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BY FACSIMILE AND U.S. MAIL

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Gentlemen:

Proposed San Joaquin River Program

We are writing in reference to your April 10, 1996 letter to Mr. John Caffrey regarding a proposal being developed cooperatively by San Joaquin River and export interests to (1) resolve litigation which now threatens the 1994 Bay-Delta Accord and the 1995 Water Quality Control Plan (WQCP) and (2) increase environmental protection measures on the San Joaquin River. Your letter to Mr. Caffrey contains some serious misrepresentations. In fact, the proposed San Joaquin River program would expand the consensual basis for expeditious Bay-Delta solutions, including for the first time members of the San Joaquin Tributaries Association (SJTA) and the San Joaquin River Exchange Contractors, as well as the Friant Water Authority. The proposal is entirely consistent with the letter and spirit of the Bay-Delta Accord and indeed would increase the level of environmental protection for San Joaquin River salmon above the levels that could be achieved within the Accord itself. Before proceeding with the development of the proposal by seeking comments from stakeholders and eventually submitting it for consideration by the State Water Resources Control Board, we believe that it is imperative to address some of the issues raised in your April 10 letter to Mr. Caffrey.

1. The Environmental Water Caucus (EWC) Misrepresents the Provisions of the Bay-Delta Accord.

We are concerned that the EWC has in a very public manner asserted an extreme interpretation of the intent of the Accord which is not shared by the urban and agricultural interests who were parties to the agreement. With respect to San Joaquin River protections, the EWC misrepresents the requirements of the Accord and on the basis of these misrepresentations has gone so far as to accuse water interests of "abandoning" the Accord.

In fact, San Joaquin River issues were a significant stumbling block in achieving closure on the Accord for at least two reasons. First, as generally recognized by agency and stakeholder biologists alike, there is a paucity of adequate scientific information upon which we can base sound policy decisions regarding the level and manner of environmental protection for the San Joaquin River salmon fishery. Second, as the SJTA emphasized when

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it filed legal action against the Water Quality Control Plan based on the Accord, the 1994 negotiations were conducted without the participation of upstream entities which could be affected by the full implementation of any San Joaquin River protections.

For these reasons, the Accord was cautious in its approach to the San Joaquin River. Contrary to the assertions of the EWC, the Vernalis flow measures in the Accord were, in effect, placeholders until better information could be developed. The Accord specifically recognizes the need to develop adequate scientific information so that San Joaquin River issues could be better addressed at the next triennial review. More important, during its three-year term, the Accord expressly recognized that only the United States Bureau of Reclamation (Bureau) would take actions to implement a Vernalis flow requirement. Further, it was recognized that New Melones Reservoir would be the only facility available to the Bureau for this purpose and that New Melones alone would not have sufficient capacity to fully meet the Vernalis requirement. The Accord intentionally did not create any obligations for the San Joaquin River interests who were not at the negotiating table. As such, the Accord fully recognized that the interim Vernalis requirement would not be fully implemented during the three-year term of the agreement and that development of binding long-term requirements would require better science. Your assertions that failure to immediately and fully implement the Vernalis flow elements in the Water Quality Control Plan (WQCP) represents an abandonment of the Accord are neither accurate or helpful.

Similarly, we are concerned about recent interpretations by the environmental community of provisions at the heart of the Accord. The core intent of the Accord, and the subsequent 1995 WQCP, was to allow for near-term changes in the operations of the federal Central Valley Project (CVP) and the State Water Project (SWP) in order to better protect the environment. The contractors of these projects supported these changes -- which are estimated to cause supply losses to water users during critical years averaging more than one million acre-feet -- because the Accord also promised benefits from more certainty in project operations and assurances of a regulatory decision-making process that would be more balanced, reflecting economic and social concerns as well as biological concerns. We remain committed to the operation of the water projects upon which we rely in full compliance with the Accord. However, we share the concerns expressed recently by the California Urban Water Agencies in a letter to Mr. Roger Patterson dated March 27, 1996 that interpretations of the Accord by the environmental community would have the effect of denying the water community the certainty that is required for the health of California's urban and agricultural economies.

2. The EWC Letter Misrepresents the Proposed San Joaquin River Program which will Increase, and Not Detract from, the Environmental Benefits Generated by the Accord.

Far from abandoning the Accord, the proactive approach being proposed by a broad-based coalition of San Joaquin River and export interests will provide protections for San Joaquin River salmon fishery that go beyond the specific requirements of the Accord. While it is not our intent to fully describe the proposal here, we urge the EWC to consider several general features of the proposal as it is discussed and finalized in the next few months. First, in the true spirit of the Accord, the proposal represents a significant expansion of the consensual approach that was the hallmark of the Accord, reaching upstream to include interests previously unrepresented in negotiations about the Bay-Delta. Under the proposal, upstream project operators other than the CVP and SWP would for the first time enter agreements to assist in providing environmental benefits in the Delta. Second, because the proposal represents a consensual approach, it can be implemented immediately, providing a greater degree of both nonflow and flow elements to improve the environment on a faster timeline than contemplated in the Accord, and will remain in effect far beyond the three-year term of the Accord. Third, we are not proposing a change in the Vernalis flow requirement in the WQCP. While we have serious concerns regarding the scientific basis of this element of the Accord, we agree that the triennial review provides the best opportunity for revising the standard, as contemplated in the Accord. Fourth, it is important to recognize that the proposed program is not intended to preclude other actions to improve fisheries and habitat in the San Joaquin River watershed, including additional purchases of water on a willing-seller basis and other appropriate actions. Finally, the proposed settlement includes dismissal of the SJTA litigation which could result in the complete abrogation of the Vernalis requirements, if not the entire WQCP.

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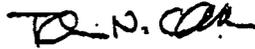
3. The EWC has Prematurely Judged the Proposal, Before being Fully Briefed on its Content.

We were quite frankly surprised at the strident, highly public opposition expressed in your April 10 letter, because we have not yet had the opportunity to brief you or other key interests regarding the details of the proposal. In cooperation with the San Joaquin River interests, we had intended to begin in mid-April a series of technical and policy meetings designed to discuss the proposal with others and to solicit comments for possible modifications. However, the first of these meetings was canceled largely due to concerns expressed by the environmental community. We believe that the proposal is based on sound analysis and concepts. At the same time, we recognize the value of exposing the proposal to critical comment before it is finalized. Certainly, the State Water Resources Control Board has an obligation to undertake a public process before it acts on the proposal.

Because we believe that there is substantial merit to the proposal, we intend to proceed with its development in cooperation with the broad based group of export and San Joaquin River interests which participated in its development. We sincerely hope that the environmental community and others will participate in this process so that we have a better chance of achieving the promise of the Accord in developing balanced, broadly supported solutions for the challenges in the Bay-Delta watershed.



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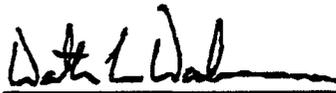


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Anson Moran
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for



Robert Smith
Assistant General Manager
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Hon. Barbara Boxer
Hon. George Miller
John Caffrey, Chair, SWRCB
Carol Browner, Administrator, EPA
Douglas Wheeler, Secretary, Resources Agency
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