop or refine watershed assessments and plans.
- Develop and implement specific watershed conservation, maintenance, and restoration actions.

The strategy calls for implementation of a two-part competitive funding process, where authorized by law. The first stage of the funding process solicits preproposals, or concepts, from eligible applicants. The preproposals will be evaluated based on a set of criteria identified in the solicitation process. Applicants selected through the preproposal process will then work with a team of specialists to develop a full proposal for consideration. Full proposals will then be reviewed and evaluated based on additional criteria identified in the solicitation process; some of the applicants will be chosen for program funding and other applicants will be referred to other funding programs.

The initial implementation strategy will be carried out during the first year of Watershed Program Plan implementation. In future years, the agencies administering funding allocated directly for Watershed Program Plan implementation will continue to employ a two-part competitive funding process consistent with the initial implementation strategy. As feasible, funding from other sources will also employ a similar process when distributing funds to implement the Watershed Program.

Providing financial assistance for watershed activities, either using a two-part competitive funding process or an alternative process, will require the following tasks. Details of these tasks will be reflected in the Implementation Plan.

- i. Develop Annual Priorities for Allocation of Funds.* The Watershed Work Group, the IWAT, and management agencies will collaboratively develop annual priorities for allocation of Watershed Program funds through a competitive process or directed action process. Management agencies will be responsible for ensuring that the priorities are developed on schedule. The Policy Committee will review the annual priorities.
- ii. Develop Criteria for Evaluating Proposals.* The Watershed Work Group, the IWAT, and management agencies will collaboratively develop criteria for evaluating Watershed Program preproposals and proposals in a competitive funding process. Management agencies will be responsible for ensuring that the criteria are developed on schedule.
- iii. Develop and Manage a Review Process.* The Watershed Work Group, the IWAT, and management agencies will collaboratively develop a review process for evaluating and developing recommendations for distribution of a competitive funding process. Management agencies will be responsible for ensuring that the review process is developed and managed on schedule.
- iv. Compile a Review Team.* Management agencies, with input from the Watershed Work Group and the IWAT, will be responsible for compiling a review team. The review team will be responsible for proposal evaluations.
- v. Administer Contracts.* DWR will be responsible for developing contracts or agreements used to obligate financial assistance dollars appropriated to DWR for Watershed Program Plan implementation from the state's general fund in state fiscal year 2000-2001. Management agencies and the IWAT will, at a minimum, evaluate the options listed below when choosing an entity to administer contracts in future years. The results of the evaluation will be reflected in the Implementation Plan.

 - DWR continues the role;
 - SWRCB assumes the responsibility;
 - a non-profit entity assumes the responsibility; or
 - an appropriate entity is chosen based on the context of the proposal and the entity's expertise.
- vi. Manage Contracts.* The agency or entity responsible for managing contracts with funding recipients will be identified in the Implementation Plan. Final approvals and all discretionary decisions remain with the agencies with program funding authority. Nothing in this MOU precludes an agency, in its discretion, from following a different procedure to comply with legal restrictions on grant programs, including conflict of interest requirements, public contracting restrictions, and special selection criteria mandated by Congress or the legislature.

C. Improve Coordination and Communication Related to Watershed Management Programs

Currently, an unprecedented number of federal and state agencies are involved in watershed management programs throughout the state. The benefits of these efforts can be maximized with better coordination and communication. Improved coordination of and communication among various federal, state, and local watershed management activities will help to avoid duplication of efforts and promote resource sharing and information exchange. The signatory agencies will work with all federal and state watershed programs in an effort to improve coordination and communication.

Attachment B includes a list of example agency programs that should be coordinated with the Watershed Program to the extent possible. At a minimum, the signatory agencies will work toward

- improving the funding process for watershed grants such as those described in the paper entitled “Best Funding Practices for Watershed Management,” developed and endorsed by the California Biodiversity Council;
- identifying agency staff as a point of contact for watershed basins; and
- improving access to and sharing of data and information related to watershed management activities.

Other signatory agencies will participate in these activities to the extent that resources are available. Specific details on mechanisms to improve coordination and communication related to watershed management will be illustrated in the Implementation Plan.

D. Identify Consistent Watershed Monitoring and Assessment Protocols

The adoption and application of consistent monitoring and assessment protocols can provide long-range benefits. Management agencies, with direct support from the CALFED Science Program, the IWAT, and the Watershed Work Group will collaborate to identify and adopt consistent monitoring and assessment protocols for the Watershed Program. Protocols may include methods for conducting a watershed assessment, implementing restoration work, and monitoring the effects of watershed management activities.

E. Support Watershed Education and Outreach

Watershed education and outreach are important elements of the Watershed Program. Education and outreach efforts may include providing watershed training, coordinating Watershed Work Group meetings, and creating or improving the use and usefulness of resource information centers. The signatory agencies will participate in

watershed education and outreach as feasible and appropriate. Management agencies, in consultation with the IWAT and the Watershed Work Group, will be responsible for coordinating specific activities under this task; details will be provided in the Implementation Plan.

VIII. WATERSHED PROGRAM OVERSIGHT, ADMINISTRATION, AND MANAGEMENT

A. Watershed Program Oversight

Oversight of the Watershed Program will be provided by the Watershed Program Policy Committee. CALFED staff will provide advice and assistance to the Policy Committee. Oversight refers to overall policy guidance to ensure consultation and coordination for the balanced implementation, integration, and continuous improvement of all Watershed Program elements. The Policy Committee will ensure that the Watershed Work Group will be actively consulted as an advisory body while conducting all Watershed Program oversight responsibilities. The Policy Committee will establish an iterative process to ensure effective communication between the Policy Committee and the Watershed Work Group. This process will ensure that policy decisions receive full and transparent evaluation by the Watershed Work Group.

B. Watershed Program Administration

The federal or state agency receiving Watershed Program funds through congressional or legislative appropriations will be responsible for administering those program funds as described by the appropriation. For the first year of implementation, DWR will receive a General Fund appropriation that will include funding for the Watershed Program. The responsible agency or agencies for future years will be named in the Implementation Plan, in accordance with the relevant legislation.

C. Watershed Program Management

Management of the Watershed Program will be a shared responsibility among the management agencies. The day-to-day operations of the Watershed Program will be the responsibility of CALFED staff. Watershed Program management activities will be conducted in consultation with signatory agencies through the IWAT. Management of the Watershed Program will involve the following tasks:

- i. *Develop Implementation Plans.*** The IWAT will be the primary forum in which implementation plans are developed. The management agencies will be responsible for ensuring that implementation plans are developed on schedule. Draft implementation plans will be presented to the Watershed Work Group for feedback and the Policy Committee for approval. The plans will outline specific details on how implementation of the Watershed Program Plan will be carried out. Additionally, corresponding activities for

all signatory agencies will, to the fullest extent practicable, be included in the Implementation Plan. Revisions of the implementation plan will occur on an annual basis or as needed. The first implementation plan will be developed by August 31, 2002; subsequent plans will be developed by May 31 of each year. The implementation plan will be distributed to the signatory agencies and posted on the Watershed Program website.

- ii. ***Develop Annual Budgets.*** CALFED staff and federal and state agencies receiving Watershed Program funding will be responsible for preparing annual operating and administrative budgets for the Watershed Program. CALFED staff will coordinate the development of these budgets to ensure consistency with Watershed Program Plan's goals and objectives.
- iii. ***Database Management and Reporting.*** CALFED staff will be responsible for tracking the status of specific activities carried out by the Watershed Program. An annual report illustrating the progress and accomplishments of the Watershed Program will be included in CALFED's annual report. A schedule for reporting will be identified in the implementation plan.
- iv. ***Manage Personnel.*** The Watershed Program manager, as assigned by the CALFED agencies, will supervise Watershed Program staff and contractors. Signatory agencies will be responsible for ensuring that their staff members carry out the responsibilities outlined in this MOU.
- v. ***Performance Measurement.*** The management agencies, with direct support from the CALFED Science Program, and in consultation with the Watershed Work Group and the IWAT will be responsible for developing programmatic performance measures and tracking the performance of the Watershed Program and individual projects that it supports. The performance measures and tracking will be used to gauge the effectiveness with which the Watershed Program and individual projects meet CALFED's mission, goals, and objectives.
- vi. ***Apply Adaptive Management.*** The Watershed Program will use the principles of adaptive management in managing those actions and projects implemented by or on behalf of the program and in managing the overall program. The management agencies, with direct support from the CALFED Science Program, and in consultation with the Watershed Work Group and the IWAT will ensure that an adaptive management process is applied to keep the Watershed Program current and improving.

IX. SUNSET

This MOU will expire on September 30, 2003, but may be extended by mutual, written agreement of the signatory agencies or a subset thereof

X. SIGNED AND DATED:

State Departments and Agencies

X

Mary Nichols, Secretary for Resources
Resources Agency

William J. Lyons, Jr., Secretary
Department of Food and Agriculture

X

Patrick Wright, Director
CALFED Bay-Delta Program

X

H. Wes Pratt, Director
California Conservation Corps

X

Darryl W. Young, Director
Department of Conservation

X

Robert C. Hight, Director
Department of Fish and Game

X

Andrea E. Tuttle, Director
Department of Forestry and Fire Protection

X

Rusty Areias, Director
Department of Parks and Recreation

X

Paul E. Helliker, Director
Department of Pesticide Regulation

X

Thomas M. Hannigan, Director
Department of Water Resources

X

Sam Schuchat, Executive Officer
California Coastal Conservancy

X

Celeste Cantú, Executive Director
State Water Resources Control Board

Federal Agencies

Ronald Jaeger, Regional Director
Bureau of Indian Affairs

Mike Pool, State Director
Bureau of Land Management

X

Henry C. Wyman, Interim State
Conservationist
Natural Resources Conservation Service

Rebecca Lent, Regional Administrator
National Marine Fisheries Service

Kirk Rogers, Acting Director
U.S. Bureau of Reclamation

X

Laura Yoshii, Acting Regional Administrator
U.S. Environmental Protection Agency

Wayne S. White, Field Supervisor
U.S. Fish and Wildlife Service

X

Bradley Powell, Regional Forester
U.S. Forest Service

