

Agricultural Council of California
California Agricultural Aircraft
Association
California Association of Nurseries and
Garden Centers
California Association of Pest Control
Advisers
California Association of Wheat
Growers
California Bean Shippers Association
California Cattlemen's Association
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners Association
California Cotton Growers Association
California Dairy Campaign
California Grain and Feed Association
California Farm Bureau Federation
California Farm Water Coalition
California State Floral Association

California Floral Council
California Grape and Tree Fruit League
California Pear Growers Association
California Rice Industry Association
California Seed Association
California Warehouse Association
California Water Alliance
Friant Water Authority
Modesto Irrigation District
Nisei Farmers League
Olive Growers Council of California
Raisin Bargaining Association
Valley Ag Water Coalition
Ventura County Agricultural
Association
Western Agricultural Processors
Association
Western Growers Association
Western Pistachio Association
Western Plant Health Association

January 31, 2011

Charles Hoppin, Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

**RE: Delta Watermaster Report on The Reasonable Use Doctrine and
Agricultural Water Use Efficiency**

Dear Chairman Hoppin:

The above listed organizations have long supported the efficient use of water and strive to improve these efficiencies and beneficial uses as new practices and technologies become available.

The Delta Watermaster's report does disservice to this reality, ventures beyond limiting statutory authority and proposes expansion of government when downsizing is the order of the day. Further, the fact that scarce resources were used for this purpose should cause close examination of the Delta Watermaster's job description and judgment.

The Delta Watermaster has gotten off to a bad start and unless this situation is corrected immediately, his credibility will be seriously impaired going forward. How is it possible

that he does not understand the full meaning of California Water Code section 85230 which limits his authority to diversions in the Delta and for the monitoring and enforcement of Board orders and license and permit terms and conditions that apply to conditions in the Delta? How is it possible, with this limitation on authority and other Water Code provisions adopted during the same session of the Legislature that addressed efficient agricultural water management practices, that he can credibly construe reporting authority specified in section 85230 to encompass a report on the reasonable use doctrine?

The report itself was acknowledged by the Delta Watermaster in a presentation before your Board as being his opinion and that he had not consulted stakeholders and others in the drafting process. Perhaps that is why the report is so seriously flawed. Some of the more egregious errors in analysis and conclusion are as follows.

1) Proposes to Create a Reasonable Water Use Unit Within the State Water Resources Control Board's Division Of Water Rights.

This proposal is not statutorily authorized and is redundant to statutes that encompass the issue. The same is true of the proposed pilot studies to determine consumptive water savings resulting from changed irrigation practices/cropping patterns on parcels of land.

The proposal would redirect "a sizable portion" of the 25 positions funded in the Budget Act of 2009. Those positions were established in SBx7 8 for "water right enforcement" (Section 11, Chapter 2, Statutes of the Seventh Extraordinary Session of 2009) to reduce illegal diversions. Employing them for any other purpose is contrary to state law and would be a misuse of funds.

2) Proposes to Streamline the Procedures for Enforcement Actions Against Waste and Unreasonable Use.

The presumption is that water is being unreasonably used without documentation and the proposal seriously jeopardizes due process.

3) Proposes to Conduct One or More Adjudicatory Proceedings.

The Doctrine of Reasonable Use was not intended and should not be used to assess individual farm cropping decisions or the adequacy of irrigation systems.

4) Proposes to Employ The Reasonable Use Doctrine To Promote More Efficient Agricultural Water Use Or Methods Of Use.

SBx7 7 regulations are being developed that will address agricultural water use efficiency which makes this proposal duplicative, overreaching and therefore unnecessary.

5) Proposes a Pilot Study(s) Regarding Conserved Water Transfers Should Be Encouraged.

Ample data presently exists at the California State University system, and the University of California, thereby eliminating the need for a duplicative study(s).

We would appreciate the opportunity to meet with you and other Board members to discuss our concerns and hopefully receive reassurance that the Delta Watermaster will conduct himself in the future consistent with statutory authority and legislative history that gave rise to the Delta Watermaster position.

cc: Honorable Karen Ross
Honorable Phil Isenberg, Chair
Delta Stewardship Council
California State Board of Food and Agriculture