

Program Oversight and Management



Memorandum

Date: October 21, 1998
To: BDAC Members
From: Lester A. Snow, Executive Director
CALFED Bay-Delta Program
Re: CALFED Program Oversight and Management

Introduction

As the CALFED Program moves toward implementation, Program oversight and management issues need to be addressed in order to assure that implementation occurs in a timely and effective manner. Many stakeholder groups have promoted the concept of creating a new entity for the management and governance of the Ecosystem Restoration Program (ERP). However, before that specific question can be fully addressed, it is necessary to address the broader Program management issues.¹ This memo is intended to briefly highlight some of the broader issues of CALFED oversight and management. CALFED is seeking advice from BDAC based on the following questions, and is prepared to incorporate BDAC and stakeholder input into the decision processes for both CALFED governance and ERP governance:

- What are the problems associated with the current institutional framework? Should the discussion provided in this paper be modified or augmented?
- What are the current and anticipated future CALFED governance needs? Is the proposed list of needs complete?
- What should be the functions, powers, and tools available to a CALFED governance entity?
- What form should a CALFED governance entity take? Proposals have ranged from continuing with the current ad-hoc arrangement to formal creation of a new state, federal, or joint state-federal entity with the appropriate powers and tools to implement the Program.

It is anticipated that the Assurances Work Group will conduct further discussions on the CALFED governance issue at its next scheduled meeting on November 12.

¹Many of these Program oversight and management issues are discussed in three papers, dated Feb 3, March 16, and April 13, 1998, submitted to CALFED by the Natural Resources Law Center.

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

Oversight and Management Issues

As currently structured, CALFED provides a forum for interagency coordination and decision making, mechanisms for formal and informal stakeholder advice to the decision makers, and support staff to generate the necessary research and documentation required to move the collaborative environmental planning process forward. However, experience with the existing structure suggests that there are problems, which need to be addressed in order to assure that the CALFED Program is successfully implemented. In no particular order some of these problems include:

- **Planning versus Implementation:** CALFED was created specifically to create a long-term plan. However, plan implementation poses significant new challenges that the current arrangement was not designed to deal with. These involve potentially much larger cash flows, addressing demanding implementation schedules, interacting with affected stakeholders, local entities, and regulatory issues in new ways, and potentially greater legal liabilities.
- **Program Administration:** CALFED does not exist as a legal entity; it has no independent power to receive appropriations, hire staff, establish a location for housing the Program, issue contracts, and other basic administrative functions. This will affect its long-term ability to attract and retain highly qualified staff, develop a coherent program, and carry out its duties in an efficient manner. Very substantial staff efforts are currently required to address the complex challenges of dealing with multiple budgets, personnel procedures, and resource requirements.
- **Decision Making Protocol:** CALFED, as an ad-hoc planning entity, has not established a permanent decision-making protocol. While it is generally agreed that participating agencies will not give up any independent decision making authorities to a CALFED governance entity, this leaves a broad range of Program policy and implementation issues on the table for resolution as the Program moves forward. It is likely to become increasingly important to resolve issues in a clear and unambiguous way through a formal consensus process, majority rule, or other option.
- **Decision Making Responsibility and Input:** CALFED currently receives input through a wide variety of pathways, including the Bay Delta Advisory Council and its work groups. There is a need to review and potentially modify the input process to address stakeholder concerns regarding overall Program governance. The fundamental issue is whether overall Program governance control will be in the hands of CALFED agencies alone, or whether the control be shared with stakeholders. It is clear from experience to date that the water policy decisions CALFED is working to resolve are also addressed in the legislative process, with a great deal of both formal and informal interaction between the two. The extent to which this relationship is formalized and the impact on CALFED's decision making process needs to be considered and addressed.

CALFED Governance Functions

It is likely that a future CALFED entity will need to carry out the following functions in order to successfully direct Program implementation:

- Policy formulation;
- Dispute resolution;
- Prioritizing actions;
- Assigning responsibilities for implementation of actions;
- Managing resources -- funding, staff, contracts;
- Coordinating actions and fostering communication at all levels;
- Auditing/assuring implementation plan compliance, and taking corrective action, including responding to contingencies.

In addition, many believe that Program implementation would be significantly enhanced by vesting broad Program oversight and implementation functions in a unified legal entity that would be accountable for overall Program governance and execution.

In order to carry out these functions and address some of the concerns associated with the current, temporary arrangement, a permanent entity would need the authority to enter into contracts; directly receive appropriations and other funds without an intermediary agency; take legal action; act as a lead agency for environmental documentation; seek and hold permits; and hire staff.

Stakeholder Participation

Stakeholders have asked for the opportunity to provide timely, meaningful input to the planning and implementation process. BDAC's input is sought on the degree of influence and the nature of decision support which should be provided by stakeholders in the future governance of the CALFED process.