

MEMORANDUM OF UNDERSTANDING

Interagency Delta Dredging and Reuse Management Team (DDRMT)

Introduction and Background

In late 2004, local sponsors of Delta dredging and reuse projects and the U.S. Army Corps of Engineers (USACE) met to explore the feasibility of developing a long term management strategy (LTMS) for coordinating dredging and dredged material placement and reuse projects in the Delta region. Formal development of the “Delta LTMS” began in early 2006 and continues to evolve.

One of the early decisions made during the LTMS development process was to create an interagency review group, comprised of representatives from each of the agencies with jurisdiction over projects involving dredging and/or placement/reuse of dredged material in the Delta region. It is intended that this group will meet on an as-needed basis to review both federal and non-federal dredging and dredged material reuse projects including sediment sampling and analysis plans, permit applications, and related information. The group would also function as the de facto policy/guidance development team for such activities in the Delta LTMS sphere of influence.

Goals

To establish a cooperative permitting framework that increases coordination among agency staffs and streamlines permit processing, while ensuring that 1) the laws, regulations and policies of the member agencies are fully implemented; 2) full public review and input to the decision-making process is maintained; and 3) projects evaluated by the DDRMT are conducted in an environmentally and economically sound manner. A further goal for the team is development of guidance on subjects related to dredging and dredged material reuse in the Delta region, as well as outreach to the regulated public regarding pertinent laws, regulations and policies.

Disclaimer

Nothing in this MOU shall be construed as an agreement, expressed or implied, which amends, negates, or otherwise modifies the legal, statutory or regulatory authority of any member signatory agency or any interested party. The intent of the DDRMT is to facilitate dredging and dredged material reuse in the Delta within existing (and future, as appropriate) laws, regulations and national and state policy.

Geographic Area

The area covered by the DDRMT includes both the Primary and Secondary Zones of the Delta, as defined by the Delta Protection Act of 1992, extending westward to the boundary of the Central Valley Regional Water Quality Control Board (just east of Winter Island near Antioch). The eastern boundary is somewhat flexible and is dependent

on specific circumstances and need. The DDRMT will review projects that involve dredging or dredged material placement/reuse as far northeast as the City of Sacramento.

Definitions

- Applicant: Any individual, business association, or Governmental entity proposing to accomplish dredging or dredged material placement in the geographic area described above.
- Host agency: The agency tasked with hosting the DDRMT. This will be the agency exercising decisional authority; typically, the Central Valley Regional Water Quality Control Board and the U.S. Army Corps of Engineers, Sacramento District.
- Member agency/ies: those agencies signatory to this MOU.
- Interested party: Any person, organization or entity that has an interest or involvement in dredging and dredged material placement/reuse in the Delta.
- Management Committee: Executive level individual of the signatory agencies.

DDRMT Participants

DDRMT meetings include the following participants:

- Applicant (and agent, as appropriate and necessary)
- Regulatory Agencies (all should be present or provide comments prior to meeting)
 - Central Valley Flood Protection Board
 - Central Valley Regional Water Quality Control Board
 - U.S. Army Corps of Engineers, Sacramento District Regulatory Division
- Resource Agencies²
 - California Department of Fish and Game
 - National Marine Fisheries Service- NOAA Fisheries
 - U.S. Fish and Wildlife Service
- Advisory Agencies
 - California Bay-Delta Authority
 - California Department of Water Resources
 - California State Lands Commission
 - U.S. Army Corps of Engineers, San Francisco District
 - U.S. Environmental Protection Agency

Dredging and Dredged Material Placement/Reuse Evaluation Process

² If agency staff are unable to attend a meeting, they commit to providing comments on the project(s) to the Group in advance of the meeting. Moreover, after successful development of programmatic Biological Opinions [can a programmatic agreement be developed with CDFG?], staff from the U.S. Fish and Wildlife Service and National Marine Fisheries Service may not be required to attend each meeting of the DDRMT although they are encouraged to do so.

The DDRMT is responsible for coordinated staff review of all dredging and dredged material placement/reuse project applications including USACE Civil Works projects. The DDRMT has developed a Joint Permit Application for dredging and dredged material placement and reuse projects for use by all applicants. The DDRMT will meet on an as-needed basis to evaluate project proposals, sampling and analysis plans, sampling results, and permit applications. At a minimum, the DDRMT will meet quarterly to discuss and revise, as necessary, policy and guidance on dredging and dredged material placement/reuse in the Delta and develop and strategize outreach (generally expected to be coincident with project review).

The DDRMT will, to the extent practicable and within individual agency authorities, develop joint staff recommendations regarding: 1) sediment sampling and analysis plans for dredging and placement options; 2) suitability determinations for placement and reuse; and 3) approval, conditioning or denial of permits (including placement/reuse locations, timing, and other permit conditions).

The DDRMT is a cooperative activity of the participating agencies. Although all participating agencies are committed to development of consensus recommendations, a dispute resolution process is included in this MOU (see below). In addition, agencies with unique regulatory jurisdiction (e.g., the RWQCB for projects affecting groundwater, with no effects on listed species or levees) may make unilateral decisions, despite recommendations by other DDRMT members.

The host agency acts as a single point of contact for applicants and the public to the DDRMT and provides necessary logistical support. Logistical support includes providing meeting space, preparing agendas and meeting minutes, distributing information, and maintaining the Delta LTMS website and permanent files. The host agency is responsible for scheduling all meetings. Upon receipt of permit/project documentation, the host agency provides copies to all Regulatory, Resource and Advisory Agencies listed above. The host agency is also responsible for noticing all meetings of the DDRMT on the Delta LTMS website at least two weeks prior to the meeting. Quarterly, if no project-specific meetings have been called, the host agency convenes a policy meeting. In coordination with DDRMT members, the host agency develops the agenda and provides logistical support as described above. All meetings are open to the public.

Timelines

The DDRMT is committed to timely decision-making; the following are the team's goals:

- The member agencies will respond to applicants, the public or each other within two days for telephone inquiries and within one week of receipt for written requests.
- The host agency will schedule meetings for all applicant (and USACE Civil Works) requests no more than three weeks after receipt of the request. All DDRMT meetings must be noticed at least two weeks prior to the meeting.

- The host agency will distribute applicant submittals to Regulatory, Resource and Advisory Agencies within three days of their receipt.
- The host agency will distribute meeting minutes to Regulatory, Resource and Advisory Agencies within five working days of each meeting.
- Member agencies will provide comments on meeting minutes to the host agency within two working days of their receipt and the host agency will post finalized minutes on the Delta LTMS website no more than ten working days after the meeting.

Shared Databases

The DDRMT is in the process of creating and is committed to maintaining two databases for use by the team's members and the public. These are a shared database of sediment quality information and a shared database of dredging project and placement/reuse sites. These databases will be posted on the Delta LTMS website and updated at least quarterly by the host agency.

Public Involvement

All participating agencies will continue to follow their existing notification and comment procedures on pending applications, including circulation of public notices, staff reports, comment letters, etc. In addition, the host agency will post notice of upcoming DDRMT meetings at least two weeks prior to the meeting date on the Delta LTMS website and will provide electronic notice to all interested parties on the DDRMT mailing list. All meetings are open to the public.

Another important role of the DDRMT is public education. The Group is committed to formal and informal outreach, development of guidance documents and educational opportunities to improve project proponents' understanding of the regulatory process – and their capacity to prepare sampling and analysis plans, applications and other necessary documents. We expect the overall result to be a more efficient permitting process.

The DDRMT will undertake an annual review of its past accomplishments, providing a written report, and if appropriate, holding a public meeting to present and discuss the year's activities with interested parties.

Dispute Resolution

The DDRMT will develop joint staff recommendations regarding: 1) sediment sampling and analysis plans for dredging and placement options; 2) suitability determinations for placement and reuse; and 3) approval, conditioning or denial of permits (including placement/reuse locations, timing, and other permit conditions). It is understood and agreed that the DDRMT's function is not to interfere with decisions made by any agency in the exercise of their regulatory duties. Rather, the DDRMT is expected to facilitate coordination amongst these agencies. To the extent the DDRMT makes a

recommendation counter to any particular agency's specific regulatory decision, the host agency will convene a special meeting or conference call with the Management Committee. The host agency will prepare a synopsis of the issue and provide it to the Management Committee at least a week in advance of the scheduled meeting/conference call. The Management Committee will consider the issue at this meeting/conference call and decide upon a course of action which may include remanding the issue back to the DDRMT for further evaluation and review.

Amendment and Termination

Any of the signatory agencies may petition to amend or terminate their involvement in the Delta LTMS DDRMT. The Management Committee will be notified of such amendment or termination.

This MOU is intended to remain in effect for as long as it continues to serve the goals described herein, subject to the following:

- This MOU may be modified by mutual consent of the signatories or their designees at any time. Any such change(s) must be documented by written agreement of all parties and approved by the Management Committee.
- Any of the signatory agencies may terminate their involvement in this MOU thirty days after providing written notice to the Management Committee of their intent to terminate.

Effective Date

This MOU is effective immediately after the execution by all the signatories.

Signed by

Colonel Thomas C. Chapman Date
Commanding Officer, Sacramento District
U.S. Army Corps of Engineers

Pamela Creedon Date
Executive Officer,
Central Valley Regional Water Quality Control Board

Lieutenant Colonel Laurence M. Farrell Date
Commanding Officer, San Francisco District
U.S. Army Corps of Engineers

Linda Fiack Date
Executive Officer,
Delta Protection Commission

Brian Finlayson Date
Supervisor, Pesticide Investigation Unit
California Department of Fish and Game

Dr. Lauren Hastings, Ph.D. Date
Deputy Director for Science
CALFED Bay-Delta Program

Tom Howard Date
Chief Deputy Director
State Water Resources Control Board

Dave Mraz Date
Chief, Delta-Suisun Marsh Office
California Department of Water Resources

Ryan Olah Date
Coast Bay-Delta Chief
U.S. Fish and Wildlife Service

Maria Rea Date
Area Supervisor, NOAA Fisheries – Southwest Region
National Marine Fisheries Service

Karen Schwinn Date
Associate Director, Water Division, Region 9
U.S. Environmental Protection Agency

Name??? Date
Title???
California State Lands Commission

Name???

Title???

Central Valley Flood Protection Board

Date