



**CALIFORNIA BAY-DELTA
MEMORANDUM OF UNDERSTANDING
AMONG FEDERAL AGENCIES**

SEP 29 2009

I. RECITALS

(a) The Sacramento/San Joaquin River Delta-San Francisco Bay estuary (Bay-Delta) is among the most important estuary ecosystems in the Nation. The Bay-Delta is a source of drinking water for more than 22 million people, it supports a \$28 billion agricultural industry, and the Delta and its watershed have supported a thriving commercial and recreational fishing industry that has contributed hundreds of millions of dollars to the California economy. The Bay-Delta is also the heart and a critical crossroads of the delivery system that transports water from Northern California to agricultural and urban water users south of the Delta.

(b) The Bay-Delta is in crisis. Decades of environmental degradation have led to severe declines in Delta fisheries and have contributed to the collapse of the State of California's (State) salmon fishing industry. The State is in the third year of drought with the consequent decreased water supplies contributing further to the problems. Both the Bay-Delta ecosystem and the economy dependent on its water and fish are on the precipice of collapse. Furthermore, climate change and seismic risks present additional, serious threats to the Bay-Delta environment, the levees and the Delta communities that depend on them, as well as the water supplies that travel through the Bay-Delta.

(c) Given the national significance of the Bay-Delta ecosystem and its importance to the millions of people who depend on it for water supplies and for environmental benefits, it is imperative that the Federal Government reestablish a leadership role in Bay-Delta matters, working in partnership with the State and interested stakeholders. This Memorandum of Understanding (MOU) is intended to build upon and complement the collaborative work already being done by the Federal Government, the State, and other key stakeholders.

II. VISION AND PURPOSE

(a) The Federal parties envision a healthy and sustainable Bay-Delta ecosystem that provides for a high-quality, reliable, and sustainable long-term water supply for California, and restores the environmental integrity and sustainability of the system.

(b) This MOU confirms the commitment of the Federal parties to work in partnership with the State and diverse stakeholders to use their authorities and apply sound science in achieving the purpose of the MOU.

(c) This MOU establishes a structure for coordinating and streamlining the actions of the Federal agencies with primary Federal responsibilities and authority over key aspects of the Bay-Delta and its tributaries to advance the Federal role in this critical ecosystem.

III. PARTIES

The parties to this MOU are:

(a) The United States Department of the Interior, which has jurisdiction pursuant to the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. Section 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.), and other applicable law;

(b) The United States Environmental Protection Agency, which has jurisdiction pursuant to the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) (Clean Water Act), the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), and other applicable law;

(c) The United States Department of Commerce, which has jurisdiction pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. Section 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.) (ESA), the Magnuson-Stevens Act (16 U.S.C. Section 1801 et seq.), and other applicable law;

(d) The Department of the Army, which has jurisdiction pursuant to flood control, and water resource development statutes, section 10 of the Rivers and Harbors Act of 1899, section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 408) and section 404 of the Clean Water Act (33 U.S.C. Section 1344), and other applicable law;

(e) The United States Department of Agriculture, which has jurisdiction pursuant to title XII of the Food Security Act of 1985 (16 U.S.C. Section 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(f) The Council on Environmental Quality (CEQ), which has jurisdiction pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Section 4321 et seq.) and other applicable law.

IV. FEDERAL BAY-DELTA LEADERSHIP COMMITTEE

(a) The Secretary of the Interior and/or his designee will serve as the lead for developing and coordinating federal policy and initiatives in Bay-Delta matters.

(b) The Chair of CEQ will work with the Secretary of the Interior in coordinating the development and implementation of Federal policy and initiatives in Bay-Delta matters.

(c) Coordination among the Federal parties will be facilitated through the formation of a Federal Bay-Delta Leadership Committee, which will be co-chaired by the Secretary of the Interior and the Chair of CEQ, or their designees. The Federal Bay-Delta Leadership Committee will include a single senior designee from each of the following agencies: the Department of Commerce, the Department of the Army, the Environmental Protection Agency, the Department of Agriculture, and such other agencies as the Secretary and the Chair deem necessary.

(d) The Federal Bay-Delta Leadership Committee will meet on a regular basis to develop and coordinate Federal participation in Bay-Delta matters. Activities coordinated through the Committee shall include efforts addressing drought, encouragement of land stewardship and water conservation activities, review of projects and operations intended to address short- and medium- term issues, implementation of measures developed pursuant to the ESA-related requirements, and the development of the Bay Delta Conservation Plan and other longer-term mechanisms to improve the ecological health of the Bay-Delta and address water supply and quality needs in a sustainable manner.

(e) Regional offices of the participating agencies will provide for the close and effective coordination of their actions and participation in matters affecting the Bay-Delta.

V. FEDERAL WORK PLAN

(a) By December 15, 2009, the Federal Bay-Delta Leadership Committee will develop, in consultation with the State and other interested stakeholders, a coordinated federal work plan outlining near-term Federal actions that will be taken in furtherance of the purposes set forth in this MOU. In developing the work plan, the Leadership Committee, in close coordination with the parties' regional offices, will set near-term, performance-based goals and will review and prioritize actions across agencies to achieve those goals.

(b) This work plan may include, but is not limited to, actions on the following issues:

(i) An interagency science program to provide a common scientific basis for agency efforts and to address key uncertainties in scientific information with potential to inform management decisions in the near-term and long-term;

(ii) Habitat restoration projects in the Suisun Marsh and other biologically critical sites;

(iii) Water quality threats to the Delta (through expedited development and implementation of a water quality monitoring and assessment program, and integrating agency actions with such a program);

(iv) Flood risk and levee stabilization efforts balanced with water supply and species recovery;

(v) Projects aimed at mitigating and adapting to the effects of climate change on Delta stability;

(vi) A coordinated process for undertaking regulatory actions by Federal agencies in the Bay-Delta including, but not limited to, consolidation of scientific review by and the potential co-location of U.S. Fish & Wildlife Service and the National Marine Fisheries Service personnel, and a review of current agreements and regulatory activities in the Bay-Delta;

(vii) Recovery Act and other projects in the Bay-Delta and areas affected by the Bay-Delta ecosystem and water supplies passing through the Delta; and

(viii) Conservation, recycling, and efficiencies in water use, and land stewardship activities that benefit the Bay-Delta ecosystem.

(c) As this work plan is developed and implementation begins, the parties and their regional offices will coordinate the parties' actions closely with the State and diverse stakeholders, and ensure that there is open and ongoing communication throughout.

(d) This work plan will be modified as deemed necessary by the parties in order to adapt to new circumstances and events.

(e) As the Leadership Committee develops the near-term work plan, it will begin to identify and prioritize key longer-term Federal actions and resources to achieve the purpose of this MOU and incorporate such actions within a longer-term plan.

VI. MISCELLANEOUS PROVISIONS

(a) This MOU is not intended to, and does not, restrict the authority of any party to act as provided by law, statute or regulation.

(b) This MOU addresses the activities of the parties, and as such does not address (and thus does not restrict) the activities and authorities of any other Federal agency or office.

(c) This MOU is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any person against the United States, its departments, agencies, or entities, its officers, employees, or agents, any other person.

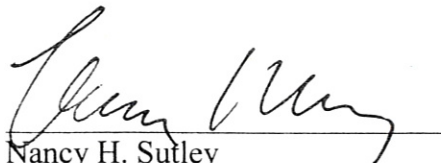
(d) This MOU will take effect upon the signature of all of the parties, and it will remain in effect for a period of 5 years from the date on which it takes effect. This MOU may be extended or modified at any time upon the mutual written consent of the parties. Additionally, a party may terminate its participation in this MOU at any time by providing written notice to the other parties at least 30 days in advance of the desired termination date.

(e) As required by the Antideficiency Act, 31 U.S.C. Sections 1341, 1342, and 1517, all activities of the parties in implementing this MOU are subject to the availability of appropriated funds. Nothing in this MOU obligates any of the parties to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

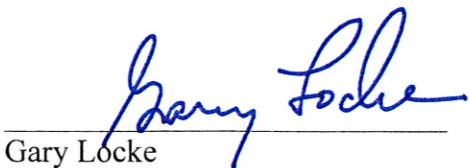
VII. SIGNATURES



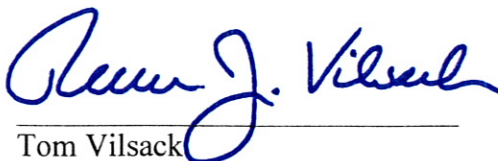
Ken Salazar
Secretary
Department of the Interior



Nancy H. Sutley
Chair
Council on Environmental Quality



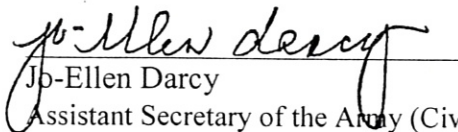
Gary Locke
Secretary
Department of Commerce



Tom Vilsack
Secretary
Department of Agriculture



Lisa P. Jackson
Administrator
Environmental Protection Agency



Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
Department of the Army