MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN

THE UNITED STATES DEPARTMENT OF THE INTERIOR

AND

THE STATE OF CALIFORNIA NATURAL RESOURCES AGENCY

REGARDING THE COORDINATION OF ACTIVITIES TO MANAGE THE SALTON SEA

I. INTRODUCTION AND BACKGROUND

The Salton Sea (Sea), an endorheic water-body, is California's largest lake and located in Imperial and Riverside Counties. The Sea is the modern incarnation of Lake Cahuilla, a prehistoric, intermittent freshwater sea that filled and evaporated multiple times over thousands of years as the Colorado River (River) meandered on its delta—shifting between emptying into the Gulf of California, or diverting northwest, into the Salton Trough.

In 1905 when the River flood flows breached an inadequate diversion structure (built by what was then the California Development Company), the full might of the River emptied once again into the basin. After 2 years the River's course was engineered back to the Gulf, and left behind was the Salton Sea. In 1924, certain specified lands beneath the Sea were designated a drainage reservoir by Presidential Order. Where the Sea would have evaporated once more, agricultural runoff from the Imperial and Coachella Valleys (with water from the Colorado River) and other sources has maintained its elevation and affected its composition over the last century.

The Sea loses approximately one million acre-feet of water a year to evaporation. Early on, the accumulation of salts and nutrients in the terminal lake, by its sustaining agricultural drainage waters, were acknowledged as a challenge to the future viability of the Sea. From the start, various studies were conducted to assess the issue, but no comprehensive actions were taken. Thirty or more species of sport fish were stocked by the California Department of Fish and Game between 1929 and 1956, and soon the Sea was enjoying more yearly visitors than Yosemite National Park. After a period of developmental boom and recreational success at the Sea, a series of storms and heavy River water use in 1977 and 1978 caused widespread flooding and inundation of seaside developments, and the properties were soon abandoned.

With nearly 90 percent of California's wetlands lost to development, the Sea over the last century has become a vital stop on the Pacific Flyway for millions of birds. A refuge for several endangered species, over 400 bird species have been identified at the Sea. In 1992, an estimated 150,000 eared grebes died at the Sea, and as one of the largest bird die-offs in U.S. history, it brought national attention to the Sea's plight. In 1996 and 1998 there were further die-offs of fish and birds due to large algal blooms that drew oxygen from the waters, killed large numbers of fish, and spread botulism killing fish-feeding birds.

In response to the declines, in 1992 Congress passed the Reclamation Projects Authorization and Adjustment Act (Public Law 102-575) that directed the Secretary of the Interior to "conduct a research project for the development of a method or combination of methods to reduce and control salinity, provide endangered species habitat, enhance fisheries, and protect human recreational values in the area of the Salton Sea." In addition, the Salton Sea Reclamation Act of 1998, (Public Law 105-372), was enacted by Congress and directed the Secretary to "complete studies including, but not limited to, environmental and other reviews of the feasibility and benefit-cost of various options that permit the continued use of the Salton Sea as a reservoir for irrigation drainage..." Congress further required in the Salton Sea Reclamation Act of 1998 that any such studies performed by the Secretary, "shall not include any option that—(i) relies on the importation of any new or additional water from the Colorado River."

In 2003, following years of negotiation and analysis, a number of actions and agreements – often commonly and collectively referred to as the "Quantification Settlement Agreement" (QSA) were adopted. The QSA "settle[d] a variety of long-standing Colorado River disputes regarding the priority, use and transfer of Colorado River water, established the terms for the further distribution of Colorado River water among [Coachella, the Imperial Irrigation District, and Metropolitan] for a period of time. ... These conserved water transfers and the [Quantification Settlement Agreement] are critical components of the State's efforts to comply with the California Limitation Act of 1929, Section 4 of the Boulder Canyon Project Act of 1928 and to implement the California Constitutional mandate of Article X, Section 2 (which mandates that 'water be put to reasonable and beneficial use')."

Under the QSA, the State of California agreed to assume responsibility for environmental mitigation requirements in excess of $133 million (in 2003 dollars), the amount that the QSA requires three local water agencies to pay for this purpose. This MOU does not modify the responsibilities of the State of California in this regard.

The California Legislation enacted in 2003 to facilitate the implementation of the QSA required the Secretary of the California Natural Resources Agency, in consultation with other entities, to undertake an ecosystem restoration study to determine a preferred alternative for restoring the Sea ecosystem and permanently protecting the wildlife dependent on it. That preferred alternative was selected in 2007, and came with a cost of $9 billion in 2007 dollars. In the following years, a recession hit, administrations changed, and the plan was subsequently deemed financially infeasible. Instead, the State moved forward with "no regrets" projects around the Sea for air quality and habitat benefits, and commenced development of a comprehensive Salton Sea Management Program.

Recognizing that the QSA only provided mitigation flows for the Sea through 2017, and the need for projects that would acknowledge the current and projected resource conditions at the Sea, the State established the Salton Sea Task Force, by order of the Governor of California, in May 2015. Through the work of the Task Force, the State recognizes that immediate implementation of sustainable habitat and air quality management and mitigation at the Sea through a Salton Sea Management Program is critical for the protection of regional air quality, natural resources at the sea, and the management of a stable River water supply for California. After meetings with key stakeholders, the Task Force identified acreage targets for wildlife habitat, mitigation, and other projects, and found that implementation of a successful Salton Sea Management Program depends on the following three principles: 1) strong Federal, State, and local partnerships; 2) clear and achievable milestones with State-directed plans to achieve them; and 3) committed participation from all stakeholders who share the goals of protecting air quality, reducing habitat impacts, and maintaining a secure Colorado River Water Supply. These three principles are driving State-led decisionmaking on short, medium, and long term plans and projects, and require coordinating all available fiscal and technical resources to deliver them in an expedited manner.

The United States and the State have significant and complementary interests regarding development and enhancement of activities that provide certainty to the Sea, anticipate changes in the Sea's elevation, water quality and associated regional environment, and recognize the multiple values and unique opportunities the Sea embodies in the face of a changing climate, resource constraints, and the need to build resiliency and certainty in affected Tribal and regional communities.

II. PARTIES

This Memorandum of Understanding (MOU) is entered into by and between the United States through the Department of the Interior (DOI), and the State of California, through the California Natural Resources Agency (CNRA), and, hereafter referred to as "the Agencies," and will become effective as of the latest date shown below on the signature page.

The Agencies recognize the unique role and interests of tribal governments, including jurisdiction and decisionmaking, in the future of the Sea. The United States recognizes the United States' trust responsibility to all federally recognized Indian tribes and the duty to engage in meaningful government-to-government consultation prior to any action related to the Sea that impacts a tribe. Future activities to address conditions at the Sea must recognize Federal and State responsibilities to any affected tribes pursuant to applicable law (including settlement acts) and agreements, ensure protection of trust resources, and work in a spirit of partnership with affected Indian tribes.

Though not a party to this MOU, other Federal and State agencies, local governments and agencies, and non-profit, philanthropic, and academic institutions are recognized as potentially having jurisdiction, resources, decisionmaking roles, and common interests at the Sea, and will be essential to include for successful management activities and outcomes at the Sea. The Agencies will coordinate and consult with all of these entities as appropriate to develop specific tasks, timelines, and form subsequent agreements to further future partnership at the Sea.

F. The Agencies will, within existing authorities, perform an analysis of land ownership, any existing Indian settlement obligations, leases, and other land use agreements in the region to facilitate project development and identify necessary coordination between parties to achieve the purpose of this MOU.

G. The Agencies will, within existing authorities, expand and integrate Sea science and monitoring programs to better inform decisionmaking, coordinate investigations, and aid adaptive management of the Sea. The Agencies will also assess the cost benefit of sharing office or other physical spaces in order to reduce the cost of science activities and increase their efficacy.

H. The Agencies will pursue a multi-year partnership with United States Department of Agriculture (USDA) Natural Resources Conservation Service, tribal governments, local agencies, and others, to advance projects to protect air quality and improve water quality of major inflows to Sea habitat.

I. The Agencies shall make every effort to ensure resources are allocated to expedite and prioritize permitting processes at the Sea.

J. The Agencies will explore the feasibility of developing a common decision support system that integrates the analyses called for in this MOU, the existing wealth of studies and data on the Sea, and any additional information necessary, into a single platform that facilitates the work of the Salton Sea Management Program and the purpose of this MOU.

In furtherance of these Objectives, the United States agrees to pursue the following, in accordance with applicable statutes, and to the extent appropriate and consistent with legislative appropriations, approved budgets, and funding opportunities:

1. $20 million to operation and maintenance costs of habitat and dust suppression projects associated with the SSMP;
2. $10 million for State managed monitoring of SSMP projects;
3. Continued USGS scientific and technical support on Sea issues during the implementation of the SSMP;
4. Continued USGS scientific input on, and review of, selenium management measures and target concentrations for selenium in created habitat at Sea;
5. Consideration of a Pilot Project under Phase 2 of the Colorado River Basin Study to continue the ongoing innovative and collaborative efforts underway at the Sea to increase security for California's Colorado River water supplies, consistent with DOI's efforts to increase security for other Basin States' water supplies.

V. GENERAL PROVISIONS

A. This MOU is subject, as applicable, to the laws of the United States of America and the State.

III. PURPOSE

The Agencies enter into this MOU to ensure that long-term coordination between the Federal and State and Government will be recognized as a priority and will occur in order to facilitate prompt and informed decisionmaking regarding the natural and economic resources of the Sea.

The Agencies recognize that the purpose of this coordination is to facilitate specific, incremental and sequential projects in a timely manner that improve upon air and water quality, existing obligations to Native American communities, fish and wildlife habitat, water security, resource management processes and decisionmaking economic opportunities, and collaboration of scientific research efforts. Coordinating limited resources will be necessary to achieve common goals that address the natural resources and regional interests associated with the Sea.

IV. OBJECTIVES

Recognizing the State's role as lead on Sea management, in line with the findings of the Salton Sea Task Force, and the United States' agreement through this MOU to support the goals and principles of the Salton Sea Management Program (SSMP), and in furtherance of the purpose of this MOU, the Agencies affirm their commitments to undertake the following objectives:

A. In order to facilitate prompt decisionmaking, permitting accountability, and high-level coordination, the Agencies shall each identify at least one senior level policy official to participate in a Salton Sea Working Group (SSWG) tasked with ensuring interagency continuity in Sea management efforts and overseeing the implementation of—and any necessary updates to—this MOU.

B. The Agencies will work together as they coordinate with affected Colorado River Basin States, tribes, and local governments regarding implementation of this MOU.

C. The Agencies recognize that the State has identified a goal of 25,000 acres of wildlife habitat, air and water quality projects, and other projects as necessary to minimize human health and ecosystem impacts at the Sea in the mid-term (through 2025). See "Salton Sea Task Force – Agency Actions" – Attachment 1. The Agencies acknowledge this goal as critical, and a common target to reasonably work toward.

D. The Agencies will undertake an analysis of current Federal and State laws applicable to the Salton Sea to assess existing authorities, identify common objectives, explore opportunities to align authorities that benefit the purpose of this MOU, and inform areas for further coordination.

E. The Agencies will perform a funding analysis that identifies all current Federal and State spending on programs, projects, and studies related to, potentially benefiting, or impacting the Sea. The analysis should also identify opportunities to better coordinate and match existing spending and programs, and provide a foundation for further discussions on the anticipated financial need to reach acreage goals and creative means to meet them.

B. Nothing in this Agreement may be construed to obligate the United States or the State to any current of future expenditures in advance of the availability of legislative appropriations. Nor does this agreement obligate the United States or the State to spend funds on any particular project or purpose, even if funds are available.

C. The mission requirements, funding, personnel, and other priorities of the Agencies may affect their ability to fully implement all the provisions identified in this MOU.

D. Specific activities that involve the transfer of money, services, or property between the Agencies will require execution of separate agreements or contracts.

E. Nothing in this MOU is intended to or will be construed to restrict the Agencies from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.

F. Any information furnished between the Agencies under this MOU may be subject to the Freedom of Information Act, 5 U.S.C. 552, et seq. (FOIA) and the California Public Records Act, Gov. Code 6250, et.seq. (CPRA). The United States and the State agree to consult each other regarding any such relevant requests and prior to releasing potentially privileged or exempt documents, subject to any applicable regulatory, statutory, or judicial timeframe.

G. This MOU is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States or the State; their respective departments, agencies, or entities; their respective officers, employees, or agents; or any other person.

H. The Agencies anticipate consensus implementation of this MOU. In the unforeseen event that any disputes arise between the Agencies, the respective representatives and leadership of DOI and CNRA will work promptly to resolve any such matter.

I. This MOU shall remain in effect for an initial term of 10 years after its effective date and may be renewed if both Parties agree. This MOU may be terminated at any time by mutual consent of both Parties, or unilaterally by either Party after 30-days written notice to the other Party of intent to terminate.

J. Either Party to this MOU will consult with the other party in a timely manner prior to release of any statements for publication or public dissemination that refers to this MOU, to the Parties in connection with this MOU, or the name or title of any employee of the Parties in connection with this MOU.

K. Nothing in this MOU may be interpreted to imply that the United States endorses any product, service or policy of the State. Nothing in this MOU may be interpreted to imply that the State endorses any product, service or policy of the United States. Neither Party will take any action or make any statement that suggests or implies such type of endorsement.

L. The DOI and CNRA may amend or modify this MOU only by agreement of both Parties.

VI. APPROVALS

For the Department of the Interior:

Michael L. Connor
Deputy Secretary

8/31/16
Date

For the State of California:

John Laird
Secretary for Natural Resources

8/31/16
Date

CALIFORNIA natural resources AGENCY

CalEPA California Environmental Protection Agency

Salton Sea Task Force
Agency Actions

The implementation of sustainable habitat and air quality management and mitigation at the Salton Sea through a Salton Sea Management Program is critical for the protection of regional air quality, natural resources at the sea, and the management of a stable Colorado River Supply for California. The Salton Sea Task Force recognizes the contributions of the local leadership, plans, and initiatives that have informed the Task Force process. Following meetings with key stakeholders, the Task Force finds that implementation of a successful Salton Sea Management Program depends on the following three principles: 1) strong state, federal, and local partnerships; 2) clear and achievable milestones with state-directed plans to achieve them; and 3) committed participation from all stakeholders who share the goals of protecting air quality, reducing habitat impacts, and maintaining a secure Colorado River Water Supply. These three factors will drive decision-making on a short- and a medium-term plan while leveraging fiscal and technical resources to deliver projects in an expedited manner.

The Natural Resources Agency will take the following actions over an accelerated timeline:

- **Begin immediate implementation and further development of Salton Sea management plan**
  - The plan will prioritize actions that respond to air quality and natural resources impacts while incorporating opportunities for regional economic development, including recreational and renewable opportunities that benefit implementation of the plan.
  - A science advisory committee will be utilized to provide scientific expertise into plan development.
  - Colorado River stakeholders will be asked to assist with the development of the plan. The Salton Sea Authority and its members will be asked to help facilitate local involvement.

- **Improve public outreach and local partnership**
  - Air quality and environmental impacts of a reduced Salton Sea will be felt foremost by the residents of the region. The state will provide a meaningful public forum to discuss Salton Sea issues locally and to develop future plans and actions.

- **Accelerate project implementation and delivery**
  - The state will work with Salton Sea, Colorado River partners to accelerate planning, state and federal permitting and construction.

- **Meet a short-term goal of 9,000-12,000 acres of habitat creation and dust suppression projects at the sea**
  - Projects to meet short-term goals will be achievable with available funding.
  - Short-term projects will address dust suppression and natural resources needs while laying the foundation for a long-term Salton Sea management framework.
  - Projects will be staged to address the expected progression of playa exposure and designed to provide access corridors for renewable energy development on those lands.

- **Set medium-term goal of 18,000-25,000 acres of habitat creation and dust suppression projects at the sea**
  - Funding plans to meet medium-term goals will need to be developed by the state with Salton Sea and Colorado River partners.

Ensure Oversight by Regulatory Agencies:

- The State Water Resources Control Board will regularly monitor and assess progress on the implementation of the Salton Sea Management Program, including the development of management plans and funding options, and any potential action by the State Board.

- The State Water Resources Control Board will periodically hold public workshops as part of its monitoring and assessment function.

- The State Water Resources Control Board will work with the Colorado River Regional Water Board and the Administration to improve water quality and upstream co-benefits in the New River and the Alamo River.

- The California Air Resources Board will coordinate with local partners to address air quality impacts from the Salton Sea, work with Imperial and South Coast air districts to monitor air quality, and provide technical and scientific expertise to ensure effective mitigation of dust impacts from exposed playa.

Consider opportunities for increasing renewable energy development at and around the Salton Sea:

- As part of the implementation of the Clean Energy and Pollution Reduction Act of 2015 (SB 350), the California Energy Commission and the Public Utilities Commission will evaluate how renewables at and around the Salton Sea will further the goals of the integrated resources plans, including a balanced resource mix and the minimization of localized air pollutants.

- Within the next year, as part of planning to meet the 2030 greenhouse gas goals, the Public Utilities Commission, the Energy Commission and the Independent System Operator will consider renewable energy opportunities at and around the Salton Sea and the region, and any additional transmission that may be needed for the near term or long term.