

Memorandum of Understanding Southern Sierra Regional Entity (Date of Signing) 2009

This Memorandum of Understanding (MOU) is entered into by and among the members of the Planning Committee with regard to the formation of the Southern Sierra Integrated Regional Water Management Plan (IRWMP). The overarching vision of the IRWMP is to meet the integrated water needs of the people and watersheds of the South Sierra IRWMP region now and into the future. The IRWMP will be developed in three phases: 1) a formation (launch) phase to develop and submit an application to the California Department of Water Resources (DWR) for a Planning Grant; 2) a planning phase to develop the Southern Sierra IRWMP and; 3) an implementation phase to implement the plan. The Southern Sierra Regional Water Management Group (hereinafter referred to as the “Southern Sierra Planning Committee” or “Planning Committee”) will be realized through this MOU for the purpose of phases one and two of the IRWMP.

1 Purpose

This MOU is a statement of mutual understanding among the Planning Committee members to acknowledge the intentions of the parties and provide for cooperative action regarding:

- The roles and responsibilities of the parties in IRWMP formation, including the sources of funds and in-kind technical assistance
- The structure that will be used to exchange information with the Southern Sierra Planning Committee, Coordinating Committee, and other interested parties, and the public to provide for technical review and public support for formation of the IRWMP.
- The general work plan that Southern Sierra stakeholders will complete to form the IRWMP.

1.1 Duration of this Memorandum of Understanding

This MOU will remain in effect from the date of signing for 3 years or until replaced by another form of agreement by the Southern Sierra IRWMP Planning Committee.

1.2 Southern Sierra Preamble from the IRWMP

This IRWMP is not intended to, and it does not, impose legally binding requirements on the entities that adopt or participate in the IRWMP. The IRWMP’s purpose is to summarize the process and the plan developed by the Southern Sierra Region stakeholders to meet their common goals of achieving sustainable water supplies and uses, improved water quality, environmental stewardship, efficient urban development, protection of agriculture, and a strong economy.

Although the IRWMP refers to many legally binding statutory and regulatory provisions—such as general plans, zoning ordinances, water quality plans, and various permits, licenses, and approvals; its purpose in doing so is to ensure that the IRWMP is consistent and compatible with those existing legal obligations. Rather than adding to or modifying the present legal and regulatory environment, the IRWMP is intended to streamline and improve

the stakeholders' ability to operate and succeed within that environment. Thus, the IRWMP provides guidance to, but does not impose any mandates upon, the water agencies, land use agencies, local governments, watershed organizations and others who adopt the IRWMP.

2 Background

2.1 IRWMP Formation

The Southern Sierra Planning Committee intends to launch an IRWMP Planning process, which will culminate in submitting a Planning Grant Proposal to DWR soon after final guidelines are released.

2.2 IRWMP Adoption

Any organizations, agencies or individuals that support the Southern Sierra IRWM Plan may adopt it. These include such organizations as water agencies, conservation groups, agriculture representatives, businesses, tribal groups, land use entities, and local, state, federal agencies and private entities with an interest in the Southern Sierra.

Southern Sierra IRWMP Geographic Boundaries

The Southern Sierra IRWMP boundaries will include the foothills and mountain headwaters regions of the Kern, Tule, Kaweah, Kings, and San Joaquin watersheds. These watersheds cover the Sierra Nevada portion of Madera, Fresno, Tulare, and Kern Counties. The primary boundary includes the Sierra Nevada Ecosystem Project (SNEP) boundaries, but is adapted to sync with neighboring IRWMP efforts.

- To the east, the Southern Sierra IRWMP boundary is defined by the Sierra Nevada crest.
 - Rationale: Waters flowing to the west from the Sierra crest are source waters for foothill uses and management. Precipitation falling west of the crest drain the western slope of the mountain range and are connected hydrologically with the Tulare and San Joaquin basins.
- To the north, the Southern Sierra IRWMP is defined by the Upper San Joaquin watershed.
 - Rationale: The upper San Joaquin River basin is split between Fresno and Madera Counties, but the river is managed across counties. The issues on either side of the county line are similar, but contrast sharply with downstream users in intensive agricultural areas outside of the Sierra Nevada Region. The San Joaquin watershed shares many of the same issues with watersheds further south in the region.
- To the west, the Southern Sierra IRWMP is considering a boundary including the foothill areas of the region's watersheds.
 - In the Kings River Area, the SSIRWMP boundary extends the District boundaries of the Tri Valley, Orange Cove, Hills Valley Water Districts east of the towns of Orange Cove, Orosi and East Orosi. East of the City of Fresno, the boundary extends to the boundaries of the Fresno Metropolitan Flood Control District, the International Water District and the Garfield Water District.
 - Rationale: This boundary was negotiated with the Upper Kings River Forum Regional Water Management Group to match UKRF boundaries.

- In the Kaweah Delta area, the SSIRWMP boundary extends to the Kaweah reservoir or the 600-foot contour in the Kaweah River Drainage. Further, the boundary follows the RWQCB Irrigated Lands Program and generally follows surface water-ground water usage boundaries. In the aquaculture/Lewis/Avocado area, the boundary will be the 600' elevation contour and squared to section lines; the agriculture north of Elderwood will be in the KDRWMP. In Davis Valley, the Westside has small, irrigated lands while the east and the north are rangeland. The boundary will follow section lines in these areas. In Dry Creek, the boundary will follow land use: irrigated lands will be part of the KDWMP and grazing land will be in the SSIRWMP. In Mehrten Valley, the 600' contour will be the guide, most of the valley will be in KDRWMP. In Yokohl Valley, most of the western valley will be in the KDRWMP while the eastern portion of the valley will be in the SSIRWMP. In Round Valley, east of Lindsay, the KDRWMP will include a few small areas east of the ILP, the boundary will again be based on land use and squared to the section lines.
 - Rationale: This boundary was negotiated with the Kaweah Delta Water Conservation District Regional Water Management Group to match KDWCD boundaries.
- In the Tule River Area, the SSIRWMP boundary includes the Tule River Indian Reservation and down to approximately the 600-foot contour in all forks of the Tule and squared to section lines. The Deer Creek Tule River Authority planning area will follow irrigated lands while the SSIRWMP will follow rangeland.
 - Rationale: This boundary was negotiated with the Deer Creek-Tule River Authority Regional Water Management Group to match that region's planning boundaries.
- To the south, the Southern Sierra IRWMP boundary is defined by the Tulare-Kern County line.
 - Rationale: the Kern watershed's water resources will be managed by both SSIRWMP and Kern County Water Agency IRWMP. The two entities will work collaboratively in the watershed across the county boundary.

2.3 Planning Horizon

The Southern Sierra planning and implementation horizon is approximately thirty years into the future, in the range of 2038-2040. However, many Southern Sierra discussions and actions will be guided by a longer time horizon of up to fifty years into the future.

2.4 Joining and Leaving the Southern Sierra IRWMP Planning Committee

Any water stakeholder organization may join the Southern Sierra IRWMP as part of the Planning Committee (see below for description). Water stakeholders could include, but are not limited to such organizations as: water agencies, conservation groups, agriculture representatives, businesses, tribal groups, land use entities, and local, state, federal agencies and private entities with an interest in the Southern Sierra. A group who wants to join the Southern Sierra IRWMP should notify the Planning Committee of their intent to join and sign this MOU to signify their good faith effort to join.

Any entity who would like to discontinue their participation in the Southern Sierra IRWMP may do so at any time. This MOU is non-binding and non-regulatory. The Southern Sierra IRWMP Planning Committee only asks that any member who wants to leave, notify the rest of the Planning Committee at which point they will no longer be a member of the Planning Committee of the Southern Sierra IRWMP.

3 Program Management Structure

3.1 Planning Committee

The Planning Committee is the decision-making body during the SSIRWMP formation process. In that context it will oversee and approve major programmatic decisions such as funding applications and performance measures. The Planning Committee will set the overall strategic direction for formation of the IRWMP. During the planning phase, the Planning Committee or its designated Work Groups will meet at least every other month.

3.1.1 Membership

The first Planning Committee membership will be comprised of those who sign this Memorandum of Understanding. These members will commit to approximately three years on the Planning Committee or until the SSIRWMP is complete.

The Planning Committee strives to ensure its membership represents a broad range of interests, including: water supply, water quality, environment/habitat, recreation, agriculture and ranching, resource management, hydropower, cities/counties, sanitation, other water resource management areas, economically disadvantaged local communities and individual local stakeholders interested and willing to participate. In order to cover these interests, members may include, but are not limited to: water agencies, resource agencies, conservation groups, tribes, agricultural and ranching interests, cities, counties, education organizations, disadvantaged community representatives, private landowners, and businesses.

Planning Committee membership will be comprised of those who sign this MOU before submission of the planning grant proposal. Planning Committee members must be committed to ensuring long-term ecosystem health of the areas watersheds, water supply, water quality, involvement of the local communities, especially disadvantaged communities; and the protection, preservation and restoration of natural resources of the Southern Sierra region; and agree to work constructively with others.

The Project Manager will check in with Planning Committee members on regular basis to reconfirm their intent to actively participate and their primary representative. This will not be binding or require the member to re-sign the MOU. This activity is merely intended to give the Project Manager and Planning Committee the most updated list of active Planning Committee members and primary and alternate representatives. Membership in the Planning Committee may change to accommodate evolving circumstances, such as changes in individual organizational capacity or participation.

Planning Committee members agree they will strive to support the Southern Sierra IRWMP through a variety of supporting activities, which may include in-kind contributions and/or funding.

3.1.2 Representation

Each member organization will identify their lead representative for the Planning Committee and will make their best effort to attend Planning Committee meetings to make decisions. Planning Committee members may choose to identify alternates but they are encouraged to have one representative attend the IRWMP Planning Committee meetings for consistency.

3.2 Coordinating Committee

The Coordinating Committee, appointed by the Planning Committee, is a smaller, representative group of the Planning Committee that meets between Planning Committee meetings to assist staff with process planning, recommendations for process modifications, communications, and other issues for which staff needs advice. The Coordinating Committee may also provide more consistent fiscal oversight in helping to manage the IRWMP with the fiscal sponsor. Ultimate decision-making still resides with the Planning Committee. Membership in the Coordinating Committee may change to accommodate evolving circumstances (such as changes in individual organizational capacity or participation history) by consensus of the Planning Committee. The Coordinating Committee meets every month during planning stages and then every other month thereafter. This schedule could change again during implementation planning.

The Coordinating Committee may play a role in developing substantive proposals and policy, at the request and subject to the approval of the Planning Committee, but has no decision-making authority.

4 Formation Funding

4.1 Funding

Funding for the launch and planning phases will come from grants. Southern Sierra IRWMP anticipates that financial support for the regional entity will ultimately come from projects funded through the Southern Sierra IRWMP, but during the formation period (the formation period will end with a planning grant from DWR or other organization) will come from a portion of the launch and planning grants.

The Planning Committee agrees they will strive to support the Southern Sierra IRWMP through variety of supporting activities during the formation period.

4.2 Fiscal Agent

Fiscal Agent for IRWMP Launch

Sequoia Riverlands Trust shall serve as Fiscal Agent for the Southern Sierra IRWMP Launch phase. Duties include administering grant funds, coordinating meetings for the Coordinating Committee and Planning Committee, making meeting notes and notices publicly available, maintaining a webpage where IRWMP documents can be accessed.

Fiscal Agent for Planning Grant

The Planning Committee will choose a Fiscal Agent for the Southern Sierra Planning Grant Proposal to DWR and the Planning Phase. This entity will have custody and responsibility for administering all funds of the Southern Sierra regional entity, including without limitation deposit and disbursement of said funds and accounting of all business transactions of the

regional entity. Fiscal oversight will still be performed by the Planning Committee and Coordinating Committee.

Any budget line item change over \$1,000 should be considered by the Coordinating Committee, as the fiscal oversight of the IRWMP.

Any budget line item change over \$10,000 must be reviewed and approved by the Planning Committee

Annual Financial Reporting

At the close of each calendar (or fiscal) year, the fiscal agent(s) and individual project partners shall provide a complete accounting of fiscal activity related to Southern Sierra IRWMP and associated projects to the Planning Committee.

5 Public Outreach and Participation

5.1 Planning Committee Meetings

The Planning Committee will meet at least every other month and schedule additional meetings if necessary to ensure effective planning of the SSIRWMP. All Planning Committee meetings are open to the public. Interested parties are welcome and encouraged to attend to share concerns about the Plan and learn about the IRWMP. Highlights from the Planning Committee meetings shall be distributed to the Southern Sierra Planning Committee and posted on the web for public viewing.

5.2 Public Forum / Interested Parties

The public forum refers to the general public and broad range of organizations interested in the Southern Sierra process that seek information about Southern Sierra activities either by attendance at meetings or through other means of communication. The Southern Sierra IRWMP maintains an interested party or stakeholder email list. Email list participants receive notice of all Southern Sierra meetings and all other announcements about the Southern Sierra planning process.

5.3 Public Noticing and Transparency

Southern Sierra meetings are noticed via an inclusive email list discussed above. In addition, Southern Sierra IRWMP will begin sending meeting announcements to all the public agencies involved in the process and encourage them to post Southern Sierra Planning Committee meetings on their web pages and to announce through agency noticing procedures. Planning Committee member entities are not responsible for compliance by Southern Sierra with public agency noticing requirements. The Southern Sierra IRWMP shall maintain a publicly accessible website displaying a calendar of meetings, agendas, meeting notes, list of participants, and when appropriate, a brief description of accomplishments, partners and overall mission of the IRWMP.

In preparation for Planning Committee meetings, which will involve decision-making, the Planning Committee will be noticed that there is a decision-making meeting 2 weeks in advance of the meeting. This notice can be by email with the agenda if available at that time.

5.4 Briefings and Outreach

Southern Sierra IRWMP stakeholders representing their own organizations regularly conduct briefings with local elected officials and other organizations interested in Southern Sierra or in which Southern Sierra IRWMP would like to extend its reach. Southern Sierra IRWMP periodically prepares briefings materials and makes presentations at conferences and meetings. Only the Project Manager or a designated representative may make public statements on behalf of the Southern Sierra IRWMP as an entity.

6 Planning Committee Decision Making

6.1 Decision Making Rule

6.1.1 Consensus as the Fundamental Principle

The Planning Committee shall base its decision-making on consensus (agreement among all members) in all of its decision-making. Working toward consensus is a fundamental principle of the Southern Sierra IRWMP process.

6.1.1.1 Definition of “Consensus”

In reaching consensus, some Planning Committee members may strongly endorse a particular proposal while others may accept it as "workable." Others may be only able to “live with it.” Still others may choose to “stand aside” by verbally noting a disagreement, yet allowing the group to reach a consensus without them if the decision does not affect them or compromise their interests. Any of these actions still constitutes consensus.

Since the IRWMP has no regulatory authority, any decisions it makes cannot regulate or force another entity against its will to take an action not in its interest. All decisions and projects will be made and developed under the consensus rule except as noted in Section 6.1.1.2 below.

6.1.1.2 Workgroups

Workgroups give input and recommendations to the Planning Committee. But all decisions will be approved by the Planning Committee as a whole.

6.1.1.2 Less than 100% Consensus Decision Making

The Planning Committee 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 Planning Committee cannot come to 100% agreement, it will use the less-than-consensus decision-making protocols as described below. For proposals or the Plan to be endorsed by the Planning Committee, it must pass the test identified in (a) below.

a) Broad Support of the Planning Committee Membership

The Plan or proposal must be endorsed by 75% of the total number of *active* members of the Planning Committee. (In other words, the Plan cannot be opposed by more than 25% of the total number of *active* members of the Planning Committee.) *Active* participation is defined in Section 6.1.1.3.

6.1.1.3 Definition of Active Participation by Planning Committee Members

Active participation means regular attendance at Planning Committee meetings; regular participation in at least one Work Group or ensuring that a designee of the Planning Committee member's organization participates in a Work Group under the Planning Committee member's close guidance; and reviewing planning and other written documents before discussions or decisions will be made. It is understood that occasionally Planning Committee members may need to miss a Planning Committee or Work Group meeting, or both meetings. If there is a question as to whether a Planning Committee member should be considered "active" for purposes of decision-making, the Coordinating Committee will make that determination by communicating with the member or determining whether the stakeholder is active or not based on recent participation.

7 **Revisions to the MOU**

Any revisions to this MOU must be made through the decision-making process outlined in the section above on decision-making.

Signature Page

Date: _____

Name (Signature) Print Name

Organization

Primary Representative:

Email: _____

Telephone: _____

Address: _____

Alternative Representative:

Email: _____

Telephone: _____

Address: _____