

SUMMARY
POSITIONS OF DEVELOPMENT TEAM INTEREST GROUPS
ON THE "BASELINE" ISSUE
October 21, 1999

CalFed staff prepared this summary. It is based on the staff's interpretation of the positions of the Development Team's three major interest groups, fishery agencies, environmentalists, and agricultural and urban water users. Representative of each interest group have not endorsed this summary. It will serve as a basis for discussion by the Development Team.

Environmental Position

The baseline from which CALFED must build consists of:

- The legal, institutional, and physical realities in place when the CALFED process began (i.e., just after the 1994 Accord).
- Changes in the legal, institutional, and physical arrangements that could have been anticipated when the Accord was signed.

Thus, the baseline includes all standards or requirements in place after the 1994 Accord.

The baseline also includes measures which were in the process of implementation at the time of the Accord, such as all the CVPIA actions, the increased Trinity River flows, and all actions taken to protect the winter run salmon and Delta smelt subsequent to the Accord.

Similarly, most environmental groups would probably put water projects under way at the time of the Accord, such as the Los Vaqueros and the East Side Reservoirs within the baseline.

It is less clear how environmental organizations would treat new environmental regulations not in the process of development at the time of the Accord, but based upon preexisting law (such as ESA). For example, would new restrictions resulting from the listing of spring run salmon create a new baseline? Would new FERC requirements? To the extent that environmental groups argue that each successive regulatory intervention creates a new baseline, they are really arguing that there is no historical baseline from which CALFED is to assess supply benefits. Instead, their position is that CALFED has no obligation to provide water supplier benefits compared to some past baseline, only to provide benefits compared to the current realities. Most environmental groups hold this position to a greater or lesser degree.

Thus many environmental groups consider each legal or regulatory action on behalf of the environment to create a new baseline of protection from which CALFED may build. Moreover, many consider the environmental baseline to be more than the current set of regulatory controls or legal environmental assets (such as b(2)). It is the actual flow,

diversion, quality, and land use patterns associated with these regulations. Thus, the current level of environmental protection generated by Delta outflow is not merely the X2 standard, but also the degree to which water flows out of Delta above and beyond the X2 standard. Therefore, actions that reduce Delta outflow may violate the environmental baseline, even if they violate no standards.

Fishery Agency Position

The fishery agencies want to place each endangered fish species on a trajectory towards recovery during Stage 1, with recovery occurring during the life of the CALFED program. They also want to increase other depleted environmental resources.

These agencies consider improved protections against the effects of water development to be one set of measures needed to accomplish recovery goals. They expect the water for those measures to be the b(2) water provided pursuant to the CVPIA, as defined by DOI, plus additional water made available through the CALFED Program. They are seeking a set of measures sufficient to justify the assurances being sought by the water users concerning federal and state regulatory actions during stage 1.

These agencies consider the appropriate base for evaluating the benefits of the CALFED Program to be the Accord, the provisions of the Central Valley Improvement Act, and actions to protect fishery resources under the endangered species acts. They are committed to making and implementing the decisions assigned to them in the endangered species acts, the Central Valley Improvement Act and other laws, but they will seek input from affected interests during the decision making process in an effort to identify measures compatible with other needs.

The fishery agencies believe that such water development-related measures should be part of a broader environmental program, which includes other types of habitat improvements. They recognize that the degree of environmental recovery depends on the whole program. The agencies prefer in-kind mitigation (i. e. measures which compensate directly for an adverse effect), but sometimes accept measures directed at one effect as compensation for another type of effect. For example, they have supported ongoing programs to offset salmon losses at CVP and SWP diversions in the Delta partially by upstream habitat improvement measures. Considerations in such decisions include the relative feasibility and effectiveness of various measures for improving the environment.

Agricultural and Urban Water User Position

Water users expect CalFed to develop a new approach to environmental improvement, one that moves away from reliance on prescriptive requirements and toward flexible, real time application of requirements. Water users also want a more comprehensive approach to environmental improvement, one that achieves improvement using both water- and non-water-based actions. Water users want the underlying goals of regulatory programs

to be achieved, but in ways that might not involve rigid adherence to traditional prescriptive requirements on water projects as a means of achieving those goals.

Water users will measure water supply success from a baseline consisting of the Accord plus upstream AFRP actions. They want no "dip" in water supply relative to this baseline at any time during Stage 1. In addition, they want additional water, relative to this baseline, to partially make up for water supplies lost as a result of the Accord. Midway through Stage 1 they want an additional 200,000 acre-feet per year relative to this baseline. By the end of Stage 1 they want 400,000 acre-feet per year more than the baseline supply.

They also want water quality improvements relative to this same baseline. If environmental requirements would cause water quality degradation, they expect environmental water to be used to mitigate for those effects.

They expect that environmental benefits will be expressed in terms of biological effects (rather than as the degree to which environmental requirements with questionable scientific justification will be achieved) and that environmental benefits of the entire CalFed Program will be the basis for judging environmental success.

Finally, they want assurances that the water supply and water quality benefits will not be diminished by federal or state environmental regulations during Stage 1 of the CalFed Program. In return for such assurances, they are willing to consider fishery protection measures beyond their baseline, so long as they do not have to pay for such measures and the water for such measures does not prevent achieving the quality and quantity benefits the water users are seeking.