



SENATE COMMITTEE ON AGRICULTURE AND WATER RESOURCES

TESTIMONY OF

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REGARDING

RESTORING THE SACRAMENTO/SAN JOAQUIN DELTA:
WHERE DO WE GO FROM HERE?

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Mr. Chairman and members of the committee, thank you for this opportunity to testify today regarding the implementation of the CALFED Bay-Delta Program. My name is Daniel Nelson. I am the Executive Director of the San Luis & Delta-Mendota Water Authority (The Authority).

THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

The Authority is a joint powers agency organized under California Law. Its 32 member agencies are water and irrigation districts that contract with the Bureau of Reclamation for the receipt of water from the Central Valley Project (CVP). These member agencies provide water for irrigation to approximately 1,200,000 acres of land within the western San Joaquin Valley, San Benito County, and Santa Clara County, water for wildlife habitat including over 125,000 acres of critical waterfowl habitat within the Pacific Flyway, and water for municipal and industrial (M&I) use throughout the same area. The area served by the Authority's member agencies is among the most productive farming regions in the nation. Farmers in this region produce over 60 different commercial fiber and food crops sold for the fresh, dry, canned or frozen food markets; domestic and export. With an adequate water supply they could produce crops worth more than \$2 billion dollars. One of the Authority's member agencies, Santa Clara Valley Water District, is responsible for providing water to 1.8 million people and to the vital high-tech computer industry known as "Silicon Valley". This multi-billion dollar industry is critical to the economic health of California and the nation.

BACK-DROP FOR DELTA IMPROVEMENT PACKAGE, A CVP PERSPECTIVE

Water Supply Reductions

Agriculture, as well as homes, industry, businesses, and water fowl habitat, in our service area depend on adequate, reliable supplies of water. These water supplies and consequently the agriculture and industries they support have been at risk. The water supply for south-of-delta CVP agricultural water service contractors is approximately 1.83 million acre feet. Prior to 1991 those deliveries were very reliable. Between 1952, when CVP deliveries to the west side began, and 1991, CVP water supplies were reduced only once, as a result of the extreme drought of 1977. Since 1991, the implementation of three federal statutes has significantly rededicated water historically used by the south-of-delta CVP agricultural contractors to other purposes.

The three statutes, and their provisions, which rededicate south-of-delta supplies, are:

- 1) The Endangered Species Act;
 - a. Listing of the Winter Run Salmon, (1991)
 - b. Listing of the Delta Smelt (1994)
- 2) The Central Valley Project Improvement Act (1992)
 - a. 800,000 acre feet (af) dedicated for the environment ((b)(2) provision)
 - b. Refuge Water Supply
 - c. Trinity River Restoration
- 3) The Clean Water Act
 - a. The Bay Delta Accord and subsequent State Water Resources Control Board decision D-1641.

The reliability of water supplies for the 24 south-of-Delta CVP agricultural service contractors went from 92% on average in 1991 to around 50% under the regulatory baseline described in the CALFED Record of Decision (ROD).

The disproportionate impact of these regulatory requirements on the water supplies of west side farmers has been broadly acknowledged including recognition by Governor Gray Davis and former Secretary of the Interior Bruce Babbitt in June 2000, when they signed the CALFED document entitled “California’s Water Future, A Framework for Action”. The Framework correctly noted that south-of-Delta CVP agricultural water contractors had been “disproportionately affected by recent regulatory actions.”

A key commitment in the Framework and the CALFED ROD was a provision stating that during the first four years of Stage 1 of the CALFED Program, the normal water year water supply for south of the Delta CVP agricultural contractors would be increased by implementing Joint Point of Diversion, operational flexibility, interagency cooperation, EWA implementation and developing a plan for alternative refuge supplies and conveyance. Unfortunately, the CALFED Program and agencies have been unable to fulfill this commitment, in part, because conflicts between the CVP and the State Water Project (SWP) were impeding implementation of CALFED Program elements.

CVP / SWP Conflicts

Over the last several years conflicts have developed regarding the coordination and cooperation of the operations of the state's two largest projects, the CVP and the SWP. These disagreements were generally about the priority of moving water to and through the Delta and the respective responsibilities of meeting delta fishery and quality standards. The conflicts were impeding progress on several fronts critical to CALFED including the South Delta Program, wheeling of federal refuge water through the Banks pumping plant, Phase 8 water allocation, transfers, and EBMUD/Freeport Project. Coordination between the projects was minimal, cooperation was nonexistent.

By June, 2003 it became evident that the conflict was spiraling out of control, and it became evident that without resolution the projects and the contractors were headed toward litigation, a certain stalemate on progress for Calfed and protracted uncertainty for water supplies, fish recovery and water quality.

It is with this back-drop that the Napa discussions were conducted. What resulted was the avoidance of a train wreck that would have been at the least, very distracting, and more likely the end of constructive progress towards CALFED objectives. But through the Napa discussions, not only was a train wreck avoided, the stage was set for the resolution of ongoing issues affecting in-delta uses, fisheries and water quality.

Calfed At a Crossroad

The Authority is a longtime supporter of, and an active participant in, the Calfed Process. Indeed, in 1994 the Authority was among urban, agricultural and environmental water users that helped forge the Bay Delta Accord. Since then, the Authority has been active in pursuing balanced means of managing the delta that provided for reliable water supplies, recovery for fisheries, and improved water quality, while recognizing the needs of in-delta water users. CALFED, which sprang out of the Accord, provides the opportunity to manage California water resources with a broad, comprehensive and balanced approach. We advocated for that approach ten years ago; we support that approach today.

We have viewed CALFED as the best opportunity to restore some of our water supplies as one of several balanced CALFED objectives. That view has been tempered through the regulatory struggles we've experienced, and our collective inability to make real the vision of water supply reliability through CALFED.

It is in this context and with this background that we answer the questions posed to the panelists.

QUESTIONS POSED TO THE PANELISTS:

1. *What are the issues that the participants are hoping to address by trying to get to 8500-cfs exports from banks? That is, why are the participants doing this and what is the urgency?*

The SWP/CVP Integration Plan has renewed our enthusiasm in CALFED. Not only because of the potential water supply benefits but because it has set the stage for achieving a balanced

successful CALFED. It has crystallized the issues that need to be resolved to manage the Delta in a way that meets all objectives and provides the next level of detail to what has been a fairly vague CALFED concept of a “through – Delta” conveyance system.

Going to 8500 cfs at Banks Pumping Plant is the water user centerpiece of a package that will move the water supply and water quality components of Calfed from a planning exercise to implementation. The package will also maintain the steady improvement of fisheries that we’ve experienced over the last several years.

After 10 years of diminishing water supplies and promises of improvement through Calfed, the Delta Improvement Package makes real those promises while improving water quality and fisheries.

The Delta Improvement Package doesn’t come close to resolving all of our water supply issues. It restores a mere fraction of the water that has been taken away without compensation to CVP S. of-Delta contractors. It doesn’t resolve all of the water quality issues nor all of the fishery issues either. But it is a significant step toward improvement for all objectives and provides a platform for the next level of improvement.

2. *What should be the conditions necessary to go to 8500, and why?*

It was recognized that in order to implement the SWP/CVP Integration Plan that fishery and delta water quality/flow issues would need some additional attention. We’ve supported the state and federal agencies working on the fishery issues and have initiated discussions with delta water users on water quality, flow and elevation issues in the different regions of the delta.

We have confidence that the package that is emerging is one that will address these issues in a balanced manner. We are committed to work with the delta interests and fishery interests to assure that balance is achieved. As a result of these discussions, Calfed has made more progress in the past six months toward a workable Through-Delta Conveyance Program than it has over the past several years.

3. *What other short-term actions are important for reducing conflicts in the delta that are unrelated to 8500?*

The Calfed ROD acknowledged that there wouldn’t likely be increased water deliveries in the first four years of the program for water users throughout the state. The explicit exception was for CVP south-of-Delta agricultural water service contractors. There were actions anticipated in the ROD that would immediately increase water supply for CVP delta exporters. These actions include implementation of Joint Point of Diversion, operational flexibility, interagency cooperation, EWA implementation, and other cooperative water management actions. It was anticipated that these actions would increase water deliveries by 15% in normal conditions – equivalent to about 200,000 acre feet per year of additional water for CVP south-of-Delta agricultural water service contractors. Only now are the agencies beginning to implement these actions. These actions should be implemented immediately.

Other actions that should be implemented in the short term include construction of operable barriers, strategic relocation of agricultural drains, channel dredging in the south delta, recirculation, continued efforts to implement drainage source control to reduce salt from both agriculture and wetlands and construction of the Intertie.

4. *Is it important to maintain the integrity of the specific actions and the sequencing of those actions as established in the ROD?*

Neither the CALFED Program nor the ROD specified a specific sequencing of actions. Rather, the integrity of the Program was based on the notion of balanced implementation and continuous improvement for all objectives. The Delta Improvement Package is entirely consistent with this notion.

The ROD anticipates and provides for adaptive management. In the ROD's Attachment 1, California Environmental Quality Act Requirements, Findings of Fact, it discusses the adaptive management role:

Adaptive management acknowledges the need to adapt actions as conditions change and as the agencies learn more about the system and how it responds. In essence, adaptive management calls for designing and monitoring actions such that they improve the understanding of the system while at the same time improving the system itself. Adaptive management is an essential part of implementing every CALFED Program element.

5. *Is it important that actions to implement the CALFED ROD be developed through an "open CALFED processes" and be consistent with the CALFED Solution Principles?*

Implementation of the different components of the CALFED ROD must be transparent with appropriate environmental documentation and review. This doesn't preclude stakeholders and CALFED agencies from working together to develop ideas and proposals for actions to be implemented.

It is important that implementation of CALFED actions be consistent with the CALFED Solution Principles. We are confident that the implementation of the Delta Improvement Package is consistent with those principles.

CONCLUSION

In the end, CALFED can only deliver on its promise if it provides solutions to the decades-old conflicts in the Delta, resolves difficult endangered species act problems and reduces the complexity of an overlapping and conflicting regulatory framework. As difficult as that challenge is, we believe the Delta Improvement Program discussed today goes a long way toward meeting it.

We hope and trust that the state legislature, with leadership from this committee will support our efforts. We look forward to working with you Mr. Chairman and members of your committee in the coming weeks and months and we appreciate your interest and attention today.