

Committee on Resources

Testimony

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Subcommittee on Water and Power

Thursday, April 17, 1997

1324 Longworth HOB, 9:30 A.M.

Testimony of Mr. Michael D. McCollum

McCollum Associates

April 14, 1997

The Honorable John Doolittle
Member, U.S. House of Representatives
Committee on Resources
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Doolittle:

Thank you for your invitation to appear before you and the other members of the Subcommittee on Water and Power. I appreciate the opportunity to convey to you my thoughts on the question of funding for CALFED activities in the Sacramento/San Joaquin Delta.

I first became involved in Delta issues in 1983 through my work as Deputy Secretary of the California Resources Agency and later as Chief Deputy Director for the Department of Fish and Game. As you might imagine, Delta concerns became a large portion of my duties in both of these offices. While I am no longer involved in an official capacity, I continue to be involved in Delta issues through my work as a consultant, representing various landowners who have interests in the Delta. This later role is the basis of my comments for the April 17, 1997 hearing before your committee.

My specific comments regarding the proposed funding for the CALFED process are short and simple. However, before I make them, I would like to provide a short background that will explain what lead me to offer my comments in the first place.

I represent a landowner who owns a 1,200-acre island near Stockton, California. Medford Island has historically produced grain crops typical to the area; crops that also support the landowner's other primary interest of providing habitat for thousands of wintering waterfowl and other wetland related species. Like many other farmers in the Sacramento-San Joaquin Delta, my client faces the economic reality of having to evaluate the agricultural future of Medford Island, and to make some hard decisions. Rather than giving in and converting to higher economic value agricultural crops, my client, about four years ago, chose to work toward transforming the island from an agricultural asset to an asset based upon its value as wildlife habitat. The economic incentive to do this is created by committing most of the island to a wetland/riparian

mitigation bank. Through this market driven mitigation banking approach, several landowners across the state have benefitted financially by changing land use strategies in this manner. In addition, some areas of the island are now committed to the federal wetland reserve program, and about 200 acres are being developed as seasonal wetland under programs administered by the State of California and the U.S. Army Corps of Engineers.

While pursuing this objective, it became obvious to us that Medford Island could play a more significant role in the Delta. By combining the private sector initiative of a mitigation bank with a publically funded project expansion, we envisioned creating a public/private partnership that created significant improvements to wildlife habitat while the landowner and the public both benefit financially on a project that otherwise would not be affordable. The project was designed to create a model financial tool that contributes to the overall habitat needs of the Delta, relying heavily on private sector incentives. In fact, everyone who has visited the island over the past four years; other landowners, environmental groups, biologists, agencies, and politicians, observed first hand what we are attempting to accomplish and support the value of our efforts.

Medford Island is the ideal model. It is in the heart of the Delta. Standing on its shores, one can actually observe portions of the San Joaquin River currents change direction when the water diversion pumps are turned on at the Tracy pump station. If the island were reconfigured (this was initially proposed to us by CALFED) through the use of set back levees, thousands of juvenile fish could seek refuge along the island rather than be funneled into the pumps at Tracy. This has clear implications for both instream issues, including delta smelt and salmon populations, and upland issues, including support for waterfowl habitat and endangered upland species.

As an example, Venice Cut, a small island adjacent to Medford Island was breached several years ago. Today, that island provides excellent rearing and escape habitat for delta smelt and salmon in a system that has precious little of this habitat due to extensive levee and riprap facilities along the Delta system. When the diversion pumps are on, the fish have little choice than to go with the flow into the pumps themselves. If more levee side habitat existed, the fish would be provided an alternative refuge. Further, if significantly more fish are produced in the expanded habitat created through such a program, a program that has the support of local landowner interests who benefit financially from it, it can become an important component of the final Delta restoration plan. If, ultimately, enough rearing and escape habitat is established through this process, the percentage of fish destroyed at the pumps will diminish, potentially allowing the pumps to remain in operation over a longer period. Fern Island, another adjacent island that is part of the Medford Island project, can be breached in the same way creating acres of tidally influenced riverine habitat.

Why do Delta landowners support this concept? One of the long-standing concerns of the Delta landowner is the preservation of their way of life in the Delta. Initiatives that eliminate or drastically reduce farming, by whatever means, are a threat. Proposals that reduce existing wildlife habitat, especially fishing and waterfowl habitat, are a threat. Many proposals over the past several decades appeared, in many minds, to be biased too far in either direction. The Medford Island project is a landowner initiative that preserves the best of each interest. Some islands, such as Medford, are sinking into the Delta. This creates a very expensive levee maintenance dilemma for farmers who are experiencing declining profitability with their operations. If left unchecked, the levees will eventually fail, destroying landowner assets and potentially destroying water quality in the entire Delta. These situations can be resolved by selling the easements on the island for habitat, creating, through the banking process, a permanent, privately financed, levee maintenance endowment fund, and retaining the hunting and fishing privileges enjoyed by the landowner for generations. Thus the landowner receives compensation for his asset and continues to use the land for recreation. Because this is a voluntary program, farming can be maintained in areas where it is still profitable, as it

should. Grain crops, especially, are critical to survival to waterfowl that use the area as a stopover every year. Agriculture is critical to the local economy and wholesale changes would destroy the livelihood of many in the region.

Further, if Delta habitat is restored to a reasonable stage, or at least a guaranteed plan is implemented that ensures preservation of agriculture and wildlife habitat, I believe landowners will support continued, perhaps even expanded water transfers out of the Delta.

Why do environmental interests support the concept? Low farm profits will force farmers to switch to truck crops and vineyards that, unlike grain crops, provide little habitat for wildlife. Other landowners will attempt to develop their property for urban or water associated recreational uses. Still others will go bankrupt, leaving their levee system to whatever fate may arise at the time. Continued island subsidence combined with a lack of adequate funding will result in failing levees. Indiscriminate levee failures will flood islands, compromising the integrity of the entire Delta system. This will allow significant salt intrusion into the Delta and destroy the massive freshwater habitat. This is a possible scenario if no actions are taken over the next 20 to 50 years. While there are a few environmental interests who may welcome a brackish water, tule-clogged system, this is not the goal of most mainstream environmental groups. They understand that working with the landowners to improve the current system is the only practical way to assure quality wildlife habitat is conserved. Many environmental interests will also support, with certain habitat guarantees, water transfers out of the Delta.

Why should regulatory agencies support the concept? Re-engineering an island with setback levees and creating riverside habitat and managed seasonal wetlands is an expensive proposition. By working with willing landowners in the manner suggested, the costs of such activities can be reduced significantly. Through the use of mitigation banks and other private sector incentives, the landowner is compensated for his land and efforts without being "kicked-off" the land, regulatory agencies gain the assurances they require for long term conservation of the land (with the landowner's enthusiastic support) and public funds can be spent on actual habitat creation. Expanding the project to include such attributes as shaded riverine aquatic habitat or setback levees, often using the cost-saving, on-island facilities of the landowner, is simply more affordable.

Given the above discussion, it is obvious that Delta landowners, and I now must speak only for my landowner clients, support public funding for the CALFED process. The concept of CALFED is sound. However, it is the above discussion that provides the foundation for a caveat. The federal and state funds should be spent with the participation of all stakeholders, including Delta landowners. Despite two years of attempts to work with CALFED and with Category III, and after offering numerous responses to their requests to modify our project scope, my clients do not feel that they were given an opportunity to participate as a stakeholder. Rather, if the appropriation process of CALFED's Category III funds is any guide, the prioritization process for funding projects and programs is a very closed one. Outreach to Delta landowners is very weak, at least if our experience is indeed representative of the process.

To be specific, I would like to use the Medford Island project as an example. When representatives of CALFED heard of our project, we were invited to submit our proposal for funding under Category III. The project received enthusiastic support from literally every state and federal agency, local agencies, environmentalists, other Delta landowners, and relevant non-governmental organizations in the Delta. While the project was given serious consideration by some CALFED representatives, it was ultimately rejected, or at least delayed indefinitely. However, after substantial expenditures in project design costs and two years of negotiations with a few individuals associated with the CALFED process, there never was the impression

that the process had a specific or consistent goal, or that there was a systematic, public-friendly approach to evaluating all the competing project proposals. It was difficult even finding out who served on CALFED. Even after numerous, and high level requests to address one of its scheduled meetings to explain our vision, we were not provided an opportunity to do so. When our project was rejected, we were given very simplistic reasons that did not make much sense given the expressions of support and encouragement we had throughout the process. In fact, there was never even the courtesy of any contact from those responsible to tell us that we had been rejected, or why. We always initiated the contact. This in spite of a project designed specifically to meet almost all of the defined CALFED "core objectives" for habitat restoration and preservation. When we saw the resulting list of approved projects, it was our impression that they consisted primarily of a series of long unfunded agency projects that, once the money was spent, benefitted no obvious systematic or ecosystem approach to solving global habitat problems in the Delta.

Subsequent to this process, the owners of Medford Island reverted to their original goal of simply creating a mitigation bank and we are now completing the negotiations and selling wetland habitat credits to other developers. The Fern Island portion of the project could still be separated out and proposed to CALFED as a new project to address instream issues, if my clients had reason for renewed confidence in the process.

Irrespective of these problems, the Delta needs to be fixed. CALFED is, in our opinion, in an excellent position to facilitate the fix. Our request is simply that the landowner perspective be more adequately addressed. Any solution that does not have general support of Delta landowners will, in our opinion, fail, irrespective of how much money is spent. And, success in the Delta does not mean buying landowners out, which is often the primary mentality of agencies. It means giving them a way to stay connected with the land, and with their past.

The funds the Subcommittee is considering for appropriation to the CALFED process should be appropriated. However, on behalf of my clients, I suggest that the appropriation be accompanied by the following suggestions:

CALFED should formally appoint Delta landowner representatives to the CALFED process; the landowners must have greater ownership in the process.

CALFED should increase its efforts to communicate to the local public its agenda, goals, and decision-making;

Before funds are expended, CALFED should develop a spending plan that includes an ecosystem approach to conserving and expanding wildlife habitat, encourages continued agriculture, and provides ecosystem-level solutions to water transfer conflicts;

CALFED should create a more formal and accountable project proposal review process, encourage more public input, and provide clearer access to CALFED for submission and discussion of project proposals; and,

CALFED should ensure that a close working relationship with Delta landowner interests is firmly established, including making the funding of private/public projects a priority.

Thank you, again for the opportunity to provide these comments to your deliberations. I can assure you that my clients and I will do everything we can to assist the various interests to achieve what is our common goal - to find equitable and long-lasting solutions to preserving the health of the Delta's wildlife and water

quality, providing economic stability to landowners and industry, and provide sustainable, precious water throughout our state.

I welcome you to call upon me any time if you have questions or comments.

Sincerely,

Mr. Michael D. McCollum
McCollum Associates

SUMMARY OF RECOMMENDATIONS

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