MEMORANDUM OF UNDERSTANIDNG

BETWEEN

THE SISKIYOU COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

AND

THE KARUK TRIBE

This Memorandum of Understanding is entered into by and between the Karuk Tribe ("Tribe") and the Siskiyou County Flood Control and Water Conservation District ("District"), collectively referred to as "the Parties".

WHEREAS, in September of 2014, the Governor of the State of California signed legislation known as the Sustainable Groundwater Management Act, codified as California Water Code, §§ 10720 et seq., ("SGMA") that requires groundwater resources throughout California to be managed by local Groundwater Sustainability Agencies; and,

WHEREAS, the District has been designated by the California Department of Water Resources as the Groundwater Sustainability Agency ("GSA") for the Butte, Scott and Shasta Valley Groundwater Basins ("Basins"); and,

WHEREAS, the Basins have been designated under SGMA as medium priority basins, requiring the District to prepare and adopt a Groundwater Sustainability Plan ("GSP") for the Basins by January 31, 2022; and,

WHEREAS, the GSA submitted a GSP for the Butte, Scott, and Shasta Valley basins in January of 2022; and,

WHEREAS, DWR is now reviewing the submitted GSPs and has until January 2024 to determine if the plans are adequate, incomplete, or inadequate[[1]](#footnote-2) and DWR will periodically evaluate the GSPs at least every five years thereafter to ensure compliance with SGMA[[2]](#footnote-3); and

WHEREAS, the GSA is currently implementing the GSPs and is responsible for developing annual reports demonstrating progress towards achieving sustainability[[3]](#footnote-4) which DWR will review to determine whether the GSP implementation is consistent with SGMA[[4]](#footnote-5); and,

WHEREAS, the Tribe is a federally recognized Indian tribe; and,

WHEREAS, the District recognizes the established Federal and State laws under which Native American tribal governments are treated as distinct legal and political entities, with their own powers of self-governance and self-determination; and,

WHEREAS, the Tribe has notified the District that the Tribe's aboriginal territory includes the mouth of the Scott River and it has long standing cultural and traditional interests in the health and productivity of both the Scott and Shasta Rivers; and,

WHEREAS, the Tribe has expressed that these rivers are fundamental to the health of the Klamath Basin fisheries, supporting populations of Spring Chinook Salmon, Fall Chinook salmon, ESA-listed Coho salmon, Pacific Lamprey, Summer steelhead, and Winter steelhead, and each of these species are intrinsic parts of the Tribe's culture and identity; and,

WHEREAS, the California State Water Resources Control Board, in its 2016 Water Quality Report Card for the Scott River[[5]](#footnote-6), identified the watershed as being impaired by elevated water temperatures that adversely impacts beneficial uses associated with cold freshwater salmonid fisheries; and

WHEREAS, the North Coast Regional Water Quality Control Board's September 2006 Action Plan for the Scott River Sediment and Temperature Total Maximum Daily Loads stated that excessive sediment loads and elevated temperatures had resulted in degraded water quality conditions that impaired designated beneficial uses of water for the Scott River; and,

WHEREAS, the California State Water Resources Control Board, in its 2019 Water Quality Report Card for the Shasta River[[6]](#footnote-7), identified the watershed as being impaired for temperature because it regularly exceeds chronic temperature thresholds necessary to support salmonid lifecycle needs including migration, incubation, and rearing; and

WHEREAS, the North Coast Regional Water Quality Control Board's June 28, 2006 Action Plan for the Shasta River Temperature and Dissolved Oxygen Total Maximum Daily Loads stated that elevated temperature and low dissolved oxygen had resulted in degraded water quality conditions that impaired designated beneficial uses of water for the Shasta River; and,

WHEREAS, The Scott Valley GSP[[7]](#footnote-8) and the Shasta Valley GSP[[8]](#footnote-9) indicate that seasonal low flow and drought conditions naturally occur in the watershed, but are becoming more common due to the impacts of climate change and groundwater pumping; and

WHEREAS, the governing body of the GSA is subject to the Ralph M. Brown Act[[9]](#footnote-10) and its members must observe the act’s meeting requirements in implementing any communication protocol with the Tribe; and

WHEREAS, the Tribe has developed the Karuk Tribe Consultation Policy [[10]](#footnote-11) to provide direction for local, state, and federal agencies engaging with the Tribe; and

WHEREAS, when GSP project implementation results in the District issuing a notice of preparation of an environmental impact report or notice of intent to adopt a negative declaration or mitigated negative declaration, the District and Tribe may separately engage under AB 52 regarding any potential impacts to Tribal Cultural Resources and potential mitigation; and

WHEREAS, “coordination” in this document refers to voluntary coordinated efforts and activities between the Tribe and the District related to GSP implementation activities, such as management actions and monitoring efforts; and

WHEREAS, “communication” in this document refers to the information exchange between the Tribe and the District related to GSP implementation activities; and;

WHEREAS, the Tribe continues to develop technical and scientific data through its Department of Natural Resources, which the District agrees to consider, with the understanding that a fair and balanced approach is pivotal to the success of implementation of the GSPs for the Basins.; and,

WHEREAS, the Parties intend to memorialize a Communications Protocol intended to strengthen meaningful communication and information sharing, with the goal of sharing mutually agreed upon disclosable information during the District's implementation of SGMA.

1. AUTHORITY.
   1. The Tribe, acting by and through the Karuk Tribal Council pursuant to the Karuk Constitution exercises its inherent sovereign authority to enter into this MOU.
   2. The District is a special district, established in 1959 by the Siskiyou County Flood Control and Water Conservation District Act, (Cal Uncod. Water Deer, Act 1240 §§ 1-38), and is the GSA for the Shasta, Scott and Butte Valley groundwater basins. The District's powers include the ability to enter into agreements and memorandums of understanding with other parties.
2. PURPOSE.

The Purpose of this MOU is to formalize good faith Communication, Coordination, and Consultation Protocols between the Tribe and the District to:

1. Mutually exchange and disseminate disclosable information pertinent to the District’s implementation of Groundwater Sustainability Plans (GSP) prepared and adopted in Scott River Valley Basin (1-005) and Shasta Valley Basin (1-004); and,
2. Discuss and ensure full dialog around science and technical information related to the GSPs; and,
3. Establish an agreed upon sequence by which decision-makers of each party shall engage on GSP actions.
4. PREAMBLE.
5. The Parties agree to meet in order to share disclosable information pertinent to the development of the GSP at mutually agreed upon dates.
6. Any information the Tribe considers confidential, which the Tribe desires to share with the District, shall be marked as “confidential” in bold red font at the top of the first page of the document, and shall be accompanied by a statement of the legal basis upon which the District may withhold the document from the public pursuant to the California Public Records Act, Government Code section 6250 et seq.
7. Each party should regularly strive to understand the needs of the other regarding confidentiality of discussions. Checking in at the onset of meetings or phone calls will at times be appropriate. Confidentiality requests should be acknowledged and addressed at the beginning of meetings.
8. The Parties agree that each Party will appoint a single representative to respond to inquiries on issues addressed in or affected by the MOU.
9. The Parties agree that either may request a meeting be supported by a third-party facilitator to ensure the Parties continue working together. The facilitator would be selected by mutual consent of the Parties. Potential facilitation, information support, and resources may include, but not limited to, the DWR Office of the Tribal Policy Advisor and the DWR Sustainable Groundwater Management Office’s Facilitation Support Services Program. The meeting facilitator, agenda topics, timing, and meeting participants will be agreed upon by both Parties prior to the conduct of meetings.
10. LEVELS OF ENGAGEMENT.
11. GSP Advisory Committee: The District convenes the Shasta and Scott Valley Groundwater Advisory Committees (GAC), which are comprised of stakeholders who represent the beneficial users and uses of groundwater as defined by CWC §10723.2. The role of the GAC is to make policy and project recommendations to the GSA Board. Tribal representation on the GAC is an important input to GSP implementation policy issues, technical and scientific discussions, or projects and management actions. SGMA Topics viewed by Tribal representatives of the GAC may be subject to additional discussion at Staff-to-staff Meetings.
12. Staff-to-Staff Coordination Meetings: These consist of senior level decision-makers of the Tribe and the District. Technical consultants and other advisors may also be engaged. Topics discussed at this level arise from meetings of the GAC or other venues by either Party. The objective of staff-to-staff meetings is to discuss GSP Implementation. Resolutions achieved in staff-to-staff meetings may advance back to the GAC for review or be referred to executive-level interaction at Tribal Consultation Meetings.
13. Tribal Consultation Meetings: The Parties agree that either may request a Tribal Consultation Meetings consisting of up to two (2) Siskiyou County elected representatives, elected representatives of the Karuk Tribal Council, and relevant staff for the purpose of attempting to resolve issues arising from staff-to-staff meetings, GAC meetings, or other related activities.
14. Joint Government to Government Meetings: These meetings consist of a joint meeting of the Karuk Tribal Council and a quorum of the District Board. Such meetings would be held in accordance with California’s Ralph M. Brown Act and occur during a normally scheduled, or special meeting, of the GSA Board. The purpose of these meetings serve to, in part, seek resolution or agreement to issues not addressed through Tribal Consultation Meetings or announce agreements mutually considered to be in the public interest.
15. TERM.
    1. This MOU shall become effective upon execution by each of the Parties.
    2. The term of this MOU is from the effective date to April 20, 2027, unless terminated in accordance with the provisions of Section VI.
16. TERMINATION.

Either Party may terminate this agreement upon thirty (30) days written notice to the other Party.

1. LEGAL EFFECT.
   1. This MOU imposes no legally binding obligations upon any Party hereto. Rather it sets out terms for cooperation and data sharing, with the goal of enhancing the quality of the GSP that will result from the District's implementation of SGMA.
   2. The parties agree that the MOU is a public document.
2. NOTIFICATIONS.

Any notification required under the MOU shall be in writing and shall be addressed as follows:

If to District:

Matt Parker

1312 Fairlane Road

Yreka, California 96097

mparker@co.siskiyou.ca.us

If to Tribe:

Joshua Saxon

64236 Second Avenue

PO Box 1016

Happy Camp, California 96039

jsaxon@karuk.us

1. AMENDMENT.

This MOU may be amended at any time during the term of this MOU upon the mutual consent of both parties. No addition to, or alteration of, the terms of this MOU shall be valid unless made in writing and signed by the parties hereto.

1. ENTIRE AGREEMENT.

This MOU contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist.

1. AUTHORITY TO EXECUTE.

Each person executing this MOU represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this MOU.

KARUK TRIBE:

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Russell “Buster” Attebery

Karuk Tribe Chairman

Date:­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SISKIYOU COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT:

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Brandon A. Criss, Board Chair

Board of Directors

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTEST:

Laura Bynum

Clerk, Board of Directors

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. 23 CCR § 355.2 [↑](#footnote-ref-2)
2. 23 CCR § 355.6 [↑](#footnote-ref-3)
3. 23 CCR § 356.2 [↑](#footnote-ref-4)
4. 23 CCR § 355.8 [↑](#footnote-ref-5)
5. [California State Water Resources Control Board Scott River Watershed Water Quality Report Card, 2016.](https://www.waterboards.ca.gov/about_us/performance_report_1516/plan_assess/tmdl_outcomes/r1_scott_r_temperature.pdf) [↑](#footnote-ref-6)
6. [California State Water Resources Control Board Shasta River Watershed Water Quality Report Card, 2019.](https://www.waterboards.ca.gov/about_us/performance_report_1920/plan_assess/docs/fy1819/r1_shasta_river_temp.pdf) [↑](#footnote-ref-7)
7. [Shasta Valley GSP, Chapter 2, Section 2.1.5 Hydrology.](https://www.co.siskiyou.ca.us/sites/default/files/fileattachments/natural_resources/page/28348/shasta_valley_gsp_ch2_part2.pdf) [↑](#footnote-ref-8)
8. [Scott Valley GSP, Chapter 2, Section 2.1.6 Hydrology.](https://www.co.siskiyou.ca.us/sites/default/files/fileattachments/natural_resources/page/28347/scott_valley_gsp_chapter_2.pdf) [↑](#footnote-ref-9)
9. Government Code § 54950 et seq. [↑](#footnote-ref-10)
10. [Karuk Tribe Consultation Policy](https://www.karuk.us/images/docs/forms/Consultation_Policy_04-05-18.pdf) [↑](#footnote-ref-11)