



**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DELTA STEWARDSHIP COUNCIL, THE CENTRAL VALLEY FLOOD
PROTECTION BOARD, AND
THE DEPARTMENT OF WATER RESOURCES
FOR COLLABORATING ON PRIORITIES FOR STATE INVESTMENTS IN LEVEE OPERATION,
MAINTENANCE AND IMPROVEMENTS IN THE SACRAMENTO-SAN JOAQUIN DELTA**

I. INTRODUCTION. The Delta Stewardship Council (Council), Central Valley Flood Protection Board (CVFPB), and the California Department of Water Resources (DWR), (collectively, the "Agencies"), within our respective authorities, have responsibilities for developing plans related to State activities in the Sacramento-San Joaquin Delta (Delta). Coordination and collaboration between the Agencies is key to ensuring each of these plans is effective, efficient, and informs State levee investment activities in the Delta. This Memorandum of Understanding (MOU) frames and confirms our intent to work collaboratively to address the levee system in the Delta.

The Agencies agree that this MOU is intended to establish a working relationship to administer current plans and policies regarding State investments in levee operation, maintenance and improvements, and any future amendments including but not limited to the proposed Delta Plan amendment regarding Delta Levee Investment Strategy (DLIS) for which a Notice of Preparation of an environmental impact report (EIR) was issued on March 16, 2017. This MOU's terms are not final contract language and do not represent a contractual commitment by any of the Agencies to approve any proposed project. In particular, this MOU shall not create any obligations or commitments with regard to the proposed DLIS or any other Delta Plan amendment regarding the Delta Levee Investment Strategy. CEQA review will be conducted prior to project approval. Even though the Agencies have agreed to this MOU for the purposes described herein, the Agencies retain their full discretion under California Environmental Quality Act (CEQA) to make modifications to or determine not to implement projects pursuant to this MOU, the attached joint implementation plan, and any proposed agreements or work plans, all as deemed necessary to mitigate significant environmental impacts; to select other feasible alternatives that will avoid such impacts including the no project alternative; and to balance benefits against unavoidable significant impacts before taking final action; and may determine not to proceed with the commitments contemplated herein, based upon the information generated by the environmental review process.

II. SCOPE AND APPLICABILITY. This MOU provides the framework for defining the working relationship for effective and efficient planning of levee investment activities in the Delta that are within the context of specific agency authorities, appropriations, missions and goals. Coordinated programs and projects occur at the state and regional scales, but for the purposes of this MOU, are focused on the Delta.

III. BENEFITS. The Agencies agree that the ability to achieve common levee investment goals for the Delta can be significantly enhanced under the coordinated approach outlined in this MOU. Leveraging State resources between the Agencies accelerates the planning and implementation of levee investment plans in the most effective and efficient manner.



IV. RESPONSIBILITIES. The Agencies acknowledge:

- The desire to work together to facilitate planning for State levee investment programs and projects in the Delta;
- Certain laws, regulations and policies govern the actions of the agencies, their personnel, and contractors; and
- Considering the above, the Agencies intend to:
 - Work together to facilitate communication and coordination regarding the planning, permitting, and implementation of programs and projects within the Delta and the effective tracking of progress and the gathering and sharing of relevant information;
 - 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 State policies and legislation affecting levee investments in the Delta.

The Agencies have developed a joint implementation plan (Attachment 1 hereto), and to the extent necessary, associated work plan(s) to describe respective roles, responsibilities and tasks in conducting this work. The work plan of Attachment 1 is effective upon the signing of this Memorandum. It may be updated as needed from time to time.

V. MODIFICATION, TERMINATION, AND OTHER CONDITIONS. This MOU may be modified or amended at any time by mutual agreement of all parties in writing and may be terminated by any party upon thirty (30) days prior written notice.

This MOU in no way restricts the Agencies from participating with other public or private agencies, organizations, and individuals. Each Agency recognizes the importance of continued cooperation and participation in programs of mutual interest with its stakeholders, including government and non-governmental organizations and institutions.

The Agencies intend to conduct activities contemplated in this MOU 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, 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 all signatory agencies and remains in effect until modified or terminated.

DELTA
STEWARDSHIP
COUNCIL



A California State Agency



SIGNATORS:

J&RP 9.27.17

Jessica Pearson (Date)
Executive Officer
Delta Stewardship Council

Leslie Gallagher 9.27.17

Leslie Gallagher (Date)
Executive Officer
Central Valley Flood Protection Board

Grant Davis 9.27.17

Grant Davis (Date)
Director
State of California Department of
Water Resources

**Attachment 1: Joint Implementation Plan for MOU between the Council, CVFPB, and DWR (the
“Agencies”) for Collaborating on Priorities for State Investments in Levee Operation, Maintenance and
Improvements in the Sacramento-San Joaquin Delta**

NOTE: This first iteration of this Joint Implementation Plan sets forth the initial commitments of the parties regarding the activities covered by the MOU. Additional details may need to be further developed by the Agencies over the course of their cooperative efforts.

The following topics have been identified by the Agencies and will be further developed or refined in this Joint Implementation Plan as part of the MOU:

- Delta Plan Implementation
- Information Gathering and Sharing
- Modernizing Levee Information Management
- Technical / Peer Review
- Policy Formulation and Development
- Program/Plan Development and Amendments
- External Communications and Messaging
- Governance, Roles, and Responsibilities
- Reporting & Tracking of progress
- Periodic Review

Some of these topics may require a separate, more detailed work plan summarizing in greater detail the specific coordination approach and expected outcomes of coordination around that focused topic. These topic work plans are to be developed by consensus between the Agencies. The topic work plans will identify the program and project activities that are relevant to the efforts of the Agencies to develop and refine their Delta levee investment plans. The primary planning documents that discuss the programs and projects include, but are not limited to:

- CVFPB’s Central Valley Flood Protection Plan and its supporting documents
- Relevant portions of the CA Water Plan Update (as led by DWR)
- Council’s Delta Plan
- DWR’s Delta Risk Management Study

Delta Plan Implementation

DWR will continue to develop guidelines and/or proposal solicitation packages for the Delta Levee Maintenance Subventions Program, Delta Levee Special Projects Program, and other funding programs that improve project or nonproject levees in the Delta so that they carry out the recommendations of the Delta Plan. To this end, DWR will share draft guidelines or proposal solicitation packages for its levee funding programs with the Council for its review and comment as they are developed, and will consult with the Council as it considers applications for funding focused

on levee improvements in the Delta.

DWR will report annually or more frequently at DWR's discretion to the Council about its decisions to award State funds for Delta levee improvements including funding decision criteria and awards of State Delta Levee Subventions funds for Delta Levee improvements, and on its funding decision criteria and awards under the Delta Levee Special Projects Program and other funding programs that improve project or nonproject levees in the Delta , including for each funded improvement: (a) its location, (b) the priority recommended in the Delta Plan for improving levees of the affected islands or tracts, (c) the improvements funded, including the work to be performed and the relevant levee improvement type (urban levee, Bulletin 192-82 levee, or other generally agreed upon levee standard), and habitat mitigation or enhancement features, (d) estimated reduction in levee fragility, (e) expected reduction in annual fatalities and damages, (f) State funds awarded, (g) local or federal matching funds, and (h) any variation from the recommendations of the Delta Plan.

Information Gathering and Sharing

Information (including data and proposed local, state, and federal policies) collected by the Agencies will be shared. Detailed protocols will need to be developed that consider the level of priority of the data/need for data; schedules for collection/dissemination; format; data tools used; resources needed; etc. to ensure an activity is planned for, budgeted and carried out adequately. Information that has not been released to the public may be shared, at the discretion of the Director/Executive Officer or their chief deputy, with the understanding that the information is provisional and should not be released to the public without the express consent of the agency responsible for this information.

Information that will be shared includes, but is not limited to:

- Hydrology, Hydraulic, and Climate Change related information
- Geotechnical and levee fragility assessments
- Floodplain inundation maps
- LiDAR data
- Schedules of major planning activities
- Land / water use surveys and data
- Levee inspection reports
- Levee construction / maintenance / repair / rehabilitation costs (State/local share), location, type, and any habitat mitigation or enhancement features.
- Expected annual risk reduction
- Information collected through existing programs that addresses goals, objectives, priorities, recommendations and performance metrics of the key planning documents described above.

Examples of data tools include the computer-based decision support tool developed as part of the Council's Delta Levees Investment Strategy and used as part of the overall strategic planning process for Delta levee investments.

Modernize Levee Information Management

In order to disseminate information about Delta levee conditions and maintenance needs, the Central Valley Flood Protection Board and DWR, through their existing LMA Assistance programs, and as budget and staffing constraints will allow, will assist local agencies in the Delta (LMAs) to develop inspection reporting tools to enable the LMAs to file reports electronically with DWR or CVFPB. DWR will update its guidelines for Local Agency Project and Nonproject Levee Inspection, in consultation with the Council, to include measures for standardized gathering and electronic reporting of information from local agencies about levee conditions and maintenance needs, as recommended in the Delta Plan, so that those inspections provide an efficient approach for local levee maintaining agencies to gather and report information about the condition of inspected levees, maintenance needs, and progress towards applicable levee improvement criteria, including those recommended for urban levees by DWR or described in Bulletin 192-82. DWR will recommend that costs of inspections and reporting should continue to be reimbursable through the Delta Levees Maintenance Subventions Program at the discretion of CVFPB. The improved reporting is intended to empower LMAs and allow better tracking of information by the Agencies over time. Nothing herein is intended to impose liability on the State for management of nonproject levees that are not part of the SPFC.

Ability to Pay

The Agencies will work together to develop and recommend to the CVFPB as part of the Delta Levee Maintenance Subventions Program guidelines a methodology and local agency requirements for evaluating information regarding the local agency's ability to pay for the cost of levee maintenance or improvement pursuant to California Water Code Section 12986(a)(3) et seq.

Technical / Peer Review

Technical work (studies) performed by each of the Agencies should be shared with technical staff at the other Agencies through multiple venues. First, informal brown bag technical talks focused on sharing the purpose, assumptions, recommendations and intended use of technical studies will improve coordination between technical staff. Second, separate agreements for future independent peer review of technical work will be arranged on an as needed basis through individual and specific interagency agreements. These independent peer reviews will be subject to the work priorities of each Agency and resourcing constraints.

Examples of technical work (studies) that may be conducted and shared include, but are not limited to:

- Post-disaster response and hazard mitigation programs
- Sea-Level Rise estimates and forecasts
- Delta inflow assessments
- Water quality studies

- Carbon sequestration / subsidence studies
- Seismic vulnerability studies
- Ability to pay studies
- Flood emergency recovery costs
- Parcel data
- Levee construction / maintenance / repair / rehabilitation costs
- Agricultural / regional economic studies

Policy Formulation and Development

Many of the Agencies' planning documents contain policy recommendations for the Legislature, Administration, and Congress. Based on the policy recommendations within the Agencies' plans and other proposed local, state, and federal policies that may affect levee investment management activities in the Delta, routine and ad hoc meetings can be held to discuss the short-term and long-term impacts of any of these policies on the State.

Examples of policy discussions may include:

- Land use (including crop types) and zoning
- Building code requirements
- Flood insurance
- Levee-related habitat protection and restoration
- Floodplain protection and management
- Carbon banking
- Public access to waterways
- Flood management finance mechanisms
- Proposed Legislative, Congressional, Governor's Office and Presidential actions related to flood management.

Plan/Program Development and Amendments

The Agencies will coordinate as periodic reviews and subsequent amendments are done for the Delta Plan, Central Valley Flood Protection Plan and other key planning documents that are relevant to Delta flood management or State investments in Delta levees, including, where applicable, early consultation, about Delta Plan consistency certification pursuant to Water Code section 85225. In addition, the Agencies will coordinate prior to and during development of draft guidelines and proposal solicitation packages for levee funding programs as these documents are made ready for public review and project solicitation.

External Communications and Messaging

The Agencies will share each of their major program activity's external messages so that a unified understanding of key State-level Delta activities can be communicated to the public and stakeholders. This will involve holding regular communications and messaging meetings to share new information,

fact sheets, speaker notes, and public presentations. In addition, the Agencies will communicate among each other in response to Legislative inquiries on matters pertaining to this memorandum.

Governance and Roles / Responsibilities

Due to the overlapping authorities between various local, state, and federal agencies in the Delta, the Agencies should work to prepare a draft summary guide outlining the major program activities and responsibilities of the state agencies in the Delta. This is intended to help improve external / stakeholder understanding of the multiple layers of state agency responsibilities. The draft summary will need to be prepared with input from every State agency included in the document. The goal should be to help define governance roles and identify any future policy recommendations regarding overlapping authorities. This document should be informed by key laws including, but not limited to:

- The Delta Reform Act (Water Code section 85000 et. seq.)
- The Central Valley Flood Protection Act of 2008 (Water Code section 9600 et. seq.)
- Acts establishing the Delta Levee Maintenance Subventions Program (Water Code sections 12980-12955) and Delta Special Flood Control Projects Program (Water Code sections 12310-12318)

Reporting & Tracking

Both the Council and the CVFPB hold regular meetings in which they invite DWR and others to provide updates on their (DWR and others) activities that are relevant to the responsibilities of the Council or CVFPB. There is overlap between the Agencies program implementation activities in the Delta that require similar briefings to the Council and CVFPB. As part of the collaboration between Agencies the Council and CVFPB will work with DWR to identify what activities, information or technical studies should be presented to both appointed bodies and then develop a calendar/schedule of presentations based on existing agency accountabilities to share relevant information. This should occur annually, but may occur more frequently depending on the priorities/activities of the Agencies.

As the Agencies prepare staff reports and annual progress reports, collaboration in this area will ensure that accomplishments made by the Agencies are documented, tracked and acknowledged in a public setting.

Periodic Review

The Executive Officers of the Council and CVFPB, and Director of DWR will meet periodically to review the progress of this memorandum's implementation and to ensure its continued relevance.

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