State of California

# Memorandum

**Department of Justice**
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To : LESTER A. SNOW
Executive Director
CALFED Bay-Delta Program

MARGIT ARAMBURU
Executive Director
Delta Protection Commission

Date : June 5, 1998

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From : RICHARD M. FRANK
Assistant Attorney General
Land Law Section
**Office of the Attorney General - Sacramento**

Subject : Conflict Waiver

This memorandum is to confirm that, except as otherwise provided below, you waive any actual or potential conflict of interest which may exist in the following legal representation by the Office of the Attorney General:

1. Representation of the CALFED Bay-Delta Program (CALFED) with respect to matters pending before the Delta Protection Commission (DPC);

2. Representation of the DPC with respect to matters pending before CALFED.

This consent is given with full knowledge of the following:

CALFED is a consortium of state and federal agencies which is developing a long-term comprehensive plan to restore ecological health and improve water management for beneficial uses of the Bay-Delta system. ("Bay-Delta" being the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. See Wat. Code, § 78501, subd. (a).)
CALFED has four program objectives:

Provide good water quality for all beneficial uses.

Improve and increase aquatic and terrestrial habitats and improve ecological functions in the Bay-Delta to support sustainable populations of diverse and valuable plant and animal species.

Reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system.

> Reduce the risk to land use and associated economic activities, water supply, infrastructure, and the ecosystem from catastrophic failure of Delta levees.
> (See CALFED Bay-Delta Program Briefing Packet, May 1977, p. 5.)

In addition to developing a long-term plan, CALFED is implementing a near-term program to fund ecosystem restoration activities to improve the health of the Bay-Delta ecosystem.

The DPC was created to further the state's basic goals for the Sacramento-San Joaquin Delta, which are articulated in the DPC's enabling act as follows:

> "(a) Protect, maintain, and, where possible, enhance and restore the overall quality of the delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.
>
> (b) Assure orderly, balanced conservation and development of delta land resources.
>
> (c) Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety." (See Pub. Resources Code § 29702.)

In carrying out its duties, the DPC could seek to influence CALFED activities. For example, the DPC might seek to influence CALFED's allocation of Category III monies, or to influence the development and/or implementation of CALFED's long-term plan.

In making this waiver, the parties do not consent to the Office of the Attorney General's representation of one party in a lawsuit, or in a quasi-judicial administrative proceeding, against the other party.

In addition, the parties make this waiver with the understanding that the Office of the Attorney General has established, and will maintain, an "ethical wall" between the deputies assigned to represent CALFED and the deputy assigned to represent the DPC. Specifically, the deputy assigned to represent the DPC and the deputies assigned to represent CALFED shall not communicate with each other or otherwise share information regarding any DPC efforts to influence CALFED activities, any CALFED efforts to influence DPC activities, or any responses by either client to such efforts of the other client.

This waiver may be revoked by either party at any time. Any such revocation shall be in writing.

If you agree with the above waiver, please sign this memorandum to signal your concurrence. (You may sign the memorandum in counterparts; I will attach the counterparts together to form one document, and send you a copy of that document for your files.)

LESTER A. SNOW
Executive Director
CALFED Bay-Delta Program

6/29/98
Date

MARGIT ARAMBURU
Executive Director
Delta Protection Commission

7/2/98
Date