ON TOP ADM 13.00

MEMORANDUM OF AGREEMENT

BETWEEN

THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION

AND
THE PLACER COUNTY WATER AGENCY

FOR THE SACRAMENTO RIVER DIVERSION FEASIBILITY STUDY

This MEMORANDUM of Agreement is entered into this 26th day of June, 2002, by and between the UNITED STATES OF AMERICA, hereinafter referred to as Reclamation, PLACER COUNTY WATER AGENCY, hereinafter referred to as PCWA for the purpose of conducting the Sacramento River Diversion Feasibility Study, hereinafter referred to as Feasibility Study, as outlined in Reclamation's November 2001 Plan of Study report and preparing associated environmental documents in compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

Purpose of the Memorandum of Agreement

This MEMORANDUM of Agreement (MOA) does not obligate Federal funds but allows PCWA to contribute cash and in-kind services to develop the Feasibility Study, and allows Reclamation to implement activities necessary to develop the Feasibility Study. This MOA finalizes the cost sharing arrangement for conducting the Sacramento River Diversion Feasibility Study and preparation of associated environmental documents in compliance with NEPA and CEQA. Reclamation Manual, Directives and Standards, Feasibility Studies (Web Address: www.usbr.gov/recman/cmp/cmp05-02.htm) requires that feasibility studies be cost shared with a non-Federal sponsor. The non-Federal cost share must be equal to or exceed 50 percent of the total feasibility study and environmental document (NEPA/CEQA) cost. The Federal cost share is limited to no more than 50 percent of the total feasibility study and environmental document (NEPA/CEQA) cost.

PCWA shall comply with OMB Circulars A-21, A-87, A-122, and A-133, and the Criteria and Procedures for Reviewing Cost-Share Agreements on Reclamation Projects dated November 17, 1999. Cost sharing may be in the form of in-kind services, cash payments, or a combination of the two. The term in-kind services shall mean the work preformed by the cost-sharing partner for the Feasibility Study and associated environmental documents determined and agreed upon by Reclamation and PCWA in the attached Plan of Study for the Feasibility Study. In-kind services completed shall be of a quality acceptable to Reclamation and PCWA. The value for in-kind services shall be equal to the cost that would have been incurred if Reclamation had performed the same work.

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Authority

The Federal Water Project Recreation Act (P.L.89-72, Section 8) requires that a feasibility study cannot be initiated by Reclamation until specifically authorized by Congress. The Consolidated Appropriations Act of 2001 (P.L.106-554, APPENDIX D, 114STAT. 2763A-217), specifically provided Reclamation the feasibility study authority to conduct the Sacramento River Diversion Feasibility Study. The Act states: "The Secretary of the Interior shall conduct a feasibility study for a Sacramento River, California, diversion project that is consistent with the Water Forum Agreement among the members of the Sacramento, California, Water Forum dated April 24, 2000..." Furthermore, Section 103 (c) of the aforementioned Act indicates that the Sacramento River Diversion Feasibility Study shall be coordinated with the CALFED program and other efforts to increase water supply in the Sacramento River watershed, and further that "the study ... shall include a range of alternatives, all of which would investigate options that could reduce to insignificance any water supply impacts to water users in the Sacramento River watershed, including Central Valley Project contractors, from any delivery of water out of the Sacramento River" by this proposed project.

This MOA is entered into by PCWA pursuant to PCWA Resolution No. 02-16, copy attached hereto.

Feasibility Study

The Sacramento River Diversion Feasibility Study shall commence upon the execution of this MOA. Reclamation and PCWA will expeditiously perform and complete the Feasibility Study in compliance with this MOA, the attached Plan of Study, and with Reclamation's manual, directives, and standards for feasibility studies. The study period shall end with the submittal of the final feasibility report through the Department of the Interior to the Office of Management and Budget, as stipulated in Executive Order 12322, for review of consistency with the policies and programs of the President, or ending with termination of this MOA, whichever is earlier.

Under Reclamation's manual, directives, and standards for feasibility studies, a feasibility study is a detailed investigation specifically authorized by law to determine the desirability of seeking Congressional authorization for implementation. It requires acquisition of primary data and participation of public agencies and entities and the general public to develop a preferred plan from a range of alternative courses of action to meet recognized needs, problems, and opportunities associated with the planning area of concern. The Feasibility Study will be conducted consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G) dated March 10, 1983.

The Feasibility Study will include such items as identification of present and future conditions; identification of problems and needs; evaluation of resource capabilities; formulation of alternative plans; analysis and comparison of alternatives; and plan selection. An iterative process is used to refine alternatives to arrive at a plan that reasonably maximizes net National Economic Development (NED) benefits with acceptable impact to the ecosystem and human environment. Alternatives optimizing Environmental Quality, Regional Economic Development, and Other

Social Effects may also be developed and presented. The attached Plan of Study further elaborates on the content of the Feasibility Study.

The Feasibility Study will be conducted in compliance with the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA), Fish and Wildlife Coordination Act, Endangered Species Act (ESA), National Historical Preservation Act (NHPA) and other related Federal and State environmental and cultural resource laws. This MOA also governs cost sharing for preparation of the associated environmental documents (NEPA/CEQA) as set forth in the attached Plan of Study.

Plan of Study

The Plan of Study is a document that was prepared by Reclamation, in consultation with PCWA and other interested stakeholder water purveyors to be used as an outline for the Feasibility Study and the preparation of the associated environmental documents. The Plan of Study describes the activities to be performed, the schedule for the completion of each activity, and the estimated cost for each activity.

Contracts in Furtherance of this Agreement

The award and administration of any contract with a third party for services in furtherance of this MOA, which obligates Federal appropriations, shall be exclusively within the control of Reclamation. The award and administration of any contract by PCWA or any of their cost sharing partners with a third party for services in furtherance of this MOA only obligates funds of the non-Federal sponsor(s) and does not obligate Federal appropriations. Contracts awarded by PCWA or any of their cost-sharing partners are exclusively in the control of PCWA or their cost-sharing partners. However, the data and information obtained from all third parties for services in furtherance of this MOA must comply with the basic requirements for feasibility studies conducted by Reclamation.

Management and Coordination

General oversight of the Feasibility Study shall be the responsibility of an Executive Management Committee comprised of policy-making representatives of the signatories to this MOA. For PCWA, representatives on the Executive Management Committee shall also include a representative from each public agency with which PCWA has a cost sharing arrangement for this project. The Executive Management Committee shall provide general guidance and periodically review the progress and status of the activities associated with the Feasibility Study as described in the Plan of Study.

A Project Management Team shall be formed for consistent and effective communications and expeditious accomplishment of activities for the Feasibility Study as described in the Plan of Study. The Project Management Team will coordinate on all matters relating to performance of the Feasibility Study and compliance with this MOA including changes to the Plan of Study, cost estimates, acceptability of work products, deliverables, schedules, and financial transactions.

Funding

The Consolidated Appropriations Act of 2001 states that the maximum authorized Federal cost for the Sacramento River Diversion Feasibility Study is $5 million. Reclamation's cost share shall be 50% of the total study cost up to $10 million. PCWA's cost share shall be 50% of the total study costs up to $10 million and 100% of the study cost over $10 million. Therefore, PCWA cost share potentially could exceed $5 million over the entire study period. Reclamation's cost share will not exceed $5 million over the entire study period. The foregoing costs shall include the cost of preparing all environmental documents in compliance with NEPA and CEQA necessary to begin construction.

After the initiation of the Feasibility Study, the tasks and deliverables identified in the Plan of Study may change. Adjustments to the total Feasibility Study cost estimate or study tasks and deliverables will require a revised Plan of Study that must be mutually agreed upon in writing by Reclamation and PCWA.

Payment

Reclamation and PCWA shall each make all reasonable efforts to obtain funds sufficient to enable each to perform the activities described in the Plan of Study. Reclamation shall retain and disburse funds made available by PCWA pursuant to this MOA without accruing interest. Funds made available by PCWA, which are not obligated by Reclamation within the federal fiscal year in which they are contributed, shall be carried over for obligation in the subsequent federal fiscal year.

Contributions by PCWA shall be made in advance of the performance of work. Upon signing of this MOA, PCWA will advance funds in the amount up to $500,000 to Reclamation. PCWA will continue to make cash advancements to Reclamation in accordance with the work schedule and cost estimates for such work on either an annual basis by October 31 of the federal fiscal year; or quarterly basis, by October 31, January 31, April 30, and August 31 – unless funding is necessary before each of these dates. Reclamation will bill PCWA for monies should the balance in the advance account fall below $100,000. Reclamation shall deposit the funds into a non-interest bearing trust account with the Department of Treasury established for the Feasibility Study.

The obligation of any Federal funds and the performance of any of Reclamation's obligations under this MOA shall be contingent upon the appropriation and allotment of sufficient Federal funds. In the absence of appropriation or allotment of Federal funds, PCWA may perform any of its obligations under this MOA. Neither the United States of America, Reclamation, nor the Contracting Officer shall be liable if sufficient Federal funds are not appropriated or allotted.

The obligation of any non-Federal funds and the performance of any of the PCWA's obligations under this MOA shall be contingent upon the appropriation and allotment of sufficient funds by the legislative body of the PCWA. In the absence of appropriation or allotment of such funds, Reclamation may not perform any of its obligations under this MOA. Neither the PCWA nor its officers and employees, shall be liable to Reclamation if sufficient non-Federal funds are not appropriated or allotted.

officers and employees, shall be liable to Reclamation if sufficient non-Federal funds are not appropriated or allotted.

The expenditure of any funds for in-kind services provided by PCWA and the performance of any of their obligations under this MOA shall be contingent upon the provision of an agreed-upon amount of funds by PCWA and acceptance of the work by Reclamation.

Should Reclamation or PCWA fail to obtain the funds sufficient to perform their respective obligations pursuant to this MOA and the attached Plan of Study, that party shall immediately notify the other party.

Modification

This MOA may be modified by the further agreement of the parties. Any modification made to this MOA shall be confirmed in writing prior to performance of the change. Any modification made to the attached Plan of Study shall be confirmed in writing prior to performance of the change. Any change in the estimated total study cost for the Feasibility Study shall be confirmed in writing between the parties prior to performance of the work.

Termination

This MOA may be terminated by Reclamation or PCWA by written notice. Termination is effective 30 days after the other party receives the written termination notice, or on such earlier date as Reclamation and PCWA may agree upon in writing. In the event that the study is concluded or terminated prior to the completion of the Feasibility Study, a concluding report shall be prepared in lieu of draft and final versions of the feasibility report and environmental document. The cost incurred to prepare the concluding report shall be considered part of the total Feasibility Study cost, and shall be considered a part of the study.

Neither Reclamation nor PCWA shall be required to share any Feasibility Study cost obligated after the effective date of termination either by payment of cash or provision of in-kind services. Reclamation shall use funds advanced to it by PCWA pursuant to this MOA and attached Plan of Study to pay any reasonable and non-cancelable obligations incurred by Reclamation in the performance of this MOA up to the date of the notice to terminate, but not to exceed the balance of uncommitted funds advanced to Reclamation by PCWA pursuant to this MOA.

Management of Records

Reclamation and PCWA shall keep books, records, documents, and other evidence pertaining to the cost of the Feasibility Study and expenses incurred pursuant to this MOA. Reclamation and PCWA shall maintain such books, records, documents, and other evidence for inspection and audit by authorized representatives of the parties of the MOA. Such material shall remain available for review for a period of five (5) years following the termination of this MOA.

Final Accounting and Contributions

After the first year of the project Reclamation and PCWA shall prepare an accounting of the study cost which shall display disbursements by Reclamation of Federal funds, cash contribution by PCWA, and the credits for in-kind services of PCWA . Within 90 days after the completion of the project or within 90 days after termination of this MOA, the Project Management Team shall prepare a final accounting of the study cost, which shall display disbursements by Reclamation of Federal funds, cash contribution by PCWA, and the credits for in-kind services of PCWA. Within 30 days after termination of this MOA, either Reclamation shall reimburse the PCWA for any unused cash contributions and/or credits for in-kind services, or PCWA shall provide Reclamation any cash contributions required so that the total non-Federal share is 50 percent of the total Feasibility Study and environmental document cost.

Approval
United States Bureau of Reclamation
Mid-Pacific Region

By: Kirk C. Rodgers Date: 6/26/02

Title: Regional Director

Placer County Water Agency

Title:

By: Lowell M. Jarvis Date: 6/6/02

RESOLUTION NO. 02-16

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE PLACER COUNTY WATER AGENCY AUTHORIZING EXECUTION OF
MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION AND THE PLACER
COUNTY WATER AGENCY FOR THE
SACRAMENTO RIVER DIVERSION FEASIBILITY STUDY

BE IT RESOLVED by the Board of Directors of the Placer County Water Agency as follows:

That the Chair be and is hereby authorized to execute the Memorandum of Agreement Between the United States of America Department of the Interior, Bureau of Reclamation and the Placer County Water Agency for the Sacramento River Diversion Feasibility Study, a copy of said agreement to be filed in the Office of the Clerk to the Board.

The foregoing Resolution was duly passed at a regular meeting of the Board of Directors of the Placer County Water Agency held on the 6th day of June, 2002, by the following vote on roll call:

AYES: Directors Ferreira, Lee, Roccucci, Wollan, and Chair Jarvis.
NOES: None.
ABSENT: None.

/s/ Lowell M. Jarvis

Chairman, Board of Directors
Placer County Water Agency

ATTEST:

/s/ KA Smith

Clerk, Board of Directors

Placer County Water Agency
CERTIFICATION
The foregoing instrument is a correct copy of the original on file at the Placer County Water Agency, Auburn, California.

ATTEST: Kathleen A. Smith
Kathleen A. Smith
Clerk to the Board of Directors
Dated: 06/07/02