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December 2, 1997

Cindy Darling and Kate Hansel  
CALFED Restoration Coordination Program  
1416 Ninth Street, Suite 1155  
Sacramento, CA 95814

**Re: Kern Water Bank**

Dear Cindy and Kate:

I regret that, due to travel, I will not be able to attend Thursday's Ecosystem Roundtable meeting. I have, however, reviewed portions of the November 26, 1997 Roundtable packet, and want to be absolutely clear about one thing in my absence: EDF opposes the CALFED policy group's proposal (listed as Agenda Item C) to siphon off \$15 million in FY98 Bay-Delta Act funds to implement a Short Term Water Reserve Account within the Kern County Water Agency -- an Account that Interior could evidently "choose to use" only under narrowly defined circumstances, and then only with the approval of both DWR and the State Water Contractors.

In our view, the proposal's supposed ecological restoration benefits are neither described nor documented, and thus are highly suspect. More to the point, EDF sees no lawful basis for making payments (or providing water) to CVP water contractors -- the real intent of establishing this account as described -- as any part of the Department of the Interior's 11/20/97 5-year decision and plan for implementing the CVPIA's 800,000 acre foot provision.<sup>1</sup>

Even if others do not agree with our legal and policy views and believe that westside CVP contractors are deserving of additional federal taxpayer subsidies, the recent lawsuit filed by the SLDMWA undermines their argument. The Authority has chosen litigation as a path to deny the fisheries even the minimal protections contained in Interior's November 20 decision. They should not be awarded another federal bailout in return.

<sup>1</sup> Interior's November 20 decision makes two very clear points with respect to its appended "Toolbox" measures: (1) they are expressly "de-linked" from the specific AFRP (fishery restoration) actions included as part of that decision; and (2) they are supposed to be paid for by those who benefit therefrom. Unless and until it can be shown that the environment will benefit directly and above "baseline" levels from an investment in the Kern Water Bank (or in any other Toolbox measure), environmental funds should not be used to pay for them.

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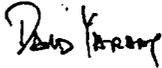
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EDF supports creative and priority use of available ecosystem funds, and we do not categorically rule out use of such funds to invest in appropriate groundwater storage. However, no such commitments should be made unless and until the Roundtable's evolving scientific and technical evaluation process demonstrates that groundwater storage is, in fact, a near-term ecosystem priority, and that the use of such storage is directly linked to well-defined operational actions that provide material above-baseline restoration benefits to the Central Valley's fishery and wetland resources.

Finally, EDF finds it ironic (to say the least) that this year's elimination of the CVP Restoration Fund's \$14 million dry year water acquisition reserve is now followed by the proposed \$15 million water contractor set-aside in cooperation with an entity (the Kern County Water Agency) whose consultant has argued against the use of the CVPIA funds and authorities provided by law to acquire dry and/or critical year environmental water supplies. (We have asked for KCWA for their official views on this matter, but have yet to receive a reply.) Reinstatement of the Restoration Fund water acquisition reserve should be the CALFED policy group's first "reserve account" priority, not the Kern Water Bank.

Thank you and sincerely,



David Yardas  
Senior Analyst

P.S. Please distribute copies of this letter at Thursday's Roundtable meeting. Thank you.

cc: Lester Snow