CALFED
BAY-DELTA
PROGRAM

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Mr. David Hayes
Deputy Secretary of the Interior
U.S. Department of the Interior
1849 C Street N W Ms 6217
Washington, DC 20240

Ms. Mary Nichols
Secretary for Resources
1416 9th Street, Room 1311
Sacramento, CA 95814

Dear Mr. Hayes and Secretary Nichols:

The purpose of this letter is to transmit our recommendation on the CALFED solution, specifically in the form of suggested modifications to the Preferred Program Alternative. This recommendation is a result of many hours of deliberation by the Bay-Delta Advisory Council. We attempt, in this letter, to reflect as much agreement as possible, however, there are statements in this letter to which certain members take exception.

The Bay-Delta Advisory Council has met continuously since June 29, 1995. The purpose of the Council is to provide recommendations to you on developing a long-term solution to address underlying causes of problems affecting the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and its watershed public values. During the 38 meetings that the Council has met, members have provided advice to the CALFED agencies on the geographic scope of the CALFED Bay-Delta Program, future governance, program objectives, solution alternatives, criteria for measuring the effectiveness of the alternatives, and the best solution alternative for implementation (as part of the NEPA/CEQA environmental documentation process). By providing you with this recommendation on the CALFED solution, we are fulfilling our responsibility, as stated in the Council's Charter.

We are providing this recommendation in the spirit of cooperation with you and the CALFED agencies. We know that you have a challenging task ahead of you as you finalize the CALFED Bay-Delta Program Programmatic EIS/EIR and craft the Record of Decision/Certification so that the Program can continue into the implementation phase. It is our intent to provide advice that will help move the CALFED agencies toward these milestones and the goals of the CALFED Bay-Delta Program.

Recommendation

Summary

The Bay-Delta Advisory Council acknowledges that the CALFED Preferred Program Alternative (PPA) is programmatic and thus imbedded in it are many options for implementing the CALFED Bay-Delta Program over the next 20 to 30 years. The Bay-Delta Advisory Council thinks that the PPA as it is written is not sufficient to be a workable solution but contains the framework for an acceptable solution if modified to include more action in Stage 1 and greater specificity of actions that will ensure continuous improvement in ecosystem restoration, water supply reliability, levee system integrity and water quality. The solution must embrace implementation of many programs in each one of the elements, and a commitment to environmental justice.

General Recommendation

The Bay-Delta Advisory Council recognizes that in some important respects the federal Record of Decision (ROD)/state Certification of the CALFED Programmatic Environmental Impact Statement/Environmental Impact Report (EIS/EIR) can only be regarded as the selection of a preferred approach to management of the Delta and its watershed. Potential conflicts among objectives have yet to be fully analyzed and reconciled within the availability of limited resources. Uncertainties in science and technology will require flexibility, and substantial commitments should not be based on highly speculative judgements. The PPA commits to a "through-Delta" conveyance of water for export, and to the pursuit of measures to improve water quality, protection of fish, and to closing the gap between water supply and demand. The purpose of this recommendation is to suggest that CALFED commit to making the analyses that are needed (a) to develop and better refine the CALFED Solution early in the implementation process, (b) to assure that there is a carefully considered balance and integration among goals that compete for limited water and land resources, and (c) to establish the ground rules and boundaries that will govern implementation of the CALFED Solution.

Recommended ground rules include, but may not be limited to:

a) CALFED commits to compliance with the CALFED Solution Principles.

- Reduce Conflicts in the System - Solutions will reduce major conflicts among beneficial uses of water.

- Be Equitable - Solutions will focus on solving problems in all problem areas. Improvements for some problems will not be made without corresponding improvements for other problems.

- Be Affordable - Solutions will be implementable and maintainable within the foreseeable resources of the Program and stakeholders.

- Be Durable - Solutions will have political and economic staying power and will sustain the resources they were designed to protect and enhance.

- Be Implementable - Solutions will have broad public acceptance and legal feasibility, and will be timely and relatively simple to implement compared with other alternatives.

- Have No Significant Redirected Impacts - Solutions will not solve problems in the Bay-Delta system by redirecting significant negative impacts, when viewed in their entirety, within the Bay-Delta or to other regions of California.

b) Acknowledgment that as California's population continues to increase, it is expected that water deliveries and associated impacts will reach into new geographic areas and will result in new problems. Potential new problems will occur in terrestrial and aquatic habitat, both export and area of origin (including the Delta), with providing water supply and quality; and with providing land and other resource needs for each of urban, rural, social, environmental, and agricultural purposes.

c) CALFED commits that every broad or site-specific measure for achieving CALFED goals will be analyzed technically and impartially before adoption and implementation in order to assure compliance with CALFED's principles, compatibility with other goals, avoidance of significant third party and unmitigable cumulative impacts within a given geographic area and among economic sectors, addressing related environmental justice concerns, and an integrated use of limited natural and financial resources. CALFED will create clear criteria for determining significant third party, environmental justice, and unmitigable cumulative impacts. This will be done and revisions of the plan made by a process described in the ROD/Certification.

d) CALFED will strive to eliminate dependence on unsustainable groundwater overdraft in any region of the Central Valley and will also strive to eliminate the destructive accumulation of imported salt in soils and groundwater of the Central Valley basins south of the Delta.

e) CALFED will identify which decisions will be made in Stage I and future stages of implementation.

f) CALFED will continue to seek and achieve environmental justice. The CALFED Bay-Delta Program and its participating agencies are committed to seeking fair treatment of people of all races, cultures, and incomes, such that no segment of the population bears a disproportionately high or adverse health, environmental or economic impact resulting from CALFED's Programs, policies or actions.

In continuing to seek environmental justice, CALFED will develop programs, policies and actions to:

- identify and evaluate the environmental, health, social , and economic effects of CALFED activities,
- propose and commit to measures to avoid and mitigate disproportionate effects,
- seek participation from potentially impacted communities in finding alternatives or solutions to mitigate impacts,
- improve research and data collection related to the health and environment of minority and low-income populations impacted by CALFED Bay-Delta Programs,
- support outreach and education activities to improve the public's ability to participate in CALFED decision-making and Program implementation, including transparent and facile public access to data taken from all programs.

Specific Recommendations

The Council recommends to the CALFED agencies aggressive progress, from now and into implementation of the CALFED Bay-Delta Program, on the following issues. This progress will lead to important future decisions on the best management of the Bay-Delta watershed, consistent with the CALFED mission, Solution Principles, and the PPA. Essential action includes the following steps:

Funding and Accountability

1. Identifying performance goals and indicators and assured funding for all Program elements, including environmental justice actions within each program area. To be accountable, CALFED shall provide annual reports on budget expenditures and progress made on meeting Program goals to the California Legislature and Congress, as well as the public. The California Legislative Analyst's Office and federal General Accounting Office should audit the CALFED Bay-Delta Program on an annual basis and publish the results in a form that is easily available to the public.

2. Developing long-term funding formula for all Program elements. Formula should include appropriate contributions from all beneficiaries in proportion to benefits received. Beneficiaries would be those interests who receive benefits from Program

projects and actions.

Decision-Making

3. Instituting a transparent decision-making process that is supported by the BDAC Governance Work Group and incorporates participation with tribes, local and environmental justice interests. The decision-making structure and process must include high-level representatives from each of the CALFED agencies, institutionalize stakeholder, local government and tribal participation and directly involve participation by the California Legislature and Congress.

   BDAC acknowledges that the decision-making process will be staged and will use adaptive management as a tool to ensure informed decision-making. Adaptive management means learning and involving policy makers, scientists and the public as the process goes forward. It is defined as a process for acting deliberately under uncertainty by increasing opportunities to develop new information and redirecting management actions in a timely manner. Staged decision-making involves identifying certain actions to implement at the outset for which there is sufficient information and general agreement and developing conditions for future decisions and for moving beyond the first stage.

Water Supply Reliability and Ecosystem Restoration

4. Balancing Delta inflows and outflows to help recover and sustain native fish and wildlife populations (with specific emphasis on endangered species). Progress made toward achieving this goal should be linked to corresponding improvements in water quality, water supply reliability and availability for all beneficial uses. This will likely involve increasing strategic Delta outflows as additional storage capacity is developed.

5. Implementing the CALFED Ecosystem Restoration Plan, Environmental Water Program and Environmental Water Account to assist and strive to ensure restoration of Delta fisheries and compliance with existing laws. Establish and capitalize the Environmental Water Account with a "water budget" and avoid the taking of additional water supplies through further regulatory actions.

   CALFED agencies should address, to the extent feasible, activities that will affect achievement of restoration goals, but are outside the scope of the CALFED Bay-Delta Program. Restoration will be challenging and will need to take into account continuing efforts to control established non-native species and prevent introduction of new non-native species, improve and maintain water and sediment quality, and manage ocean fisheries and water use for all beneficial uses. .

6. Developing water use efficiency measurable, cost effective objectives for all water use sectors (including industrial) and optimizing water use efficiency for environmental, urban, rural, social and agricultural uses under all circumstances. "Optimizing" means to achieve the most efficient or best use of water use efficiency tools. Water saved through efficiency measures paid for by the local water agency should be retained by the local agency.

7. Identifying, consistent with CALFED Program goals, complementary benefits and appropriate links between components of water management (including storage, water use efficiency, Delta conveyance, water operations and water transfers) and other elements including environmental restoration, levee system integrity, watershed management and water quality. This will require balancing competing water quality and quantity needs with and outside the Delta.

8. Reaching decisions in Stage 1 to construct groundwater and surface storage, using the adaptive management approach described above. Identify in the ROD/Certification specific storage facilities to be planned and designed and timetables for completing water management studies, with the goal of reaching decisions on permitting storage and initiating construction in Stage 1. Environmental impact analyses shall appropriately address economic, environmental justice and environmental impacts and related mitigation measures. Decisions on the construction of ground and surface water storage facilities should be based on findings (supported by sound analyses and methodologies) that demonstrate that such facilities are among the most economically-efficient, environmentally-sound, equitable and just means to achieve one or more approved CALFED objectives.

9. Developing a ground water management program that is implemented in cooperation with existing water agencies and landowners, and includes participation from the State of California. The purpose of the Program would be to measure use within groundwater basins and watersheds and to decrease groundwater overdraft and restore groundwater basins.

10. Reaching a decision on constructing the functional equivalent of the Delta Cross Channel in Stage 1 to improve in-Delta and export water quality. Stage 1 should include actions to develop and prove the technical capability of fish screens that are adaptable to the species, sites, and quantities of water being diverted. Environmental impact analyses shall appropriately address economic, social, environmental justice and environmental impacts, and related mitigation measures. Decisions on which structures to construct should be based on findings that demonstrate that such structures are among the most economically-efficient, environmentally-sound, equitable and just means to achieve one or more approved CALFED objectives.

11. Defining the plan for optimizing through-Delta conveyance in an effort to meet in-Delta and export water quality, ecosystem restoration, water conveyance goals and environmental justice. Reach agreement on the timetable for optimizing through-Delta conveyance and determining through peer-reviewed study whether its operation meets fishery, water quality and water supply reliability goals. In order to determine the effectiveness of optimized through-Delta conveyance, all major features will have to be completed and operated through a sufficient number of years to constitute a representative spectrum of water years (including below average, average, above average and transition water years).

    In developing an optimum plan for through-Delta conveyance of water for export, the analyses and requirements of the plan will include but not be limited to the following.

    - Through-Delta conveyance and interrelated plans will be fully analyzed and modified as necessary to comply with all of the state and federal current and future water salinity and dissolved oxygen standards.

    - Through-Delta conveyance also will be optimized for compatible and balanced provision of in-Delta habitat, fish protection, native wildlife, in-Delta water quality, export water quality, protection of adequate South Delta water levels, conveyance of flood flows, and seismic risk. Local expertise, such as U.C. Extension Services, the Delta Protection Commission, Reclamation Districts, South Delta water agencies, Central and San Joaquin Flood Control Associations, farm advisors, NRCS District Conservationists, the three Delta Water Agencies, the California Central Valley Flood Control Association, the San Joaquin River Flood Control Association and CDFG Unit Managers, will be fully utilized in making this assessment.

    - This optimization will include consideration of alternative ways to get Sacramento River water to the Central Delta with balanced protection of fisheries and native wildlife. The alternatives considered will include real time flow control through the Delta Cross Channel, Georgiana Slough, and Steamboat Slough, modification of flow patterns by dredging, flow control barriers, behavioral and screened control of fish. Optimization may also include a new channel from the Sacramento River to the Mokelumne channels providing that it is physically limited in capacity to not more than 4,000 cfs and can not readily be expanded in capacity.

    - Study of an isolated conveyance facility should be pursued as a backup in the event that an optimized through-Delta system does not provide sufficient improvement in fisheries, water quality, and water supply reliability. This study should lead to a defined proposal that can be compared to the optimized through-Delta conveyance

regarding its potential for providing balanced improvement and protection for the environment, and in-Delta and export interests. The study must be developed through a peer-review process to ensure objective analysis.

- Conducting in Stage 1 the requisite feasibility and comparative studies for isolated conveyance, provided that there is a sincere effort to optimize through-Delta conveyance and other water quality improvement strategies.

  Water quality improvement for one region or one purpose of use will not be made in a way that would degrade the desirable quality of water for another region or purpose of use. Because water quality needs vary depending on use, water transfers and/or exchanges can be made, but must be avoided if they cause or exacerbate problems of salt disposal, degrade groundwater quality, impact fisheries, increase fish contamination or cause significant redirected impacts.

  New water development usually provides high quality water, and this can provide an overall water quality improvement that is not adverse to any user or purpose of use. However, manipulation of the new supply to benefit quality for a particular purpose of use may diminish the potential magnitude of the new supply. Such benefits should be funded by beneficiaries in proportion to benefits derived.

- The judgement as to whether the through-Delta conveyance system has been optimized, and the judgement as to whether it has been adequately tested must be made after all major features have been in place and operated through a sufficient number of years to constitute a representative spectrum of water years (including below average, average, above average and transition water years). This assessment must then be made by an open process that includes deliberation by all interests that are directly affected by water management in the Central Valley watershed.

12. Accurately identifying water supply increases from CALFED and private party actions.

CALFED should obtain from the responsible State of California agencies prompt forecasts of a range of probable water supply needs to meet the reasonable future needs for urban, rural, social, environmental, and agricultural purposes throughout the life of the CALFED plan. In addition, CALFED should cooperate with state agencies and stakeholders to promptly forecast how much water supply is needed to avoid long-term overdraft of groundwater.

This forecasting of future water demands, perhaps through the DWR Bulletin 160-03 process, should accurately describe the relationships between supply, demand and price and the wide array of ways available to meet demand.

The environmental need will be based on CALFED's proposed Ecosystem Restoration Plan. The urban need should be based on urban growth estimates with due

regard to predicted and planned population centers, taking into account the results of optimized water use efficiency measures. The agricultural need should be considered to be within a range for which the lower end would maintain the average level of consumptive water use that has been available over the past decade for the production of agricultural products. The upper end of the range would maintain this level of water for consumptive use on a per capita basis over time as the population grows.

CALFED will then assess the extent that this overall need can realistically be expected to be met with existing infrastructure and with the following methods that are commensurate with the alternative cost of water development:

(a) realistically achievable improvement in multiple use of existing supplies,
(b) realistic improvement in water recycling by districts,
(c) realistic recycling of stream flows, and
(d) realistically achievable desalinization of water otherwise too salty for reuse by methods that include the disposal of salt and other water borne contaminants.

With the likelihood of probable shortages in water supply over the life of the plan, CALFED will examine the physical feasibility of developing enough increase in water supply to avoid this shortage. It will examine the most cost effective and the least environmentally damaging ways to provide the groundwater and surface storage necessary to increase supply. It will examine the environmental, social, and other costs if the supply is not provided and the water shortage is shared in a balanced manner among the environmental, urban, rural and agricultural needs. It will examine the increase in value of water that would be necessary to justify the cost of the needed additional water supply, and the lead-time necessary to increase the supply.

After these analyses are available there will be an open process of evaluating the results and determine to what degree the legislature and the electorate wish to close the gap between supply and demand versus coping with the consequences of a future shortage.

13. Providing water supply reliability assurances during Stage 1.

14. Identifying in the ROD/Certification 1) a timetable for addressing integration of the Ecosystem Restoration Plan, other Bay-Delta restoration plans and the Environmental Water Account, 2) identifying in the ROD/certification a timetable for implementing environmental justice actions enumerated in paragraphs c) and f), including the development of environmental justice-related goals and objectives for each of CALFED's -proposed programs and dedication of appropriate funding and staffing to implement said environmental justice actions contained in paragraphs c) and f).

Water Operations

15. Revising state and federal water operations rules, through scientific peer review and other means, to incorporate "alarms" for elevating decisions when water quality and supply objectives, as well as fisheries objectives, are threatened.

Thank you for the opportunity to provide this recommendation and to support you in this very important endeavor. Please feel free to contact us with any questions or if clarification is needed.

Sincerely,

Mike Madigan, Chair
Bay-Delta Advisory Council

Sunne McPeak, Vice Chair
Bay-Delta Advisory Council

cc: Steven R. Ritchie, Acting Executive Director
Bay-Delta Advisory Council members