

DEPARTMENT OF FOOD AND AGRICULTURE

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October 17, 1997

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

Dear Mr. Snow:

**Re: Scoping Comments: CALFED EIR, State Clearinghouse
Number 96032083**

The California Department of Food and Agriculture is the State Agency responsible under law for the protection California Agriculture. The CDFA has followed and participated in the CALFED process, and appreciates the opportunity to provide additional comments on the scope of the proposed Environmental Impact Report (EIR), as offered by the Supplemental Notice of Preparation dated September 5, 1997.

1. The Notice of Preparation, dated September 5, 1997, does not include the State Clearinghouse number for the EIR (96032083), nor does it appear to have been circulated through the State Clearinghouse (State CEQA Guidelines sections 15082 (d) and (e), and personal communications with State Clearinghouse on September 15, and October 15, 1997). In addition, it does not satisfy the minimum content requirements of Section 15082 of the State CEQA Guidelines (mistakenly referred to in the NOP as "the Guidelines for Implementation of the California Environmental Quality Act", see Section 15001 of the State CEQA Guidelines) as there is no discussion of the probable environmental effects of the project (State CEQA Guidelines sections 15082 (a) and (c)). The unclear reference (presumably to the original NOP) to the location and probable environmental effects of the project are not adequate to allow meaningful response on the scope of the EIR (State CEQA Guidelines section 15082 (a) (1) (a) and (b)). This lack of information on probable significant environmental effects is especially relevant since the CDFA and other participants in the CALFED program have identified probable significant environmental effects to CALFED, in addition to those identified in the original NOP. Therefore the statement that "probable environmental effects have not changed" is clearly not the case. Nevertheless, since CDFA has participated in the

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CALFED process and has some awareness of the program's description, location, and potential for significant environmental impacts on the existing environment, we are able to provide some substantive comments on the scope of the EIR. Since previous comments regarding the scope of the EIR are not reflected in the supplemental NOP, these comments pertain to the scope of the entire CALFED programmatic EIR, as well as the addition to the program of a Habitat Conservation Plan. We encourage CALFED to conduct an Initial Study, expand the NOP, and recirculate it through the State Clearinghouse.

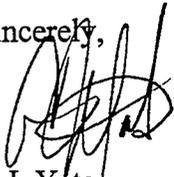
2. Under the California Environmental Quality Act (CEQA), impacts are evaluated in the context of the existing environment (State CEQA Guidelines section 15125). The environment includes both natural and man-made conditions (State CEQA Guidelines section 15360). Impacts on the environment include impacts on human use of the land (State CEQA Guidelines section 15126 (a)). The conversion of prime agricultural land to non-agricultural use or impairment of the agricultural productivity of prime agricultural land are normally considered to be significant effects on the environment (State CEQA Guidelines, Appendix G, (y)). Substantial direct or indirect impacts on humans are one of the mandatory findings of significance (State CEQA Guidelines section 15065 (d)) and an impact to the human food supply is patently a substantial effect on humans. The CDFA has previously provided CALFED with information on the existing environment of California, in particular maps and electronic data sources for the locations and uses of prime farmland in California. Given the foregoing, the EIR must:
 - ▶ Describe the existing environment, in particular the prime farmlands, unique farmlands, and farmlands of statewide significance (farmland), and the uses of water for agriculture which the CALFED program might impact (State CEQA Guidelines 15125). Special emphasis should be placed on the rare combination of environmental resources which make agriculture in this region among the most diverse and productive places in the nation (State CEQA Guidelines 15126 (a)). Discuss and summarize existing general plans and regional plans covering agricultural lands and use of water which the CALFED program might impact, and focus on inconsistencies between the CALFED program and these plans, existing uses, and zoning (State CEQA Guidelines 15125 (b) and (c)).
 - ▶ Include a reasonable range of alternatives (State CEQA Guidelines section 15126) which avoid significant impacts on farmland, and the use of farmland for agriculture, including the use of water for agricultural purposes, even if this to some degree impairs attainment of CALFED program goals (State CEQA Guidelines section 15126 (d) (1)).

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- ▶ Include mitigation (State CEQA Guidelines section 15126 (c)), to the extent that significant impacts on farmland and the use of farmland for agriculture (including the existing use of water for agriculture), are not avoidable (State CEQA Guidelines section 15126 (b)). The mitigation measures must be linked to the program and be in proportion to the magnitude of the impacts.
3. Under CEQA, the EIR must consider the whole of the action. The CDFA is particularly concerned that very substantial resources have been directed at planning so-called "common elements" which will not be subjected to environmental review at the programmatic level (State CEQA Guidelines section 15168, especially (b) (4)) despite the obvious significant impacts identified by numerous participants in the EIR process. The simple fact that the highly detailed Ecosystem Restoration Program Plan has been written and circulated for review prior to writing the EIR, without any apparent attempt to even identify the existing environment, let alone consider a reasonable range of alternatives which could avoid or substantially lessen one or more of the significant effects (State CEQA Guidelines section 15126 (d)) makes it difficult for any participant to make meaningful comments on the scope or content of the proposed EIR.

As the State Agency responsible under law to protect California agriculture, the CDFA continues to be available to advise and assist CALFED in avoiding impacts on these vital environmental resources and, to the extent that significant impacts are not avoidable, reducing and otherwise mitigating the unavoidable impacts to an acceptable level. If you have any questions regarding this, please contact Tad Bell at 916 653-7643.

Sincerely,



A.J. Yates
Undersecretary