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STATE OF CALIFORNIA

DIVISION OF
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PROTECTION

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GRAY DAVIS
GOVERNOR

February 6 2003

Mr. Dan Castleberry, Manager
Ecosystem Restoration Program
CALFED
1416 gth Street
Sacramento, CA 95814

Subject: CALFED Ecosystem Restoration Program **(ERP)** Directed Action Projects

Dear Mr. **Castleberry**

The Department of Conservation's (Department) Division of Land Resource Protection (DLRP) has reviewed the projects recently approved for funding. These projects include 29DA, 53DA, 150DA, 159DA, 167DA, 171 DA, 174DA, 185DA, 193DA, 205DA, 223DA, 230DA, and 256DA. Several projects involve the conversion of agricultural lands to another use, and possibly the cancellation of Williamson Act-contracted lands. We are limiting our comments to those projects involving conversion of agricultural lands and/or that may impact agricultural resources.

We ask that CALFED-funded projects'environmental documentation, including Notices of Exemption, prepared in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policxy, Act (NEPA) be sent to DLRP for our records and review. The address is as follows: CA Department of Conservation, DLRP, 801 K Street, Sacramento, CA 95814.

It appears that lead agencies have already determined whether to prepare a negative declaration or an environmental impact report. It is, however, important to recognize the Department's established thresholds of significance. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be less than significant. They are not intended to be stand-alone environmental policies, although they may reflect the agency's policies. The Department has established two standards that pertain to impacts to agricultural resources:

1. The Department of Conservation's Land Evaluation Site Assessment Model (LESA) is an optional tool under CEQA for lead agencies to determine threshold of significance. DLRP recommends the use of California's (LESA) model to determine significance, as it is more stringent than the federal model under the Federal Farmland Protection Policy Act.

2. Loss of more than 1 00 acres of Williamson Act contracted lands is considered of local, regional and statewide significance (CEQA Guidelines section 15206 (b)(3).

Additionally, CALFED's Significance Criteria for Evaluation of Impacts - the CALFED EIR/S Section 7.1.5 Significance Criter@ia identifies several impacts on agricultural land that may be potentially significant if implementing a Program action:

- Permanent or long-term reduction in agricultural acreage in a region or the conversion of any lands categorized as prime, statewide importance, or unique farmland.
- Adverse effects on agricultural resources or operations (for example, impacts on soils or farmland, or impacts from incompatible land uses).
- Any increase in groundwater pumping that would cause or exacerbate overdraft of a basin, which in turn leads to conversion of farmlands to non-agricultural uses.
- Inconsistency with agricultural objectives of local, regional and state plans.
- Conflicts with applicable environmental plans or policies adopted by agencies with jurisdiction over the project.
- Conflicts with general plan designations or zoning.
- Conversion of lands under the Williamson Act or other agricultural easement to an incompatible use.. (Note: The EIR/S (p. 7.1-17) indicates that a substantial amount of the agricultural land that the various programs could convert would be enrolled in the Williamson Act. State or local agencies acquiring Williamson Act contracted lands are <u>required</u> to notify the Department beforehand and in the case of prime farmland, to make findings that no other non-contracted lands is feasible for the proposed use. However, these findings are not required for *some* types of fish and wildlife enhancement projects or flood control projects, which are defined in the Act as compatible with agricultural preserves. Also exempted from this requirement are projects designated as State Water Facilities. Although the conversion of agricultural lands enrolled in the Williamson Act is often used as an indicator of significance, projects from both the Ecosystem Restoration Program and the Levee System Integrity Program likely would be compatible with the Act.) It should be noted that failure to meet the notification requirements is, under statute, admissible in court for any action opposing the project, and may result in continuation of the contract even after public agency acquisition.

DLRP has prepared an expansion of the Record of Decision (RDO) Mitigation Measures as they pertain to Section 7.1 Agricultural Land and Water Use of the ROD. While only

avoidance can fully mitigate agricultural land impacts, other actions can serve to reduce those impacts, as directed by the CEQA Guidelines. Please contact Jeannie Blakeslee of DLRP at (916) 323-4943 or at iblakesl@consrv.ca.gov for a copy.

Our comments regarding the Directed Actions are as follows:

29DA - Big Break and Marsh Creek Water Quality and Habitat Restoration Program - No comment at this time, however, please send a copy of the environmental document to DLRP for review.

53DA - Lower Deer Creek Restoration and Flood Management Feasibility Study and Conceptual Design.
Comment: Deer Creek transacts areas of prime and non-prime Williamson Act contracted lands. There may be impacts to agricultural resources as a result of floodplain inundation, and these should be addressed in the environmental document prepared.

150DA - Solano Land Trust Restoring Ecosystem Integrity in the NW Delta: Phase 11
Comment: The project proposal has been revised from a fee title land acquisition to reliance on the purchase of land conservation easements. This is consistent with the Local Partnership Planning Process developed by the CALFED Working Landscape Workgroup, which gives priority to keeping land in private ownership to accomplish CALFED goals where possible. The project description indicates that there is intent to keep land in agricultural (grazing) use, accomplishing restoration goals through management changes only. If livestock exclusion from areas of the project site, or changes in management would adversely impact continuing agricultural land use and productivity, we ask that this be addressed in the environmental document prepared in accordance with CEQA. Please send DLRP a copy of the environmental document when it becomes available for review and comment.

171 DA - Sacramento River Restoration: Chico Landing Sub-Reach
Comment: The proposal states that 1,056 acres of largely agricultural uses will be converted to riparian ecosystems. Much of this acreage is prime farmland, farmland of statewide importance, and farmland of local importance, and is under Williamson Act contract. The proposal indicates that an EIR will be prepared. The EIR should assess the project impacts on agricultural resources as a result of conversion, as well as any adverse impacts on ongoing agricultural uses on neighboring lands. Project alternatives that promote conjunctive agricultural uses and otherwise minimize or avoid the displacement of agricultural uses should be considered in the EIR. Mitigation measures as those set forth in the CALFED ROD shoul.d also be incorporated into the project design.
223DA - Battle Creek Salmon and Steelhead Restoration Project
Comment: This project involves a change in land use on about 1 0 acres of agricultural land. The area is currently used primarily for grazing. The project description indicates that removal of canals and dams is part of the proposed project. The environmental

document should address how removal of these structures affect agricultural resources and practices in adjacent areas that remain in agriculture. Is the 10 acres to be returned to grazing after construction?

230DA - US Fish and Wildlife Service Recovery Implementation for the Brush Rabbit and Riparian Woodrat on the Lower Stanislaus River

Comment: The project involves acquisition of 185 acres of prime farmland, and the conversion of at least 50 acres to non-agricultural uses. As a large portion of the project site is affected by Williamson Act contracts, we ask that DLRP be contacted early in project development phases. The proposal states that contract cancellation may be necessary. As recommended previously, the pro@,ect proponent should consult with DLRP 2[[@IE to project implementation regarding Williamson Act contract compatible use, public acquisition and termination requirements. The project description indicates that a negative declaration is to be prepared. As there may be impacts to agricultural resources, the project proponents should consider implementing agricultural land management practices for continued agricultural productivity as well as habitat restoration. Also, the Negative Declaration should provide mitigation for adverse environmental impacts (e.g. agricultural land conversion) consistent with the CALFED ROD.

256DA - Yolo Basin Foundation Pacific Flyway Center Initial Planning

Comment: The project will involve initial planning for a 69-acre site that is currently in agricultural use. The Wildlife Conservation Board acquired the site in August 2001. The proposed project will include habitat, trails and a 12,000 square foot educational center. Any impacts resulting from the change in land use should be addressed in a document prepared in accordance with CEQA.

Thank you for the opportunity to provide comment on the directed actions. Again, please distribute the environmental documents to DLRP for review and comment when they become available. We would be pleased to provide assistance in assuring that our concerns are addressed. Please call Jeannie Blakeslee at (916) 323-4943 if you have any questions regarding these comments.

Sincerely,

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Dennis **J.** O'Bryant
Manager
Williamson Act Program

State of California

Memorandum

To: Mr. Dan Castleberry
CALFED-Ecosystem Restoration Program
1416 9" Street
Sacramento, CA 95814

Date December 18, 2002

Place Sacramento

Phone: **(916)** 657-4956

From Department **of Food** and Agriculture

Steve Shaffer, Director
Office of Agriculture and Environmental Stewardship

Subject CALFED Ecosystem Restoration Program's (ERP) 2002 Directed Action Grant Proposals

The Department of Food and Agriculture (CDFA) has reviewed the projects approved by the CALFED Management Group for ERP Directed Action funding. Among other CALFED roles, CDFA provides staff support to the Working Landscapes Subcommittee of the Bay-Delta Public Advisory Committee and is a member of the Management Group. In this latter role, and consistent with the CALFED ROD and the Local Partnerships Planning Process, CDFA seeks to address agricultural landowner concerns with CALFED Program implementation by promoting CALFED actions that enhance, or avoid adverse impacts on agriculture that also help to achieve CALFED objectives. It is in this role that we offer the following comments on the Directed Action projects.

The projects offer a good mix of planning, implementation and science projects that, if implemented, should advance the goals and objectives of CALFED. We are especially pleased to note that several of the projects include as one of their primary or secondary objectives, the achievement of ecosystem restoration while promoting a working landscape. For example, the Battle Creek Protection and Stewardship project (#166DA) includes among its goals and objectives, supporting compatible economic productivity including wildlife compatible agriculture,

The CALFED ROD calls for the consideration of a variety of measures that avoid minimize and/or mitigate the adverse impacts of CALFED projects on agricultural land. It appears from our review that several of the Directed Action projects will have potentially adverse impacts on agriculture land. These include some of the projects that in other respects promote agriculture as an integral component of a working landscape. These projects include:

30DA - Dutch Slough Tidal Marsh Restoration; 1,166 acres of land, two-thirds of which is agricultural, a portion of which will be converted to tidal marsh

Comment: The proposal indicates that a CEQA/NEPA document will be prepared. Not only should the EIR/EIS document and consider mitigation measures for the project's agricultural land conversion impacts, but also for the redirected impacts. The proposal indicates that the site is currently slated for urban development. The City of Oakley does not plan on accommodating the displaced growth as part of its new general plan. Therefore, the EIR/EIS should examine if the preempted urban development will be redirected to other agricultural lands, thereby potentially doubling the agricultural land conversion impacts of the project.

53DA - Deer Creek Watershed Conservancy Project - Feasibility Study and Conceptual plan for habitat restoration and flood management

Comment: This is a planning project and will not directly result in any adverse impacts on agricultural land. In fact, the project appears to be another example of an agricultural friendly wildlife/floodplain protection project that ovety promotes a working landscape outcome. Nevertheless, we encourage ERP and the project proponent to anticipate potential adverse impacts on agricultural productivity as planning progresses and specific implementation actions rise to the surface. As such projects become apparent, please keep in mind that CEQA encourages environmental analysis to occur as early in the process of a project as the impacts can be foreseen. Even better, as seems likely with this project, early identification of agricultural impacts will allow adaptive management to address impacts through project design/redesign.

96DA - Natomas Mutual Water Company American Basin Fish Screen Habitat Improvement Project

Comment: This project will apparently involve the acquisition of 80 acres of agricultural land for project facilities. While the project seems like it may have an overall beneficial impact on agriculture, it could still result in the loss of agricultural land. The CEQA analysis should acknowledge this impact in terms of the net effect on agricultural productivity of the site. The EIR's alternatives analysis should document how the proposed project alternative minimizes the impacts on agricultural land, and where adverse impacts remain, considers mitigation measures.

116DA - Reclamation District No. 108 Consolidated Pumping Facility and Fish Screen

Comment: Again, this looks like a project that will have an overall positive agricultural impact, but will result in the conversion of 50 acres of agricultural land to non-agricultural uses. In addition, the affected land is subject to a Williamson Act contract. The proposal indicated that a CEQA review (negative declaration) will be conducted. We recommend that the conversion of agricultural land be analyzed as a potentially significant environmental impact. Also, because the land to be converted is subject to a Williamson Act contract, the California Department of Conservation should be contacted regarding contract termination requirements. Environmental documentation should demonstrate that reasonable effort has been made to avoid, minimize and/or mitigate the project's impacts on agricultural land and land uses.

150DA - Solano Land Trust Restoring Ecosystem Integrity in the NW Delta: Phase 11

Comment: The project proposal has been revised from a fee title land acquisition to on reliant on the purchase of land conservation easements. This is consistent with the Local Partnership Planning Process developed by the CALFED Working Landscape Workgroup, which gives priority to keeping land in private ownership to accomplish CALFED goals where possible.
While the project intends to keep land in agricultural (grazing) use, accomplishing restoration goals through management changes only, if livestock exclusion from areas of the project site, or changes in management that will adversely impact continuing agricultural land use and productivity, we recommend that these be addressed pursuant to CEQA, including a consideration of mitigation if agricultural resources or land use will be adversely impacted.

166DA - Battle Creek Protection and Stewardship

Comment: As previously noted, this project, from its description, fits the notion of the kind of project envisioned by the Working Landscapes Subcommittee, Local Partnership Planning Process and the CALFED ROD, including the use of conservation easements and the concurrent enhancement of existing agricultural uses of the watershed. As the project progresses and plans are formulated, any specific actions that will result in the removal or impairment of agricultural land from production should be considered for their significance as environmental impacts under CEQA. Further, since the project does appear to involve land under Williamson Act contract, any future actions involving the public acquisition or termination of these lands should involve consultation with the Department of Conservation.

170 DA - Restoration of the Conf I uence Area of the Sacramento River, Big Chico and Mud Creeks

Comment: According to the proposal, this project will involve the acquisition of 271 acres of agricultural land (walnut orchard) that is subject to frequent flooding through fee title acquisition from willing sellers. The proposal indicates that an EIR will be prepared. The application does not note its Williamson Act contract status. The project's impacts on agricultural resources and land uses should be analyzed, and as necessary, avoided, minimized and/or mitigated if any land use changes are associated with the acquisition. As noted previously, projects involving Williamson Act contracts should involve consultation with the Department of Conservation.

171 DA - Sacramento River Restoration: **Chico** Landing Sub-Reach

Comment: The proposal states that 1,056 acres of largely agricultural uses will be converted to riparian ecosystems. The proposal indicates that an EIR will be prepared. The EIR should assess the project impacts on agricultural land conversion as well as any adverse impacts on ongoing agricultural uses on neighboring lands. Project alternatives that promote conjunctive agricultural uses and otherwise minimize or avoid the displacement of agricultural uses should be considered in the EIR. Mitigation measures as those set forth in the CALFED ROD should also be incorporated into the project design where possible.

181 DA - Tuolumne River Mining Reach Restoration Project: Warner-Deardorff Segment No. 3 - Construction

Comment: While the project will not apparently involve the conversion of agricultural land, it will affect land under Williamson Act contract. Any changes to the use of contracted lands, or that involves contract termination or acquisition, should involve the prior consultation with the Department of Conservation.

230DA - US Fish and Wildlife Service Recovery Implementation for the Brush Rabbit and Riparian Woodrat on the Lower Stanislaus River

Comment: [We understand that this project may have been pulled from the list of funded projects. If so, please disregard the following comments.] The project will involve the acquisition of 185 acres of land, including Prime Farmland, and the conversion of at least 50 acres to non-agricultural uses. The proposal states that a CEQA analysis (negative declaration)

will be prepared. The project's impacts on agricultural land should be avoided and minimized where feasible. Where significant adverse impacts cannot be avoided or reduced significantly, a mitigated negative declaration should be prepared to address the impacts, relying on the measures listed in the CALFED ROD. Also, the project seems like one that would lend itself to a working landscape approach as described by the Local Partnerships Planning Process. Therefore, we would recommend that the project planning process consider project alternatives that involve enhanced agricultural land uses, both for the sake of agricultural productivity and habitat restoration. Finally, at least some of the project site is affected by Williamson Act contracts. The proposal states that contract cancellation may be necessary. As recommended previously, the project proponent should consult with the Department of Conservation prior to project implementation regarding Williamson Act contract compatible use, public acquisition and termination requirements.

256DA - Yolo Basin Foundation Pacific Flyway Center Initial Planning

Comment: The project will involve initial planning for a 69-acre site that is currently in agricultural use. The site was acquired by the Wildlife Conservation Board in August 2001. It is anticipated that the site will include habitat, trails and a 12,000 square foot educational center. As part of the planning process, adverse impacts to agricultural resources should be considered along with potential avoidance and mitigation measures. Such measures might include siting facilities to minimize or avoid impacts to adjacent agricultural operations, and other mitigation measures consistent with the CALFED ROD. Any subsequent land use changes should be address under CEQA.

As we've recommended under the above individual project comments, all CALFED projects that have the potential to adversely affect agricultural land or water resources or land uses, should be subject to CEQA analysis. During the initial study phase of such CEQA analyses, the significance of project impacts must be determined. We recommend the use of the systematic, relatively objective Land Evaluation and Site Assessment (LESA) model to determine significance. The model is currently required under the Federal Farmland Protection Policy Act for federal projects. The Department of Conservation has developed a California version. We recommend the project proponents be encouraged to use this tool as at least one means to determine impact significance under CEQA. The Department of Conservation and CDFA are available to assist proponents in the use of the model.

The CALFED ROD lists a number of measures to lessen, avoid or compensate for the adverse impacts of CALFED actions on agricultural land. One that we believe that should be considered in all analyses is the use of compensatory agricultural I and conservation easements to mitigate direct and indirect, as well as cumulative impacts on agricultural land. The California Farmland Conservancy Program Fund has been set up to accommodate deposits of mitigation fees for subsequent directed purchases of agricultural land conservation easements.

Finally, as we stated at the outset of this memorandum, we are encouraged to see a number of projects moving forward that seem to embody, or have the potential to embody a working landscapes approach to achieving CALFED goals. CDFA stands ready to assist the ERP and project proponents with continuing the development of these kinds of project.