

INTERAGENCY AGREEMENT  
BETWEEN THE RESOURCES AGENCY  
AND THE DEPARTMENT OF WATER RESOURCES

**DRAFT COPY**

February 13, 1998

**SECTION 1. PURPOSE AND DESIGNATION OF PARTIES**

This agreement ("Agreement") is made between the Resources Agency, (hereinafter referred to as "the Agency") and the Department of Water Resources (hereinafter referred to as "DWR"), for the purpose of administering the receipt, disbursement, and accounting funds appropriated for Category III activities referenced in Article 3 of Chapter 4 of Division 24 of the California Water Code, beginning with Section 78535, titled the Bay-Delta Agreement Program ("Category III Program"). As used in this agreement, "CALFED" means the consortium of state and federal agencies defined in Water Code Section 78501, and its successor entities.

**SECTION 2. TERM**

The term of this agreement shall be from February 1, 1998, through December 31, 2000, but shall not be effective until approved by the Agency and DWR. The Agency and DWR reserve the right to cancel or terminate the agreement prior to the expiration date pursuant to SECTION 8, CANCELLATION AND AMENDMENT PROVISIONS.

**SECTION 3. BUDGET AND FISCAL RESPONSIBILITY**

- A. The overall budget for this Agreement shall be a maximum payable not to exceed fifty-nine million eight hundred seventy-four thousand dollars (\$59,874,000), of which no more than \$1,674,000 shall be used for administration of the Bay-Delta Agreement Program to CALFED, NFWF, or DWR or their successor entities. All funds in excess of \$1,674,000 shall be used to fund CALFED Category III activities, including bond fees and escrow costs, as provided for in Water Code §78536.
- B. The Agency shall transfer monies to DWR upon written request based upon estimated Category III Program expenditures as projected in budgets submitted by CALFED and NFWF.

- C. DWR shall act as fiscal agent for the Category III Program. In this capacity, DWR will provide support to secure bond sales, to invest in money investment pools as needed, to disburse all funds payable under this agreement, and to provide appropriate general fiscal management and accounting for monies in the Category III Program accounts. DWR will provide a fiscal report to the Agency and CALFED on no less than a quarterly basis.
- D. Work to be performed under this contract is subject to the availability of funds pursuant to the provisions of the Clean, Safe, Reliable Water Supply Act (Water Code § 78500 et seq.).

#### SECTION 4. PAYMENT AND PERFORMANCE PROVISIONS

DWR shall disburse the funds available for CALFED Category III activities to approved State recipients of the funds and to NFWF to disburse subject to the following condition:

Upon final approval by the Agency of the list of projects designated to receive funding under the Category III Program, DWR shall disburse funds in the amounts specified by CALFED for State Interagency contracts, and by NFWF for recipient agreements pursuant to a schedule provided by CALFED. **[Have Chet check language, whether it is to "authorize" disbursement of funds or to "disburse" funds.]**

#### SECTION 5. DELEGATION OF CONTRACT AUTHORITY

- A. The Agency authorizes the Department to enter into the Agreement Regarding CALFED Category III Funds Between the California Resources Agency and the National Fish and Wildlife Foundation, dated \_\_\_\_\_, 1998, on behalf of the Secretary of Resources. That agreement is incorporated herein by reference, and describes the full scope and limitation of DWR's authority to enter into the contract with NFWF.
- B. In addition, DWR will maintain oversight review over NFWF budgetary control and expenditure reporting.

#### SECTION 6. CLAIMS AND RESPONSIBILITY FOR LEGAL CLAIMS AND ACTIONS

- A. Agency is responsible for providing the defense and payment of any claims, settlements, judgements, or legal actions involving Recipient Agreements. Resources Agency will seek reimbursement for these costs from the Category III funds.

- B. Agency retains authority to seek indemnification from NFWF on behalf of DWR, as provided in the agreement with NFWF.
- C. Agency is responsible for payment of claims or legal actions against DWR as the signatory to the contract with NFWF, pursuant to section 5 of this agreement, unless the claim pertains to the fiscal management of the NFWF contract or fiscal management of other Category III Interagency Agreements. Resources Agency will seek reimbursement for these costs from Category III funds.

#### SECTION 7. RECORD ESTABLISHMENT, ACCESS AND RETENTION

- A. DWR shall maintain records of all disbursements and expenditures incurred by DWR in the performance of work under this Agreement. These records shall be maintained during the term of the agreement and for a minimum period of three years after final payment has been issued under this Agreement, and shall be made available to CALFED and the Agency upon reasonable notice. All contract records are subject to audits by the Bureau of State Audits at any time during such time periods, as provided in Government Code Section 8546.7.
- B. NFWF shall have primary responsibility for the oversight of NFWF-administered recipient agreements, and CALFED shall have primary responsibility for the oversight of State agency contracts under the Category III Program. DWR shall cooperate with CALFED and NFWF to ensure maintenance of all records necessary to carry out these responsibilities.
- C. DWR shall keep separate books, records, accounts and documents pertaining to this agreement sufficient to satisfy a state audit.

#### SECTION 8. COMMUNICATION

- A. \_\_\_\_\_ shall be the designated Project Manager for DWR under this agreement and shall have overall responsibility to administer, evaluate and follow-up the work of DWR during the term of this agreement. The Project Manager may be changed at any time by DWR with advance written notice thereof to the Agency.
- B. All official communication from the Agency to DWR shall be directed to the attention of the individual in Subsection A, above, at the following address:

[name]

Department of Water Resources  
1416 Ninth Street, Ste. \_\_\_\_  
Sacramento, CA 95814  
916--  
(FAX) 916--  
(E-mail)-

- C. Don Wallace shall be the designated Contract Manager for the Agency under this agreement. The Contract Manager may be changed at any time by the Agency with advance written notice thereof to DWR.
- D. All official communications from DWR to the Agency shall be directed to the attention of Don Wallace at the following address:

Don Wallace  
Assistant Secretary for Finance and Administration  
The Resources Agency  
1416 Ninth Street, Ste. 1311  
Sacramento, CA 95814  
916-653-5656  
(FAX) 916-653-8102  
(E-mail) don@resources.ca.gov

#### SECTION 9. CANCELLATION AND AMENDMENT PROVISIONS

- A. No oral understanding or variation of the terms of this agreement is valid unless that understanding or variation has been made in writing and signed by all parties.
- B. Either party may cancel this agreement at any time by providing the other party with thirty (30) days advance notice thereof.
- C. Notwithstanding Subsection B, above, either party may cancel this agreement verbally in whole or part and later follow-up with written confirmation, giving the other party less than thirty (30) calendar days advance notice if serious defaults in either party's performance, or compliance with the terms of this agreement are detected. "Serious default in performance" means the failure to comply with the terms and/or requirements of this agreement.

Resources Agency

\_\_\_\_\_  
by Douglas Wheeler, Secretary for Resources

\_\_\_\_\_  
Date

Department of Water Resources

\_\_\_\_\_  
by David Kennedy, Director

\_\_\_\_\_  
Date

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