

Agenda Item: 4
Meeting Date: August 10 2005

CALIFORNIA BAY-DELTA PUBLIC ADVISORY COMMITTEE

REVITALIZING CALFED

Summary: Staff from the California Bay-Delta Authority will provide an update on the activities called for in the Governor's May Revision to the 2005-06 State Budget. Information will be provided on the overall process and timeline, independent review, refocusing and priority setting and financing and capital improvements.

Recommended Action: This is an information item only.

Background

On May 13 the Governor released his May Revision of the 2005-06 State Budget. In the May Revision, the Governor laid out a three-point plan to "allow the CALFED Program to move forward and focus on addressing the highest priority issues associated the conflicts in the Delta" (Attachment 1). The three points include:

- Independent Review
- Refocusing and Program Priorities
- Financing

Authority staff discussed the three-points, ways to accomplish them, and addressed questions from members of the Authority and the public at a July 14 workshop in Sacramento. A summary of questions and issues that Authority members and the public raised at the workshop and expect to be addressed through the process is attached (Attachments 2 and 3).

Independent Review - Consistent with the recommendations of the California Performance Review, the Governor's May Budget Revision calls for an independent program and fiscal review of the CALFED Program to ensure accountability, highlight accomplishments, determine program status, and guide adjustments to the Program.

The intent is to account for where the Program is in implementing the Record of Decision and to significantly increase the Program's effectiveness through Stage I and beyond. The scope of this activity includes:

Task 1 - Fiscal Review. This effort will document the funds spent in each Program area. Funds to be reviewed include General Funds appropriated since the Record of Decision was adopted in August 2000, State bond funds directed to the CALFED Program (Propositions 204, 12, 13, and 50), Federal funds appropriated to the CALFED Program, including funds from the initial Federal authorization (pre-Record of Decision), and since the Record of Decision and local funds used to implement the CALFED Program since the Record of Decision, or those associated with grants from the State bond funds.

Task 2 - Comprehensive Programmatic Review And Evaluation. This evaluation will establish the current status of key projects, analyze the effectiveness with which funds have been invested to date to meet the CALFED Program objectives and priorities, document the authority for the decision-making process on project implementation, and reset timing and stakeholder expectations for projects that are significantly behind schedule.

Task 3 - Organization And Program Management Review. This effort will identify key strengths and weaknesses of the Program as it is currently set up. This review will evaluate and recommend specific process changes for implementing program activities, tracking progress and evaluating outcomes.

Task 4 - Reviewing Program Governance. This effort will examine the transparency of decisions related to setting Program priorities and implementation of projects and investments, involve key stakeholders to get their ideas and align their expectations, and improve the existing functions, competencies, authorities and procedures among the CALFED Program.

The Department of Finance's Office of State Audits and Program Review units will be responsible for Tasks 1 and 2. An independent management consultant will be responsible for Task 3. The Governor, in a June 22, 2005 letter to the Little Hoover Commission (Attachment 4), requested the Commission review the CALFED governance issue in Task 4. The Commission accepted that request at its June 23 meeting, and its draft workplan is attached (Attachment 5).

Each of these tasks is underway. The Department of Finance is proposing to have completed its fiscal and program review by September 15. The result of this effort will be made available as soon as it is public and will be discussed at the October Bay-Delta Public Advisory Committee (BDPAC) meeting. It is expected that the independent consultant will have been selected and begun work by the August 10 BDPAC meeting. All tasks in the program management review are to be completed by November 15. The Little Hoover Commission's first hearing is scheduled for August 25 and will focus on the history and purpose of CALFED and the California Bay-Delta Authority. Subsequent hearings will focus on governance and alternatives and alignment. The Commission expects to complete its effort and adopt a final report at its November 17 meeting.

Refocusing and Program Priorities – To address the second of the Governor's three directives, the Authority is undertaking a two-part effort to refocus the CALFED Program and ensure that the highest priority actions are implemented.

The first part of this refocusing effort will concentrate on near-term priorities, meaning those activities that are to take place over the next two years, through the end of Stage 1. Near-term priorities will identify those actions that must be implemented prior to the end of Stage 1 and are likely to include actions related to through-Delta conveyance, Delta-related ecosystem restoration, and improvements in drinking water quality. The prioritization of these activities will be explored in a stakeholder Refocusing Work Group. This Work Group is proposed to develop the basis for the near-term priorities by late-September. Near-term priorities will be based primarily on existing funding; however, high priority activities that are not presently funded will also be identified.

The second part of the refocusing effort will concentrate on interim actions or those activities that are to take place after Stage 1 as part of a 10-Year Plan. Because many of these activities are dependant on Stage 1 decisions, the later portion of the 10-Year Plan is expected to contain much less detail than the near-term portion. To help develop the interim activities, staff intends to develop the scope of a "Delta Visioning" process – to be conducted during 2006 – that will develop various scenarios for the Delta and analyze the costs, benefits, and relative risks of these scenarios. Staff will to develop this scope in consultation with the Lead Scientist and members of the Independent Science Board.

At the August BDPAC meeting, staff will provide an update on the overall public process and begin to engage the BDPAC members in an advisory capacity for priority-setting.

Financing – The finance component builds upon the priorities and actions identified in the refocusing effort. In the near-term, available funding will be identified to support priority actions, and gaps in funding will be identified. Identifying new funding for near-term priority actions for programs such as Delta Improvement Actions, Ecosystem Restoration Program and Environmental Water Account will be a key part of the finance plan.

At the August meeting Authority staff will provide an overview of the process and schedule for discussing program costs and benefits. At this time it is expected that at the September, October and November Authority meetings, after the refocusing effort is further along, finance information (including costs and benefits) will be presented and discussed with the Authority and Bay-Delta Public Advisory Committee.

Fiscal Information

N/A

List of Attachments

- Attachment 1 – Governor’s May Revision for CALFED
- Attachment 2 – Questions and other commentary from 7/14 CBDA Workshop
- Attachment 3 – Correspondence (Written comments received at July 14 workshop)
- Attachment 4 – Governor’s June 22 Letter to the Little Hoover Commission
- Attachment 5 – Little Hoover Commission Draft Workplan
- Attachment 6 – Correspondence (July 20 Letter from California Urban Water Agencies)
- Attachment 7 – Correspondence (July 13 Letter from Butte Environmental Council *et. al*)

Contact

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Chief Deputy Director

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Resources and Energy

CALFED Bay-Delta Program

Effective management of our water resources is essential to the future of California's economy and environment. The recently released public review draft of the California Water Plan outlines a new vision for California's water resources. The Water Plan recognizes our progress and provides a framework to build upon past accomplishments. It identifies many important water management strategies throughout the state that must be developed, maintained, and financed to meet the needs of Californians into the 21st century. The Secretary for Resources has been directed to work with the Secretaries for Food and Agriculture, Environmental Protection, and the Chair of the California Bay-Delta Authority to develop a long-term strategy for stable water resource investment funding. This long-term funding strategy will ensure that we continue to improve water supply reliability, protect water quality, and restore our ecosystems to support California's needs.

The CALFED Bay-Delta Program continues to play an important role in meeting California's future water needs. CALFED must be a part of the long-term water resource investment strategy for the state. Consistent with the commitment in the Governor's Budget, a three-point plan has been developed that will allow the CALFED Program to move forward and focus on addressing the highest priority issues associated with the conflicts in the Delta:

Independent Review—Consistent with the recommendations of the California Performance Review (CPR), the May Revision calls for an independent program and fiscal review of the CALFED Program to ensure accountability, highlight accomplishments, determine program status, and guide adjustments to the Program. The May Revision proposes to increase the Resources Agency budget by \$300,000 for purposes of contracting to support this review.

Program Priorities—Re-focus the efforts of the California Bay-Delta Authority and the other CALFED state agencies on solving conflicts associated with Delta water supply, water quality, levee stability, and the environment. Program priorities will be reinforced in a ten-year action plan as described below.

Financing—The CALFED Program needs a credible budget for the coming year and it needs a clear plan for the next ten years. The Governor is calling for the development of a ten-year action plan, to be developed in coordination with stakeholders and our federal partners. This action plan must focus on solving the highest priority Delta issues, link future water user payments to specific program actions

Expenditures: **Resources and Energy**

that improve water supply reliability, balance statewide actions with regional water management, and include funding from the state, federal, and local levels consistent with the beneficiaries-pay principle. This plan will include payments from water users to the Ecosystem Restoration Program and other programs in proportion to the direct benefits derived.

While the ten-year action plan is being developed, it is essential to have a credible budget for the coming year. This budget must reflect contributions from water users. The May Revision requests an increase of up to \$30 million in reimbursement authority in the budget of the Department of Fish and Game to accommodate user contributions which may be necessary to further the recovery of at-risk native fish.

The federal government is California's partner in the implementation of the CALFED Program. Working with the California Bay-Delta Authority, the Governor plans to request an additional \$40 million in the federal fiscal year 2006 federal budget for the CALFED Program, for a total request of \$100 million.

A major benefit of the CALFED Program has been a reduction in conflict and an increase in certainty regarding program implementation and balance. Over the next two years, water user and federal contributions to support the Program will be focused on actions that support the existing Conservation Agreement as described in the CALFED Record of Decision.

Related Activities—CALFED programs must be further integrated into our resource management efforts. To further this integration, the Governor is directing the CALFED implementing agencies to work diligently on related efforts such as:

- Implementation of the Lower Yuba River Accord to improve environmental conditions for native fish species and provide the first long-term Environmental Water Account asset as directed in Proposition 50.
- Negotiation of partnerships south of the Delta, including development of long-term EWA assets, in order to produce integrated improvements for water supply reliability, water quality, and ecosystem health.
- Legacy investment of bond funds to ensure continuing measurable benefits for, and recovery of, at-risk native fish species, and creative assistance for regions as they implement integrated regional water management.

Frontier Transmission Line Project

The May Revision proposes an increase of \$2.5 million Energy Resources Programs Account for California's participation in the Frontier Transmission Line Project.

In April 2005, the governors of California, Nevada, Utah, and Wyoming signed an agreement to create a four-state partnership to develop a transmission line originating in Wyoming with terminal connections in the other three states. The agreement specified that each state would contribute initial funding to support the Coordinating Committee and hire the necessary technical and legal consultants

Questions and other commentary from 7/14 CBDA Workshop
(As recorded on flipcharts)

The following questions and comments were posed by members of the Authority, the Bay-Delta Public Advisory Committee, agency representatives and the public during the workshop. These comments and questions – and others that will arise over the next four months – will be considered by the appropriate agencies and officials during the process to review, revitalize and refocus the CALFED Bay-Delta Program.

PROCESS & SCHEDULE

- What is the role of the agencies in this process?
- Will the information generated from this process flow to the Governor's Office? What is the Governor's role?
- What is the role for the Legislature in order to support this process?
- What was the CALFED process to continue following the ROD, before the current information on the Delta was known?
- What is CALFED's commitment to Environmental Justice? It appears to be "left out"?
- What is meant by the phrase that one of the roles of the BDPAC is to "serve as public testing ground for proposals"?
- Can both the BDPAC and the AUTHORITY make / initiate proposals as well as review them?
- How and when will short term implementation decisions occur?
- What is meant by the term "redefining" the commitment to BALANCE?

INDEPENDENT REVIEW

- When will the Department of Finances (DOF)'s fiscal review document be released? Will there be an advance copy?
- When will DOF's program review be ready?
- Is DOF acting in this process as an agent of the Governor's office or as a representative of all the stakeholders in California?
- Are adequate resources available in order to effectively perform the review (DOF)?
- Will the review look at pre-Record of Decision (ROD) grants? Will the review look at previous and current bond audits?
- Is DOF available to talk with caucus groups? Will DOF accept written comments?
- Where does the question of BALANCE fit in both the Little Hoover Commission's (LHC's) and DOF's processes? Will each process respectively look at the question of achieving BALANCE?
- Will DOF's review be retrospective or prospective?
- DOF's review will be "helpful" and critical to the question of "beneficiary pays" and the overall Finance Plan
- DOF needs to review the Finance Options Report (a 30 year look) in their review process. DOF should analyze whether the report was sufficient
- Where is the opportunity for feedback and public review in the DOF process? It is evident in the LHC process, but not in DOF's
- Do LHC and DOF have the respective expertise to review BALANCE issues?
- Will LHC make any recommendations that could affect the Federal Government in this process?

- What are the criteria for selecting the independent consultant(s)?
- Who will make the final selection of the consultant(s)?
- Will any BDPAC and/or AUTHORITY members be involved in the consultant selection process?

REFOCUSING & PRIORITY-SETTING

- What are the preferred processes to recommend ways to finance the State portion of the necessary CALFED activities and to recommend the same to the Governor?
- This must be a “new” process – not the same as last years!
- A consensus recommendation on budget issues is the “best” way to inform the Governor
- How does the department of Water Resources (DWR)’s parallel funding proposal, if at all, fit with CALFED’s process?
- Where does the concept of “beneficiary pays” fit in to this?
- How does / should the AUTHORITY deal “specifically” with the issues surrounding the Finance Plan?
- Where do the benefits of the CALFED program accrue “program element-by-program element”? They are not shared equally!
- Currently are there any “better” ways of determining who are the beneficiaries of the Environmental Water Account (EWA) and the Ecosystem Restoration Program (ERP)?
- All of the review activities need to be very focused and specific regarding financing issues, especially because of the tight time constraints. Is it possible to add some additional workshops to the current schedule in October and November?
- What is the “value-added” by the proposed additional stakeholder meetings outside of the scheduled BDPAC and AUTHORITY meetings?
- “Waiting until the May Revise (to propose changes) will not work”
- Some parts of the refocusing and overall review effort can move more quickly than others. Progress must be shown before the January budget! There is a compelling need to show progress re: “beneficiary pays” sooner rather than later!
- Who will be responsible for identifying items in the essential CALFED documents that may be viewed as “flawed assumptions”?
- The recently released report from the Inspector General’s Office at Department of Commerce is very important for the AUTHORITY to consider. It says that the State Water Project Operations Criteria and Plan Biological Assessment (OCAP) has not yet received sufficient scientific analysis. CALFED is the ideal place for the correct scientific analysis to take place. This is a good “opportunity” for CALFED
- Suggestion: Form a finance subcommittee of the BDPAC and AUTHORITY
- Remember the “original premise” of CALFED and don’t forget to revisit and consider it in this process – CALFED was formed around the concept of “solution areas” and “problem areas”

FINANCING & CAPITAL IMPROVEMENTS

- Subcommittees tend to get too focused on their own narrow issues – “in their own silos”. They need to be a part of broader discussions with all stakeholders
- How can BDPAC & AUTHORITY members effectively engage in financing issues?
- Reminder: Consider environmental and urban water groups earlier work document regarding the Finance Plan. Avoid duplicating last year’s process on the Finance Plan
- Metropolitan Water District (MWD) is “encouraged” by this new CALFED process.

- How will CALFED “reconcile competing views” regarding “beneficiary pays”
- Specifically what does AUTHORITY and staff intend to do about arriving at a cost figure and apportionment to include in the Governor’s budget re: “beneficiary pays”? The previous process was “not open enough”
- How will the financing proposal be developed? Will there be “open & public” meetings on “beneficiary pays” and related topics?
- An integrated regional planning approach will help achieve better outcomes re: financing issues. A regional integrated solutions approach works best
- The best place to deal with “beneficiary pays” issues is with the respective Boards of Directors of the water agencies that are being asked to pay
- Who is asking water agencies to pay?
- What does the term “beneficiary pays” really mean anymore? It has been over-used. People should also be asked to pay for “indirect” benefits and “impacts” as well as direct benefits. More specificity with terminology and meaning is needed in this discussion
- The University of the Pacific (UOP) process – some parts worked well, some did not. UOP helped the agencies to develop a process which addresses some of the “hot button” topics that had not been effectively addressed in the past by the agencies
- The role and impact of “existing operations” must be considered in the overall review of CALFED activities. “Financing through dollars” should not be the only option CALFED considers in this process
- “Present pumping may be the cause of the problems in the Delta”
- Salmon are thriving, in part, due to good CALFED investments
- Having an attitude of “misguided optimism” is good and will be helpful to the Director in this process
- The financing issues need leadership from the Executive and Legislative branches. They need to engage in this process early and often
- The Resources Agencies should consider interim actions, even in the face of uncertainty, that may minimize risks
- ERP, through good investments, has made some strides in improving upstream Salmon runs in some stream, but not all. However, this does not necessarily correlate with the improved salmon numbers in the Delta. More work needs to be done
- Key solutions are to be found outside the Delta. Regional and statewide solutions will address this. But there must be a “feedback loop” to the Delta issues
- There is ample concern amongst stakeholders about future funding for programs like Watersheds which may no longer be a part of CALFED
- How will CALFED engage legislators who are more interested in government financing (i.e. - the broader issues) than CALFED itself, yet are still needed to support the CALFED review process and Finance Plan?
- Is the “Water Resources Investment Fund “to be a replacement for “beneficiary pays”?
- This process needs to be mindful of any and all requests and concerns expressed by the Legislature
- Community members tend to “tune out” with too much internal jargon, acronyms, and technical terms. Environmental justice is not about special treatment, but rather equal treatment, equity and democratic processes. The process as described today is good because it appears to be open and inclusive

Written Comments received at the July 14 Authority workshop:

1. Please consider the following:
 - 1) CALFED's ROD south-of-the-Delta exports are the likely cause of the Delta crash in both the food web and pelagic species.
 - 2) The recent proposal by DWR to break the South Delta project into pieces is illegal piece-mealing under both CEQA and NEPA.
 - 3) The revitalizing process for CALFED is nothing but window dressing and Mr. Grindstaff indicated that before the process he has made up his mind to continue the failed CALFED Program in violation of CEQA and NEPA.
 - 4) CALFED has become Gov. Schwarzenegger's process. Is CALFED and its balanced approach to the Delta going to be his "electric deregulation" in the next election?

**Michael Jackson
California Sportfishing Protection Alliance (CSPA)
Box 207
Quincy, CA 95971**

2. The ROD uses "stakeholders." CBDA staff uses "stakeholder" to mean water users, and "enviros" to identify others. When will we all become "stakeholders"?

For winter-run Chinook salmon, the population increase is from "jacks and grilse" (2-year-old fish) that are non-reproductive. Can you explain how this is good or evidence of success?

**Dan Odenweller
DeltaKeeper
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GOVERNOR ARNOLD SCHWARZENEGGER

June 22, 2005

Little Hoover Commission
925 L Street, Suite 805
Sacramento, California 95814

Dear Chairman Alpert and Members of the Commission,

The California Bay-Delta is a tremendous ecological and economical asset that provides a significant portion of California's water supply as well as valuable habitat for scores of bird and fish species. It also represents a significant management challenge, balancing the need for habitat preservation and environmental protection with those for water supply and conveyance. Due to this challenge, the State of California, the federal government and various stakeholders joined together in 1994 to begin the creation of the CALFED Bay-Delta program.

While the CALFED Bay-Delta program has achieved many successes, it has struggled to meet the demands of the Record of Decision that established the original framework for the program. The situation going forward is further complicated by a financial model that is no longer sustainable given the condition of the State's General Fund. To ensure the long-term financial stability of the CALFED Bay-Delta program, I have instructed the Secretary of Resources to work with the Secretary of the California Environmental Protection Agency, the Secretary of the Department of Food and Agriculture, the Chairperson of the California Bay-Delta Authority and stakeholders to develop a strategy to stabilize public and private sector investment.

To address the public policy challenges facing this important program, I have called for an independent review of the CALFED Bay-Delta program. Given the Little Hoover Commission's history of providing valuable recommendations to improve the credibility and performance of government, as part of this review I would like to ask the Commission to undertake an examination of governance issues related to the CALFED Bay-Delta program and the proper role of the California Bay-Delta Authority and to prepare a report of findings and recommendations to improve the performance, and ultimately the public trust, in this essential program.

Sincerely,

A large, bold, handwritten signature in black ink, which appears to read "Arnold Schwarzenegger".

Arnold Schwarzenegger



State of California

LITTLE HOOVER COMMISSION

CALFED/ Bay-Delta Authority Governance Review Draft Work Plan (July 14, 2005)

Michael E. Alpert
Chairman

Stanley R. Zax
Vice Chairman

David J. Epstein

Liz Figueroa
Senator

Daniel W. Hancock

Welton C. Mansfield

Eugene "Mitch" Mitchell

Stuart G. Moldaw

Pedro Nava
Assemblymember

Charles S. Poochigian
Senator

Leslie "Teddie" Ray

Audra Strickland
Assemblymember

James P. Mayer
Executive Director

Governor's request

"I would like to ask the Commission to undertake an examination of governance issues related to the CALFED Bay-Delta program and the proper role of the California Bay-Delta Authority and to prepare a report of findings and recommendations to improve the performance, and ultimately the public trust, in this essential program."

Goal

Informed by detailed research and guided by a public process, the Commission will produce an independent and comprehensive assessment of how the CALFED program is governed and practical recommendations for improving governance of the program and the role of the Bay-Delta Authority.

Study Scope

The Commission will systematically explore the elements of governance: Vision and mission, authority, organizational structure, procedures, resources and accountability. The Commission will assess how well these elements are aligned in policy and in practice. The Commission will explore how the current governance structure might be modified to improve the performance of the CALFED Program. The Commission also will compare the governance of CALFED with other models to identify other means of effecting multipurpose and multi-agency actions.

Methodology

The Commission will explore these issues through interviews with stakeholders, consultation with experts and other research. The issues will be discussed publicly, drawing on the experience, expertise and ideas of the Bay-Delta Authority and its advisory committee. The Commission's evolving understanding of these issues will be distilled and posted for public comment. Based on that analysis, the Commission will submit findings and recommendations to the Governor and the Legislature.

Elements of Governance: Potential issues to explore

Vision and Mission

1. What is the CALFED Program expected to accomplish?
2. How are BDA and the other CALFED implementing entities expected to accomplish that vision?
3. Is there agreement on BDA's purpose and its dual roles as an implementing agency and as an oversight agency?
4. Is there agreement on how BDA should pursue the goals of the CALFED Program?
5. Has the mission changed? Can the mission be adapted to new challenges, and does it need to change to reflect the public interest?

Authority

1. What are the BDA's legal authorities and how has it used them?
2. What outside authorities can the BDA influence and how does it influence them?
3. What key decisions and other legal authorities influence the CALFED Program that BDA does not control or influence?
4. Are there limitations to the BDA's authority that prevents it from achieving its purpose?

Organizational structure (including decision-makers)

1. What are the functions and activities of the BDA and how are they organized?
2. What are the roles and responsibilities of the BDA board and the BDA staff, and how do they relate to the roles and responsibilities of the member entities?
3. What considerations (and compromises) drove the current organizational structure?
4. How does the BDA's organizational structure compare to other multi-agency entities and could any of those mechanisms be used to improve the performance of CALFED?

Procedures

1. How are decisions made and by whom? How does BDA operate to achieve the goals of the CALFED program?
2. How is information – and scientific information, in particular – used in making decisions?
3. How are decisions implemented and are the appropriate processes used to manage and administer CALFED programs?
4. What can be learned from other intergovernmental venues to improve decision-making?

Resources

1. What resources are controlled by BDA and are they adequate to accomplish its tasks?
2. What resources are influenced (and to what extent) by BDA?
3. What resources does BDA not control or influence that affect the program's outcomes?

Accountability

1. How is the performance of the BDA and the CALFED program measured?
2. How are performance measures used to influence future decisions and the management of CALFED programs?
3. What are the responses and consequences of inadequate performance?

Public Process

Through a combination of publicly posted written documents and public discussions, the Commission will provide an evolving understanding of governance-related issues and opportunities for improving governance.

1. **Written responses to Commission questions.** The Commission will invite individuals, organizations and agencies to respond – publicly and in writing – to questions probing CALFED governance. The intention is to develop an accurate understanding and to assess where there is agreement and disagreement.
2. **Workshop discussions.** To further explore issues defined through the Commission's research and the written submittals, workshops will be scheduled to allow interested parties to provide public comment.
3. **Written analysis of issues.** The Commission will post its evolving understanding of the fundamental issues and invite responses to that analysis.
4. **Public hearings.** The Commission will conduct at least three public hearings.
 - **August 25: Background and current concerns.** The hearing will focus on the overall concerns about the state of progress, including the analysis that is underway to assess performance and the concerns that have been raised about governance.
 - **September 22: Governance critiqued.** How well has the governance system worked? What elements have worked well and which have not? What does "governance" need to accomplish?
 - **October 27: Alternatives and Alignment.** What elements of BDA's governance should change to improve performance? How can interagency efforts best be managed? Which decision-making models should BDA rely upon?
5. **Decision.** The Commission will meet on November 17 to adopt final recommendations.



CALIFORNIA URBAN WATER AGENCIES

July 20, 2005

Joe Grindstaff, Executive Director
California Bay-Delta Authority
650 Capitol Mall, Fifth Floor
Sacramento, CA 95814

Dear Mr. Grindstaff:

Thank you for putting together the July 14, 2005 Bay-Delta Authority workshop on a variety of issues related to the future of the CALFED Bay-Delta Program. At that workshop you solicited comments, and many of us spoke up. This letter covers areas where we believe written comments might be useful as well. Our comments cover the following subject areas:

- CALFED Finance
- Ecosystem Concerns
- Water Quality
- Other

CALFED Finance. As you know, earlier this year CUWA submitted extensive comments regarding the need to restructure plans to finance future CALFED investments, including recommendations about refocusing the Program to proceed on only the highest-priority efforts. Our February 8, 2005 letter addressed: (1) the need to prioritize expenditures, (2) the importance of developing finance packages that achieve balance, (3) the need to put more thought into, and define, the “beneficiaries pay” principle, (4) the solid principle of the need for public funds to pay for public benefits, (5) our belief that cost sharing agreements are a clear way to provide implementation assurances, and (6) the need for responsible parties to pay to remedy any impacts their actions/programs may cause.

Attached is a copy of that material for reference. We will not reiterate our specific positions and recommendations. We remain concerned, however, that the Authority address several very substantial finance issues as early as possible in the next budget cycle. Specifically, this includes finalizing a viable 10-year finance plan that reflects the reprioritized program activities and sustainable funding for the program that includes equitable contributions from beneficiaries. This must be accomplished in a timely fashion to ensure that we do not repeat the problems that arose with the last state budget.

Ecosystem Concerns. We applaud the focus taken over the past few months by CALFED implementing agencies on addressing the problems associated with pelagic fisheries. CUWA agencies recognize these issues are important and stand ready to help resolve them -- as we have under similar circumstances in the past. Any solutions must be based on sound science. The current situation should not freeze us into inaction -- it cannot be the latest excuse to set back progress again on water quality and water supply reliability efforts. While the program must

respond adaptively to such changing circumstances, the agencies must continue to move the process forward.

We also strongly agree with Chief Scientist Johnnie Moore's recommendations in his May 16, 2005 paper, "A New Vision for CALFED Science in the Face of Changing Circumstances". Environmental conditions in the Delta require a major refocused effort, with the first step being taken by the Interagency Ecological Program in recent months. It is essential that the Science Program take a much more strategic approach to allocating limited bond funds, and focus far more on the core problem area of the Delta.

Water Quality. CUWA believes that drinking water quality continues to need a greater level of policy attention. We are pleased with the greater attention at the staff level, but believe that "water quality" needs to be ingrained in discussions and decision-making as much as water supply and ecosystem have to date. Water quality is a critically important issue itself, in addition to being a key component of water supply reliability.

Other.

- **Balance:** From the onset of planning for the CALFED Bay-Delta Program ten years ago, "balance" has been an essential component. Not a single interest believes that implementation of all aspects of CALFED has been balanced, whether due to funding limitations or lack of adequate focus. The current efforts to evaluate the success of past expenditures and develop a revised plan for the future provide an extraordinary opportunity to assure that "balance" finally comes about. We greatly appreciated your comments during the July 14 workshop on this subject, but want to be clear that any definition, or "redefinition" as shown in your PowerPoint slide, preserve the need to provide balance in implementation to secure the benefits to water supply reliability, water quality, Delta levees and ecosystem restoration set forth in the ROD. More specifically, we believe that protection and improvement in water quality needs to be on more of an equal footing than it has been in the first five years of CALFED implementation.
- **Regional Approaches:** We know you understand this point, since you have worked for many years at the local and regional water resources levels. It is important to reinforce the need to support the regional approach advocated by the draft California Water Plan Update (especially for those measures which could reduce the reliance on the Delta, and/or diversify supply, etc. to meet local water supply reliability in addition to the four CALFED program goals). One of those measures not mentioned in the ROD is desalination, which is becoming an increasingly important water management tool. More explicit support for regional approaches should include the need for continued, adequate support for local and regional supply development projects and conservation programs.
- **Focus on the Delta:** As part of re-prioritizing future programs and expenditures, it is clear that the Bay-Delta Authority and the implementing agencies need to focus far more on the Delta. While we all recognize important links to problems in the "solution area", the CALFED Program cannot forego investments in the Delta itself. We have only to

- recall the failure of the Jones Tract levee system and recent Delta smelt monitoring data to remind ourselves of the foundational problems.
- State Contracting Process: The State needs to fix the contracting process. 50 years of trial-and-error regulations and legislation have brought the State of California to a contracting system that does not work. Contracts take too long to complete, and too long to get approved. It is a cumbersome and frustrating process for State agencies and their employees, and any entity that contracts to provide services to the State or receives State bond funds. The goals of an overhauled process should be to assure that adequate, cost-effective protections are in place to get the most value for taxpayers' money. Part of doing this is to make sure appropriated and allocated funds get spent in a timely manner to achieve identified goals.

Thank you for the opportunity to provide written comments. We hope these will be useful in the reevaluation of the Program. CUWA and its member agencies expect to be active participants over the next six months as work proceeds to evaluate past performance and develop more structured and realistic plans for the future. We are aware that time is of the essence, and pledge to assist you in meeting critical timelines to ensure that the next state budget contains a credible finance plan for CALFED.

Regards,



Steve Macaulay
Executive Director

Attachment

Cc: Lester Snow, Director, Department of Water Resources
Ryan Broddrick, Director, Department of Fish and Game
Walter Bishop, General Manager, Contra Costa Water District
James McDaniel, Chief Operating Officer – Water System, Los Angeles Department of Water & Power
Dennis Diemer, General Manager, East Bay Municipal Utilities District
Susan Leal, General Manager, San Francisco Public Utilities Commission
Paul Piraino, General Manager, Alameda County Water District
Tim Quinn, Vice President, State Water Project Resources, Metropolitan Water District of Southern California
Gary Reents, Director of Utilities, City of Sacramento
Maureen Stapleton, General Manager, San Diego County Water Authority
Marsi Steirer, Deputy Director, City of San Diego Water Department
Walt Wadlow, Chief Operating Officer, Santa Clara Valley Water District
Vince Wong, Assistant General Manager, Alameda County Flood Control & Water Conservation District, Zone 7

(Advanced copy sent electronically)



CALIFORNIA URBAN WATER AGENCIES

February 8, 2005

Gary Hunt, Chair
California Bay-Delta Authority
650 Capitol Mall, 5th Floor
Sacramento, CA 95814

Dear Chair Hunt:

The Board of Representatives of the California Urban Water Agencies has reviewed and thoroughly discussed aspects of the January 2005 CALFED 10-Year Finance Plan, including the material presented at the Bay-Delta Authority workshop on January 19. Attached are principles of agreement supported by our Board addressing critically important elements related to implementation of the Plan.

Regards,

Steve Macaulay
Executive Director

Attachment

455 Capitol Mall, Suite 705, Sacramento, CA 95814 916.552.2929 FAX 916.552.2931

City of Sacramento
Alameda County Water District
City of San Diego Water Department
San Diego County Water Authority

Metropolitan Water District of Southern California
San Francisco Public Utilities Commission
Santa Clara Valley Water District
Zone 7 Water Agency

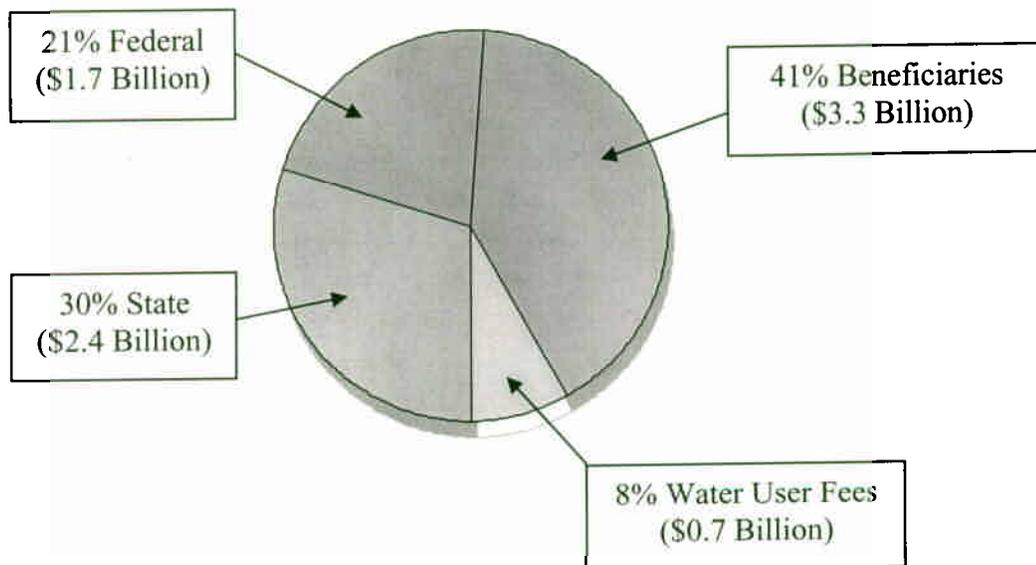
Contra Costa Water District
East Bay Municipal Utility District
Los Angeles Department of Water & Power



February 8, 2005

**Proposed CUWA Principles of Agreement
For Financing the CALFED Bay-Delta Program
Response to January 2005 BDA 10-Year Finance Plan**

We support the engagement of the California Bay-Delta Authority in developing a revised plan of action for the next ten years. The Bay-Delta Authority proposes an \$8+ billion program be funded over the next ten years from specified sources. The “user fees” are proposed to fund a portion of the Environmental Water Account (EWA), the Ecosystem Restoration Program (ERP), and the Levee Improvement Program. We have summarized the overall allocation of costs from the 10-Year Finance Plan in the graphic below.



CALFED Program Finance Strategy

Urban water agencies are seriously concerned about implementation of the Finance Plan as set forth in the recent staff proposal presented at the January 19, 2005 California Bay-Delta Authority workshop. The proposal does not recognize local control and decision-making, and suggests the concept of a water utility surcharge (tax) to cover the state share of public costs that we believe is inconsistent with CALFED principles. The staff proposal fails to identify important linkages between cost allocation and regulatory and other assurances for program implementation.

The CUWA Board of Representatives believes the following broad principles of agreement will be supportable by urban water interests as well as the broad spectrum of stakeholders and public:

1. Prioritize expenditures
2. Finance packages of actions that achieve balance
3. Beneficiaries pay for benefits they receive
4. Public funds pay for public benefits
5. Cost-sharing agreements provide implementation assurances
6. Responsible parties pay to remedy impacts

Each of these principles is addressed below.

1. Prioritize Expenditures

The 10-Year Finance Plan outlines an \$8 billion program, although most sources of funding are not assured. It is prudent and responsible for the California Bay-Delta Authority to prioritize expenditures of program elements, including identification of a range of funding targets, so that the program implementation will occur in a balanced manner if any of the proposed funding sources or funding levels are not achieved in the time frames assumed by the Finance Plan. The Finance Plan must be consistent with the longstanding CALFED principle of “affordability”; otherwise the plan cannot be implemented.

2. Finance Packages that Achieve Balance

We recognize the importance of the CALFED 10-Year Finance Plan assumption for financial contributions from local (potential beneficiaries), state and federal sources. It is essential that financing continue to be linked to a balanced program that advances all elements of the CALFED Program. The overall package must be affordable.

3. Beneficiaries Pay

There is broad support for this important CALFED principle, but implementation details are critical. We address two areas separately: the 41 percent suggested for assignment to “Beneficiaries” and the 8 percent suggested for assignment to “Water User Fees”.

A. Allocation of Costs to Beneficiaries

- Voluntary cost-share agreements need to be negotiated and approved with self-identified beneficiaries.
- Local boards of directors need to decide if and how they will participate, and their means of providing financial support.
- CUWA members currently implement cost effective conservation and reclamation programs. To the extent additional levels of conservation/reclamation are mandated by CALFED beyond what is

determined to be cost effective at the local level, those costs must be covered in the state and federal shares.

- B. Allocation of Costs to Water Users for the EWA, ERP and Levee Improvement Program
- Water user fees or other local financial options for the EWA, ERP and Levee Improvement Program can and should be developed through contractual arrangements.
 - Costs allocated to water users in support of the EWA, ERP and Levee Improvement Program shall be linked to adequate and acceptable regulatory and other assurances for CALFED Program implementation.

4. Public Funds Pay for Public Benefits

CUWA agencies oppose a “broad-based fee” or water utility surcharge (tax) on water bills to pay for the state share. Funds for the state share that pay for broad public benefits should come from state sources, not from water users. However, if a water utility surcharge (tax) concept is pursued, it is essential that it be subject to the requirements associated with imposing a new tax and the resulting revenue must be tied directly to funding specific programs.

5. Cost Sharing Agreements Provide Implementation Assurances

Cost-sharing agreements between potential beneficiaries and other parties (including the state and federal government) are essential to assure that the program’s implementation, including necessary regulatory and other assurances, is paired with available funding. We agree that costs assigned to appropriate categories of water users, as determined through an open public process, is appropriate for the EWA, ERP and Levee Improvement Program if such costs are linked to appropriate assurances.

For cost shares allocated to water users for support of the EWA and ERP programs, it is essential that: (1) adequate state and federal financial contributions be made, (2) there be a cap on water user shares, (3) that implementation details are addressed through an open public process, (4) credits be reflected for funds provided in advance (for example, CUWA Category III funding) or on a continuing basis for the same purposes (for example, CVPIA Restoration Fund) and (5) for the EWA program only, the cost shares allocated to water users should be limited to the CVP and SWP. It is essential that benefits in the form of regulatory assurances be provided to water users who are asked to pay.

For implementation of the financing plan for the Levee Improvement Program, it is essential: (1) to develop a strategic plan first, (2) recognize that the Levee Improvement Program has substantial public benefits, (3) recognize that there are other levee “users” in addition to water users (e.g. county and state roads, energy utilities, railroads) and (4) recognize that the institutional framework for implementation of the Levee Improvement Program is itself a critical “assurance”.

6. Responsible Parties Pay to Remedy Impacts

It is essential that any adverse impacts of projects that affect the ability of the CALFED Program to succeed be the responsibility of the project proponents / beneficiaries.

**Butte Environmental Council
California League of Conservation Voters
California Sportfishing Protection Alliance
Clean Water Action
Environmental Defense
Environmental Working Group
Friends of the River
Mono Lake Committee
Natural Resources Defense Council
Northern California Council/Federation of Fly Fishers
Pacific Coast Federation of Fishermen's Associations
Planning and Conservation League
Public Citizen
Sierra Club
Southern California Watershed Alliance**

**Interim Recommendations Regarding CALFED's Future
July 13, 2005**

1. Refocus the CBDA Process

A key goal of the effort to improve the Bay-Delta Program should be to restore the importance and credibility of the CBDA. Under a revised CBDA process, stakeholders should be involved in more face-to-face discussions/negotiations with each other and with state and federal agencies. Although CBDA staff and regulatory agency staff should be active participants, the stakeholders should be far more directly involved in problem-solving and pre-decisional agency discussions.

In addition, the CBDA will work only if all significant matters relevant to the Bay-Delta Estuary are brought before the CBDA for meaningful discussion before decisions are made. In the past, major actions have been brought to the CBDA only after agencies had made key commitments to move forward on a particular track (e.g. OCAP, CVP contract renewals, the (b)(2) rollback and the Napa Agreement.) Near-term specific recommendations include:

- The CBDA should be fully involved in key decisions and in constructing solutions and strategies. Regarding the SDIP, the CBDA should be involved in the process of determining how to proceed. before DWR issues the Draft EIR/EIS.
- CBDA should hire a top rated mediator empowered to keep the process open, transparent and inclusive.

2. Change the Focus of the Program

The CBDA should focus on five areas: Near-term performance measures and water project operations criteria; the health of the Delta; near-term financing; science; and a strategic plan for the long-term future of the Delta.

D. Engaging Science on Key Issues. As many others have noted, the Science Program needs to be focused on today's critical issues to a much greater degree. This increased focus should certainly include what is affecting pelagic fisheries in the Bay-Delta Estuary and strategies for restoring these fisheries. This is reinforced in CBDA Chief Scientist Johnnie Moore's suggested new vision for the CALFED Science Program (attached). Greater engagement in important issues, action, and more stable funding are essential.

Near-term specific recommendations include:

- Carefully evaluating the ecosystem collapse in the Bay-Delta Estuary, including the positive and/or negative effect of the EWA.
- Fully investigating the potential impacts of all actions that have reduced the amount of water anticipated by the ROD to be dedicated to fisheries and ecosystem restoration. (See, for example, the June 7 letter signed by many EWC groups.)
- Developing a process for evaluating whether agency actions in one area (e.g. OCAP) are undermining progress in another area (e.g. ecosystem restoration.)
- Immediately investigating the benefits to the Bay-Delta Estuary (e.g. fisheries, primary productivity and water quality) of restoring flows to the San Joaquin River below Friant dam.

E. Develop a Long-Term Vision for the Bay-Delta Estuary: Leaders in each stakeholder community agree that it is time to have a reasoned look at the future of the Bay-Delta Estuary. It is clear that if we take no actions beyond what we have been doing over the past decade, the Estuary will likely look different in 50 years. Such major potential changes would undoubtedly affect the benefits that the Bay-Delta Estuary provides to all CALFED participants. Careful consideration of this issue will require time. Fortunately, given that this is a long-term issue, we have time to develop this vision. This process must be very strategically designed, as it will raise deep concerns in nearly all stakeholder groups.