

**CENTRAL DELTA WATER AGENCY**

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July 13, 1998

CalFed Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, California 95814

Attention: Ms. Cindy Darling

Re: Prospect Island Levee Repair

Dear Cindy:

Subsequent to the last Roundtable, I arranged a meeting to review the Corp's proposal (July 10) with Walter Yep and representatives of his planning staff, the Corp's construction design staff and others. Bob Johnston of the Dutra Group also attended at my request.

I reiterated my three concerns:

- a. Apparent lack of compliance with normal CalFed funding request procedures.
- b. Induced seepage concerns from Ryer Island farmers - potential for CalFed funding a "bad neighbor" project.
- c. Potential missed opportunity to construct a habitat project "in the wet" to gain valuable experience for future CalFed habitat projects on previously flooded sites.

The results of the meeting on these three topics were:

- a. Apparently the Integration Panel is being polled to ascertain how this project would be, or would have been, ranked against competing proposals.
- b. The USACE wants to be a good neighbor. I asked them to agree to the Ryer Island Reclamation District proposal for an independent review of the seepage issue, with the project sponsor to be bound by its findings/recommendations if it intends to not reclaim or intends to reflood Prospect Island. Walter Yep agreed to present this proposal to the Bureau of Reclamation.
- c. It turns out that this project hasn't been designed to the point that construction cost estimates (e.g., dry vs. wet costs) could be even estimated. Nor has environmental review

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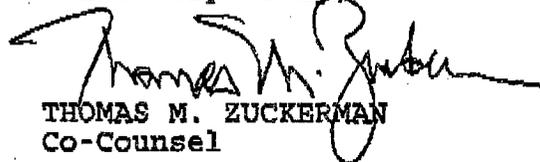
documentation been prepared. The USACE appeared to be agreeable to designing the project in such a manner that it could be bid for construction either in the wet or the dry condition. That is, project design would create a "level playing field" for both types of construction, thereby providing an opportunity to assess the costs of both methods of construction.

My recommendations to the Roundtable and to CalFed are:

- a. Get a positive recommendation from the Integration Panel;
- b. Get a commitment from the project sponsor to adopt the independent review on seepage issues and abide by the ensuing findings/recommendations of that independent review; and
- c. Require the USACE to design its project to allow construction bids on either a dry or wet basis, without design characteristics that would "uneven the playing field".

Parenthetically, based on the aforementioned meeting, I am also concerned that there is a real possibility that the CalFed approved funding for levee repairs may not be followed by the habitat project in the absence of final USACE determination to proceed with the habitat project. The Roundtable concept of early implementation of ecosystem restoration projects would hardly be achieved by funding a levee repair project which isn't followed by the described habitat project. Under the circumstances, it would seem preferable to defer funding the levee repair project until there is a firm commitment to the habitat project, as well as better evidence that levee repair is a necessary pre-condition to the construction of the habitat project (i.e., dry vs. wet construction).

Yours very truly,



THOMAS M. ZUCKERMAN
Co-Counsel

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cc: Walter Yep
USACE, Planning Division
1325 "J" Street, 13th Floor
Sacramento, California

Chris Neudeck, Kjeldsen, Sinnock & Neudeck
Margit Aramburu, Delta Planning Commission