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November 24, 2003

Mr. Tom Luster
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

**Re. Comments on Coastal Commission's
Seawater Desalination Draft Report**

Dear Mr. Luster:

The National Council for Public-Private Partnerships is a non-profit educational organization with members from both the public and private sectors. Our mission is to provide objective information about how to best combine the resources of both sectors and to promote the best practices in development of public-private partnerships (PPPs).

A number of NCPPP members have provided their individual comments on the Commission's Seawater Desalination Draft Report ("the draft Report"). Because of the importance of the draft Report, the NCPPP wishes to add its comments as well. Our concern stems from the fact that while it is clear that the draft report is appropriate to the Commission's responsibility to update and clarify policies and regulations related to desalination facilities in the coastal zone, there are portions of this draft report that go beyond the Commission's jurisdiction. In particular, we wish to express concern over language related to public-private partnerships.

We are disappointed by the comments included that suggest a strong mistrust of combining public and private resources for the execution of these projects. This is in contradiction of long-standing California legislative policy. The underlying theme of the California Code is clearly in support of the combination of public and private resources as a means of providing the public with cost effective solutions under agreements that do provide the public sector with adequate controls.

The NCPPP's membership has an accumulated broad experience with the application of PPPs in a wide variety of sectors: transportation; economic development; educational facilities; public parks; Department of Defense personnel housing; water and wastewater facilities, and support of public safety functions are but a few of these sectors. This fundamental tool for use by the public sector was outlined in an NCPPP white paper published in 2002, ***For the Good of the People: Using Public-Private Partnerships to Meet America's Essential Needs***. Complimentary copies of this white paper are

available in the “How Partnerships Work” section on the NCPPP Web site (www.ncppp.org). Comments from numerous public officials (both non-members and members of the NCPPP) in support of PPPs can also be found on our Web site.

With regards to specific comments in the draft Report, there are numerous misconceptions about the role of the private sector in a public-private partnership which are beyond the scope of the Commission. Public agencies, because of procurement processes and institutionalized practices, are by nature risk adverse. This applies to both capital requirements and technologies. This can significantly delay or prohibit projects that would be of substantial value to the general public. This is particularly true in leading-edge applications such as desalination. Through PPPs, the technical and financial resources, as well as the risk tolerance, of the private sector can be mobilized under a contractual arrangement that assures the appropriate level of public responsibility.

In this period of financial challenges for all levels of government (federal, state and local), it is important to have a true and accurate understanding of how PPPs can be part of the solution. However, there are certain interest groups that hold a philosophical position that is antithetical to any type of private sector involvement in public projects. Using the examples of a limited number, these voices can distort the facts about PPPs. For this reason, the NCPPP issued another white paper this year – ***Critical Choices: The Debate Over Public-Private Partnerships and What it Means for America’s Future***. Copies of this white paper are enclosed and are also available on the NCPPP’s Web site noted earlier in this letter.

Some specific points alluded to in the draft Report illustrate our concerns:

- Regardless of ownership and/or operations contractor, the same health, workplace and environmental regulations apply. In fact, in many states it is governmental agencies that are exempt from health and safety standards to which private entities are held. There is no exemption from these regulations for private sector participants in a partnership – if anything, compliance is stricter because of the ability of the private sector to provide recourse to a violation if found, compared to the public sector’s financial limitations often present. Accordingly, private sector firms apply their best resources to assiduously avoid violations of these regulatory requirements. The end result is that compliance with health, workplace and environmental regulations is generally improved with private sector management of facilities.
- Private sector profits do not equate to higher rates. Numerous surveys by public sector associations, the US Environmental Protection Agency, and the US General Accounting Office prove that efficiency in operations from 20 to 40 percent accounts for the source of profits for the private sector. When rates increases do occur, it is most often the result of neglected infrastructure maintenance costs or capital expenditures for expansion of capacities within a system. These increased expenditures are now required to be included in accounting under the GASB 34 methods required by the U.S. EPA in all municipal water/wastewater systems, and accordingly can result in increases in rates, regardless of private or public operation of these facilities.
- Satisfaction with the use of PPPs is extremely high. In an independent survey conducted by Decision Analysis (Arlington, Texas) for a public sector authority, 94 percent of public sector respondents indicated they would recommend their private sector partner to another municipality. An even higher percentage would continue in a PPP, even if with another private sector partner.

- Quality of service is not sacrificed in a PPP. As noted above, an extremely high degree of satisfaction with the quality of service is the general rule. This is easily understood when you consider that these contracts include renewal clauses that encourage private sector providers to provide high quality services in order to win contract renewals. This same level of satisfaction is critical in winning referrals for new contracts. As a result, this leads to a high degree of customer satisfaction, since this directly impacts public officials in their decision process.
- Local control is not eroded by a PPP if the contracts are structured appropriately. Appropriately developed PPP contracts include mechanisms for guaranteed performance measures and dispute resolution.
- PPPs do not necessarily result in job losses. It is the general practice that expertise of the public sector employees is retained and utilized under a partnership agreement. While workplace rules and technical support can be substantially modified (part of the source of increased efficiency of operations), public employees generally retain the same wages and benefits, and also receive increased personal development options that may not have existed previously.

While some may oppose the utilization of private sector resources in the delivery of public services and infrastructure on philosophical grounds, their opposition is not supported by an objective evaluation of all the facts. The key to a successful and productive public-private partnership is for the public sector to be fully apprised of their options in development of a contract that assures an appropriate level of accountability and control in the partnership. It also requires a clear understanding of the strengths and needs of the private sector and how to best harness this resource for increased efficiency in meeting the public needs.

There is no questioning of the appropriateness for a case-by-case evaluation of individual projects – public-private partnerships should be viewed as a valuable option, but not a universally appropriate solution to addressing all public needs. However, the categorical allegation that private sector participation in public projects is inappropriate reflects a serious misunderstanding of the potentials of this process, and the public sector's ability to retain adequate control in a PPP to assure that the best interests of the public are served.

Sincerely,

Richard B. Norment
Executive Director

Enclosed: Critical Choices (2 copies)