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July 2, 1998

Mr. Lester A. Snow, Executive Director
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814

Attn: Stein Buer:

Dear Lester:

Comments on Developing a Draft Preferred Program Alternative - June 17, 1998

CUWA has reviewed the subject document and offers the following comments for your consideration in development of future versions of this paper and in crafting the further staging of the Program. This document discusses an example of staged decision making and implementation of the CALFED program. It provides a useful starting framework for structuring the progress of the program, and we commend its development. We concur with CALFED that "water management stability" during Stage I of the implementation program is essential. We also believe that near-term improvements to supply reliability are possible while environmental improvements are proceeding.

CALFED's document also discusses potential linkages for storage and conveyance to progress of the common programs. This draft enumerates a number of predefined conditions which must exist or be achieved before an isolated facility will be considered. Most of these appear appropriate. However, we have concerns regarding some of them. Item 2 a. on page 5 should recognize that drinking water regulation is not static and that Stage II regulations will likely not end the need to address drinking water source quality and treatment. It is anticipated that additional drinking water regulations will be considered and promulgated beyond Stage II, particularly in light of the 1996 Safe Drinking Water Act Amendments and the currently adopted candidate contaminants list. Trigger points may be needed when new regulation is promulgated. Item b. indicates a "limit on the amount of water that can be exported (linked to water year type)." This condition needs elaboration and discussion. If the intent is to assure that Delta outflow and in-Delta water quality standards are met, it should be so stated. In this case, assurances would be needed from others as well. If it is for other reasons, a rationale should be stated and discussed.

Item h. indicates "that construction of an isolated facility cannot proceed ahead of construction of new regional surface storage". CALFED has linked the need for an isolated facility to fishery and drinking water quality concerns, not water supply, which is the primary rationale for storage. This could be revised to read "... construction of an isolated facility cannot

proceed ahead of construction of new regional surface storage *determined to be necessary to improve or maintain water quality in the Delta.* " In other words, if an isolated facility is needed to address fishery and/or drinking water quality issues, and storage is necessary to address water quality concerns arising from the operation of an isolated facility, then linkage is appropriate. While some may argue new surface storage is an assurance an isolated facility or a transfer market will not harm their interests, this need could be handled in other ways. Otherwise, if there is no funding commitment for storage based on supply benefits, the potential program benefits for fisheries and/or drinking water quality of an isolated facility should not be forgone because there is no desire to pay for water supply benefits from new storage.

Section 4 a. of the draft discusses linkages for storage construction with measurable efficiency criteria and water supply available through marketing. While CUWA believes development of the conditions for and the development of a more open water transfer market are essential to the Program, the transfers linkage appear unrealistic and at a minimum must be carefully crafted. As indicated elsewhere in this letter, linkages must be to actions, not results which are often beyond the reasonable control of those required to take action. Further, regarding transfers, in a voluntary market as CALFED supports, it is difficult to imagine objective criteria with which one could judge whether transfer water was "available" and should be utilized versus water from a storage project. Given current physical constraints on the system, variation in the market price of water, location of both seller and buyer, term, timing and quantity of water available, reliability of supplies and water quality, valid comparisons between transfer water versus water available from storage would have to be made on a case-by-case basis. Reference in 4 b. to linking storage development to a "water transfer market ... in place" is ambiguous and needs clarification. CALFED's proposal is for creation of an information clearinghouse which will not change the market from what exists today. If a linkage is required then CALFED must be more specific as to what is contemplated for the "market". In item 5, linking progress on north of Delta conjunctive use to progress on surface storage in the region could result in the impediment of a valuable conjunctive use project if costs or environmental restraints render surface storage infeasible.

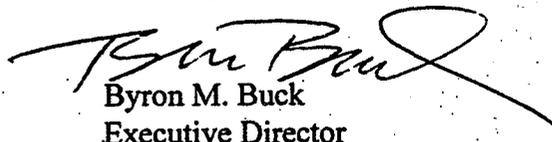
In attachment 2 to the Draft Developing a Draft Preferred Program Alternative, an example of Stage I implementation is offered. While we recognize this as an example for discussion, we have some particular concerns with the section on Water Quality and Conveyance. We support the critical need to reduce toxicity for ecosystem purposes but also believe drinking water improvements are necessary. While significant improvement in bromide levels can be achieved with conveyance improvements to be decided in Stage II, CALFED should work with the State Water Resources Control Board and Central Valley Regional Water Quality Control Board to develop a drinking water policy during Stage I and seek to offset increasing degradation of source water quality due to growth in upstream demands and discharges into Delta tributaries. With five million more residents expected to occupy the Central Valley in the next twenty years, drinking water source quality will continue to degrade without affirmative responses. The drinking water policy should develop and implement methods to offset increases in salinity and organic compounds discharged to the Delta watershed during Stage I and beyond.

Regarding actions on facilities subject to staged decision making during or at the end of Stage I, we support development of environmental documentation, feasibility, field and pilot studies which would be necessary to apply for permits for such facilities as may be found necessary to meet CALFED objectives. While CALFED should not construct particular facilities unless specified conditions are met, the CALFED agencies, should consider, as appropriate, acquiring option agreements on key parcels of land to keep all options viable until final decisions have been made regarding facilities at the conclusion of Stage I.

Recognizing some components of the three current alternatives require a better fundamental understanding of their benefits and effects, development of specific criteria under which they would be decided or "triggered" and development of assurances which would result in confidence that those components would be managed in ways intended, is necessary. For components of the program subject to staging, clear definition by CALFED on the timing, criteria and explicit mechanisms for decisions and alternative assurance structures for operation if the program component is acted on in the future, is needed. In this regard, the final CALFED PEIS/EIR must contain enough detail (a) to allow programmatic NEPA/CEQA approval and (b) to obtain a programmatic Section 404 permit for the entire CALFED program, including those features that will be subject to future decisions or triggers and (c) to obtain comprehensive state and federal endangered species permits for operation of the program. In other words, the PEIS/EIR and the programmatic permit must analyze and approve, respectively, implementation of the CALFED program both with and without the elements subject to future decisions, thereby only requiring site specific analysis of triggered elements at the implementation stage. The PEIR/EIS must cover the range of operations for Delta facility and storage elements and analyze their system-wide effects on fisheries and water quality. Project specific environmental documents would then only need to determine that these projects would operate in the range evaluated as acceptable in the PEIR/EIS. In other words, the triggering criteria must also withstand the "least damaging practicable alternative that meets the project purpose" test of Clean Water Act Section 404 (b) (1) and "no jeopardy" finding for system-wide impacts under the federal and state endangered species acts.

We appreciate the opportunity to provide input during this critical program stage. I would be happy to meet with you to discuss this further should you desire.

Sincerely,


Byron M. Buck
Executive Director

cc. Steve Ritchie
Rick Woodard