

I N T E R

O F F I C E

MEMO

To: Rick Breitenbach
From: Harlan Glines
Subject: Draft CALFED Bay-Delta Program Purpose and Need Discussion Paper
Date: January 4, 1996

Based on our conversations and materials that you sent me over the last week, I have prepared a draft purpose and need discussion paper. This initial effort is intended to provide you and I with a starting point for developing the purpose and need for the CALFED Bay-Delta Program. I would prefer if you didn't circulate this version as I did it pretty quickly and informally and focused more on pulling information together than on critically assessing the information. For the purpose and need statements, I pretty much pulled existing text from the various sources you sent and repackaged it. Once I get feedback from you, we can modify/rewrite the purpose and need statements as necessary and then prepare a version suitable for circulation within CALFED.

I think that the purpose and need statements attached are actually not too bad. My major concern is that the objectives are still pretty broad and include a lot of words like "sustainable" that are subjective and not easily measured. Having subjective goals in a purpose and need statement is not necessarily a fatal flaw in most projects, but given the scope and breadth of the CALFED program, I am concerned that we will not be able to appropriately limit alternatives or judge the success of an alternative in achieving the objectives.

I have also included copies of several purpose and need statements from various sources for your review and use. Let me know if you think that these provide the appropriate spread of programmatic and site-specific projects.

CALFED/1377

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Draft Purpose and Need Discussion Paper

I reviewed several sources for guidance in developing a purpose and need statement for an EIS. These sources include the USBR NEPA Handbook, "Mastering NEPA: A Step-by-Step Approach" by Jones & Stokes Associates staff, the "NEPA Deskbook" published by the Environmental Law Institute, and "NEPA Law and Litigation" by Daniel R. Mandelker. None of these sources provided very clear direction as to the intent or suggested contents or format of a purpose and need statement. CEQ regulations state that an EIS "...shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." (40 CFR 1502.13). "Mastering NEPA: A Step-by-Step Approach" indicates that the purpose and need statement is important because it drives the selection of the range of alternatives.

The USBR NEPA Handbook states that this section of an EIS should briefly describe why the action is needed and what the action is designed to accomplish; it should provide a brief history leading to current conditions and anticipated future conditions. The Handbook goes on to indicate that the purpose and need statement should also provide a history of authorization for carrying out the action that has resulted in the preparation of the EIS and that the discussion should not be tied to any of the alternatives, but a general discussion of the problem that the various alternatives were designed to solve. The statement should be objective and not a justification.

Perhaps the best guidance is provided in "NEPA Law and Litigation". This reference reviews and summarizes NEPA cases and provides commentary on the decisions. Purpose and need have not been directly addressed by any cases, but has been addressed through litigation regarding alternatives needing to be included in an EIS. Most cases have adopted a rule that limits the alternatives that must be discussed to the purposes of the project proposed by the federal agency.

These cases point out the importance of a purpose and need statement. Careful crafting of the purpose and need statement is necessary to provide a framework for developing alternatives. The purpose and need statement should be written broadly enough so as to provide room for developing a "reasonable range" of alternatives and to avoid litigation regarding inadequate alternatives analysis, but not so broadly that alternatives that do not meet the basic intent of the action can be considered viable, and thereby require extensive and unwarranted analysis of alternatives.

A convention that is often followed in drafting a purpose and need statement is that the **need** should briefly describe the problem that the proposed project and alternatives are intended to address, while the **purpose** should describe the objectives or standards that the proposed project and alternatives are intended to achieve.

Below, I have made an initial attempt to draft a purpose statement and a need statement for the CALFED Bay-Delta Program. This draft is intended only to start the process and is based on the various materials that you have sent over the last couple of weeks.

Purpose

The purpose of the CALFED Bay-Delta Program is to develop a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay-Delta system. The Bay-Delta Program is intended to achieve objectives in each of four areas: ecosystem quality, water supply reliability, water quality, and vulnerability of Bay-Delta systems functions. The objectives for each of these areas are summarized below.

Ecosystem Quality

Improve and increase aquatic and terrestrial habitats and improve ecological functions in the Bay-Delta to support sustainable populations of diverse and valuable plant and animal species.

- Improve and increase aquatic habitats so that they can support the sustainable production and survival of native and other desirable estuarine and anadromous fish in the estuary.
- Improve and increase important wetland habitats so that they can support the sustainable production and survival of wildlife species.
- Increase population health and population size of Delta species to levels that assure sustained survival.

Water Supply Reliability

Reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system.

- Reduce the conflict between beneficial water users and improve the ability to transport water through the Bay-Delta system.
- Reduce the uncertainty of Bay-Delta system water supplies to help meet short- and long-term needs.

Water Quality

Provide good water quality for all beneficial uses.

- Provide good water quality in Delta water exported for drinking water needs.
- Provide good Delta water quality for agricultural use.
- Provide good Delta water quality for industrial use.
- Provide good Delta water quality for recreational use within the Delta.
- Provide improved Delta water quality for environmental needs (see Ecosystem Quality).

Vulnerability of Bay-Delta Systems Functions

Reduce the risk to land use and associated economic activities, water supply, infrastructure, and the ecosystem from catastrophic breaching of Delta levees.

- Manage the risk to existing land use and associated economic activities and infrastructure from gradual deterioration of Delta conveyance and flood control facilities and catastrophic inundation of Delta islands.
- Manage the risk to water supply facilities and operations in the Delta from catastrophic inundation of Delta islands.
- Manage the risk to water quality in the Delta from catastrophic inundation of Delta islands.
- Manage the risk to the existing Delta ecosystem from gradual deterioration of Delta conveyance and flood control facilities and catastrophic inundation of Delta islands.

Need

The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta) is a critically important part of California's natural environment and economy. The Bay-Delta is the largest estuary on the west coast of both North and South America. Because of its size and complexity, the system supports a wide variety of fish, wildlife, and plant life. It also supports important economic activities including commercial and sport fishing, shipping, industry, agriculture, recreation, and tourism. As with any diverse ecosystem, problems exist for many of these competing uses and users of the Bay-Delta system.

Most observers agree that the Bay-Delta Estuary system is not functioning well, either as habitat for the region's important biological resources, or as a key part of the state's water management and delivery system. Both of these functions are vitally important to the economic

and social well being of California. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the federal government are working together to stabilize, restore, and enhance the Bay-Delta Estuary. State-federal cooperation was formalized in June 1994 with the signing of a Framework Agreement by the involved state and federal agencies. These agencies with management and regulatory responsibility in the Bay-Delta Estuary are working together as CALFED, and will provide policy direction and oversight for the process. The Framework Agreement pledged that state and federal agencies would work together in three areas of Bay-Delta management:

- water quality standards formulation,
- coordination of State Water Project and Central Valley Project operations with regulatory requirements, and
- long-term solutions to problems in the Bay-Delta Estuary.

The CALFED agencies have identified four basic areas that need to be addressed to develop a coordinated solution to managing the Bay-Delta system. Problem statements have been developed for each of these areas to help define the scope of the CALFED Bay-Delta program.

Water Quality. The quality of Delta water is not adequate to fully meet the needs for all beneficial uses. The concentrations of many pollutants are elevated in the estuary's water, sediment, and living resources. The presence of both organic carbon and salts in the estuary are also of concern. The Delta is a source of drinking water for millions of Californians. Its water quality is critical not only for this use, but also for the state's agricultural and business sectors.

Ecosystem Quality. The ecosystem in the Delta does not provide sufficient quality habitats and valued species. Substantial habitat changes have occurred since the Gold Rush. These changes include habitat degradation and loss, population declines and the loss of many native species, and the introduction of hundreds of species of new plants and animals. Wetlands and the animals dependent on them have been particularly affected. Populations of many fish species have declined to their lowest levels, and the number of fish and wildlife species needing special protection is increasing.

Water Supply. The water supply from the Delta does not adequately meet the needs of various users. Of particular concern, the reliability of water supplies available for municipal, industrial, and agricultural use is increasingly uncertain, due to both increasing human needs and recent requirements placed on the operation of water supply facilities to protect fish and wildlife.

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Vulnerability of Delta Functions. The functions of the Delta are vulnerable to upset or disaster. Levee failure would result in the flooding of productive Delta farmlands, loss of habitat for non-migrating waterfowl species, and loss of wintering grounds for migrating species. Levee failure on certain islands would significantly impact water supply distribution functions.