MEMORANDUM OF UNDERSTANDING

between the

U.S. ENVIRONMENTAL PROTECTION AGENCY,
U.S. BUREAU OF RECLAMATION,
CALIFORNIA DEPARTMENT OF HEALTH SERVICES,
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD,
CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD,
CALIFORNIA DEPARTMENT OF WATER RESOURCES,
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE, and
CALFED BAY-DELTA PROGRAM

regarding

DRINKING WATER QUALITY PROGRAM MANAGEMENT

of the

CALFED BAY-DELTA PROGRAM

Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish a framework, program management and other agency roles and responsibilities, and forums for coordination and advice, for the implementation of the Drinking Water Quality Program (DWQP) of the CALFED Bay-Delta Program (hereinafter, CALFED).

Framework

On August 28, 2000, the 18 federal and State agencies that comprise CALFED, including the California State Water Resources Control Board (hereinafter, SWRCB), U.S. Environmental Protection Agency (hereinafter, USEPA), California Department of Water Resources (hereinafter, DWR), US Bureau of Reclamation (hereinafter, Reclamation), and California Department of Food and Agriculture (hereinafter, CDFA), signed the CALFED Implementation Memorandum of Understanding (hereinafter, Implementation MOU). The California Department of Health Services (hereinafter, DHS), the primacy agency for California for the federal Safe Drinking Water Act, subsequently signed the Implementation MOU on September 22, 2000.

DWQP's goal is to provide for safe, reliable, and affordable drinking water for the 22 million Californians who are served Delta water at their taps. To reach this goal, DWQP actions combine cost-effective improvements in source water quality, advancements in treatment technology, and innovations in water management. Overall, DWQP will strive to effectively integrate drinking water source protection, treatment, and distribution in order to improve public health protection. Furthermore, DWQP will support health effects research of Delta drinking water, and will perform comprehensive monitoring and assessment of Delta drinking water quality, in order to evaluate program actions and outcomes and guide future decisions. Specifically for source water protection, DWQP actions will emphasize urban and agricultural best management practices that prevent pollution of surface water and groundwater, and cooperatively improve water quality in the Delta on a watershed basis.

DWQP is a set of actions and activities outlined in the CALFED Record of Decision, dated August 28, 2000. The Program utilizes existing public health and environmental regulatory programs, supplemented by new cooperative and incentive-based projects. DWQP's implementation strategy is to partner with existing local agencies and programs, respect issues of environmental justice, and incorporate adaptive management and science into decision-making.

Responsibility for Delta drinking water quality is shared among a number of federal and State agencies, primarily DHS, SWRCB (including the Central Valley Regional Water Quality Control Board, hereinafter CVRWQCB), and USEPA, but also DWR, Reclamation, and CDFA. All seven agencies are integral to implementing CALFED's drinking water quality element. DWQP is also complemented by actions in other CALFED elements, such as watersheds, water use efficiency, water transfers, ecosystem restoration (specifically, environmental water quality), and storage and conveyance.

The Implementation MOU assigned initial DWQP management to CALFED staff, and requires that, by February 1, 2001, DHS, SWRCB, and USEPA recommend future program management, in a separate MOU, to the CALFED Policy Group.

Roles and Responsibilities

This MOU establishes the following roles and responsibilities for CALFED agencies implementing the DWQP. CALFED agencies will implement DWQP in a manner that is consistent with CALFED goals, objectives, and implementation principles, and in particular, will utilize existing programs to the greatest extent possible.

DHS and USEPA, with support from CALFED Program staff, will initially provide overall DWQP management,[1] with close consultation and coordination with SWRCB/CVRWQCB, and when appropriate, DWR, Reclamation and CDFA. By July 1, 2002, DHS and USEPA will assume full joint management of the DWQP, given the receipt of the necessary staffing, budgetary, and leadership resources. DHS and USEPA will provide quarterly updates to the Delta Drinking Water Council and the CALFED Federal-State Management Group on their respective progress towards assuming overall program management. Should DHS and/or USEPA fail to meet this schedule, CALFED Program staff will continue to support DWQP management.

DHS and USEPA will have primary responsibility[2] for research on treatment technologies and health effects of Delta drinking water.

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[1] DHS, USEPA, and CALFED Program staff will initially share "DWQP management." Specifically, CALFED Program staff will provide direction, day-to day management, and leadership of the DWQP, including development of Program priorities and annual and long-term workplans, budgeting, and staffing, until DHS and USEPA acquire the necessary staffing, budgetary, and leadership resources to fully assume these management activities. CALFED Program staff will promote public and regional participation in the DWQP, while USEPA will promote tribal involvement in the Program. CALFED Program staff will manage major program oversight and coordination functions with the implementing agencies, other CALFED program elements, Management and Policy Groups (or their successors), Bay-Delta Advisory Council and the Delta Drinking Water Council (or their successors), DWQP technical work groups, expert panels, the CALFED Science Program, and other groups working on drinking water related issues. CALFED Program staff initially has the major responsibility for any project solicitation process and for providing assurances that Program funds are spent consistently with Program goals and objectives, although agencies with program and funding authority shall retain their full statutory discretion over decisions pertaining to those programs.

DHS and USEPA will fully and jointly assume program management, including management of the project solicitation and management process, on July 1, 2002, assuming they acquire the necessary staffing, budgetary, and leadership resources to do so. On July 1, 2002, CALFED Program staff will fall back to an oversight and coordination role.

[2] Agencies assigned "primary responsibility" for DWQP actions are expected to utilize existing programs, to the greatest extent possible, to effect completion of the action. In their area of primary responsibility, agencies should identify, plan, and provide staff and other resources, including funding, for DWQP implementation and project management, work through DWQP for stakeholder involvement, support ad hoc local workgroups for individual projects, participate in the CALFED Science Program for monitoring, assessment, and research efforts, and report study and action results to DWQP and other appropriate CALFED entities and groups.

SWRCB/CVRWQCB and USEPA will have primary responsibility for source water protection, including agricultural drainage management. In consultation with DHS, SWRCB/CVRWQCB and USEPA will have primary responsibility for the development of ambient water quality objectives for drinking water contaminants and their precursors. For DWQP actions involving drainage management and salt utilization, SWRCB/ CVRWQCB and USEPA will utilize the San Joaquin Valley Drainage Implementation Program (SJVDIP)[3] and coordinate with DWR's Statewide Drainage Management Program. For engineering aspects of source water improvement, SWRCB/CVRWQCB will consult with DWR and Reclamation.

DWR and Reclamation, in consultation with DHS, will have primary responsibility for source control issues on their respective conveyances, such as the California Aqueduct, San Luis Canal, North and South Bay Aqueducts, Contra Costa Canal, Friant-Kern Canal, and similar conveyances.

CALFED Program staff, with support from USEPA, will have primary responsibility for the Bay Area Blending/Exchange project, in coordination with DWR for the Los Vaqueros Reservoir expansion project.

CVRWQCB, in consultation with DHS, SWRCB, and USEPA, will have primary responsibility for development of a State drinking water policy for the Delta and its tributaries.

DHS and SWRCB/CVRWQCB, in consultation with the CALFED Science Program, will have primary responsibility for a comprehensive monitoring and assessment program for constituents of concern in drinking water.

DHS, SWRCB/CVRWQCB, and USEPA will support the Delta Drinking Water Council.

Reclamation and DWR, in coordination with CALFED Program staff, will have primary responsibility for water quality exchanges for southern California.

DWR and Reclamation will have primary responsibility for lower San Joaquin River recirculation study.

DWR and Reclamation will have primary responsibility for development and implementation of a plan to meet all existing water quality standards and objectives for which the State and federal water projects have responsibility.

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[3] DWR, SWRCB, DFA, California Department of Fish and Game, US Geological Survey, US Fish and Wildlife Service, Natural Resource Conservation Service, and Reclamation are participating agencies in SJVDIP.

Coordination and Advice

DHS, SWRCB/CVRWQCB, USEPA, and, when appropriate, DWR, Reclamation, and CDFA, will directly coordinate DWQP actions through a CALFED drinking water quality agency coordination group, which will meet at least quarterly with DWQP staff. The seven agencies will also coordinate DWQP actions via the CALFED Federal-State Management Group and the CALFED Policy Group, or their successor groups. This small agency group will also be responsible for reviewing CALFED agency operational decisions, including fish protection actions, that could affect water quality conditions in the Delta, and make recommendations to CALFED agencies on such actions to protect Delta drinking water quality. The Delta Drinking Water Council, a sub-committee of the Bay-Delta Advisory Council (BDAC), or their successors, will also advise DHS, SWRCB/CVRWQCB, USEPA, DWR, Reclamation, and CDFA on DWQP implementation. DWQP will also rely upon the Drinking Water Constituents Workgroup for technical advice. All pertinent DWQP actions will be coordinated with other CALFED program elements, and in particular, the CALFED Science Program, and when appropriate, the Interagency Ecological Program. CALFED Program staff will establish performance measures and conduct program evaluation with oversight from the Delta Drinking Water Council. For drinking water quality projects, signatory agencies will coordinate and prioritize "Category A and Category B Programs and Funding"(as defined in the Implementation MOU) through the DWQP.

No Constraints or Limits

Nothing in this MOU is intended to, or shall have the effect of, constraining or limiting any public entity in executing its statutory or regulatory responsibilities or discretion. The commitments and obligations of each party under this MOU are subject to the availability of appropriated funds. Furthermore, all provisions of, and legal protections provided by, the Implementation MOU remain in effect between the parties to this MOU.

Federal Commitments and Obligations

The commitments and obligations under this Memorandum of Understanding 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 Understanding 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.

Sunset

The following agencies enter into this MOU which, unless otherwise affected by a CALFED long-term governance agreement or federal or State legislation, will expire on September 30, 2003. At any time, this MOU may be extended by mutual, written agreement of the signatory agencies. At any time, any party may withdraw from this MOU by simple written notice to the other parties.

Signed and dated:

United States of America

Laura Yoshii, Acting Regional Administrator — 8/6/01 Date
US Environmental Protection Agency

Kirk C. Rodgers, [redacted] Regional Director, Mid-Pacific Region — 4/3/02 Date
US Bureau of Reclamation

State of California

Diana M. Bontá, Director — 10/13/01 Date
California Department of Health Services

Celeste Cantú, Executive Director — 5-22-02 Date
California State Water Resources Control Board

Gary Carlton, Executive Officer
Central Valley Regional
Water Quality Control Board

3/22/02
Date

Thomas M. Hannigan, Director
California Department of Water Resources

12/12/01
Date

William (Bill) J. Lyons, Jr., Secretary
California Department of Food and Agriculture

3/20/02
Date

CALFED Bay-Delta Program

Patrick Wright, Director

11/14/01
Date

ADDENDUM

to the

MEMORANDUM OF UNDERSTANDING

regarding

DRINKING WATER QUALITY PROGRAM MANAGEMENT

of the

CALFED BAY-DELTA PROGRAM

By this addendum, the US Geological Survey (USGS) agrees to abide by the terms of the Memorandum of Understanding (MOU), approved by CALFED Management Group on February 6, 2001, between the California Department of Health Services (DHS), California State Water Resources Control Board (SWRCB), Central Valley Regional Water Quality Control Board (CVRWQCB), US Environmental Protection Agency, California Department of Water Resources (DWR), US Bureau of Reclamation, California Department of Food and Agriculture, and the CALFED Bay-Delta Program, regarding Drinking Water Quality Program Management of the CALFED Bay-Delta Program.

USGS, in coordination with the CALFED Science Program, DHS, SWRCB/CVRWQCB, USEPA, and DWR, will provide technical and scientific assistance for the Drinking Water Quality Program, including identification of potential sources of contamination, fate, transport, and transformation of constituents of concern, delineation of source areas, vulnerability determination of waters to potential contamination, and evaluation of strategies used to protect source waters. In particular, the USGS Drinking Water Initiative will provide information on the vulnerability of water supplies.

Michael V. Shulters, District Chief
US Geological Survey, California District

8/7/2001
Date