

MANAGEMENT AGENCY AGREEMENT  
BETWEEN THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD  
AND THE UNITED STATES BUREAU OF RECLAMATION

This Management Agency Agreement (hereinafter "Agreement") is entered into by and between the Central Valley Regional Water Quality Control Board (hereinafter "Central Valley Water Board"), acting through the Executive Officer, and the United States Bureau of Reclamation (hereinafter "Reclamation"), acting through the Regional Director of the Mid Pacific Region, for the purpose of addressing certain salt load responsibilities for the Lower San Joaquin River (LSJR). The Agreement is a cooperative means of implementing relevant provisions of the Central Valley Water Board's Water Quality Control Plan for the Sacramento River and the San Joaquin River Basins -4th Edition (Basin Plan) as they pertain to Reclamation.

**Section 1: WHEREAS**

1.1 The Basin Plan sets load allocations for the Delta-Mendota Canal (DMC) and sets forth that the Central Valley Water Board can enter into a Management Agency Agreement (MAA) with Reclamation as part of its implementation plan;

1.2 Under the Basin Plan, the MAA is to require Reclamation to address salt load responsibilities associated with salt imports from the DMC to the San Joaquin River watershed. The timetable under the Basin Plan allows 8 -12 years to achieve compliance with salt load allocations related to the salt imports from the DMC, depending on water year type, or participate in a Board approved real-time management program;

1.3 Reclamation holds water rights for the operation of the Central Valley Project (CVP) that includes requirements to provide dilution flows from New Melones reservoir to maintain a specified salinity concentration at Vernalis;

1.4 Proceeding on a cooperative basis is an efficient and effective means of achieving water quality goals;<sup>1</sup>

1.5 Salt and boron objectives prescribed in the Basin Plan for the San Joaquin River at the Airport Way Bridge near Vernalis should be achieved through the actions of Reclamation under this agreement and through the actions of other responsible parties through a memorandum of understanding or other direct action;

1.6 The Central Valley Water Board should work together with Reclamation and all responsible or interested parties to achieve compliance with the San Joaquin River salt and boron objectives while facilitating the export of the maximum amount of salt out of the San Joaquin River watershed;

1.7 The Central Valley Water Board is responsible for protecting water quality and beneficial uses of waters within the Central Valley Region<sup>2</sup>;

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<sup>1</sup> 1 By entering into this agreement, Reclamation does not waive and specifically reserves any argument regarding whether the State of California, including the State Water Resources Control Board and the Central Valley Water Quality Board, can regulate and enforce state nonpoint source standards, objectives, or load allocations against Reclamation owned facilities in the manner contemplated in the current Basin Plan.

1.8 On July 9, 2008, Reclamation prepared a document entitled *Actions to Address the Salinity and Boron TMDL Issues for the Lower San Joaquin River* (hereinafter “Action Plan”), which described Reclamation’s planned actions to mitigate the impacts of salt and boron imported into the San Joaquin basin via the DMC in order to help achieve compliance with the objectives contained in the Basin Plan;

1.9 The Action Plan included Reclamation’s agreement to lead the effort to develop a real-time water quality management program (hereinafter “RTMP”) and promote the program in an attempt to create stakeholder interest in RTMP. This included monitoring and modeling efforts to determine the assimilative capacity of the LSJR and encouraging stakeholders subject to salt and boron load allocations to participate in the RTMP;

1.10 On December 22, 2008, Reclamation and the Central Valley Water Board signed an MAA that included implementing the Action Plan, including projects to offset a minimum of 25% of the excess DMC salt load; regularly report progress to the Central Valley Water Board; and seek funding for additional salinity control efforts;

1.11 Since 2008, Reclamation has implemented the Action Plan and adhered to the conditions of the existing MAA. The issues involved in establishing the RTMP for the LSJR are complex. To address this situation, a phased implementation approach was established and is described in the SJR RTMP Framework document;

1.12 Reclamation provides dilution flows, in accordance with Reclamation authority and State Water Right decisions, to meet the salinity concentration objective at Vernalis;

1.13 Reclamation has been addressing DMC salt imports through the MAA, its authority, and Water Right Decision D-1641, which requires Reclamation to provide dilution flows to create assimilative capacity for salt in the LSJR at Vernalis;

1.14 The 2008 MAA established a period of monitoring, quantification, and evaluation for potential establishment of a RTMP for the LSJR and specified that, at the end of the period, the Central Valley Water Board and Reclamation would review and update the MAA to define future efforts;

1.15 The Vernalis objectives have been met since 2008;

1.16 Based on the efforts to date and the current status of the RTMP, it is appropriate to update the 2008 MAA.

**Section 2: NOW, THEREFORE, the parties hereto agree as follows:**

**2.1. Reclamation agrees:**

2.1a. To continue to implement projects that will offset a minimum of 25% of the excess DMC salt load as defined in the Basin Plan, participate in projects that reduce overall salt load in the river, participate in projects to improve scheduling of discharges, and take other actions, as appropriate and authorized to provide assimilative capacity in the SJR;

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<sup>2</sup> The Central Valley Water Board and Reclamation have agreed to proceed on a cooperative basis, which circumvents any dispute as to whether the Central Valley Water Board can enforce DMC load allocations against Reclamation. By entering into this agreement, the Central Valley Water Board does not circumscribe the extent of its legal authority to enforce water quality provisions against any entity, including Reclamation.

- 2.1b. To participate in the Central Valley Water Board approved RTMP for the LSJR;
- 2.1c. To update the 2008 Action Plan, creating an annual Work Plan and Annual Report as replacements, by August 2014; incorporate specific activities to be conducted in support of the RTMP, including but not limited to actions identified in 2.3e below; Reclamation will submit these documents annually after they have been reviewed by both Reclamation and Central Valley Water Board staff;
- 2.1d. To implement the Annual Work Plan in accordance with the schedule contained therein, subject to appropriations;
- 2.1e. To submit reports to the Central Valley Water Board in accordance with the provisions of 2.3d below;
- 2.1f. To continue to provide technical support to wildlife refuges in the San Joaquin basin and the Grassland Resource Conservation District for salinity management. Reclamation will also continue to provide financial assistance, subject to appropriation and authority as stated in the Annual Work Plan;
- 2.1g. To request funding, including but not limited to grant funding, for salinity control efforts in the Lower San Joaquin River watershed. Nothing in this agreement should be construed to obligate Reclamation to seek any additional funding through its budget process.

## **2.2 The Central Valley Water Board agrees:**

- 2.2a. That the successful and timely implementation of this Agreement is a cooperative means of achieving the requirements set forth in the Basin Plan;
- 2.2b. That the RTMP will be a jointly developed program between the Central Valley Water Board, Reclamation, and stakeholders where stakeholders can join common efforts to meet salt and boron objectives without restricting the ability to export salt out of the San Joaquin basin;
- 2.2c. To continue to evaluate Reclamation's progress and support Reclamation's efforts toward the implementation of this Agreement
- 2.2d. That Central Valley Water Board staff will make regular presentations to the Central Valley Water Board at public meetings, which will describe Reclamation's activities and assess the RTMP. Reclamation shall receive notice at least 15 days in advance of these presentations.

## **2.3. It is mutually agreed:**

- 2.3a. That both agencies will comply with all applicable State and Federal laws and regulations;
- 2.3b. That Reclamation and the Central Valley Water Board have fulfilled the obligations under the first MAA agreement, and that current circumstances warrant an update of the MAA agreement;
- 2.3c. That revisions to this Agreement must be approved by the Mid-Pacific Regional Director and the Central Valley Water Board Executive Officer in writing. Significant revisions will be made part of the Central Valley Water Board public process and will be subject to public review;
- 2.3d. That Reclamation actions will be detailed in an Annual Work Plan and will be submitted along with an Annual Report of activities from the previous year. The documents will be reviewed by the

appropriate staff at Reclamation and the Central Valley Water Board before the report is finalized. The submission deadline for annual documents is 60 days after the end of the calendar year;

2.3e. The continuing Reclamation salinity management program will consist of the following:

- Providing Flows to the System – State Water Board Water Right Decision D1641 requires Reclamation to provide water quality flows from New Melones reservoir when necessary to maintain the salinity standard at Vernalis. The operation of the reservoir in this manner is authorized by regulations listed in section 3of this document
  - New Melones Reservoir Operations/Revised Plan of Operations
- Salt Load Reductions – Actions taken by Reclamation or through resources provided by Reclamation to reduce the load of salt going into the San Joaquin River
  - Grassland Bypass Project
  - Westside Regional Drainage Plan
  - WaterSMART Water and Energy Efficiency Grants
  - Water Conservation Field Services Program
  - CALFED Water Use Efficiency Program
- Mitigation – Actions taken by Reclamation to promote and support practices to predict and mitigate the effects of salt loads within the watershed
  - Participation in RTMP
  - Provide technical support and expertise to stakeholders in the development of monitoring and modeling systems
  - Provide assistance to stakeholders in writing grant proposals for salinity management
  - Provide resources to assist Federal Refuges in managing salinity
  - Continue to provide resources to improve and develop the RTMP forecast model
- Participation in Central Valley Salinity Alternatives for Long-term Sustainability (CV-SALTS)
- San Joaquin River Restoration Program
  - Program management and schedule of activities can be found online at <http://www.restoresjr.net>
- Other actions, to be determined at a future date, as necessary or required

2.3f Yearly Activity and Monitoring Reports

Reclamation will submit a report to the Central Valley Water Board on an annual basis. The report will be submitted within 60 days after the end of the calendar year and will include a summary of activities conducted by Reclamation in conjunction with each element listed below. In addition, Reclamation may include data collected relevant to the DMC salt load evaluation.

- Reclamation Annual Report

The annual report will remain in the format currently utilized in the quarterly report and contain the following information:

- Flow Actions
  - New Melones Reservoir Operations – Provision of Dilution Flow
  - Water Acquisitions
- Salt Load Reduction Actions
  - Grassland Bypass Project
  - Westside Regional Drainage Plan
  - Conservation Efforts
- Mitigation Actions
  - RTMP – Technical Support and Development
  - Participation in CV-SALTS
- Central Valley DMC Project Delivery Load Calculation
- Other Salt Load Reduction Actions
- Report of Annual Work Plan Activity Performance
- References

The format for the Annual Report may be changed with prior consent from both parties; these changes may also be included as an addendum to the MAA.

- Reclamation Annual Work Plan

The annual work plan will utilize a format that is similar to one used for Central Valley Project Improvement Act reporting requirements. The goal of this report is to enable adaptive management while giving visibility to progress and planned activity.

- Responsible Entities
- Program Goals and Objectives for Fiscal Year
- Status of the Program
- Proposed Funding by Source
- Proposed Activities, Descriptions and Estimated Completion

2.3g. To meet no less than quarterly to maintain coordination and communication, review proceedings under this agreement, evaluate status and effectiveness of the RTMP, and consider revisions to this Agreement as requested by either party;

2.3h. That this agreement shall only become effective when signed by both parties hereto and shall continue in force unless terminated by either party upon a 90-day notice in writing to the other of their intention to terminate upon a date indicated;

2.3i. That, if either party terminates this agreement, the Central Valley Water Board may pursue traditional regulatory means of implementing the provisions of the Basin Plan, including those against Reclamation, to the extent that they apply;

2.3j. That this agreement may be suspended in an emergency; "Emergency" means an extraordinary occurrence or combination of circumstances that was unforeseen and unexpected at the time that this Agreement was entered into, and that substantially affects the ability of either of the parties to fulfill their obligations under this agreement;

2.3k. That nothing herein shall be construed in any way as limiting the authority of the Central Valley Water Board in carrying out its legal responsibilities for management or regulation of water quality;

2.3l. That nothing herein shall be construed as limiting or affecting in any way the legal authority of Reclamation in connection with the proper administration and management of Reclamation facilities and water management and delivery systems;

2.3m. That funding under this agreement is subject to the requirements of the Anti-Deficiency Act, 31 USC § 1341 et seq., and other applicable law. Nothing in this agreement is intended or shall be construed to require the obligation, appropriation, or expenditure of any funds from the United States Treasury, except as otherwise permitted by applicable law. Nothing in this agreement may be construed to obligate the United States Department of the Interior or the United States to any current or future expenditure of resources in advance of the availability of appropriations from Congress. Nor does this agreement obligate the Department of the Interior or the United States to spend funds on any particular project or purpose, even if funds are available;

2.3n. That nothing herein shall be construed in any way as subjecting Reclamation to any requirement, process, or sanction for which Congress has not declared sovereign immunity under section 313 of the Federal Clean Water Act, 33 USC § 1323.

**Section 3: The following Laws and Regulations grant the Authority to create and act upon this Agreement**

3.1 P.L. 108-361 (Water Supply, Reliability, and Environmental Improvement Act)

3.2 Title 33 United States Code §1251 et seq. (Federal Water Pollution Control Act)

3.3 Title 23 California Code of Regulations (Waters)

3.4 California Water Code Division 7 §13020 et seq. (Porter-Cologne Water Quality Control Act)

IN WITNESS WHEREOF, the parties hereto, by their respective duly authorized officers, have executed this Agreement in duplicate on the respective dates indicated below.

Mid-Pacific Region  
Bureau of Reclamation  
US Dept. of the Interior

Central Valley Regional Water Quality Control  
Board  
State of California

Date:

Date: