

CALFED Issue Paper
Revised Draft 6/22/98

ISSUE: Should CALFED include dilution-oriented actions as part of the water quality common program?

ACTION: The Management Team should determine the role of dilution in CALFED's water quality common program.

BACKGROUND: CALFED's Water Quality Program incorporates programmatic actions to address beneficial use impairments. Most of these actions focus on source reduction, treatment, research and monitoring activities. However, two "Water Management" actions in the water quality program call for providing dilution water for controlling salinity¹ through acquisition from willing sellers and providing incentives for conservation to free up water for dilution.

These actions evolved out of stakeholder input through the Water Quality Technical Group (WQTG) into the program's development. The WQTG's discussions resulted in a consensus that, while it may be appropriate to take advantage of opportunities for improving water quality by dilution resulting from water from other actions (such as ecosystem flows), it is generally inappropriate for dilution actions to be implemented with the primary objective of water quality improvement. (It is important to note the distinction between dilution and the concept of real-time management. The goal of real-time management is to make multiple use of water that is already being stored or released for other purposes. For example, coordination of existing reservoir releases for fish flows with existing discharges of salt can have the net result of reducing reservoir releases needed explicitly to provide dilution flows.)

When commenting on the Phase II Alternatives document last summer, several agencies raised concerns about the appropriateness of including dilution in the range of water quality actions (including FWS, EPA and DFG). The primary concerns were the unreasonable use of water and the potential for water quality degradation (through increasing loadings of certain parameters) through dilution. In a written response to agency comments, CALFED staff indicated that "the appropriateness of dilution under specifically defined circumstances will be determined by CALFED management, as there is apparently a different view on this issue held by various CALFED agencies as well as stakeholders". In addition, staff agreed to amend the language in the water quality program to indicate that dilution actions should be utilized only in emergency circumstances.

¹ These actions address salinity entering the Delta from the San Joaquin River flows, not from seawater intrusion.

In the 3/98 Water Quality Program Plan Appendix to the DEIS/EIR, the dilution-oriented actions include the following caveat:

“Note: Dilution should only be utilized in emergency situations for spill response or uncontrollable discharges. Storing or using water with the explicit intent of diluting a pollutant is inconsistent with federal and state laws, and conflict with the water use efficiency program objectives. Use of dilution flows will likely reduce local salinity concentrations in an emergency but not overall loads to the Delta Region.”

In general, both the State constitution and the California Water Code have provisions against the “waste and unreasonable use” of water, which some entities interpret as prohibiting the use of water for dilution purposes. However, the courts and the State Water Resources Control Board have never ruled that dilution is a waste or unreasonable use of water.

Some contend that there are circumstances where dilution may be the only feasible solution and is, therefore, not a waste and unreasonable use of water. An example is in the South Delta, where the State Water Board has adopted salinity objectives at Vernalis to protect agricultural beneficial uses. Further, as part of the permit conditions for the New Melones Dam in Decision 1422, the Board has required operators to provide releases of water to meet the salinity objectives. However, when faced with competing uses of water, these objectives are not met, thus raising further questions about the effectiveness of dilution as a solution.

Given the diversity in opinions, CALFED should provide clear policy direction to the Water Quality Technical Group as to whether to include dilution-oriented actions during the program’s refinement.

OPTIONS: The Management Team could decide to:

- A. Retain dilution actions in water quality program. Ensure that these actions are given low priority and are promoted only under certain circumstances (e.g. for use only in emergency situations) in the implementation plan;
- B. Include dilution releases for salinity control in the South Delta as part of the water quality program; or
- C. Remove dilution actions from water quality common program. Consider provision of dilution water, if needed, into mitigation plan (e.g. in the event that implementation of some of the CALFED alternatives would increase salinities in certain locations and there are no other viable solutions to offsetting these impacts).

CALFED Management Team
July 1, 1998

SUMMARY - The CALFED Water Quality Common Program, as released as part of the Draft EIS/EIR in March 1998, includes dilution-oriented activities. More specifically, two of the actions in the program call for providing dilution water for controlling salinity through acquisition of water from willing sellers and providing incentives for conservation to free up water to be used for dilution purposes. Several stakeholders (both agencies and non-governmental entities) have expressed concern about including dilution activities as part of CALFED's water quality program.

ACTION - CALFED's Management Team (or Policy Group) should determine whether dilution activities should be included in the water quality common program.

DETAILED DISCUSSION - Please see attached issue paper.

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