

**Bay-Delta Urban Coalition  
ATTACHMENT A**

**Procedural and Administrative Imperatives  
for a Successful CALFED Decision and Implementation**

**Introduction**

The CALFED process is intended to support a series of state and federal regulatory, resource management and policy decisions. These governmental actions have historically been undertaken by individual agencies (ESA compliance, for example), but instead are coordinated through the ambitious CALFED program to achieve a broad base of support from key stakeholders and the public. Ultimately, however, state and federal governmental agencies make the decisions. If those decisions do not reflect agreement of the parties most affected by them, they will be challenged and the potential of a comprehensive solution will be lost. Also lost will be many of the voluntary efforts, not to mention the contribution of funds, which would be undertaken cooperatively by many of the parties, all to the benefit of the Bay-Delta ecosystem.

Every water user is concerned about adequate assurances of significant regulatory stability. Such stability is one of the basic elements of planning for urban water supply and it is among our greatest incentives to participate in the CALFED process. To address these issues, the Bay Delta Urban Coalition strongly urges CALFED to consider the following five procedural and administrative imperatives.

- A. The CALFED decision process must remain open, participative, and responsive until late in the process, at which time the state and federal governments must have the political will to make strong and balanced decisions on all open issues.**

At the earliest possible time, state and federal policy leaders responsible for CALFED must articulate the specific decision making process which will follow the submission of comments on the Draft CALFED EIS/EIR in late September. Such a process must promise more openness than stakeholders have seen so far.

Urban water utilities believe it is imperative, if CALFED is to succeed in reaching a sustainable decision, that the specific nature of the decision making process be articulated now. The process must include ongoing and meaningful participation by all stakeholders including an iterative process for producing drafts for comment on the various

issues. Further, there must be a specific process for technical and other assessments of the issues and the release of revised drafts to provide all parties with the ability to "track" the evolution of decision making on various issues. Finally, with respect to decision making, we believe that CALFED must provide a process for the negotiation of differences on all outstanding issues.

The process must remain open, participative and responsive until the latest possible time, at which the state and federal governments must have the political will to make balanced final decisions on all open issues based on the best available information at that time.

- B. CALFED should commit now to the goal of enactment of legislation for substantive and administrative elements of the plan, and appropriations authority for its plan, and incorporate the preparation of that proposal in the decision process.**

State and federal policy officials overseeing CALFED should confirm at the earliest possible time that the CALFED solution will include a specific commitment to the enactment of federal and state legislation which provides specific new authority for both the substantive and administrative elements of the plan, and authority for appropriations to carry it out fully. Commitment now to CALFED legislation for all CALFED purposes for which it is necessary, including appropriations, will stimulate preparation of such legislation during the course of the decision making process. This, in turn, will go far in establishing the credibility of the process and retaining the enthusiastic participation of the regulated and other stakeholder communities which are involved.

- C. The CALFED plan must fully describe all programmatic elements and regulatory and management details along with the authority for each.**

The plan, as memorialized in the Record of Decision (ROD), must fully describe all programmatic elements of the Bay-Delta resource management plan, including the details regarding water quality, water supply and environmental improvement. The description must include key conditions, regulatory requirements and resource management prescriptions imposed in connection with the ROD, along with the authority for each.

- D. The CALFED plan must include specific details regarding all regulatory and other requirements which are fulfilled by adherence to the plan. These should be accompanied by enforceable assurances of the duration and extent of regulatory stability provided, along with any exceptions.**

The plan (ROD) must state specifically all state and federal laws, regulations and procedures which are satisfied, during the plan's term, by the acceptance and execution of the plan's requirements. Equally important, it must specify any state or federal legal, regulatory or procedural requirements which are not satisfied by the plan, and the conditions under which any of these additional requirements might arise during the term of the plan. Assurances with respect to all requirements covered by the plan should be an integral part of the plan, as well as any new state or federal law to authorize and confirm the CALFED plan. To be fully credible, the agreed plan must allow no state or federal agency to harbor regulatory intentions or provisional intentions to regulate beyond the plan, unless such intentions are specified up front. It appears that some flexibility for future changes in regulation or management will be necessary to address changing conditions. However, reserved regulatory flexibility by CALFED agencies is likely to result in proportional decreases in management and financial commitments under CALFED by regulated entities. The certainty of the regulatory and assurances package will be measured against our future commitment to the CALFED program.

**E. Plan Implementation and Governance**

The plan must set out a complete system for effective state and federal implementation and enforcement of its terms, including an administrative structure and a legislative proposal for necessary new authority and appropriations. The governance proposal must provide, for the defined purposes of the CALFED plan, a single state/federal organization, with authority and staff adequate to fully coordinate all agency actions necessary to implement the plan. This coordination should include authority to provide for centralized (one stop) processing and actions on all project decisions, permits, and other elements of the plan. For purposes of the CALFED Bay Delta plan and within its terms, all state and federal agencies must be subject to the state/federal Bay-Delta organization and must make necessary delegations of individual agency authority to the central agency to insure unified and consistent implementation. We believe this will require a virtual cultural change among regulatory agencies. Regulatory agencies must subordinate their independent authority to the common purposes and centralized implementation of the CALFED plan, or indicate clearly where they do not intend to do so.