



CALIFORNIA FARM BUREAU FEDERATION

GOVERNMENTAL AFFAIRS DIVISION

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BY HAND DELIVERY

State Water Resources Control Board
Attn.: Gita Kapahi
Chief, Bay Delta/Special Projects Unit
c/o Division of Water Rights Mail Room
1001 "I" Street
Second Floor
Sacramento CA 95814

Re: Scoping Comments on Triennial Review for 1995 Bay Delta Water Quality Control Plan

Dear Ms. Kapahi:

California Farm Bureau ("Farm Bureau") appreciates the opportunity to provide the following comments on the Triennial Review of the 1995 Bay Delta Water Quality Control Plan ("1995 Bay Delta Plan"), on behalf of its member county Farm Bureaus and their over 90,000 individual members throughout the State of California.

Amendment of Chloride Objectives for Municipal and Industrial Use

At least one commenter has proposed that the State Water Resources Control Board ("SWRCB") develop a new drinking water standard and an implementation plan that includes source control. Such a standard and its related implementation plan may be more properly committed to the Central Valley Regional Water Quality Board. The 1995 Bay Delta Plan focuses appropriately on standards that the State Board implements principally through its authorities that are not shared with the Regional Boards, i.e. water rights authority.

Farm Bureau would also note that if the SWRCB were to consider take up developing a drinking water standard that would be implemented through source control, it would be necessary to develop this standard in accordance with all of the factors set forth in Water Code sections 13141, 13170, 13241, and 13242. Further, in compliance with the California Environmental Quality Act ("CEQA"), such a standard and its implementation plan can only be adopted after consideration and mitigation of significant environmental impacts on agricultural land and water resources, including the impacts of any source control implementation plan on loss or conversion of agricultural land to other uses, and the redirection of flows that may result from such a plan.

Other Issues for Consideration

Agricultural Resources Must Be Properly Considered If Additional Environmental Review is Necessary Due to a Modification of the Plan

The Farm Bureau is concerned about the inadequacy of the existing environmental documents that support the 1995 Bay Delta Plan as they fail to properly consider the plan's impacts on agricultural resources. In the existing environmental documents impacts to agriculture are improperly viewed as being predominantly economic. For this reason, we want to remind the SWRCB that a legally sufficient environmental analysis which properly addresses agricultural resources will have to be undertaken if the SWRCB modifies the plan.

Agricultural resources are a part of the physical environment. CEQA specifically recognizes the environmental value of agricultural resources in Appendix G of the CEQA Guidelines, as follows:

AGRICULTURAL RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects lead agencies [should consider]

...Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agriculture use?

14 Cal. Code of Regs. Appx. G at II

In fact, the California Legislature was so concerned that agencies may be inadequately considering impacts to agricultural resources in 1998, it directed the California Resources Agency to add a regulation that recommended an optional methodology to ensure that significant effects on agricultural resources are properly considered:

Agricultural land conversions

- (a) The Resources Agency, in consultation with the Office of Planning and Research, shall develop an amendment to Appendix G of the state guidelines, for adoption pursuant to Section 21083, to provide lead agencies an optional methodology to ensure that significant effects on the environment of agricultural land conversions are quantitatively and consistently considered in the environmental review process.

(Cal. Pub. Res. Code §21095.)

The methodology ultimately recommended and added to the regulations was the Land Evaluation Site Assessment (LESA) model. 14 Cal. Code of Regs. Appx G at II. ("...[L]ead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland.") Appropriately, the LESA model includes indicators of

environmental impacts to agricultural resources similar to the alternate format included in the second part of Appendix G. While the format of Appendix G is not mandatory, a legally sufficient environmental review must consider the types of impacts identified in the CEQA regulations.

If changes are made to the current plan, the mitigation measures identified in the 1995 Environmental Report for the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ("Environmental Report") must also be reviewed. See Environmental Report pp. X-1 to X-13. The effectiveness of CALFED (which includes the Environmental Water Account) as a mitigation measure for the 1995 Bay Delta Plan should be revisited because CALFED has environmental impacts, particularly upon agricultural resources, separate from and in addition to those associated with the 1995 Bay Delta Plan itself. While it may not have been possible to know that CALFED would significantly impact the environment at the time the Environmental Report was approved, the significant impacts of CALFED and its questionable ability to mitigate significant environmental impacts related to the 1995 Bay Delta Plan has become significantly clearer as CALFED has reached maturity.

We believe the reconsideration of these mitigation measures is particularly timely because environmental review is being undertaken for several major aspects of the CALFED program at the same time the SWRCB is considering modification of its plan. As the SWRCB is aware, the CALFED Environmental Water Account, Years 4 through 7, and the various aspects of the Napa Proposition are being reviewed under the National Environmental Policy Act and/or CEQA. Re-consultation as mandated by the Endangered Species Act also is being undertaken for CALFED and Central Valley Project/State Water Project Operations.

If the Plan is Modified Then "Recommendations to Improve Habitat Conditions" Also
Should Be Reviewed

Recommendation to "Implement actions needed to restore and preserve marsh, riparian, and upland habitat in and upstream of the Delta"

As the 1995 Bay Delta Plan recommended, CALFED has been purchasing and converting agricultural land to fish and wildlife habitat. (See plan pp. 33-41.) Some of these conversions, however, have had environmental impacts that were never considered by the CALFED lead agency, primarily due to the agencies' unlawful use of categorical exemptions from CEQA. In some cases, no environmental review has ever been undertaken for the projects recommended by the 1995 Bay Delta Plan.

Some of the environmental impacts that were never addressed, and that in many cases continue to go un-addressed, directly impact water quality. For example, it is well established that the creation of managed wetlands contributes to methyl mercury concentrations, which is a significant water quality concern that may negatively impact the health of humans and listed species. Exclusions from CEQA were improperly used for many wetland projects that appear to have increased methyl mercury concentrations in the Delta. It is our understanding that managed wetlands continue to be created without the proper environmental review, which would necessarily require mitigation for the methylation of mercury.

The projects recommended by the 1995 Bay Delta Plan also have had significant and unmitigated impacts on agricultural resources, as improper exclusions from CEQA have been relied upon by the CALFED lead agencies for both pre-Record of Decision and post-Record of Decision Ecosystem Restoration Program Projects.

Recommendation to "Reduce the impacts of introduced species on native species in the Estuary"

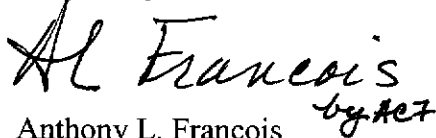
CALFED has spent hundreds of millions of dollars ostensibly to address the environmental problems of the Delta, but only a small portion of this funding has gone to research that could support efforts to reverse the harmful environmental impacts caused by invasive species. The shallow water aquatic habitat CALFED is developing, at great cost to the state and with significant impacts to agriculture, is ideal for many invasive species. For this reason, Farm Bureau supports a water quality control plan that includes:

- Adequate funding for state and local programs;
- Funds allocated for species recovery and habitat development based on sound scientific data and including programs for eradication and control of non-native, predatory species;
- Ecosystem restoration programs with **measurable components** for the prevention, eradication, and control of invasive species;
- The encouragement of normal farming practices that result in the eradication and control of invasive species;
- Limitations on regulatory actions that hinder private efforts to fight the invasion of invasive species;
- Agency management of public lands to assist, rather than hinder, the efforts of experienced land and water managers like farmers and ranchers; and
- Programs to control invasive species that rely primarily on cooperative, voluntary, partnership-based efforts.

Finally, the 1995 Bay Delta Plan should update the entire Recommendations to Improve Habitat Conditions section to accurately reflect changes in the law. For example, the plan makes a recommendation regarding California Fish and Game Code sections 6430-6439. This section of code has been repealed and incorporated into the Public Resources Code section 71200 relating to ballast water.

My colleagues and I at Farm Bureau would be happy to discuss these issues with you further if desired.

Very Truly Yours,

Handwritten signature of Anthony L. François in cursive, with the initials "by ACF" written below it.

Anthony L. François
Director, Water Resources

cc: George Gomes, Administrator, CFBF
Rebecca Dell Sheehan, Associate Counsel,
Natural Resources and Environmental Division, CFBF