LOWER COLORADO RIVER
MULTI-SPECIES CONSERVATION PROGRAM
MEMORANDUM OF AGREEMENT

AMONG THE

U.S. DEPARTMENT OF THE INTERIOR,
represented by
LOWER COLORADO REGION,
BUREAU OF RECLAMATION

and the

CALIFORNIA LCR MSCP PARTICIPANTS
represented by
THE COLORADO RIVER BOARD OF CALIFORNIA,
THE CITY OF NEEDLES, THE COACHELLA VALLEY WATER DISTRICT, THE IMPERIAL IRRIGATION DISTRICT, THE LOS ANGELES DEPARTMENT OF WATER AND POWER, THE PALO VERDE IRRIGATION DISTRICT, THE SAN DIEGO COUNTY WATER AUTHORITY, THE SOUTHERN CALIFORNIA EDISON COMPANY, THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, BARD WATER DISTRICT, AND THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

to

COORDINATE HABITAT ESTABLISHMENT IN THE STATE OF CALIFORNIA

AS PART OF THE LOWER COLORADO RIVER

MULTI-SPECIES CONSERVATION PROGRAM

MEMORANDUM OF AGREEMENT

between

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LOWER COLORADO REGION,
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AS PART OF THE LOWER COLORADO RIVER

MULTI-SPECIES CONSERVATION PROGRAM

1. PARTIES

The Parties to this Memorandum of Agreement are:

1.1 The U.S. Department of the Interior, represented by the Bureau of Reclamation, in its capacity as the implementing entity within the Department of the Interior for the Lower Colorado River Multi-Species Conservation Program (LCR MSCP), hereinafter referred to as "Reclamation."

1.2 The Colorado River Board of California, the City of Needles, the Coachella Valley Water District, the Imperial Irrigation District, the Los Angeles Department of Water and Power, the Palo Verde Irrigation District, the San Diego County Water Authority, the Southern California Edison Company, the Southern California Public Power Authority, Bard Water District, and The Metropolitan Water District of Southern California, hereinafter collectively referred to as the "California Parties."

2. RECITALS

2.1 Beginning in 1994, representatives of the States of Arizona, California and Nevada have been working together to consider approaches to address the needs of species listed pursuant to the Endangered Species Act (ESA) (codified at 16 U.S.C. § 1531 *et. seq.)*.

2.2 Beginning in 1995, representatives of the States of Arizona, California and Nevada have been working collaboratively with representatives of the Department of the Interior to develop a long-term, comprehensive approach to conserve species currently listed pursuant to the ESA, and to avoid the need for additional listings of species pursuant to the ESA.

2.3 These cooperative efforts to develop the LCR MSCP were formalized pursuant to a Joint Participation Agreement (JPA) in April 1997. A thirty-five member Steering Committee has worked together to develop a conservation program designed to:

- conserve habitat and work toward the recovery of certain listed species within the historic floodplain of the lower Colorado River (LCR), pursuant to the ESA, and attempt to reduce the likelihood of additional species listings under the ESA; and

- accommodate current water diversions and power production and optimize opportunities for future water and power development, to the extent consistent with law.

2.4 In addition to the conservation of species pursuant to the ESA, the California Parties have worked to insure that the conservation strategies developed as part of the LCR MSCP would also address and facilitate any obligations of the California Parties pursuant to the California Endangered Species Act (CESA).

2.5 The Federal and non-federal partners in the LCR MSCP development have been guided by the following approach as set forth in ¶ 2.3 of the JPA:

> "It is the intention of the Parties to this Agreement to create a cooperative forum and to provide a cooperative funding approach for the development of a long-term conservation

plan and conservation activities in the Lower Colorado River ecosystem as provided in this Agreement. The emphasis of this effort shall be on cooperation between the states and the Federal agencies, and each Party to this Agreement pledges to conduct itself in the utmost good faith in seeking the necessary funding for the Program, applying that funding to accomplish the appropriate purposes of the program, reaching consensus on the issues and participating in the plan development."

2.6 The California Parties have identified a requirement contained in Permit No. 2081-2005-008-06, applicable to their identified activities, to establish habitat totaling not less than 3,048 acres within the State of California, for the purpose of the California Parties' compliance with CESA.

2.7 The LCR MSCP Final Environmental Impact Statement/Environmental Impact Report published by the Department of the Interior and the Metropolitan Water District of Southern California on December 17, 2004 included a Habitat Conservation Plan and related documents that identified more than 20,000 acres of potential habitat in the State of California identified as potential conservation opportunity areas.

2.8 The Congressional statement of Federal policy, as expressed through the ESA is that "Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species." 16 U.S.C. § 1531(c)(2).

3. GENERAL PROVISIONS

3.1 All terms in this Memorandum of Agreement shall have the same definitions as provided in the LCR MSCP Funding and Management Agreement (FMA), dated as of April 4, 2005.

4. AGREEMENT

In light of the desire of the Parties to insure that implementation of the Habitat Conservation Plan, which is the core of the LCR MSCP, is undertaken in a coordinated fashion, including establishment and protection of identified habitat in a manner that allows the California Parties

to comply with acreage provisions of California Department of Fish and Game (CDFG) Permit No. 2081-2005-008-06 applicable to the California Parties, the parties agree as follows:

4.1 Reclamation acknowledges that implementation of the Conservation Plan in a manner that facilitates CESA compliance requirements applicable to the California Parties with respect to the activities identified in the LCR MSCP Program Documents is a high priority to the California Parties.

4.2 Reclamation hereby agrees to work on an annual basis, through the LCR MSCP procedures as established in the FMA and by-laws of the Steering Committee, to ensure that establishment of habitat on individual parcels of land in California is incorporated within the implementation of the LCR MSCP in order to achieve the provisions of Section 4 of this Agreement.

4.3 Reclamation hereby agrees to work with the California Parties to propose, within 60 days of this Agreement, a formal resolution for consideration by the LCR MSCP Steering Committee supporting establishment of not less than 3,048 acres of suitable habitat within the State of California as part of the LCR MSCP as further provided in this Agreement.

4.4 Reclamation further acknowledges and commits to work with the California Parties, through the LCR MSCP Steering Committee, and to use best efforts to establish a total of not less than 3,048 acres for the creation, protection, and or restoration of suitable habitat within the State of California including the following acreage by habitat cover type identified in CDFG Permit No. 2081-2005-008-06: 1,566 acres of cottonwood/willow, 1,048 acres of mesquite, 240 acres of marsh (170 acres for the Yuma Clapper Rail and 70 acres for the California Black Rail), and 194 acres of backwater. The establishment of such habitat in the State of California shall be consistent with the habitat standards applicable to the LCR MSCP, as identified in the Program Documents.

4.5 The California Parties agree to support the efforts of Reclamation to achieve the provisions of Sections 4.2 through 4.4 of this Agreement by identifying land and/or water within the State of California, that could be used in furtherance of the Conservation Plan.

4.6 It is the intent of the California Parties, CDFG, and Reclamation to include "Travis Ranch" as a conservation area in the LCR MSCP, subject to the Steering Committee procedures set forth in the FMA.

4.7 In order to facilitate timely implementation of the LCR MSCP, the California Parties shall, commencing on the date of this Agreement, undertake all actions necessary, working with CDFG, to make available at least 1000 acres of land and associated water located in Riverside County, California, commonly known as the "Travis Ranch" for potential inclusion in the LCR MSCP. In furtherance of this provision, the California Parties, shall, at the first meeting of the implementation Steering Committee subsequent to the date of this Agreement, provide necessary documentation for consideration by the Steering Committee regarding the potential inclusion of the "Travis Ranch" parcel as part of the Conservation Plan. The undersigned representatives of California further commit to working cooperatively with Reclamation and CDFG to develop appropriate implementing documentation to memorialize all financial commitments, program implementation agreements and other associated agreements necessary for the potential inclusion of the "Travis Ranch" parcel as part of the LCR MSCP Conservation Plan. It is the intention of the undersigned representatives of California to work with CDFG to allow for full consideration of inclusion of the "Travis Ranch" parcel by the Steering Committee and complete all applicable agreements regarding the proposed inclusion of such parcel on or before September 30, 2008.

4.8 The undersigned representatives of California agree to work with CDFG to designate as a high program priority the completion of documents necessary for consideration of inclusion of the "Travis Ranch" parcel by the Steering Committee as part of the Conservation Program and will coordinate and direct the involvement of appropriate staff to participate in this effort.

4.9 In the event that "Travis Ranch" is included in the LCR MSCP, the California Parties agree not to request financial credit for this contribution; provided however, in the event that it is determined that the acreage amounts set forth in Section 4.4 can not or will not be achieved, the California Parties may request, and as appropriate, receive a financial credit for the contribution of "Travis Ranch" pursuant to the terms of the FMA. All other costs of restoring, managing and monitoring "Travis Ranch" as a conservation area under the LCR MSCP and all costs of acquiring, restoring, managing and monitoring any additional acreage referred to in Section 4.4 as part of the LCR MSCP shall be treated as a Program

Cost and shall be subject to the FMA, including the limitations of Sections 8.5 and 9.9.

5. SPECIFIC LIMITATIONS ON AGREEMENT

5.1 This Agreement is subject to all applicable federal and state laws, regulations, and guidelines, and nothing herein is intended to, nor shall be construed to, conflict with, alter, amend or affect any existing laws, regulations, or guidelines that may be binding upon the parties to this Agreement, including any policy or procedure of the Department of the Interior.

5.2 The Parties to this Agreement recognize that each has statutory responsibilities which cannot be delegated, and no provision of this Agreement shall be construed to delegate or abrogate any of those statutory responsibilities.

5.3 No provision of this Agreement shall be construed to require the commitment, expenditure or future commitment of funds. All funds expended by any party to this Agreement remain subject to laws, regulations and policies applicable to each party.

5.4 No provision of this Agreement terminates, amends or modifies in any manner, the provisions of any other agreement.

5.5 No provision of this Agreement modifies, in any manner, the obligations of the Federal agencies participating in the LCR MSCP to comply with the provisions of the ESA, including obligations established through the consultation provisions of Section 7 of the ESA.

6. TERM OF THE AGREEMENT

6.1 This agreement will become effective on the date of signature by both the designated Department of the Interior and the respective California officials identified in Section 7 of this Agreement, and shall remain in effect throughout the term of the LCR MSCP unless otherwise terminated or modified. This Agreement may be executed in multiple originals, each of which shall be deemed an original.

7. SIGNATURES

IN WITNESS THEREOF, the Parties hereto have caused this Lower Colorado River Multi-Species Conservation Program Memorandum of Agreement to be executed.

UNITED STATES OF AMERICA

By: Robert W. Johnson

Robert W. Johnson
Regional Director

Date 4/4/05

BARD WATER DISTRICT

By: Ron Derma
Ron Derma
General Manager

Date: 3/31/05

CITY OF NEEDLES

By: _____
Richard D. Rowe
City Manager

Date: 4/1/05

Approved as to form:

BEST, BEST & KRIEGER

By: _____
Robert Hargreaves

Date: 4/1/05

COACHELLA VALLEY WATER DISTRICT

By: _____
Steven B. Robbins
General Manager – Chief Engineer

Date: 4/1/05

Approved as to form:

REDWINE & SHERRILL

By: _____
Steven B. Abbott

Date: 3-31-05

COLORADO RIVER BOARD OF CALIFORNIA

By: Gerald Zimmerman
Gerald Zimmerman
Executive Director

Date: April 4, 2005

IMPERIAL IRRIGATION DISTRICT

By: _____
Jesse P. Silva
General Manager

Date: _____

Approved as to form:

By: _____
John Penn Carter

Date: _____

LOS ANGELES DEPARTMENT OF WATER AND POWER

By: _____
Name
Title

Date: _____

Approved as to form:

By: _____
Name
Title

Date: _____

PALO VERDE IRRIGATION DISTRICT

By: _____
Edward W. Smith
General Manager

Date: 4/01/05

SAN DIEGO COUNTY WATER AUTHORITY

By: _____
Maureen A. Stapleton
General Manager

Date: 4/1/05

Approved as to form:

Daniel S. Hentschke
General Counsel

By: _____
James J. Taylor
Assistant General Counsel

Date: 4/1/05

SOUTHERN CALIFORNIA EDISON COMPANY

By: _____
John R. Fielder
Senior Vice President, Regulatory Policy & Affairs

Date: 3/31/05

Approved

By: _____
Nino J. Mascolo
Senior Attorney

Date: 3/31/2005

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

By: _____
William D. Carnahan
Executive Director

Date: _____

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

By: _____
Gilbert F. Ivey
Interim Chief Executive Officer

Date: 3/30/05

Approved as to form:

Jeffrey Kightlinger
General Counsel

By: _____
Joseph Vanderhorst
Senior Deputy General Counsel

Date: 4/1/05