

Final
As Signed

**MEMORANDUM OF AGREEMENT
AMENDING AND UPDATING
THE AGREEMENT FOR COORDINATION OF
CALIFORNIA BAY/DELTA ISSUES**

In September 1993, representatives of the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), U.S. Bureau of Reclamation (USBR) and U.S. Environmental Protection Agency (USEPA) signed the Agreement for Coordination of California Bay/Delta Issues (Agreement for Coordination). In the Agreement for Coordination, the signatory agencies agreed to coordinate their respective actions and efforts in the San Francisco Bay/Sacramento-San Joaquin Delta estuary ecosystem (Bay/Delta) through the mechanism of the Federal Ecosystem Directorate (now generally referred to as Club FED).

In the summer of 1994, Club FED and the Governor's Water Policy Council of the State of California (Water Policy Council) entered into a Framework Agreement establishing a comprehensive program for coordination and communication between Club FED and the Water Policy Council with respect to environmental protection and water supply dependability in the Bay/Delta. The Framework Agreement provided for increased coordination and communication with respect to (1) substantive and procedural aspects of water quality standard setting, (2) improved coordination of water supply operations with threatened and endangered species protection and water quality standard compliance; and (3) development of a long-term solution to fish and wildlife, water supply reliability, flood

control, and water quality problems in the Bay/Delta Estuary.

On December 15th, 1994, representatives of the State and Federal governments and urban, agricultural and environmental interests signed the Principles for Agreement on Bay-Delta Standards between the State of California and the Federal Government (Bay Delta Accord).

In May 1995, the individual Club FED agencies and the California Department of Water Resources (acting for the Water Policy Council) executed Contract No. B-59953 to allocate the costs and responsibilities for funding and administering the EIS/EIR process now known as the CALFED Bay-Delta Program. The Contract included provisions describing the organization of the Bay Delta Advisory Committee under the Federal Advisory Committee Act.

In December 1995, the Club FED agencies entered into a Memorandum of Understanding on the Development of an Environmental Impact Statement on the CALFED Bay-Delta Program. In the Memorandum, all Club FED agencies agreed to serve as co-lead agencies pursuant to 40 C.F.R. §1501.5, and the USBR agreed to coordinate compliance with the procedural requirements of the National Environmental Policy Act (NEPA). The Memorandum explicitly allowed for other Federal agencies to participate in the CALFED Bay-Delta Program EIR/EIS process upon execution of a Memorandum of Agreement between the parties. In addition, the

Memorandum reflected a Club FED agreement that the Federal share of the costs of the CALFED Bay-Delta Program would be coordinated through a single line item annual budget request by the Department of the Interior.

In December 1995, Club FED and the Water Policy Council entered into a Memorandum of Understanding for Preparation of Environmental Impact Statement/Report for Long-Term Improvements to the Bay-Delta Estuary in which the signatory agencies delegated responsibility for preparing a joint environmental impact statement (EIS) and environmental impact report (EIR) to the CALFED Bay Delta Program interagency team. Further, the signatory agencies assumed their respective roles as co-lead agencies under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321, et seq.) and lead and responsible agencies under the California Environmental Quality Act (CEQA) (Cal.Pub.Resources Code 21000 et seq.), and committed to support the development of the EIS/EIR.

In December 1995, the Club FED agencies, the Water Policy Council agencies, and representatives of the agricultural, urban and environmental water interests executed a Memorandum of Understanding Regarding Short-Term Category III Activities. The Memorandum outlined the coordination procedures for the stakeholders' "Category III" process established in the Bay Delta Accord to identify and fund non-flow measures to address environmental issues in the Bay/Delta.

On September 3, 1996, the member agencies of Club FED and the Water Policy Council signed a joint letter to the Governor of the State of California and the Secretary of the Interior of the United States. In this joint letter, the signatory agencies concluded that Phase I of the CALFED Bay Delta Program had culminated in the development of three preliminary alternatives that will be further detailed and analyzed in the environmental review process of Phases II and III. The signatory agencies further reaffirmed their commitment to the CALFED Bay Delta Program, to completing a Programmatic EIR/EIS, and to working cooperatively to solve the problems of the Bay Delta.

On November 5, 1996, the voters of the State of California approved State Proposition 204, which authorized the issuance of state bonds to fund a total of \$390 million for the ecosystem restoration components of the preferred alternative to be developed in the CALFED Bay Delta Program. On November 12, 1996, the President of the United States signed Title XI of the Omnibus Parks and Public Lands Act of 1996 (P.L. 104-333, 110 Stat. 4241), which authorized up to \$430 million in federal funds over a three-year period beginning in fiscal year 1998 as needed to match the California State Proposition 204 state funds.

At this time, the Natural Resources Conservation Service (NCRS) and the U.S. Forest Service (USFS) in the U.S. Department of Agriculture, the Bureau of Land Management (BLM) and the U.S.

Geological Survey (USGS) in the Department of the Interior, the Western Area Power Administration (WAPA), and the U.S. Army Corps of Engineers (Corps) agree to become participants in the Club FED coordination effort. The NRCS has substantial responsibilities in the Bay/Delta under the Wetland Reserve Program (16 U.S.C. 590a et seq. and 16 U.S.C. 3837 et seq.), the Emergency Watershed Protection provisions of the Agricultural Credit Act of 1978, as amended (P.L. 81-516 Sec. 216 and P.L. 95-334 Sec 403), the Conservation Operations programs (16 U.S.C. 590 and 16 U.S.C. 3801 et seq.), the Environmental Quality Incentives Program (16 U.S.C. 3839aa-3839aa-8), and the Wildlife Habitat Incentives Program (15 U.S.C. 714b and 714c and 16 U.S.C. 590a et seq. and 3836a). The USFS has substantial responsibilities in the Bay/Delta under the Organic Act of June 4, 1897, as amended (16 U.S.C. 473 et seq.), the Multiple Use Sustained Yield Act of 1960 (16 U.S.C. 528 (note)), the National Forest Management Act of 1976, as amended (16 U.S.C. 1600 (note)), and the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701, et seq.). The BLM has substantial responsibilities for managing natural resources on public lands in California under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, et seq.). The USGS has substantial fact-finding responsibilities under the Organic Act of March 3, 1879 (43 U.S.C. 31 et seq., as reauthorized by P.L. 101-614), the Reduction Act of 1977 (42 U.S.C. 7701 et seq., as reauthorized by P.L. 101-614), the Global Change Research Act of 1990 (P.L. 101-606), and the National Geologic Mapping Act of 1992

(P.L. 102-285) and in the Bay/Delta in particular under USGS appropriated study programs including (but not limited to) the National Toxic Substances Hydrology Program, the National Water Quality Assessment Program, the National Hydrologic Research Program, the Critical Ecosystems Initiative, the Drinking Water Initiative, and joint funding agreements under the Federal-State Cooperative Program (43 U.S.C. 50). In addition, USGS is called upon to provide review of Environmental Impact Statements under NEPA (42 U.S.C. 4321 and 4331 et seq.). The WAPA has substantial responsibilities in the Bay/Delta under federal Reclamation Law (i.e., the Act of June 17, 1902, and all acts amendatory thereto or supplementary thereof, including, but not limited to, the Reclamation Project Act of 1939, the various acts authorizing the construction and operation of the Central Valley Project, and the Central Valley Project Improvement Act), the Flood Control Act of 1944 (58 Stat. 887), and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565). The Corps has substantial responsibilities in the Bay/Delta under Section 404 of the Clean Water Act, under Section 10 of the Rivers and Harbors Act of 1899, and pursuant to the Civil Works Programs.

Efforts to coordinate conservation programs among local, state, and federal agencies in California are well established. In September 1991, The Agreement on Biological Diversity was created and eventually signed by representatives of 36 federal, state, and local governments (including most of the parties to this

Agreement). The signing of the Biodiversity Agreement exemplifies California's commitment to cooperative ecosystem management. Working together to manage the Bay/Delta ecosystem to protect the environment and ensure a dependable water supply is an important example of this cooperative approach to ecosystem management.

AGREEMENTS

In order to reflect the developments described above, the signatory agencies hereby agree as follows:

1. USFWS, NMFS, USBR and USEPA reaffirm all agreements contained in the 1993 Agreement for Coordination of California Bay/Delta Issues, the 1994 Framework Agreement, the 1994 Bay Delta Accord and the 1995 Memoranda of Understanding described above. NRCS, USFS, BLM, USGS, WAPA and the Corps acknowledge and affirm all agreements contained in these documents, except that none of these agencies shall have any responsibility for any obligations arising under such documents that accrued prior to the date of execution of this Agreement unless otherwise explicitly set forth herein or in subsequent agreements.
2. We affirm our commitment to the successful development of a final EIS/EIR by the CALFED Bay Delta Program.
3. NRCS and the Corps agree to serve as co-lead agencies pursuant

to 40 C.F.R. §1501.5, along with those co-lead agencies already serving in this capacity pursuant to the 1995 Memorandum of Understanding on the Development of an Environmental Impact Statement on the CALFED Bay-Delta Program, in the development of an Environmental Impact Statement on the CALFED Bay-Delta Program. In addition, these agencies will serve on the Program Coordination Team established under the CALFED Bay-Delta Program and on interagency technical teams as appropriate.

4. USFS, BLM, USGS, and WAPA agree to serve as cooperating agencies pursuant to 40 C.F.R. §1501.6 in the development of an Environmental Impact Statement on the CALFED Bay-Delta Program. In addition, these agencies will serve on the Program Coordination Team established under the CALFED Bay-Delta Program and on interagency technical teams as appropriate.

5. In order to create a more effective coordination of the signatory agencies' statutory responsibilities and related actions and efforts, we agree to reorganize Club FED as follows:

(a) Each signatory agency will designate an agency employee in Washington D.C. to serve on the Headquarters Coordination Group. This Headquarters Coordination Group will meet as necessary to exchange information and provide for headquarters level coordination of Club FED activities.

(b) Those signatory agencies that have agreed or are agreeing to serve as co-lead agencies in the development of the Environmental Impact Statement on the CALFED Bay-Delta Program will each designate two employees in California to serve on the Club FED Management Team. This Club FED Management Team will serve as the primary Club FED coordination effort forum, and will coordinate with all Federal agencies having an interest in Bay Delta issues, including especially those agencies that have agreed to serve as cooperating agencies in the development of the Environmental Impact Statement on the CALFED Bay-Delta Program. The Club FED Management Team will serve as the federal component of the CALFED Management Team.

(c) The Headquarters Coordination Group will be chaired by a Headquarters Coordinator and the Club FED Management Team will be chaired by the Regional Manager. The Headquarters Coordinator and the Regional Manager will be responsible for coordinating the activities of these two groups, and shall generally chair or co-chair, as applicable, meetings or conference calls of these groups.

(d) Meetings of the Headquarters Coordination Group and the Club FED Management Team will be held as necessary to function effectively. The Club FED Management Team will generally hold a Club FED conference call twice monthly as a primary coordination mechanism, and may schedule other conference calls as necessary to function effectively.

(e) It is presently envisioned that state and federal agencies will continue to meet approximately quarterly as the CALFED Policy meetings. Federal representation at these meetings will be by the Club FED Management Team with the addition of the two Administration co-leads for Club FED designated in a letter from Secretary of the Interior and the Administrator of the Environmental Protection Agency to the Deputy Assistant to the President for Intergovernmental Affairs on June 16, 1995. This federal representation may be supplemented as appropriate by other senior federal executives involved in Bay/Delta issues.

6. We agree that the federal coordination effort established pursuant to this Memorandum of Agreement shall be known formally as the Federal Bay Delta Council and shall continue to be referred to informally as Club FED.

7. Nothing in this Memorandum of Agreement shall abridge or amend any responsibilities or restrict any authorities of any of the signatory agencies in the Bay/Delta problem and solution areas or elsewhere under any Federal laws or regulations, including, but not limited to, the Clean Water Act, Section 309 of the Clean Air Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the various acts authorizing the Civil Works Programs of the Corps, the Flood Control Act of 1944, the Department of Energy Organization Act, federal Reclamation Law (i.e., the Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto,

including, but not limited to, the Reclamation Project Act of 1939, the various acts authorizing the construction and operation of the Central Valley Project, and the Central Valley Project Improvement Act). In addition, nothing in this Memorandum of Agreement shall limit or prevent the signatory agencies from carrying out existing or future studies, programs, projects, or actions in the Bay/Delta problem or solution areas or elsewhere both prior to and after the Record of Decision for the programmatic EIS is signed, nor shall anything in this Memorandum of Agreement limit or prevent the signatory agencies from exercising their authorities under any federal statute, regulation or agreement to review, permit, assess, comment, consult or take any other authorized action as to any such existing or future studies, programs, projects or actions.

8. This Memorandum of Agreement may be modified by the parties hereto only with the written agreement of all of the parties.

9. Any party to this Memorandum of Agreement may terminate its participation in this Memorandum of Agreement upon written notice to the other signatories. Termination by one party of its involvement in this Memorandum of Agreement shall not terminate or affect the relationship between the remaining Memorandum of Agreement signatories.

10. The parties to this Memorandum of Agreement acknowledge that any financial contribution or obligations required of a party under

