CALFED Doc# 98-265
File: 30.15.00
Purge 10/2/99

October 2, 1998

TO: Bay-Delta Steering Committee
Water Quality Committee

FROM: Byron M. Buck, Executive Director

RE: Development of Drinking Water Triggering Criteria for an Isolated Facility Decision in the CALFED Process - Call for Participants in Criteria Development Meeting

As you are aware, CALFED's primary strategy regarding a decision on conveyance is to develop a through Delta conveyance alternative based upon the existing Delta configuration and modifications. The contingent strategy is to include a dual Delta conveyance with an isolated facility if the primary strategy does not meet CALFED goals and solutions principles. As stated by CALFED, a decision to construct an isolated facility will be warranted if there is a public health necessity arising from technical or economic infeasibility of meeting standards for safe drinking water despite source water improvements afforded by the through Delta alternative, and application of treatment technology, or there is inability to achieve fishery recovery.[1]

CUWA has identified the primary value for us from the CALFED program as being improved drinking water quality. It is in our collective interest, therefore, to engage on the development of specific triggering criteria which will be used to make the decision on an isolated facility during or subsequent to stage I of CALFED's staged implementation process. CALFED staff is developing a process to define these criteria with stakeholder input. **If you would like to participate in CUWA's effort to develop a position on this issue to advance to CALFED, please plan to attend a working session on criteria development at 10:00 am in the CUWA office Friday, October 9.** My intent is to bring a proposal to the CUWA Board at their special meeting October 28th in Sacramento.

As a way of germinating thought among you on this topic, I offer the following "straw man" approach. My take-off point is in trying to define more clearly how and who decides the questions of "technical and economic infeasibility of meeting standards for safe drinking water". Firstly, I believe it is important that we develop some principles that any criteria and the process in which they are exercised must meet. Some initial principles follow.

1. Safe drinking water standards are not static. Knowledge of health effects of treated drinking water and treatment technology are dynamic. Any decision to not

[1] Draft Developing a Draft Preferred Program Alternative, August 5, 1998

pursue an isolated facility must be contingent upon subsequent information not revealing an economic or technical infeasibility of meeting standards in the future.

2. Assessments and the decision of technical feasibility and determination of economic costs and must be performed by an independent panel of experts (much like CALFED's Bromide Panel) open to peer review by all.

3. Assessment and the decision of economic feasibility must be made by those responsible and accountable to the public who will pay for the facility or the alternative treatment necessary to otherwise meet safe drinking water standards. *Note: at this point I think this is absolutely fundamental to us and our continued support for the CALFED process hangs in the balance on this principle.*

4. Decisions to proceed with an isolated facility are separate from decisions on operational criteria and assurances for proper operation for such a facility. Such decisions must be made in a context where all interests potentially affected by the facility's operation have a role.

5. This decision process is not a substitute for any legal requirement for authorization of any facilities.

Principles aside, there seems to be two basic ways to operationalize CALFED's broad criteria of "technical or economic infeasibility". One way would be to define today who makes the decision but leave the elements they consider in making the decision and how they reach it somewhat open in order to allow for the operation of all the public policy considerations that may exist at that time. In a rational world where good faith was in abundance this would probably be the best structure. The decision body would be trusted to "do the right thing". However, that decidedly is not the world we live in and this choice carries huge economic risks for municipal water providers. Therefore, despite some down sides, I believe a prescriptive process is necessary. Additionally, we should want to know with certainty what the elements and actors are in making this decision **now** before we are years and millions of ratepayer dollars invested. While any decision process can be thwarted down the road by politics of the moment, we will have a bright line of violation to point to if the rules are changed in the middle of the game. That is better than an ambiguous process where any unfavorable decision is harder to challenge.

Based upon the above principles and preference for a prescriptive approach, I offer the following two-stage process for consideration.

1. CALFED establishes a blue-ribbon panel would be charged with the following tasks:

    a. Assess the impact of Stage II SDWA regulations in 2002 (or when negotiated), including likely direction of future standards against then current Delta water quality and likely improvements from through-Delta and common program improvements. Determine drinking water treatment

technology which will be needed to meet the standards.

b. Assess the technical feasibility of installation and operation of the defined technologies.

c. Assess the full economic capital and cost of meeting Stage II standards with the defined technologies, assuming they have been determined to be feasible for all who treat Delta water.

d. Assess any cost differential between use of water supply from an isolated facility versus application of defined treatment technology necessary to meet Stage II standards with then current or reasonably expected Delta water quality.

2. Once the technical feasibility has been defined and costs quantified, and assuming there is technically feasible technology available for all water treatment entities using Delta water to meet Stage II standards, water agencies who treat Delta water will be given the choice of pursuing an isolated facility or treatment options. This would be based upon their judgement of economic feasibility utilizing the data provided by the blue-ribbon panel. If a sufficient number of entities find an isolated facility to be the economically feasible choice, then it would be pursued with costs of the facility which are assigned to drinking water purposes borne by the users.[2] A "sufficient number of entities" would be defined by the number of underwriting entities it takes to achieve an economy of scale sufficient to fund the facility, recognizing that costs for a facility are partially a function of the facility's size and the amount of water it transports.

This is my initial approach on this subject. There may be other more compelling ways to address the need for defining the criteria and decision. I look forward to discussing this subject with you on the 9th.

cc. Board of Representatives

---

[2] It is possible that an isolated facility will also be needed to meet the fisheries test in which case cost allocation might be borne by others not needing improved water quality or in part as a publicly supported ecosystem restoration investment.