

## DEPARTMENT OF FOOD AND AGRICULTURE



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April 8, 1999

Mr. Lester Snow, Director  
CALFED Bay-Delta Program  
1416 Ninth Street, Room 1155  
Sacramento, California 95814

Dear Mr. Snow:

CALFED is due to release its administrative draft of the Programmatic Environmental Impact Statement/Report (PEIS/R) for agency review on April 23. CALFED and agency staff and managers will then work through final changes to the draft during a three day session beginning May 5. I have assigned Robin Reynolds and Steve Shaffer to this effort to finalize the revised draft PEIS/R so that it may go out for public review as scheduled on June 25.

As you know, I am firmly committed to CALFED's success. The completion of a PEIS/R that can be certified by the lead agencies, and will withstand the inevitable legal challenges is key to that success. It is with this in mind that I am submitting for inclusion in the PEIS/R a section on agricultural resources mitigation. I firmly believe that the current treatment of agricultural mitigation strategies in section 8.1.4.10 of the staff draft does not meet CEQA requirements. I further believe that if this section of the PEIS/R is not improved based on our comments, that it is likely that the document will be subjected to successful legal challenge by members of the agricultural community.

As the Responsible Agency under CEQA for the protection and preservation of agricultural resources, the CDFA has consistently provided CALFED with scoping comments since 1996 pertaining to CEQA requirements for disclosure of impacts and the need for avoidance and mitigation of impacts to agricultural land and its productivity. The document I am transmitting to you via this letter summarizes those requirements and provides the foundation for my view that a CALFED agricultural mitigation program must be described and implemented at the programmatic level. Relying solely on project-level analysis, the strategy currently described in section 8.1.4.10, is not adequate as it can lead to piece-mealing of projects while ignoring cumulative impacts, ignores the fundamental purpose of a PEIR under CEQA, and makes the entire CALFED Program vulnerable.

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CALFED has committed to carrying out a mitigation monitoring program. However, this program is not at all described at a programmatic level in the staff draft. CEQA requires that such a description be included. Section 21081.6 of the Public Resources Code spells out the CEQA requirement to implement mitigation measures and to monitor and report on the effectiveness of mitigation implementation. The Governor's Office of Planning and Research document titled Tracking CEQA Mitigation Measures Under AB 3180 provides very helpful guidance on this issue.

I have told Robin and Steve to spend the time necessary with your staff to ensure that agricultural impacts and mitigation are discussed fully in the PEIS/R so that the document fully complies with CEQA. Full compliance is the strongest assurance that the PEIS/R will be certified and will survive any and all legal challenges. This is fundamental to CALFED's success.

Please feel free to contact me should you wish to discuss this matter further.

Sincerely,

William J. (Bill) Lyons, Jr.  
Secretary

Enclosure: April 8, 1999 draft Agricultural Impacts Mitigation Plan