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MEMORANDUM

To: Stein Buer/Michael Heaton
From: Cynthia Koehler
Date: September 25, 1998
Re: Assurances

This is a quick summary of some of our thinking on the assurances/entity issue.

Basic Assurances Needed For The Ecosystem Restoration Program

CALFED has predicated a great deal on its "assurances package" suggesting to all stakeholders that once a deal is struck, the assurance package will provide program equity and ensure that program goals will be met -- or not met -- to the same degree. EWC has approached the ecosystem restoration assurances issue by asking: "What will it take to ensure that the performance standards established by CALFED will in fact be achieved over time?" Given the nature of the ERP, the following assurance mechanisms at a minimum will be needed:

1. **Environmental Water.** Water will be required for the restoration program to succeed, almost certainly in amounts above the current regulatory baseline. Since currently available "assurances" [e.g., CVPIA, CWA water quality standards] have not been able to ensure that even the baseline level of water is actually provided to the environment on a reliable basis, additional mechanisms will be required including at a minimum:
 - an instream water right
 - a new type of statutory dedication of water
 - a functioning water market

2. **Environmental Money.** The eco-program presumes little if any regulatory reallocations of water or land and is predicated instead on the assumption that large amounts of funding will be available, *inter alia*, to do habitat restoration projects, conduct monitoring and adaptive management and buy water. This will require some combination of dedicated federal, state and water user money. The more these funding streams are vulnerable to political whim, the less certain they will be and the less certain it is that the program will be effectively implemented.

3. **An Implementing Body.** The ERP/Strategic Plan is an ambitious undertaking requiring a vast array of tools and authorities. In order to "assure" the success of this Plan, some body must have primary authority for Plan implementation and adaptive management. We are aware of no single agency (or other entity) with the full range of tools and authorities available to it to successfully undertake this role. Nor is it likely that the performance standards could be met merely through a coordinated effort of existing agencies pooling their existing authorities; "assuring" the ecosystem program will require a full-time staff with a clear mandate to achieve these objectives and all of the necessary, but appropriate, tools to do so. (I have attached a briefing paper originally prepared for EWC that outlines the case for a new entity.)