

Agenda Item: 2
Meeting Date: July 8, 2004

CALIFORNIA BAY-DELTA PUBLIC ADVISORY COMMITTEE

DIRECTOR'S REPORT

Budget

The Governor's May Revision to the Fiscal Year 2004-05 Budget proposes to reduce the California Bay-Delta Authority's budget by \$255,000 in addition to the \$2.4 million reduction proposed in January. Additionally, the May Revision included the following statement:

Since the CALFED Record of Decision (ROD) was adopted in 2000, over \$2.5 billion has been invested in water supply, water quality, and ecosystem restoration programs and projects in the 50 counties that depend on the Bay-Delta system for all or part of their water needs. Of the \$2.5 billion, \$1.7 billion has been contributed by the State. This amount is almost twice the proportionate share of State CALFED funding envisioned in the ROD. Federal and local agencies have not contributed comparable levels of funding. With the depletion of bond funding and diminished availability of general funds, the State can no longer afford to pay a disproportionate share for these programs.

The Administration will seek additional federal contributions and will support the enactment of a water user fee consistent with the 'beneficiary pays' principle of the ROD. This will ensure that important water supply, water quality, environmental, and levee stability programs continue and receive appropriate levels of funding from all partners in the CALFED effort.

The Authority's proposed General Fund reductions and Proposition 50 and other bond funding proposals were approved by both the Assembly and the Senate. The following items were sent to the Budget Conference Committee:

User Fees

On June 10, 2004, the Budget Conference Committee adopted the following budget trailer bill language relating to a CALFED user fee by a 4-2 vote, but the issue has not yet been resolved. An update will be provided at the meeting.

1. (a) It is the intent of the Legislature that the funding of the CALFED Bay-Delta Program be guided by the "beneficiary pays" principle that was adopted by the CALFED Record of Decision. The application of the principle should be guided by principles of fairness and administrative simplicity.

(b) Consistent with the implementation of the "beneficiary pays" principle, it is the intent of the Legislature that users that benefit from a balanced implementation of the CALFED Bay-Delta Program Record of Decision and the California Bay-Delta Program shall be responsible for funding a reasonable proportion of the costs associated with that implementation.

2. Add the following provisions to the Water Code:

79425 (a) The authority, on or before October 31, 2004, shall prepare and adopt a 10-year finance plan that identifies program goals and objectives, projected expenditures, and potential funding sources for the California Bay-Delta Program.

(b) (1) Consistent with the 10-year finance plan, the authority shall adopt emergency regulations to establish a user fee to take effect commencing in the 2005-06 fiscal year. For the purpose of adopting those regulations, the authority shall hold at least two public hearings to consider public comments. At least one hearing shall be conducted in northern California and at least one hearing shall be conducted in southern California.

(2) For the purpose of carrying out paragraph (1), the authority shall make use of its findings and analysis of the costs, benefits, beneficiaries, and potential benefits-based costs allocations associated with the California Bay-Delta Program.

(3) Upon completion of the regulations, the authority shall transmit copies of the regulations to the fiscal committees and appropriate policy committees of the Legislature.

(c) As determined by the authority, the authority, or one of the implementing agencies, as defined in subdivision (h) of Section 79402, shall collect the user fee annually in an amount that is reasonably proportional to the benefits received by the users from the California Bay-Delta Program. These user fees may be adjusted to reflect any fees paid in the same year under other provisions of law or agreements if the authority finds that the revenues generated by the imposition of those fees are applied to appropriate activities of the California Bay-Delta Program.

(d) Revenue generated pursuant to this section shall be deposited in the Bay Delta Support Fund, which is hereby established. The money in the fund shall be

expended, upon appropriation by the Legislature, for both of the following purposes.

(1) To pay the reasonable administrative costs incurred in connection with the implementation of this section.

(2) To pay the costs of carrying out the activities of the California Bay-Delta Program.

3. The General Fund shall be reimbursed for any planning costs that it has funded for surface storage projects that proceed to construction.

CALFED Grant Programs Consistency With The Record Of Decision

The Senate adopted budget trailer bill language relating to Proposition 50 expenditures as follows:

Section 79509.5 is added to the Water Code to read:

(a) Pursuant to section 79509, the California Bay-Delta Authority shall determine whether or not projects are consistent with the CALFED Programmatic Record of Decision.

(b) Agencies responsible for financing projects that meet the conditions of (c) shall present the following to the California Bay-Delta Authority for evaluation and approval.

(1) Draft evaluation criteria.

(2) Proposed project awards.

(c) Projects subject to this section are those that meet either of the following criteria:

(1) The project is located within the CALFED solution area as defined in the CALFED Final Programmatic Environmental Impact Statement/Environmental Impact Report dated July 2000.

(2) The project wholly or partially assists in the fulfillment of one or more of the goals of the CALFED Bay-Delta Program.

The Administration proposed the following compromise language which was adopted by the Budget Conference Committee on June 10, 2004. (Note: This version varies slightly from what the Administration proposed due to legislative counsel drafting changes.)

Section 79509.6 is added to the Water Code to read:

(a) For the purposes of ensuring compliance with Section 79509, the California Bay-Delta Authority shall review regulations, guidelines, or criteria that are proposed by an implementing agency to carry out a grant program for projects and activities that meet the following criteria:

(1) The project is located within the CALFED solution area as defined in the CALFED Final Programmatic Environmental Impact Statement / Environmental Impact Report dated July 2000.

(2) The project wholly or partially assists in the fulfillment of one or more of the goals of the CALFED Bay-Delta Program.

(b) Except for projects financed pursuant to Chapter 6 (commencing with Section 79545) or Chapter 10 (commencing with Section 79570), The California Bay-Delta Authority may review, and comment to the appropriate implementing agency with regard to, a proposal to award a grant pursuant to this division on behalf of a project that meets the criteria set forth in subdivision (a) for the purposes of determining whether or not the project is consistent with the CALFED Programmatic Record of Decision.

(c) To avoid any delays in project awards, the opportunity for review by the California Bay-Delta Authority pursuant to subdivision (b) shall be incorporated into the grant program schedules established by the implementing agencies.

(d) For the purposes of this section, "implementing agency" has the same definition as that set forth in subdivision (h) of Section 79402.

CALFED Science Program Report

The Budget Conference Committee adopted supplemental report language relating to the Science Program as follows:

3870-001-0001—California Bay-Delta Authority- The CALFED Science Program.

(a) The science program (implemented by the California Bay-Delta Authority) shall, by January 10, 2005, report to the Legislature with a plan to develop and implement a research agenda designed to answer the following questions:

(i) How much water is necessary for the full recovery of all delta dependent fish species designated on either the state or federal endangered species lists as either endangered or threatened? To what extent, if at all, is this amount of water in addition to that which is provided under the current regulatory regime?

(ii) What time of year is the additional water identified in (i) needed?

(iii) Are there other characteristics of the additional water identified in (i), such as temperature, that are critical to recovery of these species, and if so what are those characteristics?

(b) As part of the research agenda described in (a), the science program may address any other questions related to the water needs of threatened or endangered fish that the science program deems appropriate.

Legislation

SB 1155 was amended on May 20, 2004. The bill, as amended, makes legislative findings and would require the Director of the Department of Water Resources, in consultation with the Secretary of Interior, to develop and implement a program to meet all existing water quality standards and objectives for which the State Water Project has responsibility, either separately or jointly with the Federal Central Valley Project. The bill also would require the implementation program to be designed to achieve compliance with water quality standards prior to increasing exports. This bill passed the Assembly Environmental Safety and Toxic Materials Committee on June 15, 2004 and was heard in the Assembly Water, Parks and Wildlife Committee on June 22, 2004.

The bill passed the Assembly Water Parks and Wildlife Committee with proposed amendments that would delete all the current provisions and instead would require the Director of DWR in collaboration with the Secretary of the Interior to develop a plan to meet the existing permit and license conditions for which the department has an obligation. The proposed amendments would require the plan to be developed and filed with the State Water Resources Control Board and the California Bay-Delta Authority prior to increasing the existing permitted diversion rate at Banks Pumping Plant. The proposed amendments are not yet in print. Once the bill is amended and reported out of Assembly Water Parks and Wildlife Committee, it will be referred to the Assembly Appropriations Committee.

Federal Authorization – The U.S. Senate Committee on Energy and Natural Resources on April 28 unanimously approved S. 1097 by Senator Dianne Feinstein, which would provide Federal authorization for the CALFED Bay-Delta Program. The House version of the authorization bill, H.R. 2828 by Congressman Ken Calvert, was approved by the House Committee on Resources on May 5, 2004.