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Agenda Item: 9
Meeting Date: December 14, 2006

REVISED

BAY-DELTA PUBLIC ADVISORY COMMITTEE and CALIFORNIA BAY-DELTA AUTHORITY

CONSIDERATION OF A RESOLUTION ADOPTING THE 2006 STATEMENT OF PROGRAM ACCOMPLISHMENTS AND PROGRESS AND DIRECTING IT BE INCLUDED IN THE ANNUAL REPORT AND TRANSMITTED TO THE GOVERNOR, SECRETARY OF THE INTERIOR, LEGISLATURE AND CONGRESS, AS WELL AS OTHER INTERESTED PARTIES

Description: Both State and Federal statutes, as well as the CALFED Programmatic Record of Decision (ROD), require an annual review of the progress of the CALFED Program. The review is to be completed by November 15 of each year and the results submitted in an Annual Report to the Governor, Secretary of the Interior, Legislature and Congress. The Authority is being asked to adopt a report setting forth the results of the annual review of Program Progress.

Recommended BDPAC Action: The Bay-Delta Public Advisory Committee consider making a formal recommendation to adopt the 2006 Statement of Program Accomplishments.

Recommended Authority Action: The Authority adopt the attached Resolution 06-12-02 adopting the 2006 Statement of Program Accomplishments and Progress and directing that it be included in the Annual Report and transmitted to the Governor, Secretary of the Interior, Legislature and Congress as well as other interested parties.

Background

The status of implementation of all elements of the CALFED Bay-Delta Program and prior year accomplishments are summarized in the annual Statement of Program Accomplishments and Progress, which is included in the Annual Report to meet the reporting requirements under both State and Federal law.

Requirements for annual review

The California Bay-Delta Authority Act states that:

- On or before November 15 of each year, the California Bay-Delta Authority (Authority) is required to “review progress in implementing the Program.”
- If the Authority, or Governor, or the Secretary of Interior determines in writing that either the “Program schedule or objective has not been substantially adhered to,” then a revised schedule must be prepared, in coordination with the Bay-Delta Public Advisory Committee (BDPAC), to achieve balanced progress in all Program elements.
- On or before December 15 of each year, the Authority is required to submit an annual report that describes the status of implementation of all Program elements for the prior fiscal year.

The Federal CALFED Bay-Delta Authorization Act states that:

- No later than November 15 of each year, the Secretary of the Interior, in cooperation with the Governor, is required to review progress in implementing the Program based on consistency with the CALFED Bay-Delta Program Record of Decision (ROD), and balance in achieving goals and objectives of the Program.
- If the Secretary or the Governor determines in writing that either the Program implementation schedule has not been substantially adhered to or that balanced progress in achieving goals and objectives of the Program is not occurring, a revised schedule must be prepared, in coordination with BDPAC, to achieve balanced progress in all Program elements.
- No later than February 15 of each year, the Secretary, in cooperation with the Governor, must submit an annual report that describes the status of implementation of all components of the Program, and sets forth any written determination and revised schedule as determined from the November 15 review of progress.

Definition of “balance”

“Balance” is defined in the State Act (California Water Code, Section 79402(b)) as: “the implementation of projects, programs, or other actions in a manner that meets both the following requirements:

1. Is consistent with the implementation schedule and milestones described in the ROD; and
2. Results in concurrent improvement in all Program elements in a manner that ensures that improvements in some Program elements are not made without corresponding improvements in other Program elements.”

There is no definition of balance provided in the Federal Act, other than “balanced progress in achieving the goals and objectives of the Program”.

Potential consequences of a finding of imbalance

The State Act does not require an affirmative written finding of balance; only of imbalance, based on lack of substantial adherence to Program schedule or objective. A written finding of imbalance would require the preparation and inclusion of a revised schedule in the annual report. Such a finding could implicate (and potentially make difficult) the next year's approval of Program plans because the statutory criteria for approval are: (1) consistence with the Program; and (2) balanced achievement of the Program's goals and objectives.

Similarly, the Federal Act does not require by its terms an affirmative statement of balance, although the heading of a relative Federal provision is, "Annual Review of Progress and Balance." Balanced progress is so fundamental to the Federal Act, that the Act authorizes the Secretary and Federal agency heads to carry out the activities specified therein if they are consistent with: (1) the ROD; (2) the requirement that major Program activities (water quality, ecosystem, water supply, and levees) progress in a balanced manner; and (3) the Act itself (Sec. 103(a)(2)(A)). Consequently, a Federal finding of imbalance would also require the preparation of a revised schedule and could call into question Federal authorization and implementation of the entire Program if not addressed sufficiently.

The Draft 2006 Statement of Program Accomplishment and Progress Summary (Attachment 1) summarizes the status of the Program at the end of Year 6. Implementation schedules contained in the ROD were updated, as appropriate, to correspond to the CALFED 10-Year Action Plan. Implementation schedules contained in the ROD were updated, as appropriate, to correspond to the CALFED 10-Year Action Plan. To date, the annual review process has not resulted in a finding of imbalance; rather, an attempt has been made to address identified areas of concern in the following year's Program Plans.

List of Attachments

Attachment 1 – Draft 2006 Statement of Program Progress and Accomplishments
Summary
Resolution 06-12-02

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PROGRAM PROGRESS (YEARS 1-6) AND ACCOMPLISHMENTS (YEAR 6)

Summary

The CALFED Record of Decision (ROD) and State and Federal legislation require an annual review of the progress of the CALFED Program and an annual report to the Governor, Secretary of the Interior, Legislature and Congress on the implementation status of all elements of the CALFED Program for the previous fiscal year. This report highlights CALFED Program progress over the last six years and accomplishments in 2005-2006, or Year 6 of the program. The full Program Progress and Accomplishments report will be available in the 2006 CALFED Annual Report, and will include more information on actions taken for each program element, as well as those not completed as scheduled in Year 6.

Program Element Progress and Accomplishments

Levee System Integrity Program

The failure of the Jones Tract levee in 2004, the damage to New Orleans' levees by Hurricane Katrina's storm surge in 2005, and recent studies on seismic risk, climate change, levee subsidence and sea level rise, have heightened concerns about the stability of Delta levees. The Department of Water Resources (DWR) is entering the first year of its Delta Risk Management Strategy (DRMS) to evaluate the risk of Delta levee failures and options to reduce the risk. Over the last six years, the stability of 45 miles of Delta levees have been improved. These include projects that reuse dredged material to improve levee stability and habitat. State contributions for levee maintenance are continuing through DWR's Subventions Program. Overall, there are still major risks for levee failures in the Delta. In November 2006, California voters approved Propositions 1E and 84, which provided new bond money for flood management, including improvement of Delta levees.

During Year 6, implementing agencies continued work on DRMS and provided State funding for levee maintenance and reuse of dredged material for levee stability and habitat restoration. They continued a subsidence reversal demonstration project on Twitchell Island and initiated a large-scale subsidence control/reversal project on Sherman Island.

Future work funded by the new bond money is expected to continue maintenance, subsidence reversal and levee improvements. The focus of improvements will be influenced by the conclusions of DRMS and the Delta Vision initiative, which are aimed at finding long-term solutions to Delta sustainability issues.

Conveyance Program

Over the past six years, the Conveyance Program has focused on studies of potential projects and operations that could be options for the through-Delta conveyance system. While no physical improvements have been made, the South Delta Improvements Project (SDIP) is the conveyance initiative that is furthest along toward its construction phase. However, the increase of the State Water Project (SWP) Delta export limit to 8,500 cubic feet per second is no longer coupled with the construction of four permanent operable gates and channel dredging in the South Delta. In the meantime, the temporary barriers continue to be installed and removed on an annual basis.

During Year 6, the implementing agencies continued studies on the proposed Delta-Mendota Canal/California Aqueduct Intertie, Delta Cross Channel, a potential through-Delta facility (TDF) and a potential project at Franks Tract. These include hydrodynamic modeling, salinity monitoring and fish studies. In November 2006, DWR made the Draft Environmental Impact Study/ Environmental Impact Report (EIS/EIR) for SDIP available for public review and comment.

Future work is expected to continue on conveyance studies and implementing SDIP, at which time installation and removal of the temporary barriers will stop.

Storage Program

The Storage Program has provided technical and financial assistance through grants and loans to local agencies to study and implement groundwater projects. Based on information provided by the grant and loan recipients, it is estimated that when complete, the groundwater projects will deliver between 300,000 – 350,000 acre feet (AF) per year. Work on surface water storage has focused on feasibility and environmental investigations for five surface storage projects. The draft feasibility study for the In-Delta Storage Project (IDSP) is complete and on hold until a similar level of information is available for the other four surface storage projects. Feasibility and environmental studies are underway for the Shasta Lake Water Resources Investigation, Los Vaqueros Reservoir Expansion, Upper San Joaquin River Basin Storage Investigation and the North-of-the-Delta Offstream Storage Project. The Storage Program has refined project alternatives for the surface storage projects and is evaluating potential beneficiaries and funding strategies.

In Year 6, the implementing agencies provided oversight on previously-funded groundwater projects and assistance to local agency partnerships to develop groundwater management plans and to plan and develop conjunctive and integrated regional water management actions. DWR completed a supplemental

report in response to written and public hearing comments received on the 2004 IDSP Draft State Feasibility Study. The 2004 Jones Tract flooding event allowed DWR to collect information on property damage, seepage to adjacent islands and drinking water quality impacts for use in future modeling studies. The agencies are continuing with feasibility and environmental studies for the other four surface storage projects.

Future work is expected to continue for groundwater project oversight and on bringing all five surface storage investigations to the same level of detail by the summer of 2008.

Watershed Program

During the first six years, the CALFED implementing agencies awarded four rounds of competitive grants totaling nearly \$60 million. The Watershed Program helped build local expertise, provide education and fund watershed assessment, planning and implementation of projects that have contributed toward improved water quality, management of a reliable supply of water and restoration of the ecosystem of the Bay-Delta system. Watershed Program funding supported preparation of watershed assessments covering approximately 27,400 square miles and watershed management plans covering approximately 20,500 square miles in various watersheds throughout the CALFED regions. Currently, the Watershed Program provides funding for 64 watershed coordinators located throughout the Bay-Delta system.

In Year 6, implementing agencies continued funding watershed grants and support for watershed coordinators. Volume I of the California Watershed Assessment Manual was also completed.

Future work is expected to continue with existing Watershed Program activities.

Water Quality Program

The Water Quality Program has directed funding and awarded competitive grants, mostly for source controls in the Delta to control runoff in the California Aqueduct and similar conveyances. The Water Quality Program has made considerable progress toward gaining an understanding of drinking water quality through the funding of continuous water quality monitoring stations at key locations in the Delta and at Delta drinking water intakes, the development of high-priority constituent conceptual models by the Central Valley Drinking Water Policy Project and through a few key research studies. However, existing water quality at Delta intakes consistently exceeds the ROD target for bromide (except for the Barker Slough intake) and frequently exceeds the target for total organic carbon. It is still very early in the program to expect measurable improvements from CALFED-funded projects to in-Delta water quality.

In Year 6, the Contra Costa Water District completed construction of the Old River and Rock Slough Water Quality Improvement Projects. The State Water Resources Control Board (SWRCB) approved a total maximum daily load to control salt and boron discharges into the lower San Joaquin River and provided funding for agricultural and non-point source grants. A pre-feasibility study concluded that modifications to Franks Tract could significantly improve water quality during drier times of the year. The implementing agencies continue work on a wide variety of studies.

The ongoing Water Quality Program work is focused on decisions scheduled to be made before the end of Stage 1 in 2007, especially regarding the role of a TDF in water quality improvement.

Environmental Water Account

Over the past six years, the Environmental Water Account (EWA) has spent approximately \$156 million purchasing a little over 1 million AF of water from willing sellers and obtaining other operational (variable) assets to replace approximately 1.6 million AF of water for fish protection measures taken in the Delta at key times of year while maintaining water deliveries. In 2004, the EWA agencies completed an evaluation of the efficacy of EWA. Based on the first four years of operation, the agencies signed a Memorandum of Understanding, extending implementation of EWA through December 31, 2007. The agencies also completed final environmental documents, a ROD and a Notice of Determination for the acquisition and management of EWA assets through 2007. While EWA has allowed for changes in project operations for fish protection with no uncompensated losses for the water users, it is unclear to what level EWA has actually benefited fish populations. However, it has been successful in that it has allowed water diversions to continue without fisheries conflicts.

In water year 2006 (October 1, 2005 – September 30, 2006), which was a wet year, EWA fish protection measures occurred mainly in May and early June, and totaled approximately 148,000 AF. For water year 2006, the EWA agencies did not need any water from willing sellers because of the wet hydrology and the anticipated ability to pay off debt owed to the State and Federal water projects by pumping excess water from the Delta through the summer and erasing remaining debt upon the anticipated filling of the San Luis Reservoir in January-February 2007. Final accounting of EWA's water purchases and balance sheet for 2006 will be completed in spring 2007.

On November 28-30, 2006, EWA agencies, working with the CALFED Science Program, sponsored a biennial review and evaluation of EWA's operations in water years 2005 and 2006, and also took a comprehensive look at the technical basis for EWA operations during its first six years. Results from the biennial review are expected in late January 2007, and are intended to guide EWA operations in water year 2007 (October 31, 2006 – September 30, 2007), as well as future environmental water use and management.

During water year 2007, EWA may test different pumping operations to try to obtain more data on operations that might benefit fish. EWA agencies are in the process of preparing an environmental document for the acquisition and management of EWA assets between 2007 and 2030. However, there currently are no commitments to extend EWA beyond 2007.

Water Use Efficiency Program

In the first six years, 366 agricultural and urban water conservation, recycling and desalinization projects were funded for a total of \$932 million in local, State and Federal funds. Information from agricultural Water Use Efficiency Program (WUE) grant applications indicates water savings just under 50,000 AF per year from the projects. Based on information from the Urban Water Conservation Council, between 101,000 and 142,000 AF of water savings have occurred. Recipients of water recycling funds reported they expect their projects to yield 387,000 – 510,000 AF per year when completed. Recipients of desalinization funds reported they expect their projects to yield 35,500 AF per year when complete.

In Year 6, the implementing agencies continued technical assistance, award of additional grants, research, reviews of previously funded projects, preparation of agreements and new proposal solicitation packages for future grants and planning. Other significant developments in Year 6 included publication of the Water Smart Landscape for California report assisted by the Landscape Task Force and initiating Integrated Regional Water Management Planning grants.

The implementing agencies plan on continuing their activities into the foreseeable future.

Water Transfers Program

In the first six years of the CALFED Program, over 4.1 million AF of water was transferred for EWA, DWR's Dry Year Program, the Central Valley Project Improvement Act (CVPIA) and the Colorado River Contingency Plan.

Funding for DWR's Water Transfer Program was not appropriated for State fiscal year 2005-06, ending program funding on June 30, 2005. CALFED Water Transfer Program activities ceased on July 1, 2005. Attempts to re-establish the program remain unsuccessful. The "On-Tap" website operated until July 2005, at which time it was suspended due to budget constraints.

No DWR or CALFED Water Transfers Program activities are planned for the remainder of Stage 1. The U.S. Bureau of Reclamation will continue CVPIA water transfers. SWRCB will continue to process long- and short-term water transfer change petitions as required by the California Water Code.

Ecosystem Restoration Program

Since its inception, the Ecosystem Restoration Program (ERP) has made considerable progress improving habitat and species associated with the Bay-Delta and its watersheds by protecting or restoring approximately 130,000 acres of habitat. The 2004 Milestones Assessment determined that ERP has met or is ahead of schedule on approximately 80 percent of its ROD milestones for Stage 1. Based on these accomplishments, ERP implementing agencies recommended in 2004 that program-level regulatory commitments within the Conservation Agreement Regarding the Multi-Species Conservation Strategy be extended through December 2007, or the end of Stage 1. Other notable successes during Stage 1 include funding contributions to the restoration and protection of more than 57,000 acres of seasonal or fresh emergent wetlands in San Pablo Bay, Suisun Marsh, Sacramento River Region and San Joaquin River Region. About 54,000 acres of agricultural land was protected, largely through easements. Projects were funded to install or improve 82 fish screens and the rebound of salmon populations was observed in some streams. However, the continued decline of pelagic organisms in the Delta raises major concerns about the health of the ecosystem and the role of Delta water management actions, invasive species, toxics and other factors on their decline.

During Year 6, while implementing agencies continued work on grants for habitat restoration activities and monitoring to evaluate previously-funded projects, they also refocused efforts to address the pelagic organisms decline (POD). Day-to-day management of ERP was transferred to the State Department of Fish and Game. The implementing agencies continued work on the Delta Regional Ecosystem Restoration Implementation Plan, addressed needs to develop ERP performance measures and coordinated with other efforts to develop a Bay Delta Conservation Plan, DRMS and Delta Vision.

Future work is expected to continue on restoration activities and POD. ERP implementing agencies have drafted an approach to evaluate the end of Stage 1 and plan for the future as ERP transitions into Stage 2.

Science Program

In its first six years, the Science Program has been involved in an intensive effort to improve the understanding of the Bay-Delta system, as well as the application of science in all CALFED programs. Ongoing accomplishments include appointment of the Independent Science Board, establishment of an EWA Science Panel, funding of research projects, initiation of a CALFED Science Fellows program, convening of workshops, large-scale project reviews, holding CALFED Science Conferences and State of the Estuary Conferences, authoring scientific reports and white papers, editing the on-line journal *San Francisco Estuary and Watershed Science* and newsletter *Science-in-Action*, and establishing a Bay-Delta Science seminar series in collaboration with the University of California, Davis.

In Year 6 the Science Program continued its role in these activities. A new lead scientist has been appointed and will begin working with the CALFED Science Program in January 2007.

Future work is expected to continue with existing Program activities.



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CALIFORNIA BAY-DELTA AUTHORITY

RESOLUTION 06-12-02

ADOPTING THE 2006 STATEMENT OF PROGRAM ACCOMPLISHMENTS AND PROGRESS AND DIRECTING IT TO BE INCLUDED IN THE ANNUAL REPORT AND TRANSMITTED TO THE GOVERNOR, SECRETARY OF THE INTERIOR, LEGISLATURE AND CONGRESS, AS WELL AS OTHER INTERESTED PARTIES

WHEREAS, both State and Federal statutes, as well the CALFED Programmatic Record of Decision (ROD), require an annual review of progress in implementing the California Bay-Delta Program; and

WHEREAS, both State and Federal statutes, as well the ROD, require an annual report to the Governor, Secretary of the Interior, Legislature and Congress describing the status of implementation and accomplishments of all Program elements for the prior fiscal year; and

WHEREAS, the status of implementation for all elements of the California Bay-Delta Program and prior-year accomplishments are summarized in the annual Statement of Program Accomplishments and Progress, which is included in the Annual Report; and

WHEREAS, the Draft 2006 Statement of Program Accomplishments and Progress summarizes the status of the Program at the end of Year 6 of implementation of the CALFED ROD, and

WHEREAS, the draft 2006 Statement of Program Accomplishments and Progress is based on information included in the Year 7 Program Plans, including accomplishments, schedules, and budgets;

NOW, THEREFORE, BE IT RESOLVED that the California Bay-Delta Authority adopts the 2006 Statement of Program Accomplishments and Progress for inclusion in the Annual Report, directs staff to transmit the report to the Governor, Secretary of the Interior, Legislature and Congress, as well as other interested parties.

CERTIFICATION

The undersigned Assistant to the California Bay-Delta Authority does hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted at a meeting of the Authority held on December 14, 2006.

Dated: _____

Julia E. Alvis
Assistant to the California Bay-Delta Authority