

MEMORANDUM

TO: Rob Cooke  
FROM: Mary Scoonover  
DATE: November 4, 1997  
SUBJECT: Levee Component and Assurances

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As you heard at the Assurances Work Group meeting on October 24, participants have a number of questions about the levee component of the CALFED program, which need to be addressed before we can agree on the appropriate assurance proposal for this component.

At the outset of the assurances process, we recognized the difficulty of preparing an assurances package for a preferred alternative which did not yet exist. Therefore, staff developed a case study based on Alternative 3(b) and, with advice and input from the Assurances Work Group, we have been designing an assurances proposal based on that case study.

This memo includes a summary of the levee component of the case study, the assurance issues which have been identified, and the proposed assurance mechanisms for the levee component. We are at the point in the process where it is important to have the levee technical team review this material and consider the following questions:

1. Is the levee component of the case study consistent with the draft levee component being prepared for the draft Programmatic EIR/EIS?
2. Has the Assurances Work Group properly identified the issues related to assuring the implementation of the levee component?
3. Has the Assurances Work Group identified a reasonable set of tools for assuring the implementation of the levee component?
4. To the extent that the CALFED Program, either as part of the ERPP or as part of the levee component, will provide funds for levee upgrade (as distinguished from levee maintenance), what conditions should be attached to this money to ensure consistency with the rest of the CALFED program? Should recipients of CALFED levee upgrade money be asked to accept conditions for habitat protection, subsidence control, or water quality improvements?
5. How can levee protection be maintained while also allowing the use of levees for wildlife habitat consistent with the ecosystem restoration program?

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1. The Levee Integrity component of the case study is as follows:

- A. PL-99 Funding Program. Provide funding to local agencies for improvements to the PL-99 standard.
- B. Implement special levee stabilization projects according to priorities based on island importance relative to water quality, ag production, life and personal property, recreation, cultural resources, ecosystem, local and statewide infrastructure, and impacts to adjacent islands.
- C. Control and reverse effects of subsidence through shallow flooding of between 30 - 60,000 acres of central and western Delta farmland.
- D. Establish and implement emergency response program.
- E. Incorporate seismic risk retrofit elements into levee stabilization program.
- F. Incorporate flood conveyance alternatives to safely pass inflow into the Delta from the Cosumnes, Sacramento, San Joaquin rivers and other Delta tributaries. Includes levee modifications, setback levees, and conversion of islands to bypass systems.
- G. Establish and implement long-term maintenance and subsidence management plan.
- H. Seepage and flood remediation program (mitigation for isolated system).

2. The major assurances issues raised by the case study are:

- A. How do we assure a reliable long term source of funds for continued levee maintenance, particularly if the CALFED program includes an isolated conveyance facility? This is sometimes referred to as the need to protect the Delta as a "common pool".
- B. How do we assure that the Delta landowners and reclamation districts will have the resources (money and equipment) to respond to emergency conditions?
- C. How do we assure equity and balance between Delta habitat programs of the ERPP and the need to operate and maintain levees for flood protection?

3. We have proposed the following as an implementation and assurance program for the Levee Integrity component of the case study:

A. The general approach to implementation of the levee component is that local reclamation districts will continue to maintain the levees within their jurisdictions, with financial and technical support for ongoing maintenance from DWR and the US Army Corps of Engineers (USACE), and emergency assistance from DWR, USACE or the Federal Emergency Management Agency (FEMA).

B. The Principles Agreement will include a proposal for funding by state and federal appropriations, state general obligation bonds, or user fees for three categories of levee related projects: (1) long term, ongoing maintenance; (2) initial levee improvements to bring them up to USACE/FEMA or the agreed upon applicable standards; and (3) ERPP habitat projects on levees.

C. DWR will administer the funds provided by federal or state appropriations, state bonds or user fees, for long term, ongoing levee maintenance, pursuant to cost sharing work agreements with local districts.

D. Funds for the initial phase of levee improvements required to bring designated levees up to the applicable standards (USACE, FEMA or other) may also be administered by DWR, or these funds may be controlled to some extent by the ecosystem manager in consultation with DWR and the Delta Protection Commission. Cost sharing may or not be required, depending on the conditions of the work agreement.

E. Funds provided for ERPP habitat projects which entail levee improvements will be administered by the ecosystem manager, in consultation with the reclamation district and possibly the Delta Protection Commission. Cost sharing would not be a requirement for these agreements.

F. In agreements under Paragraph D and E above, reclamation districts and landowners may be required to agree to certain conditions before money will be provided for levee improvements. These conditions will be the subject of negotiation, but could include such things as:

- o Habitat easements
- o Limits on development on or adjacent to levees
- o Limits on levee maintenance techniques
- o Subsidence management measures
- o Drainage discharge management programs.

G. The ecosystem manager and the ESA regulatory agencies will provide "safe harbor" agreements for landowners and Reclamation Districts who agree to operate and maintain levees in accordance with ERPP program conditions.

H. Program phasing will ensure that specified critical levee improvements (e.g., on the key western islands) will be completed before the construction of the isolated facility.

I. An interagency emergency response program will be created and administered by DWR. The program will assure that resources are available to respond to major flooding or seismic events in the Delta on a timely basis. Funding for the program will be provided by state and federal appropriations, or water user fees.

We would like to have comments on the issues and questions raised in this memo from the Levee Technical Team. In the future, we may want to convene a joint meeting of the Levee Technical Team and the Assurances Work Group. Thank you for your assistance.

cc: Lester Snow  
Hap Dunning