



# News Release

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## **California Supreme Court Unanimous: CALFED EIS/R Meets CEQA Standards**

The California Supreme Court unanimously ruled (7-0) today that the CALFED Programmatic Environmental Impact Statement/Report complied with the California Environmental Quality Act. The ruling concludes nearly eight years of legal wrangling over an unprecedented state and federal planning process to improve conditions in the California Delta.

“This is a complete vindication for an enormously resource-intensive planning process by 25 state and federal agencies, which laid out a roadmap for a 30-year process to resolve long-standing issues in California’s Delta,” said Joe Grindstaff, CALFED Director.

While the lawsuits were pending, the CALFED Program has continued to be implemented by state, federal and local agencies working projects to improve water supply reliability, ecosystem restoration, water quality and levee stability. In fact, the underlying principles formulated through CALFED and its Programmatic Environmental Impact Statement/Report have evolved into a new generation of programs that have carried forward the CALFED principles of integrating Delta actions through agency and stakeholder cooperation and participation.

The Supreme Court decision overturns a 2005 appellate court ruling that would have invalidated the CALFED Programmatic EIS/R. The lower court ruled against CALFED in its previous action because the agency did not study a so-called reduced export alternative; did not describe and analyze with enough specificity sources of water and related impacts for the CALFED program; and inadequately described a component of the program known as the Environmental Water Account.

In today’s action, the Supreme Court ruled that CALFED was justified in not studying an alternative of reduced water supply as this would have been contrary to the program’s underlying purpose of developing a long-term plan to restore the Delta’s ecological health and improve water management for beneficial uses of the Bay-Delta system by concurrently achieving its four objectives of ecosystem quality, water supply reliability, water quality, and levee reliability, rather than prioritizing one program objective over another.

Additionally, the Supreme Court went on to say that the Court of Appeal erred in distinguishing between pre-existing environmental problems in the Bay-Delta and possible adverse effects of the proposed CALFED Program.

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**CALFED EIS/R Ruling**  
**June 5, 2008**  
**Page 2**

Today the dual purposes of improved ecological health and improved water supply reliability are the co-equal primary recommendations being advanced by the Delta Vision Blue Ribbon Task Force, which Gov. Arnold Schwarzenegger created in 2006 to make independent recommendations for sustainable management of the Delta.

“The main thrust of the Court of Appeal’s reasoning was that reducing Bay-Delta water exports would be ‘environmentally superior’ because it would facilitate achievement of the ecosystem restoration component of the CALFED Program and thereby more effectively address the Bay-Delta’s existing environmental problems. But those problems would continue to exist even if there were no CALFED program, and thus under CEQA they are part of the baseline conditions rather than program-generated environmental impacts that determine the required range of program alternatives,” the Supreme Court stated in its opinion.

In two other key elements of the case, the Supreme Court also ruled in CALFED’s favor, finding that the level of detail on water sources and the Environmental Water Account provided in CALFED’s Programmatic Environmental Impact Statement/Report was completely adequate and appropriately tailored to the broad nature of a first-tier EIS/R. Additionally the Supreme Court ruling noted that the Court of Appeal’s decision would have undermined the purpose of tiering and burdened the CALFED Programmatic EIS/R with a level of detail consistent with a more project-focused second-tier EIS/R.

The Supreme Court ruling, authored by Justice Joyce Kennard, may be downloaded at <http://www.courtinfo.ca.gov/opinions/documents/S138974.PDF>.

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