

**DELTA PROTECTION COMMISSION**

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April 1, 1999

*Dick D.  
 acknowledges  
 letter  
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Lester Snow, Director  
 CALFED  
 1416 Ninth Street, Ste 1142  
 Sacramento, CA 95814

Subject: Comments on Revised Phase II Report

Dear Mr. Snow:

I am writing on behalf of the Delta Protection Commission regarding the Revised Phase II Report, dated December 18, 1998. The Commission received a briefing on the Report at its January meeting and discussed the Report again at its March meeting. The attached comments were approved by the Commission at that time. The comments indicate policy areas of agreement, issues which should be clarified or modified, and some minor corrections.

Overall, the Commission is very pleased with the changes to the program described in the Revised Phase II Report, especially those that reflect the comments submitted by the Commission last year on the Draft Environmental Impact Statement/ Environmental Impact Report. Of particular interest are the policies which speak to the protection of agricultural land, and the commitment to move forward with ecosystem restoration on publicly-owned land prior to acquisition of additional tracts of privately-owned agricultural land.

Support for the CALFED program can be built by proceeding carefully and thoughtfully with a program which is supported by strong science and which brings the expected results. This approach will allow appropriate evaluation of proposed changes in land use in the Delta by affected nearby landowners and citizens, local governments, and other affected parties.

Thank you for your consideration of the Commission's comments.

Sincerely,

Margit Aramburu  
 Executive Director

Enclosure

**Policy Statements Which Support the Commission's Position as Expressed in May 1998**

**Comment Letter or Support Commission's Plan:** The following policies illustrate changes in the proposed CALFED program which respond to the Commission's earlier comments and indicate conformance with Commission Act and Plan. The Revised Phase II Report does not contain any major conflicts with the Commission's Act and Plan:

P. 35, 41, 46: "Strategy of the CALFED Program is to initially develop a through-Delta conveyance based on the existing Delta configuration with some channel modifications."

P. 42: "The program intends to minimize the conversion of farmland, including prime and unique farmland, to the extent possible. In addition to its overall approach of acquiring land in voluntary transactions with willing sellers, CALFED is proposing to adopt several implementation policies that will minimize the adverse impacts to agricultural land and water resources. They include:

Maintaining land in private ownership to the greatest extent practicable.

Prioritizing use of existing government owned lands for habitat restoration.

Working with local landowners and organizations to develop projects that meet CALFED objectives while also benefitting local landowners."

P. 42: "The Long-Term Levee Protection Plan will bolster and maintain the Delta Levees that protect important agricultural resources, infrastructure, habitat and water quality."

P. 43: "Many of the proposed program actions serve multiple benefits, including public benefits. These could include protection of key Delta functions including agricultural and levee system integrity, conveyance and ecosystem restoration."

P. 61: "CALFED seeks to preserve as much agricultural land as possible during implementation in Phase III consistent with meeting all Program goals...Acquisition of fee title to land will be from willing sellers only, and will be used when neither available government land nor partnerships are appropriate or cost effective for the specific need...Agricultural resources are an important feature of the existing environment of the state and are recognized and protected under CEQA and state and federal policy. One of the major principles of the State's agricultural policy is to sustain the long-term productivity of the State's agriculture by conserving and protecting the soil, water and air which are agriculture's basic resources. It is CALFED policy that adverse environmental effects to agricultural resources resulting from CALFED programs, projects, and actions will be fully assessed and disclosed under CEQA and NEPA, and avoided or mitigated as required by law. Assessment, disclosure, and avoidance and other mitigation strategies shall be developed at the programmatic and project-specific levels in consultation with other state, federal, and local agencies with special expertise or authority over agricultural resources which may be affected by the Program, such as California Department of Food and Agriculture."

P. 62: "CALFED agencies have also agreed that coordination shall not constrict or limit the agencies in carrying out their statutory responsibilities. Numerous activities and programs are ongoing or proposed that convert agricultural land to habitat for fish, wildlife and wetland purposes... To the extent that these activities and programs establish habitat that is also proposed in the ecosystem restoration program, that habitat reduces the amount of habitat that is needed to achieve the ecosystem restoration program goals... Every effort will be made to fully integrate actions being taken by the various state, federal, and local agencies with the CALFED Program."

P. 68: "The CALFED Program will not use fallowing or land retirement solely as water use efficiency measures."

P. 85: "CALFED seeks to plan for recreation enhancement and, if necessary, to mitigate impacts to Delta recreation resulting from CALFED activities designed to restore other Delta resources"

P. 95: "Goals of the Levee Program".

P. 98-90: "Resolution of flood concerns in North Delta requires solution from Interstate 5 downstream to San Joaquin River".

P. 100: "Goals of the Ecosystem Restoration Program", in regards to work on publicly owned lands, work with landowners, etc."

P.101: "Develop and implement an outreach, coordination, and partnering program with local landowners and individuals, cities, counties, reclamation districts, the Delta Protection Commission, resource conservation districts, water authorities, irrigation districts, farm bureaus, other interest groups, and the general public to assure participation in planning, design, implementation and management of ERP projects."

P. 102: "Improve research, monitoring, detection and control of exotic species (yr 1-7)...(13) Evaluate CALFED implementation actions and how those actions may benefit non-native species to the detriment of native species of the Bay-Delta ecosystem."

**Issues of Concern to the Delta Protection Commission:** The following items have been identified as additional areas of concern, albeit of lessor import than the areas of general concurrence identified above. CALFED should address these matters in the Revised Draft EIR/EIS due to be released mid-1999:

P. 95, "Levees, #1: Creation of the Levee Implementation Group. Develop and implement an outreach, coordination, and partnering program with local landowners including individuals, cities counties, reclamation districts, resources conservation districts, water authorities, irrigation districts, farm bureaus, other interest groups, and the general public to assure participation in planning, design, implementation, and management of levee projects (yr 1)."

Comment: The need for and duties of a new entity to oversee the existing, successful levee program should be re-evaluated. Currently the levee subvention program is overseen by the Department of Water Resources; there has been no indication of need for a new oversight entity.

P. 97, "Water Quality...Delta"

Comment: Add specific task to develop and maintain record of existing information about characteristics of sediments in Delta channels (Building upon Category III study by Regional Water Quality Control Board, Department of Fish and Game, and Delta Protection Commission ).

P. 99, "Water Quality #12 Other actions specific to drinking water improvements:

Comment: Regarding control of total organic carbon in drinking water, add development of technical solutions at drinking water treatment facilities (new, more cost efficient treatment) in addition to control of TOC at the source (agricultural runoff); concern is that control of agricultural runoff could result in loss of productive agricultural land for holding ponds, and could result in less-seasonally-flooding fields for use by migratory birds.

P. 102, "Ecosystem Restoration #11 Continue high priority actions that reduce stressors of direct mortality to fishes (yr 1-7)...Aggressively screen existing unscreened or poorly screened diversions on the Sacramento River, San Joaquin River and tributary streams."

Comment: Suggest consideration of Commission's adopted suggestions to the Corps (see attached copy).

P. 102, "Ecosystem Restoration"

Comment: Add a new #18 which would ensure that ERP projects would not adversely impact adjacent and nearby lands (seepage, weeds, endangered species issues, water intakes, etc) or curtail on-going, or normal agricultural practices or recreational uses on adjacent and nearby lands; aka the "good neighbor" policy.

P. 111, "Isolated Facility"

Comment: Ensure adequate time is allowed to implement Phase I improvements and monitor their impacts and implement adaptive management prior to making further decisions.

P. 112: "Assurances and Institutional Arrangements" (5) Implement a CALFED environmental documentation, mitigation, and permit coordination process (yr 1.7)."

Comment: Develop mitigation for the overall program, not only on a site-by-site, project-by-project basis.

P. 113, "Finance. Establish reliable short-term and long-term funding for each program element and for each package of Stage 1 actions complete as necessary (1-7)...Finalize cost-share agreements (yr 1)"

Comment: The Report should recognize that Reclamation District cost-share agreements must be approved by elections, as per recently approved Proposition 218.

P. 114: Monitoring, Research, and Adaptive Management...(13) Monitor and report land use changes, such as agricultural land conversion, resulting from CALFED actions (yr 2-7).

Comment: Information should be forwarded to local governments and appropriate State agencies, such as Department of Food and Agriculture.

P. 123: "1999 (Pre-ROD) Actions...(7) Identify the first group of Stage 1 projects, and implement an environmental documentation and permit coordination process. Certain Stage 1 projects which are high priority for Stage 1 and could move forward quickly need to be identified in 1999. To enable these projects to move forward efficiently, a process to coordinate and consolidate permitting and CEQA/NEPA requirements will be implemented. Examples of pre-Record of Decision actions include analysis and environmental review for establishment of an Environmental Water Purchase program, and completion of environmental review for Interim South Delta projects."

Comment: Agree, if outreach and coordination program is implemented, adequate environmental review takes place, and appropriate mitigation is included.

P. 132, "Comprehensive Monitoring, Assessment and Research Program (CMARP)"

Comment: CALFED must ensure that CMARP is scientifically valid and neutral in evaluating existing conditions and constructed facilities.

P. 136, "Implementation of CMARP"

Comment: Streamflow gage network in the Delta should be enhanced, as well as in the watershed.

#### Minor Comments on the Revised Phase II Report:

The following are not policy matters, but minor "technical" suggestions to CALFED staff:

P.3: Map should include the Legal Delta boundary

P.9: Re: recreation, the number of 12 million user days per year is low according to numbers generated by a Department of Parks and Recreation survey and 1997 report, and report on the economic impact of recreational boating and fishing in the Delta dated November 1998, which estimate 14.4 million user days by boaters alone.

P. 89: Re: operational criteria for the Delta Cross Channel: add recreation to list (boats use the open channel to travel between Sacramento River and Delta Meadows and points east).

## DELTA PROTECTION COMMISSION

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October 2, 1997

Jim Monroe, Chief  
Sacramento/San Joaquin Delta Office, Regulatory Branch  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street  
Sacramento, CA 95814-2922

Subject: Conditions Proposed by U.S. Fish and Wildlife Service (FWS) and National  
Marina Fisheries Service (NMFS) for Corps Regionwide Permits to Require  
Installation of Fish Screens as a Condition of Maintenance of Existing Water  
Intake Devices in the Delta

Dear Mr. Monroe:

Thank you for allowing Delta Protection Commission staff to participate in the meeting held in your office on August 19, 1997 to discuss the proposed condition to require installation of a fish screen when maintenance of an existing water intake device is authorized by a Corps nationwide permit.

—The Commission is a State land use planning and regulatory agency with members that represent six State agencies, the five Delta counties, the three Delta Councils of Governments and five Reclamation Districts. The Commission submits these as advisory comment, based on the Commission's mandated responsibilities of protecting existing Delta land uses, particularly agriculture.

The Commission was briefed on this matter, and discussed the proposed condition at its meeting of September 25, 1997. The Commission based its discussion on the Delta Protection Act of 1992, the Commission's adopted plan, "Land Use and Resource Management Plan for the Primary Zone of the Delta", and current information about fish screens and water intake devices in the Delta.

The proposed blanket condition, to require installation of a fish screen on each water intake device as a condition of issuance of a Corps' nationwide permit is unreasonable and unwarranted based on the high cost of the installation of the fish screen in relationship to the cost of maintenance of an existing pump or siphon. In addition, based on the limited operation of many of the pumps and siphons, it is reasonable to defer adoption of such a condition until

cc: U.S. Fish and Wildlife Service  
National Marine Fisheries Service  
Senator Barbara Boxer  
Senator Dianne Feinstein  
Congressman Vic Fazio, 3rd District  
Congresswoman Ellen Tauscher, 10th District  
Congressman Richard W. Pombo, 11th District  
Senator Patrick Johnston, 5th District  
Senator Richard K. Rainey, 7th District  
Assembly Member Larry Bowler, 10th District  
Assembly Member Tom Torlakson, 11th District  
Assembly Member Lynn C. Leach, 15th District  
Assembly Member Mike Machado, 17th District