

**DEPARTMENT OF WATER RESOURCES**

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October 7, 2003

Mr. Barry Nelson  
Natural Resources Defense Council  
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Ms. Ann Hayden  
Mr. Spreck Rosekrans  
Environmental Defense  
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This is in response to your letters of August 22 and 27, 2003 regarding the draft Napa Proposition. This response builds upon and will not reiterate what Secretary Nichols said in her October 2, 2003 letter to Senators Feinstein and Boxer. On behalf of the Department of Water Resources and the Department of Fish and Game, let me begin by assuring you that we take your concerns very seriously. Through the CALFED process we have forged a partnership that includes not only State and federal agencies, but also important stakeholder groups such as the environmental community. We recognize that maintaining and nurturing this partnership is essential to achieving the goals we all share – restoring ecosystem health and ensuring water supply reliability for a growing population.

Recently, Senator Machado held a hearing in Stockton on the Napa Proposition. Once again the State made clear the Operations Criteria and Plan (OCAP) and South Delta Improvements Program (SDIP) integrated package that came out of Napa was just part of a balanced CALFED package we will term the Project Integration Proposal, or PIP.

Specific responses to the concerns raised in your letter are presented as follows:

**Water Quality Standards in the Southern Delta**

There are two major issues related to the Southern Delta; (1) achievement of water quality and flow standards at Vernalis, and (2) salinity, dissolved oxygen, flow and water level issues in the Southern Delta downstream of Vernalis.

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At the Stockton hearing, the exporters, and Delta interests discussed ongoing meetings to examine this interconnected set of concerns and develop solutions to as many of them as possible. There is broad agreement that the PIP must contain measures to concurrently resolve these issues. Appropriate CALFED agencies and stakeholders must join these discussions to develop the PIP.

### **San Joaquin River Restoration**

The State has provided significant funding, \$5.6 million to date, for the Water Supply Augmentation Study, which is complete, and the San Joaquin River Fisheries Restoration Study. The fisheries study is near complete, and it can be finished in six months. The State is committed to its completion. The State will also expect the Bureau of Reclamation to utilize both these studies to develop alternatives for restoring flow in the San Joaquin River.

### **Changes to the Environmental Baseline**

Your letters express concerns with changes to the environmental baseline principally due to changes in the management of water supplies made available under section 3406(b)(2) of the Central Valley Project Improvement Act. These changes are the result of recent court decisions and changes in Department of Interior policy as a result of these decisions. You express concern that there is less water available to the environment because of these changes and offer a quantification of this reduction. The State recognizes that the Tier 1 Baseline has changed since the adoption of the CALFED ROD in 2000 due primarily to actions by the courts. The EWA is operated to provide increased protection to at risk fish species of the Bay/Delta Estuary above that provided by the Tier 1 regulatory baseline. Over the last three years the operation of the EWA has been successful in achieving fisheries protection and water supply commitments even with these changes in b(2) policy. As we develop a long-term EWA, we will evaluate the actions needed to protect at risk fish species at levels that provide both water supply reliability commitments to the SWP/CVP and recovery of these species. We see this as a more productive approach than an acre-foot per acre-foot comparison to past regulatory baseline conditions.

Your letters also express concern that the Napa Proposition calls for the CVP to assist the State in meeting its share of the D1641 standards could be designed to count toward the b(2) account and decrease b(2) water available for other purposes. This is not the case. We will clarify in the documentation on SDIP and OCAP that this dedication of water supply to assist the State is not to count as a b(2) cost.

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### Environmental Water Account

Your letters recognize the success of EWA over the last three years and the challenges we face as we design a long-term EWA. Your ideas regarding the performance of the variable assets, opportunities to acquire additional assets for EWA and the respect of user fees are being evaluated. They will be considered as we develop the outline of a long-term EWA that will be needed with conditions expected in the future.

### Environmental Water Program

The Environmental Water Program has been progressing well since the assignment of the lead to the U.S. Fish and Wildlife Service. The current efforts, by design, have shifted to a pilot water acquisition program targeting five streams, with a greater emphasis on temporary rather than permanent flows. The multi-year work plan for the ERP recently approved by the Bay-Delta Authority includes the EWP, with a goal of one to three acquisitions in Year 4 of the CALFED Bay-Delta Program.

Since the same agencies involved in operations integration are involved in the EWA and the Environmental Water Program, a high degree of coordination is ensured. All those involved in water management, particularly regarding the environmental blocks of water such as EWA, EWP, and b(2), are fully committed to bring about program efficiencies, both financially and ecologically.

### Refuge Water Supplies

The NAPA Proposition specifies that the SWP will provide up to 100,000 acre-feet of conveyance capacity at Banks Pumping Plant to wheel CVP Level 2 Refuge water to wildlife refuges in the San Joaquin Valley. You are correct in observing that this action will free up additional conveyance capacity at the CVP's Tracy Pumping Plant. This, in turn, will increase south-of-Delta water supplies to CVP contractors in most years.

This type of integration of the SWP and CVP is completely consistent with the CALFED Record of Decision. An objective of the CALFED Conveyance Program is to provide greater capability for SWP facilities to be used to improve the reliability of CVP supplies for both its water users and wildlife refuges.

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### OCAP and CVP Contract Renewals

The OCAP will describe and analyze the current and future operation of the CVP and SWP. The accompanying biological assessment will be the basis for development of new, long-term biological opinions for endangered fish. Long-term biological opinions are important not only to the CVP contract renewal process, but to the current operation of the SWP and CVP. The biological opinions for spring run salmon and steelhead will expire in the spring of 2004. The opinions for winter run salmon and Delta smelt were written over eight years ago. Project operations have evolved since that time. This situation when combined with the implementation of the SDIP and the Intertie, provide an opportune time for development of long-term biological opinions. The OCAP BA will analyze fish impacts using a comprehensive description of CVP and SWP water project operations now and in the future. This will provide DFG, USFWS, and NOAA Fisheries a complete analysis upon which the new and updated biological opinions will be based and avoid the inefficient process of developing individual sets of biological opinions for each proposed project.

It is for these reasons that DWR supports completing the OCAP and the resulting biological opinions. Renewal of long-term CVP water supply contracts must comply with State and federal environmental laws. The State will do the appropriate analysis and scrutiny of the contracts to insure they will remain consistent with the project description throughout the life of the project and the contracts and pose no impediments to carrying out the ROD.

In summary, we believe what was begun at NAPA is a very positive step towards the development of a balanced PIP fully in line with the CALFED principle of "we all get better together." We encourage you and others of the environmental community to appreciate the significance of this proposal and fully engage to allow these improvements to be developed, approved, and implemented as soon as possible.

Sincerely,



Michael J. Spear  
Interim Director  
Department of Water Resources



Robert C. Hight  
Director  
Department of Fish and Game



October 2, 2003

Honorable Dianne Feinstein  
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Honorable Barbara Boxer  
United States Congress  
112 Hart Senate Office Bldg.  
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Senators Feinstein and Boxer:

I am writing to clarify the state's position on the "Napa Proposal", which has been the subject of much interest and at times misunderstanding. The state agency participants in the California Bay-Delta Program have received several letters and questions from members of Congress, the California legislature, and interest groups. These letters and questions have raised valid concerns, and we take these concerns seriously.

### ***The Napa Proposal is NOT a decision document***

The CALFED process is designed to include a broad range of stakeholders, collaboration among the State and federal agencies, and the development of solutions that address multiple benefits based on the best available information. I remain committed to maintaining this open and transparent process, but I also recognize that from time to time various stakeholder groups will caucus and develop proposals to be considered within the scope of the Bay-Delta Program as a whole.

It is in the CALFED context that I believe the Napa Proposal was developed, and it is within this context that it should be considered. The Napa Proposal is not a CALFED decision document; it is a proposed set of State Water Project/Central Valley Project (SWP/CVP) operating rules that will be evaluated and considered as part of a larger set of actions to improve the water supply reliability, water quality, and ecosystem health of the Bay-Delta system.

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These actions, as described in the CALFED Record of Decision, include the South Delta Improvements Program (to increase the SWP's pumping flexibility to 8500 cubic feet per second), the Environmental Water Account, the Delta Mendota Canal/California Aqueduct Intertie, and related actions to protect water quality and local diverters in the Delta. Each of these actions will be fully evaluated and reviewed through CEQA and NEPA, through the Bay-Delta Public Advisory Committee, and through other public processes established by the California Bay-Delta Authority (Authority).

### **SWP and CVP Operations must be better coordinated to meet the multiple objectives of the California Bay-Delta Program**

The Authority agencies have been working since the fall of 2002 to coordinate and integrate the assumptions and schedules of the above actions, so that elected officials, stakeholders, and the public have a better understanding of their costs, benefits, and impacts. But as the discussions continued, it became clear that progress would be stalled and that fewer water supply, water quality, and environmental benefits would be achieved through these actions unless the SWP and CVP worked to better coordinate their operations. As a result of the Napa discussions, we now have a proposal that may accomplish that goal, and a renewed commitment to support an integrated package of state and federal actions.

During the last two months, the Authority agencies and stakeholders have been working closely to analyze the impacts of the Napa Proposal with hydrologic and biologic modeling, together with other elements of the South Delta Improvements Program and alternative approaches to develop a long-term Environmental Water Account. These analyses will be fully described in draft environmental review documents to be issued for public review and comment later this year. Following an extensive public review process, the agencies expect to issue an integrated set of final decisions, together with a financing plan, in the summer of 2004. I remain confident that this integrated set of actions will significantly improve water supply reliability, water quality, and ecosystem health of the Bay-Delta system.

### ***The State Continues to Support Implementation of the Trinity River ROD***

It is important to note that nothing in the Napa Proposal jeopardizes implementation of the Trinity River Record of Decision (ROD). In fact, the proposed revisions to the SWP/CVP Operations Criteria and Plan (OCAP) assume that the Trinity River ROD will be implemented as envisioned in December 2000.

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The State continues to support the Hoopa and Yurok Tribes, and Trinity County in their efforts to implement the Trinity River ROD, including the development of the Supplemental Environmental Impact Statement as required by court order. We believe the instream flow schedule in the Trinity River ROD is the foundation for restoration of the Trinity River and its native fish, and we will insist this issue is settled prior to implementation of the Napa proposal.

Thank you for your continued support of the California Bay-Delta Program and efforts to provide for its federal authorization. If you have any further questions, please contact me directly or Tim Ramirez, Assistant Secretary for Water Policy and Science, in my office.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Mary D. Nichols".

Mary D. Nichols  
Secretary for Resources



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**Agenda Item: 4 – Supplement to Director’s Report**  
**Meeting Date: October 9, 2003**

September 2003

## **California Bay-Delta Update**

### *News Highlights from the California Bay-Delta Authority*

#### **In the News**

**California Bay-Delta Authority Actions:** After being sworn in, the California Bay-Delta Authority took action on an array of items during the August 14 inaugural meeting. Those actions included:

- Approving multi-year work plans for each major element of the Bay-Delta Program. The plans outline specific actions over the next four years in areas such as ecosystem restoration, water quality, and water use efficiency. The plans were developed by State and Federal agencies with input from stakeholders and members of the Bay-Delta Public Advisory Committee. Further details on the program plans can be accessed at [http://calwater.ca.gov/Final\\_Program\\_Plans\\_2003/FinalProgramPlans2003.shtml](http://calwater.ca.gov/Final_Program_Plans_2003/FinalProgramPlans2003.shtml).
- Appointing 15 scientists from across the United States to serve on a newly created Independent Science Board for the California Bay-Delta Program. The board will make recommendations to the Authority and the Bay-Delta Public Advisory Committee on science issues relevant to the overall Program and individual program elements. Further details are available at <http://calwater.ca.gov/CBDA/NewCBDA.shtml>.
- Approving funding for a variety of projects within the Ecosystem Restoration Program. A total of \$14.3 million in grant funding was approved for nine projects ranging from water quality and habitat restoration to outreach on ballast discharges. More information on the grants is available at <http://calwater.ca.gov/Programs/EcosystemRestoration/Ecosystem.shtml>.

**Integrated Operations:** Bay-Delta agencies continue to discuss options for integrating Central Valley Project and State Water Project operations. This is one of several objectives laid out in the Bay-Delta Program’s August 2000, Record of Decision, which

also includes development of a long-term Environmental Water Account, long-term contract renewals, South Delta improvements, development of the Operations Criteria and Plan (OCAP), and biological opinions for the projects. The entire package will be subject to extensive public review and comment between December and June 2004. In the meantime, project contractors have developed a preliminary proposal, and the agencies will consider these and other alternatives in developing a comprehensive set of actions. Information on the proposal can be accessed at <http://www.usbr.gov/mp/cvp/DraftPropOperations.pdf> and at <http://www.calwater.ca.gov/BDPAC/Subcommittees/WaterSupplySubcommitteeMeetingMaterials.shtml>.

**Trinity Flows:** The U.S. Bureau of Reclamation has announced plans to release an additional 33,000 acre-feet of water by the end of summer to protect fish in the Trinity River. The releases hinge on an exchange agreement in which Metropolitan Water District of Southern California will make 50,000 acre-feet of water available to the Central Valley Project for immediate use. The district purchased the water from Northern California rice growers earlier this year. Under the agreement, the CVP will return the water to MWD at a later time. Details on the Trinity plan and exchange agreement are available at [http://www.usbr.gov/mp/Mp140/news/2003/8-22\\_Trinity\\_Releases.html](http://www.usbr.gov/mp/Mp140/news/2003/8-22_Trinity_Releases.html).

**Court Ruling:** On September 8, 2003, the 9<sup>th</sup> Circuit Court of Appeals reversed an earlier U.S. District Court ruling which had dismissed, as not “ripe” for review, a lawsuit filed by the California Farm Bureau Federation and several farmers challenging, under Federal law, the adequacy of the CALFED Programmatic environmental review documents. The case will now go back to the trial court to decide the substance of the allegations. Also at issue on remand will be the extent to which certain State officials named as defendants are proper parties to this Federal action. A similar, consolidated challenge by the Farm Bureau and others based on State law is currently on appeal in State court. In that case, the lower court, in March 2003, had upheld the adequacy of the programmatic environmental review documents in their entirety. The full opinion is available at the Ninth Circuit's website at <http://www.ca9.uscourts.gov/ca9/newopinions>.

**Salmonid Workshop:** The California Bay-Delta Authority's Science Program sponsored a two-day workshop on Central Valley salmon issues. The workshop at UC Davis explored all aspects of the recovery of threatened and endangered salmonid populations in the Central Valley. Further details are available at [http://www.pfeg.noaa.gov/tib/events/cv\\_events/cv\\_tw.html](http://www.pfeg.noaa.gov/tib/events/cv_events/cv_tw.html).

## Bay-Delta Program Happenings

**Advisory Committee:** The Bay-Delta Public Advisory Committee will meet September 11, in Sacramento. The agenda topics include assessing Year 3 accomplishments and progress, state and regional priorities, near-term budgets and the long-term finance plan. A panel of agency representatives and BDPAC members will address coordination

between the California Water Plan Update, the Federal Water 2025 strategy, and the Bay-Delta Program. A major coordination issue to be discussed is cooperation between the State and Federal processes and regional efforts. The Committee is expected to provide reports or recommendations to the Bay-Delta Authority and implementing agencies on these and other topics. Meeting details are available at <http://www.calwater.ca.gov/BDPAC/BDPAC.shtml>.

**CVPIA Conference:** Landmark legislation that reshaped the Federal Central Valley Project is the focus of a conference September 12, in San Francisco. The event, “A Decade of Water Policy Reform: The Central Valley Project Improvement Act in 2003,” features keynote speaker Bill Bradley, former U.S. senator and co-author of the legislation. Conference details can be accessed at [http://www.cnr.berkeley.edu/site/news\\_item\\_detail.php?id=56](http://www.cnr.berkeley.edu/site/news_item_detail.php?id=56).

**Watershed Forum:** A one-day forum on the future of watershed management policy in California will be held September 19, in Sacramento. The event’s sponsors include the Watershed Management Council and the California Watershed Network, with support from the Environmental Protection Agency. Forum details are posted at <http://www.watershednetwork.org/events.html>.

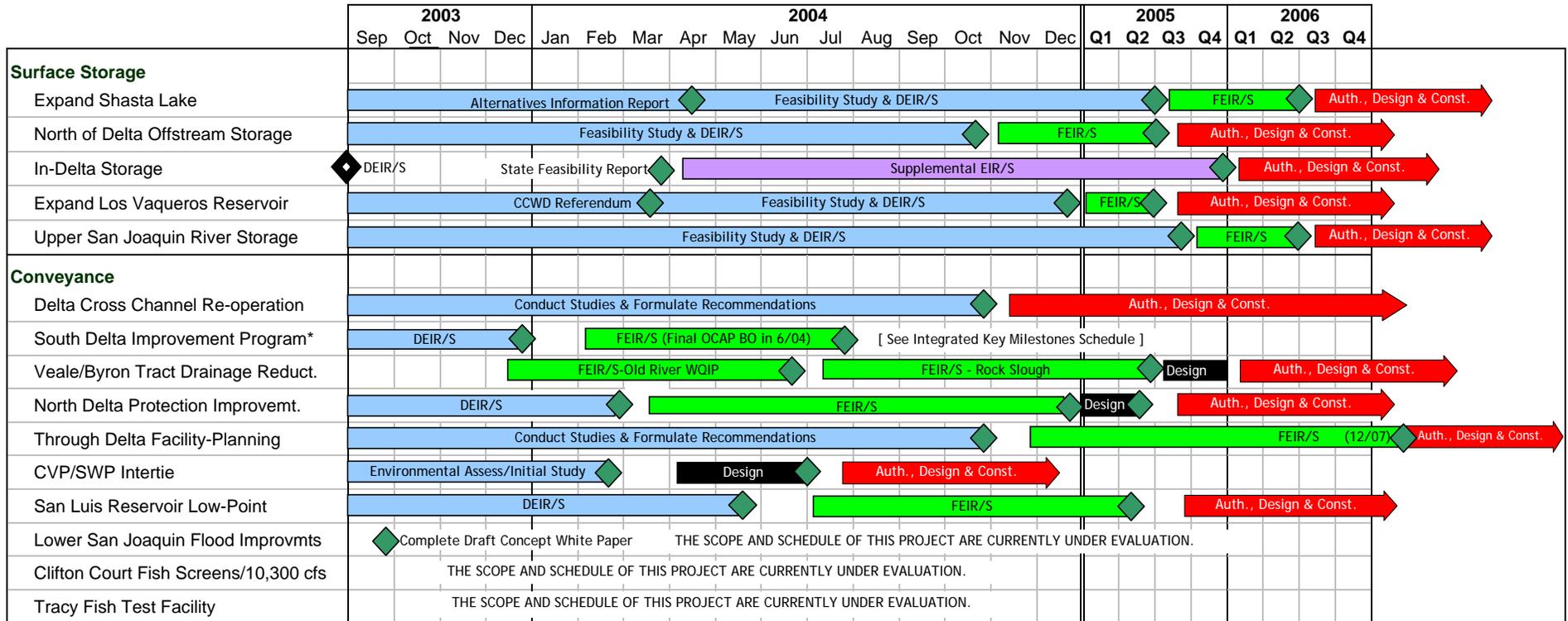
**BDPAC Subcommittees:** Several subcommittees of the Bay-Delta Public Advisory Committee are slated to meet in September. Upcoming meetings include the Delta Levees and Habitat Subcommittee and the Environmental Justice Subcommittee on September 12, Ecosystem Restoration Subcommittee on September 25, and Drinking Water Subcommittee on September 26. Meeting notices are posted on the Program calendar at <http://www.calfed.water.ca.gov/calendar/calendar.shtml>.

**South Delta Fish:** The next meeting of the South Delta Fish Facilities Forum is set for September 23, in Sacramento. The forum is charged with examining and recommending options for fish protection in the South Delta. Further information is available at <http://calwater.ca.gov/Programs/Conveyance/SDFP/SouthDeltaFishFacilitiesForum.shtml>.

**Correction to the August Enews Update on In-Delta Storage Feasibility Study Reports:** Because of a delay in releasing the Executive Summary to the In-Delta Storage Feasibility Study Reports, the public comment period and public meetings have been delayed. The release of the Executive Summary is now anticipated to be the week of September 15, and the 30 day public comment period will begin on the release date. The two public meetings are tentatively rescheduled for September 30, in Walnut Grove and October 2, in Sacramento, both from 9:00 a.m. to 1:00 p.m. When the Executive Summary is released and subsequent information confirmed, an update will be sent. More information is available at [http://calwater.ca.gov/Programs/Storage/InDeltaStorageReports\\_2003/InDeltaFeasibilityStudies\\_Aug03.shtml](http://calwater.ca.gov/Programs/Storage/InDeltaStorageReports_2003/InDeltaFeasibilityStudies_Aug03.shtml).

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## Surface Storage and Conveyance Schedules



\*One of the objectives of the South Delta Improvement Program is to increase State Water Project export pumping to 8,500 cfs.

### Key

- ◆ Completed milestone
 ◆ Planned milestone
- Studies & DEIR/S

Draft environmental documentation and related studies
- Supplemental EIR/S

Supplemental Environmental Impact Report & Environmental Impact Statement
- FEIR/S

Final environmental documentation
- Design

Design expected to proceed consistent with the ROD
- Auth., Design & Const.

Authorization, design and construction - indicates the need for a decision

# Bay-Delta Program Finance Plan

## **Independent Review Panel**

David Abel is President and CEO of a California-based Public Affairs Consulting Firm, ABL, Incorporated, engaged in public policy, affordable housing development, transportation, and civic affairs. The firm also publishes two widely respected newsletters: “*The Planning Report*” which covers land-use and the “*Metro Investment Report*” which covers public infrastructure investment. Mr. Abel is also Chair of the LA Area Chamber Transportation, Water and Infrastructure Committee, and is a Lecturer in UCSD’s Urban Studies Department, as well as both a Senior Fellow at Occidental College’s International & Public Affairs Center and the Chair of USC’s School of Public Policy’s Overseers Board. In addition to his law & education degrees, his educational background includes an undergraduate degree in economics at the London School of Economics, and a master’s degree in Urban Studies.

David Dowall is a Professor of City and Regional Planning at the University of California, Berkeley. He is a Visiting Fellow of the Public Policy Institute of California. Dowall is a leading expert in urban economics and infrastructure policy and frequently consults for the World Bank, Asian Development Bank, United Nations Development Programme, and U.S. Agency for International Development. He has served as policy advisor to local and central governments and businesses in over 40 countries. He has authored several books including his more recent book Making Room for the Future: Rebuilding California’s Infrastructure. He holds a B.S. in economics from University of Maryland and both a master’s degree in urban and regional planning and a Ph.D in economics from University of Colorado.

Frederick T. Furlong is vice president in charge of the Financial and Regional Research Section of the Economic Research Department at the Federal Reserve Bank of San Francisco. Furlong came to the Reserve Bank in 1983 after serving five years as an economist at the Board of Governors of the Federal Reserve System in Washington, D.C. While at the Bank, Furlong has written extensively in the areas of banking, financial markets and monetary policy. He currently serves as a member of the Bay Area Council and Bay Area Economic Forum. After earning a bachelor’s degree in science at St. Mary’s College of California, Furlong received master’s and Ph.D. degrees in economics at the University of California at Los Angeles.

W. Michael Hanemann serves as the Chancellor’s Professor in the Department of Agricultural and Resource Economics and in the Goldman School of Public Policy at the University of California, Berkeley. Hanemann’s research interests include non-market valuation, environmental economics and policy, water pricing and management, demand modeling for market research and policy design, the economics of irreversibility and adaptive management, and welfare economics. Hanemann is a member of the Environmental Economics Advisory Committee of USEPA’s Science Advisory Board, and a member of the BDPAC Drinking Water Quality Subcommittee. He is the author of Urban Water Demand Management and Planning and other publications on urban water financing. His work has appeared in *AER*, *Econometrica*, *JEEM*, *AJAE*, and elsewhere. Hanemann holds a master’s degree from the London School of Economics, and both a masters in Public Finance and Decision Theory and Ph.D in economics from Harvard University.

Wendy Illingworth is founder and principal of Economic Insights, an economic consulting firm. She specializes in resource and regional economics, with expertise in the economic and financial aspects of water supply and pricing issues. She has had approximately twenty-five years' experience in resource planning, rate and economic impact issues for water and electric utilities. The last fifteen years of her experience has concentrated on issues related to California water supplies. Her work has focused on areas of economic and financial impacts of alternative supply strategies, economic impacts of proposed projects or regulations, rate design. Illingworth received her undergraduate and graduate degrees in economics from the University of Arizona.

Dean Misczynski is founding director of the California Research Bureau in the California State Library. The Bureau, begun 1991 and modeled on the Library of Congress' Congressional Research Service, provides policy research services to both houses of the California Legislature and the Governor's Office. Misczynski worked for California's Senate for several years, where he drafted the Mello-Roos Act, the Infrastructure Financing District Act (which allows limited tax increment financing for infrastructure to serve new development) and other local financing legislation. He also served as deputy director of the state's Office of Planning and Research. Misczynski's graduate and undergraduate education were at Stanford in economics.

Daniel A. Sumner is Director of the University of California Agricultural Issues Center and the Frank H. Buck, Jr., Professor, Department of Agriculture and Resource Economics, University of California, Davis. Sumner spent several years as a senior economist at the President's Council of Economics Advisers and at the United States Department of Agriculture, where he served as Assistant Secretary for Economics in 1992 and early 1993. Sumner is the author of numerous professional articles, chapters and reports and the author, coauthor or editor of 10 books. Sumner is a graduate of California State Polytechnic University in agricultural management. He has a master's degree from Michigan State and a Ph.D. in economics from the University of Chicago.

Dennis Wichelns is Chief Economist with the California Water Institute and Professor of Agricultural Economics, at the California State University, Fresno. Since 1985, Wichelns has maintained an active program of research and consulting activities in California, with particular emphasis on irrigation and drainage issues in the San Joaquin Valley. His current research includes analysis of water supply and demand issues in California, transboundary competition for water resources, and the special role that improvements in water management can play in reducing poverty, improving environmental quality, and enhancing food security. He has degrees in Agricultural Economics from the Univ. of Maryland and the University of California, Davis.

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CALIFORNIA BAY-DELTA AUTHORITY  
MEETING HANDOUT – 10/09/03

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Of Agricultural Water Use](#)