

MEMORANDUM OF UNDERSTANDING
FOR PREPARATION OF
ENVIRONMENTAL IMPACT STATEMENT/REPORT
FOR
LONG-TERM IMPROVEMENTS TO THE BAY-DELTA ESTUARY

In 1992 the Governor of the State of California established by executive order the Water Policy Council. The Council, made up of representatives of the California Resources Agency, the California Environmental Protection Agency, the California Department of Fish and Game, the California Department of Water Resources, the California Department of Food and Agriculture, and the State Water Resources Control Board, coordinates the State's diverse roles affecting the resources of the Bay-Delta Estuary.

In 1994, the federal agencies established the Federal Ecosystem Directorate (Club FED). Club FED, made up of representatives of the United States Department of the Interior, the United States Environmental Protection Agency, and the United States Department of Commerce, coordinates the federal entities' activities affecting the resources of the Bay-Delta Estuary.

In July 1994, representatives of Club FED and the Water Policy Council entered into a Framework Agreement committing to work cooperatively to develop a long-term solution to the problems affecting the Bay-Delta Estuary. Exhibit C of the Framework Agreement provided for evaluation of solution alternatives pursuant to the National Environmental Policy Act (NEPA) (42 USC §§ 4321, et seq.) and the California Environmental Quality Act (CEQA) (Cal.Pub.Resources Code §§ 21000 et seq.).

Club FED and the Water Policy Council established the CALFED Bay-Delta Program as the comprehensive, long-term planning effort to address the resource problems of the Delta, and to identify and evaluate potential solutions to those problems. In addition, they have provided an interagency team to carry out the Program under CALFED's general direction. Finally, the Department of the Interior and the Governor established the Bay Delta Advisory Council (BDAC) to provide public review and comment to the CALFED Bay-Delta Program.

This memorandum of understanding (MOU) describes the roles of each federal and State entity in assisting the CALFED Bay-Delta Program in carrying out an environmental evaluation pursuant to NEPA and CEQA of the long-term solutions to the Delta resource problems.

Delegation of Responsibilities to Interagency Team

The federal and State governments intend to coordinate preparation of a single environmental document that satisfies both NEPA and CEQA. The parties agree to support that process in an effort to assure the accuracy and completeness of such a document, and compliance with both state and federal entities' obligations under NEPA and CEQA. The parties further agree that successful preparation of a joint environmental impact statement (EIS) and environmental impact report (EIR) requires coordination and communication between all parties involved. To the maximum extent practicable under law and consistent with agency policy, all parties agree to share all relevant information in a timely manner.

The parties agree that the CALFED Bay-Delta Program interagency team will be responsible for preparation of the EIS/EIR under CALFED's general direction. The CALFED Bay-Delta Program interagency team in consultation with the lead federal and state agencies, will prepare and circulate the Notice of Intent and the Notice of Preparation pursuant to NEPA and CEQA. Additionally, the CALFED Bay-Delta Program interagency team, in consultation with the federal and state agencies, will determine the organization, scope and content of the NEPA and CEQA documents to ensure that the requirements of federal and state laws are satisfied.

The CALFED Bay-Delta Program interagency team will also be responsible for planning and conducting the public participation activities required under both statutes. To that end, the CALFED Bay-Delta Program interagency team shall conduct noticed public hearings in order to obtain comments on the draft EIS/EIR from all public agencies (including those party to this agreement) and from the general public. Such public hearings shall be held using procedures identified in NEPA and CEQA.

The CALFED Bay-Delta Program interagency team will provide notice of all meetings and events associated with the EIS/EIR to each of the signatories hereto. The CALFED Bay-Delta Program interagency team will furnish copies of all relevant documents as promptly as possible for purposes of state and federal agency review, evaluation and approval. The CALFED Bay-Delta Program interagency team will brief CALFED on its activities and progress in furtherance of producing a comprehensive programmatic EIS/EIR.

Commitments

A. United States - Pursuant to 40 C.F.R. §1501.5, USFWS, NMFS, USBR, and EPA will serve as co-lead agencies for NEPA purposes. Other federal agencies may serve as cooperating agencies pursuant to §1501.6. MOUs between the co-lead agencies and each cooperating agency will be entered into to define each cooperating

agency's responsibilities. Each entities' commitments to this process are described below.

1. The United States Fish and Wildlife Service (USFWS) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. USFWS shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. assure USFWS representation at CALFED Bay-Delta Program Coordination Team meetings, or other interagency group meetings, workshops, public hearings, etc.

c. provide prompt technical assistance, review and comment of EIS/EIR related documents. Provide expertise, guidance, and summary data regarding federally-listed threatened and endangered species, general fish and wildlife population status and related resource issues for which USFWS is directly responsible.

d. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible.

2. The National Marine Fisheries Service (NMFS) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. NMFS shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. assure NMFS representation at CALFED Bay-Delta Program Coordination Team meetings, or other interagency group meetings, workshops, public hearings, etc.

c. provide prompt technical assistance, review and comment of EIS/EIR related documents. Provide expertise, guidance, and summary data regarding federally-listed threatened and endangered species, general fish and wildlife population status and related resource issues for which NMFS is directly responsible.

d. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible.

3. The United States Bureau of Reclamation (USBR) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. USBR shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. assure USBR representation at CALFED Bay-Delta Program Coordination Team meetings, or other interagency group meetings, workshops, public hearings, etc.

c. provide prompt technical assistance, review and comment of EIS/EIR related documents. Provide expertise, guidance and summary data in those matters for which USBR is directly responsible, such as management of the Central Valley Project, etc.

d. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible.

4. The United States Environmental Protection Agency (EPA) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. EPA shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. assure EPA representation at CALFED Bay-Delta Program Coordination Team meetings, or other interagency group meetings, workshops, public hearings, etc.

c. provide prompt technical assistance, review and comment of EIS/EIR related documents. Provide expertise, guidance, and summary data in those matters for which EPA is directly responsible.

d. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible.

B. California - Pursuant to 14 CCR § 15050 the Resources Agency will serve as the lead agency for CEQA purposes. The California Environmental Protection Agency, the Department of Fish and Game, Department of Water Resources, and the State Water Resources Control Board will serve as responsible agencies. Each entities' commitments to this process are described below.

1. The California Resources Agency (Resources) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. Resources shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. provide prompt technical assistance, review and comment of EIS/EIR related documents.

c. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible.

possible.

2. The California Department of Fish and Game (DFG) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. DFG shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. assure DFG representation at CALFED Bay-Delta Program Coordination Team meetings, or other interagency group meetings, workshops, public hearings, etc.

c. provide prompt technical assistance, review and comment of EIS/EIR related documents. Provide expertise, guidance, and summary data regarding state-listed endangered and threatened species, general fish and wildlife population status and related resource issues for which DFG is directly responsible.

d. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible.

3. The California Department of Water Resources (DWR) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. DWR shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. assure DWR representation at CALFED Bay-Delta Program Coordination Team meetings, or other interagency group meetings, workshops, public hearings, etc.

c. provide prompt technical assistance, review and comment of EIS/EIR related documents. Provide expertise, guidance, and summary data in those matters for which DWR is directly responsible, such as planning for California's future water needs, etc.

d. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible.

4. The California Environmental Protection Agency (Cal EPA) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. Cal EPA shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. provide prompt technical assistance, review and

comment of EIS/EIR related documents.

c. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible. Provide expertise, guidance and summary data in those matters for which SWRCB is directly responsible.

5. The State Water Resources Control Board (SWRCB) shall:

a. designate an individual to serve as liaison for matters related to the CALFED Bay-Delta Program. SWRCB shall notify the CALFED Bay-Delta Program Manager of the designee, and of any changes in representation.

b. provide prompt technical assistance, review and comment of EIS/EIR related documents.

c. Provide support to the EIS/EIR development through contribution of staff time, information and facilities when possible. Provide expertise, guidance and summary data in those matters for which SWRCB is directly responsible.

Modification of the MOU

This MOU may be modified by written agreement of all of the signatories hereto.

Disclaimer

Nothing in this MOU shall amend, abridge, or in any way alter the responsibilities of any state or federal agency signatory hereto. For example, public hearings on permit decisions shall be conducted separately by each party to this agreement according to that agency's own rules and regulations.

It is understood by the parties that this is neither a contractual agreement nor a delegation of their responsibilities. The purpose of this MOU is to clarify an agreed-upon cooperative process to produce a joint document pursuant to NEPA and CEQA.

It is agreed by the parties that their obligations hereunder are contingent upon the availability of appropriations from Congress for the federal agencies and the California legislature for the State agencies.

Duration of the MOU

This MOU shall become effective upon signature of all of the parties listed below. Any party may withdraw from this MOU after

giving thirty (30) days advance written notice to all of the other signatories hereto, and may proceed independently pursuant to NEPA and CEQA.

Signed and Dated:

A Dale Hall
U.S. Fish and Wildlife Service

10/19/95
Date

Tracie Day - [unclear]
National Marine Fisheries Service

11 Dec 95
Date

[unclear]
U.S. Environmental Protection Agency

10/19/95
Date

[unclear]
U.S. Bureau of Reclamation

10/19/95
Date

[unclear]
California Resources Agency

10-19-95
Date

Tommy Strack
California Environmental Protection Agency

1/2/96
Date

[unclear]
California Department of Fish and Game

10/19/95
Date

[unclear]
California Department of Water Resources

10/19/95
Date

[unclear]
State Water Resources Control Board

1-10-96
Date