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GEORGE BASYE

October 21, 1998

Michael G. Heaton
956 J Street, Suite 505
Sacramento, California 95814

Re: Cal Fed Water Transfer Program - October 1, 1998 Draft

Dear Mike:

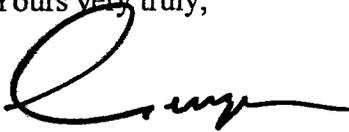
In addition to my comments regarding saved or conserved water, I wish to comment also on the text involving the "no injury" rule on page 18 of the October 1 early review draft.

The fourth paragraph on page 18 suggests that it is not possible for a water user to reduce his tail water production by irrigation system improvements and transfer the saved water. This must mean that it would injure some other user if that occurred.

That seems to be precisely what Imperial Irrigation District is proposing to do. It was my understanding that everyone agreed that was an appropriate conservation measure which would give rise to a transferable water supply. This raises the issue of timing. If it is implied that only a prospective reduction of tail water could be safely transferred, then the question is when does Section 1011 apply? If it applies when the improvement of the irrigation system is accomplished (as our clients firmly believe), then of course, under Section 1011, the right is not lost and it is available for transfer. No downstream user (although perhaps having the water physically available during the interim) could object to the subsequent transfer to a proposed transferee of the water so conserved, as the right has been retained by the conserving user.

Mike, this is a very strongly held belief, as you can understand, particularly in the Sacramento Valley and probably in the San Joaquin as well. It is totally inappropriate for Cal Fed to appear to be taking sides in such an issue, particularly when water transfers are presumably to be encouraged by the Cal Fed process.

Yours very truly,



GEORGE BASYE

GB:slp

Enclosure

9227102.1
cc:

All with enclosures of pages 18 and 19
Marc Van Camp, Murray, Burns & Kienlen
Peter Hughes, Natomas Central Mutual Water Company
Max Sakato, Sutter Mutual Water Company
Luther Hintz, Reclamation District No. 108
T.M. Hardesty, Reclamation District No. 2068