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January 25, 2011

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

Phil Isenberg, Chair
Delta Stewardship Council
650 Capitol Mall
Sacramento, CA 95814

Josh Eddy, Executive Director
California State Board of Food and Agriculture
1220 N Street
Sacramento, CA 95814

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

Dear Messrs. Hoppin, Isenberg, and Eddy:

The Association of California Water Agencies (ACWA) offers the following comments in response to the recent report issued by Mr. Craig Wilson, the Delta Watermaster, entitled *The Reasonable Use Doctrine and Agricultural Water Use Efficiency*. ACWA represents approximately 450 public water agencies throughout the state. Our members provide approximately 90 percent of the water used for agricultural, residential, and commercial purposes in California. Obviously, we have a great interest in any report that addresses the fundamental constructs of California water policy. This is especially true when a report by a state employee proffers significant changes to how state regulatory bodies interpret and regulate the very cornerstones of California water law such as “reasonable use” and “waste” within the broad context of “water-use efficiency”.

Mr. Craig presented his report to the State Water Resources Control Board (SWRCB) last Wednesday, January 19, and is scheduled to brief the California

State Board on Food and Agriculture this Wednesday, January 26, and the Delta Stewardship Council on Thursday, January 27. It is our understanding, based on the comments of SWRCB Chair Hoppin at last Wednesday's SWRCB meeting, that no official request was made for this report by the Water Board. It was a unilateral undertaking by Mr. Wilson and therefore, is simply one of many reports your Boards and Council receive from interested parties.

ACWA fully supports a comprehensive, integrated strategy designed to achieve the co-equal goals of water supply reliability and ecosystem sustainability – the very foundation of the 2009 Comprehensive Water Legislation. Furthermore, ACWA recognizes that improvements in water conservation and water-use efficiency amongst all water users, including agricultural, residential, commercial, and industrial users, are critical to any successful water strategy.

For the following reasons, ACWA is not convinced that the approach suggested in Mr. Wilson's report is necessary or even viable.

First, the report advances a regulatory regime that we do not believe Mr. Wilson has justified. As he acknowledged in his presentation to the SWRCB, the vast majority of the agricultural community has and continues to increase water-use efficiency. Furthermore, the Department of Water Resources (DWR) recently convened an Agricultural Stakeholder Committee, as mandated by the 2009 Comprehensive Water Legislation, to identify and further advance additional agricultural water-use efficiency practices.. Please refer to the DWR webpage at: <http://www.water.ca.gov/wateruseefficiency/sb7/committees/ag.cfm>. Mr. Wilson is proposing a duplicative regulatory process that we believe will result in fewer, rather than more, investments in water use efficiency.

Second, while we all support the general assertion on page 10 of Mr. Wilson's report that agricultural operations should employ reasonable water-use efficiency technologies "where they are economically justifiable, locally cost effective, and not harmful to downstream agriculture and other environmental needs", the regulatory approach set forth in his report undermines the notions of local decisionmaking and providing incentives to further advance water-use efficiency – two critical elements of the 2009 Comprehensive Water Legislation.

Third, we are very concerned that Mr. Wilson's report presents a very narrow perspective of water use and water-use efficiency. When evaluating water-use efficiency it is critical to look at the entire hydrological and ecological systems involved, and take into account all the values in the watershed. What may appear to be an inefficient use of water to untrained eyes, may, in fact, have numerous ancillary ecological and hydrological benefits. For example, what may appear to be inefficient irrigation practices may provide hydrologic benefits in that excess water from irrigation can pass through the root zone and recharge the groundwater aquifer or move downstream to serve as a source of supply for a wildlife refuge or other water use.

Finally, the report fails to address the additional resources (dollars and human) that would be required to implement the proposed recommendations. As we understand Mr. Wilson's recommendations, SWRCB staff would first have to conduct a comprehensive analysis of each farming operation, including hydrology, soil conditions, geographic conditions, and economic feasibility, to determine whether the water associated with a specific farming operation is being efficiently used. Then staff would have to assess whether alternative water-use practices would be feasible for the specific agricultural operations being analyzed. We do not believe that the SWRCB staff has the necessary expertise to conduct such an analysis, nor does the SWRCB have sufficient resources to implement such a program. It is also worth noting that numerous programs already exist that provide, on a voluntary, cooperative basis, such services (e.g. United States Department of Agriculture Natural Resources Conservation Service's Environmental Quality Incentives Program (EQIP); University of California Cooperative Extension Program).

In conclusion, while ACWA supports the underlying premise of the report that we need to continue to develop and promote water-use efficiency as part of our comprehensive strategy to meet California's water challenges in the 21st Century, we do not believe the regulatory scheme Mr. Wilson sets forth in his report is a reasonable or practical approach to advancing agricultural water-use efficiency.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy H. Quinn", written in a cursive style.

Timothy H. Quinn
Executive Director