

Summary of July 27, 1999 meeting concerning potential impacts to agricultural resources resulting from the Comprehensive South Delta Program.

Participants: Steve Shaffer, CDFA; Rick Soehren, CALFED; Frank Wernette, DFG

Key Discussion Items:

Rick summarized organization of the SDCP – Stein Buer, Implementation Coordinator; Rick as ERP implementation coordinator under the direction of Dick Daniel; and Frank as the State lead agency representative.

Rick indicated the need for habitat development in South Delta due to conveyance improvement actions. Problem is that there is not much publicly owned land in South Delta. Land acquisitions are foreseen. Driving forces are:

- FWS/NMFS jeopardy opinion for delta smelt and splittail
- MSCS
- CMARP
- Stage 1 South Delta ERP vision being developed by Terry Mills

I asked how these all integrate into an implementation plan. Rick will lay that out in a future communication.

I indicated that land acquisitions need to be prioritized according to the South Delta Stage 1 ERP. This SDERP needs to be developed based on the ERPP but with significant external input to CALFED. Get the locals (RCDs, RDs, Farm Bureau, SDWA, etc.) involved early and often. Criteria for acquisition need to be established, based on measurable objectives and testable hypotheses. Frank indicated that there is not enough information to establish a clear vision yet, but there are several testable hypotheses worthy of investigation using the adaptive management approach. This led to a discussion of willing seller land acquisitions. I also expressed concerns over the lack of scientific justification for a massive permanent reallocation of agricultural resources for habitat purposes. If it can be scientifically demonstrated that reasonable benefits to water supply reliability will result from these actions, agriculture as a whole is more likely to support them.

We then discussed CEQA issues. I expressed that it is the CDFA view that for an agricultural land acquisition project, the impact occurs at the time of acquisition, and therefore, the proper environmental documentation must be prepared at that time. Frank said this was a change in approach from the past – that the impact occurred when the land actually came out of agricultural production. We also briefly discussed whether or not Categorical Exemptions from CEQA are appropriate for these projects. We also discussed the linkage between land and water and the effort to develop an accounting method or process that could lead to reasonable agricultural mitigation assurance. We

discussed various other potential mitigation strategies. One idea was to use an approach similar to USDA-NRCS Conservation Reserve Program that does not remove land from agricultural production permanently.

I also voiced agricultural concerns and CDFA concerns that the treatment of agricultural mitigation and cumulative impacts in the PEIS is not adequate. There are no real assurances that agricultural mitigation will in fact be incorporated into specific CALFED projects.

We also discussed a potential role for CDFA is assisting CALFED in building stronger relationships with the agricultural community. This would entail CALFED informing CDFA very early in the process of a potential land acquisition. As a CALFED agency, CDFA would be bound by confidentiality provisions while the lead agency was negotiating the acquisition. CDFA would alert CALFED to potential issues of concern, identify potential agricultural cooperators in an area and serve as a liaison. CDFA would then be a positive, timely information source for the agricultural community concerning CALFED activities affecting agriculture.

I left with Rick and Frank a one pager, "What Does Agriculture Want" for discussion purposes.

Action Items:

- Steve will keep Rick and Frank informed as to the progress of the effort to develop an agricultural mitigation process.
- Steve will discuss the relationship building activities and confidentiality issue with CDFA management and report back. Rick and Frank will do likewise on the CALFED side.
- Steve will review and compile current agricultural mitigation language in the PEIS/R, Phase II Report, etc. This compilation will be submitted to Rick for response as to how existing language is envisioned to be implemented in the context of the South Delta Program.
- Next meeting is tentatively scheduled for August 13th at 9 am.

What Does Agriculture Want?

- Recognition that agricultural resources are part of the existing environment and deserve to be protected just as other features of the existing environment deserve protection
- Equal treatment by CALFED under CEQA in terms of mitigation of adverse impacts to the existing environment as related to agricultural resources
- Full disclosure of issues, actions, impacts, potential mitigation measures as required by CEQA – proper use of a Programmatic EIR
- Inclusion of an agricultural resources mitigation policy at the programmatic level that provides assurances that agricultural resources will be recognized and protected.
- Appropriate assurances such as:
 - avoid “land and water grab” by spelling out how policy statement below will be implemented – “The general priorities for restoration actions will be first on existing public lands as appropriate, second to work with landowners in voluntary efforts to achieve habitat goals including acquisition of easements, third a combination of fee and easement acquisition, and fourth on acquisition of fee title as necessary to achieve program objectives.”
 - Limit new acquisitions to x% of agricultural land in a geographical area (e.g. county)
 - bring new acquisitions to full functionality before new acquisitions are made
 - assure long-term O&M of projects before new acquisitions are made
 - monitor for successful performance before new acquisitions are made
 - require that each acquisition/restoration project has both a State and Federal lead agency so that each project must comply with both CEQA and NEPA
 - support legislation that makes CDFA a Responsible Agency under CEQA for protection of agricultural resources on a state-wide basis
 - water rights associated with land acquired stays under local control for agricultural purposes. This water may be transferred via willing buyer/seller arrangements for ERP/EWA purposes that reduce system conflicts and therefore improve WSR to other agricultural users.
 - any additional water required by ERP to be identified and developed by CALFED agencies.
 - agricultural land easements program that includes at WSR (water rights) feature
- New affordable timely storage
- Protection of water rights
- Safe harbor from ESA, CESA