

Agenda Item: 7
Meeting Date: June 20, 2007

BAY-DELTA PUBLIC ADVISORY COMMITTEE

DRAFT ENVIRONMENTAL JUSTICE FRAMEWORK

Summary: Last summer the CALFED agencies developed a draft environmental justice framework to provide State and Federal agencies within the CALFED Bay-Delta Program with guidance about how to effectively implement environmental justice (EJ) policy. Authority members considered this draft at their December meeting, and authorized a subcommittee of the Board to develop further recommendations. Direction about the framework, the recommendations from the subcommittee and planned next steps to hold public workshops, is requested from the Authority.

Recommended Action: Consider subcommittee recommendations and approve next steps.

What is Environmental Justice?

California law defines environmental justice as “the fair treatment of people of all races, cultures, and income with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies” (Government Code Section 65040.12 and Public Resources Code Section 72000). The federal government’s Executive Order 12898—“[e]ach 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.” The Executive Order makes clear that its provisions apply fully to programs involving Native Americans.

What are the commitments in the CALFED Record of Decision?

The CALFED Record of Decision (ROD) dated August 28, 2000 provides, in pertinent part: “The CALFED Agencies will be responsible for ensuring this policy is carried out across all program areas through the development of environmental justice goals and objectives.”

It further provides that the CALFED agencies should create a work plan by December 2000 that should “at a minimum, include commitments such as:

- Development of environmental justice goals and objectives for each program area,
- Investments in staff and resources across program areas and agencies,
- Development and implementation of an environmental justice education program for agency and program staff,
- Collection and analysis of additional demographic information to assist in the identification of impacts, and
- Actions to ensure effective participation on technical and advisory workgroups by those populations adversely impacted.”

This work plan was to be developed in consultation with environmental justice and community stakeholders.

Background

An environmental justice work plan was approved by the Bay-Delta Public Advisory Committee in 2002. The work plan included identifying staff at each implementing agency to be responsible for incorporating environmental justice into each of the agency’s projects and programs. In addition, working with the US Environmental Protection Agency, a training program on environmental justice implementation was developed and offered to program managers and staff at the California Bay-Delta Authority and the CALFED implementing agencies.

To date, not all implementing agencies have staff dedicated to environmental justice issues. In addition, the environmental justice work plan also called for development of environmental justice performance measures and development of an environmental justice impact assessment methodology and guidance for CALFED programs that could be incorporated into CEQA, NEPA, and Title VI compliance.

In 2006, State and Federal agencies within the CALFED Bay-Delta Program assessed progress on environmental justice and agreed to establish a set of guidelines to inform leadership on effective ways to implement EJ policy – and various aspects of the EJ work plan – within their agencies.

In April 2006, an Environmental Justice Roundtable was held to open a dialogue between the CALFED State and Federal implementing agencies and the EJ community. Following the meeting, agency staff drafted the attached EJ framework to address many of the concerns presented at the Environmental Justice Roundtable. Members of the

environmental justice community were involved in the early drafting of the framework, but withdrew from the process because of the considerable time commitment and concerns over the inability of state agencies to compensate them for their time.

The draft environmental justice framework was presented at the Agency Coordination Team meetings on August 8 and August 22 to solicit comment and support from CALFED State and Federal agencies' leadership. At their December meeting, Authority members discussed the proposal and members Paula Daniels and Marc Holmes agreed to work with staff to strengthen the proposal.

Working with consultants Marta Segura, Dr. Stephanie Pincetl with the US Forest Service, and Dean MacCannell of UC Davis, the subcommittee recommended two additions to strengthen the original framework. These additions were discussed with some state and federal agency directors in May and are presented to the authority today as Attachment 2.

How does the proposed Framework implement EJ?

In developing, revising, or adopting policies, programs or activities, the CALFED state and federal agencies concur to incorporate as a minimum the following:

- A) Assign or establish an Environmental Justice Coordinator and appropriate staff to coordinate the organization's environmental justice efforts.
- B) Establish a transparent process whenever considering, developing and adopting policies, programs or activities:
 - 1) Establish working relations with communities and governments by identifying and communicating with affected communities;
 - 2) Conduct government meetings in locations and at times that facilitate community participation;
 - 3) Provide outreach to disadvantaged communities on CALFED financial assistance programs;
 - 4) Ensure all outreach and educational materials are easy to understand and in various languages, and are available in various media, including the Internet.
- C) Incorporate into the body of scientific knowledge relevant information provided by affected communities, and openly share with all impacted communities the data used as a basis for arriving at decisions, in plain English or common languages.
- D) Develop performance measures to assess the effectiveness of EJ efforts.

- E) Encourage the training of staff and management on the fundamentals of environmental justice; and,
- F) Ensure that any new or existing public comments or complaints processes can address and resolve environmental justice issues

Is the proposed Framework consistent with pending legislation (SB 8)?

This bill would add "environmental justice" as a program element to the California Bay-Delta Authority Act, and designates each agency identified as an implementing agency under the Act to be, both individually and collectively, the implementing agency for the environmental justice program. These agencies are: Resources Agency, Department of Water Resources, Department of Fish and Game, Department of Health Services, State Water Resources Control Board, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, United States Fish and Wildlife Service, United States National Marine Fisheries Service, United States Bureau of Reclamation, United States Natural Resources Conservation Service, United States Environmental Protection Agency.

Recommendations from CBDA Members

Working with consultants, the Authority subcommittee recommended the following additions to the EJ Framework:

- A) A requirement that the lead agency on any CALFED project conduct a social impact assessment during the development of any project, and that the agency shall not proceed with implementation until after the results of the assessment have been presented at a duly noticed public hearing with the opportunity for testimony by the environmental justice stakeholders. In addition, these social impact assessments are encouraged to be undertaken in collaboration with the graduate classes of the University of California.
- B) A requirement that the CALFED agencies collaborate to fund and create an education program to be offered annually to the environmental justice community, with the following parameters:
 - 1) Scholarships shall be provided for attendance of at least 25 persons that will cover the costs of tuition and all reasonable costs of attendance;
 - 2) The curriculum shall be at least three full days and shall include the following topics:
 - i) the water supply system
 - ii) water quality

- iii) water use efficiency
 - iv) water transfers
 - v) workshops about how to identify and obtain funding for community groups
 - vi) workshops to assist with obtaining funds relevant to the environmental justice community that will be available in the pending and following fiscal year
- 3) The course materials shall be included in the tuition and shall include books, maps, and other such materials sufficient to create a reference library for each attendee;
 - 4) The course instructors shall include representatives from environmental organizations.

Outstanding issues

Why apply an implementation policy and procedures to the CALFED Bay-Delta Program when there is no statewide policy or statutory authority?

California statute does not necessarily apply to federal agencies within the CALFED Bay-Delta Program – what happens when they are the lead agency?

The CALFED Program was refocused on the agencies in 2005-06. Centralizing an environmental justice program through the proposed policy appears to run counter to this refocusing.

The proposed “social impact assessment” for CEQA documents is not currently provided for in CEQA guidelines. Is it appropriate to add such requirements administratively?

The context of the proposed education program is ambitious and extensive. Many of the topics are complex at a statewide or regional level, and may not be relevant to all communities. It may be more effective to identify relevant communities on a project-by-project basis and provide technical context for those communities.

Rather than expand environmental justice policy for CALFED alone, the desired results may be better achieved through a higher-level state policy, *e.g.* through the Legislature and/or the Administration. For CALFED purposes, this would have to mesh with similar legislation/directives on the federal level.

Next Steps

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Pending approval from the California Bay-Delta Authority, staff would conduct two workshops or focus groups of environmental justice community leaders to discuss the framework and solicit additional recommendations. These would be brought back for discussion at the next BDPAC and Authority meetings (now scheduled for September and October respectively) for action.

List of Attachments

Attachment 1 – Draft Environmental Justice Framework

Attachment 2 – Recommended additions to the framework from the Authority subcommittee

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CALFED Bay-Delta Program

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ATTACHMENT 1

Environmental Justice Framework

FINAL DRAFT
September 25, 2006

Preface

This Environmental Justice Framework describes effective practices that can be collaboratively performed by the state and federal agencies within the CALFED Bay-Delta Program to advance the fundamental principles of environmental justice. A cohesive and properly implemented environmental justice policy will enhance the quality of decision-making and increase the likelihood of successful implementation and operation of the CALFED Bay-Delta Program.

There are significant practical benefits for communities as well as state and federal agencies when the goals of environmental justice are an active part of the decision-making processes:

- Partner with other public and private programs to leverage agency resources to achieve a common vision for communities.
- Enhance the public-involvement process and strengthen community-based partnerships with CALFED programs.
- More efficiently minimize and/or mitigate unavoidable adverse impacts on disadvantaged communities by identifying concerns early in the planning process.
- Avoid disproportionately high and adverse impacts on minority and low-income populations.
- Ensure that the design, construction, and operation of CALFED projects take into consideration the concerns of affected communities.
- Use monitoring and analysis tools that assess the needs and concerns of minority and low-income populations.
- Make decisions that better consider the needs of impacted communities.
- Work toward educating communities and developing support for CALFED projects and actions.

I. Introduction

This framework provides guidance to the CALFED Bay-Delta Program, specifically the implementing state and federal agencies, to ensure that environmental justice considerations are integral to all relevant decisions, programs and activities affecting the state and federal agencies and encourage active participation of individuals, communities, and governments.

II. CALFED Environmental Justice Goals

Many CALFED agencies have or are in the process of developing EJ policies consistent with state and federal authorities (see Section IV). CALFED EJ goals include:

- A. Environmental Justice Integration – Integrate environmental justice principles into the development, adoption, implementation, and enforcement of environmental laws, regulations and policies.
- B. Public Participation and Community Capacity Building – Ensure meaningful public participation and encourage community capacity building to allow individuals, communities and governments to effectively participate in environmental decision-making processes.
- C. Research and Data Collection – Improve research and data collection to promote and address environmental justice related to the health and environment of communities of color and low-income populations.
- D. Cross-media Coordination and Accountability – Ensure effective cross-media coordination and accountability in addressing environmental justice issues.

III. Definitions

California law defines environmental justice as, “the fair treatment of people of all races, cultures, and income with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies” (Government Code Section 65040.12 and Public Resources Code Section 72000). The federal government’s Executive Order 12898—“[e]ach 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.”

The Executive Order makes clear that its provisions apply fully to programs involving Native Americans.

As adopted at the April 13, 2006, CALFED Environmental Justice Roundtable, "The CALFED Program and its participating agencies are committed to fair treatment and participation of people of all races, cultures, and incomes such that no segment of the population bears a disproportionately high or adverse health, environmental, social, cultural or economic impact resulting from CALFED's programs, policies, or actions."

IV. Authorities

- Title VI of the Civil Rights Act of 1964
- Federal Executive Order 12898 (Environmental Justice)
- Federal Executive Order 13166 (Limited English Speaking)
- California Government Code sections 11135 and 65040.12
- Public Resources Code sections 71110-71116
- Dymally-Alatorre Bilingual Services Act, California Government Code sections 7290-7299.8
- CALFED Record of Decision
- National Environmental Policy Act (NEPA)
- California Environmental Quality Act (CEQA)
- Resources Agencies Environmental Justice Policy

V. Commitment of the State and Federal Agencies within CALFED Bay-Delta Program

The CALFED state and federal agencies are committed to the meaningful implementation of environmental justice to provide an equitable degree of protection from environmental and health hazards to all people, and to provide equal access to the decision-making process to people of all races, cultures, and socio-economic status.

- A. CALFED state and federal agencies' policies, programs and activities will strive toward ensuring that no segment of the population, regardless of race, color, national origin, or socio-economic status, should suffer disproportionately from adverse human health or environmental effects, nor denied the opportunity to live in clean and sustainable communities, as a result of CALFED actions.
- B. Ensure meaningful involvement of communities impacted by CALFED decisions in the making of those decisions.

- C. The California Bay-Delta Authority will provide coordination and oversight of environmental justice within CALFED

VI. Environmental Justice Policy and Implementation

CALFED agencies should integrate CALFED environmental justice goals into their CALFED programs, including the design, adoption, implementation, and enforcement of laws, regulations and policies. This integration includes criteria for identifying and addressing gaps in existing programs, policies or activities that may impede achieving environmental justice.

To implement this policy, the CALFED agencies are encouraged to institutionalize environmental justice at least in the following ways:

- A. Address environmental justice principles whenever developing new or revising existing CALFED policies, programs or activities.-
- B. Ensure all public meeting notices include provisions for appropriate physical and language accommodations to the extent feasible to individuals with special needs.
- C. Provide effective customer service for non-English speaking communities, including written and oral translation as needed.
- D. Develop performance measures to assess the effectiveness of EJ efforts.
- E. Either assign or establish an Environmental Justice Coordinator within each agency to support the agency's environmental justice policy implementation.

VII. CALFED STATE AND FEDERAL AGENCIES' ROLES AND RESPONSIBILITIES FOR EJ

In developing, revising, or adopting policies, programs or activities, the CALFED state and federal agencies concur to incorporate at a minimum the following:

- A. Assign appropriate staff to coordinate the organization's environmental justice efforts.

- B. Establish a transparent process whenever considering, developing and adopting policies, programs or activities:
 - 1. Establish working relations with communities and governments by identifying and communicating with affected communities;
 - 2. Conduct government meetings in locations and at times that facilitate community participation;
 - 3. Provide outreach to disadvantaged communities on CALFED financial assistance programs;
 - 4. Ensure all outreach and educational materials are easy to understand and in various languages, and are available in various media including the internet.

- C. Incorporate into the body of scientific knowledge relevant information provided by affected communities, and openly share with all impacted communities the data used as a basis for arriving at decisions, in plain English or common languages.
- D. Encourage the training of staff and management on the fundamentals of environmental justice; and,

- E. Ensure that any new or existing public comments or complaints processes can address and resolve environmental justice issues

VIII. RESOURCE CONSIDERATIONS

Each CALFED agency shall make efforts through their respective funding processes to support the CALFED Environmental Justice policy.

ATTACHMENT 2

Environmental Justice Framework

[DRAFT, Version 2](#)

Preface

This Environmental Justice Framework describes effective practices that can be collaboratively performed by the state and federal agencies within the CALFED Bay-Delta Program to advance the fundamental principles of environmental justice. A cohesive and properly implemented environmental justice policy will enhance the quality of decision-making and increase the likelihood of successful implementation and operation of the CALFED Bay-Delta Program.

[The CALFED Record of Decision \(ROD\) dated August 28, 2000 provides, in pertinent part: "The CALFED Agencies will be responsible for ensuring this policy is carried out across all program areas through the development of environmental justice goals and objectives." It further provides that the CALFED agencies should create a workplan by December 2000, that should "at a minimum, include commitments such as the development of environmental justice goals and objectives for each program area, investments in staff and resources across program areas and agencies, development and implementation of environmental justice education program for agency and program staff, collection and analysis of additional demographic information to assist in the identification of impacts, and actions to ensure effective participation on technical and advisory workgroups by those populations adversely impacted." This workplan was to be developed in consultation with environmental justice and community stakeholders.](#)

There are significant practical benefits for communities as well as state and federal agencies when the goals of environmental justice are an active part of the decision-making processes:

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I. Introduction

This framework provides guidance to the CALFED Bay-Delta Program, specifically the implementing state and federal agencies, to ensure that environmental justice considerations are integral to all relevant decisions, programs and activities affecting the state and federal agencies and encourage active participation of individuals, communities, and governments.

Attachment 1 provides a graphical representation of how the CALFED state and federal agencies work together to implement environmental justice.

II. CALFED Environmental Justice Goals

Many CALFED agencies have or are in the process of developing EJ policies consistent with state and federal authorities (see Section IV). CALFED EJ goals include:

- E. Environmental Justice Integration – Integrate environmental justice principles into the development, adoption, implementation, and enforcement of environmental laws, regulations and policies.
- F. Public Participation and Community Capacity Building – Ensure meaningful public participation and encourage community capacity building to allow individuals, communities and governments to effectively participate in environmental decision-making processes.
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B. [The policies, programs and activities of the CALFED state and federal agencies](#) will strive toward ensuring that no segment of the population, regardless of race, color, national origin, or socio-economic status, should suffer disproportionately from adverse human health or environmental effects, nor denied the opportunity to live in clean and sustainable communities, as a result of CALFED actions.

B. Ensure meaningful involvement of communities impacted by CALFED decisions in the making of those decisions.

[C. The CALFED state and federal agencies will incorporate the goals described in Section II above into the development, implementation and evaluation of all CALFED programs.](#)

- D. The California Bay-Delta Authority will provide coordination and oversight of environmental justice within CALFED

VI. Environmental Justice Policy and Implementation

CALFED agencies will integrate CALFED environmental justice goals into their CALFED programs, including the design, adoption, implementation, and evaluation, as well as enforcement of laws, regulations and policies. This integration includes criteria for identifying and addressing gaps in existing programs, policies or activities that may impede achieving environmental justice.

To implement this policy, the CALFED agencies are will institutionalize environmental justice in at least in the following ways:

- E. Address environmental justice principles whenever developing new or revising existing CALFED policies, programs or activities. Included in this shall be required that the lead agency on any project conduct a social impact assessment during the development of any project, and shall not proceed with implementation until after the results of the assessment have been presented at a duly noticed public hearing with opportunity for testimony by the environmental justice stakeholders.
- F. Collaborate to fund and create an education program to be offered annually to the environmental justice community, with the following parameters:
 - i. Scholarships shall be provided for attendance of at least 25 attendees, that will cover the costs of tuition and all reasonable expenses of attendance;
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 6. workshops to assist with obtaining funds relevant to the environmental justice community, available in the pending and following fiscal year

- iii. The course materials shall be included in the tuition and shall include books, maps, and other such material sufficient to create a reference library for the attendee;
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- G. Ensure all public meeting notices include provisions for appropriate physical and language accommodations to the extent feasible to individuals with special needs.
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D. Encourage the training of staff and management on the fundamentals of environmental justice; and,

E. Ensure that any new or existing public comments or complaints processes can address and resolve environmental justice issues

VIII. RESOURCE CONSIDERATIONS

A. Each CALFED agency shall make efforts through their respective funding processes to support the CALFED Environmental Justice policy.

B. The social impact assessments are encouraged to be undertaken in collaboration with the graduate classes of the University of California.