

Yuba County IRWMP | 2015 UPDATE

APPENDIX 16-1

Memorandum of Understanding

**Memorandum of Understanding
Yuba County IRWM Regional Entity**

RECITALS

WHEREAS, the Integrated Regional Water Management Planning Act (Water Code Sections 10530 to 10547) authorizes three or more local agencies, at least two of which have statutory authority over water supply or water management, to enter into a memorandum of understanding (“MOU”) or other legal agreement to establish a Regional Water Management Group (“RWMG”); and

WHEREAS, the parties to this Memorandum of Understanding seek to provide stability and consistency in the planning, management, and coordination of water resources within the watershed of the Yuba Region pursuant to the Integrated Regional Water Management Planning Act (California Water Code section 10530 et seq.); and

WHEREAS, the parties to this MOU desire to develop and adopt an Integrated Regional Water Management (“IRWM”) Plan and to increase coordination and collaboration among stakeholders in the Yuba Region (“Region ”) which will be closely coordinated with other planning and land and water resource management interests and agencies; and

WHEREAS, this Memorandum of Understanding reflects the further development of the Plan by establishing the basis for governance and consensus; and

WHEREAS, the parties to this Memorandum of Understanding will identify projects, establish the priority of such projects and seek funding to implement such water-related projects in the Yuba Region as part of the development of an Yuba Regional Water Management Plan; and

WHEREAS, the parties to this Memorandum of Understanding are not limited in seeking other funding for water-related projects, nor does this Memorandum of Understanding impose legally binding requirements on the parties;

WHEREAS, the parties to this MOU seek to ensure that IRWM funding and any other future funding is expended in the best way possible to enhance the many beneficial uses of water and other resources in the Region for the benefit of the Region itself and for downstream water users.

NOW, THEREFORE, in consideration of the above premises and of the mutual promises and agreements herein contained, the parties to this MOU agree as set forth below to work together in the RWMG for the Yuba Region to carry out the purposes of this MOU.

Article 1 – Definitions

Section 1.01. Definitions. Unless the context otherwise requires, the words and terms defined in this Article I shall, for the purpose hereof, have the meanings herein specified.

“Consensus” means approval of the Members to move forward with a particular action. “Consensus” does not necessarily mean that all Members affirmatively support an action but rather that no Member has opposed the action. A Member may verbally note disagreement with an action but still allow consensus on an action without the Member’s support if the action does not affect the Member or compromise the Member’s interests.

“IRWM Planning Act” or “Planning Act” means the Integrated Regional Water Management Planning Act, Part 2.2 of Division 6 of the California Water Code commencing with section 10530.

“IRWM Plan” or “Plan” has the meaning set forth in Water Code section 10534, which is a comprehensive plan for a defined geographic area, the specific development, content and adoption of which shall satisfy requirements of the Planning Act.

“Regional Water Management Group” has the meaning set forth in California Water Code section 10539, which is a group of three or more local agencies, at least two of which have statutory authority over water supply or water management, as well as those other persons who may be necessary for the development and implementation of a Plan.

“Member of the Yuba Regional Water Management Group” or “Member” means an entity identified in California Water Code §10541 (g) that is based in the Region, has members or chapters in the Region, or has water management authority in the Region, and is a signatory to this Memorandum of Understanding. “Member of the Regional Water Management Group” or “Member” means a local agency, tribe, or non-governmental organization that has become a party to this MOU. Federal and State agencies are not Members of the Regional Water Management Group, but such agencies may be parties to this MOU and may designate liaisons to the RWMG as provided herein. Member Representative refers to the person or persons representing the Member at meetings of the Group.

“Cooperating Entity” means a business, organization, individual or agency that is not a Member of the Yuba Regional Water Management Group but is selected to carry out a specific project.

“Disadvantaged Community” or “DAC” means any community within the Region qualifying as a Disadvantaged Community under California law using then-current U.S. Census data.

“Fiscal Year” means the period from July 1st to and including the following June 30th.

“MOU” means this Memorandum of Understanding, as existing or as subsequently amended.

Article 2 – Purpose and Organization

Section 2.01 Purpose. This MOU is entered into in accordance with the Planning Act for the purpose of forming the Group that will (1) develop, implement and periodically update the Plan, and (2) coordinate planning and actions with connected Regions. The Group shall work to:

- (a) Support regional objectives and the objectives of the California Water Plan.
- (b) Promote communication and cooperation within the Region in support of these objectives.
- (c) Facilitate investment in projects that can minimize costs and maximize regional benefits through cooperation between Members and Cooperating Entities, through economies of scale, through projects with multiple resource benefits, or through DAC projects.
- (d) Endeavor to assure an element of geographic fairness in the ranking of projects.

This MOU does not impose legally binding requirements on its Members and is not an enforceable contract or agreement. It is a statement of principles for how the Group will conduct business.

Section 2.02 Term of MOU. This MOU shall replace the MOU dated September 1, 2014. This MOU shall continue in effect until terminated by all then-current Members. Inclusion of additional Members, and/or withdrawal of Members shall not terminate this MOU.

Section 2.03 Member Representatives. Each member shall designate a Member Representative to the Group. More than one Member Representative may be appointed, but each Member shall have only one vote. A Member may appoint someone as their Member Representative notwithstanding the fact that such person is also the Member Representative for another Member. In such instances, such person shall have one vote on behalf of each Member represented.

Section 2.04 Decision Making. Decision making by the Group is based upon consensus of those Member Representatives present in person, by phone, or electronically. Where action by the governing body of one or more Members whose representative is present is required, or desirable, the matter shall not be considered approved by the Group until a decision by those governing bodies has been obtained. A Member's governing body may, in its discretion, elect to note disagreement with but "not oppose" an action, rather than disapprove it, thereby allowing the action to move forward without its endorsement.

2.04.1 Less than 100% Consensus Decision Making

The RWMG shall not limit itself to strict consensus if 100% agreement among all participants cannot be reached after all interests and options have been thoroughly identified, explored, discussed and considered. Less-than-consensus decision-making shall not be undertaken lightly. If, after full exploration and discussion, the RWMG cannot come to 100% agreement, then the group will invoke a 75% super-majority vote.

(a) Any RWMG member may call for a vote after the issue has been fully vetted by the group. Voting will be available only to those RWMG members who have attended two out of the previous three RWMG meetings. Each member group will be entitled to a single vote. The 75% vote will be tallied based on the members who are present at the meeting. If a 75% supermajority vote is called for then the vote will be held at the subsequent meeting and all relevant materials will be distributed to the full RWMG in advance of that next meeting. This process may be repeated until consensus is reached or the item/issue under discussion is withdrawn from consideration.

Definition of Active Participation by RWMG Members

Active participation means regular attendance at RWMG meetings and reviewing planning and other written documents before discussions or decisions will be made. It is understood that occasionally RWMG members may need to miss scheduled meetings. If there is a question as to whether a RWMG member should be considered “active” for purposes of decision-making, sign-in sheets from previous meetings shall be used to make that determination.

Section 2.05 XX Committee. The XX Committee, along with such staff as the Group may employ, shall be responsible for the on-going administrative work of the Group. The XX Committee shall consist of six (6) Members who shall serve a term of two years. Three Members of the first XX Committee shall serve a term of one year, so that there will be an orderly transition of administrative business. Members of the XX Committee shall serve on a rotating basis so that every Member has the opportunity to serve, notwithstanding that a Member may decline to serve. Members may serve consecutive terms with approval of the Group.

The Chair or Vice-Chair of the XX Committee shall act as Chair of the Group meetings.

Section 2.06 Other Working Committees. Other working committees shall be appointed by the Group or by the Admin Committee as needed.

Section 2.07 Quorum. The presence of fifty percent of the Members of the Group or the working committees shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn a meeting from time to time.

Section 2.08 Meetings. Members shall meet at least quarterly in a regularly scheduled meeting. Location of meetings shall rotate throughout the planning region. Meetings shall be chaired by the Chair or Vice-Chair of the XX Committee.

- The XX Committee shall meet at least monthly at a location of its own choosing.
- Other working committees shall meet as needed at a location of their own choosing and shall select their own chair.
- Attendance at all meetings may be in person or by electronic connection.
- All meetings are open to the public and shall be publicly noticed.

Section 2.09 Minutes. The XX Committee shall appoint a Secretary to be responsible for preparing an agenda, maintaining a record of the activities of the Group and the XX Committee, and performing such other duties as necessary. The Secretary is responsible for noticing all Group meetings, XX Committee meetings and working committee meetings. Minutes of all meetings, including those from the XX Committee meetings, and any special reports or documents, shall be distributed to the Group.

Section 2.10 Organization, Bylaws and Policies and Procedures. The Group may incorporate as a nonprofit public benefit corporation. The Group may establish Bylaws and Policies and Procedures as necessary.

Section 2.11 Fiscal Agent. The XX Committee, with approval by the Group, is responsible for establishing a Fiscal Agent with appropriate qualifications to receive, disburse and account for funds related to this MOU. Until such time as this Fiscal Agent is established, XXX shall remain the Fiscal Agent for the Group. Funding received by the Fiscal Agent to carry out projects shall be disbursed to Members or to Cooperating Entities only after the Fiscal Agent enters a funding agreement with the Member or Cooperating Entity as may be appropriate or required. The Fiscal Agent shall be responsible for any necessary financial reporting, including reports needed to comply with the terms of any grant agreement. The Fiscal Agent shall report annually to the Group and monthly to the XX Committee. All fiscal reports shall be distributed to the Group.

Section 2.12 Staff. The Group may employ professional staff or consultants as needed and within prudent fiscal constraints. The Group may accept staffing funded by members of the Group or others.

Section 2.13 Annual Budget. The XX Committee shall develop an annual budget for each fiscal year for administrative expenses. The budget shall be approved by the Group. The budget shall be based upon funds available or pledged as of May 31st of the previous year. The budget may be modified during the fiscal year as necessary with approval by the Group. Each annual budget shall be approved by the group.

Section 2.14 Annual Operational and Fiscal Report. The XX Committee is responsible for preparing an annual operation and fiscal report for presentation to the Group at the end of each fiscal year. The annual report of the Fiscal Agent is part of this report.

SIGNATURE PAGE

Date: _____

Organization

Name and position (print)

Name (signature)

Primary Representative:

Email: _____

Telephone: _____

Address: _____

Alternative Representative:

1 Email: _____

Telephone: _____

Address: _____