

CALFED Bay-Delta Program Environmental Justice Workplan

This CALFED Bay-Delta Program Environmental Justice Workplan (“workplan”) outlines a two-tiered approach to addressing a broad set of environmental justice issues in the context of CALFED program implementation. The first tier outlines a long-term planning process that will (1) develop environmental justice goals and objectives, (2) establish an overall environmental justice strategy for the CALFED program to achieve those goals and objectives, and (3) develop annual plans to implement that strategy. The second tier recognizes that, in the absence of the more comprehensive environmental justice strategy described above, there are still a number of critical interim actions that can and should be taken this year. Therefore, this workplan includes as an attachment (*see attachment 1*) the preliminary 2001 Annual Plan and outlines a process for continuing to refine that annual plan following its initial consideration by the CALFED Policy Group in December 2000. The CALFED agencies, program managers, and environmental justice stakeholders recognize that these documents are “works in progress” that have been developed with limited input and under a tight schedule. For those reasons, the documents will continue to be refined.

Purpose Statement

The purpose of this workplan is to outline how the CALFED agencies intend to ensure, in the context of implementation of the CALFED program, fair treatment of people of all races, cultures and incomes, such that no segment of the population bears a disproportionately high and adverse health, environmental, social or economic impact resulting from CALFED’s programs, policies or actions.

Introduction

On August 28, 2000, the CALFED agencies signed the Record of Decision (ROD) for the Final Programmatic EIS/EIR. Both the ROD and one of its attachments, the Implementation Memorandum of Understanding, include provisions related to the issue of environmental justice. Specifically, the ROD includes a series of “implementation commitments” that are intended to guide management of the entire CALFED program as it moves from planning to full-scale implementation during Stage 1. One of those implementation commitments states that, consistent with Federal and State authorities that require agencies to address environmental justice issues within the scope of their programs and activities, including Federal Executive Order 12898, Title VI of the Civil Rights Act and recent state legislation, the CALFED agencies are committed to addressing environmental justice challenges related to water management in the Bay-Delta watershed.

The ROD acknowledges the importance of examining the potential effects of water management reforms on rural communities and the public health and financial impacts of ecosystem and water quality program actions on the large numbers of minorities and disadvantaged people living in

urban areas. With that understanding, the CALFED Program and agencies are committed to seeking fair treatment of people of all races, cultures, and incomes, such that no segment of the population bears a disproportionately high and adverse health, environmental, social or economic impact resulting from CALFED's programs, policies, or actions. The Implementation Memorandum of Understanding reiterates these same commitments in the form of an "implementation principle."

In order to turn these commitments and principles into action, the ROD requires the CALFED agencies, by the end of 2000, to collaborate with environmental justice and community stakeholders to develop a comprehensive environmental justice workplan across all program areas. This workplan was intended to ensure that the CALFED agencies developed the capacity and process to understand, monitor, and address environmental justice issues as the program moves into implementation, including identifying and developing specific methods to address and mitigate environmental justice impacts.

In addition to the commitment to develop an environmental justice workplan, the ROD includes a broader set of provisions that address concerns related to environmental justice and implementation of the CALFED Program (*see attachment 2*).

Background

The basic concept behind the term "environmental justice" is that all people – regardless of their race, color, nation of origin, or income – are able to enjoy equally high levels of environmental protection. Environmental justice communities are commonly identified as those where residents are predominantly minorities or low-income; where residents have been excluded from the environmental policy setting or decision-making process; where they are subject to a disproportionate impact from one or more environmental hazards; and where residents experience disparate implementation of environmental regulations, requirements, practices and activities in their communities. Environmental justice efforts attempt to address the inequities of environmental protection in these communities. Legal authorities to support these efforts include both statutory and common law protections. Both the Federal government and the State of California have taken formal steps in recent years to address this issue.

An important milestone in the Federal government's environmental justice actions occurred in 1994 when President Clinton signed Executive Order 12898 to establish environmental justice as a national priority (*see attachment 3*). The Order states that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." In addition, the Order directs all Federal agencies to develop, by March 1995, an Environmental Justice Strategy that identifies and addresses any disproportionately high and adverse effects of their programs, policies, and activities. The Order includes several additional specific provisions related to human health data collection, impact analysis in environmental documentation, and subsistence

consumption of fish and wildlife. All Federal agencies are also required under the Order to ensure that all of their programs and activities receiving federal funding comply with Title VI of the 1964 Civil Rights Act. Title VI bans discrimination on the basis of race, color, or national origin in federally-funded projects and decisions. Implementation of this workplan will help to ensure that, in the context of the CALFED program and its proposed actions, the Federal agencies are in compliance with the Executive Order.

Similarly, the State of California's laws include explicit provisions related to the issue of environmental justice. Existing laws (Public Resources Code Section 72000 and Government Code Section 65040.12) establish the Office of Planning and Research as the coordinating agency in state government for environmental justice programs and defines environmental justice to mean "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies." In addition, the Governor recently signed two pieces of legislation – Senate Bill 115 (Solis) and Senate Bill 89 (Escutia) – that amend existing statutes and expand the State's environmental justice responsibilities. The new laws require California's Secretary for Environmental Protection, by January 2002, to convene an interagency Working Group on Environmental Justice to develop and begin implementation of an interagency environmental justice strategy and to develop a model mission statement for the California Environmental Protection Agency. In addition to a broader set of requirements, the laws also call for the creation of a multi-stakeholder advisory committee by January 2002 to assist the working group in its efforts (*see attachment 4*). Implementation of this workplan will help to ensure that, in the context of the CALFED program and its proposed actions, the State agencies are in compliance with the provisions of state law.

Under California law, water resources and some associated ecological resources are held in trust for the public by the State. The public trust doctrine originated in common law and has been expanded by State courts to apply to certain recognized public uses and values. The State has the obligation to protect these resources where feasible for all citizens of California. Thus, the basic principle of the public trust doctrine, that water resources are held in trust for all citizens, supports the main tenant of environmental justice, that no persons or communities should be disproportionately affected by the use or protection of those resources.

Tier One – Long-Term Planning Process

As noted above, this section outlines a long-term planning process that will develop environmental justice goals and objectives, establish an overall environmental justice strategy for the CALFED program to achieve those goals and objectives, and develop annual plans to implement that strategy.

A. Development of Goals and Objectives

- Under this task, environmental justice goals and objectives will be established for the CALFED Bay-Delta program. These goals would likely reflect provisions of the Federal Executive Order, State law, existing Federal agency environmental justice

strategies, the CALFED mission statement and/or CALFED solution principles by applying the principles of environmental justice to the existing goals and objectives of the CALFED Program. It is envisioned that both an overarching set of goals and objectives, outlining how the CALFED Program will address environmental justice and meet its state and federal requirements, and specific goals and objectives for each program area will be developed, as appropriate.

- By the end of February 2001, the CALFED Environmental Justice Coordinator will work with the new broad public advisory committee to convene an Environmental Justice Workgroup that will operate as a public advisory group. Specifically, the new broad public advisory committee will collaborate with the Environmental Justice Steering Committee, the broader Environmental Justice Coalition, CALFED program managers, the agencies, and other community stakeholders throughout the state to ensure the inclusion of an appropriate and geographically diverse set of qualified participants. The appropriate size of the group, qualifications for membership, and organizational protocols will be established by the broad public advisory committee, working with the Coordinator. In doing so, the National Environmental Justice Advisory Committee (NEJAC) will be considered as a model.
- By the end of April 2001, the Environmental Justice Coordinator and the Environmental Justice Workgroup, in coordination with the CALFED agencies and program managers, will convene a series of regional workshops (geographically dispersed across the state) to hold discussions and gain input on environmental justice issues related to CALFED implementation (e.g., an appropriate and comprehensive set of environmental justice goals and objectives, an overall long-term strategy) and to generally enhance outreach and education on the CALFED program for minority and low-income communities.
- By the end of May 2001, appropriate meetings of the Environmental Justice Workgroup will be initiated to develop a set of environmental justice goals and objectives for the CALFED program. These goals and objectives will be developed based largely on input from the regional workshops and will involve the participation of the CALFED agencies and program staff. By the end of June, a set of goals and objectives will be finalized by the CALFED Program.
- By the end of July 2001, the goals and objectives will be formally reviewed by and submitted for approval to the CALFED Management Team and the Bay Delta Advisory Committee (or its successor) and adopted by the CALFED Policy Group (or its successor).

B. Development of an overall CALFED Environmental Justice Strategy

- Under this task, a CALFED Environmental Justice Strategy will be developed to ensure that the goals and objectives will be achieved. This strategy represents a broad description of the activities and mechanisms that CALFED must develop and institutionalize to ensure implementation of the goals and objectives. The specific tasks themselves will be detailed in the annual plans described below. Much of this effort will be accomplished concurrently with the process outlined above.
- Specifically, by the end of March 2001, the Environmental Justice Coordinator will initiate a series of planning meetings with the Environmental Justice Workgroup (or some subgroup) to begin review of existing environmental justice strategies and to outline the necessary components of a CALFED strategy.
- The regional workshops, to be convened by the end of April 2001, will involve the active participation of the Environmental Justice Workgroup and will allow the workgroup to gain input on appropriate provisions of a CALFED environmental justice strategy. Members of the workgroup representing community-based organizations will serve as key liaisons in their respective regions.
- By the end of June 2001, after meetings have been held to develop an appropriate set of goals and objectives, meetings of the Environmental Justice Workgroup (or some subgroup) will be initiated to develop the broad long-term environmental justice strategy for the CALFED program. If plausible, an attempt will be made to do this concurrently with the development of the goals and objectives described above.
- During this process, the Environmental Justice Coordinator will initiate meetings between the Environmental Justice Workgroup, related program-specific advisory or workgroups (e.g., Watershed Workgroup, Delta Drinking Water Council, Water Use Efficiency Public Advisory Committee), and the CALFED Science Program to (1) ensure consistency between the evolving environmental justice strategy and individual program plans and (2) develop appropriate measures of success for each program area to determine whether the strategy is effectively achieving environmental justice goals and objectives. The Environmental Justice Strategy will be finalized by the CALFED Program by the end of August 2001.
- By the end of September 2001, the Environmental Justice Strategy will be formally reviewed by and submitted for approval to the CALFED Management Team and the Bay Delta Advisory Committee (or its successor). The CALFED Policy Group (or its successor) will review and adopt the strategy by the end of October 2001, prior to submission of the CALFED Annual Report to Congress and the Legislature.

C. Development of Annual Plans

- Under this task, the CALFED Program and agencies will develop each year an Annual Plan to implement the CALFED Environmental Justice Strategy.
- By the end of February each year, the Environmental Justice Coordinator will facilitate program-specific meetings between the Environmental Justice Workgroup and CALFED program managers (e.g., storage, ecosystem restoration), advisory groups, workgroups and the CALFED Science Program to (1) review the previous year's workplan, (2) consider and evaluate its effectiveness in achieving goals and objectives in each program area, (3) adaptively manage the workplan to make appropriate adjustments in actions for the next Annual Plan to ensure that goals and objectives are achieved. All such Workgroup meetings will provide an opportunity for public comment. As much as possible, this annual plan development process should move forward with and rely on the program managers' existing efforts to develop annual operating/implementation plans for their particular program.
- By the end of May each year, the Environmental Justice Coordinator, the Environmental Justice Workgroup and CALFED program managers will develop a draft Annual Plan that identifies specific actions and milestones for the next calendar year and outlines program funding and costs, processes for ensuring participation of affected communities, and steps to incrementally evaluate and achieve measures of success. These same measures should be included, as appropriate, in the program managers' annual operating/implementation plans for their particular program.
- By the end of June each year, one or more open public meeting(s) of the Environmental Justice Workgroup will be convened (potentially in geographically diverse locations) to gain input on the draft Annual Plan. As necessary, the Environmental Justice Workgroup will assist the CALFED Program in revising and finalizing the draft plan based on input from the meeting(s).
- By the end of August each year, the Annual Plan will be formally reviewed by and submitted for approval to the CALFED Management Team and the Bay Delta Advisory Committee (or its successor). The CALFED Policy Group (or its successor) will review and adopt the strategy by the end of September each year, prior to submission of the CALFED Annual Report to Congress and the Legislature.

Tier Two – 2001 Annual Workplan Process

While Section C above outlines the general process to guide development of annual plans, that process will likely be most useful in developing the plan for 2002 and subsequent years. Nevertheless, in the absence of a comprehensive set of goals and objectives and an overall Environmental Justice Strategy at this time, there are still a number of specific interim actions that

need to be taken in the near-term (i.e., before the process outlined above could be completed in 2001) to ensure that environmental justice issues are adequately considered and integrated in CALFED implementation.

In order to get some activity underway this year, the attached “Preliminary 2001 Environmental Justice Annual Plan” has been developed quickly with limited input from the CALFED agencies, program managers, and representatives of the Environmental Justice Steering Committee. Although this plan will be refined before the end of February by the Environmental Justice Coordinator, in collaboration with the participants listed above, it also identifies a series of critical issues and actions that need to be addressed and implemented in the early months of CALFED implementation and a process for accomplishing them. Specifically, the preliminary plan includes actions and processes to ensure:

- effective strategies for public participation (including workgroups and workshops)
- inclusion of environmental justice criteria in all upcoming project solicitation proposals
- adequate consideration of social and economic impacts in environmental documentation
- environmental justice training and education for agency and program staff
- collection and analysis of new demographic information and data
- adequate staffing and financial resources (including capacity building)
- compliance with all relevant Federal and State orders and statutes

Specific tasks, timelines and responsibilities for implementing these efforts in the context of 2001 implementation are included in the attached Preliminary Annual Plan.