MEMORANDUM OF UNDERSTANDING

Between the

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

And the

CALIFORNIA RESOURCES AGENCY

For the formation of the

CALIFORNIA WATER QUALITY MONITORING COUNCIL

I. PURPOSE

This Memorandum of Understanding (MOU) fulfills the provisions of Senate Bill 1070 (Chapter 750, Statutes of 2006), hereinafter referred to as SB 1070, that require the execution of an MOU between the California Environmental Protection Agency (Cal/EPA) and the California Resources Agency (Resources), to establish a California Water Quality Monitoring Council (the Monitoring Council). The Monitoring Council will develop specific recommendations to improve the coordination and cost-effectiveness of water quality and ecosystem monitoring and assessment, enhance the integration of monitoring data across departments and agencies, and increase public access to monitoring data. While the Monitoring Council may recommend new monitoring or information management initiatives, it will build on existing efforts to the greatest extent possible.

II. BACKGROUND

The maintenance and restoration of water quality in California's streams, rivers, lakes, wetlands, and coastal zone are essential to both human and ecosystem health. Key beneficial uses, such as drinking water; many commercial, agricultural, and recreational activities; and important fish and wildlife habitats, depend on clean and sufficient water for their viability. Such activities are critical to California's economic future. More broadly, the chemical, physical, and biological integrity of water and ecosystem health are interdependent and essential to the preservation of environmental quality that contributes to the quality of life for all Californians.

Managing water quality and ecosystem health and protecting their related beneficial uses require current and comprehensive information on the status and trends of their condition, as well as on the effectiveness of management measures used to control water pollution and protect or restore aquatic habitats. However, the state has recently determined that it can adequately report on the

quality of only a minority of its water bodies and their related habitats. These information gaps stem from incomplete monitoring coverage, a lack of coordinated information management capabilities, multiple agencies with multiple responsibilities (resulting in fragmented approaches to data collection and assessment), and inconsistent and inadequate funding.

This situation poses many challenges to protecting important beneficial uses and the value they provide, but also presents a significant opportunity. The variety and magnitude of existing monitoring efforts across the state means that there may be substantial opportunities to leverage existing efforts to improve coordination, reduce redundancies and fill data gaps, achieve efficiencies of scale, and foster collaboration across institutional boundaries. Several successful regional-scale efforts demonstrate the potential for such collaborative efforts to achieve dramatic improvements in the breadth and utility of monitoring and assessment information, while improving overall cost effectiveness and encouraging technical and management innovation.

III. FRAMEWORK FOR MONITORING

A. The Monitoring Council shall include, at a minimum, a member of the executive level staff of Cal/EPA and Resources. Additionally, the Executive Director of the Department of Public Health should also be included, should the Executive Director of the Department of Public Health agree to participate. The Monitoring Council may also include, at a minimum one representative each of the regulated community, citizen monitoring groups, the public, and the scientific community.

B. Many state policies create the basis for the coordinated information management and the interagency collaboration outlined in this MOU. These policies are reflected in the frequent emphasis in agencies' strategic plans on adaptive management, science-based decision making, comprehensive environmental assessment, and collaboration and coordination. Adaptive management requires comprehensive and effective monitoring information to complete its essential feedback loop on management actions. Similarly, both science-based decision making and environmental assessment depend on ready access to reliable scientific data and information. Neither of these tools alone will suffice to solve the complex problems the state faces related to water quality and ecosystem health without coordination among agencies and collaboration with key stakeholder groups.

   Chief among these policies are:

   1. Executive Order W-162-97 and companion bills Assembly Bill (AB) 1581 (Chapter 779, Statutes of 1997, Keeley) and AB 1429 (Chapter 899, Statutes of 1997, Shelley), signed by then-Governor Wilson, which called on the Secretary of Cal/EPA to inventory existing ocean and coastal water

quality monitoring programs and to make recommendations for developing a comprehensive monitoring program for these waters. This effort produced an inventory of coastal monitoring efforts that is maintained on the San Francisco Estuary Institute's web site.

2. AB 857 (Chapter 1016, Statutes of 2002, Wiggins), signed by then-Governor Davis, amended Section 65401 of the Government Code to read: "The Governor shall prepare and thereafter shall cause to be maintained, regularly reviewed, and revised, a comprehensive State Environmental Goals and Policy Report." That report outlines fundamental environmental goals and objectives, many of which are directly relevant to the integrity of water and ecosystems; for example, those related to land use, population growth and distribution, development, the conservation of natural resources, and water quality. It also describes state policies, programs, and other actions of the executive and legislative branches required to implement statewide environmental goals. AB 857 also called for protecting, preserving, and enhancing the state's most valuable natural resources, including water quality and a range of specific ecosystem types. SB 1070, and the monitoring council it calls for, will be instrumental in improving the state's capability to assess and report on the degree to which the state's environmental goals are being successfully implemented.

3. The strategic plans for Cal/EPA, Resources, and the State Water Resources Control Board ("State Water Board") emphasize the importance of a collaborative planning, assessment, and decision making process that includes other agencies and stakeholders.

4. Recommendations in the California Performance Review (http://cpr.ca.gov/report/) call for improved coordination and data sharing between and within Cal/EPA and Resources. For example, the Performance Review recommended that state programs be aligned by function, that information management methods strive for common systems that provide shared services, and that modern information technology be used to improve public access to government data and services.

5. Existing Resources' policy directs Resources' departments, boards, and commissions to create digital catalogs of their data.

6. The State Water Board's intent is to improve the coordination of and access to water quality data statewide through development of improved information management systems.

C. SB 1070 amended section 13167 of the Water Code, repealed section 13181 of the Water Code, and added a revised Section 13181 to the Water Code.

IV. STATE AGENCY RESPONSIBILITIES

This MOU cannot be successfully implemented without the cooperation and involvement of numerous state agencies, boards, commissions, conservancies, and departments. The Secretaries for Cal/EPA and Resources will oversee the implementation efforts of this MOU. This MOU focuses on agency programs within Cal/EPA and Resources. Key programs located within the Department of Public Health should be included with the agreement of the Executive Director of the Department of Public Health. Once the basic infrastructure for implementing the MOU has been established, additional monitoring and assessment programs may be considered.

Under this MOU, the responsibilities of the Secretaries of Cal/EPA and Resources (collectively "the Secretaries") include, but are not limited to, the following:

1. The Secretaries will direct their boards, departments, and offices to establish and cooperatively participate in the Monitoring Council for improving integration and coordination of water quality and related ecosystem monitoring, assessment, and reporting.

2. The Secretaries will establish policies and procedures to ensure that water quality improvement projects, including bond-funded grant projects financed by the state, include the ability to track project effectiveness with respect to specific water quality and ecosystem health.

3. The Secretaries will meet annually to review the Monitoring Council's progress in integrating and coordinating water quality monitoring programs with state, local, and federal agencies, and with the public to identify additional opportunities for progress.

4. The Secretary of Cal/EPA, commencing December 1, 2008, will conduct a triennial audit of the completeness and effectiveness of the comprehensive monitoring program strategy that has been recommended by the Monitoring Council. The Secretary of Cal/EPA will consult with the Secretary of the Resources Agency in conducting the audit.

V. THE MONITORING COUNCIL'S RESPONSIBILITIES

In an effort to: 1) reduce redundancies, inefficiencies, and inadequacies in existing water quality monitoring and data management programs in order to improve the effective delivery of sound, comprehensive water quality information to the public and decisionmakers; and 2) ensure that water quality improvement projects financed by the state provide specific information necessary to track project effectiveness with regard to achieving clean water and healthy

ecosystems, the Monitoring Council responsibilities under this MOU include, but are not limited to, the following:

1. Develop a more complete governance structure that describes any needed advisory committees and contractual relationships, specifics of the Monitoring Council's deliberative process, including procedures for identifying and prioritizing issues, assigning tasks and tracking progress, and communication and outreach. In addition, the governance structure should describe the Monitoring Council's relationship with the Secretaries of Cal/EPA and Resources and set forth a mechanism for decision making in cases where members of the Monitoring Council cannot reach agreement.

2. Undertake and complete, on or before April 1, 2008, a survey of its members to develop an inventory of their existing water quality monitoring and data collection efforts statewide and make this information available to the public.

3. Review existing water quality monitoring, assessment, and reporting efforts and recommend specific actions and funding and staffing levels necessary to coordinate and expand those efforts, as needed, to create an ongoing assessment of the health of the state's waters and the effectiveness of programs to protect and improve the quality of those waters. The Monitoring Council shall initially focus on the efforts of state agencies. The Monitoring Council should build on existing efforts that have successfully achieved key objectives of SB 1070 on statewide or regional scales, promote new information management technologies that could facilitate data integration and sharing, and identify key circumstances where a convergence of interests among agencies provides an opportunity for leverage that could accelerate progress toward the SB 1070's objectives.

4. Report, on or before December 1, 2008, to the Secretaries of Cal/EPA and Resources, and the public its recommendations for: maximizing the efficiency and effectiveness of existing water quality data collection and dissemination by state agencies; specific actions and funding needed to coordinate and enhance ongoing water quality assessments; tracking the effectiveness of water quality improvement projects financed by the state in achieving clean water and healthy ecosystems; and, for ensuring that collected data are maintained and available for use by decision makers and the public. The Monitoring Council shall consult with and consider input from the U.S. EPA in preparing these recommendations.

5. Such other responsibilities as set forth in SB 1070.

VI. STATE WATER BOARD RESPONSIBILITIES

The responsibilities of the State Water Board under this MOU include, but are not limited to, the following:

1. With the assistance of the Regional Water Quality Control Boards, implement a public information program on water quality that includes a web site with information on water quality monitoring, assessment, research, standards, regulation, enforcement, and other pertinent matters.

2. Based on recommendations of the Monitoring Council, develop and implement (to the extent that funding and staffing allow) a ten-year strategy for integrating the state's existing monitoring capabilities into a comprehensive and coordinated water quality monitoring program.

VII. PROVISIONS AND AGREEMENTS

A. Intent of MOU

This MOU is not a contract, but defines a cooperative process between, Cal/EPA and Resources, for the monitoring and assessment of California's waters as required under Water Code, section 13181.

Nothing in this MOU is intended to delegate, limit, or expand any agency or agency program's responsibilities, statutory and other authorities, or discretion.

B. Future Review and Amendments

Based upon an annual review of the program implementation by Cal/EPA and Resources, the MOU will be reviewed and amended, as necessary.

C. Effect

This MOU will remain in effect unless terminated by either agency secretary.

VIII. SIGNED AND DATED

Linda S. Adams

LINDA S. ADAMS
Secretary for Environmental Protection
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Nov. 26, 2007
Date

Mike Chrisman

MIKE CHRISMAN
Secretary for Resources
CALIFORNIA RESOURCES AGENCY

11/26/07
Date