

**Program Decisionmaking in CALFED Phase II:
Using the Program EIR/EIS to Focus Policy Decisions**

CALFED Team Memorandum

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To: Interested Persons

From: Jordan Lang 

A key challenge for CALFED over the next several months is how to refine the program components to facilitate the most effective and expeditious completion of the Phase II program EIR/EIS. This memorandum suggests some ideas about the need to focus on the program-level actions and policy questions to be addressed by the program EIR/EIS.

The value of the program EIR/EIS is that it allows CALFED to generally analyze and document the broad environmental effects of various program alternatives while acknowledging that site-specific environmental review will be required for particular aspects of the preferred program alternative when those aspects are designed and proposed for implementation. The value of Phase II will be to substantially narrow the policy options and the range of actions that will be actively pursued by CALFED. Difficulties in completing the program EIR/EIS in a timely and effective manner, however, will arise if the program-level actions are not defined appropriately.

In describing the CALFED program components, if “program-level actions” are defined too generally (e.g. “treat agricultural drainage” or “increase shallow water habitats”), the impacts and benefits of those types of actions cannot be analyzed and disclosed in a meaningful way. In contrast, however, if “program-level actions” are defined too specifically before policy directions are set (e.g. “purchase a conservation easement between river miles 270 and 276 along the Sacramento River”), the program EIR/EIS will be overburdened with excessive detail and complexity.

The challenge in refining the components of the CALFED program alternatives is to define and describe the “program-level actions” to:

- focus decisionmakers and public reviewers on policy directions needed before the program can proceed,
- avoid excessive detail or site-specific considerations until policy directions are set, and
- allow the Phase II program EIR/EIS to be completed in a timely and effective manner.

Flexibility in designing the “program-level actions” to be evaluated is a critical feature of a program EIR/EIS. NEPA and CEQA do not specify hard and fast rules for describing “program-level actions”. CALFED can define “program-level actions” in terms of policy directions that are ripe for resolution now. CALFED can ensure that the Phase II decisions to be made are clear and straightforward, cost effective to analyze and document, and possible for resolution within its intended Phase II timeframe. If instead, CALFED defines “program-level actions” in a way that does not effectively narrow the breadth of actions under consideration, both the Phase II and Phase III decisions will require complicated and time-consuming analysis and documentation.

CALFED faces a number of important policy questions that should be the subject of program decisionmaking in Phase II (see selected examples from the four CALFED resource categories in Textbox 1). CALFED decisions on these policy choices should be disclosed and documented in the program EIR/EIS (see examples of an approach for addressing CALFED policy choices in Textboxes 2 and 3).

Defining “program-level actions” in the CALFED program components should ensure that appropriate focus is provided for Phase II decisionmaking. The CALFED program EIR/EIS must disclose and document:

- the benefits and impacts of policy directions and “program-level actions” included in the program alternatives,
- the program measures recommended to ensure benefits and to offset anticipated adverse effects of implementing "project-level actions" encompassed by the preferred set of "program-level actions", and
- the basis for selecting a preferred program alternative, consisting of various “program-level actions” and associated mitigation measures.

“Program-level actions” should be defined in CALFED Phase II to:

- provide adequate focus for Phase II decisionmaking (i.e. Each “program-level action” should be focused to encompass only actions that are similar with respect to such factors as technology applied, land uses or habitats disturbed, and regulatory mechanism. A “program-level action” cannot encompass actions or projects that would cause substantially different benefits, impacts, or costs as distinguishable at the program-level of analysis.)
- while not causing excessive complexity for Phase II decisionmaking (i.e. Each “program-level action” should avoid details or specifics of location or design that are not needed to allow effective policy decisionmaking in Phase II.)

Textbox 1. Example Questions for Program Decisionmaking in CALFED Phase II

Here are some example questions from each of the four CALFED resource categories that may be ripe for decision and setting policy direction in Phase II:

Ecosystem Quality

- Should restoring Bay-Delta ecosystem health rely on substantial conversions of land from current land uses to create new habitat areas?
- Should restoring Bay-Delta ecosystem health rely primarily on flow or non-flow measures or what combination of such measures for each major ecological zone?
- Should CALFED implement watershed-management actions to maintain and increase base-flow yield downstream of major reservoirs and in the Delta in dry years?

Water Quality

- Should improving water quality in the Bay-Delta system rely on source control measures, pollutant treatment measures, voluntary compliance by point dischargers and nonpoint (watershed) sources, or regulatory approaches?
- Should CALFED use land retirement to reduce discharges to sensitive aquatic habitats?

Water Supply Reliability (for Bay-Delta beneficial uses)

- Should CALFED attempt to reduce the administrative and legal obstacles to voluntary water transfers to increase overall water supply reliability?
- Should increasing the reliability of water supply for Delta exports rely on existing Delta channel configurations, modification of Delta channel configurations, an isolated conveyance facility, or a combination of these options?
- Should CALFED influence the allocation of existing water supplies or increase the water supply for all uses with new storage facilities?

System Integrity

- Should CALFED enhance Bay-Delta system integrity by maintaining the existing land use and infrastructure pattern in the Delta or should it consider changes to land uses and infrastructure facilities to increase long-term physical and economic effectiveness for society?
- Should CALFED attempt to protect Delta land uses and infrastructure functioning from the possibility of sealevel rise?

Textbox 2. An Example Policy Choice regarding Watershed Management

Example Policy Question:

Should CALFED implement watershed-management actions to maintain and increase base-flow yield downstream of major reservoirs and in the Delta in dry years?

Potential Information to be Examined at a Program Level:

Forest Hydrology: As general types of practices, can forest thinning, prescribed burning, and erosion control (e.g. roads, unstable slopes) measurably increase streamflows from watersheds? In what kinds of forest types and watershed conditions? On what types of landownerships (e.g. public, private, large, small)? Generally on a regional watershed basis, how much streamflow increase is possible? As peakflow, interflow, or baseflow? What are costs per ac-ft of predicted water yield?

Water Rights: Can streamflows below reservoirs (e.g. SWP, CVP, or others) be attributed to watershed management activities above reservoirs? Can such streamflows be allocated to beneficial uses in the Bay-Delta system? Etc?

Policy Choices:

CALFED does not propose watershed-management actions above major reservoirs.

or

CALFED proposes such actions under certain specified conditions [e.g. certain types of watersheds where benefits can be predictable and can be allocated to beneficial uses] and with specified associated measures (e.g. cost-sharing with other beneficiaries of management actions, measures to protect air quality).

Addressing the Policy Question:

The information needed to address the policy question should be obtained during Phase II. With that information, CALFED can select what types of watershed-management actions will be included in its program alternatives in Phase II. CALFED's policy decisions regarding:

- what types of watershed-management actions and
- what conditions and mitigation measures will apply to those types of actions

are then disclosed to the public in the program EIR/EIS in Phase II. Once the policy choice has been made and disclosed to the public in Phase II, CALFED can proceed to Phase III with clear direction about project-level actions to be designed and evaluated within the specified conditions and with the associated mitigation measures, where needed, that were selected in Phase II.

Textbox 3. An Example Policy Choice regarding Water Supply Reliability

Example Policy Question:

Should CALFED influence the allocation rules for existing water supplies or increase the water supply for all uses with new storage facilities?

Potential Information to be Examined at a Program Level:

Existing Water Supply Management: What are existing water supply facilities and water allocation rules that comprise the current Bay-Delta water management system? What are the remaining opportunities for increased diversions to storage and diversions to export? How does the existing system operate during dry years? How does it operate during normal and wet years?

Existing Instream Flow Benefits: What are the current instream flow requirements and the corresponding ecological benefits achieved by these flows? What opportunities for increased ecological benefits might be realized by reallocating water supply from existing reservoirs?

Policy Choices:

CALFED proposes to provide new water supply for increased water supply reliability and ecological benefits but does not propose to influence allocation rules for existing supplies.

or

CALFED proposes to change water allocation rules for the existing water supply to achieve increased ecological benefits in the Bay-Delta system.

or

CALFED proposes to provide new water supply and change the allocation of existing water supply to achieve increased water supply reliability and ecological benefits.

Addressing the Policy Question:

The information needed to address the policy question should be obtained during Phase II. A complete and comprehensive evaluation of the existing water management system should be conducted, encompassing historical records and results from a water supply planning model (e.g. DWRSIM). Opportunities and constraints for changing existing water allocation rules (e.g. reservoir operations) or for expanding water supplies can be described. CALFED's policy decisions regarding:

- what types of changes to allocation rules and/or water storage facilities and
- what conditions and mitigation measures will apply to those types of actions

are then disclosed to the public in the program EIR/EIS in Phase II. Once the policy choice has been made and disclosed to the public in Phase II, CALFED can proceed to Phase III with clear direction about project-level actions to be designed and evaluated within the specified conditions and with the associated mitigation measures, where needed, that were selected in Phase II.