

The Bay Institute of San Francisco

"Restoring The Bay's ecosystem ... from the Sierra to the sea."

July 24, 1998

Lester A. Snow, Executive Director
CALFED Bay-Delta Program
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RE: STAGED IMPLEMENTATION/PHASED DECISION MAKING

Dear Mr. Snow,

This letter is submitted as the preliminary comments of The Bay Institute of San Francisco on the July 8, 1998, draft "Developing a Draft Preferred Program Alternative." Our primary focus in these comments is the nature of the decision making process, and clarification of what elements are necessary for inclusion in the final Programmatic Environmental Impact Statement/Report (PEIS/R) and other decision documents. We will provide more detailed comments on specific Stage 1 implementation actions, linkages and conditions separately. In summary, we recommend:

1. That the transition to a staged implementation/phased decision making approach by the CALFED Bay-Delta Program be continued, but that the definitions of these concepts be refined.
2. That different decision pathways and documentation be used for staged implementation elements and phased decision making elements.
3. That the Program complete all technical analyses which support its baseline findings prior to a final decision.
4. That adaptive management be defined in detail for all program areas prior to a final decision.

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Differentiate more clearly between staged implementation and phased decision making, and reevaluate the appropriate vehicles to address staged implementation elements and phased decision making elements.

We propose that the Program make a clearer distinction between staged implementation and phased decision making. In our view, phased implementation applies only to those program elements of the CALFED long-term solution for which there is a clear and defensible need. These elements should move forward as part of the final PEIS/R. Uncertainties regarding the implementation of program elements for which there is a clear and defensible need justify a staged implementation approach but do not justify deferring final decisions by the Program to move ahead with these elements or prepare environmental documentation. Staged implementation elements would be carried forward as long as program linkages and conditions are met. Staged implementation elements addressed in the final PEIS/R would include all CALFED common program elements, including ecosystem restoration, water use efficiency, water quality, levee management, water transfers framework and watershed management.

Phased decision making, on the other hand, applies to those program elements of the CALFED long-term solution for which a clear and defensible need has not been conclusively demonstrated at this time, but which may be necessary in the future. It is our current recommendation that these elements should not be included in the final PEIS/R, but should be addressed in a separate "decision document." Phased decision making elements would not be carried forward, including project level environmental documentation, unless data uncertainties have been resolved and a clear and defensible need has been demonstrated. Phased decision making elements addressed in the decision document would include surface storage and isolated facility projects. For phased decision making elements, feasibility, environmental documentation and permitting efforts should not proceed before demonstration of need. However, focused research should be pursued and options preserved (i.e., land acquisition) prior to a final decision.

Using this approach, the CALFED blueprint for a long-term solution would consist of (1) a final PEIS/R authorizing staged implementation of those program elements for which there is a clear and defensible need, and (2) a decision document signed by the state and federal governments describing how phased decision making will occur regarding those program elements which are speculative (e.g., require further information and demonstration of need), as well as the funding, operational and institutional arrangements which would govern such elements if authorized in future. This approach avoids the legal and political pitfalls of preauthorizing program elements for which there is no need at this time. The exclusion of phased decision making elements from the final PEIS/R would not prevent future actions, including preparation of project-level environmental documentation, from being carried forward.

Baseline technical analyses cannot be deferred as part of a staged implementation/phased decision making approach.

Neither staged implementation nor phased decision making can substitute for completion of those baseline technical analyses (identified in previous comments of The Bay Institute, other conservation organizations, and the Environmental Water Caucus) which justify the need for and purpose of the program, and support the programmatic findings and decisions integral to the final PEIS/R. We agree that the technical analyses to support decisions regarding some proposed program elements, such as an isolated conveyance facility, require more time (and are linked to other unresolved long-term issues) than can be accomplished during the CALFED planning window, and are therefore more properly addressed through phased decision making. However, other technical analyses which address baseline issues, including consideration of a more varied range of water management scenarios (including aggressive reoperation, conservation, recycling, conjunctive use, markets and other financial incentives); reevaluation of assumptions regarding projected future water demand; independent scientific review of the water quality, Delta levee and water use efficiency programs; and other efforts should be completed prior to preparation of a final CALFED decision document.

Clarify adaptive management for all program elements.

Adaptive management is the foundation on which a staged implementation/phased decision making approach is constructed. In adaptive management, the ends as expressed in clear, measurable objectives are achieved using the means of hypothesis testing, experimentation, monitoring, performance assessment, and recalibration of implementation. For all program areas, the final PEIS/R and any other decision documents should contain complete sets of clear, measurable objectives (as opposed to implementation targets, which while essential are quite different from objectives); articulation of hypotheses to be tested where uncertainties exist; establishment of criteria for experimental design, monitoring and performance assessment; and description of institutional arrangements to oversee implementation, monitoring, performance assessment, and recalibration of implementation.

Miscellaneous comments

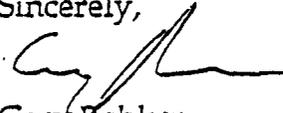
P. 6: Water export regulations could also be revised if both ecosystem and water supply benefits are created.

P. 7: Groundwater/conjunctive use should not be contingent on surface storage.

P. A1: We are confused by the assertion that the Conservation Strategy is final for ESA. We view the Strategy as an ESA guidance document which is only final for those elements fully analyzed in the final PEIS/R. Subsequent project-level documentation and/or and incidental take authorization is necessary for some staged implementation elements, and for all phased decision making elements.

Thank you for your consideration of our views on staged implementation. Please call me at (415) 721-7680 if you or your staff have any questions.

Sincerely,



Gary Bobker
Senior Policy Analyst