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## CHAPTER 4 ~~SECTION FOUR~~

### OTHER IMPORTANT AGREEMENTS

#### I. ASSURANCES AND CAVEATS

##### A. Intent

The *Water Forum Agreement* will allow the region to meet its needs in a balanced way through implementation of all seven elements of the *Agreement*: increased surface water diversions; actions to meet customers' needs while reducing diversion impacts in drier years; support for improved pattern of fishery flow releases; lower American River habitat management; water conservation; groundwater management; and Water Forum Successor Effort.

Each signatory needs to be assured that as it fulfills its responsibilities under the *Agreement* the other signatories will be also honoring their commitments. Adequate assurances allow each signatory to expend the energy and resources necessary for it to uphold its part of the *Agreement* with confidence that others signatories will be doing likewise.

For instance, for environmentalists to support purveyors' increased water diversions, they need assurances that purveyors will support all seven elements of the *Water Forum Agreement* over the entire term of the *Agreement*. This will provide them assurances that agreed upon actions to preserve the lower American River will be continued.

Conversely, for water purveyors to participate in all seven elements of the *Agreement*, including those which will preserve the lower American River, they will need to have assurances that the other signatories will support the purveyor's increased diversions over the term of the *Agreement*.

##### B. Assurances

The *Water Forum Agreement* is based on nine assurances:

- Signing the *Water Forum Agreement*;
- Implementation of the Central Valley Project Improvement Act (CVPIA);
- An updated lower American River flow standard and related assurances;
- Assurances of support for increased diversions;
- Assurances for the lower American River Habitat Management Element (HME);
- Assurances for the water conservation element;
- Assurances for the groundwater management element;
- Assurances for the Water Forum Successor Element; and
- Assurances for response to changed conditions.

1. Signing the *Water Forum Agreement*.

All signatories agree that by signing the *Water Forum Agreement*, which is a Memorandum of Understanding (MOU) among all signatories, they commit to carrying out all the actions specified for them in the *Agreement*. This MOU is supplemented by additional assurances, which are described below.

Timing of this assurance: The *Water Forum Agreement* will be effective upon signing.

Status update – The *Water Forum Agreement* was signed in April 2000. See Chapter 1, Section H for a complete list of signatories.

May 2012

2. Implementation of the Central Valley Project Improvement Act

Under the CVPIA, the Department of Interior is responsible for carrying out two programs that provide significant assurances that fishery, wildlife, recreational, and aesthetic values of the lower American River will be protected.

a. The Anadromous Fish Restoration Program (AFRP) provisions of the CVPIA require the U.S. Bureau of Reclamation (Reclamation) to release water from Central Valley Project (CVP) facilities including Folsom Dam on a schedule that better matches the lifecycles of anadromous fish. The draft AFRP flow objectives for the American River as set forth in the November 20, 1997 “Department of the Interior Final Administrative Proposal on the Management of Section 3406 (b) (2) Water” are essentially the same as the *Water Forum Agreement’s* improved pattern of fishery flow releases.

b. In addition, the CVPIA Restoration Fund collects money from CVP contractors to finance improvements to habitat affected by the CVP, including the ecosystem of the lower American River. These funds are expected to provide cost-sharing for the multi-agency lower American River Habitat Management Plan (HMP).

Timing of this assurance: The CVPIA was enacted as federal law in 1992. Since 1996 Reclamation, in conjunction with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) ~~Game (CDFG)~~, has attempted to release water from project facilities in a manner consistent with the flow objectives for the lower American River set forth in the draft AFRP to the extent Reclamation’s available water supply has permitted it to do so. The AFRP flow objectives will not become final until after the CVPIA Programmatic Environmental Impact Statement (EIS) is complete.

Status update – The CVPIA AFRP goals have not been met. Since signing the WFA, the WFSE has developed a proposed Improved Pattern of Flow Releases (aka Flow Management Standard) that differs from the AFRP flows. The current Flow Management Standard includes provisions for both flow and temperature management (see Chapter 4, Schedule for Updating the lower American River Flow Standard).

May 2012

3. Updated lower American River Flow Standard and Related Assurances.

The AFRP flow targets for the lower American River are an important assurance. However they have not been finalized as of the signing of the *Water Forum Agreement*. In addition they do not address how much water will be diverted from the American River under various hydrologic conditions. In the process of updating the lower American River standard, it will be necessary to make some corrections to the AFRP flow objectives for the lower American River. These include some typographic corrections as well as inclusion of target carryover storage amounts for Folsom Reservoir.

An additional assurance will be in the form of an updated lower American River flow standard. All signatories agree they will recommend to the State Water Resources Control Board (SWRCB) an updated lower American River flow standard and updated Declaration of Full Appropriation. This recommended standard will incorporate the *Water Forum Agreement* provisions on water diversions under varying hydrologic conditions, optimize the release of available water for the fisheries and include other provisions as follows:

- a. Updated lower American River flow standard for Folsom and Nimbus dams. All signatories agree they will recommend to the SWRCB an updated American River flow standard and updated Declaration of Full Appropriation to protect the fishery, wildlife, recreational and aesthetic values of the lower American River. The recommendation will include requirements for Reclamation releases to the lower American River. In addition, the City of Sacramento's Fairbairn diversion will be required to comply with the diversion limitations of the City's Purveyor Specific Agreement (PSA). The *Water Forum Agreement* also includes agreed upon dry year reductions by purveyors upstream of Nimbus Dam. The recommendation for an updated lower American River standard will be consistent with:

*Water Forum Agreement* provisions on water diversions including dry year diversions,  
and  
Implementation of the improved pattern of fishery flow releases which optimizes the  
release of water for the fisheries.

Timing of this assurance: The City of Sacramento, with support from other signatories to the *Water Forum Agreement*, has already requested the SWRCB to expedite updating of

the lower American River flow standard. In the spring of 2000, after consultation with other American River water rights holders, the City of Sacramento will present a recommended flow standard to the SWRCB on behalf of the Water Forum.

The updated LAR Flow Standard has not been completed. For status update, see Chapter 4, Table 4.1, Progress Update on the Lower American River Flow Standard.

September 2015

b. Upstream Diversion Agreements. The recommended updated lower American River flow standard will incorporate rules on how much water purveyors would divert upstream of Nimbus Dam under varying hydrologic conditions. Therefore Reclamation and Water Forum signatories need some form of assurance as to how much those purveyors would divert under those conditions.

Purveyors signatory to the *Water Forum Agreement* who divert from upstream of Nimbus Dam agree they will enter into contracts with Reclamation that will provide assurances that the upstream diverters will divert only the agreed upon amounts, which include provisions for diversion reductions in dry year and/or other equivalent actions (See “Model Diversion Agreement with Reclamation” included as Appendix F).

Timing of this assurance: These contracts need to be entered into before the updated lower American River flow standard becomes effective.

Update – The upstream diverters worked with Reclamation in the early 2000’s to develop draft contract provisions to assure long-term implementation of dry years actions. These provisions have not as of yet been included in executed contracts.

March 2016

c. City of Sacramento Diversion Conditions. There needs to be some form of assurance that the City of Sacramento’s diversions from the American River will be consistent with the *Water Forum Agreement*. Because it diverts from downstream of Nimbus Dam it would be inappropriate of the City to enter into a diversion agreement with Reclamation.

Therefore the City of Sacramento agrees to include the provisions of its PSA concerning its diversion conditions in its request for SWRCB approval needed to expand the E.A. Fairbairn Water Treatment Plant (FWTP) diversion.

Timing of this assurance: These diversion conditions will be included when the SWRCB grants the City its needed approval.

This assurance has been included in the City’s SWRCB permit.

May 2012

d. Flexibility in the standard with regard to implementation of the improved pattern of fishery flow releases. The updated lower American River flow standard recommended by signatories will also address the tension between certainty and flexibility in how water is released from Folsom Reservoir. A flow standard that incorporated the improved pattern of fishery flow releases with no flexibility in its implementation would make it impossible to use adaptive management to respond to real time conditions. Conversely, absolute flexibility would not provide parties the assurance that releases from Folsom Reservoir will be timed to meet the objectives of the improved pattern of fishery flow releases. In addition implementation of the standard must recognize that Reclamation operates Folsom Dam as an integrated part of the CVP.

A technical group of parties with operations expertise including members of the Water Forum Successor Effort, [Reclamation U.S. Bureau of Reclamation](#), the USFWS [U.S. Fish and Wildlife Service](#), the National Marine Fisheries Service, and the [CDFW CDFG California Department of Fish and Game](#) will prepare recommendations on how to reconcile these issues. Provisions they will consider recommending in the updated flow standard include:

(1)Acceptable tolerance for variation in flow releases. The pattern of releases would be based on the November 20, 1997 “Department of the Interior Final Administrative Proposal on the Management of Section 3406 (b) (2) Water.” However there is also a need to allow some variation to respond to real time conditions. The tolerance could vary by type of water year. It could be an absolute number or a percentage.

(2)Formalization of the existing ad hoc lower American River Operations Group (the group that recommends real time adaptive management operations for the lower American River) that would meet as needed. This is an existing group of resource experts that provides input to [Reclamation the Bureau](#) on its operations under real-time conditions. The operations group would agree on actual flow releases within the previously approved range. It will have to be coordinated with other operations groups. This group should also take advantage of the experience of the CALFED Operations Group.

(3)A provision to allow greater variations in flows in response to significant, unforeseeable events. For instance, if a gate at Folsom Reservoir were to fail in July, there might not be enough water remaining to meet fall flow standards. Or there could be a never before experienced pattern of inflow or flood release. Another example of the need for variation could be to allow repairs to be made on the fish diversion structure at Nimbus Fish Hatchery.

(4) A recognition of the SWRCBs ~~State Water Resources Control Board~~ continuing authority to amend the standard to protect in-stream resources of the lower American River.

(5) The approach to flexibility will also be coordinated with Reclamation's ~~the Bureau's~~ new Operations Criteria and Plan (OCAP).

Timing of this assurance: The recommendation for appropriate flexibility will be developed in time for inclusion in the updated lower American River flow standard.

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|--|
| See Table 4.1, Schedule for Updating the lower American River Flow Standard for status update.<br>September 2015 |
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e. Conference year principles. The recommended flow standard for the lower American River incorporates agreement on water diversions and optimizes the release of available water for the fisheries for all types of water years through implementation of the improved pattern of fishery flow releases. This recognizes the wide variation in runoff which has ranged from over 6 million acre-feet (AF) in one year to less than 400,000 AF in the driest year on record. It is during times of low runoff that pressures on the available water supply are greatest. Therefore, signatories agree that the updated lower American River flow standard that they recommend will have the following provisions for the extremely dry years:

(1) Diversions and river flows. The amount each purveyor could divert is set forth in its PSA and is reflected in the recommended lower American River flow standard.

(Note that the annual quantity of water diverted from the American River and the amount available to flow all the way down the river from March to November may total more than 400,000 AF. That is because the amount available may include releases from storage of water carried over from previous years.)

The recommended updated flow standard will also include a provision for adaptive management. This will allow resource managers to allocate the total quantity of water available to the fishery for maximum benefit to the fishery.

(2) Conferencing. During years when the projected March to November inflow to Folsom Reservoir is less than 400,000 AF (referred to as conference years) there is insufficient water to meet lower American River in-stream needs and provide the quantities of diversions specified in PSAs. Special provisions are necessary to deal with water management in those extremely dry years. Therefore all stakeholders agree to meet in those years to confer on how the available water supply should be managed to

preserve as much as possible both of the Water Forum's two coequal objectives. The guiding principle will be to "share the pain" so that both in-stream and consumptive users bear an equitable burden.

(3) Minimum flow standard. The updated flow standard recommended by the Water Forum for inclusion in [Reclamation's the Bureau's](#) water rights permits for operation of Folsom and Nimbus dams will include a minimum flow requirement of 190 cubic feet per second (cfs) at the mouth of the American River<sup>8</sup>. The Water Forum will also recommend that the City of Sacramento's water rights require the [FWTP Fairbairn Water Treatment Plant](#) diversion to bypass the flow that [Reclamation the Bureau](#) releases or maintains below Nimbus Dam to meet that minimum flow requirement at the mouth of the American River. Nothing in this *Water Forum Agreement* is intended to affect Reclamation's obligation to make water available to the City of Sacramento under the City's 1957 [Reclamation Bureau](#) contract.

This does not, however, imply signatories agree that 190 cfs is adequate for fish screen bypass flows for the expanded Fairbairn diversion or a new diversion near the mouth of the American River. Those fish screen bypass flows will be identified in project specific Environmental Impact Reports (EIRs) for those diversions.

In extraordinary circumstances, the 190 cfs minimum could be relaxed if reallocating that volume of water to another time in the year would be more beneficial for the fishery.

(4) Extraordinary conservation efforts. In conference years water purveyors agree to implement the highest level of conservation/rationing in its drought contingency plans.

(5) Conferencing in other years. The lower American River Operations Group can recommend that the Water Forum Successor Effort meet and confer on operations in any year if called for by extraordinary circumstances.

These conference year principles will be included in the diversion agreements between [Reclamation the Bureau](#) and purveyors signatory to the *Water Forum Agreement* that divert upstream of Nimbus Dam.

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<sup>8</sup> Decision 893 established a variable minimum requirement for flows at the mouth of the American River. Under D-893 in 1977, the driest year on record, the minimum flow requirement was presumed to be between 185 and 190 cfs. D-893 also conditioned the City of Sacramento's water rights to require the City of Sacramento's E.A. FWTP diversions to bypass the flow that Reclamation releases or maintains below Nimbus Dam to meet D-893's minimum flow requirement.



Timing of this assurance: The concept of conferencing in the years with a projected March to November unimpaired inflow of less than 400,000 AF will be included in the recommendation for the updated lower American River flow standard when it is presented to the SWRCB.

The WFSE has tracked annual hydrologic conditions to determine water year type and publishes periodic runoff reports. Reports are available online at <http://waterforum.org/resources/resource-library/>.

November 2015

f. Declaration of full appropriation. The SWRCB has already declared the American River to be fully appropriated during certain times of the year. In recognition of the additional diversions and fishery flows agreed to in the *Water Forum Agreement*, the Declaration of Full Appropriation needs to be amended. Because there are significant remaining issues including area of origin protections, this will require additional negotiation.

Signatories agree to negotiate with all affected stakeholders and the Water Forum Successor Effort will recommend an amendment to the Declaration of Full Appropriation for the American River consistent with the *Water Forum Agreement*.

Timing of this assurance: A recommended amendment to the Declaration of Full Appropriation for the lower American River will be developed so that the amended Declaration can be recommended as soon as the lower American River flow standard is updated.

A recommendation for a declaration of full appropriation for the LAR has not been developed.

May 2012

g. How to develop an updated lower American River flow standard if all upstream diverters are not in the initial *Water Forum Agreement*. Not all purveyors that divert upstream of Nimbus Dam are in the initial *Water Forum Agreement*. This section describes how an updated flow standard for [Reclamation's the Bureau's](#) operation of Folsom and Nimbus dams can be adopted when there is uncertainty as to increased diversions by some upstream purveyors.

The updated flow standard will reflect those increased diversions, including dry year reductions and/or other equivalent actions, upon which there is agreement as reflected in the initial *Water Forum Agreement*.

Signatories agree that the recommended updated flow standard will also contain a reserved jurisdiction clause specifying that whatever the SWRCB decides in the

future regarding diversions upstream of Nimbus Dam will automatically result in a corresponding revision to ~~Reclamation's~~ ~~the Bureau's~~ water rights permit for the operation of Folsom and Nimbus dams.

That will preserve the opportunity for those not yet in the *Agreement* to come to agreement with other Water Forum stakeholders when the issues are ripe for decision. It will also preserve the option for parties to support or oppose those increased diversions if an agreement with the Water Forum signatories cannot be reached in the future.

Timing of this assurance: This provision will be included in the updated lower American River flow standard when it is presented to the SWRCB for its approval.

The upstream diverters were original signatories to the WFA.

May 2012

#### 4. Assurances of Support for Increased Diversions

a. All signatories to the *Water Forum Agreement* will endorse all water entitlements needed for the diversions specified in each PSA.

b. All signatories will endorse construction of facilities to divert, treat and distribute water consistent with this PSA and the *Water Forum Agreement* including diversion structures, treatment plants, pumping stations, wells, storage facilities, and major transmission piping. Endorsement is also to be provided for necessary rights-of-ways, permits, and other endorsements which may be needed, in the context of the five points described below.

(1) All signatories agree that implementation of the *Water Forum Agreement* including an improved pattern of fishery flow releases, the updated lower American River flow standard, the lower American River HME, actions to meet customers' needs while reducing diversion impacts in drier years, and the water conservation element constitute reasonable and feasible mitigation for any cumulative impacts on the lower American River caused by diversions included in the *Water Forum Agreement*.

(2) Environmental impacts of facilities to divert, treat and distribute water will be subject to site-specific environmental review. It is understood that signatories may provide comments on site specific impacts. All signatories will work in good faith to agree on reasonable and feasible mitigation for any site-specific impacts.

(3) To the extent that the water facilities are consistent with the *Water Forum Agreement*, signatories agree that they will not object to those water facilities based on the cumulative impacts to the lower American

River. Nor will signatories object to water facilities consistent with the *Water Forum Agreement* based on the planned growth to be served by those water facilities (See [Chapter 4, Section IV](#) ~~Section Four, IV~~, Relationship of the *Water Forum Agreement* to Land Use Decision making).

(4) In the planning for new water diversion, treatment, and distribution facilities identified in the *Water Forum Agreement*, water purveyors signatory to the *Agreement* will either provide for a public participation process, such as meeting with already established citizen advisory committees, or other appropriate means to help design and implement these projects.

(5) All signatories retain their existing ability to provide input on specific details of facility design, financing, and construction.

c. Endorsement of the water entitlements and related facilities in the *Water Forum Agreement* will expend reasonable efforts to:

- (1) Speak before stakeholder boards and regulatory bodies,
- (2) Provide letters of endorsement,
- (3) Provide supportive comments to the media,
- (4) Advocate the *Water Forum Agreement* to other organizations, including environmental organizations that are not signatory to the *Water Forum Agreement*, and
- (5) Otherwise respond to requests from other signatories to make public their endorsement of the *Water Forum Agreement*.

Timing of this assurance: Support for increased diversions will be provided whenever requested by the water purveyors signatory to the *Water Forum Agreement*.

Status update – Support for increased diversions have been provided when requested.

May 2012

5. Assurances for the lower American River Habitat Management Element

- a. Signatories commit in the signed Water Forum MOU to implement the habitat management element as specified in the *Water Forum Agreement*.
- b. In certifying the Water Forum Programmatic EIR and approving findings, the City of Sacramento and the County of Sacramento agree to include the

commitments of purveyors participating in the HME in the adopted Mitigation Monitoring and Reporting Plan.

c. In approving project specific EIRs and EISs, purveyors agree to include language in their adopted environmental documentation which commits them to participate in the HME as specified in the *Water Forum Agreement*.

d. The City of Sacramento, the County of Sacramento and those other purveyors outside of Sacramento County's Zone 13 that divert American River water agree to enter into a contract with the City of Sacramento (as fiscal agent for the Water Forum) to provide funding for the HME as specified in this agreement. Parties entering into the contract agree to include a provision whereby other signatories to the *Water Forum Agreement* will be designated as third party beneficiaries. That will enable those other signatories to have standing to enforce the contractual commitments.

Timing of assurance: Habitat assurances are included in the Water Forum EIR. They will also be included in purveyors' project-specific EIRs when they are adopted. The contract for funding and implementing the HME will be entered into within one hundred twenty days of the effective date of the *Water Forum Agreement*.

Status update – This assurance is being met through implementation of the HME. See update in Chapter 3, Section IV.

May 2012

6. Assurances for the Water Conservation Element

a. Each purveyor agrees as part of the Water Forum MOU to implement the Water Conservation Element as described in Chapter 3, Section V. ~~its water conservation plan which is included in the *Water Forum Agreement* as Appendix J a separately bound appendix.~~

b. In certifying the Water Forum Programmatic EIR and approving findings, the City of Sacramento and the County of Sacramento agree to include in the adopted Mitigation Monitoring and Reporting Plan all purveyors' commitments to their Water Forum conservation plans.

c. In approving project specific EIRs and EISs, purveyors agree to include language in its adopted environmental documentation which commits them to carry out the Water Conservation Element as described in Chapter 3, Section V. ~~its water conservation plans as included in the *Water Forum Agreement* as Appendix J, a separately bound appendix.~~

d. All signatories recognize that the CVPIA includes water conservation requirements to be implemented by CVP contractors.

e. All signatories agree to actively support the California Public Utilities Commission (CPUC) allowing investor owned utilities to recover all costs of meter retrofit through rates.

f. All signatories agree to work in the Water Forum Successor Effort to negotiate a conservation program for agricultural water use. Water Forum signatories' support for new or increased surface water diversions to serve agricultural uses is dependent on acceptable assurances that those diverters will implement mutually agreed upon agricultural water conservation programs.

Timing of this assurance: Water conservation assurances are included in the Water Forum EIR. They will also be included in purveyors' project-specific EIRs when they are adopted. CVPIA water conservation requirements are already enacted.

Status update – In 2009 the WFSE updated the Water Conservation Element (Chapter 3, Section V). Since the signing of the WFA purveyors have included Water Forum water conservation commitments in related project specific EIRs. As of this update no request for new or increased agricultural surface water diversions has been made, therefore no agricultural water conservation programs have been negotiated.

May 2012

7. Assurances for the Groundwater Management Element

a. Signatories who pump groundwater from the sub area of the basin in the North Area of Sacramento County agree to participate in the ~~Sacramento Groundwater Authority (SGA) Sacramento North Area Groundwater Management Authority~~ established under the joint powers agreement in August 1998.

b. The ~~SGA Sacramento North Area Groundwater Management Authority~~ may enter into an MOU with entities in adjacent counties to coordinate the management of the groundwater basin that is shared by those counties.

c. In Sacramento County, land use agencies' determination of groundwater available for new development will be consistent with the estimated average annual sustainable yields identified in the *Water Forum Agreement*.

d. Signatories who pump groundwater from the sub area of the basin in the Central Area of Sacramento County agree to participate in the SCGA established under the joint powers agreement in 2006 with a GMP adopted 2006.

e. Signatories to the *Water Forum Agreement* agree to negotiate arrangements for groundwater management for the ~~South Galt~~ Area. and the ~~Central South~~ Area within Sacramento County appropriate to its individual needs. Signatories agree that the North Area groundwater management program is not a template for

programs in the ~~Central South~~ Area or the ~~South Galt~~ Area within Sacramento County.

Water Forum signatories' support for new or increased surface water diversions for use in the ~~Central South~~ Area or the ~~South Galt~~ Area within Sacramento County is linked to those signatories' participation in the development of groundwater management programs for the ~~Central South~~ Area and the ~~South Galt~~ Area.

Timing of this assurance: In July 2000, the Water Forum Successor Effort will review progress in implementing groundwater management programs in the ~~Central South~~ Area and the ~~South Galt~~ Area to confirm that sufficient progress has been made to allow continued Water Forum support for new or increased surface water diversions.

8. Assurances for the Water Forum Successor Effort

- a. Upon signing the *Water Forum Agreement*, all signatories will immediately become members of the Water Forum Successor Effort.
- b. In certifying the Water Forum Programmatic EIR and approving findings, the City of Sacramento and the County of Sacramento agree to include in the adopted Mitigation Monitoring and Reporting Plan all purveyors' commitments to the Water Forum Successor Effort.
- c. In approving project specific EIRs and EISs, purveyors agree to include language in its adopted environmental documentation which commits them to participate in the Water Forum Successor Effort as included in the *Water Forum Agreement*.
- d. The City of Sacramento, the County of Sacramento and those other purveyors outside of Sacramento County's Zone 13 agree to enter into a contract with the City of Sacramento (as fiscal agent for the Water Forum) to provide funding for the Water Forum Successor Effort as specified in this agreement. Parties entering into the contract agree to include a provision whereby other signatories to the *Water Forum Agreement* will be designated as third party beneficiaries. That will enable those other signatories to have standing to enforce the contractual commitments.

Timing of the assurance: The contract for funding and implementing the Water Forum Successor Effort will be entered into within one hundred twenty days of the effective date of the *Water Forum Agreement*.

Status update – This assurance is currently being met through the ongoing implementation and funding of the WFSE.

### 9. Assurances for Response to Changed Conditions.

It is recognized that over time there will be changed circumstances that are not currently foreseen. The changed conditions could significantly affect attainment of either or both of the Water Forum's two coequal objectives.

For instance groundwater contamination could affect water purveyors' ability to rely on conjunctive use in drier years. Conversely, the fishery might not do as well as was projected when the *Water Forum Agreement* was signed.

Therefore all signatories agree that if changed circumstances affect the ability to attain either of the two coequal objectives, the Water Forum Successor Effort will recommend changes to relevant portions of the *Water Forum Agreement*. Amending the *Water Forum Agreement* requires express approval by those signatories that would be affected by the amendment.

Timing of the assurance: This will be an on-going activity over the life of the *Water Forum Agreement*.

Status update –Water Forum signatories continue to monitor for changed conditions.

May 2012

### C. Caveats

The *Water Forum Agreement* includes linked actions based on many “quid pro quos” (i.e., something given for something received.) Some of the actions will require future approvals or implementation by local, state and federal agencies.

In addition some things cannot be known with certainty at this time. For instance, results of Endangered Species Act consultations for specific projects will not be available for some time.

Therefore, in order to have a durable agreement it is necessary to include the following caveats. These are statements describing actions or conditions that must exist for the agreement to be operative.

1. Each purveyor's commitment to implementing all provisions of the *Water Forum Agreement* is contingent on it successfully obtaining its water supply entitlements and facilities.
  - a. If a purveyor receives support from the other signatories to the *Water Forum Agreement* for all of its facilities and entitlements as shown on Table 0.1 ~~the chart~~ *“Major Water Supply Projects That Will Receive Water Forum Support Upon*

~~Signing the Water Forum Agreement,”~~ and if it receives all necessary approvals for some or all of those facilities and entitlements, then the purveyor will fully support and participate in the following provisions of the *Water Forum Agreement*:

- (1) Support for the improved pattern of fishery flow releases
- (2) Water Forum Successor Effort
- (3) Water Conservation Element
- (4) Lower American River HME
- (5) Support for the updated lower American River flow standard
- (6) Diversion restrictions or implementation of other actions to reduce diversion impacts in drier years as specified in its PSA.

and,

b. If a purveyor is not successful in obtaining all necessary approvals for all of its facilities and entitlements as shown on Table 0.1 ~~the chart “Major Water Supply Projects That Will Receive Water Forum Support Upon Signing the Water Forum Agreement,”~~ that would constitute a changed condition that would be considered by the Water Forum Successor Effort.

2. All signatories agree that business, citizens, and environmental signatories’ obligation to support, and where specified, implement all provisions of the *Water Forum Agreement* is contingent on implementation of those provisions of the agreement that meet its interests.
3. A stakeholder’s support for water supply entitlements and facilities is contingent on adequate assurances, including:
  - a. Project-specific compliance with the California Environmental Quality Act (CEQA), and where applicable, the National Environmental Policy Act, federal Endangered Species Act and California Endangered Species Act.
  - b. Purveyors’ commitment in their project-specific EIRs and CEQA findings to: all seven elements of the *Water Forum Agreement*, support for updating the lower American River flow standard, commitment by those purveyors that divert from upstream of Nimbus Dam to entering into signed diversion agreements with ~~Reclamation the U.S. Bureau of Reclamation~~ and commitment by the City of Sacramento to inclusion of the terms of the diversion provisions of its PSA into its water rights.
  - c. Signed diversion agreements between purveyors that divert upstream of Nimbus Dam and ~~Reclamation the U.S. Bureau of Reclamation~~. Other signatories to the *Water Forum Agreement* shall be third party beneficiaries to the diversion agreements solely for the purpose of seeking specific performance of the



diversion agreements relating to reductions in surface water deliveries and/or diversions if Reclamation fails to enforce any of those provisions. The status of a signatory to the *Water Forum Agreement* as a third party beneficiary to the diversion agreements is dependent on that signatory complying with all the terms of the *Water Forum Agreement*, including support for the PSA for the purveyor's project. This is not intended to create any other third party beneficiaries to the diversion agreements, and expressly denies the creation of any third party beneficiary rights hereunder for any other person or entity.

d. Adequate progress on the updated lower American River standard. (See the "Schedule for Updating the lower American River Flow Standard" at the end of this section).

e. Adequate progress in construction of the temperature control device.

f. Adequate progress in addressing the Sacramento River and Bay-Delta conditions associated with implementation of the *Water Forum Agreement*.

4. Environmental stakeholders' support for facilities and entitlements is dependent upon the future environmental conditions in the lower American River being substantially equivalent to or better than the conditions projected in the Water Forum EIR. If the future environmental conditions in the lower American River environment are significantly worse than the conditions projected in the EIR, this would constitute a changed condition that would be considered by the Water Forum Successor Effort. Significant new information on the needs of the lower American River fisheries, which was not known at the time of execution of the *Water Forum Agreement*, would also constitute a changed condition that would be considered by the Water Forum Successor Effort.

#### **D. Specific Agreement on Assurances and Caveats.**

All signatories agree that the assurances described in this section are needed to ensure that specified future actions will occur. All signatories also acknowledge the caveats included in this section that describe actions or conditions that must exist for the agreement to be operative.

## **SCHEDULE FOR UPDATING THE LOWER AMERICAN RIVER FLOW STANDARD**

The following schedule reflects the Water Forum's need to have the lower American River flow standard updated as soon as possible. Signatories to the *Water Forum Agreement* will do everything they can to expedite approval by the State Water Resources Control Board (SWRCB). This includes the City of Sacramento providing supplemental financial assistance to the SWRCB for priority processing if that is agreed to by the SWRCB.

**October, 1999** City of Sacramento, with support from the Water Forum, requests the SWRCB to update the lower American River flow standard consistent with:

*Water Forum Agreement* provisions on water diversions including dry year diversions,  
and  
Implementation of the improved pattern of fishery flow releases which optimizes the release of water for fisheries.

**November, 1999** SWRCB holds a workshop and hearing on the City of Sacramento's request to expedite processing of the updated lower American River flow standard.

**Spring, 2000** After consultation with other American River water rights holders, Water Forum stakeholders agree on detailed recommendations for the updated lower American River flow standard.

**Spring, 2000** After Water Forum stakeholders agree on detailed recommendations for the updated lower American River flow standard, the City of Sacramento will present it to the SWRCB.

**Spring, 2000** Initiate SWRCB review including environmental review for the proposed updated lower American River flow standard.

As soon as all requirements have been met, the SWRCB will hold a hearing on the proposed updated lower American River flow standard. Thereafter the SWRCB will issue its decision.

**Table 4.1. Progress Update on the Lower American River Flow Management Standard**

| PROGRESS UPDATE ON THE LOWER AMERICAN RIVER FLOW MANAGEMENT STANDARD  |  |
|---|--|
| <p>The implementation Improved Pattern of Fishery Flow Releases from Folsom Reservoir has not been completed. Following is an abbreviated description of progress on this element which has been conducted through development of a Flow Management Standard (FMS):</p> |  |
| August 2000   | Water Forum Agreement finalized: FMS is one of seven key elements  |
| 2001 thru 2003  | Water Forum, Reclamation, FWS, NMFS, and CDFW <del>DFG</del> conduct technical work to develop FMS   |
| January 2004  | FMS Policy Document: Framework for FMS; Water Forum and Reclamation hold public workshop to describe FMS   |
| October 2004  | MOU between Reclamation and Water Forum: Work in good faith to submit FMS to State Board by summer 2005  |
| September 2005  | Reclamation Press Release: Reclamation and Water Forum reach agreement on FMS flow regime  |
| July 2006   | FMS Draft Technical Report issued by Reclamation, FWS, NMFS, CDFW <del>DFG</del> and Water Forum: Detailed technical description of FMS, including minimum flows, temperature objectives, Operations Group, and monitoring |
| July 20, 2007   | Water Forum completes Draft Petition and attachments reflecting the 2006 FMS Draft Technical Report; Petition materials submitted to Reclamation   |
| August 2007 thru April 2008   | Water Forum repeatedly requests review comments on Draft Petition. Reclamation repeatedly assures stakeholders that they are committed to the FMS process.   |
| December 4, 2007  | Reclamation provides comments to State Board at meeting on Delta Standards: FMS will be in OCAP  |
| April 2, 2008   | Congresswoman Matsui writes Commissioner Johnson: Finish FMS   |
| April 28, 2008  | In lieu of comments on Draft Petition materials as requested, Reclamation delivers redrafted FMS Petition: several key components of FMS have been omitted   |
| May 2008  | Reclamation releases OCAP Biological Assessment: Project description and modeling contains representation of FMS flows; LAR temperature objectives/targets were not included   |

|                |   |
|----------------|---|
| July 2008      | Water Forum, Sacramento County, and Reclamation begin FMS contract negotiation; Public negotiation sessions and joint technical meetings convened   |
| October, 2008  | Reclamation letter to Water Forum: “Until we have a new OCAP, substantive work on a flow standard for the lower American River is not practical.”   |
| December, 2008 | Water Forum authorizes staff to move forward with Flow Standard EIR and notifies Reclamation.   |
| January, 2009  | Water Forum staff and consultants begin preparing Flow Standard EIR; keep lines of communication open with Reclamation  |
| June 2009      | NMFS releases OCAP Biological Opinion: calls for Water Forum FMS with some key differences, notably an iterative temperature management approach  |
| August 2009    | Water Forum, NMFS, Reclamation agree to work cooperatively to define iterative temperature management approach and develop associated modeling tool.  |
| 2010           | Water Forum completes iterative temperature management tool for Reclamation’s use   |
| October 2010   | Center for Collaborative Policy conducts FMS stakeholder interview, identifies need for Water Supply Impact Analysis  |
| August 2011    | Water Supply Impact Analysis completed  |
| October 2011   | Cross-Caucus discussions begin  |
| January 2012   | All Caucuses direct staff to complete FMS EIR and proceed to State Board  |
| May 2013       | Notice of Preparation for EIR released  |
| June 2013      | Work begins on adding iterative temperature management approach to FMS, as directed by NMFS BiOp  |
| March 2014     | Iterative temperature approach in FMS is found to have unacceptable impacts to Sacramento River water temperature   |
| April 2014     | Work begins on new approach to meeting NMFS BiOp requirements: the modified FMS which includes target for Folsom Storage  |
| August 2014    | Modified FMS development continues: End-of-December Storage Target identified as best approach to enhancing lower American River water temperature; also show promise for protecting Folsom Reservoir storage and associated water supply |

|               |  |
|---------------|--|
| June 2015     | Refinements to Modified FMS are completed, including red dewatering protections and spring pulse flow  |
| October 2015  | Summary report of Modified FMS is released: Lower American River Modified Flow Management Standard – A Drought Buffer for the Environment and Local Water Supplies |
| November 2015 | Discussions begin with Reclamation on the benefits of the Modified FMS   |

## II. WATER RIGHTS

### A. Surface Water Rights

It is recognized that some purveyors that will sign the *Water Forum Agreement* have long-term surface water entitlements in excess of demands projected for the term of the *Water Forum Agreement*. Nothing in the agreement is intended to call for the reduction or forfeiture of existing surface water entitlements. Signatories to the agreement will honor this principle in state and federal entitlement proceedings directly related to the *Water Forum Agreement* as shown in Table 0.1. ~~the chart “Major Water Supply Projects That Will Receive Water Forum Support Upon Signing the Water Forum Agreement”.~~

It is also recognized that there may be broader state and federal entitlement proceedings where signatories may have different interests, such as the State Water Resources Control Board (SWRCB) water rights proceeding for the Bay-Delta.

Signatories agree to work in good faith through the Water Forum Successor Effort with the objective being to develop a consensus recommendation for how state and federal entitlement proceedings should affect those agencies that store and divert American River water. All signatories will make good faith efforts so that recommendations will be consistent with both coequal objectives of the *Water Forum Agreement*:

Provide a reliable and safe water supply for the region’s economic health and planned development through to the year 2030;

and

Preserve the fishery, wildlife, recreational, and aesthetic values of the lower American River.

### B. Groundwater Rights

It is recognized that groundwater rights holders have valuable rights that must be protected. Groundwater rights holders must not have their rights threatened either by their participation in the Water Forum process or by the groundwater management arrangements called for in the *Water Forum Agreement*. Consistent with the Groundwater Management Element, nothing in this agreement is intended to call for the reduction or diminution of any exercised or unexercised groundwater rights. Accordingly, the signatories agree that the *Water Forum Agreement* shall not impair the vested groundwater rights of any person or entity regardless of whether those rights are currently exercised or unexercised.

Signatories retain their ability to assert their groundwater rights by participating in the public process of creating rules, regulations, policies and procedures associated with the [SGA Sacramento North Area Groundwater Management Authority](#) and other groundwater management arrangements called for by the *Water Forum Agreement*.

### **III. SACRAMENTO RIVER SUPPLY FOR NORTH SACRAMENTO COUNTY AND PLACER COUNTY**

#### **A. Intent**

All signatories recognize there would be benefits from a Sacramento River diversion to serve the north area of Sacramento County and Placer County. This could be an additional source of water for conjunctive use in the North Area groundwater sub-area of the basin. It could also provide a surface water supply to help meet a portion of some purveyors' needs in all years. This would contribute to a reliable supply for the area. It would also reduce the need for some purveyors to divert from the American River in drier years.

#### **B. Sacramento River Supply for North Sacramento County and Placer County**

Several purveyors in the north Sacramento County area have already taken the lead in constructing a pipeline to take American River water from Folsom Reservoir west across the north part of Sacramento County. This major pipeline could provide surface water for the North Area conjunctive use program.

In addition, the *Water Forum Agreement* includes support for an upgrade to Natomas Central Mutual Water Company's diversion structure on the Sacramento River. This upgrade would provide state-of-the-art fish screening. This could be a joint facility to also serve water to Placer County.

In the future it would be beneficial to interconnect the North Area pipeline with a Sacramento River diversion. The North Area pipeline was constructed large enough to deliver water from either the American or Sacramento Rivers.

Such an interconnection would have several benefits. First, it would provide purveyors with an alternative source of water should there be any problem with its American River supply. Second, it would allow purveyors access to water transfers from the Sacramento or Feather rivers.

The lower American River could also benefit because a Sacramento River diversion would reduce the need for diversions from the American River in driest years. This could be an option for purveyors needing alternative water supplies to meet customers' needs in drier years while reducing impacts of diversions from the American River.

This option would be available to purveyors with direct access to the Sacramento River. It could also be an option for purveyors further upstream that could participate through an exchange. They could continue to make diversions from the American River in drier and driest years if other purveyors switched from their American River supplies to the Sacramento River supply.

It is also recognized that winter-run salmon have been listed as endangered under the Endangered Species Act, and steelhead have been listed as threatened. Any diversion would have to fully comply with the Endangered Species Act.

**C. Specific Agreements on Sacramento River Water Supply for North Sacramento County and Placer County**

1. All signatories to the *Water Forum Agreement* agree that an environmentally upgraded Sacramento River diversion to serve the north Sacramento county area and Placer County as described above would provide important benefits to the region.
2. All signatories to the *Water Forum Agreement* agree to work in good faith to develop a project consistent with their interests that would:
  - a. Consolidate several of Natomas Central Mutual Water Company's diversions;
  - b. Upgrade fish screens at the consolidated diversion;
  - c. Accommodate the diversion of 35,000 AF of water by Placer County Water Agency (PCWA) consistent with its Purveyor Specific Agreement (PSA);
  - d. Accommodate the diversion of 29,000 AF of water for delivery to [Sacramento Suburban Water District Northridge Water District](#) consistent with its PSA;
  - e. Subject to additional negotiations among Water Forum signatories, potentially accommodate other diversions (e.g. City of Sacramento diversions);
  - f. Interconnect that consolidated diversion with the North Area pipeline which delivers water from the American River. This interconnection will help meet water needs in northern Sacramento County and Placer County.
  - g. Support for this diversion is also subject to all elements of the *Water Forum Agreement* including the Caveats in [Chapter 4, Section I Section Four, I](#), including:
    - (1) Caveat 3.a., Project-specific compliance with the California Environmental Quality Act (CEQA), and where applicable, the National Environmental Policy Act, federal Endangered Species Act and California Endangered Species Act.



- (2) Caveat 3.f., Adequate progress in addressing the Sacramento River and Bay-Delta conditions associated with implementation of the *Water Forum Agreement*.

## IV. RELATIONSHIP OF THE WATER FORUM AGREEMENT TO LAND USE DECISION-MAKING

Amendment – This section was changed to reflect the completion of the Land Use Procedures set forth in the *Water Forum Agreement*. The full text of the agreed upon procedures are provided below.

*Water Forum Plenary approval: February 2002*

### A. Background

Water Forum signatories include cities and counties that have land use planning responsibilities and water purveyors that have water planning responsibility. Water Forum signatories recognize the need to coordinate between water resources planning and land use decision-making. Land use decisions should be based on reliable information regarding water supply and infrastructure availability. Conversely, water supply planning and management decisions should be informed by land use decisions.

This section documents the work of the Water Budget and Land Use Committee during 2001-2002 to implement the land use/water use coordination procedures for the *Water Forum Agreement*. The recommendations have been developed and discussed at a series of meetings between the members of the Land Use Committee with the assistance of the planning directors (or their designees) from each jurisdiction and a representative from Local Agency Formation Commission (LAFCo) to review and react to the ideas. The entire Water Forum Successor Effort approved the procedures as of March 2002.

This section does not provide all of the details required for day-to-day implementation. It leaves some of the implementation procedures up to each local land use and water agency to determine with Water Forum staff assistance. In developing this section, the Water Forum considered a range of options for implementation. The land use procedures adopted here are designed to evolve as they are used and tested – an “adaptive management” approach. This section also only focuses on Sacramento County (particularly related to groundwater). Signatories recognize that other entities share the groundwater basin including those not signatory to the *Water Forum Agreement*. Additional discussion may be needed in addressing the full range of water supply-land use related issues.

The signatories acknowledge that there are a number of existing laws and procedures in place to link land use decisions and water supply. These include Senate Bills (SB) 221 and 610, adopted in 2001 and in place as of January 1, 2002, as well as other water supply information requirements set forth in Chapter 881 of the California Water Code, the California Environmental Quality Act (CEQA) process, “can and will serve” letters from water purveyors and related requirements. The procedures outlined here are meant to augment established procedures and ensure consistent implementation.

SB 221 of 2001 (codified generally in California Government Code sections 66473, 66455, 65867, 66499 regarding subdivision provisions and sections 10631, 10635 and 10910 of the California Water Code) prohibits cities and counties from approving large subdivision proposals (including those done by development agreement) unless a finding is made of adequate and reliable water supply. This finding is to be based on information supplied by the water purveyor (within 90 days of a request from the land use agency) including whether supplies are available in dry and multiple dry years and for existing and future water users. If new water sources are to be considered, the supply has to have secured water rights, infrastructure financing and permits and approvals. If the water purveyor does not provide the data or indicates that there is not adequate long-term water to supply the project, the local jurisdiction has the option of investigating alternative water supplies provided all the same tests of “adequacy” are met. This bill only applies to residential subdivisions over 500 units, or for small water systems (5,000 connections or fewer), a residential project that would use up more than 10% of the water connections. Urban infill and affordable housing projects are exempt from the water supply requirements.

SB 610 of 2001 (codified generally in California Water Code sections 10631, 10657, 10910, 10911, 10912) requires all water purveyors that prepare Urban Water Management Plans (UWMP) and rely on groundwater, to incorporate additional information in their plans and submit this to California Department of Water Resources (DWR) for review. The information includes data on groundwater basin condition, present and potential extractions, management plans in place, future uses and adequacy of the basin, etc. The new provisions also revise several minor sections of a previous land use-water supply bill.

The new State law provisions further requires that for any large development project or plan (including general plan amendments) that receives an Environmental Impact Report (EIR) or negative declaration (including mitigated negative declaration), a water supply assessment must be completed and included as part of the project review. If the project was assumed in the water purveyor’s most recent UWMP or has received a water supply analysis comparable to what the bill calls for, then that information can simply be incorporated into the project review and provided to the land use decision-makers. If the project was not assumed in the UWMP, then the land use agency requests a separate water supply assessment from the purveyor. With each of the new provisions, the purveyor has 90 days to provide the data (with a 30 day extension option) and it includes all water supplies and demands relevant to the proposal. The assessment is similar to that required for large subdivisions involving normal, dry and multiple dry years, factoring in all existing and future water users (including groundwater users if that is the source), and providing considerable detail on any future water sources that might be envisioned. If the water purveyor indicates that water supply is not or may not be available, SB 610 requires some discussion of how the purveyor and/or the local jurisdiction plan to augment supplies to account for the proposal. All of these data are to be included in the environmental review and in the record for review by the land use agency.

The new provisions for long-range planning (i.e. SB 610) apply to residential projects over 500 units (or over 10% of the connections for small water districts), commercial projects over

500,000 square feet (sf), office projects over 250,000 sf, industrial park projects over 40 acres or 650,000 sf, mixed use projects meeting any of the thresholds and 500 room hotel/motels.

## **B. Intent, Framework Agreements, Goals and Assumptions**

### **Intent**

It is the intent of the signatories that land use decisions dependent on water supply from the American River or the three groundwater sub-basins in Sacramento County be consistent with the limits on water supply from the American River and the estimated average sustainable yield for those groundwater sub-basins as negotiated in the *Water Forum Agreement*.

### **Framework Agreements**

The following agreements from the *January 2000 Water Forum Agreement* serve as a framework for this section:

1. All signatories recognize that land use decision-making authority remains the responsibility of land use agencies and neither the Water Forum nor the Successor Effort have any formal land use authority. These procedures do not provide any additional authority.
2. Signatories agree to comply with all relevant sections of the State Water Code and Government Code related to the coordination of water supply and land use decisions. If water supply/land use coordination laws are amended or new laws created, the Water Forum Successor Effort will revisit the procedures in this section to ensure compliance with State law.
3. Signatories will reference the *Water Forum Agreement*, including agreed upon estimated annual sustainable yields of each of the three sub-basins of the groundwater basin of Sacramento County (North Area 131,000 AF; ~~Central~~ **South** Area 273,000 AF; ~~South Galt~~ Area 115,000 AF) and limits to diversions from the American River in their water master plans and urban water management plans.
4. The *Water Forum Agreement* includes surface water and groundwater to meet the region's projected water needs for growth planned to the year 2030. Included in Appendix B of the *Agreement* is a description of the methodology and assumptions used by the Water Forum for assessing the demand to the year 2030, and a map delineating geographic boundaries used in projecting demand in Sacramento County.
5. In the unincorporated portions of Sacramento County only, signatories retain the ability to support or oppose water facilities that would serve new development outside the Urban Services Boundary as defined in the Sacramento General Plan, December 1993. All parties also retain the right to support or oppose the sizing of water distribution facilities that would allow service to the new development outside the Urban Services Boundary.

6. The *Water Forum Agreement* contains estimated average annual yields for each of the sub-areas of the groundwater basin in Sacramento County and limits to diversions from the American River. Beyond these agreements, limits on water from other sources have not been negotiated as part of the *Water Forum Agreement*. Signatories retain the right to support or oppose water projects that would use water from sources that have not been negotiated as part of the agreement.
7. The *Water Forum Agreement* focuses on providing a reliable and safe water supply and protecting the lower American River. As such it is not an agreement on land use planning. Therefore, all signatories retain the ability to support or oppose land use decisions on any basis except water supply availability insofar as these water supply decisions are consistent with the *Water Forum Agreement*.
8. There is a need for greater information exchange than just having water purveyors provide project-by-project assessments of water supply availability. Therefore, signatory water purveyors agree to participate in a proactive program to educate all land use authorities in the region about the provisions of the *Water Forum Agreement*.

### **Goals**

Two interdependent goals were developed for the Water Forum Successor Effort to implement the framework agreements in the *Water Forum Agreement (January 2000)*.

1. Procedures will be developed by the Water Forum Successor Effort to advise land use agencies as they assess the consistency of proposed land use decisions with the estimated annual sustainable yield of the three sub-basins in Sacramento County and the diversions from the American River negotiated as part of the *Water Forum Agreement*.

This goal has been further defined by Water Forum signatories as follows:

*The procedure should provide land use agencies with clear, factual and timely information on water supply entitlements (consistent with the Water Forum Agreement) and infrastructure capacity, as compared to current, committed and planned water demand as land use agencies consider new land use proposals that come before them. Signatories want to ensure that future land use decisions are coordinated with water supply availability.*

2. To create guidelines for developing the periodic accounting of the Water Forum “water budget.”

### **Assumptions**

To develop the water supply/land use procedures, several assumptions were made:

1. Some type of Water Forum staff and some form of an interest-based sub-committee (called the Water Demand and Supply Information Committee) comprised of Water Forum Successor Effort members would remain active over the long term. Local water purveyors will be the primary sources of contact and information for the land use authorities with support from the Water Forum. Signatories acknowledge that they do not want to create a new “bureaucracy” for land use or water supply or have Water Forum staff burdened by reviewing many environmental and related planning documents.
2. The existing land use planning and decision-making process will continue as currently practiced. This means that many development proposals will be consistent with local general plans, and many will not. It also means that various jurisdictions will be revising and updating their general plans over time.
3. The Water Forum will be able to develop an objective and widely agreed upon water budget accounting/monitoring process as indicated in goal 2 for the Water Demand and Supply Information Committee. The procedures developed in this section need such a process to be implemented.
4. The land use procedures delineated here are intended to be clear, effective, as simple (and cost-effective) as possible to administer, flexible enough to adapt to changing circumstances, and cover all jurisdictions in a consistent manner. Procedures can be adapted for particular jurisdictions provided they are consistent with the guidelines in this section. These procedures are consistent with and complimentary to the requirements set forth in State law related to land use/water use coordination.
5. The procedures will need to be revised, adapted and evolve as the processes are tested and parties learn more about specific cases.

### **C. Specific Procedural Agreements**

The proposed procedures are divided into three elements:

- Overall recommendations to implement immediately to improve coordination of land use and water use.
- A procedure for addressing community-initiated general plan updates and specific plans, as well as LAFCo approvals including sphere of influence changes.
- A procedure for addressing privately initiated land use development proposals.

#### **1. Overall Recommendations**

The following agreements are designed for immediate implementation.

- a. Signatory water purveyors will send a copy of their most recent UWMPs (including any water conservation plans) to the land use authorities in their purview and agree to meet and discuss the plans. This will allow purveyors to take full advantage of any established data sources, planning documents and existing information and procedures.
- b. Water Forum staff will research the existing landscape water conservation ordinances of each local jurisdiction and provide this information to Water Forum Successor Effort members to be included in the Water Efficiency discussions. The Water Forum Successor Effort will use a sub-committee to monitor and work on water efficiency issues.
- c. Water Forum staff will contact signatory water purveyors to review the communication procedures that the purveyor and the land use agency use to periodically exchange information (at least once per quarter) about pending land use applications and water supply/demand availability and status. Summaries of the information exchanges will be provided to Water Forum staff in memo or spreadsheet form.
- d. The land use agency and water purveyor will collaborate to provide Water Forum staff with a compilation of land use changes approved during the course of each year and associated water demands. This cumulative total should be updated at least once per year so Water Forum staff can update the current water use assumptions and keep track of regional water demands.
- e. Water Forum staff will send *Water Forum Agreements*, water supply assumptions, and other relevant information to the planning and public works departments of the recently-incorporated City of Elk Grove to assist them as the city develops its new general plan. Similar information exchange will be needed as other communities incorporate or embark on new general plans.
- f. Individual water purveyors and land use agencies may develop their own internal ways of implementing the land use/water supply information procedures, provided they are comparable to the procedures established in this section and consistent with State law. Each jurisdiction may develop streamlined procedures such as standard checklists, as long as the information remains accessible to the public.
- g. The roles of the key players in the process need to be well defined as follows:

**Water Forum Staff:** provide regional water information; act as a checkpoint to ensure that water-related information is prepared in a timely way according to a pre-agreed upon and consistent method; serve as monitor for the cumulative water budget.

**Water Purveyor Staff:** provide localized water data including major facilities and infrastructure needs and availability; serve as the primary link to the local land use authority; update urban water master plans to be used in the monitoring process; work with, request information from and provide timely data to Water Forum staff to keep the regional water budget accurate and up to date.

**Sacramento Groundwater Authority Staff:** provide groundwater information in their service area (north of the American River) for land use/water use coordination purposes; become the authority and take a lead role in providing up-to-date groundwater management data in the north sub-basin.

**Land Use Agency:** continue to process planning applications and publicly-initiated plans as they do now; inform water purveyor of upcoming projects; take the water data provided and highlight it prominently in the application review process. Incorporate information into the review process as set forth in recent State requirements.

**Water Demand and Supply Information Committee:** provide a public forum for discussion of water/land use coordination issues; serve as a sub-committee of the Water Forum Successor Effort to review correspondence and process for significant land use/water use issues.

Other agencies may play a role in the future such as any groundwater management entity in the south Sacramento County, the Regional Water Authority, Placer County or others.

- h. Water Forum staff may respond directly to project proponents, non-governmental and citizen groups as requested, but will typically refer people to the local land use agency and/or local water purveyor for routine information needs. Water Forum information will be provided when requested and as a routine matter when general plan amendments and updates occur.

## **2. Procedure for General Plans/Specific Plans/LAFCo Decisions**

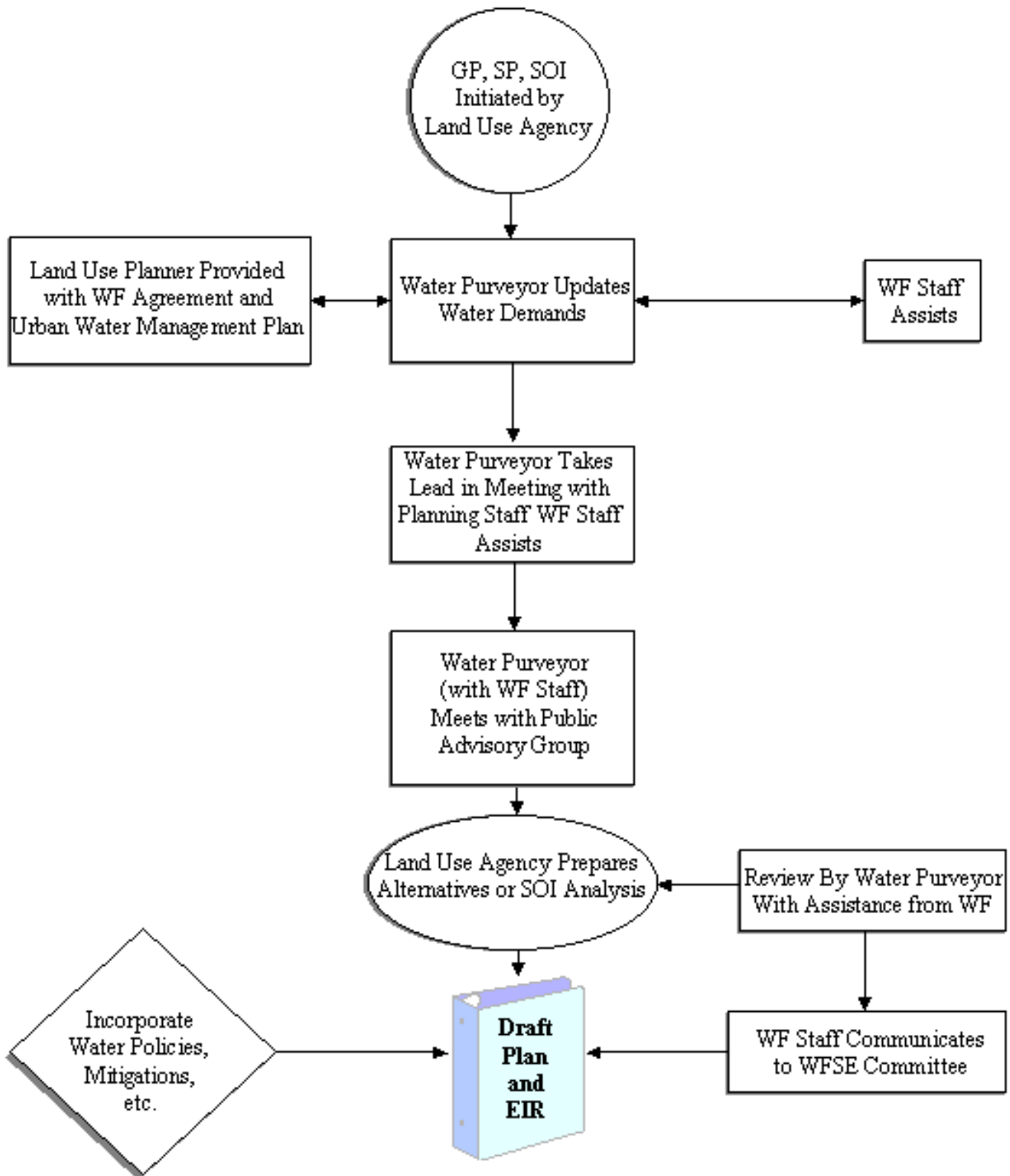
(Please refer to Diagram 1) For community-initiated general plan updates, major specific plans (e.g. County General Plan, Elk Grove General Plan) and annexations, Water Forum information will be made available as early as possible to inform the planning process. This process would also be used for sphere of influence requests to LAFCo.

- a. When a jurisdiction undertakes a general plan update, Water Forum staff will request that the water purveyor update the existing baseline water use/demand calculations to reflect current conditions. This will keep improving the information base as the Water Forum moves toward more detailed monitoring. Water Forum staff may provide technical assistance.



- b. When a jurisdiction undertakes a general plan or specific plan or requests a Sphere of Influence (SOI) change, the water purveyor and Water Forum staff will work together to communicate with the land use agency to ensure that the jurisdiction has the *Water Forum Agreement* (with highlighted key sections) and any other relevant materials. The water purveyor will request a meeting with planning staff to interpret, clarify and explain the *Water Forum Agreements*, procedures, goals, technical data etc. Water Forum staff may participate. When applicable, the land use agency will request the water purveyor to provide the water supply assessment information set forth in State law to be included in the environmental review of the project.
- c. The water purveyor (with Water Forum staff assistance) will offer to meet with a general plan or specific plan committee (or comparable public body), attend a public workshop or forum or comparable venue to help inform advisors and decision-makers of the *Water Forum Agreement* and related water issues. Once this is done, the appropriate decision-makers in the general plan or specific plan process may debate their land use issues as they choose with information from the water purveyor or Water Forum and other stakeholders.
- d. Once a draft general plan or specific plan and draft EIR are issued, the Water Forum may become involved in the notification/comment process as described in the next section. When applicable, the land use planner will incorporate the water supply assessment information required by State law into the environmental review and provide it for consideration by the land use agency.

**Diagram 1**  
**Public Proposals: General Plan Update,**  
**Specific Plan, LAFCO Sphere of Influence**



- e. Each jurisdiction may amend its general plan (or various specific plans) from time to time in a way that has no effect (or minimal effect) on water demands. Any general plan or specific plan amendment that has minimal effect on water demands such as a change to a circulation or noise element will not be reviewed. Likewise, a package of multiple, single-parcel general plan amendments without significant water supply implications may not be reviewed at the time of application, but will be incorporated into the annual cumulative record.
- f. For SOI requests, LAFCo is mandated to address water supply as a public services issue. As a result, SOI requests are subject to the review procedure outlined in this report. SOI requests often occur with minimal information on the ultimate land uses that may be sought within the SOI area. Therefore, the level of detail and analysis on water supply and demand may be quite general. The water purveyor with assistance from Water Forum staff will supply the best available information to LAFCo at the time of SOI request. LAFCo may impose conditions on the SOI approval that future annexations will have to be consistent with the *Water Forum Agreement* and potentially provide additional data on how the area is to be served with water.
- g. The Water Forum staff will keep the Water Demand and Supply Information Committee (or its successor) apprised of relevant consultation in these planning efforts. All Water Forum-related responses will include sufficient context and background information to convey the complex regional water issues and implications (i.e. no simplistic “sound bites”).

### **3. Procedure for Development Proposals**

(See diagram #2 for a diagrammatic view.) For privately initiated development proposals (that are formally submitted for entitlements to a city or county), the following procedure will be used.

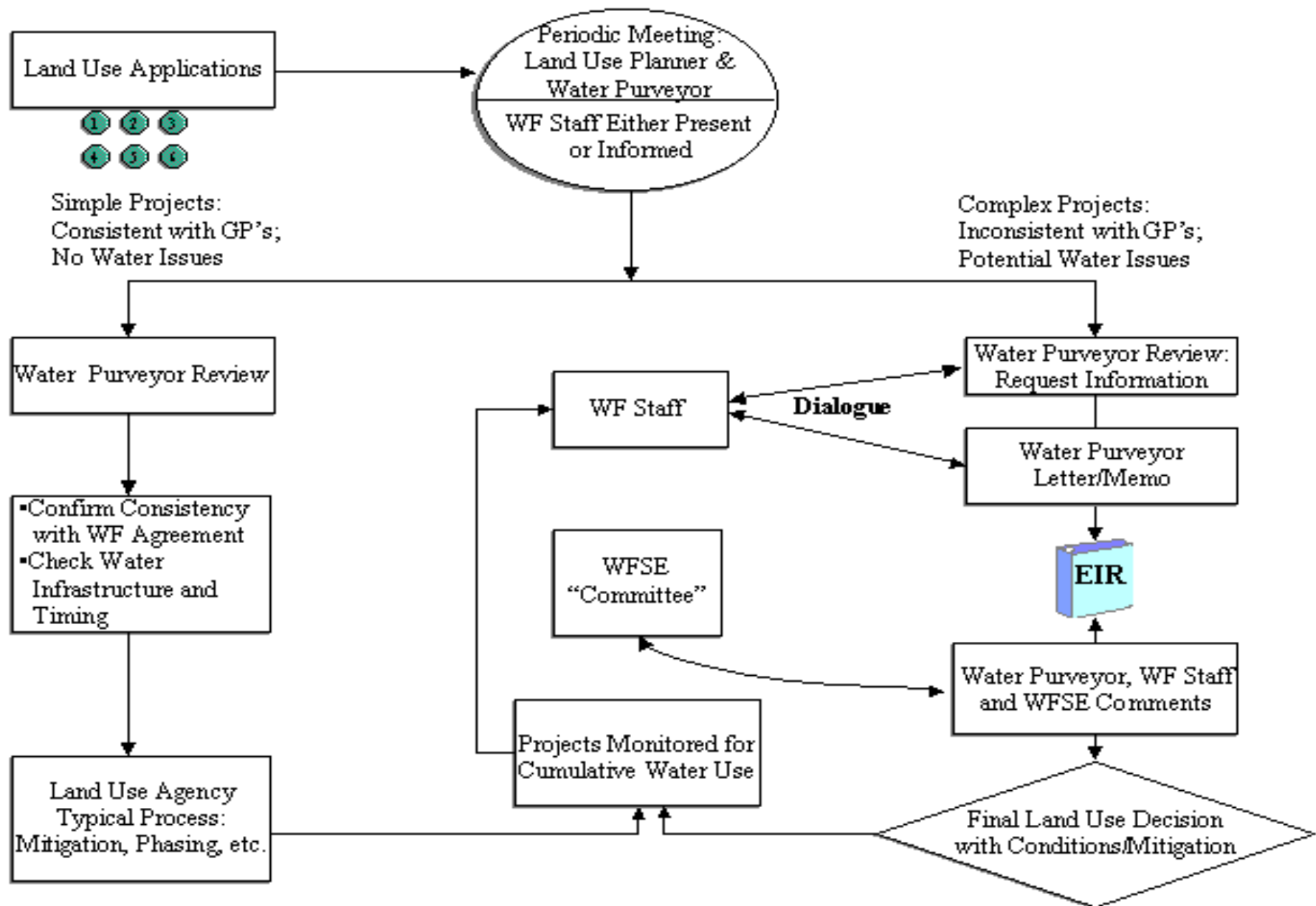
#### **Simpler Cases**

Certain land use proposals that are consistent with the community’s general plan land use diagram contained in the *Water Forum Agreement*, and/or where water use is clearly not an issue, will require the following relatively simple procedure.

- a. The water purveyor will notify the land use agency (via letter, memo, checklist or other written form) affirming consistency with the *Water Forum Agreement*. This would not be an endorsement of the project. However, it would clearly indicate whether the proposed project is assumed as part of the water use/demands calculated in the Water Forum water budget and is consistent with the water allocations in the Water Forum. Water Forum staff will be notified of this communication at the time

of the periodic meeting/information exchange. If the proposal is a residential subdivision greater than 500 units, then the land use agency and water purveyor will follow the water supply determination procedures required by State subdivision law.

## Diagram 2 Privately - Initiated Development Proposals



- b. The water purveyor may also provide information about available major facilities and infrastructure relative to the timing of proposed development. Overall water demands may be within the ultimate Water Forum water allocation, but certain major facilities necessary to provide water may not yet be constructed. Land use authorities would have the ability to make informed decisions about project timing, phasing or mitigation relative to water-related infrastructure. It may be possible to utilize the development process to provide some early facility improvements. If the water supply determination requirements of State subdivision law apply, information on future water supply infrastructure will need to include applicable water rights, financing, permits and approvals.
- c. Many land use proposals (even those that change a general plan designation, such as from commercial to light industrial) may have little or no measurable effect on water use. In these routine cases, the water purveyor's existing procedure of reviewing the application and providing information is sufficient.

### **More Complex Proposals**

The following process will be used for major development proposals that may result in a significant departure in water demand from what was anticipated in the *Water Forum Agreement*. These are likely to be proposals outside the County's Urban Services Boundary or proposals outside current city boundaries seeking annexation and a change from non-urban to urban uses. For these types of proposals, the requirements of State law regarding water supply/land use coordination may apply and will be followed by local land use agencies and water purveyors.

- a. The land use agency and water purveyor will determine whether a proposal fits in this complex category during their periodic meetings/information exchange. The land use agency will also determine if the proposal is large enough to be subject to State water supply/land use coordination requirements.
- b. Water Forum staff or any Water Forum stakeholder may request that a particular land use proposal is "called up" for Water Forum discussion.
- c. For complex projects, the following procedure will apply:
  - (1) The land use agency will notify the water purveyor and Water Forum staff of the project as early in the process as reasonable. This may occur on a routine basis as each application is submitted or through the periodic meeting/information exchange (after a formal application has been filed). The land use agency will provide enough detail on the project so all parties clearly understand the land uses requested and project location to enable an estimate of water demand and proposed water supply. Water purveyor staff will discuss the project with the land use staff to establish a dialogue and determine if there are likely to be potential water problems

and what solutions are possible. The Water Forum staff may participate. If the project is subject to State law requirements, the land use agency will specifically request the water supply assessment required under those statutes as part of the information.

- (2) Water purveyor staff will send a preliminary letter or memo to the land use agency staff with copies to Water Forum staff and the Water Demand and Supply Information Committee with the following information:
  - a) Description of appropriate Water Forum information such as total water budget for that jurisdiction and assumptions about infrastructure.
  - b) A statement indicating the appropriate level of water supply analysis to be undertaken in the planning process (usually through environmental review).
  - c) A statement indicating whether the project is within or outside the water budget agreed to in the Water Forum.
  - d) If State law requirements apply, then the water purveyor will provide any additional information needed.
- (3) Once a draft environmental analysis is completed (EIR or negative declaration), the water purveyor staff will review the water use component of the environmental document and consult with Water Forum staff, as necessary. The environmental document should address key issues like water supply availability, infrastructure/facilities, and potential water supply implications of the project. A complete analysis needs to address wet and normal years, dry years and critically dry years. The analysis also needs to address potential groundwater impacts and concerns. If State law requirements apply, the water supply analysis also needs to include the information required by those statutes.
- (4) Water Forum staff will bring the most significant proposals forward to the Water Demand and Supply Information Committee (or its successor) for discussion. The Committee will not evaluate the project's land uses, but rather whether the water supply proposal has any implications for the *Water Forum Agreement*. If water use has not been adequately considered this is the opportunity for the Water Forum Successor Effort to raise the issue formally.
- (5) The Committee will discuss and seek agreement on an appropriate response and then direct a letter back to the land use and water purveyor staff as part of the planning process. In the event the Committee cannot agree, a procedure has been established (see sub-section 6, In Case of Disagreements). These letters will become part of the package of material to help inform land use decision-makers.

- (6) Any communications will be made available to the Water Forum Successor Effort Plenary. An issue can be brought up to the plenary level at any time for broader dialogue.

#### **4. Information Types**

The following types of information may be included in comment letters from the Water Forum and/or water purveyors. The information that is actually included will vary depending on the development application, its location and water source, when the application is filed relative to the water budget and other factors.

- a. Overall water budget for the region and PSAs based on periodic monitoring (water supply and demand) as per the *Water Forum Agreement*.
- b. Overall statements regarding whether the water requirements of the land use proposal are consistent with the *Water Forum Agreement*, and the implications that it may have for Water Forum members.
- c. Information regarding whether the land use proposal lies outside the County's Urban Services Boundary as defined in the Sacramento General Plan of 1993 and its relationship to the *Water Forum Agreement*.
- d. In assessing the availability of water supply for new land uses in Sacramento County, the land use agencies shall take into account reasonable estimates of the following:
  - Sustained yield of the groundwater basin;
  - Best available data on current use of the sub-basin;
  - Anticipated use of currently unexercised water rights;
  - Unmet demand within the Urban Policy Area;
  - Water demand for new uses between the Urban Policy Area and the Urban Services Boundary; and
  - Potential implications of this extraction on basin management or other issues.
- e. Specific facilities and infrastructure needed for the land use proposal. Potentially, there may be water entitlements still needed to supply the land use proposal. Description of where facilities are in the process of development; funding status; time until completion; and related issues.
- f. An objective, factual assessment of the level of efficiency with which the water is used in the land use proposal. For example, this may indicate how the specific land use proposal compares to the average per capita water demand for similar types/densities of land use.



- g. Effectiveness of the water demand management programs that have occurred to date on a regional and local basis.
- h. Identify local or regional limitations or thresholds that might limit water use, groundwater extraction, etc. or require major new water entitlements or facilities.
- i. Specific implications of the land use proposal based on the proposed water source or some characteristic of the proposed water plan (storage, conveyance, treatment, etc.).
- j. Commentary on the information provided as part of complying with the State requirements set forth regarding land use and water supply coordination.

## **5. Specific Challenges**

One particular type of development proposal presents a unique challenge because it is partially within the assumed land use/water budget of the Water Forum. These are proposals that occur on County lands between the Urban Services Boundary and the Urban Policy Areas. To estimate overall water demands to the year 2030, the Water Forum water budget assumed water use in these areas (18,000 AFY plus potential conversion of current agricultural use of groundwater), but the water was not allocated either geographically or in time. For these areas, the same notification/comment process referenced above is to be used. Some of these projects may fall into the “complex” category.

Urbanization of any type between the Urban Services Boundary and Urban Policy Boundary will likely require a change in general plan land use and trigger the notification process. It is possible that in the early years, the water purveyor and others may have limited concerns with proposals that are able to secure water. Currently, County projects are subject to policy CO-20 (a policy of the Sacramento General Plan Conservation Element) which requires a water master plan prior to project approval. Over time, however, as the Water Forum water budget accounting (Goal 2) demonstrates the water supply situation, proposals may receive more attention. Land use proposals that require significant amounts of water in areas without historic groundwater pumping, may also merit more attention. The signatories recognize the positive value of County policy CO-20 in requiring water supply plans and use of supplemental surface water. Continuing this type of requirement will help the Water Forum monitor and plan for future water supplies.

Another specific type of proposal is a citizen initiative that has a major effect on land use. These proposals would be analyzed if Water Forum staff or members determine that they merit examination. However, signatories acknowledge that land use agencies, water purveyors or Water Forum members may not hear about such proposals in a timely way.

It is the responsibility of each member of the Water Forum to bring such proposals to the attention of the Water Forum staff, Water Demand and Supply Information Committee or Plenary if they believe the proposal has a material effect on water use. If a proposal is forwarded for discussion, it will be treated similarly to a complex development project.

## **6. In Case of Disagreements**

The Water Forum discussed what procedure should be in place if the Water Demand and Supply Information Committee (or its successor) does not reach agreement on how to respond to a particular land use proposal. The following procedure was agreed upon:

- a. Some form of Water Demand and Supply Information Committee will be maintained to consider land use/water supply issues. This group will be a sub-committee of the Water Forum and must be representative of all the Water Forum interests and have sufficient expertise and interest to address land use/water use questions.
- b. In the event of a disagreement, the Committee will use the decision-making procedure that has guided the Water Forum Successor Effort (75% of every caucus has to agree for a decision to move forward). If that level of agreement cannot be achieved, the Water Forum response will indicate areas of agreement and disagreement and the nature of the divergent positions. That way, the Water Forum Successor Effort would not delay sending its response until it was too late in the process to have influence.

#### ~~IV. — RELATIONSHIP OF WATER FORUM AGREEMENT TO LAND USE DECISION-MAKING~~

##### ~~A. — Background~~

~~Water Forum signatories include cities and counties that have land use planning responsibility and purveyors that have water supply planning responsibility. Water Forum signatories recognize there needs to be coordination among land use decision making and water planning. Land use decisions should be based on reliable information on water supply availability. Conversely, water planning should be informed by land use decisions.~~

~~This section describes the agreement among Water Forum signatories on how information on water supply availability will be coordinated with the land use decision making process in the context of Chapter 881 of the Statutes of 1995, also referred to as SB 901. This information exchange is to better inform both the water and land use planning efforts.~~

~~SB 901 applies to city or county approval of significant development projects (specified in the law as residential development of over 500 units, business development with over 500,000 square feet of office space, commercial building having more than 250,000 square feet, etc.) that would require amendments to general or specific plans, or the adoption of a specific plan.~~

~~Under SB 901 cities and counties are required to identify water systems that would provide water supplies for the proposed project. The law requires the city or county to request the identified public water systems to make an assessment regarding water supplies, as prescribed. The law requires the public water system to approve its assessment and submit the assessment to the city or county not later than 30 days after the date on which the request was received, with a provision for a time extension, if necessary and requested by the water system. Public water systems include investor owned utilities.~~

~~Under SB 901 the land use agency then determines, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the proposed project, in addition to existing and planned future uses. If the land use agency determines that water supplies will not be sufficient, it can still approve the project but must include a statement of overriding considerations in its findings.~~

~~**This section of the agreement does not provide water purveyors, the Water Forum or the Water Forum Successor Effort with any land use authority.**~~

##### ~~B. — Intent~~

~~It is the intent of signatories to the *Water Forum Agreement* that land use decisions dependent on water supply from the American River or the three groundwater sub-basins in Sacramento County be consistent with the limits on water supply from the American River and the estimated average annual sustainable yields for those three groundwater sub-basins as negotiated for the *Water Forum Agreement*.~~

### ~~C. Specific Agreements~~

~~1. All signatories recognize that land use decision making remains the responsibility of land use agencies and neither the Water Forum nor the Water Forum Successor Effort has any authority to make land use decisions.~~

~~2. Signatories agree to use Chapter 881 of the Statutes of 1995 (SB 901) to coordinate land and water use decision making. If that law is substantially amended, the Water Forum Successor will revisit this issue.~~

~~3. Signatories to the *Water Forum Agreement* will reference the *Water Forum Agreement*, including agreed-upon estimated average annual sustainable yields of each of the three sub-areas of the groundwater basin in Sacramento County<sup>9</sup> and limits to diversions from the American River in their water master plans and urban water management plans, which are used in providing information to cities and counties as required under Chapter 881 of the Statutes of 1995.~~

~~4. The *Water Forum Agreement* includes surface water and groundwater to meet the region's projected water needs for growth planned to the year 2030. Included in Appendix B is a description of the methodology and assumptions used by the Water Forum for assessing the demand to the year 2030. Also included in Appendix B is a map that delineates geographic boundaries that were used in projecting demand in Sacramento County.~~

~~5. In Sacramento County only, signatories retain the ability to support or oppose water facilities that would serve new development outside the Urban Services Boundary that was defined in the Sacramento County General Plan, December 1993. All parties also retain the right to support or oppose the sizing of water distribution facilities that would allow service to new development outside of the Urban Services Boundary. (See Map in Appendix B.)~~

~~6. In assessing the availability of water for new uses and development in Sacramento County, land use agencies shall take into account reasonable estimates of water demand for the following:~~

- ~~a. Existing uses;~~
- ~~b. Anticipated use of currently unexercised water rights;~~
- ~~c. Unmet water demand within the Urban Policy Area; and~~
- ~~d. Water demand for new uses between the Urban Policy Area and the Urban Services Boundary.~~

~~7. Procedures will be developed by the Water Forum Successor Effort to advise land use agencies as they assess the consistency of proposed land use decisions with the estimated average annual sustainable yields of the three sub-basins in Sacramento County and the~~

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<sup>9</sup> North Area: 131,000 acre feet; South Area: 273,000 acre feet; Galt Area: 115,000 acre feet.

diversions from the American River negotiated as part of the *Water Forum Agreement* (See appendix K).

8. — The *Water Forum Agreement* contains estimated average annual yields for each of the three sub-areas of the groundwater basin in Sacramento County and limits to diversions from the American River. Beyond these agreements, limits on water from other sources have not been negotiated as part of the *Water Forum Agreement*. Signatories retain the right to support or oppose water projects that would use water from sources that have not been negotiated as part of the *Water Forum Agreement*.

9. — There is a need for greater information exchange than just having water purveyors provide project-by-project assessments of water supply availability. Therefore, purveyors agree to participate in a proactive program to educate all land-use authorities in the region about the provisions of the *Water Forum Agreement*.

10. — It is recognized that the *Water Forum Agreement* focuses on providing a reliable and safe water supply and protecting the lower American River. As such it is not an agreement on land use planning. Therefore all signatories retain the ability to support or oppose land use decisions on any basis except water supply availability insofar as these water supply decisions are consistent with the *Water Forum Agreement*.

## V. FOLSOM RESERVOIR RECREATION

### A. Intent

In the future, Folsom Reservoir levels will be influenced by many factors including [Reclamation the U.S. Bureau of Reclamation](#) operations, flood control operations and water diversions. Even with implementation of the Water Conservation Element and the actions to reduce diversion impacts in drier years, there will be times when Folsom Reservoir will be lower, thereby affecting the opportunities for reservoir recreation<sup>10</sup>.

Because Folsom Reservoir is recognized as an important resource, the Water Forum has consulted closely with the California Department of Parks and Recreation (CDPR) which manages recreation at the reservoir. After extensive discussions and negotiations among Water Forum purveyors and with CDPR, a program to improve recreation facilities at Folsom Reservoir has been developed.

### B. Specific Agreement on Folsom Reservoir Recreation

Water Forum signatories will work with their elected officials, CDPR and other agencies that have an interest in reservoir levels, such as Congress, [Reclamation USBR](#), California Department of Boating and Waterways and Sacramento Area Flood Control Agency ([SAFCA](#)), to obtain at least \$3,000,000 of new funding for improvements to Folsom Reservoir recreation facilities<sup>11</sup>.

The CDPR will develop a list of potential recreation improvement projects as part of the funding request. One type of project could be “mini-dikes” i.e., sculpted embankments within the lake bed to impound water for swimming use when reservoir levels are low. Design of the improvements in the lake would also include consideration of features for improving warm water fishery habitat, such as structural complexity for fish on the lake side of the mini-dike embankment, which would also support recreation fishing. Other projects could include but are not limited to those identified in the Water Forum Environmental Impact Report (EIR). The improvements are intended to help mitigate the anticipated loss of visitor days.

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<sup>10</sup> Historically, many Water Forum purveyors secured water rights prior to the construction of the Folsom Reservoir. After construction of the reservoir, [Reclamation U.S. Bureau of Reclamation](#) assumed responsibility for operating the reservoir to store and manage water for the operation of the Central Valley Project (CVP), among other purposes. The reservoir has historically held and released to CVP customers water that Water Forum purveyors were entitled to but had not diverted. Some purveyors signatory to the *Water Forum Agreement* believe that reservoir declines are properly viewed as being caused by the lack of replacement water supplies for the CVP as senior water rights are exercised and CVP yield is required to be used for environmental purposes. Accordingly, these purveyors believe that California Environmental Quality Act (CEQA) mitigation for reservoir impacts is not a legally required purveyor responsibility. Nonetheless they have agreed to measures that will tend to lessen the effect of the reduction in Folsom Reservoir levels that will occur in the future.

<sup>11</sup> New funding means funding that Water Forum signatories are instrumental in obtaining that was not authorized, appropriated or required as of January 1, 2000.

The CDPR is the agency responsible for managing the recreational resources at Folsom Reservoir. Therefore it is the appropriate agency to receive these funds and manage the recreation improvement projects.

Although previous cooperative efforts between Water Forum stakeholders and other agencies have been successful (such as the securing federal authorization and appropriation for the temperature control device) it is not certain that the \$3 million in funding for Folsom Reservoir recreation improvements will be secured.

It is also recognized that it will take purveyors several years to obtain all necessary approvals for the facilities needed to divert the additional water projected in the *Water Forum Agreement*. It will take additional time for them to construct the facilities necessary to increase their diversions. Later, after their facilities are actually constructed, the diversions will increase gradually over the thirty-year period of the agreement.

Therefore, purveyors signing the *Water Forum Agreement* that plan to increase their diversions of American River water commit that if less than \$3,000,000 of new funds are secured by the year 2008, they would provide a lump sum payment of any amount of the \$3 million not obtained up to a maximum of \$1,000,000 to CDPR no later than June 30, 2009 for projects to improve Folsom Reservoir recreation. This is to provide certainty that some projects can be implemented.

Purveyors in the *Water Forum Agreement* will enter into a contract among themselves committing to share the cost of the \$1 million payment to CDPR if additional new funds are not secured. Costs would be apportioned among purveyors based on their anticipated share of total year 2030 increased diversions of American River water.

Revision - Status update below is not considered an amendment to the *Agreement* and was made for clarity by staff:

May 2012

Upon signing the *Water Forum Agreement* in 2000, signatory stakeholders joined with representatives from California State Parks and Recreation to form a work team that developed a list of projects to be used to obtain federal funding and authorization. This team met with staff of then-U.S. Representative John Doolittle to advance the list in Congress.

The request for funding was originally included in the Water Resources Development Act (WRDA) that was being worked on at the time. At some point in the WRDA process the request for funding for Folsom Lake recreation was cut. Those involved in the process were told that they would be more successful seeking funding for recreation improvements in Placer County associated with the PCWA pump station project.

As part of the PCWA American River Pump Station Project, PCWA received approximately \$10 million through a combination of state and federal appropriations to reconstruct the American River near Auburn to allow the return of safe recreational purposes on the North Fork of the

American River downstream of the Highway 49 Bridge. The project included land side recreation improvements to trails and vehicle access and parking improvements. PCWA contributed \$500,000 towards the construction of a new pedestrian bridge. The project removed some of the impacts that occurred as a result of construction work in the 1960s and early 1970s on the now-suspended Auburn Dam. This project was completed in 2008.

While this was not in the boundaries of the Folsom Lake State Recreation Area, stakeholders agreed that securing funding for recreation on the American River was a Water Forum win for the region.



## **VI. PROCEDURAL AGREEMENTS FOR THOSE NOT IN THE INITIAL WATER FORUM AGREEMENT**

### **A. Background**

The initial *Water Forum Agreement* records those agreements among stakeholder organizations that could be entered into as the effective date of this initial *Water Forum Agreement*. However, it is recognized that there are some stakeholder organizations that have remaining issues that could not be resolved by that time.

Therefore this section of the *Water Forum Agreement* describes the process by which those remaining issues will be addressed and how the *Water Forum Agreement* will be amended to include those agreements as soon as they are complete.

### **B. Specific Agreements**

1. All signatories to the *Water Forum Agreement* commit to work in good faith with organizations whose issues were not fully resolved by the effective date of this initial *Water Forum Agreement*. Their goal will be to negotiate mutually acceptable agreements to resolve remaining issues. As soon as these issues are agreed to, the *Water Forum Agreement* will be amended to include them.
2. Mutually agreed upon Water Forum Successor Effort expenses related solely to converting that purveyor's procedural agreement into a specific agreement will be reimbursed by that purveyor. As soon as the purveyor has negotiated a specific agreement and it signs the *Water Forum Agreement*, it will contribute to the Water Forum Successor Effort on the same basis as other purveyors that have specific agreements.
3. Purveyors having Procedural Agreements will participate in the Water Forum Successor Effort, except on these three issues:
  - a. Amending the *Water Forum Agreement*;
  - b. Decisions regarding any litigation associated with the *Water Forum Agreement* or the Water Forum Environmental Impact Report (EIR); and
  - c. Decisions regarding expenditures of Habitat Management Funds.
4. Purveyors having Procedural Agreements with the Water Forum agree that if disputes arise over the Water Forum EIR or implementation of the *Water Forum Agreement* they will first attempt to resolve the dispute through mediation in the Successor Effort.
5. Either the purveyor with a Procedural Agreement or the Water Forum Successor Effort may cancel the Procedural Agreement upon sixty day notice to the other party.