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October 14, 1999

Via fax: (916) 657-5017

Mr. A. J. Yates, Deputy Secretary
Department of Food and Agriculture
Post Office Box 942871
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Dear A.J.:

The South Delta Water Agency Board is appreciative and in strong support of your efforts to see that CALFED achieves a balanced program with tangible benefits to agriculture and protection of agriculture from redirected impacts.

The full disclosure of adverse impacts to agriculture under CEQA, and the required avoidance, reduction, and mitigation of those impacts as required by law under CEQA is clearly a very important tool for protection against redirected impacts caused by CALFED's actions. We believe that other measures will also be required in order to assure that CALFED achieves "balance" among urban and environmental and agricultural benefits, and in order to comply with the recognition in the Phase II report that "One of the major principles of the State's agricultural policy is to sustain the long-term productivity of the State's agriculture by conserving and protecting the soil, water, and air which are agriculture's basic resources." In other words CALFED must avoid adverse impacts on agriculture caused by actions under its program, but it must also see that its inactions do not result in a long-term loss of agricultural productivity. This loss can result from failure to correct the ongoing depletion of natural resources. For example, agricultural productivity will decline significantly if CALFED refuses to correct the unsustainable overdraft of groundwater without which we can not survive droughts, and the salinization of south Central Valley soils and groundwater if its plan does not provide for removal of imported salt from the south Central Valley. Even these measures will not avoid the loss due to urban sprawl.

The rest of this letter will first offer suggestions on your draft "Strawman Proposal" and the "April 8, 1999 draft Impacts Mitigation Plan" which emphasize protection from impacts. We

will then discuss the need to avoid the decline in agricultural productivity that will result if CALFED fails to address the on-going depletion of the natural resources needed to sustain agricultural productivity. Population growth is substantially increasing the need for agricultural products, so a decline in production would have serious social consequences.

Suggestions regarding the "Strawman Proposal" and
the "April 8 draft Mitigation Plan."

In order to address the adverse impacts to agriculture that result from CALFED programs, there must be agreement up front on three related areas.

1. That there are significant adverse impacts resulting from the conversion of agricultural lands to habitat and resulting from transfers of water from agricultural lands;
2. The potential impacts must be identified; and
3. The acceptable methods of avoidance and/or mitigation must be identified.

Absent this agreement becoming part of the Programmatic EIS/EIR, the Preferred Alternative, and a further revised Phase II Report, we will simply be hoping that the process will do the right thing. Experience shows that hope is unfounded.

Conversion of agricultural land to habitat. Any decrease in prime agricultural land is necessarily a significant adverse impact. Since there is almost no unused supply of prime agricultural land, there is no method by which a decrease can be mitigated by substituting unused land. Therefore, CEQA requires that alternatives to avoid this impact be considered. Since there is currently a substantial amount of state and federal land in the Delta available for use/protection as habitat, CALFED should only act to use that land. Additional need would only be recognized if there is a showing that the increased habitat is necessary. If the increase need is necessary to offset the harm to fish and wildlife resulting from the export pumps, that need cannot be satisfied because it redirects impacts. When loss of ag land cannot be prevented, it may only be possible to secure other benefits to agriculture such as increasing the water supply for other ag lands that have inadequate supplies in order to increase production from those other lands.

Loss of Agricultural Water. Since there is no identifiable unused yield that is available in non-wet years, a decrease in the amount of water for agriculture results in the same significant adverse effects as does decreased acreage. In this case, there is a potential for mitigation by increasing water yield, so the result must be either avoided or mitigated.

To mitigate the loss of the agricultural water, the lost water must be replaced either through new yield, or transfer. New yield must be the capture of water previously unavailable for beneficial use. For a transfer, the water must be a decrease in non-agricultural consumptive

use. [Under current jargon, acquisition of new water typically results in a reallocation of the water which deprives legal users other than the sellers of the use of the water.] A priority of use for this mitigation water must be developed to insure that it benefits ag, and thus mitigates the original loss. The priority should make the water available for: (1) groundwater recharge in the area which lost the original agricultural waters; (2) groundwater recharge for other areas hydrologically connected to the original area; (3) Delta Protection Statute needs; and finally (4) other agricultural needs pursuant to bidding.

It appears that the water in a "mitigation" water account would need to follow the above proposal because we should not rely on CALFED to develop a fair method of reallocating the water. It is not clear what would happen if an acceptable plan is not or cannot be developed.

In addition, the following principles must be incorporated into the Strawman proposal and eventually into CALFED's Phase II Report:

A. Redirected Impacts. If exports are anticipated to increase and yet it is assumed that permit conditions of the Bureau or water quality objectives will not be met, impacts are being redirected. Therefore, any increase in exports, or increase in use by the environment should occur only after CALFED develops a plan under which relevant permit conditions and water quality objectives will be met on a regular basis. In other words, the first priority for addressing the mismatch between supply and use is to make sure that the supply is currently allocated to meet current regulatory obligations. Meeting non-regulatory "wants" must be a lower priority.

B. FONSI's/Negative Declarations. Clarify that "full project-specific environmental documentation" includes cumulative impacts and means no FONSI's; and particularly no implementation on the basis of FONSI's written by, or under the influence of parties with conflicts of interest. Absent a change in NEPA and CEQA, CALFED should address public concerns regarding the current practice of a project proponent concluding that the project has no significant adverse effects. CALFED should adopt a policy that precludes a project proponent from issuing its own FONSI or Negative Declaration based on the inherent conflict that exists. The alternative is to have a third party conduct the investigation and evaluation. Again, this unfortunately relies on the process. It is better to have the initial conclusions set forth so that any particular project cannot simply draw conclusions contrary to the CALFED policies.

C. Critical Review. Clarify that assurance of "scientific justification" means review by an objective technical panel which includes all relevant scientific and engineering disciplines. For example, hydrologists are needed to be sure that biological opinions are based on a correct understanding of hydrology, and experts in flood flows should evaluate the effect at habitat enhancement on flood flow capacity.

D. Cumulative Impacts. Cumulative impacts must include impacts on related services and rural communities. Each and every CALFED project contributes to cumulative impacts on agricultural resources. As you know, decreased agricultural water or land causes a myriad of adverse effects on the suppliers of goods and services as well as decreasing the tax base for counties and reclamation districts.

Balance among Urban, Environmental, and Agricultural Benefits]

CALFED proposes that urban water must be used efficiently, but that the urban water supply, subject to efficient use, must increase as the population grows. CALFED also commits to supplying urban source water of a quality that is better than they now have, and that can be treated to meet anticipated future potable water quality requirements. It further proposes that this be feasible at a cost to urban users that will permit continued use of potable water for all purposes including flushing toilets. Less than one percent of the urban supply is actually imbibed.

CALFED proposes that there be substantial increases in water and land for environmental purposes almost regardless of cost and that this be sufficient in quantity to support CALFED's proposed increase in the aquatic and riparian environment.

In order to provide a balanced approach to agricultural benefits CALFED should require that agriculture must also use water efficiently, but the water supply available for consumptive use of water in producing agricultural products within the Central Valley must be increased to meet the increase in need for those products as the population grows. CALFED should also require that the quality of water delivered to agriculture must be adequate for efficient agricultural use and sufficient in quantity to maintain the reuse of unconsumed water that now occurs.

Measures to Protect Ag from Decline Due to Depletion of
Natural Resources

CALFED will not "sustain the long term productivity of the State's agriculture" if its plan does not reverse the ongoing depletion of natural resources that are needed to sustain agriculture.

The large overdraft of groundwater which now gets us through droughts is unsustainable. The plan must provide replacement for that overdraft. If it does not do so, the depletion of the limited groundwater resource will accelerate as the population grows.

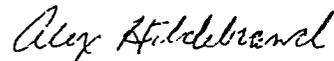
The continued net importation of tens of millions of tons of salt that is dissolved in water imported into the south Central Valley is also unsustainable. If these non-indigenous salts are not removed from the valley, they will slowly but surely destroy one of the finest agricultural regions in the world. This destruction will be largely irreversible.

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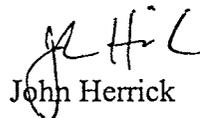
Sustaining the supply of agricultural products is important to the future of our children. To do so will require developed water to replace unsustainable overdraft, and it will require restoration of a salt balance in the mouth Central Valley. We could not sustain the current level of population without the developed water supply and the conveyance systems we now have. We can not provide for California's future population if we continue to live by depleting and destroying our groundwater and our fertile soils. We must do the best we can to protect the environment. However, we must accept the unfortunate fact that the root cause of environmental degradation is the physical human presence, and the demands for land and water to support the social needs and desires that result from population growth. We did not need large dams seventy years ago when the population was very much smaller. However, as the population grows and the demand for food, housing, jobs, and water related recreation continues to increase, we will need even more water than we have now.

We again thank you for your tireless efforts on behalf of the agriculture that is so important to the future of California. We believe the measures you are proposing are important and should be pursued. In order to achieve balance and sustainability we believe that even more is necessary.

Sincerely,



Alex Hildebrand



John Herrick

AH/JH/dd

cc: Resources Secretary Mary Nichols
Assemblyman Mike Machado
Central Delta Water Agency
Margit Aramburu
Congressman Richard Pombo
Lester Snow
Steve Mello