For Land Acquisition discussion
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The CALFED Bay-Delta Program

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Mr. Chairman and members of the Subcommittee, my name is David Guy. I am the Executive Director of the Northern California Water Association (NCWA). NCWA is a non-profit association representing sixty-five private and public agricultural water suppliers and farmers that rely upon the waters of the Sacramento, Feather and Yuba rivers, smaller tributaries, and groundwater to irrigate over 850,000 acres of farmland in California's Sacramento Valley. Many of our members also provide water supplies to state and federal wildlife refuges, and much of this land serves as important seasonal wetlands for migrating waterfowl, shorebirds and other wildlife. I appreciate the Subcommittee's inclusion of my written testimony in today's hearing record.

We appreciate the opportunity to provide the Northern California perspective on CALFED. NCWA has actively participated in the CALFED process, as a signatory to the 1994 Bay-Delta Accord and a participant in the development of California's Proposition 204, the Federal Bay-Delta Security Act (P.L. 104-333) and the CALFED Revised Phase II Report. Two representatives of NCWA's Board of Directors, Chairman Don Bransford and Director Tib Belza, currently serve on CALFED's Bay-Delta Advisory Council (BDAC). NCWA is also a member of the Ecosystem Roundtable - the entity chartered to allocate state and federal ecosystem restoration funds.

The Subcommittee's interest in water management in California's Central Valley and particularly the CALFED Bay-Delta Program (CALFED) is appropriate given the importance of a successful resolution to the environmental and water supply problems in the Sacramento – San Joaquin River Delta and San Francisco Bay (Bay-Delta). The Bay-Delta is a tremendous economic and environmental resource to California and the Nation, and there is much at stake in how CALFED implements its numerous ecosystem restoration and water management actions. Both the Department of Interior and the California Resources Agency's testimony today before this Subcommittee will be very useful for private interests participating in this process.

NCWA has been invited today to discuss the status of the CALFED program from an agricultural perspective. It was a year ago (May 12, 1998) that we provided testimony to this Subcommittee on the CALFED program and particularly the allocation of federal funds for ecosystem restoration. Since that time, there has been good progress in certain parts of the CALFED program and very little progress in others.

Most notably, CALFED late last year issued its Revised Phase II Report. This report was significant for several reasons. First, it gave CALFED a needed boost to sustain the program. More importantly, the discussions leading up to the report revealed the need for CALFED to begin broadening its scope to show progress not only for the ecosystem, but also with respect to

water management and the water supplies that will be necessary to satisfy the growing demands for water in California.

Like many others, we will provide detailed comments to CALFED when it releases its draft Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) and another revised Phase II report this summer. Our testimony cannot and will not cover every CALFED issue. Today, we will focus on the four general CALFED programs that most directly affect the farms, cities and the environment in Northern California: (1) fish passage improvements; (2) surface and groundwater storage; (3) rural land acquisition and (4) water acquisition.

1. Sacramento Valley Fish Passage Improvements

A major success in Central Valley water management is the fish passage efforts in the Sacramento Valley to jointly improve the ecosystem and water supply reliability. These projects are the type of programs that CALFED was formed to develop and implement. These projects also embody CALFED's overall mission "to develop a long-term comprehensive plan that will restore the ecosystem health and improve water management for beneficial uses of the Bay-Delta ecosystem." If successful, CALFED will rehabilitate native fish and wildlife species and their habitat in the Bay-Delta system, and increase water supplies and reliability for California's cities, businesses and farms. One measure of success in the overall program is an improving environment, achieved in part by implementation of restoration projects that resolve known problems. A good example is the installation of fish screens on agricultural diversions to prevent the entrainment of fish species. Program success can be measured by decreasing regulatory disruption of water project operations, and reduced regulations on individual agricultural water suppliers and farmers.

Many of the private interests following CALFED, such as Sacramento Valley agricultural water suppliers and farmers, are financially participating in cost-share arrangements with CALFED agencies on specific restoration projects. Nearly a dozen water suppliers throughout the Sacramento Valley are engaged in the study, design or construction of a fish screen or passage project to protect candidate, threatened and endangered fisheries. Rather than describe every project in detail, we have instead enclosed Appendix A--a sample of the fishery projects that have either been completed or are underway by NCWA members in the Sacramento Valley.

Some of these projects are now complete, such as Western Canal Water District's Gary N. Brown Butte Creek Siphon Project. This unique project resulted in the installation of a concrete siphon to convey agricultural water supplies under Butte Creek, allowing the removal of several small dams that historically hindered spring-run salmon migration to spawning habitat. Completion of this project illustrates the effectiveness of restoration actions in providing

immediate benefits to the environment; in this case for spring-run salmon, presently listed as a threatened species under California law and proposed for federal listing - and for the local community and area farmers who benefit through development of a more reliable water supply.

As with Western Canal's farmers, other agricultural water users in the Sacramento Valley have a vested interest in ensuring state and federal funds are effectively managed to ultimately improve the fishery, and alleviate regulatory mandates. Their participation is based on the belief the projects will succeed, and are an effective way to restore fisheries and protect landowners from burdensome regulations. Although many projects are either completed or underway, there are many more similar projects that can serve both the environment and water supply reliability. CALFED has been and can continue to be successful in promoting and encouraging these types of projects.

2. Integrated Storage Investigation

One of the shortcomings in the CALFED program has been the lack of progress in providing more reliable water supplies for water users in California. In the early stages of the CALFED process, water users have committed to improve the ecosystem as evidenced by the Bay-Delta Accord, Proposition 204 and the Bay-Delta Security Act. After several years improving and investing in the ecosystem, water users are now adamant that there must be an equivalent commitment by Congress, the California Legislature and the CALFED agencies to improve the state's water supplies for both existing and future water users.

The CALFED Revised Phase II Report was significant in that it strongly recommended the study and ultimate development of new surface and groundwater storage projects in California. This led to the CALFED "Integrated Storage Investigation" which will look at surface and groundwater storage, as well as the opportunities for reoperating existing facilities to maximize water use in California. For CALFED to succeed in the next century, we believe that there must be significant progress in developing a range of water supply alternatives that will improve water supply reliability throughout the state. In Northern California, this should include continued studies and planning for Sites reservoir, raising the existing dam at Lake Shasta, locally driven pilot projects for the conjunctive management of surface and groundwater and water efficiency measures to maximize the local use of water resources.

These water supply options must complement efforts now underway to study and then develop measures to protect citizens and property from the devastating floods that have historically ravaged California's Central Valley. While CALFED must work toward improved water management in the state, it is equally important that CALFED not be used to delay or

otherwise stifle significant opportunities to improve water supply reliability on both the regional and local level.

3. Rural Land Acquisition

CALFED plans to implement projects that will replicate natural processes associated with instream flows, stream channels, watersheds and floodplains. CALFED proposes to accomplish this objective primarily by the acquisition of farmland and water supplies to create river meander corridors, riparian forests, and increased instream flows. As an example, CALFED's Ecosystem Restoration Program recommends the implementation of nearly 700 actions over a thirty-year period; however, work has already begun on several of the program's main elements. As a further example, CALFED's earlier draft environmental impact report and impact statement, released in March 1998, recommended the acquisition of roughly 200,000 acres of Central Valley farmland (30,000 acres in the Sacramento Valley) to meet certain goals outlined in the Ecosystem Restoration Program.

The proposed implementation of these particular actions raises legitimate concerns for upstream and downstream communities, landowners and water suppliers. In this regard, it is important that Congress and CALFED understand the groundswell of opposition and concern that is developing in agricultural and rural communities throughout California in response to the large-scale land acquisition program that is being undertaken as part of CALFED and several other programs in California. The *Wall Street Journal* article entitled "U.S Land-Buying Program Leaves County in the Dark-and Furious" provides a glimpse into this problem in Northern California. (See May 5, 1999, CA1.)

CALFED's staff acknowledges the scientific uncertainty underlying the potential benefit to fish and wildlife from these actions. River meander and riparian forest projects necessarily require the acquisition of land along a river or stream in order, for example, to allow the river to inundate land during high flow periods. There are numerous consequences that may arise as a result of these projects, including river level and flow fluctuations and increased sediment and debris loading, which threaten existing water diversions and fish screens. Due to the unpredictable nature of these projects, and the risks they present, NCWA encourages CALFED to initially focus on restoration actions that fix known fish and wildlife problems. NCWA recognizes, however, a limited number of actions that attempt to replicate natural processes may be necessary to restore habitat for at-risk species.

There are several specific steps CALFED should consider before embarking on a large-scale river meander plan in order to avoid adverse social, economic or environmental affects to local communities, landowners, and water suppliers. This is consistent with CALFED's stated

principle of implementing actions and a long-term plan that does not result in the redirection of adverse impacts.

As a first step, CALFED must attempt to utilize public lands with similar ecological characteristics prior to acquiring private property to achieve restoration measures. If public lands are unavailable, conservation easements, rather than outright fee title acquisition, should be a priority, and all acquisitions must be voluntary

Second, there is concern that the EIS/EIR has not adequately analyzed the potential impacts to the existing environment, which specifically includes agricultural resources under both the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). CALFED actions have and will result in significant impacts to the agricultural resource base in California, including agricultural land, agricultural water supplies and water quality. In a nutshell, this is the existing environment as it is utilized for agriculture. These actions will have socioeconomic impacts to local communities, local jurisdictions and local economies. CALFED should develop a plan to either avoid or to adequately mitigate for agricultural impacts. A meaningful plan will be critical for CALFED to gain confidence in rural areas and to assure that long-term environmental goals are accomplished in CALFED. Completion of both CEQA and NEPA requirements should be initiated before the acquisition of private property.

Third, CALFED's top-down approach to land-use planning where federal and state agencies, by either purchasing land or by funding land acquisition, are dictating local land use policies with little local participation in this process. Put differently, there is a deep concern in local communities that CALFED and its member agencies are usurping the land use authority that has traditionally resided in local governments, including counties and cities. There has been progress made by CALFED to incorporate local governments in the funding process for ecosystem projects, but much more effort needs to be made in this regard. Establishment of a representative public process to ensure local involvement must be a cornerstone of any land acquisition program.

Fourth, there has been little, if any, progress on developing assurances that water suppliers and landowners will not be adversely affected by CALFED or its member agencies acquiring adjacent or nearby lands for habitat purposes. NCWA in concert with water users in Northern California has developed an assurances package that we believe will protect and encourage cooperating landowners and local agencies that allow restoration projects on their lands or on nearby lands. We believe that this is a very constructive approach to advance the ecosystem goals in the CALFED process while providing reasonable and necessary assurances to landowners and local water suppliers. The bottom line is that CALFED must adopt clear assurances, or legal guarantees, that address issues of liability for future damage resulting from

project implementation, as well as local tax and assessment responsibility. We look forward to working with CALFED and other interested parties on this proposal.

Finally, in this regard, NCWA has encouraged CALFED to consider adoption of a pilot program that may serve as a model for its future projects involving land acquisition. Although the specific principles of our recommendation are still under development, our goal is to accomplish restoration actions compatible with economic activities, including farming, water district operation and flood control protection.

4. Water Acquisition

The CALFED Revised Phase II Report developed the so-called "Environmental Water Account" (EWA). NCWA strongly supports this flexible management approach to address complex delta issues as opposed to the traditional regulatory approach. Like the other parts of CALFED, however, the EWA must be defined so that water users benefit in its implementation. From the Northern California perspective, we have concerns that this program relies too heavily on upstream flow contributions to the delta. The EWA seems to assume that upstream water will be available as an asset to meet EWA demands, which is not a sound assumption. This is particularly a concern when EWA water is in addition to flows required under the Central Valley Project Improvement Act (CVPIA) Anadromous Fish Restoration Program and other environmental programs.

5. Conclusion

With respect to FY 2000 funding, NCWA has joined this year with a coalition of California business, labor, water users and the environment to request and support a $95 million federal (FY 2000) appropriation consistent with the federal Bay-Delta Security Act and other relevant authorizing legislation. This request includes $60 million for ecosystem purposes and fishery improvements and $35 million for water management, including the Integrated Storage Investigation (ISI). (See April 16, 1999 coalition letter.)

From the Northern California perspective, the CALFED process was intended to address problems in the Bay-Delta which are largely associated with water uses south of the delta. NCWA endorsed the CALFED process to address these problems, as long as CALFED, in seeking solutions, does not redirect impacts and problems northward. NCWA's support of CALFED is predicated upon CALFED and its member agencies fully recognizing the senior water rights held by entities and individuals within the areas of origin. Unfortunately, these fundamental water rights seem to get lost in the zeal to move forward with the CALFED

program. Unless these rights are, in fact, recognized and honored by CALFED and its member agencies, NCWA's support for CALFED, including support for future funding, will not continue.

If you have any questions or would like to discuss this further, please call me or Dan Keppen in our office.

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