

E-002874

EIS/R Schedule and Comment Extension



Date: April 24, 1998
To: CALFED Policy Group
From: Lester A. Snow, Executive Director
CALFED Bay-Delta Program
Subject: EIS/R Schedule and Comment Extension

K. Havelle for

Summary

The requests to extend the comment period has opened the door to several options for proceeding with the Programmatic EIS/R. Three options are described below. Any extension of the comment period will result in the final EIS/R being released in 1999. Therefore, to provide an opportunity for the selection of the preferred alternative to be announced in 1998, Option 1 proposes the idea of preparing a revised draft EIS/R in 1998 which would include the preferred alternative.

Option 1

Complete a revised draft Programmatic EIS/R by December 1998 rather than a final Programmatic EIS/R. CALFED Management Team recommended that CALFED Policy Group consider extending the comment period with this option by 0-30 days. Final EIS/R complete in 1999.

Option 2

Maintain the existing schedule, provide no extension of the comment period. Complete the final Programmatic EIS/R by the end of 1998. The comment period cannot be extended if we are to maintain the existing schedule.

Option 3

Extend the comment period and complete the Final in 1999. Any extension of the comment period will shift completion of the final Programmatic EIS/R a similar number of days into next year.

CALFED Agencies

California
The Resources Agency
Department of Fish and Game
Department of Water Resources
California Environmental Protection Agency
State Water Resources Control Board

Federal
Environmental Protection Agency
Department of the Interior
Fish and Wildlife Service
Bureau of Reclamation
U.S. Army Corps of Engineers

Department of Agriculture
Natural Resources Conservation Service
Department of Commerce
National Marine Fisheries Service

Detailed Discussion

At the April 2 Policy Group meeting the issue of comment extension was discussed and staff was asked to provide options and implications of those options at the next Management Team and Policy Group meetings. Policy Group also requested more specific information regarding the number and type of requests for comment extension which is attached. At the April 20 meeting, Management Team reviewed the options described in this memo and made no recommendation except to indicate that Option 3 was the least desirable of the three options.

Option 1 -- Complete a Revised Draft EIS/R by the End of 1998/Comment Extension 0 - 30 Days

A revised draft which includes a draft preferred alternative, can be produced by the end of 1998 assuming the revised draft consists of the items listed in the attachment. The revised draft would contain essentially the same content as a Final. The primary difference is the additional comment period and the additional response to comment document. If comments require that we conduct additional technical analysis, prepare a new "main document" or revise additional documents not currently intended for revision the revised draft would not be completed until sometime in 1999.

Advantages:

- ◆ Relieves the pressure felt by the public to comment comprehensively because an additional comment period will be provided upon release of the revised draft.
- ◆ Allows an opportunity for the preferred alternative to be incorporated into the documents, and for the public to comment on the preferred alternative.
- ◆ Reduces the demand and need for a long extension of the public comment period. In fact, a extension may not be needed at all because of the additional comment period available in 1999.
- ◆ Allows more time for the public and stakeholders to review the documents, consider the alternatives and engage in the process.
- ◆ May reduce the volume of comments received during the first public comment period.

Disadvantages:

- ◆ Fails to meet the initial goal of completing a Final by the end of 1998 and could result in a reduction of political momentum and corresponding support and funding.
- ◆ If the comment period for the initial draft is extended in association with the decision to prepare a revised draft, legal counsel indicates that the requirement for the length of the subsequent public review periods would need to be for an equal length of time. For example if the comment period is extended 30 days, the public review period for the revised draft would be 105 days. It is likely that there will be requests for extension of future public review periods.
- ◆ Reviewers may hold back substantive comments until the revised draft is released.
- ◆ Tracking and responding to comments from two comment periods and two different documents is significantly more difficult than with a single comment period.
- ◆ There will be the expectation that the revised draft will contain substantially more detail and significant new information. However, the revised draft would contain essentially the same content as a Final.
- ◆ It will be more difficult to maintain the programmatic nature of the documents and decision because recirculation provides an opportunity to consider new information. For example at Management Team there was mention of considering additional volumes of storage in the revised draft.
- ◆ The Final will not be completed until approximately October of 1999. Implementation could begin in late 1999.

Option 2 -- No Comment Extension/Complete Final EIS/R by the End of the Year

Any extension of the comment period would result in an inability to meet the current schedule. The current schedule is ambitious. It would be impractical to reduce the amount of time scheduled for the work and still attempt to accomplish the efforts before us between now and the end of 1998.

Advantages:

- ◆ Meets the initial goal of completing a Final by the end of 1998 and maintains political momentum and corresponding support and funding.

- ◆ Forces a programmatic level decision which corresponds to the current programmatic level of detail.
- ◆ There would be only one round of comments and responses reducing staff time and expense.

Disadvantages:

- ◆ Does not allow additional comment time.
- ◆ Volume of comments will be higher than if reviewers know they will have another opportunity to comment.
- ◆ Comments will be more comprehensive and will have a legal emphasis that would not likely be present if a revised draft is released. It is highly possible that the comments will require that we make extensive modifications. Extensive modifications would prevent completion of the final in 1998.
- ◆ There will be criticism that the information which is contained in the Final, including the selection of the preferred alternative, is significant new information and should be circulated for public review.
- ◆ There will not be the opportunity to consider new information such as different storage volumes.

Option 3 -- Extend the Comment Period and Complete the Final EIS/R in 1999

Any extension of the comment period will shift completion of the final document a similar number of days into 1999. This option does not include producing the revised draft document.

Advantages:

- ◆ The comment period can be extended for any period of time which would allow more time for the public and stakeholders to comment on the documents and engage in the process.
- ◆ There would be only one round of comments and responses reducing staff time and expense.
- ◆ Allows flexibility in completion date if comments indicate that significant additional revisions are required.

Disadvantages:

- ◆ Risk to momentum may be greatest with this option since there would be no closure on issues before the current State administration changes.
- ◆ Fails to meet the initial goal of completing a Final by the end of 1998.
- ◆ There will be a large volume of comments.

Action Required

The Policy Group needs to make a decision at its May 1 meeting on whether or not to grant a comment extension and/or change the end of the year product to a revised draft. A decision is needed in May in order to notify reviewers before the current comment period ends on June 1. If Policy Group recommends preparation of a revised draft, then Policy Group also needs to review and approve the scope and attached list of documents for the revised draft.

Attachments