

## **“Deliverables” from State-Federal Discussion Process (ROD/Certification, EIR/EIS, Schedule)**

**Background:** There are two sets of documents that must be released to complete the CALFED process. First, the final Programmatic EIS/EIR, which will include a revised Phase II Report. The Phase II Report is a 200 page document that has been used as the “public summary” of the CALFED program. The EIS/EIR will be a joint document, usable by both state and federal governments to fulfill their respective environmental documentation requirements. Second, the Record of Decision (ROD) and its equivalent under California law (CEQA).

In addition, the State/Federal Discussions have generated additional documents. These include:

- (a) A “Regional Approaches” Paper
- (b) A draft list of Key Issues
- (c) A series of Two Page Issue Papers

Finally, participants in the State/Federal Discussions seem to have agreed that the documents will go beyond the “Programmatic” level, and will get into more detail as to site-specific proposals. Implementation of these site-specific proposals may be conditional on completing appropriate site-specific NEPA/CEQA documents and securing any necessary legislative authorizations.

**Issues:** Especially considering the very short time frame for action, several issues arise:

- How to memorialize agreements between State and Federal participants, both programmatic and specific?
- How to make clear the distinction between final programmatic decisions and contingent site-specific proposals?
- How to reconcile different state and federal NEPA/CEQA requirements?
- How to assure consistency between documents?
- How to present decisions to the public?

### **Recommendations:**

**Recommendation #1:** The Regional Approaches Paper should be a public outreach paper, not an operative decision document. It must “track” the decisions being made by the State/Federal Discussions. At this time, the task of updating the Regional Approaches Paper should be entrusted to a very small subset of the CALFED staff, so that State/Federal Discussion participants can focus on the operative decision documents. Ultimately, the Regional Approaches Paper can and probably should be incorporated into the Final Revised Phase II Report, so that CALFED is presenting only one complete summary of its work to the public.

**Recommendation #2:** The Key Issues, once agreed upon, should all be incorporated into one or

more of the Two Page Issue Papers. These Two Page Issue Papers need to present draft decisions that can be incorporated in the Record of Decision.

**Recommendation #3:** CALFED has never made a conclusion about the form of the ROD. This issue is difficult because of (a) different State and Federal requirements for a ROD, and (b) programmatic decisions (which have NEPA/CEQA coverage) and specific decisions (which generally do not). There are three fundamental possibilities:

- (1) A single document serves all purposes (the State and Federal ROD at both the programmatic and site specific level, and also serves as the embodiment of State/Federal Agreements)
- (2) Separate but consistent state and federal "ROD's" (each dealing with programmatic and site-specific issues), which would require a third document (an "Agreement") to memorialize the State/Federal agreements
- (3) Under either (1) or (2), we could split the ROD(s) into two documents - a programmatic ROD and a site specific "contingent proposal for stage 1" document

To avoid the nightmare of multiple inconsistent decision documents, this paper is proposing that we make a serious effort to have a single document serve all purposes (Option 1, above).

**Recommendation #4:** Immediately after each State/Federal Discussions meeting, the State and Federal Coordinators should prepare a memorandum listing the decisions (both procedural and substantive) made at that meeting, and circulate it to the participants. It is understood that many of the decisions are provisional pending development of a complete package.

### **Possible Schedule:**

- |                  |   |
|------------------|---|
| End of April:    | Establish framework decisions on all issues raised in Two Page Issue Papers and actual language as needed   |
| Mid-May:         | Send Most of EIS/EIR to Printer   |
| End of May:      | Send final Phase II Report, which includes Regional Strategies and Program description for public distribution, to Printer<br>Complete Draft ROD, with specific language. |
| Early June:      | Release Final EIS/EIR (including Phase II Report)   |
| End of July/Aug: | Sign ROD and certification. Time frame depends on time needed to complete process following the 30-day required period following final EIS/EIR review                     |