

To: Planning Committee Members
From: Austin McInerny, Center for Collaborative Policy

Re: Overview of Version 11 of Memorandum of Understanding and Intent for Sept. 29 Meeting

This version of the Memorandum of Understanding (MOU) has been revised based on constructive input received from the Coordinating Committee, Inyo County Board of Supervisors, and Rick Breeze-Martin. To help with everyone's review, I am providing a quick summary of the updates that have been made to the MOU. The following revisions have been made to simplify the overall document as well as clarify the MOU's intent and purpose:

1. MOU Duration: Explicitly stated that MOU covers the pre-planning stage of the IRWMP development and that the document will be revisited and updated when the actual planning stage is begun.
2. Membership: Clarifies that economically disadvantaged local communities and individual local stakeholders are invited and encouraged to participate in effort.
3. Process for Joining Planning Committee: MOU does not indicate process by which the Planning Committee will review and decide who can and cannot join effort. Rather statement is made that in order to join the Planning Committee, an individual or organization must sign the MOU and be committed to "...ensuring long-term ecosystem health of the areas watersheds, water supply, water quality, involvement of the local communities, especially disadvantaged communities, and the protection, preservation and restoration of natural resources of the Inyo-Mono region; and agree to work constructively with others." Thus, the process is open to those that show an interest and constructively contribute to the overall effort.
4. Financial Contributions: Language added to clarify that no funds are being obligated by participating agencies and organizations, but in-kind contributions may be provided. MOU also clearly states that agreement is non-binding and non-regulatory.
5. Definitions: All relevant terms and staff positions are defined.
6. Consensus Decision-Making Training: To help orient participants to consensus decision-making, Planning Committee members will be provided an initial orientation to the strengths, weaknesses and best practices in group consensus decision making. This effort will be planned for and undertaken at a future Planning Committee meeting.
7. Consensus Decision-Making: The Planning Committee will also conduct an annual review on its consensus decision making, which will include an archive of all 'avoided decisions' in order to revisit these topics, if any, in order to continue seeking solutions for difficult and important issues for which consensus was not initially found.

With these changes, the Coordinating Committee believes the MOU is ready for adoption by the full Planning Committee. As such, we are hoping that the Planning Committee will adopt the MOU at the September 29 meeting and, thus, allow the document to be presented to all interested governing boards for possible adoption. It is our goal to have the MOU supported by all organizations represented on the Planning Committee.

**Inyo-Mono Integrated Regional Water Management Plan
Regional Water Management Group
Pre-Planning Phase Management**

**Memorandum of Understanding
Draft Version 11 (September 21, 2008)**

This Memorandum of Understanding (MOU) is entered into as of XX, of 2008, by the persons, entities, and organizations listed on the signatory page(s) hereto, for the purpose of establishing rules to govern the pre-planning phase of developing an Inyo-Mono Integrated Regional Water Management Plan (IRWMP).

The purpose of the IRWMP is to meet the integrated water needs of the people and watersheds of the Inyo and Mono County region now and into the future. The IRWMP will be developed in three phases: 1) a pre-planning phase during which an application to the California Department of Water Resources (DWR) for a Planning Grant will be developed and submitted; 2) a planning phase during which an Inyo-Mono IRWMP will be developed and; 3) an implementation phase during which the plan will be implemented. The Inyo-Mono IRWMP Regional Water Management Group (hereinafter referred to as the “Inyo-Mono Planning Committee” or “Planning Committee”) will be realized through this MOU for the purpose of pre-planning the IRWMP.

1 Purpose

The purpose of this MOU is to provide governance for entities participating in the effort to conduct pre-planning for the development of an IRWMP. Governance of the planning phase and implementation phase of the IRWMP will be developed as each phase is initiated. This MOU is a statement of mutual understanding among the Planning Committee members to acknowledge the intentions of the parties and provide for cooperative action regarding:

- The roles and responsibilities of the parties in pre-planning for the IRWMP.
- The structure that will be used to exchange information with the Inyo-Mono IRWMP Planning Committee, Coordinating Committee, and other interested parties, and the public to provide for technical review and public support for the IRWMP.

1.1 Duration of this Memorandum of Understanding

This MOU shall be in effect until such time as another revised MOU or some other agreement is entered into by the members of the Planning Committee during the IRWM planning process. Interested members of the public may provide input or share concerns in the process of revising the MOU or forming another agreement. The foregoing notwithstanding, the term of this MOU may be extended beyond the planning process by consensus decision of the Planning Committee.

1.2 Scope of this Memorandum of Understanding

Neither this MOU, nor any IRWMP developed there from, are intended to, and do not, impose legally binding requirements on the entities that adopt or participate in the MOU or IRWMP. The IRWMP's purpose will be to summarize the process and the plan developed by the stakeholders of the Inyo-Mono Region to achieve sustainable water uses, reliable water supplies, better water quality,

environmental stewardship, efficient urban development, protection of agriculture, and a strong economy.

Although the IRWMP will refer to many legally binding statutory and regulatory provisions, —such as general plans, zoning ordinances, water quality plans, and various permits, licenses, and approvals— its purpose in doing so is to ensure that the IRWMP is consistent and compatible with those existing legal obligations. Rather than adding to or modifying the present legal and regulatory environment, the IRWMP is intended to streamline and improve the stakeholders’ ability to operate and succeed within that environment.

Thus, the IRWMP provides guidance to, but does not impose any mandates upon, the water agencies, land use agencies, local governments, watershed organizations, individuals, and others who adopt the IRWMP.

2 Background

2.1 IRWMP Launch of Pre-Planning Phase

The Inyo-Mono Planning Committee intends to carry out an IRWMP pre-planning process, which will culminate in submitting a Planning Grant Proposal to DWR under the Proposition 84 guidelines. The proposal is anticipated to be submitted in early 2009.

2.2 IRWMP Adoption

Any organizations, agencies, or individuals that support the Inyo-Mono IRWMP may adopt it. These include organizations representing water agencies, conservation groups, agriculture representatives, land use entities, tribal nations, and local, state, and federal agencies as well as private individuals with an interest in the Inyo-Mono region.

2.3 IRWMP Geographic Boundaries

The IRWMP is a planning document that addresses critical needs in the watersheds in Inyo and Mono Counties including: East and West Walker, Mono Basin, Owens River watershed, Amargosa watershed, Fish Lake Valley (CA portion) and Death Valley watershed.

[NOTE: Specific boundaries have yet to be decided and will be detailed here.]

2.4 Planning Horizon

The Inyo-Mono IRWMP planning horizon is approximately twenty years into the future, —in the range of 2028-2030. However, this MOU is limited to the pre-planning phase, which will end with submittal of the grant proposal to DWR in 2009.

3 Pre-Planning Phase Management Structure

3.1 Planning Committee

The Planning Committee forms the Regional Water Management Group of the Inyo-Mono IRWMP. The Planning Committee will oversee and approve all major decisions concerning the pre-planning phase during which an application to DWR for a Planning Grant will be developed and submitted. The Planning Committee will set the overall strategic direction for planning the proposed IRWMP. During the pre-planning phase, the Planning Committee, or its designated Work Groups, will meet every month. After the pre-planning phase, the Planning Committee will meet quarterly or as necessary.

During the pre-planning phase, The Planning Committee will be staffed by a Project Manager who will oversee all aspects of the work necessary to complete the grant proposal for submission to DWR. A Project Assistant will also assist the effort. Facilitation of the Planning Committee and its workgroups will be provided by the Center for Collaborative Policy, California State University, Sacramento.

3.1.1 Membership

The Planning Committee strives to ensure its membership represents a broad range of interests, including: water supply, water quality, environment/habitat, recreation, agriculture and ranching, resource management, hydropower, cities/counties, sanitation, other water resource management areas, economically disadvantaged local communities and individual local stakeholders interested and willing to participate. In order to cover these interests, members may include, but are not limited to: water agencies, resource agencies, conservation groups, tribes, agricultural and ranching interests, cities, counties, education organizations, disadvantaged community representatives, private landowners, and businesses.

As required by DWR, the Planning Committee will have at least three public institutions, two of which have authority over water.

Planning Committee membership will be comprised of those who sign this MOU before submission of the Planning Grant proposal. Planning Committee members must be committed to ensuring long-term ecosystem health of the areas watersheds, water supply, water quality, involvement of the local communities, especially disadvantaged communities; and the protection, preservation and restoration of natural resources of the Inyo-Mono region; and agree to work constructively with others.

The Project Manager will check in with Planning Committee members on regular basis to reconfirm their intent to actively participate and their primary representative. This will not be binding or require the member to re-sign the MOU. This activity is merely intended to give the Project Manager and Planning Committee the most updated list of active Planning Committee members and primary and alternate representatives. Membership in the Planning Committee may change to accommodate evolving circumstances, such as changes in individual organizational capacity or participation.

Planning Committee members agree they will strive to support the Inyo-Mono IRWMP through a variety of supporting activities, which may include in-kind contributions and/or funding. Nothing in this document is to be interpreted to mean that any federal funds will be obligated in violation of the Anti-Deficiency Act.

3.1.2 Planning Committee Meetings

The Planning Committee will meet monthly and schedule additional meetings if necessary to ensure effective planning and implementation. All Planning Committee meetings are open to the public. Interested parties are welcome and encouraged to attend to share concerns about projects, provide input on plan implementation, and learn about the Inyo-Mono IRWMP. Notes from these meetings shall be distributed to all interested parties and will be posted on the web for public viewing.

Inyo-Mono Planning Committee meetings are noticed via an inclusive email list that will grow as the process progresses. In addition, the Planning Committee will begin sending meeting announcements to all the public agencies involved in the process and encourage them to post meeting information on their web pages and to announce through agency noticing procedures. Planning Committee members are not responsible for compliance with public agency noticing requirements (e.g., Brown Act).

3.1.3 Representation

Each member organization will identify its lead representative for the Planning Committee and will make its best effort to attend Planning Committee meetings. Planning Committee members may choose to identify alternates but they are encouraged to have the same representative attend all Planning Committee meetings for consistency.

3.1.4 Leaving the Planning Committee

This MOU is non-binding and non-regulatory. The Planning Committee members ask that if a member group or individual wants to leave, it notifies the rest of the Planning Committee, at which point they will no longer be a member of the Planning Committee.

3.2 Coordinating Committee

The Coordinating Committee, appointed by the Planning Committee, is a smaller, representative group of the Planning Committee that meets as needed between Planning Committee meetings to assist staff and the Planning Committee with process planning, recommendations for process modifications, communications, and other issues for which staff needs advice. The Coordinating Committee may also provide more consistent fiscal oversight in helping to manage the pre-planning process. Ultimate decision-making still resides with the Planning Committee. Membership in the Coordinating Committee may change to accommodate evolving circumstances (such as changes in individual organizational capacity or participation history) by consensus of the Planning Committee. The Coordinating Committee meets every month during planning stages and then every other month or as needed thereafter. This schedule could change again during implementation planning.

The Coordinating Committee may play a role in developing substantive proposals and policy, at the request and subject to the approval of the Planning Committee, but has no decision-making authority.

3.3 Ad-Hoc Work Groups

Ad-Hoc Work Groups may be formed as needed by the Planning Committee to undertake work on specific topics or issues and shall give input and recommendations to the Coordinating Committee and Planning Committee. All advice provided by work Groups will be reviewed by the Planning Committee as a whole.

3.4 Fiscal Agent

California Trout shall serve as Fiscal Agent for the Inyo-Mono IRWMP pre-planning phase. Duties include administering grant funds; coordinating meetings for the Coordinating Committee, Planning Committee, and any work groups that may be formed; producing and distributing meeting notes and notices; contracting new staff; and maintaining a webpage where IRWMP documents can be accessed.

3.4.1 Annual Financial Reporting

At the close of each calendar (or fiscal) year, the fiscal agent and individual project partners shall provide a complete accounting of fiscal activity related to the Inyo-Mono IRWMP and associated projects to the Planning Committee.

Any budget line item change over \$1,000 should be reviewed and approved by the Coordinating Committee, as the fiscal overseer of the IRWMP. Any budget line item change over \$10,000 must be reviewed and approved by the Planning Committee.

4 Planning Committee Decision Making

4.1 Decision Making Rule

4.1.1 Consensus as the Fundamental Principle

The Coordinating Committee and Planning Committee shall base its decision-making on consensus (agreement among all participants) in all of its decision-making. Working toward consensus is a fundamental principle of the Inyo-Mono IRWMP process.

4.1.1.1 Definition of “Consensus”

In reaching consensus, some members may strongly endorse a particular proposal while others may accept it as "workable." Others may be only able to “live with it”. Still others may choose to “stand aside” by verbally noting a disagreement, yet allowing the group to reach a consensus without them if the decision does not affect them or compromise their interests. Any of these actions still constitutes consensus. Every effort will be made to address the concerns of even a lone voice of opposition. Planning Committee members will be provided an initial orientation to the strengths, weaknesses and best practices in group consensus decision making; the Committee will also conduct an annual review and update on consensus decision making.

Since neither the Coordinating Committee nor the Planning Committee has any regulatory authority, any decisions it makes cannot regulate or force another entity against its will to take an action not in its interest. All decisions will be made and developed under the consensus rule. Recognizing that since consensus may not always be achievable, the Planning Committee will archive all ‘avoided decisions’ and annually review these in order to record the subject and to continue seeking solutions for difficult and important issues for which consensus was not initially found.

4.1.1.2 Definition of Active Participation by Planning Committee Members

Active participation means regular attendance at Planning Committee meetings; regular participation in at least one Work Group or ensuring that a designee of the Planning Committee member’s organization participate in a Work Group under the Planning Committee member’s close guidance; and reviewing planning and other written documents before discussions or decisions will be made. It is understood that occasionally Planning Committee members may need to miss a Planning Committee and/or Work Group meeting. If there is a question as to whether a Planning Committee member should be considered “active” for purposes of decision-making, the Coordinating Committee will advise the Planning Committee.

5 Revisions to the MOU

Any revisions to this MOU must be made through the decision-making process outlined in Section 4.1 above.

Signature Page

Date: _____

Name (Signature)

Print Name

Organization

Primary Representative:

Email: _____

Telephone: _____

Address: _____

Alternative Representative:

Email: _____

Telephone: _____

Address: _____