

**MEMORANDUM OF UNDERSTANDING REGARDING
SHORT-TERM CATEGORY III ACTIVITIES**

WHEREAS, representatives of the State and Federal governments and the urban, agricultural and environmental communities agreed, on December 15, 1994, to a statement of "Principles for Agreement on Bay-Delta Standards" (the "Statement of Principles"), which Statement includes the implementation of so-called "Category III measures"; and

WHEREAS, the Statement of Principles commits the State and Federal Governments and agricultural, urban and environmental interests to the implementation and financing of Category III measures (estimated to require a financial commitment of Sixty Million Dollars (\$60,000,000) per year) as an essential part of a comprehensive ecosystem protection plan for the Bay-Delta; and

WHEREAS, the program of Category III measures is focused upon improving specific non-outflow-related factors including, but not limited to: unscreened water diversions in the Sacramento-San Joaquin Delta Estuary ("Bay Delta"), along the Sacramento and San Joaquin Rivers and other locations; waste discharge control and pollution prevention; legal fishing (sport and commercial); illegal fishing (poaching); land-derived salts; exotic species; riparian, wetland and estuarine habitat restoration; and Delta channel alterations/local land-use modifications; and

WHEREAS, the Statement of Principles provides that the water user community agrees to make available an initial financial commitment of ten million dollars (\$10,000,000) annually for three years towards funding Category III activities, and the Metropolitan Water District of Southern California agreed to guarantee the initial annual financial commitment for water user funding of Category III activities described in the Statement of Principles; and

WHEREAS, it was agreed in the Statement of Principles for Implementation of Category III that urban and agricultural water suppliers will work with State and Federal agencies and environmental interests concerned with the Bay-Delta in an open process to determine precise priorities and financial commitments for the implementation of all Category III activities; and

WHEREAS, the urban, agricultural and environmental parties to this Memorandum of Understanding wish to provide for an interim mechanism that will develop and recommend a permanent structure for their participation in the management of the Category III program, that will provide for coordination with the State and Federal government parties to this Memorandum of Understanding, and that will provide a mechanism that will hold and disburse initial commitments of Category III funds until the permanent structure can be developed and implemented.

NOW, THEREFORE, IT IS AGREED by the undersigned that:

1. On February 15, 1995, the Metropolitan Water District of Southern California deposited Ten Million Dollars (\$10,000,000.00) for the exclusive purpose of funding Category III measures, as an initial contribution towards a fund established for the purpose of funding Category III measures.

2. Subject to the availability of necessary appropriations or approvals, the urban, agricultural, and environmental parties to this Memorandum of Understanding may (but are not obligated to) contribute additional initial financing for Category III activities, (1) by contributing to a Category III fund established for that purpose, or (2) by funding specific Category III projects approved by the Steering Committee described hereinafter. Subject to the availability of necessary appropriations or approvals, State and Federal government parties to this Memorandum of Understanding may assist in funding Category III activities by funding specific Category III projects identified by the Steering Committee in consultation with CALFED. The Steering Committee (or its successor once a mechanism for long-term implementation is established) will develop a process for crediting all initial contributions made pursuant to paragraph 1 and this paragraph toward longer-term Category III financial responsibilities.
3. The Metropolitan Water District of Southern California ("Metropolitan") shall act as Treasurer of the Category III Fund pursuant to the terms of this Memorandum of Understanding unless and until replaced by another party or until termination of this Memorandum of Understanding. For this purpose, Metropolitan shall maintain a separate account designated as the "Category III Fund," which account shall be open for inspection upon reasonable notice by any of the signatories of this Memorandum. The Category III Fund shall be held in an account maintained with Metropolitan's regular and usual financial institution for such purposes.
4. An interim Category III Steering Committee ("Steering Committee") shall be established upon completion of the Category III Implementation Plan. The Steering Committee shall reflect the interests of each of the following groups: the environmental community, with a total of two representatives; the fishing community, with a total of two representatives; and the Ag/Urban community, with a total of four representatives. Each group shall separately be responsible on an ongoing basis for determining the composition of its representation on the Steering Committee. CALFED will appoint a total of six individuals to serve as liaisons with the Steering Committee. The Steering Committee, in consultation with the CALFED liaisons, shall identify and prioritize Category III measures. The Steering Committee shall have the power to develop and recommend a permanent institutional framework for the urban, agricultural and environmental parties' implementation of the Category III program. It also shall have the power to carry out the urban, agricultural and environmental parties' duties under the Category III Implementation Plan in the interim, including the power to approve Category III measures pending the establishment of a permanent institutional framework and to determine whether urban, agricultural and environmental parties' funds will be committed for the implementation of such projects. The Steering Committee shall reach decisions that reflect the consensus of all its members.
5. To facilitate the carrying out of its responsibilities, the Steering Committee shall form an Advisory Committee. The Advisory Committee shall be broad based, comprised of individuals possessing specialized knowledge of the Bay-Delta including its hydrology and its aquatic resources. The Advisory Committee is intended to recommend, subject to Steering Committee concurrence, expenditures from the Category III Fund for early implementation of projects.
6. The urban, agricultural and environmental parties hereto, in cooperation with the State and Federal governments and other interested parties, intend to promptly

establish a permanent mechanism to manage the urban, agricultural and environmental parties' participation in Category III programs on a long-term basis. Accordingly, it is anticipated that the administrative mechanism provided herein will be superseded by an alternative administrative mechanism intended to operate over the longer term. The Steering Committee provided for herein shall have the power to transfer funds collected hereunder to such administrative mechanism.

7. Category III funding issues will be addressed by a policy-level sub-committee convened expressly for that purpose. Among other things, this sub-committee shall address the identification of incentives to contribute to the Category III Fund established by Metropolitan and the development of mechanisms to allocate Category III funding responsibilities. The Steering Committee and/or the long-term Category III structure will be guided by the policy sub-Committee's resolution of these issues.
8. Participation in this Memorandum of Understanding is on a voluntary basis. Participation in activities pursuant to this Memorandum is not, nor may it be construed to be an admission of responsibility or liability for protection measures in the Bay-Delta system. Further, participation by an agency shall not be precedence for compelling participation in Bay-Delta protection activities.
9. Participation in this Memorandum of Understanding shall not confer jurisdiction or enforceability to any person or agency over any signatory. The parties have entered into it voluntarily and no rights to any other person or agency are accorded by participation in the Memorandum.

This Memorandum of Understanding shall remain in full force and effect until superseded by the long-term arrangement referred to in paragraph 6. Any party wishing to terminate their participation in the Memorandum may do so by providing written notice to all of the undersigned parties or their attorneys, upon which time the Memorandum will have no further force or effect as to that party. Termination by any one party shall not invalidate this Memorandum as to any party not tendering its own independent notice of termination.

(Signatures to be attached)

For Signature --



for Regional Director
United States Fish and Wildlife Service

10/19/95
Dated



Regional Director
National Marine Fisheries Service

11 Dec 95
Dated



Regional Administrator
Environmental Protection Agency

10/19/95
Dated



Regional Director
United States Bureau of Reclamation

10/19/95
Dated