



the

Delta

With the state's aquatic nexus washing away from neglect and overuse, California's water warriors rallied around a peace process to bring it back. But as decision time approaches, old orthodoxies are dying hard.

by Steve Scott

Viewed on a boat at the level of its gently surging water, the Sacramento-San Joaquin River Delta is the epitome of serene escape. Every bend in the river brings the promise of a tree-shrouded slough in which to peek, or a windblasted marina at which to light for a rest. If the adventurer's conveyance of choice is the automobile, a very different, but no less extraordinary picture emerges — an agricultural expanse of remarkable variety. Pears, grapes, walnuts, sugar beets, and row after row of corn stretch for miles, broken up only by the occasional barn or the bumper crop of radio, television, and cellular-phone towers which picket the landscape.

This labyrinthine estuary, an expansive interconnection of San Francisco Bay with the Sacramento and San Joaquin Rivers, is the largest on the west coast of North America. More than 700 miles of sloughs, channels, and rivers snake through 57 levee-protected islands, all of it running through the heart of more than a half-million acres of farmland. The Delta is the aorta which pumps drinking water to more than 20 million Californians and irrigation water to nearly 5 million acres of farmland in the Central Valley. Yet, surprisingly few Californians are aware of it, or its importance. Most residents would probably place "the Delta" somewhere in the vicinity of New Orleans.

The days of taking California's Delta for granted may have finally ended. For the last year and a half, state and federal officials have been on a quest to find a way to preserve the future of this fragile and essential water system. CALFED (a contraction of the California Water Policy Council and the Federal Ecosystem Directorate) involves ten government agencies (five state and five



federal) and a host of what are referred to as "stakeholder" groups — those whose livelihoods or environmental concerns center around this all-important water system (see "CALFED At A Glance," page 37).

CALFED's mission is arguably the most important facing any public entity in the state: Find a solution that saves the Delta, while at the same time insures the long-term water needs for its downstate dependents. Find the \$4 billion to \$8 billion that will be needed to implement the restoration over the next quarter century. Improve the quality of the water that flows out of the Delta. And do it all by reaching a consensus among the same stakeholders who've been fighting each other for 20 years.

"This is one of the biggest resource management programs ever considered by human beings," said Gary Bobker, senior policy analyst for The Bay Institute of San Francisco, an environmental research and advocacy organization.

That something like CALFED even exists is a measure of the Delta's desperate straits. Like Florida's Everglades, the Sacramento-San Joaquin River Delta is being suffocated in slow motion by the relentless demands of a growing state. The southward and westward siphoning of fresh water from the Delta, combined with a crippling five-year drought in the late 1980s and early 1990s and the drainage from agricultural land, have changed the salinity of the Delta waters, choking off aquatic and wildlife habitat. The result has been declines in several fish species — notably the winter-run chinook salmon and the tiny delta smelt, not to mention a decline in the quality of the water which the Delta's pumping stations squeeze southward.

"The overarching impression is of an ecosystem in decline," said Douglas Wheeler, secretary of the state Resources Agency. "It's not just that we're pumping water through the Delta, it's that the population has doubled, and land use adjacent to the Delta has changed. Rivers are dammed that used to be free flowing. All of those are contributing to the Delta's decline."

Corresponding with the breakdown of the environmental ecosystem was the breakdown in what Wheeler calls the "institutional ecosystem." Beginning with the bruising, and losing, effort in 1982 to construct the infamous

Peripheral Canal (See *CJ*, May 1982), water politics in California have been marked by contentiousness and mistrust among the stakeholders. Much of the state's water policy winds up being made in the courts. Water users accuse environmentalists of using the Endangered Species Act as a "blunt instrument" against them. Environmentalists say the water users' political connections have allowed them to blow off ecological considerations in their relentless thirst for more water. Then there was the almost impenetrable jurisdictional stalemate between the state and federal governments over who had the authority to decide the water quality standards for the rapidly-worsening Delta.

"We had several years where the state and federal entities were having problems with each other," said Hap Dunning, an environmental law professor at the University of California, Davis Law School. "The [Environmental Protection Agency] was drafting its own standards, and the state was saying, 'You don't have the jurisdiction.'"

Faced with the consequences of drought, overuse, and their own inability to communicate, the major players finally sat down together to see if they could find some common ground. The result was the 1994 Bay-Delta Accord. Signed by Governor Pete Wilson, U.S. Interior Secretary Bruce Babbitt, and EPA Administrator Carol Browner, the accord set aside an average of 1 million acre-feet of water a year to keep river flows high enough to begin restoring the Delta's environmental integrity (an "acre-foot" equates to 326,000 gallons, considered enough water to supply the needs of an average family for a year).

The Bay-Delta Accord also set a three-year time frame in which CALFED would be assigned to develop a long-term solution which revives the Delta's crumbling ecosystem, improves water quality, provides for more reliable water delivery, and shores up the Delta levees to prevent catastrophic flood damage like that seen this past winter.

"I think everyone would agree that this is the game," said Steve Hall, executive director of the Association of California Water Agencies (ACWA). "This is where we win or lose in the Delta."

The first phase of the process, which ran from summer of 1995 to summer of 1996, established a mission statement and a set of guiding principles. Working in conjunction with the



CALFED At A Glance

The Agencies

State

Resources Agency
Department of Water Resources
Department of Fish and Game
Cal-EPA
State Water Resources Control Board

Federal

Department of Interior
Bureau of Reclamation
Fish and Wildlife Service
U.S. EPA
National Marine Fisheries Service

The Stakeholders

•**Urban Water Districts.** Represent the bulk of 22 million residents who get water from Delta. Favor increased flows from Delta, ready to pay for it. Major players: Metropolitan Water District, East Bay MUD, Contra Costa Water District

•**Central Valley Agriculture.** Largely water agencies which service agricultural water recipients. Also favor increased flows, but wants guarantees before putting up money. Examples: Kern County Water Agency, San Luis and Delta Mendota Agency, Friant Water Authority

•**Environmentalists.** Wielders of the big legal stick (the Endangered Species Act) and not afraid to use it. Supports Delta fisheries and habitat restoration over increased flows. Major players: Environmental Defense Fund, Natural Resources Defense Council, Bay Institute of San Francisco

•**In-Delta Agriculture.** Farmers who till the land in and around the Delta itself. More family farm oriented than Central Valley agriculture. Bitterly oppose any type of off-Delta facility (i.e. a peripheral canal). Examples: North and South Delta Water Agencies, Delta Protection Commission

•**Commercial and Sport Fishing.** Have seen livelihoods dwindle as commercial species suffer from reduced flows. Oppose off-stream diversions and favor capping or reducing exports from the Delta. Example: Pacific Coast Federation of Fishermen's Association.

•**Business Community.** Not active in drafting solutions but keenly interested, in that the bulk of the state's economy depends on the water that comes from the Delta. Most probably favor increased flows as well as extensions of Delta exports to new areas. Examples: Chamber of Commerce, Bay Area Economic Forum

•**"Donor" Districts.** Largely Northern California counties from which the water that flows through the Delta originates. Concerned about any agreement which threatens their own access to water or forces them to change their traditional storage patterns. Example: Regional Council of Rural Counties

Bay Delta Advisory Council (BDAC), a 33-member panel made up of the stakeholders, CALFED produced a report which outlined three alternative solutions to the Delta's short- and long-term problems. One alternative would leave the Delta more or less as it is, one involves widening and deepening the Delta to allow more water to pour through it, and the third involves construction of what used to be called a peripheral canal, but has been newly re-christened an "isolated conveyance facility." (For more detail on the alternatives, see "The Choices," p 40).

The one aspect which all the alternatives share is a commitment to ecosystem restoration, and it was on this point that the process scored its first big success. Building on the warm fuzzies that emerged from the signing of the Bay Delta Accord, the stakeholders sat down again and worked out a package of about \$900 million worth of ecosystem restoration projects for the estuary. About \$600 million of the money needed to fund the projects was included in last year's Proposition 204 which, at nearly \$1 billion, was largest water bond in the state's history. Thanks to a united sup-

port campaign from all of the previously warring stakeholder factions, Proposition 204 was placed on the ballot by a nearly unanimous vote, and won easily in November, paving the way for another \$143 million in federal funding which President Bill Clinton has included in his 1997-98 budget proposal.

"Things like 204 are definitely shots in the arm," said David Yardas with the Environmental Defense Fund. "It's pretty clear from that exercise that there's a power beyond the sum of the additional parts if we can get on the same page."

Since Proposition 204's passage in November, however, the pages have been blowing around a little bit, disquieting what had, until then, been a remarkable level of commitment on the part of all involved. The first hint of trouble came right around the time of the election, when representatives of the urban and agricultural water agencies floated the idea of forming a "working group" separate from CALFED and its stakeholder input arm, the BDAC. When environmentalists hesitated about joining the effort, urban and agriculture

water agencies went ahead by themselves. "We recognized it would be a good use of resources to reduce differences within our own community," said Tim Quinn, deputy general manager of The Metropolitan Water District of Southern California, the 800-pound gorilla of the urban water users.

"There are no hidden agendas," insisted Tom Clark, director of the Kern County Water Agency and a leader on the agriculture side. "We're trying to come together in an open way to resolve these issues."

To many environmentalists, though, the agenda seemed crystal clear — an "end-around" the CALFED process. Their apprehensions were further fueled when the working group hired a facilitator who had negotiated a deal that some considered a step backward from the openness of CALFED. The final straw came with the circulation of a memo to MWD's board of directors which suggested the working group's main objective was to "develop a solution package to present to CALFED and other stakeholders as a foundation for discussion."

"We don't want some sort of

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shadow government here," said Gary Bobker of the Bay Institute of San Francisco. "We don't want to go back into a back room and come up with a preferred alternative."

If the environmental community had its buttons pushed by the working group, they proved they were capable of doing some button-pushing of their own. In late February, the loose coalition of environmental groups, organized under the banner of the Environmental Water Caucus, fired off a letter to Lester Snow, CALFED's executive director. The letter proclaimed any proposal that "fails to cap and ultimately reduce" exports from the Delta is "doomed to failure." Its accompanying "criteria for analysis" also poured cold water on the idea of an isolated conveyance facility (i.e. peripheral canal), suggesting the alternative relies "on a number of unproven assumptions." Some of the letter's signatories insist it does not constitute an outright rejection of new facilities, but they concede their intent was to send a clear signal about what it would take to sell the idea.

"We're highly skeptical about facilities as being appropriate," said EDF's David Yargas. "The bar is going to be pretty high from our point of view. The proponents have not made the case."

While the letter was addressed to Snow, its biggest impact was felt in the agriculture and urban camps. Both saw it as an ominous regression to the rhetoric of the water wars of the 1980s and early 1990s. The letter, in their view, bordered on a repudiation of all the painstaking bridge-building that had been done since the 1994 Bay Delta Accord.

"That was greatly disturbing to myself and a number of other people," said Quinn. "That letter said to us, 'My God, you guys [environmentalists] are still stuck back in 1992.'"

In addition to the renewed signs of tension among the key players, there are still some within the stakeholder community who have their doubts about the CALFED process itself. Many environmentalists complain that CALFED has placed too much emphasis on researching structural fixes to meet the demand for more water, at the expense of less intrusive approaches, such as conservation, water marketing, and the forced retirement of some Central Valley agricultural land. "There's been a concern that some of the less traditional, less structural options have ei-



ther been removed from consideration or aren't receiving the attention they really deserve," said Bobker. This apparent tilt away from market-based approaches has some skeptics wondering whether "the fix is in" for some kind of isolated conveyance facility.

"I don't think [the hidden agenda]

is all that hidden," said Zeke Grader, executive director of the Pacific Coast Federation of Fishermen's Association. "There are some groups that are trying to make another run at a peripheral canal."

The agricultural community also has its share of skeptics. Chief among



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The Choices

Three alternatives for restoring the Delta:

Existing Through-Delta

- Few physical modifications to Delta
- Pumping timed to reduce impact on wildlife
- Emphasis on conservation, water marketing
- Emphasis on upstream storage
- Improved pump screens to protect fish
- Preferred by environmentalists

Modified Through-Delta

- Physical modifications to Delta itself, ranging from dredging channels to reconfiguration of channels
- Pumps operate at full capacity
- Possible new diversion on Sac. River
- Upstream and offstream (south of Delta) storage
- Preferred by in-Delta agriculture

Dual System

- Physical modifications to Delta plus construction of isolated conveyance to divert water around Delta
- Ideas range from "chain of lakes" to carry water through Delta to revived peripheral canal
- Modifications to existing Delta channels
- Increased upstream and offstream (south of Delta) storage
- Preferred by Central Valley agriculture and urban water users

these are the farmers whose rich and varied products are grown within the Delta itself. The Delta farmers were instrumental in defeating the Peripheral Canal initiative in 1982 and have made no secret of their disdain for the idea this time out. Many believe their interests will wind up being drowned out by the booming voice of corporate agriculture.

"I think people from other areas see the Delta as this big vacant lot," said Margit Aramburu, director of the Delta Protection Commission. "But it's not just undeveloped property. It's family history, over 100 years of community, and it's a key part of California's biggest industry."

Why are all these tensions bubbling to the surface now? Simple. The rubber is getting closer and closer to finally hitting the road. By November of this year, CALFED is scheduled to release what it calls a "draft preferred alternative" — in other words, a tentative first choice. With even a tentative decision drawing closer, few are surprised that these dormant orthodoxies are starting to emerge.

"Early on, when we said there

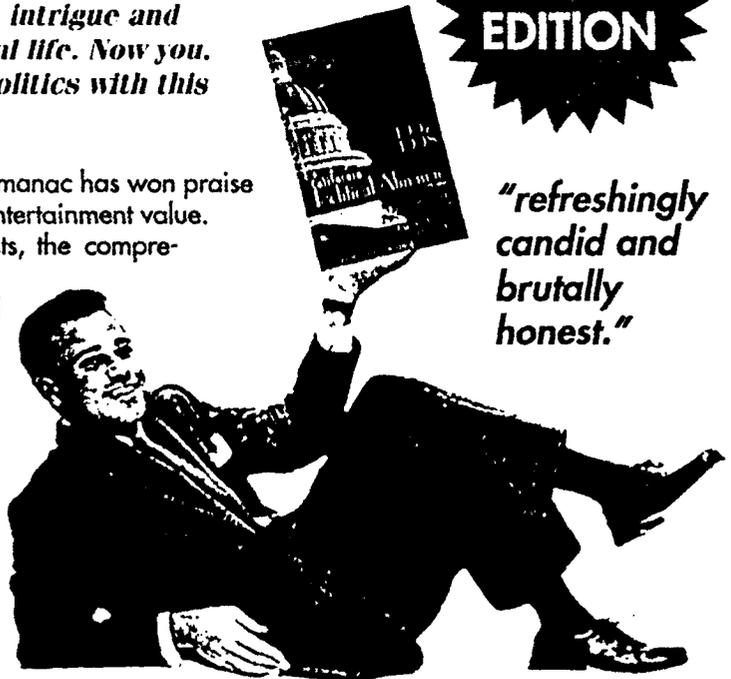
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were no preferred approaches, everyone agreed intellectually," said CALFED executive director Snow. "As we move to more detail, we see people move back to 'our way is right, your way is wrong.'"

Snow, the Solomon who must somehow find a way to make everyone happy, says the skeptics who believe the process is cooked in favor of additional facilities are simply wrong. The clearest indication of the fairness of the process, he maintains, is the simple fact that none of the players has, as yet, walked away from it. Even more impressive to many than the unprecedented buy-in from the stakeholders is the degree to which the various government agencies have been able to work together.

"Clearly the fact that the state and the federal government have come together is a huge plus," said Clark. "What we've always dealt with historically is the state and federal governments operating independently of one another and at times at cross purposes. They truly are the decision makers here."

If they are the "decision makers," they have plenty of decisions ahead of them. Even if CALFED is somehow able to cajole enough stakeholders to go along with its ultimate preferred solution, there is still the question of exactly who is going to pay for all these improvements. Depending on which solution is proposed, that could be anywhere from a \$4 billion question to an \$8 billion question. There is broad consensus that anything which directly affects the environmental health of the Delta should be paid for out of bond funds — all of the CALFED-related monies in Proposition 204 are earmarked for environmental restoration and repair.

When it comes to additional transfer facilities, though, the view gets murkier. Environmentalists and the state believe the entire tab for any increase in water supply should be borne by the water users themselves. "It is clearly understood that in one form or another, the water user will pay," said Resources Secretary Wheeler. "We're pretty firm on that."

While insisting they've accepted the fact that they will have to pay for any new facilities, water users tend to talk more about a "mix" of funding alternatives. MWD's Tom Quinn says he expects the users will pick up "a majority" of the costs, and that the

urban water users are ready to shoulder their share of the burden. But some in agriculture worry about being saddled with the bill for transfer facilities without getting the guaranteed water supply they are helping to pay for.

"Historically, we've been asked to pay for facilities," noted Clark. "We're locked into the repayment, but the state or federal government decides where the water goes. We're prepared to pay. However, we're only going to pay for

benefits received."

If somehow CALFED can slalom around these seemingly endless obstacles and bring in a workable, affordable solution, it will have accomplished what policy makers have only dreamed about for decades — an end to California's nastiest water war. It will have insured the health of the state's most important natural resource. And it may even give Lester Snow a shot at the Nobel Peace Prize. 

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