

December 29, 1958

MEMORANDUM OF AGREEMENT
BETWEEN THE DEPARTMENT OF THE ARMY AND
THE DEPARTMENT OF THE INTERIOR
ON
DIVISION OF RESPONSIBILITIES IN THE
CENTRAL VALLEY BASIN, CALIFORNIA

The Department of the Army and the Department of the Interior in planning and carrying out Federal water resource development activities in the Central Valley will coordinate their activities with those of the State to the maximum extent practicable. The Department of the Army and the Department of the Interior agree that the following principles, procedures, and designations of responsibility shall apply to the conduct of the water and related resources development programs of the Corps of Engineers and the Bureau of Reclamation, respectively, in the Central Valley of California. Deviation from these principles, procedures, and designations of responsibilities shall be only by advance mutual agreement of the two Departments or after discussion between them and approval of the Executive Office of the President.

1. Investigations and Planning

- a. All surveys and planning activities of the Corps of Engineers and the Bureau of Reclamation in the Central Valley of California will be coordinated to the fullest extent practicable at all stages of planning and development and at all echelons in each organization with the view of insuring well integrated plans and optimum comprehensive development. Information developed by investigations and studies will be interchanged freely and each agency will utilize data available or expected to become available from studies of the other in order to avoid duplication of effort. Both agencies agree that it is particularly important in the planning stage to coordinate their activities with those of the State.
- b. The Corps of Engineers will take the initiative to provide for needed navigation and flood control as contemplated under River and Harbor and Flood Control laws.
- c. The Bureau of Reclamation will take the initiative to provide for needed irrigation as contemplated under Reclamation law.

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- d. Each agency will give full consideration to the needs for power, municipal and industrial water supply, recreation, fish and wildlife, and other uses in conjunction with its planning responsibilities.
- e. Each agency will keep the other fully informed at all times of its investigation and planning activities and will consult with the other on all aspects of project formulation of direct interest to the other agency and specifically as follows:
- (1) As a matter of routine the procedures called for by law and interagency agreement will be observed.
 - (2) The Corps will obtain and utilize in its plans the Bureau's recommendations and estimates for irrigation in connection with Corps projects, particularly as to the relation of irrigation proposals to other irrigation developments and as to operational requirements, benefits, and repayment arrangements and consideration involving allocations of costs.
 - (3) The Bureau will obtain and utilize in its plans the Corps' recommendations and estimates for navigation and flood control in connection with Bureau projects, particularly as to the relation of navigation and flood control proposals to other similar developments and as to operational requirements and regulations, benefits, and local participation or repayment and considerations involving allocations of costs.
- f. The following jurisdiction for completion of planning, seeking of authorization, construction and operation, consistent with the provisions of this memorandum, is agreed to for the following multiple-purpose reservoir projects which are already within the purview of the agencies' plans:

Corps of Engineers

Black Butte on Stony Creek
 New Hogan on Calaveras River
 Buchanan on Chowchilla River
 Hidden on Fresno River
 Terminus on Kaweah River
 Success on Tule River

Bureau of Reclamation

Auburn on American River

- g. Determination of such jurisdiction for other projects is deferred pending further planning, future actions of local

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interest, or future actions by the State of California as indicated in Attachment No. 1. Prior to the initiation or continuation (as the case may be) of planning on such other projects, the initiating agency will seek to establish agreement between the two agencies as to jurisdiction for subsequent planning. Agreement on jurisdiction as to seeking of authorization, construction, and operation, consistent with the principles and procedures set forth in this memorandum, will be sought by the agencies prior to initiating action on these steps. If agreement cannot be reached by the two Departments, the question will be referred to the Executive Office of the President for resolution.

2. Cost Allocations

- a. Allocations of costs among project purposes should be made in accordance with the procedures contemplated for general application in Federal interagency agreements on this subject.
- b. Generally each agency shall be responsible for cost allocations at projects it investigates and constructs.

3. Integration with the Central Valley Project

- a. Multiple-purpose projects (existing, authorized, or proposed) which embrace the functions of irrigation or hydroelectric power, or of municipal and industrial water supply for which under the terms of this agreement the Secretary of the Interior is the marketing agent, shall be recommended for integration with the Central Valley Project if this would be desirable in the opinion of the Secretary of the Interior after consultation with the Secretary of the Army and with the Governor of California or his designee. Such integration shall cover:
 - (1) Financial integration for payout purposes.
 - (2) Inter connection of Federal power plants with CVP power system for integrated operation and power marketing.
 - (3) Commingling of, or interchange of, irrigation and municipal and industrial water with CVP water supplies to the extent necessary for optimum resources development and water marketing.

- b. Financial integration for payout purposes does not involve change in existing legal requirements that revenues attributable to Corps projects shall be deposited in the Treasury as miscellaneous receipts.

4. Construction and Operation

- a. Projects shall be constructed and operated by the agency obtaining authorization.
- b. Every reasonable effort shall be made to obtain contracts for water service prior to initiation of construction. Where multiple-purpose projects which provide urgently needed flood control or other services would be unduly delayed because of failure to secure a water contract, the construction agency will consult with and obtain the concurrence of the other Federal agency on a satisfactory basis for proceeding with project construction, considering, among other factors, with possibility of accepting assurances that such contracts will be executed. In the event of disagreement, each agency will present its recommendations to the Executive Office of the President.
- c. Insofar as consistent with over-all project requirements the Bureau shall operate its projects in accord with regulations prescribed by the Secretary of the Army for flood control and navigation.
- d. Insofar as consistent with over-all project requirements the Corps shall operate its projects in accord with regulations prescribed by the Bureau for irrigation and hydroelectric power and for municipal and industrial water supply where the Secretary of the Interior is the marketing agent for the latter function.
- e. Both agencies agree to consult with the State of California on construction and operation with a view to coordinating their construction and operation activities to the maximum extent practicable.

5. Marketing of Services

- a. The Secretary of the Interior shall be responsible for contracting for all irrigation service.
- b. The Secretary of the Interior shall be responsible for the marketing of all hydroelectric power surplus to project needs.

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- c. The constructing agency shall be responsible for contracting for all municipal and industrial water service, except when such water from a project is interchanged or comingled with Central Valley Project water, in which case the Secretary of the Interior shall be responsible. The two Departments shall consult with one another with a view to arriving, insofar as practicable, at uniform terms for contracts for municipal and industrial water service.

/s/ E. C. ITSCHNER, Major General
Chief of Engineers, U. S. Army

Date: 31 Dec 58

/s/ Floyd E. Dominy
Acting Commissioner of Reclamation

Date: 31 Dec 58

/s/ Wilber M. Brucker
Secretary of the Army

Date: 31 Dec 58

Fred A. Seaton
Secretary of the Interior

Date: 31 Dec 58

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ATTACHMENT NO. 1 TO
MEMORANDUM OF AGREEMENT
BETWEEN THE DEPARTMENT OF THE ARMY AND
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ON
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The project developments are grouped by river basin areas since the plans of development for a number of the basins are still being studied and the selection of projects is still to be made. Determination of jurisdiction for the projects discussed below is deferred pending completion of basin plans, or future actions by the State of California or local interests. Prior to the initiation or continuation (as the case may be) of planning on the individual projects, the initiating agency will seek to establish agreement between the two agencies as to jurisdiction for subsequent planning. Agreement on jurisdiction as to seeking of authorization, construction, and operation, consistent with the principles and procedures set forth in the basic memorandum will be sought by the agencies prior to initiating action on these steps. If agreement cannot be reached by the two Departments, the question will be referred to the Executive Office of the President for resolution.

1. Cache Creek

- a. Sites considered.
 - Indian Valley (North Fork)
 - Wilson Valley (Main stem)
 - Guinda (Main stem)

- b. Discussion. Investigations by Corps of Engineers have been authorized by Congress, but nothing has been done since 1950 in view of interest by the State in constructing the developments. Bureau of Reclamation has done nothing since basin report studies. The State-authorized Guinda Project is being reviewed by the State to ascertain if storage should be constructed at the alternative Wilson Valley site. Preliminary report was issued by State in March 1958, and the final report on Cache Creek Basin is scheduled for January 1960. Under the State plan, multiple-purpose storage at either site would be a joint State-local effort, and a Federal contribution for flood control provided may be requested. New water developed by the project would be used within local service area.

- c. Conclusion. Consider as a State project with further Federal activities dependent upon what the State does.

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2. Iron Canyon Reservoir Project

- a. Discussion. This project is authorized for construction by the Corps of Engineers. Restudy has been authorized by Congress to consider flood control problems of upper Sacramento Valley. The Bureau of Reclamation is also authorized to conduct investigations in this area. Project will provide urgently needed flood control. State considers reservoir a key major unit of California Water Plan for reregulation of imports of water from North Coastal Area as well as for conservation of Sacramento River runoff for maintenance of the Delta pool. If constructed as a Federal project, the Bureau of Reclamation contemplates it would become a unit of the Central Valley Project.
- b. Conclusion. Corps should proceed with its authorized review report and coordinate the studies fully with the State and the Bureau of Reclamation.

3. Feather River

- a. Sites. Oroville
Big Bend
Bidwell Bar
- b. Discussion. The State is proceeding with the development of the water resources of the Feather River. Section 204 of the Flood Control Act of 1958 authorized a Federal contribution in recognition of flood control accomplishments of the Oroville Project with the amount of contribution will be determined by the Secretary of the Army in cooperation with the State. Agreement on operation required between the Army and the State prior to making contributed funds available.
- c. Conclusion. State should continue development of the Feather River. Corps could continue studies required by Flood Control Act of 1958.

4. Yuba River

- a. Sites considered. Marysville
Narrows
Bullards Bar
Freemans Crossing
Parks Bar
Waldo (off stream)
and others

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b. Discussion. The State, Corps, and Bureau are cooperating in studies to outline a plan for the full development of the Yuba River. These studies are under separate authorities, but they are being fully coordinated. An interim report is scheduled for release by the State early in 1959. A major flood control problem exists. Also, the river can be developed to provide water for local needs and for export through the Central Valley Project of the Bureau of Reclamation and through the California Water Plan of the State. A large hydro power potential also can be developed which is considered important for pumping requirements of water transfer systems.

c. Conclusion. Best physical plan should be developed first as a joint endeavor through continuation of current planning studies; then further meeting should be held to establish areas of responsibility.

5. Bear River

a. Sites considered. Garden Bar
Rollins

b. Discussion. The limited water resources are needed for local service, and local interests are considered plans of development which include a major storage unit. A flood control problem exists, but it is not nearly as urgent as in other areas in the Central Valley.

c. Conclusion. Further Federal activities should await and depend on extent of development by local interests.

6. Consumnes River

a. Sites considered. Latrobe
Nashville

b. Discussion. Both the Corps and the Bureau have investigations under way which are being fully coordinated. There is a serious flood problem which is related to the flood problem on the Mokelumne River. Accordingly, the Corps' investigations are combined with studies of the Mokelumne River. Water conservation developments are important not only for local needs but in connection with possible diversions from the American River in connection with possible extension of the Federal Central Valley Project.

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- c. Conclusion. Joint studies should be completed to point of determining plan of development before decision is made as to areas of responsibility.

7. Mokelumne River

- a. Sites considered. Comanche
- b. Discussion. Corps is proceeding with authorized studies in cooperation with local interests. A serious flood problem exists. Most of the water rights are owned by East Bay Municipal Utility District, which has already partially developed stream for water conservation and contemplates additional storage development. Such additional development, which would provide both water conservation and flood control, could be constructed by the Corps or by the local district; no decision has been made as yet. The primary Federal interest in the stream is adequate flood control storage.
- c. Conclusion. Corps should complete its studies in cooperation with local interests.

8. Stanislaus River

- a. Site considered. New Melones
- b. Discussion. The New Melones Project with a reservoir capacity of 1,100,000 acre-feet is authorized for construction by the Corps for flood control and irrigation with provisions for future power. A reservoir capacity of 1,100,000 had been agreed to previously by the Corps, the Bureau of Reclamation, and the State. Corps submitted special report to Public Works Committee of Congress on 1 July 1957 indicating need for additional authority for power and suggesting that authority to contract for irrigation services be given to Interior. Pre-construction planning has been initiated by Corps with funds appropriated for that purpose. Bureau of Reclamation is investigating New Melones Project as part of the Central Valley Project. Those investigations, which are incomplete, indicate that the storage capacity should be increased to a total of about 2,400,000 acre-feet when operated integrally with the Central Valley Project. Flood control is a major problem and is urgently needed. Only a relatively small amount of additional water is needed in the local service area in the near future. The project also presents a problem relative to the existing Melones power plant which should be resolved.

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9. Tuolumne River

- a. Site considered. New Don Pedro
- b. Discussion. Local people contemplate building New Don Pedro with 1,600,000 acre-foot capacity or more with Federal contribution for flood control. Such contribution is authorized. New Don Pedro will solve flood control and water conservation problems.
- c. Conclusion. Local people should complete the New Don Pedro Reservoir.

10. Merced River

- a. Sites considered. Virginia Point (Corps)
Exchequer, raised (local interests)
Bagby (above Echequer) (local interests)
Snelling (below Exchequer) (local interests)
(not the same as BOR Snelling site for
off-channel storage)
- b. Discussion. Flood control storage on the Merced River is urgently needed. Investigations are being made by the Corps in cooperation with local interests. Water conservation developments have been constructed by the Merced-River Irrigation District. That District has hired consulting engineers to develop plans for water conservation which also include provisions for flood control. The consulting engineers have recommended that local interests provide the necessary multiple-purpose storage developments and obtain Federal contribution for flood control storage.
- c. Conclusion. Local interests should firm up their plans.

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JOINT POLICIES OF THE DEPARTMENTS OF THE INTERIOR
AND OF THE ARMY RELATIVE TO RESERVOIR PROJECT LANDS

Acquisition of lands for reservoir projects. In so far as permitted by law, it is the policy of the Departments of the Interior and of the Army to acquire, as a part of reservoir project construction, adequate interest in lands necessary for the realization of optimum values for all purposes including additional land areas to assure full realization of optimum present and future outdoor recreational and fish and wildlife potentials of each reservoir.

1. Lands for reservoir construction and operation. The fee title will be acquired to the following:

- a. Lands necessary for permanent structures.
- b. Lands below the maximum flowage line of the reservoir including lands below a selected freeboard where necessary to safeguard against the effects of saturation, wave action, and bank erosion and to permit induced surcharge operation.
- c. Lands needed to provide for public access to the maximum flowage line as described in paragraph 1b, or for operation and maintenance of the project.

2. Additional lands for correlative purposes. The fee title will be acquired for the following:

- a. Such lands as are needed to meet present and future requirements for fish and wildlife as determined pursuant to the Fish and Wildlife Coordination Act.
- b. Such lands as are needed to meet present and future public requirements for outdoor recreation, as may be authorized by Congress.

3. Easements in lieu of fee title may be taken only for lands that meet all of the following conditions:

- a. Lands lying above the storage pool.
- b. Lands in remote portions of the project area.

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c. Lands determined to be of no substantial value for protection or enhancement of fish and wildlife resources, or for public outdoor recreation.

d. It is to the financial advantage of the Government to take easements in lieu of fee title.

4. Blocking out. Blocking out will be accomplished in accordance with sound real estate practices, for example, on minor sectional subdivision lines; and normally, land will not be acquired to avoid severance damage if the owner will waive such damage.

5. Mineral rights. Mineral, oil and gas rights will not be acquired except where the development thereof would interfere with project purposes, but mineral rights not acquired will be subordinated to the Government's right to regulate their development in a manner that will not interfere with the primary purposes of the project, including public access.

6. Buildings. Buildings for human occupancy as well as other structures which would interfere with the operation of the project for any project purpose will be prohibited on reservoir project lands.

This joint agreement will be published in the FEDERAL REGISTER.

Approved: February 16, 1962.

/S/ STEWART L. UDALL
Secretary of the Interior

/S/ STEPHEN AILES
Acting Secretary of the Army

February 19, 1962.

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