STRAW PROPOSAL FOR
CALFED LONG-TERM GOVERNANCE

1. CALFED Commission. A new CALFED Bay-Delta Commission (Commission) would be created by legislation to oversee the implementation of the CALFED Bay-Delta Program as specified in the Final EIS/R and implementing documents. The Commission would also manage and coordinate each of the CALFED program areas--ecosystem, levees, water quality, water use efficiency, water transfers, storage , conveyance, and comprehensive monitoring, assessment, and research. The Commission would legislatively establish a partnership between the State of California and the Federal government which is critical to the success of the CALFED Program. Both State and Federal governments would provide a commitment to the full implementation of the CALFED Program.

2. Legislation to Establish Commission. State and Federal legislation would be needed to create the new Commission. Initially it is expected that the Commission would be established as a state entity with a strong Federal role. Although it is likely that State legislation would be finalized sooner than the companion Federal legislation, language would need to be included in both bills that planned for staged participation. For example, language would need to authorize the Commission to be established as soon as feasible and not wait for the companion legislation. Language would also need to authorize participation on the Commission by Federal or State agencies while the companion legislation is finalized.

Federal involvement may or may not require establishing a new Federal entity as a companion to the State entity, but Federal legislation would need to provide for commitments such as, (1) full Federal agency participation on the Commission, (2) support for long-term funding for the Commission, and (3) cooperation and coordination between Federal agencies and the Commission.

3. Commission Membership. The Commission would have 18 members-- six public members, six members representing State agencies, and six members representing Federal agencies. The Secretary of the California Resources Agency and Secretary of the Federal Department of Interior would be the designated co-chairs.

QUESTION: Should the number of members or representation of the members be different? Should other interests be represented on the Commission such as Indian tribes? Should another member be added, so there would be an odd number of members?

3.1 Public Members. The six public members would serve staggered 4 year terms and each would represent a specific interest: agricultural water users, urban water users, environmental concerns, the Delta, rural watersheds, and fishing.

QUESTION: Are there additional or different public interests that should be represented on the Commission? Who should appoint the public members and how should the specified interest areas be divided among the appointing powers? How should the appointment of public members be shared between the State and Federal governments? One option is that the State (Governor and legislature) makes the appointments, with Federal consultation or concurrence. Another option is to have the State develop a list of names for nomination and have the Secretary of the Interior appoint from the list. Another question to be addressed is how the appointments should be divided between the Executive and Legislative branches.

3.2 State Agency Members. Resources Agency, Department of Fish and Game, Department of Water Resources, State Water Resources Control Board, Department of Food and Agriculture, and Department of Finance.

3.3 Federal Agency Members. Fish and Wildlife Service, Bureau of Reclamation, National Marine Fisheries Service, Environmental Protection Agency, Army Corps of Engineers, and Natural Resources Conservation Service.

QUESTION: Is this the appropriate list of State and Federal agencies to be represented on the Commission?
NOTE: State and Federal agency representatives would serve as members of the Commission in order to help resolve conflicts and enable a unified program to proceed. It is proposed that State and Federal agencies retain their regulatory authority and responsibilities. Some non-regulatory authority may be modified by Congress or the State Legislature to ensure the program can be implemented and operated as agreed.

4. Commission Organization. The Commission would appoint an executive director to be responsible, under the Commission's direction, for managing the CALFED Bay-Delta Program. The executive director would be responsible for hiring and directing the Commission staff.

NOTE: To provide for future flexibility in management of the Commission the organizational structure of the Commission should not be specified in law. However, the initial Commission organization, personnel classifications and status (i.e. state or federal employee), and budget would need to be proposed for FY 2001 in anticipation of legislation being approved in FY 2000. Agencies and stakeholders will be involved in developing the FY 2001 Commission organization.

5. Commission Duties and Authorities. The Commission would be the primary agency responsible for achieving the CALFED Program objectives and targets identified in the CALFED Final EIS/R and implementing documents. The Commission would be responsible for managing and coordinating the CALFED programs (i.e. ecosystem, levees, water quality, watershed management, water transfers, water use efficiency, storage, conveyance and monitoring , assessment and research). The Commission would coordinate and oversee CALFED actions implemented by State and Federal agencies, local agencies and private and non-profit organizations.

NOTE: The Commission would need to have authority for funding in all parts of the program to ensure implementation efforts are meeting CALFED program objectives. Significant additional review is needed for each program area to identify what authorities the Commission would have over new or existing funding and programs.

5.1 In carrying out its responsibilities the Commission would **not** have any authority to (1) levy taxes, (2) regulate land use, or (3) exercise eminent domain.

5.2 Commission Responsibilities. The Commission responsibilities would include:

- Overall program direction, program balance and integration, staged decision-making and adaptive management;
- For each of the CALFED programs-- manage and oversee implementation, identify priorities, propose actions, assess and report on program performance and progress, coordinate the work of implementing agencies and stakeholder interests, and coordinate between CALFED program areas.

- Prepare an annual performance assessment of how the CALFED Program is achieving its objectives, and subject it to review by a Science Review Board (as described below).
- For funding under the authority of the Commission, the Commission would review and approve priorities, actions and budgets.
- For funding not under the authority of the Commission but related to CALFED objectives, the Commission would review and make recommendations on priorities, actions, and budgets.
- Seek to resolve conflicts among agencies implementing the CALFED objectives and actions. Issues that could not be resolved by the agencies themselves, or by the CALFED Commission, would go to the Governor and Secretary of the Interior for decision.

5.3 Commission authorities. The Commission would have authority to:

- Employ staff;
- Accept money, grants, goods, and services from governmental and private entities;
- Enter into contracts and agreements with, and make grants to, public and private entities;
- Buy, sell, lease, or otherwise own or transfer any interest in real property and water, subject to the following constraints;
  - The Commission would rely primarily on governmental agencies and non-profit organizations to buy, sell, lease, or otherwise own or transfer interests in real property.

NOTE: While program management responsibilities would be within the Commission, the responsibility for program implementation would vary by program area. Each of the program areas needs to be closely reviewed to determine the role of existing agencies and organizations in program implementation.

For example, the Delta levee subvention program which is fully incorporated in the CALFED levee program, is expected to continue to be implemented by the Department of Water Resources (DWR) and local Reclamation Districts. DWR would

retain authority for program implementation, but may be required through new legislation to implement the program consistent with the CALFED program objectives. The Commission responsibility would be to oversee and coordinate the implementation to ensure consistency and integration with the CALFED program.

With regard to the Ecosystem Restoration Program (ERP), the program would be managed by the Commission. The ERP is a major new program and would require significant staffing within the Commission. The Commission would be responsible for ERP priority setting, project selection, and program assessment, but funding for specified actions and programs would be provided to existing agencies and private and nonprofit organizations to implement ERP actions. For example, the Commission would have authority to manage and allocate the $390 million from Proposition 204 that will become available at the time of the conclusion of the environmental review process. In addition, new legislation would have to give the Commission the necessary authorities to fully implement the ERP.

6. Science in CALFED. The Commission would incorporate scientific and technical information and review at several levels in the program, and it would be incorporated within the program and be provided externally to the program.

6.1 Scientific Review Board. The Commission would appoint a Scientific Review Board (SRB), to assure the appropriate use of science in the Commission's decisions. Although the SRB would be directed to make independent assessments and offer recommendations based on its best judgment including, where necessary, analyses of disagreements among members of the panel; final responsibility for the annual performance assessment report and for all adaptive management decisions would remain with the Commission. Duties would include assisting the Commission in:

- Understanding the quality and usefulness of available technical and scientific information;
- Applying scientific and technical information in the adaptive management decision-making process;
- Evaluating the quality and effectiveness of CMARP (described below); and
- Reviewing the annual performance assessment for the CALFED program.

SRB Appointments. In appointing members to the SRB, the Commission would seek the help of national scientific organizations and SRB members.

QUESTION: Should the SRB appointments be selected by the Commission or initially by national scientific organizations and future appointments made by existing SRB members with the Commission having veto authority over proposed nominations? Are the duties of a SRB appropriate?

6.2 CMARP. The Commission would oversee a Comprehensive Monitoring, Assessment and Research Program (CMARP). CMARP would manage and coordinate the monitoring, assessment and research actions of the CALFED program to provide integration between the program areas, and oversee the adaptive management process.

NOTE: CMARP would likely be managed by a "Chief Scientist" for the Commission.

6.3 Scientific Review of Programs. Based on the advice and review of the SRB, the Commission would establish processes to review the scientific and technical aspects for each of the program areas. For example, program areas would be reviewed for soundness of design to meet program objectives, techniques used in program execution, data analyses, application of project results to overall program objectives, and priority setting and project selection.

7. CALFED Agency Coordination and Public Participation. The Commission would coordinate its program and activities with other State and Federal agencies not represented on the Commission and with tribal governments, local agencies, and organizations that have a role or interest in CALFED goals and objectives. The Commission shall convene as needed, advisory groups or policy and technical groups to assist in implementation. The Commission's meetings would be open and public, and the Commission would seek ways to maximize public knowledge of, and involvement in, its work.

8. Funding. All staff and administrative expenses incurred and needed by the Commission to carry out its responsibilities would be funded by State and Federal governments equally. *NOTE: Funding may come from user fees as well as general taxpayer revenues, bond funds, and private contributions.*