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3835 N. Freeway Blvd., Suite 140
Sacramento, California 95834
(916) 568-3660
FAX: (916) 565-0113

July 1, 1998

Mr. Rick Breitenbach
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814

Subject: Comments on Draft Programmatic EIS/EIR

The Western Crop Protection Association appreciates this opportunity to provide comments on the CALFED Bay-Delta Program's March 1998 DRAFT Programmatic Environmental Impact Statement / Environmental Impact Report and Technical Appendices. The Western Crop Protection Association (WCPA) is a not-for-profit trade association representing the interests of manufacturers, registrants, formulators, distributors, and dealers of crop protection products in 10 western states, including California. Pesticides are a necessary tool in agricultural, urban, industrial and residential pest management programs. They are used intentionally and for a specific purpose. When used properly, they play an important role in public health and safety via their contribution to vector control, disease control and the production of a safe and abundant food supply.

Program Goals & Objectives: Technical Appendix

Page 13, Dealing with the Impacts of Possible Solutions

The document discusses the fact that a "key solution principle which will be followed is that solution alternatives cannot create significant negative redirected impacts." We believe this is a very important principle and applaud this position. Too frequently we have seen regulatory agencies develop programs that solve one problem but create another. We encourage diligence on the part of CALFED in adhering to this principle.

There is a well established regulatory structure for pesticides in California. This structure involves the participation of numerous state and federal agencies (USEPA, DPR, State and Regional Water Boards, etc.). A specific example is the Management Agency Agreement between the State Water Board and the Department of Pesticide Regulation (DPR). Some key components of this regulatory scheme are public safety, worker health & safety, food safety, environmental protection, and pest management. All components must be considered when developing solutions for pesticide related issues. DPR is the only state agency with the depth and breadth of perspective to assure that all of these issues are considered in decision making processes. DPR must therefore play a key role in the development and coordination of the CALFED solutions as they relate to pesticides.

Because of DPR's technical expertise and experience, they are able to balance the different risks and provide a more comprehensive understanding of the ramifications beyond water quality. Example: A solution designed to resolve a surface water problem may create an increase in risk at another level. More specifically: If dormant spray applications are banned in order to reduce discharge of pesticides into waterways, the

result might be an increase in risk of orchard worker exposure due to increased use of in-season spray.

DPR also plays a key non-regulatory role by developing and managing incentive-based programs related to surface water quality. An example of such is the Pesticide Management Plan as outlined in DPR's Management Agency Agreement with the State Water Resources Control Board.

Page A-10, 8.a. **Reduce the Concentrations of Pesticide Residues** in the Bay-Delta system water and sediments

It is critically important that we try to understand the significance of the concentrations of pesticides that are found in water. However, there is considerable scientific debate relative to the ecological significance of the pesticide residues found in the Delta ecosystem. The reduction of pesticide concentrations in surface water may be a reasonable goal but, in our view, there needs to be a good understanding of both the ecological significance of their presence and the cost/benefit of the actions necessary to cause that reduction. CALFED needs this understanding in order to make rational decisions as to the priorities for the use of its resources.

Implementation Strategy: Technical Appendix

Page 9, Ongoing Stakeholder Involvement

We strongly suggest that CALFED exercise its stakeholder principle and take the opportunity to actively engage the members of the crop protection industry as a resource. In addition to having the most at stake, economically, in these discussions about pesticides, they also have the best technical resources. They know more about their products than anyone else and through their sales and distribution networks, they have a direct link to everyone using their products. Some of our member firms have been engaged in the CALFED process but have found it to be rather frustrating. The biggest complaint is that they are not recognized by CALFED as legitimate stakeholders.

Watershed Management Strategy: Technical Appendix

Page 3, Need for a Coordinated CALFED Watershed Management Strategy

Point 3 on page 4 reads "To provide standardized methods of data collection, monitoring programs, and reporting mechanisms. These are recognized as necessary, critical tools in adaptive management." We couldn't agree more. Standardized data collection methods are critical to the ability to compare the meaning of different data sets. Without standardization, there is no way to compare data and reach a valid understanding. The data is not meaningful outside its own study. We also encourage strict adherence to a high level of quality control as a component of this standardization effort, particularly for analytical sampling and toxicity testing. Many of the proposed monitoring programs that CALFED intends to fund use stakeholders to provide the sample collection services. It is vital that CALFED have a credible quality control process in place or the data collected will be useless. The crop protection industry has worked for many years with the USEPA to develop quality control methods for sampling. We would be happy to share our knowledge with CALFED in an effort to establish data collection standards. The University of California is also a natural resource for developing these standards.

Point 4 mentions peer review. We are in full agreement that scientific peer review be an important factor in this process. We encourage CALFED to include a variety of recognized scientists. With regard to the review of pesticide related data, programs and conclusions, we strongly recommend that you include scientists from the Department of Pesticide Regulation as part of the peer review. We also will volunteer to assist in recruiting scientists from our member firms. In our view, some of the most highly qualified ecological toxicologists and risk assessment scientists reside in the research departments of our member companies. They can and should be used by CALFED as a component of the peer review process.

Water Quality Program

CALFED is a multi-agency group whose members are diverse in interests and missions. When CALFED lists a constituent as a "parameter of concern", as you have done in the Water Quality Program, the potential impacts are far reaching. If CALFED identifies a benchmark value (objective, standard, criteria) for that constituent, as you have done in the Water Quality Program, the potential impact is even greater. CALFED staff repeatedly states that CALFED is not a regulatory agency and these numbers can therefore carry no regulatory weight. If this true, why list the numbers in the first place? CALFED must be aware that with so many agencies involved, these numbers take on a high degree of legitimacy. They will be cited by member agencies, other agencies and stakeholder groups as being benchmarks that must be met. They take on, by default, the same meaning as a regulatory number. They become underground regulation. We see this scenario as complicating remediation and mitigation efforts, obfuscating the process of understanding and in general making it more difficult for all parties to reach consensus on a good, workable regulatory scheme. CALFED should ensure that this does not happen. Regulatory numbers should be set by appropriate public agencies through participative public processes.

Page 32, Table 2. Clean Water Act section 303(d) Listed Impaired Water Bodies

Please note that the 303(d) listing for the Sacramento River has been changed. At their January 23, 1998 meeting, the Central Valley Regional Water Quality Control Board removed carbofuran as a parameter of concern for the Sacramento River. This should be corrected in your final report.

Page 42, Table 5. CALFED Water Quality Targets for Parameters of Concern

General:

In our view, **CALFED should not invent or establish any numeric water quality benchmark values** (objectives, standards, criteria, targets or ranges) for any pesticide. CALFED should only use benchmark values that have already been established through an approved public process by the appropriate authoritative regulatory agency. In most cases, according to current state policy, that agency will be the Department of Pesticide Regulation (DPR). When such values need to be adopted for use by CALFED, CALFED should take every precaution to assure that the number is appropriate for the use which CALFED intends, and that it is used properly. CALFED should work closely with DPR to make these determinations.

The Water Quality Program specifically mentions three specific products (carbofuran, chlorpyrifos and diazinon) that are currently registered and actively used pesticides. The Western Crop Protection Association does not normally comment on issues dealing with

specific products, however in the context of this document, we feel the following comments are appropriate.

Carbofuran:

The Central Valley Regional Water Quality Control Board is currently in the process of setting a water quality objective for carbofuran (as noted in your footnote "h"). FMC Corporation, the registrant and basic manufacturer of carbofuran, has been working cooperatively with the Regional Board throughout this process and has recently completed additional aquatic toxicity studies on carbofuran to support the effort. Footnote "k" under the carbofuran listing should be dropped. As noted above, carbofuran is no longer listed as an impairment for the Sacramento River.

Chlorpyrifos & Diazinon:

The numbers proposed as target values for chlorpyrifos and diazinon are inappropriate. At this time, no agency has put these compounds and their data through a review process that is appropriate for setting restrictive benchmark values. Therefore, at this point, there are no appropriate numbers. DPR has a process by which they can review and establish a quantitative response limit (QRL). This process, established under the Management Agency Agreement between DPR and the State Water Resources Control Board, should be looked to by CALFED if you determine that target values are necessary.

The crop protection industry is concerned with environmental quality. Pesticide registrants have been involved for years in studying the environmental impact of their products. For example Dow AgroSciences (the registrant for chlorpyrifos) and Novartis Crop Protection (the registrant for diazinon) have each spent millions of dollars on these products over the last few years. The purpose of their investments has been to learn more about the transport mechanisms that are involved in the movement of pesticides in the Delta, to develop a sound database to address the question of ecological significance of their presence in the Delta ecosystem, and to develop specific Best Management Practices and a better understanding of the effectiveness of BMPs as a mitigation measure. CALFED should take advantage of the information that these firms are developing and use it as a resource. These firms are both very willing to share the information.

Programmatic EIS/EIR: DRAFT

Page 6.1-65, fourth paragraph

The document mentions that the Central Valley RWQCB Basin Plan "prohibits the discharge of irrigation return flow containing certain pesticides (including carbofuran) unless management practices approved by the Board are allowed". It should also be mentioned that the management practices which apply to carbofuran are embodied in the Rice Pesticide Management Program developed and administered by the Department of Pesticide Regulation. This program has generally been viewed as a model best management practices program and can be credited with significantly reducing the presence or rice pesticides in the Sacramento River. Specifically it has resulted in reducing the discharge of carbofuran to the point that the Regional Board removed carbofuran from its 303(d) listing for the Sacramento River.

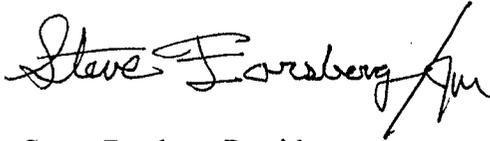
Page 7.1-23, Contaminant Input and Movement

This section suggests ways to reduce contaminant input. Among the bullet items listed is "development of more benign application techniques and use of less toxic agricultural and industrial chemicals". In our view this is an entirely inappropriate approach for

CALFED to be considering. The issue is not the toxicity of the chemicals being used, rather it the risk to aquatic organisms, which includes consideration of exposure. The scientific approach to this issue would consider exposure and toxicity together as an evaluation of risk. Neither should be looked at in the absence of the other. The exposure can be mitigated, the toxicity cannot. CALFED should be addressing how to manage the risk and the potential for adverse impacts and avoid the political quagmire of "toxics use reduction".

Thank you again for this opportunity to provide our comments on the Draft Programmatic EIS/EIR. The Western Crop Protection Association is ready to answer any questions you may have regarding these comments and looks forward to continuing to participate in the CALFED process.

Sincerely,

A handwritten signature in black ink that reads "Steve Forsberg" followed by a stylized flourish.

Steve Forsberg President,
Western Crop Protection Association

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WESTERN
CROP PROTECTION
ASSOCIATION

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