

**Meeting of the Central Valley Flood Protection Board  
June 28, 2019**

**Staff Report**

**Resolution No. 2019-14 for  
Collaborating on Integrated Water Resources Management**

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**1.0 – ITEM**

Consider adoption of Central Valley Flood Protection Board (Board) Resolution No. 2019-14 (Attachment A) approving a three-party Memorandum of Understanding (MOU) among the U.S. Army Corps of Engineers (USACE), the Board, and the Department of Water Resources (Department) for collaborating on integrated water resources management within California's Central Valley.

The MOU frames and confirms the Parties' intention to work collaboratively to achieve sustainable, integrated, and multi-benefit management of California's water resources within the Parties' jurisdictional areas.

**2.0 – BACKGROUND**

The Board is the State agency responsible to act as the Non-Federal Sponsor to the USACE for the State Plan of Flood Control (SPFC). The Board is authorized to serve as the Non-Federal Sponsor through California Water Code, specifically §§8617 and 12657, and has provided assurances to the federal government that the flood control system would be operated and maintained as prescribed by regulations of the Secretary of the Army.

The Board has broad statutory authority to accomplish its mission, which is "[t]o reduce the risk of catastrophic flooding to the people and property within the California Central Valley." The Board carries out its mission by partnering with the USACE and local interests to execute congressionally authorized projects and ensures the facilities of the SPFC are properly operated and maintained. Through its regulatory authority, the Board enforces and permits encroachments, approves and permits levee improvements within its defined jurisdiction including California's Central Valley, and manages the vast property holdings of the Sacramento San Joaquin Drainage District.

Through a Memorandum of Agreement dated December 19, 2008, between the Board and the Department, certain Board authority for development and implementation of flood risk reduction projects and programs is currently delegated to and performed by

the Department staff on behalf of the Board, including project management for Board sponsored federal projects and real estate support services. This working relationship between the Board and the Department requires additional coordination among the partners, including the USACE and local flood control interests.

### **3.0 - TWO-PARTY MEMORANDUM OF UNDERSTANDING 2015**

In an effort to facilitate communication among the Department's Flood Projects Office staff and the USACE, on August 8, 2015, the USACE signed a two-party MOU with the Department for Collaborating on Integrated Water Resources Management (Attachment B). The 2015 MOU stated the parties' intent to work collaboratively to achieve sustainable and integrated management of California's water resources. It was scoped to provide the framework for defining the working relationship, with the benefits of enhanced common water resource goals.

The 2015 MOU was intended to facilitate communication and coordination in the planning, permitting, and implementation of programs and projects and to ensure necessary resources were allocated which would result in the development and implementation of federal and State regulations and policies affecting flood management in California. The 2015 MOU was signed by the former District Commander, Colonel Farrell, and Department Deputy Director Bardini.

### **4.0 – THREE-PARTY MEMORANDUM OF UNDERSTANDING 2019**

Recently, it became clear that the 2015 MOU should be updated to include the Board, as the Board has primary authority to manage the SPFC, the system at the heart of the 2015 MOU. Accordingly, staff from all three agencies have worked for the past few weeks to update and edit the 2015 MOU, resulting in the Draft MOU for Collaborating on Integrated Water Resources Management (2019 MOU) (Attachment C).

The 2019 MOU is intended to frame and confirm each of the three Parties' intention to work collaboratively to achieve sustainable, integrated, and multi-benefit management of California's water resources within the Parties' jurisdictional areas. It is also intended to provide the framework for defining the working relationship for effective and efficient planning and management of California's water resources.

Upon approval of the 2019 MOU by each of the three Parties, the 2019 MOU will supersede the August 8, 2015 two-party MOU between the USACE and the Department.

## **5.0 – STAFF RECOMMENDATION**

Staff recommends the Board adopt Resolution 2019-14 approving the 2019 MOU and authorizing the Board President to sign the MOU on behalf of the Board, and direct the Executive Officer to take the necessary actions to build and strengthen the established relationships among the Board's partner agencies, including the USACE and the Department, for increased collaboration on integrated water resources and flood risk reduction within California's Central Valley.

## **6.0 – LIST OF ATTACHMENTS**

- A. Central Valley Flood Protection Board Resolution No. 2019-14
- B. Two-party MOU between the Department and USACE for Collaborating on Integrated Water Resources Management, dated August 8, 2015
- C. Draft three-party MOU among the USACE, Board, and Department for Collaborating on Integrated Water Resources Management

### **Staff Report Author and Reviewers:**

Staff Report Author:	Michael C. Wright, Chief Engineer
Legal Review:	Jit Dua, Board Counsel
	Sarah Backus, Staff Counsel
Policy Review:	Darren Suen, Legislative Director / Policy Advisor
Consistency Review:	Leslie M. Gallagher, Executive Officer

**STATE OF CALIFORNIA  
THE NATURAL RESOURCES AGENCY  
CENTRAL VALLEY FLOOD PROTECTION BOARD  
RESOLUTION NO. 2019-14 FOR  
COLLABORATING ON INTEGRATED WATER RESOURCES MANAGEMENT**

**BACKGROUND:**

- A. WHEREAS**, in 1911 the Legislature created the Reclamation Board. The Reclamation Board was given regulatory authority over the Sacramento Valley’s levee system and levee maintaining agencies with the objectives of (1) assuring a logical, integrated system for controlling flooding along the Sacramento and San Joaquin Rivers and their tributaries in cooperation with the United States Army Corps of Engineers (USACE), (2) cooperating with various agencies in planning, constructing, operating, and maintaining flood control works, and (3) maintaining the integrity of the flood control system and designated floodways. In 1913 the Reclamation Board was given regulatory authority over the San Joaquin Valley’s levee system and levee maintaining agencies. In 2007 the Legislature restructured the Reclamation Board and renamed it as the “Central Valley Flood Protection Board”; and
- B. WHEREAS**, the Board has authorization to serve as the Non-Federal Sponsor to the USACE for the State Plan of Flood Control (SPFC) through California Water Code, including §§8617 and 12657; and
- C. WHEREAS**, as the non-federal sponsor of the SPFC in California’s Central Valley, the Board has provided the federal government with assurances that the flood control system would be operated and maintained as prescribed by regulations of the Secretary of the Army that require compliance with the USACE Standard Operation and Maintenance (O&M) manuals for the Sacramento River Flood Control Project (1955) and for the Lower San Joaquin River Levees – Lower San Joaquin River and Tributaries Project (1959) pursuant to the authority in California Water Code §8617; and
- D. WHEREAS**, the legislature granted the Board jurisdiction and authority over the SPFC as denoted in California Water Code, including §8534, which requires the Board to enforce on behalf of the State the erection, maintenance and protection of the SPFC which in its judgment will best serve the interests of the State and §8608 which requires the Board to establish and enforce standards for the operations and maintenance of the SPFC; and
- E. WHEREAS**, the Board has broad statutory authority to accomplish its mission, which is “[t]o reduce the risk of catastrophic flooding to the people and property within the California Central Valley.” The Board carries out its mission by executing congressionally authorized projects and ensuring the facilities of the SPFC are properly operated and maintained. Through its regulatory authority, the Board enforces and permits encroachments and approves and permits levee improvements within its defined jurisdiction including California’s Central Valley; and

- F. WHEREAS**, through a Memorandum of Agreement dated December 19, 2008 between the Board and the Department of Water Resources (Department), certain Board statutory authorities for development and implementation of flood risk reduction projects and programs are currently performed by Department staff on behalf of the Board, including project management for Board sponsored projects and real estate support services; and
- G. WHEREAS**, on August 8, 2015 the USACE signed a Memorandum of Understanding with Department for collaborating on integrated water resources management; and
- H. WHEREAS**, the Parties' are now seeking to update the 2015 Memorandum of Understanding to include the Board, resulting in a three-party Memorandum of Understanding between the USACE, the Board, and the Department for collaborating on integrated water resources management; and
- I. WHEREAS**, the three-party Memorandum of Understanding will supersede and take precedence over the August 8, 2015 agreement between the USACE and the Department.

**NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD FINDS:**

1. That the above recitals are true and correct.
2. That this Resolution 2019-14 is being adopted by the Board as confirmation of the State's commitment to continued coordination and collaboration with the USACE on integrated water resources management.
3. That this action delegates to the Board President authority to sign the three-party Memorandum of Understanding.

This resolution shall constitute the written decision of the Board in the matter of a three-party Memorandum of Understanding between the USACE, the Board, and the Department for collaborating on integrated water resources management.

**PASSED AND ADOPTED** by vote of the Board on June 28, 2019

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William H. Edgar, President

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Jane Dolan, Vice President/Secretary



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Sacramento District



**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE US ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT  
AND THE  
STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES  
FOR COLLABORATING ON INTEGRATED WATER RESOURCES MANAGEMENT**

I. INTRODUCTION. The U.S. Army Corps of Engineers, Sacramento District (Corps) and the California Department of Water Resources (DWR), within our respective authorities, have significant responsibilities for managing water and reducing flood risk in California. Coordination and collaboration between the two agencies is key to ensuring the effective and efficient planning, implementation and operation of system improvements. This Memorandum of Understanding (MOU) frames and confirms our intent to work collaboratively to achieve sustainable and integrated management of California's water resources.

II. SCOPE AND APPLICABILITY. This MOU provides the framework for defining the working relationship for effective and efficient planning and management of California's water resources within the context of specific agency authorities, appropriations, missions and goals. Coordinated programs and projects occur at the state and regional (e.g., Sacramento San Joaquin Delta) scales.

III. BENEFITS. The Corps and DWR agree that the ability to achieve common water resource goals for California can be significantly enhanced under the coordinated approach outlined in this MOU. Leveraging Federal and State resources accelerates the planning and implementation of water resources in the most effective and efficient manner.

IV. RESPONSIBILITIES. The Corps and DWR acknowledge:

- The desire to work together to facilitate planning and implementation of water resources programs and projects in California;
- Certain laws, regulations and policies govern the actions of the agencies, their personnel, and contractors; and
- Agencies' involvement is based on the timing of authority and availability of funding.

Considering the above, the Corps and DWR intend to:

- Work together to facilitate communication and coordination regarding the planning, permitting, and implementation of programs and projects throughout the state.
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- Identify and commit personnel resources at all levels (management to staff) to conduct the work through existing and new authorizations and appropriations; and
- Communicate and coordinate on development and implementation of Federal and State policies and legislation affecting flood management in California.

Moving forward, the two agencies will develop a joint implementation plan to describe respective roles and responsibilities in conducting this work.

#### V. MODIFICATION, TERMINATION, AND OTHER CONDITIONS.

This MOU may be modified or amended at any time by mutual agreement of both parties in writing and may be terminated by either party upon thirty (30) days prior written notice.

This MOU in no way restricts the parties from participating with other public or private agencies, organizations, and individuals. All parties recognize the importance of continuing cooperation and participation with the government and non-governmental organizations and institutions in programs of mutual interest.

The Corps and DWR intend to conduct activities contemplated in this agreement in accordance with existing authorities and subject to the availability of funds. If provisions of this MOU are determined to be inconsistent with existing laws or regulations or directives governing the signatories, then the provisions of this MOU not affected by a finding of inconsistency shall remain in full force and effect.

VI. IMPLEMENTATION. This MOU becomes effective when signed by both signatory parties and remains in effect until modified or terminated.

SIGNATORS:

 8/14/2015

Michael J. Farrell (Date)  
COL, EN  
Commander  
Sacramento District

 8/14/2015

Gary B. Bardini (Date)  
Deputy Director, Integrated Water  
Management  
State of California Department of  
Water Resources

Attachment C. Draft Three-Party MOU  
Among the USACE, Board, and Department for  
Collaborating on Integrated Water Resources Management

MEMORANDUM OF UNDERSTANDING  
AMONG  
THE U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT,  
AND THE  
CALIFORNIA CENTRAL VALLEY FLOOD PROTECTION BOARD,  
AND THE  
CALIFORNIA DEPARTMENT OF WATER RESOURCES,  
FOR COLLABORATING ON INTEGRATED WATER RESOURCES MANAGEMENT

I. INTRODUCTION. The U.S. Army Corps of Engineers, Sacramento District (Corps), the California Central Valley Flood Protection Board (Board), and the California Department of Water Resources (DWR), (hereinafter sometimes referred to collectively as “the Parties”), have significant responsibilities within their respective authorities for managing water, reducing flood risk, and restoring ecosystems within California’s Central Valley. Coordination and collaboration among the Parties is key to ensuring the effective and efficient planning, implementation, and operation of multi-benefit system improvements. This Memorandum of Understanding (MOU) frames and confirms the Parties’ intention to work collaboratively to achieve sustainable, integrated, and multi-benefit management of California’s water resources within the Parties’ jurisdictional areas.

II. SCOPE AND APPLICABILITY. This MOU provides the framework for defining the working relationship for effective and efficient planning and management of California’s water resources within the context of specific agency authorities, appropriations, missions, goals, and available funding. Coordinated programs and projects occur at the State, regional, and local levels.

III. BENEFITS. The Corps, the Board, and DWR agree that the ability to achieve common water resources goals for California can be significantly enhanced under the coordinated approach outlined in this MOU. Leveraging Federal and State resources accelerates the planning and implementation of water resources in the most effective and efficient manner.

IV. ACKNOWLEDGEMENTS.

In their respective roles, the Parties acknowledge:

- The desire to work together to facilitate planning and implementation of water resources programs and projects in California’s Central Valley;
- That certain laws, regulations, policies, and project partnership and cooperation agreements govern the actions of the agencies, their personnel, and contractors; and
- That each agency’s involvement is based on the scope and timing of their authority, and on availability of funding.

Therefore, it is the intent of the Parties to:

- Work together to facilitate strategic level discussions on issues affecting our agencies and to facilitate communication and coordination regarding the planning, permitting, and implementation of multi-benefit programs and projects throughout the Central Valley; and
- Identify and commit personnel resources at all levels (management to staff) to conduct the work through existing and new authorizations and appropriations.



## V. PROGRAMMATIC ALIGNMENT

Moving forward, the Corps, the Board, and DWR will work together to identify particular areas of focus for coordination and collaboration between the three agencies. The agencies will work to align on the following key elements to the extent allowed under existing authorities:

### *Programmatic Alignment*

- Identification of existing and forthcoming related programs and activities that would warrant interagency planning and coordination;
- Identification and assessment of common goals drawn from each agency's strategic planning documents (e.g., Central Valley Flood Protection Plan, DWR 2018 Strategic Plan, USACE Campaign Plan);
- Identification of shared program and policy goals;
- Research and development efforts that would serve as a foundation for innovation at the strategic, operational, and tactical levels.

### *Engagement and Governance*

- Regularly scheduled engagement at all levels between the three agencies to build and nurture professional relationships;
- A mechanism to provide regular reports to senior leaders of the three agencies;
- Structures and principles of governance to discuss and address operational and tactical issues that stem from the three agencies' collaboration;
- Assessment of processes that the Parties could consider optimizing to improve programmatic coordination and collaboration;
- Coordinated engagement and outreach to the public and other interested stakeholders at the Federal, State, and local levels to maintain accountability and transparency.

## VI. MODIFICATION, TERMINATION, AND OTHER CONDITIONS.

This MOU may be modified or amended at any time by agreement of the Parties in writing and may be terminated by any party upon thirty (30) days prior written notice.

This MOU in no way restricts the Parties from participating with other public or private agencies, organizations, and individuals. All Parties recognize the importance of continuing cooperation and participation with the government and non-governmental organizations and institutions in programs of mutual interest.

The Corps, the Board, and DWR intend to conduct activities contemplated in this agreement in accordance with existing authorities and subject to the availability of funds. Nothing in this MOU shall be construed as modifying or interpreting existing project partnership or cooperation agreements between the Parties. In the event that terms of this MOU are inconsistent with agreements signed between the Parties, those agreements' terms shall control. If any provision of this MOU is invalidated under existing law, regulation, or governing directives of any of the parties, then the remaining provisions of this MOU not invalidated shall remain in full force and effect.

VII. This MOU supersedes the August 8, 2015 MOU between the Corps and DWR.

Attachment C. Draft Three-Party MOU  
Among the USACE, Board, and Department for  
Collaborating on Integrated Water Resources Management

VIII. EXECUTION AND TERM. This MOU becomes effective when signed by all three Parties and remains in effect for three (3) years from the date of last signature, unless modified or terminated pursuant to Paragraph VI of this MOU before the three-year term has expired.

SIGNATORS:

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David G. Ray (Date)  
COL, EN  
Commander  
Sacramento District, U.S. Army Corps of Engineers

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William H. Edgar, President (Date)  
State of California, Central Valley Flood Protection Board

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Karla Nemeth, Director (Date)  
State of California, Department of Water Resources