

MEMORANDUM OF UNDERSTANDING RELATING TO A
GENERAL APPROACH TO NEGOTIATIONS FOR SETTLEMENT
OF WATER DIVERSIONS FROM THE SACRAMENTO RIVER
AND SACRAMENTO-SAN JOAQUIN DELTA WITH THE
OBJECTIVE OF AVOIDING LITIGATION

The Federal Government acting through the Bureau of Reclamation is applying for certain permits to appropriate unappropriated water from the Sacramento River, in aid of the Central Valley Project. The water users along the Sacramento River, hereinafter referred to as "the water users", who are for the purposes hereof acting through the Sacramento Valley Water Users Committee, have protested the applications of the Federal Government for such permits and seek various conditions and limitations. The State Engineer, before whom the applications are pending, encourages satisfactory agreements between applicants and protestants providing for withdrawal of protests.

The Federal Government has also indicated that an authoritative determination of the validity and extent of rights to the use of water of the Sacramento River is necessary, and the parties hereto are in accord that this determination should be made by agreement, if possible, rather than by litigation.

The water users and the Federal Government are accordingly undertaking to negotiate an adjustment of the various matters just referred to without litigation and with a minimum of formal proceedings, for their mutual benefit. Such adjustment would eliminate the delay, expense and uncertainty attendant upon complex and difficult lawsuits, with a view of apportioning the water of the Sacramento River in an equitable manner so that the Central Valley Project can function in the manner intended without injury to the water users. The State of California will participate and assist in these negotiations through its State Engineer and its Attorney General.

The outline that follows is of a plan which initially commends itself to the parties, on the basis of the discussions which have taken place thus far. The parties do not bind themselves to reach a final agreement by this approach; they merely agree to explore the full ramifications of the approach, in good faith and with the hope of agreement.

OUTLINE OF AN APPROACH

(1) This is to be a cooperative project between the water users, the Federal Government, and the State of California.

(2) State water law is to govern all water rights involved.

(3) Reasonable beneficial use (either past or potential) is to be the measure of all water rights.

(4) All water rights shall be governed by the general state policy as set forth in sections 100 to 107, inclusive, of the State Water Code.

(5) This general approach shall not in any way prejudice any water rights claimed by any of the parties, nor shall anything contained in this memorandum in any manner affect the powers, duties and responsibilities of the parties hereto as prescribed by law.

(6) Areas involved are:

a. That served by diversions above city of Sacramento.

b. That served by diversions from Sacramento-San Joaquin Delta.

(7) The riparian owners and appropriators above Sacramento may divert from the natural flow of the Sacramento River, including accretions thereto, to the extent of their present and potential beneficial use up to a maximum quantity expressed in acre feet per year, to be determined, to be available in accordance with the diversion schedule.

(8) The Federal Government may store and divert water available not in conflict with the rights of water users to the extent of reasonable requirements for the following purposes:

- a. Navigation
- b. Salinity control.
- c. Delta Mendota Canal.
- d. Contra Costa Canal.
- e. Power.

(9) a. The Federal Government will release, without charge, water in sufficient quantities to preclude a deficiency in the scheduled diversions of more than a percentage to be determined. Pursuant to an agreement to be negotiated, the Federal Government will release water in sufficient quantities to further reduce the deficiency in the scheduled diversions to a lesser percentage, and the water users will pay a reasonable charge therefor. Such percentages and such charge are to be determined by negotiation between the water users and the Federal Government.

b. The parties recognize that to the extent the existing rights of the water users are adjusted and water is furnished in satisfaction of existing rights, the acreage limitation will not apply thereto.

c. Such agreements will not preclude the water users from acquiring an additional supply of water from the project pursuant to State and Federal law.

(10) In order to effectuate the provisions of (9) the legislative formation of a district comprising the area above Sacramento will be sought. The district will provide local government for the water users by administering the diversion schedule (although the quantities diverted will be measured by the State) and assessing the charges for project water to the landowners in accordance with benefits.

(11) The riparian owners and appropriators below Sacramento are entitled to the natural flow of the Sacramento River, including accretions thereto to the extent of their present and potential beneficial use, which is the full

Consumptive use of water required for the irrigable area. It is recognized that records and measurements of diversions below Sacramento are not available to the same extent that such records exist for users above Sacramento and for this reason a study of consumptive uses is proposed in order to develop an appropriate arrangement for the delta similar to that for upstream users so that the delta may have the use of stored water where required. Salinity control in the delta to the extent to be determined is an obligation of the Federal Government. It is intended that the interests of the water users in the areas above and below Sacramento be coordinated and protected together.

(12) In furtherance of this approach the water users will proceed to the development of a diversion schedule. For this purpose the State Engineer will make available all information on diversions and on water rights acquired under the Water Code and will assign personnel to be of direct assistance; and the Federal Government will make available the facts developed by its studies of riparian and prescriptive rights, and appropriative rights initiated prior to 1914.

(13) It is anticipated that the development of the diversion schedule will have proceeded far enough by the early part of 1953 so that the water users will be able to present to the legislature a proposal for statutes to create a district above Sacramento, and to create such organization of delta users as may be found to be appropriate, in order that the formal agreement to the diversion schedule and to the contracts for water service may be completed and agreed to as soon thereafter as practicable. The parties will also negotiate during the development of the diversion schedule on a form of agreement to be entered into incorporating it.

(14) Within the limits of the statutory requirement of due diligence, the State and the Federal Government will suspend the further processing of the applications of the Federal Government on the Sacramento River in order that the water users will not be required to file further protests or prepare for hearing during the pendency of negotiations.

Dated this seventh day of July, 1952,

Sacramento, California.

APPROVED:

SACRAMENTO VALLEY WATER USERS COMMITTEE

/s/ Henry Holsinger

Henry Holsinger
Principal Attorney,
Division of Water Resources

By /s/ W. H. Baber

And /s/ Edward Hyatt

APPROVED:

/s/ Edmund G. Brown

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Attorney General
State of California

And /s/ John M. Luther

UNITED STATES BUREAU OF RECLAMATION,
REGION 2

/s/ Richard L. Eoke

APPROVED:

/s/ Frank B. Durkee

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By Richard L. Eoke, Regional Director

DIVISION OF WATER RESOURCES,
STATE OF CALIFORNIA

By /s/ A. D. Edmonston

APPROVED:

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