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September 23, 1999

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Mr. Lester Snow
Program Director
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1416 Ninth Street, Suite 1155
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Dear Mr. Snow

Subject: Comments on the Draft Programmatic EIR/EIS for the CALFED Bay-Delta Program

Thank you for the opportunity to comment on the Draft Programmatic EIR/EIS for the CALFED Bay-Delta (Draft EIR/S). Alameda County Water District (ACWD) serves drinking water to over 310,000 San Francisco Bay Area residents in the cities of Newark, Union City and Fremont. As a water retailer, it is the mission of ACWD to provide a reliable supply of high quality water at a reasonable cost to our customers. A viable Bay-Delta solution is especially important to ACWD since the State Water Project, from the southern Delta, supplies more than half the water served to our customers. ACWD also imports another 30 percent of its supplies from the San Francisco Hetch-Hetchy system that is tributary to the Bay-Delta.

Given the obvious importance of the Bay-Delta and its water supplies to ACWD, the ACWD Board of Directors adopted a resolution regarding solution principles for the CALFED Bay-Delta Program on May 14, 1998, (these principles were also included in our June 30, 1998, comments on the first draft of the CALFED EIR/S). The following comments assess whether the CALFED solution identified in the June 1999 environmental documentation meets the ACWD solution principles. As a California Urban Water Agencies (CUWA) member, ACWD also supports the comments provided by Mr. Byron Buck, CUWA Executive Director.

ACWD Solution Principle 1: The CALFED solution must provide the highest quality drinking water source reasonably available, such that currently available advanced water treatment technology can meet probable future health-related drinking water standards.

The single most critical issue for ACWD is drinking water quality and the protection of public health. To assure its customers a high quality drinking water supply, ACWD has already invested in advanced water treatment technology to deal with the quality of water exported from the southern Delta. Our 28 mgd ozonation-biological filtration treatment facility cost \$47 million. Yet, ACWD's advanced treatment facility currently does not meet the expected Stage 1 disinfection by-product standards. For example, bromate levels in our treated water periodically exceed the proposed Stage 1 standard for bromate. Also,

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maximum contaminant levels for bromate and other brominated disinfection byproducts, due to their health risks, are expected to be lowered even further in the Stage 2 regulations. Even the best available technology, for technical and economic reasons, may not be able to meet future drinking water standards without a sufficient improvement in source water quality in the Delta.

ACWD supports achievement of CALFED's long-term water quality objectives of 50 mg/l bromide and 3-mg/L total organic carbon (TOC) or an equivalent level of public health protection through a cost-effective combination of conveyance changes, alternative source water, source control, and treatment. While the long term goals are appropriate, ACWD is concerned that within the Water Quality Program Plan it is acknowledged that the Stage I actions will not in themselves reach the goals and that achievement of those goals are dependent on future decisions related to storage and conveyance or other non-source quality actions.

Most of the actions can at best be characterized as pollution prevention actions that will help slow further degradation of water quality in the Delta; however, there is little or no evidence that the proposed actions will actually improve water quality in the Delta beyond existing conditions. The Drinking Water chapter of the Water Quality Program Plan describes the limitations of the Water Quality Program actions with respect to improving drinking water quality and achieving reduced levels of bromide, TOC and salinity (pages 3-3, 3-11 and 3-46). CALFED states that Water Quality Program actions are not likely to achieve reductions in bromide and in salinity derived from seawater intrusion, and points out that the feasibility of actions to reduce TOC is largely unknown. In addition, CALFED points out that implementation of Ecosystem Restoration Program actions may result in increased levels of TOC in the Delta. Given this information, the CALFED goal of continuous improvement in drinking water quality and CALFED targets for water quality improvement clearly cannot be achieved during Stage I. This situation is unacceptable and points to the need for CALFED to develop and commit to a set of actions to ensure drinking water quality improvement goals are achieved.

In both the Water Quality Program Plan and the Revised Phase II Report, CALFED introduces the concept of the Drinking Water Quality Improvement Strategy. ACWD supports the overall concept of the Strategy, but is concerned that there is insufficient detail to evaluate whether or not it will be effective. However, the only actions described in any detail are the source control actions described in the Water Quality Program Plan, whose limitations we note above. CALFED makes no commitment as to timing, decision process or implementation of the other elements of the Strategy. To achieve continuous improvement in water quality and meet CALFED goals, CALFED must establish a clear set of actions and a schedule for implementing all elements of the Drinking Water Quality Improvement Strategy in a balanced manner starting early in Stage 1. It is not acceptable to implement source control actions only in Stage 1 and wait for a determination of their feasibility and effectiveness before implementing the other elements of the Strategy when CALFED itself states Stage I actions are not sufficient to the task at hand.

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CALFED must also adopt intermediate milestones for drinking water parameters such as bromide and TOC. Intermediate milestones are needed to indicate whether CALFED has achieved its stated goals of continuous improvement in water quality during Stage 1 (the first 7 years) and to ensure that urban agencies treating Delta water can comply with drinking water requirements using cost-effective feasible technology. We concur with CUWA's recommendations for intermediate water quality milestones as stated in the letter to Lester Snow dated May 20, 1999. These were a bromide concentration <300 mg/L and TOC concentration <4.0 mg/L by 2002 and bromide <100-150 mg/L and TOC <3.5 mg/L by 2005. Any inability to meet these intermediate milestones should trigger immediate escalation of planning activities for conveyance facilities that may be needed to meet long-term water quality goals.

ACWD strongly supports the proposal to establish a Delta Drinking Water Council to advise CALFED on changes needed in the CALFED Program to achieve drinking water quality objectives, and review work by independent expert panels related to drinking water issues. The Drinking Water Council is also tasked with preparing findings at intermediate stages during Stage 1 (2003 and 2007) assessing trends in Delta water quality, trends in treatment technology and regulation and recent findings and summary status of human health effects of disinfection byproducts.

The Delta Drinking Water Council should include representatives from agencies responsible for regulating drinking water, urban drinking water agencies that treat and deliver Delta water supplies and regions potentially physically affected by facility decisions recommended by the Council. As urban drinking water agencies are responsible for delivering safe drinking water that meets all state and federal regulations, they should have a proportionally greater representation on the Delta Drinking Water Council to ensure meaningful representation.

The Council is proposed by CALFED as a BDAC subcommittee. ACWD believes that the Council must have direct access and reporting to the CALFED Water Policy Group and BDAC.

ACWD Solution Principle 2: The CALFED solution must improve the reliability of the District's imported supply from the State Water Project and should not preclude the development of additional future water supplies that may be transported via the Bay-Delta. In addition, the CALFED solution must include assurances that the water supply quality and reliability *already paid for* by water users, as part of the Bay-Delta solution, will continue.

ACWD has completed an Integrated Resources Planning Study (IRP) which provides a blue print for providing water supplies to current and future residents. The IRP identifies a supply shortfall of up to 46,000 AF/yr during critically dry years by the year 2030. This assumes that customers, after implementation of an aggressive water conservation program, will have to even further cut their demand during critically dry years.

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The IRP calls for the implementation of several local projects to reduce ACWD's dependency upon imported supplies. Projects to be implemented include demand management, desalination of brackish groundwater, wastewater reclamation, and additional storage to bank water in wet years for use in dry years. These projects are expected to cover over half the identified shortfall. However, even with these local projects and an aggressive demand management program, ACWD will still need to improve the current availability and reliability of its existing imported supplies. Specifically, ACWD needs to receive 65% of its entitlements from the State Water Project supplies during critically dry years (this compares with the 30% allocation in 1991 during the most recent drought).

ACWD customers have committed more than \$200 million to repay the costs of building, operating and maintaining the State Water Project. The payments are predicated on receiving a 42,000 acre-foot supply. More than 30 years since it began operation, the State Water Project still cannot deliver that amount of water.

The CALFED program provides no targets for improving water supply reliability. Independent analysis of the CALFED proposal shows that the program at best provides less than 200,000 acre-feet of new water and at worst could actually reduce supplies by another 700,000 acre-feet. *CALFED must set goals to improve water supply reliability and aggressively pursue their realization.*

ACWD believes that a combination of new groundwater and surface water storage is necessary to capture water during high runoff periods and improve Delta supply reliability, water quality and ecosystem improvement. CALFED's modeling runs clearly show that flows required for the Ecosystem Restoration Program reduces the reliability of supplies for other uses. They also show that storage can be developed to mitigate these losses and provide for increased reliability to meet CALFED goals. Discussion to this effect should be added in the final report and findings.

As the Program documents point out, conservation will most often not result in new Delta flows unless storage is available in wet years to capture unneeded water. Conservation will generally not help improve water quality unless the water can be stored for use when water quality is poor. High winter flows cannot be captured and stored in sufficient quantity in groundwater because of the slow rate at which water can be injected into groundwater aquifers.

Current modeling indicates additional storage immediately adjacent to and south of the Delta has the greatest potential for producing improvements in delivered water quality and improving supply reliability. The Integrated Storage Investigations should validate this. Such storage would allow the capture of high quality water during flood events which could then be later delivered to water users without being affected by limitations on diversions.

Maintaining balanced improvement under all Program areas is important. To maintain support for the Program, CALFED will need to make a finding under Section 404 of the

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Clean Water Act, through the Integrated Storage Investigation by the time of a Record of Decision. This finding will need to define the approximate amount of surface and groundwater storage necessary to meet program goals. Regional locations for approximate amounts of this storage must be identified. Without storage to provide water to the Environmental Water Account, provide for the new environmental flows called for in the Ecosystem Restoration Plan and improve water quality and water supplies for all consumptive users above the baseline of the Accord and CVPIA, CALFED's water supply reliability goals will not be met and thus balanced implementation would not occur.

ACWD Solution Principle 3: The CALFED solution must include a financial plan based on the principle that the stakeholders/beneficiaries pay for the benefits they receive from the program.

CALFED proposes spending \$4.4 billion over the next seven years, much of it to be raised from water user fees and charges. However, the program documents provide no specificity as to the water supply or water quality benefits to be derived from the program.

CALFED must strive to quantify benefits to each identified beneficiary group. To secure buy-in to CALFED's beneficiaries-pay principle, each beneficiary must be shown identifiable, tangible, and quantifiable benefits in each of the program areas that "beneficiaries" are expected to pay. CALFED defines benefits as "a measure of the willingness of beneficiaries to pay for the flow of services from a program or project ... or to avoid damages..." Using the Water Quality Program as an example, we expect CALFED to demonstrate to an urban water user who is a potential beneficiary expected to pay, the level of reduction in parameters of concern, such as bromide and total organic carbon, that would result from the proposed actions. This "benefit" could then be valued against avoided treatment costs or other measures of willingness to pay.

The technical analysis in the draft EIR/S does not support the benefit's analysis in the Finance Plan, particularly in the areas of supply reliability and water quality. According to the draft EIR/S, the reliability of Delta water supplies may decrease substantially in the future whether or not the preferred alternative is implemented. This conclusion, if correct, does not support the draft finance plan's claim that the Ecosystem Restoration Program (ERP) and Watershed Management Program (WMP) would increase water users' supply reliability.

Analysis in the draft EIR/S does not support the finance plan's apparent assumption that the Water Quality Program (WQP) will provide substantial, or even moderate, water quality and supply reliability benefits to Delta exporters. The Water Quality Program (WQP) Appendix indicates that WQP actions will minimally affect bromide levels, particularly for State Water Project (SWP) users, and will not reduce salinity resulting from seawater intrusion (page 3-11). Actions to control San Joaquin River salinity levels are described in the Appendix as having limited long-term sustainability (page 7-5). The Appendix suggests that organic carbon might be subject to control by drainage treatment, if the

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technology can be proven and if it can be made economically feasible (page 3-46); however, Delta island drainage treatment projects are apparently not proposed for Stage 1. The analysis presented in the draft EIR/S and WQP Appendix does not support the draft finance plan's assertion that the WQP, or other common programs, will provide public health benefits for M&I water users. It also does not support establishment of a fee on SWP exporters to fund WQP actions, one of the funding options identified in the Plan.

Diversion fees assessed to water users can only be supported if they are linked specifically to tangible benefits and are part of a broad, wide-ranging plan that also includes public financing. The draft finance plan appears to single out water users — particularly urban water users — as the source of "deep pockets" that CALFED will tap liberally for the majority of long-term funding. This is true even for programs that may provide broad-based, public benefits, despite how much (or how little) water users stand to benefit. While a broad-based user fee may be appropriate sometimes, it is not a surrogate for public financing sources such as federal and state appropriations, G.O. bonds, etc. CALFED should not shy away from these public financing mechanisms simply because they would require voter approvals. On the contrary, a voter approval process would legitimize the public's willingness to pay for public benefits such as ecosystem restoration and a healthy environment.

ACWD Solution Principle 4: The CALFED solution must promote cost-effective water use efficiency measures that rely on locally determined actions.

ACWD is very supportive of CALFED's desire to maximize water use efficiency as part of the CALFED solution. CALFED's assurance strategy for urban water conservation is to support certification of urban BMP's by the California Urban Water Conservation Council. As a CUWA member agency, ACWD worked with the Environmental Water Caucus to propose to CALFED a framework for that process. We concur with CUWA's conclusion that support of that framework is contingent upon acceptance of an overall CALFED plan acceptable to each organization. This includes assurances for tangible water quality and water reliability improvements for our Delta water supplies. There are also many substantive unresolved issues related to operating details not addressed in the framework and we are not satisfied that CALFED program benefits will be worth the acceptance of a new regulatory burden. These issues need to be resolved prior to a Record of Decision and before we can accept a CALFED decision. Therefore, until a balanced overall program has been adopted, we will not support a certification process.

In addition, we cannot support a certification process until there is agreement on how the BMP exemption and program certification reviews will be conducted. The proposed framework for urban water use certification has the CUWCC as the entity responsible for certification of an agency's water conservation program. Given the significant ramifications of an agency not being certified (i.e., potential fines, inability to transfer water or participate in the drought water bank) and given the fact that the CUWCC (a consortium of water agencies and public interest groups) has never acted as a certifying or regulatory agency, CALFED should take an active role in working with the CUWCC to ensure that a balanced

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and fair process is developed. This process should be an open process with agency programs evaluated on the basis of clear, objective criteria.

A key component of this process will be the cost-effectiveness exemption process that allows a water agency to exempt themselves from BMPs that are not cost-effective in their service area. However, given the great deal of subjectivity in determining the cost-effectiveness of water conservation programs (e.g., the uncertainty in estimating actual savings and persistence of savings), the ability of the CUWCC to challenge an agency's cost-effectiveness exemption should be based solely on predetermined, objective criteria.

In addition, given that costs and savings of conservation measures (as well as avoided water supply costs) will vary throughout the state, the local water agency should have the discretion to use assumptions that make the most sense for their area, which are based on their own local experience and management decisions. As an example, a key component for an agency's determination of which conservation measures are cost-effective are the agency's own avoided cost of supply. The avoided cost of supply is a function of how an agency chooses to manage its supplies. Therefore, the determination of the avoided supply (and its associated cost) must be at the sole discretion of the water agency and its governing board, and not the water conservation certifying entity.

CALFED plans to identify measurable goals and objectives for urban water conservation and recycling by the time of the ROD. Any measurable objectives for conservation must be related to the installation of water conservation devices in urban regions or implementation of other conservation related programs rather than goals of acre-feet savings as a result conservation measures. This is consistent with agreements that led to the establishment of the California Urban Water Conservation Council. Further, ACWD does not support linking numeric targets for urban recycling to decisions on other actions such as authorizing new storage. Recycling of water in urban areas such as ACWD's service area is subject to many variables that affect the feasibility and cost-effectiveness of recycling programs. This variability makes it impossible to accurately predict future recycling amounts and impractical to assure any specific numeric objective will be met without ignoring local conditions and needs and economic reality.

While the issue of salt and water management, including recycling, is discussed elsewhere in the EIR/S, there is no discussion on limits to recycling imposed by high salinity imported water in the Water Use Efficiency Program Plan. The final document should have a discussion of these limitations since water recycling may have significant impacts on underlying groundwater supplies, and on surface water supplies of agencies downstream of recycled water projects. ACWD has already spent significant resources to ensure that upstream recycled water projects do not adversely impact the quality of our local water supplies.

SUMMARY

The success of the CALFED program depends on all the stakeholders having a very specific

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understanding of the benefits they can reasonably expect to receive from implementing the solution's package. While the program outlined in the environmental documents has made progress in some key areas, such as water use efficiency and development of additional groundwater storage, overall the program lacks a real commitment to meet California's needs for an increased and more reliable water supply of high quality. **Those deficiencies must be corrected before this program can successfully move forward. Water supply improvements must be equitably balanced among urban, agricultural, and environmental uses.**

We at ACWD recognize that we cannot look to the CALFED Bay-Delta solution to solve all our problems. We have already invested nearly \$50 million in construction of an advanced treatment facility to deal with the poor quality water exported from the southern Delta. In addition, we are pilot testing ultrafiltration processes to improve drinking water quality. **Yet even with these efforts, we may not be able to meet future drinking water quality standards without significant improvements in source water quality in the Delta.**

In addition, ACWD recently completed an integrated resources plan that calls for the implementation of several local projects to reduce our dependency upon Delta supplies. This plan will require investment in tens of millions of dollars in conservation programs, brackish water desalination, water recycling, and water banking. **Even with these local projects, we will not be able to meet our supply reliability goals without a more reliable supply from the Delta.**

In order for ACWD to provide a safe, reliable drinking water supply to our customers, it is imperative for the CALFED solution to provide tangible and achievable water quality and supply reliability improvements in the Delta. It is not clear that the proposed CALFED solution can meet these requirements. While earlier, CALFED technical analyses demonstrated that other facilities had the greatest potential to improve water quality and provide fishery benefits, most of the preliminary studies necessary to proceed with such a project have been deleted from the documents. **During Stage 1 CALFED must continue planning for, and if necessary, implementing other alternatives, including conveyance and storage, if the proposed preferred alternative does not work. CALFED must clearly set out the conditions that will trigger a full assessment of other alternatives, the time line for such an assessment, and a clear process for making the decision on whether to proceed with those alternatives.**

Thank you for the opportunity to comment on the CALFED Programmatic EIR/S.

Sincerely,



Paul Piraino
General Manager

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