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23443 S. Hays Rd.  
Manteca, CA 95337  
February 7, 1997

Sunne McPeak, President and CEO  
Bay Area Council  
200 Pine St., Ste. 300  
San Francisco, CA 94014

Re: Water Transfers and SB15

Dear Sunne:

Following up on our discussion on January 30, I attach a copy of the Hildebrand-Herrick critique of the proposed Model Water Transfer Act. The document is entitled "Comments by the South Delta Water Agency on 'A Model Water Transfer Act for California'", now in SB15.

We believe the proposed Model Act is seriously flawed in several respects including inadequate protection of third parties including parties downstream of sellers and diverters with limited resources; short term exemptions from impact scrutiny which can be manipulated to become long term exemptions; shifting the burden of proof to potentially injured parties; the potential adverse effect on other riparians if riparian water is transferred per Section 207; ambiguity in respect to the end use of water sold for environmental purposes and the consequent responsibility for impacts; the repeal of statutes affecting permits other than transfers; etc.

The Act could be modified to address some of these concerns, but we believe there is a broader issue. Transfers do not create water. They reallocate it, and the reallocation being sought is obviously from agriculture to other uses. We believe that free marketing of water among purposes of use is bad public policy and is inconsistent with the way the lands that use the water are marketed. The State's lands are zoned for compatible and proportionate uses in the public interest. We then free market lands within those restraints on purpose of use. Lands that are zoned for a particular use should retain the water that has been available and is needed to sustain that use.

A largely unrestricted free market will transfer a lot of water away from agriculture. Public funds are now available to outbid agriculture for environmental water, and urban users for whom water is a minor budget item can always outbid agriculture for whom water is a major budget item. This results in impacts in addition to those on local economies and local labor. It will also gradually effect the cost and diversity of the food supply. The State has no plan regarding how it will feed the twenty million more Californians that are expected in less than three

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decades. We can continue in some degree to reduce the water applied to crops, but we can do little to reduce the water consumed by any given level of crop production. Excess applied water in the Central Valley is nearly all recovered and reused (with some resultant water quality problems). Even at best, the per capita allocation of water that can be consumed to grow food will substantially decline. We should not exacerbate this decline by promoting the transfer of our limited supply of water to other uses.

We believe that the subject of water transfers should be considered in the context of the long term social consequences that will result from reallocation of a limited supply of water in a manner that is inconsistent with land use policy and inconsistent with the long term food supply. Transfers should not just be a cheap, short term substitute for increasing the water supply. They do not even lead to better watershed management to increase the multiple use and reuse of water.

With best regards,



Alex Hildebrand

cc: Jim Costa  
Mike Machado  
Ann Veneman  
Bob Vice  
Lester Snow  
Judith Redmond  
Michael Jackson  
Rita Schmidt Sudman

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