Bay-Delta Advisory Council
April 13, 2000 Discussion on Solution Alternative
for the CALFEED Bay-Delta Program

Comments on April 5, 2000 Draft Recommendation

Overall Comments:

1. The recommendation may not be from the entire council (S. Hall, S Pyle)
2. Why are levees not mentioned in the recommendation? (H. Dunning)
3. Make a reference to adaptive management (M. Schaver)

Specific Comments:

4. First Paragraph - replace "Believes" with "Thinks" (S. McPeak)
5. Second Paragraph - change wording: "The Council recommends to the CALFED Agencies aggressive progress to strengthen and refine the Preferred Program Alternative (PPA) so that it provides a more specific definition of short and long-term programs. This refinement will allow the PPA to more accurately guide important future decisions on the best specific projects for the Bay-Delta Watershed, consistent with the CALFED Mission and Solution Principles and PPA:" (S. Hall)

First Bullet:

6. The second sentence contradicts "Assured" in the first sentence. Delete second sentence. (H. Dunning)
7. Need reference to accountability or oversight (B. Southwick, S. Zapoticzny)
8. Need to create a political incentive for balanced funding (S. Hall)
9. Include the words "especially Ecosystem Restoration" (R. Borgonovo)
10. How Congress spends the money is its prerogative (R. Fontes)
11. Need Program accountability to California Legislature and Congress on Program performance (M. Madigan)
12. The Program should be accountable with respect to all funding decisions (H. Dunning)
13. Keep the recommendation as simple as possible. Delete second sentence (M. Stearns)

Second Bullet:

14. Define "Beneficiaries" (R. Izmirian)
15. Those who receive new benefits from the Program would be expected to contribute funds (B. Buck)
16. Define "Guarantee", "Beneficiaries" and "Accountability" (R. Borgonovo)

Third Bullet:

17. Replace "Guaranteeing" with "Balancing" and "tying to" with "taking into account" (S. Pyle)
18. Cannot guarantee how the hydrology will work over time. Focusing on the goal of recovery may be more important than flows (B. Buck)
19. Hard to live with "Balancing" (R. Kamei)
20. Replace "That Support" with "To Recover and Sustain" (B. Raab)

21. This bullet refers to a lot of imbedded detail and reflects a major source of conflict. Can we get together on this? (S. McPeak)
22. There should be no double standards with regards to flows for fish and water supply. Why is there a reference to ocean fishery management? (R. Izmirian)
23. Balancing needs to occur within the boundaries of available resources (A. Hildebrand)
24. "Balancing" is a good word; there may not be enough water for all purposes at the levels that people want (S. Zapoticzny)
25. Does the statement assume the Ecosystem Restoration Program (ERP) will fail? (S. Macaulay)
26. We agree we do not have a solution, yet. Water flows for fish is a bottom line issue (A. Notthoff)
27. Agrees with B. Buck; we can not control or guarantee water flows. The issue is addressed through laws and regulations, such as the Clean Water Act and the Central Valley Project Improvement Act. There is not consensus that fish need <u>more</u> water. No fish are in jeopardy and water can be better managed. Fish are recovering. Agrees with R. Izmirian that there should be no double standard with respect to flows. The question is how much? Other factors contribute to anadromous fishery recovery including fisheries management (reducing harvest of wild stocks) and controlling/limiting introduction of non-native species. We need sufficient water to improve water quality, as well. (S. Hall)
28. Who will guarantee flows and the amount? Will flows for fisheries be cumulative, i.e. will requirements from different regulatory regimes and policies be additive? CALFED should partner with local water agencies to implement flow related programs (T. Belza)
29. Need sufficient water to avoid shortages for ecosystem restoration, water supply reliability and water quality (S. McPeak)
30. Fish are doing better now because we have had years of abundant rainfall. (A. Notthoff)
31. Of course fish need water. Also, let's be honest about how we will provide the water. (S. McPeak)
32. Independent scientific review of this issue is critical (M. Stearns)
33. Would "Sustaining" be an acceptable replacement for "Guaranteeing"? (M. Schaver)
34. A statement on water flows may be agreeable to only the Chair and Vice Chair (M. Madigan)

Fourth Bullet:

35. Can quantify water use efficiency efforts, it is extremely difficult to quantify savings (B. Buck)
36. Develop standards to optimize water use efficiency. What should be optimized? (R. Izmirian)
37. Add "cost effective" (S. Hall)

38. Need quantified objectives to measure success and to conduct phased decision-making (A. Notthoff)
39. Define "quantifiable" (M. Madigan)
40. We have examples, such as the Metropolitan Water District's claims that they are using the same amount of water to serve more people (A. Notthoff)
41. We are working on quantifying and measuring agricultural water use efficiency in the ag focus group discussions. Local cost effectiveness is one measure, for example. (R. Borgonovo).
42. Replace "Quantifiable" with "Measurable"? Measurement may be difficult, but not impossible (S. McPeak)
43. "Quantify" to the extent possible (A. Hildebrand)
44. Local agencies need incentives to conserve. Reward the communities that use water efficiently. Can saving water haunt us in the future? (S. Zapoticzny)
45. Need a connection to phased decision-making. Agrees with B. Buck and A. Hildebrand. Low flow toilet savings are difficult to quantify, but there are savings. The question is how precise to be. Agree with "Measurable" (F. S. Weber)
46. "Adaptive Management" is science based phased decision-making (R. Borgonovo)

Fifth Bullet:

47. Replace "Links" with "Complimentary Benefits" (B. Buck)
48. Define "Optimize." Does B. Buck's new language provide the necessary connection between water use efficiency and the other elements? (S. McPeak)
49. Need a proper nexus between storage and a now water supply (B. Buck/J. Redmond)
50. Add "Adequate Delta conveyance" (S. Hall, S. McPeak)
51. Need appropriate links between water storage and water supply reliability. Optimize the Water Use Efficiency and Water Transfers Programs (R. Borgonovo)
52. Water users are concerned that "Phased Decision-making" is code for not making decisions on facilities (S. McPeak)
53. We need a lot of information to make decisions on facilities. Adaptive management means learning as we go forward. Proceed with the Program, but wait for more information to make informed decisions on facilities. If water transfers and appropriate water use efficiency measures do not provide adequate supplies of water, then seriously look at storage (R. Borgonovo)
54. Replace "Optimizing" with "Identify the CALFED Linkages" (S. Pyle)

Sixth Bullet:

55. Disagrees with having elected officials as members of the decision-making body (H. Dunning)
56. This bullet falls short. We need a reference to oversight of CALFED decision-making by an independent body (B. Raab)

57. Congress and the Legislature need to be involved in the decision-making. We can take a collaborative or adversarial approach (M. Madigan)
58. We need accountability to federal and state elected officials. We need their involvement as ex-officio members of the decision-making body (S. McPeak)
59. The PPA does not deal adequately with governance and finance issues. Include in the PPA governance and finance implementation plans and reference to interim and long term governance (R. Borgonovo/ H. Dunning)
60. Replace "Participation" with "Involvement (S. Hall)
61. Agrees with first sentence. Need more specificity with regards to "Transparency" and "Accountability" (T. Estrada)
62. Agrees with first sentence. Tribes are decision-makers, not stakeholders. Include a reference to tribes in the second sentence (M. Schaver)
63. Agrees with M. Schaver (M. Madigan)
64. "Participation" should mean that parties are helping to shape the process (B. Southwick)

Seventh and Eighth Bullets:

65. How will the decisions on storage be reached? Pay attention to economics, impacts and mitigation. The decision-making process should be reflected in the PPA. (H. Dunning)
66. The CALFED Bay-Delta Program is trying to address these issues in the Integrated Storage Investigation (S. Ritchie)
67. Add H. Dunning's language (M. Madigan)
68. Does this bullet ignore the necessary linkages and triggers for making decisions on storage? Can the decision actually be made in Stage 1? What happens if the decision on the Hood Diversion is not made in Stage 1? (R. Izmirian)
69. Replace "planned and engineered" with "evaluate" (T. Graff)
70. The list of storage facilities in the Draft Programmatic EIS/EIR will be narrowed by June 2000 (S. Ritchie)
71. It is appropriate to let the agencies identify the storage facilities necessary to ensure an adequate water supply. The BDAC recommendation will not specify support for specific storage facilities (M. Madigan)
72. Storage options will be articulated as a result of the discussions currently underway by state and federal decision-makers (S. McPeak)
73. Let's get real. Current trends are showing that less water and lower quality water is being allocated to urban and agricultural water users. The PPA is consistent with this trend. We need to deal with increased demand for water. We need a diversion on the main stem of the Sacramento River, but it does not have to be at Hood (B. Buck)
74. We survived the last 20 years without new facilities. I cannot support surface storage, but I can support groundwater storage (B. Raab)
75. Agrees with B. Buck. We need a decision on the Hood diversion soon (S. Zapoticzny)

76. The PPA provides for a process to obtain approval from agencies under section 404 of the Clean Water Act. Agrees with B. Buck that a Sacramento River diversion does not need to be at Hood. Can the Delta Cross Channel be screened? We need a screened diversion on the Sacramento River very soon unless there is a viable alternative to improve the situation for drinking water quality, fisheries and water supply purposes (S. Hall)
77. I am resistant to setting a specific date for making a decision on the Hood diversion. The decision to include the Hood diversion in the PPA was based on water quality assumptions that are now being questioned by EPA. Operational changes can eliminate drinking water quality problems (F.S. Weber)
78. There is no consensus on these bullets. There is disagreement on the amount of water needed for future demand. If non-structural solutions do not improve water supply, water quality and fisheries conditions, then we can revisit the need for facilities. The most recent water bond (Proposition 13) funds studies for developing water transfers, water use efficiency and aiding watersheds. These approaches will solve the problem. We need to stick with the adaptive management approach (R. Borgonovo)
79. The draft recommendation presumes there is a need for new facilities. Supports assertion that additional storage is needed. Do not defer the decision on storage to end of Stage 1; permitting of facilities should occur at the end of Stage 1. Supports S. Hall's "Functional Equivalency" language regarding the Hood diversion (S. McPeak)
80. We need to link Delta outflows (third bullet) with language on storage (M. Madigan)

Ninth Bullet:

81. Have to make through Delta conveyance work for water quality and fisheries. If not, we need to back up and reevaluate the situation (B. Buck)
82. Delete reference to seven to ten years. Determine need for isolated conveyance through peer reviewed scientific investigations. The decisions should rely on those investigations. (S. Hall)
83. We need enough time to determine if through Delta conveyance is successful in meeting water quality and fisheries goals. We need a representative number of water years to assess how the system reacts to different water conditions and how several generations of anadromous fish react to the new condition (S. McPeak)

Tenth Bullet:

84. "Sincere" means genuine and honest (M. Madigan)
85. State up front that the intent is to make through Delta conveyance work.
86. Define "Studies" (A. Hildebrand)

87. The wording changes that occurred between publication of the draft Phase II report in December 1998 and publication of the Draft Programmatic EIS/EIR in June 1999 regarding conveyance were not meant to change the Program's original intent. We need to pursue study of an isolated conveyance in the event that the adaptive management process shows that an isolated conveyance is needed to meet water quality and fisheries goals (S. Ritchie)

Eleventh Bullet:

88. Should this bullet be combined with fifth bullet? (A.Hildebrand)
89. This bullet refers to a water supply accounting issue (M. Madigan)

Twelfth Bullet:

90. Should this bullet be combined with the third bullet? (A. Hildebrand)
91. Should this bullet be deleted? Define "Balancing" (R. Izmirian)
92. How do we determine balance? This bullet refers to balancing baseline issues and lacks specificity (M. Madigan, R. Izmirian)

Thirteenth and Fourteenth Bullets:

93. The word "Ensure" has legal implications with regards to water diversions for water users (H. Dunning)
94. There are Endangered Species Act related regulatory constraints that affect water supply to water users. Change "Ensure" to "Seek to Minimize" (B. Buck)
95. Does this bullet conflict with the fourteenth bullet? (A. Hildebrand)
96. We need to define "Water Supply Reliability" References to it are scattered throughout sections in the PPA. Define the components that will be used to meet water supply reliability goals (E. Hasseltine)
97. The second sentence does not specifically say that water will be reallocated from agriculture to environmental purposes. It allows the water budget to be created from water saved through water use efficiency actions.
98. The actions are linked (M. Madigan)
99. We need to resolve the thirteenth and fourteenth bullets. Assume the Environmental Water Account (EWA) and water users use water efficiently and that water supply is shared by the EWA and water users. EWA tools, water and money, are short and long term water management tools. We will not take water from water users for the EWA (S. McPeak)
100. EWA water contributes to fish recovery. There is debate about the amount of water that should be in the account and what assurances are needed to make the EWA work (S. Macaulay/B. Raab)
101. Replace "Are in a No Jeopardy Condition" with "Will be Provided Additional Resources to Allow Recovery to CALFED Bay-Delta Program Goals." Creation of the EWA will be consistent with the policy of sharing new water supplies (S. Hall)

102. Clarify relationship between EWA, the ERP and the Environmental Water Program
103. (H. Dunning/S. Ritchie)
104. Agrees with S. Hall's language (S. Zapoticzny)
105. "Sharing" is code for having the public pay for giving water back to water users (T. Graff)
106. The purpose of the EWA is a big issue. If public money is spent to create the account, the resultant water should be used for environmental restoration purposes (R. Borgonovo)
107. Agrees with S. Hall's language. The EWA will have an upper limit on the amount of water available to it (B. Buck)
108. "Sharing Water" is code for 1) public funding for 400,000 af of water reserved for ecosystem restoration and 2) water user funding for water that will benefit urban and agricultural uses (S. McPeak)
109. Agrees with R. Borgonovo. Define water supply reliability in another bullet (M. Schaver)
110. U.S. Fish and Wildlife's assertion that the first 400,000 af of water gained from implementation of the water management strategy tools should be reserved for environmental purposes is not supported by water users (S. Hall)
111. CVP contractors have been wacked. We can not wait seven to ten years for storage. We need the incentive of having water that was taken as a result of implementation of the Central Valley Project Improvement Act (CVPIA) replaced to continue to participate in the CALFED Bay-Delta Program (M. Stearns)
112. Supports M. Madigan's suggestion to replace "Ensure" with "Seek to Minimize" (R. Borgonovo)
113. I recognize the Water Supply Reliability definition issue and the concept of "Getting Well Together." We should not call for replacing regulatory agency authority, but instead support actions that obviate the need to use regulatory authority to meet ecosystem restoration goals (M. Madigan)
114. We are going in the right direction. Historically, the public subsidized water for urban and agricultural uses. Need to reevaluate those policies. It is appropriate to reassess allocation of water resources and dollars (T. Graff)
115. We will need a mix of groundwater and existing surface storage options to make the EWA useful (S. Ritchie)
116. Agrees with Tom Graff that it is appropriate to revisit use of public resources through mechanisms such as the CVPIA. Supplies for ecosystem restoration and urban and agricultural use are not quantified, instead I suggest using the concept of assuming continuous fishery recovery. It will be hard to get water for the EWA. Water users and environmental interests are living in a pipedream if they think they will get all of the water they want. Agree with wording changes (second sentence, thirteenth bullet). (S. McPeak)
117. What is the baseline condition for water users? Will users on the west side of the San Joaquin valley get back the water they had prior to implementation of the CVPIA? (T. Graff)

118. The intent is to obviate the need for more regulatory taking of water. We can not handle more reallocation to other uses (S. Hall)
119. U. S. Fish and Wildlife Service needs to work within a new paradigm, as well. Agencies need to work outside the regulatory scheme (M. Madigan)
120. There will be no guarantees for agricultural and urban water users. The new language for the thirteenth bullet is ok (R. Izmirian)

Fifteenth Bullet:

121. There is a role for scientific peer review in water operations decisions. U.S. Fish and Wildlife Service's regulatory decisions need to reflect science and need to be balanced. (B. Southwick)
122. The water operations decision-making process that led to the water quality problems in December 1999 have been revised to balance environmental restoration and water quality objectives/goals. Decisions are being made on a real time basis (B.Buck)

Comments on the Draft Preamble

123. The analyses to support the PPA have not been completed. The preamble gets around the timing issue we have been discussing. The issue with conveyance is how to improve the Delta without an isolated conveyance facility or a diversion at Hood. We should do what we can to meet ecosystem restoration and water quality goals without these facilities. If new facilities are needed, choose between the Hood diversion and the isolated conveyance. With regards to water supply, the preamble suggests a procedure to determine the gap between water supply and demand. If there is a gap it also suggests a process for filling that gap (A. Hildebrand)
124. The conveyance, water quality and water supply sections are confusing. Move appropriate language to pertinent bullets in draft recommendation. The first part of the preamble is relevant for the entire Program (E. Hasseltine)
125. In a recommendation to the Policy Group include references to environmental justice and follow through on E. Hasseltine's suggestion. Have a problem with force feeding language on the Record of Decision to the CALFED agencies (S. Hall, M. Madigan)
126. Identify issues to be addressed in the draft recommendation. Let the decision-makers decide where the language should go (M. Scoonover)
127. We will refer the recommendation to M. Scoonover so she can begin putting the suggestions in the appropriate documents. Keep the references to the solution principles (M. Madigan)

Environmental Justice Discussion

128. Adopt the principle that is in the April 12, 2000 letter from the Environmental Justice Coalition. Determine goals and objectives. Conduct a more sophisticated analysis of CALFED impacts. Commit to addressing Environmental Justice issues in each of the

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Program areas. Include representation of Environmental Justice interests in the decision-making structure. Commit adequate staff and resources to address Environmental Justice issues. We need to move quickly on the recommendations from the Environmental Justice Coalition (T. Estrada)

129. We will include the Environmental Justice comments/issues in the BDAC progress report to the Policy Group on April 19, 2000. Resources are needed to conduct further analysis on this issue. Insert in the recommendation a reference to equity, economy, environment. These concepts need to be integrated, not balanced. (S. McPeak)
130. Without the analyses we are asking for, we do not know if the CALFED actions will impact the Environmental Justice community (T. Estrada)
131. Refer to Environmental Justice and related cumulative impacts in the Record of Decision (M. Guzman)
132. We need social scientists to evaluate the Program. Is CALFED adequately staffed to do this evaluation? (J. Redmond)
133. Agrees with the Environmental Justice principles and issues. We need action on this issue very soon (R. Borgonovo)
134. How does the ongoing water planning not address Environmental Justice issues? (S. Pyle)
135. The solution principle calling for "No Significant Redirected Impacts" is relevant. We need to reflect the diversity of the stakeholder representatives and do a gap analysis using the solution principles (M. Madigan)
136. Need to address diverse issues on a grassroots level. The preamble should state that we need an adequate PPA to develop an adequate Record of Decision (B. Southwick)
137. Agriculture has given up 1.4 million af of water. Agencies are following a strict interpretation of water related regulations. These circumstances plus new water use efficiency measures, more study of water management strategy tools, and land going out of agricultural production will adversely impact local communities (H. Frick)
138. The impacts analysis in the Draft Programmatic EIS/EIR does not adequately assess Environmental Justice impacts. Fish contamination and other impacts are not addressed. Better to do this analysis earlier rather than later (T. Estrada)