

# DRAFT

## Facilitating Partnerships in CALFED Program Implementation

### The Opportunity

Numerous stakeholders believe that, because of its multi-agency makeup, CALFED is in a unique position to coordinate and unify the efforts of the various agencies to create new cooperative approaches to achieving goals of the CALFED program elements. Such stakeholders have indicated they are excited about having an opportunity to cooperate in this venture. All of the CALFED program elements can benefit from these partnerships.

To a significant extent, CALFED must depend for its success on the cooperation of local agencies, stakeholders, and the public. Successful partnerships will:

- result in comprehensive, regional solutions to the problems of the Bay-Delta
- attract technical expertise and financial resources from outside the CALFED agency family
- make critical information available to CALFED that would not otherwise be available
- result in greater stakeholder and public involvement in, and support for, the program.

The multi-agency organizational structure of CALFED is a key asset with regard to being able to attract partners, and the CALFED program will succeed in relation to our ability to fully exploit this asset. Therefore CALFED needs to work closely with the appropriate regulatory agencies and the stakeholders to identify the specific mechanisms and changes needed to the existing legal, institutional and regulatory framework to enable the partnerships to develop.

### The Problem

Stakeholders have identified obstacles, primarily related to the existing regulatory framework, that have the potential to discourage voluntary cooperation. Some of these are concerns that:

- furnishing information to CALFED in a cooperative mode will ultimately work to the stakeholder's disadvantage in a regulatory proceeding.
- developing innovative, proactive approaches to help correct the problems of the Bay-Delta may also work to the stakeholder's disadvantage in a regulatory proceeding.
- voluntarily getting involved in implementing CALFED actions will result in otherwise avoidable regulatory entanglements with permitting processes, mitigations, and other burdens.

In short, the concern is that CALFED must somehow refute the adage "no good deed goes unpunished".

### Examples

The ability of CALFED to encourage, rather than discourage, cooperation is not a theoretical concept. For example:

- A non-point discharger has approached CALFED staff stating the desire to work cooperatively with CALFED to identify, quantify, and correct discharges of problem constituents from the lands controlled by the discharger. However, this party cannot form such a partnership if the information that would be made available by the discharger has the potential to be used to the disadvantage of that party.

- A manufacturing group is very enthusiastic about partnering with CALFED in such activities as educational programs to enhance the safe environmental use of their products. This group can offer very high quality technical expertise, and has the capacity to attract other manufacturing and distribution interests into the partnership, including the possibility of providing cooperative funding. But, without an explicit CALFED commitment on how their information and expertise would be used, it will not be possible for this group to join the partnership, nor attract other members.
- A Delta land manager developed an innovative concept for protecting Delta levees while enhancing riparian and shallow water habitat. This work appeared to have considerable promise, was a clear demonstration of a cooperative attitude, and was to be done largely at the expense of the land manager. However, in spite of these factors, the party encountered permitting and regulatory difficulties sufficient to very nearly dissuade the party from taking an action that seems clearly to have been in the public interest.

### **Recommended Approach**

Clearing obstacles to cooperation with CALFED is important to the overall success of the program. Many of the existing obstacles involve complex legal, institutional, and regulatory issues. The importance of clearing the way to cooperation suggests the need for a concerted effort on the part of the CALFED agencies to thoroughly and methodically examine the hurdles and to develop approaches to minimize them. The complexities of the issue will require approaches to be worked out in detail, in some cases on an individual project basis. Highly detailed resolution of these problems cannot be attained until specific project plans have themselves evolved. Consequently, it seems clear that obstacle reduction must be a continuing process. Recommended is a two-phase approach.

### **First Phase**

Within two months of approval of concept, a draft policy statement would be prepared for CALFED Policy Group approval in cooperation with the appropriate CALFED agencies. The policy document would describe CALFED intentions with regard to encouraging local agency, stakeholder, and public participation in the CALFED program, and would set forth in general terms the mechanisms that would be employed to accomplish this end. It would describe the process whereby there would be continuing effort toward removing obstacles as a regular feature of program implementation. The main purpose of this document would be to provide advance notice to stakeholders to enable them to begin planning their cooperation. Some are considering forming organizational structures to facilitate their participation; and, some need time to recruit participants among their interest groups. Any certainty that CALFED could provide in the near term will increase the yield of cooperators available to the program by the beginning of Phase III of the program.

### **Ongoing Phase**

Throughout the implementation phase of the program, there would be a dedicated effort to actively recruit cooperators, and to work with them individually to help remove obstacles to their participation. One product of this effort would be periodic reports providing guidance to prospective cooperators, to the extent that some experience will have general applicability. For the first five years of program implementation, annual reports would be prepared that detail the efforts that were made and what had been learned about improving CALFED's ability to encourage cooperative partnerships. This should be a regular and visible feature of the CALFED program because it will provide a continuing attraction to potential cooperators.