

Preliminary DRAFT

**CALFED Environmental Water Program
Steering Committee Meeting**

Briefing Paper No. 1

INTRODUCTION

The purpose of this Briefing Paper is to provide members of the Environmental Water Program (EWP) Steering Committee a summary of the status of the CALFED EWP. With this first meeting of the Steering Committee, CALFED is initiating the process of defining the EWP. To date, activities have been limited to preliminary discussions with the U.S. Bureau of Reclamation (USBR) and the U.S. Fish & Wildlife Service (USFWS) regarding the coordination of the EWP with the Central Valley Project Improvement Act's (CVPIA) Water Acquisition Program (WAP). It is time to begin defining an effective program for acquiring water from willing sellers for environmental purposes.

This briefing paper is organized into three sections. The first section presents an overview of the purposes and goals of the EWP and the WAP. The second section provides a proposed list of guiding principles to be used in formulating the program. The third section presents a list of significant issues regarding program implementation, some of which will need to be addressed by the Steering Committee. The information presented in this briefing paper should be considered preliminary and as a starting point for discussion by CALFED, the Steering Committee (and eventually the public). A great deal of work will be involved in crafting the framework and operational parameters of the EWP, as the program will be both complex and controversial. It is anticipated that the Steering Committee will provide leadership and direction in the development and implementation of the EWP.

OVERVIEW

CALFED Environmental Water Program

The goal of the EWP is to meet the shortfall between existing instream flows and Delta outflow provisions and those flow-related actions contained in the Ecosystem Restoration Program Plan (ERPP). The EWP is essential to fulfilling the mission and goals identified for the ERPP. The ERPP's mission is to restore the ecological health of the Bay-Delta ecosystem, including the upstream watersheds. For purposes of the ERPP, "restore" includes the activities of restoration, rehabilitation, protection, and conservation. The ERPP goals are as follows:

1. Achieve recovery of at-risk native species.
2. Rehabilitate natural ecological processes in the Bay-Delta.
3. Maintain and enhance populations of selected species for commercial and recreational harvest.
4. Protect or restore functional habitat types.
5. Prevent the establishment of and reduce the negative impacts of non-native species.

6. Improve and maintain water and sediment quality.

The overall objective of the EWP is to acquire water from willing sellers and to manage it for the following environmental uses:

1. Augment instream flows.
2. Stimulate or support ecological processes.
3. Support aquatic or riparian habitats.
4. Improve water quality.
5. Augment Delta outflow.
6. Experimentation and adaptive management.
7. Reduce the impacts of state and federal water project operations.

CALFED recognizes that the EWP will take years to fully implement. During Stage 1 implementation of the CALFED Bay-Delta Program, (the first seven years after the signing of the ROD and CEQA findings), water would be acquired on a pilot project basis for several high priority streams. Using adaptive management, the results of these initial pilot efforts will aid in the evaluation of the program's effectiveness in meeting its goals, and will help refine the EWP as necessary. Methods and criteria for assessing the program's effectiveness will need to be established in the forthcoming months. Monitoring and improving the EWP will be an on-going process, intended to ensure that ecosystem benefits are being attained while at the same time prudently managing water supplies to achieve other important benefits.

To avoid duplication of effort and to simplify the process of acquiring water, coordination between the EWP and the proposed CALFED Environmental Water Account (EWA) and the CVPIA WAP will be essential.

CALFED Environmental Water Account

The EWA is a CALFED water management tool, a type of bank holding water "assets" from which withdrawals can be made for environmental purposes. Water held in the EWA will be managed on a real-time basis using a "gallon-for-gallon" approach. This should provide greater flexibility in managing water to achieve fishery and ecosystem benefits than can be achieved using a prescriptive regulatory approach. For example, by properly timing a release, water from the EWA could provide both fishery and water quality benefits.

Using the above approach (which CALFED has extensively evaluated), the EWA would acquire, move, store, distribute, and track its own water supplies on a "gallon-for-gallon" basis. Exactly who will control EWA assets has yet to be formally decided. Tentatively, however, the distribution of EWA assets for environmental purposes will be primarily the responsibility of the USFWS, the National Marine Fisheries Service (NMFS), and the California Department of Fish and Game (DFG). [REDACTED]

Central Valley Project Improvement Act Water Acquisition Program (WAP)

The CVPIA WAP was established by the Department of the Interior to assist in acquiring water from willing sellers to supplement Central Valley Project (CVP) yield dedicated for fish and wildlife purposes. Under the CVPIA, the CVP annual yield dedicated to fish and wildlife, in

addition to water flows made available through modifications in CVP operations, is 800,000 acre-feet. Water acquired through the WAP is water over and above this CVP yield, and is intended to assist in meeting two important CVPIA goals:

- Augment instream flows in Central Valley rivers and streams to benefit anadromous fish, as set forth in CVPIA's AFRP; and
- Provide water (Level 4) supplies for state and federal wildlife refuges.

The USFWS has developed a Revised Draft Restoration Plan for the AFRP (May 1997), which is a plan to increase the natural production of anadromous fish in the Central Valley. When the plan is complete, it will include instream flow recommendations for various Central Valley rivers and streams. The anticipated time for completion is summer 2000.

To date, the USBR has been acquiring water from willing sellers on an annual basis to meet the water needs for instream flows and the refuges. With implementation of the WAP, the USBR intends to acquire water on a long-term basis to ensure water supplies and reduce the costs associated with water acquisitions.

COORDINATION/INTEGRATION OF PROGRAMS

Reclamation and CALFED have tentatively agreed to coordinate planning and water acquisitions under the EWP and WAP. To minimize confusion by both buyers and sellers of the water, environmental water acquisitions through both the EWP and WAP may be streamlined into one process. Water acquired through the EWP/WAP will be managed via the proposed EWA. How planning and implementation for the EWP, EWA, and WAP will be accomplished will be an important issue for the Steering Committee to consider.

PROPOSED GUIDING PRINCIPALS

In 1998, the Ecosystem Roundtable developed some proposed policy principals and guidelines for the EWP, summarized below:

1. *Purpose and Need.* The EWP must be developed under a widely accepted statement of purpose and need.
2. *Virtual Pool.* Funds for environmental water acquisitions should be made available under a comprehensive program that considers all appropriate sources. In addition, all environmental water acquisition efforts (EWP and WAP) should be consolidated within a single entity.
3. *Watershed Planning.* Water acquisitions must be used to achieve desired flow criteria for designated watersheds identified by local, regional, state and federal planning efforts.
4. *Implementation Partnerships.* All environmental water acquisitions should be on a voluntary basis from willing sellers. Partnerships between local interests and the EWP entity should be encouraged in order to utilize local expertise, increase program accountability, and build broad local support for acquisition programs.
5. *Environmental and Economic Analysis.* A series of regional programmatic environmental and economic analyses should be conducted to ensure that local

- acquisition benefits are taken fully into account and that local acquisition impacts are reduced or appropriately mitigated.
6. *Information System.* The EWP should include an "Information Management System" containing relevant biological and financial data, and other pertinent information.
 7. *Adaptive Management.* The EWP should include monitoring and assessment criteria.
 8. *Verification of Water Rights.* Verification should be required to assure that the seller is the water rights holder or otherwise holds an unequivocal right to sell the water.
 9. *Water Rights Protection.* A previous transfer of water will not be used to commit the transferor to provide a water supply beyond the term of the transfer or on terms other than those set forth in the transfer agreement, except where water rights are being permanently acquired for instream purposes.
 10. *Competition.* All willing sellers should be given the opportunity to participate.
 11. *Protection of Flows.* All water must reach and remain available throughout the targeted watershed and ecosystem. Diversion or export of acquired water will only take place with (1) the express concurrence of the purchasing entity (USFWS and DFG), and (2) mutually agreed upon compensation.
 12. *Maximum Benefit.* EWP water should be acquired using the source and means that provide the greatest ecosystem benefit.
 13. *Right of First Refusal.* Entities within the area of origin should have the right of first refusal to purchase water before such water is transferred out of the area.
 14. *Terms and Conditions.* Preference should be given to multiple year and permanent transactions including dry year options, acquisitions of water rights for instream purposes, and shared-use rights. Also, preference should be considered for larger purchases and purchases of water held under senior water rights.
 15. *Operational Flexibility.* Managing environmental water will be performed in "real-time" conditions. The entity managing environmental water acquisitions will need flexibility in spending EWP and EWA assets (water). Water assets could be spent to protect fish part of the year, to rebuild assets during other parts of the year, and to shift water between surface storage and groundwater storage. The environmental water acquisition entity will be spending assets while at the same time trying to anticipate and accommodate biological needs. (Note, this guideline was added after discussions with the USBR and USFWS, and was not developed by the Ecosystem Roundtable.)

SIGNIFICANT ISSUES FOR PROGRAM IMPLEMENTATION

The creation of the EWP will be a complex task. As a first step, Table 1 presents a list of important issues that will need to be answered or resolved in the process of defining the structure and functions of the EWP. These issues, which have been grouped into five categories, are identified in Table 1 on the next page. The five categories are (1) technical, (2) framework and structure, (3) coordination with other water management efforts, (4) environmental documentation, and (5) monitoring. For each issue listed in Table 1, the probable responsible party is also indicated.

The attached flow chart depicts a first draft schedule for development of the EWP framework and completion of the environmental documentation, including Federal and State Endangered Species Act requirements (FESA/CESA). The schedule consists of five phases. Phase 1 of the schedule is the pre-environmental impact report (EIR) /environmental impact statement (EIS) period and consists of the EWP framing and structuring activities. Most of the activities under Phase 1 will require consideration by the EWP Steering Committee.

The EIR/EIS public scoping process and development of the draft EWP framework will occur in Phase 2. Phase 2 begins with the preparation and filing of the Notice of Intent (NOI)/Notice of Preparation (NOP). It is anticipated that [REDACTED] will be required to complete the public scoping process. During this time, feedback will be solicited from all parties regarding the preparation of the draft EIR/EIS and EWP framework.

Phase 3 will involve the detailed analysis of impacts of the EWP. In addition, the analysis will be used to further refine the parameters of how the EWP will be implemented. Drafts of the following three documents will be prepared during Phase 3:

- Draft EIR/EIS,
- Draft EWP framework, and
- Draft Biological Assessment (BA).

Phase 3 should take approximately 16 to 18 months to complete and will also include the public review of all three documents.

During Phase 4, the final EIR/EIS, final EWP framework, and final BA will be prepared. The BA will be submitted to USFWS, NMFS, and DFG for review and ESA and CESA consultation will be completed. Phase 4 will end with certification of the final EIR/EIS and completion of the Record of Decision (ROD). The estimated time for completing Phase 4 is 4 to 6 months.

Implementation of the EWP is scheduled to take place in Phase 5. In practice, however, implementing the EWP will be ongoing and is a critical component of achieving the ERP goals. Phase 5 should include the following activities:

- solicit willing sellers for water in pilot watersheds,
- negotiate first water acquisitions,
- obtain SWRCB approval of water acquisitions,
- initiate monitoring program,
- review EWP program and make revisions,
- select next watersheds, and
- initiate next tier of National Environmental Policy Act (NEPA)/ California Environmental Quality Act (CEQA) documentation, solicitations, and acquisitions of water.

It is anticipated that the above steps will continue indefinitely, and be tightly interwoven into the fabric of California's long term water management plans.

THE ROLL OF THE STEERING COMMITTEE TASKS

The role of the Steering Committee is envisioned as providing policy guidance to the program. The Committee will be asked to approve the general outline for program development, provide regarding

The Steering Committee is being asked to accomplish the following tasks in support of EWP development at their first meeting:

- Review and approve general outline of program development and implementation as depicted in Figure 1.
- Provide guidance regarding many of the questions listed in Table 1.
- Identify other important issues not listed in Table 1.
- Guide the public scoping and environmental review process.
- Approve final program structure and operations plan.

**Table 1.
Issues Related to the Development of the ERP Environmental Water Program**

Issue	Responsible Parties	When Decision Needed
TECHNICAL ISSUES (questions are related to how important technical issues will be resolved)		
How will we decide where and how much water needs to be acquired?		
What methodology will be used to decide on what the baseline or existing conditions are?		
If the program is implemented initially using pilot projects, how many streams should be chosen and what criteria should be used to select them?		
Who will be responsible for describing the potential instream flow benefits of the acquired water within each stream, and then prioritizing those benefits between streams? How will this be accomplished?		
Will acquisitions be limited to rivers and streams identified for increased flows in the ERPP?		
Framework/structure (questions are related to planning for and structuring a joint called-cv pia water acquisition program)		
What types of acquisitions will be considered?		
Will water rights be acquired for all year types or only dry years?		
How will planning for EWP acquisitions be coordinated with planning for CVPIA acquisitions?		
How will actual EWP and CVPIA water acquisitions be integrated?		
What criteria will we use in developing a cost sharing formula for joint purchases by CALFED and CVPIA?		
How would jointly purchased water be owned and controlled?		
When the program is ready to acquire water, what process should be used to solicit offers to sell water?		
How should any solicitation be structured?		
What information would be requested in responses to the solicitation?		
Should the solicitation be distributed widely or only to selected recipients?		
What criteria will be used to decide what acquisitions to pursue?		
Who will made acquisition decisions?		
How will the criteria be used in selecting particular acquisitions (i.e., will it be a numerical rating process or a qualitative ranking process)?		
How will various acquisition types be prioritized?		
If pilot project approach is used for initial project implementation, will waiting to acquire other water reduce the probability that this additional water will be available?		
Coordination with other Water management efforts (questions are related to how this program will be coordinated with other related CALfed efforts)		
How will planning for and operation of EWP be coordinated/integrated with the EWA?		
How will this program be coordinated with the CALFED Water Transfer Program?		
ENVIRONMENTAL DOCUMENTATION (QUESTIONS ARE RELATED TO THE PREPARATION OF THE ENVIRONMENTAL DOCUMENTS FOR THIS PROGRAM)		
Who will be the lead agencies for the EIR/EIS (although we have tentatively identified lead agencies, these need to be confirmed)?		
Should a tiered approach to environmental documentation be used, analyzing a few pilot streams in detail, and future purchases at a programmatic level?		
Should an environmental document be done prior to identifying the water to be purchased and defining and describing the program in detail?		
Should one program-level document be done, followed by project-specific documents for individual purchases?		
IMPLEMENTATION (QUESTIONS ARE RELATED TO THE IMPLEMENTATION OF THE PROGRAM)		
Who will own the water rights acquired by CALFED?		
Who will own the water rights acquired jointly by CALFED and Reclamation?		
How will use of the EWP water be integrated into system-wide planning?		
How will EWP water be coordinated with Environmental Water Account operations?		
Who will decide when and how acquired water will be used?		
How will adaptive management be used to guide this program?		
How will the use of an adaptive management to this program be reconciled with the acquisition of long-term water rights?		

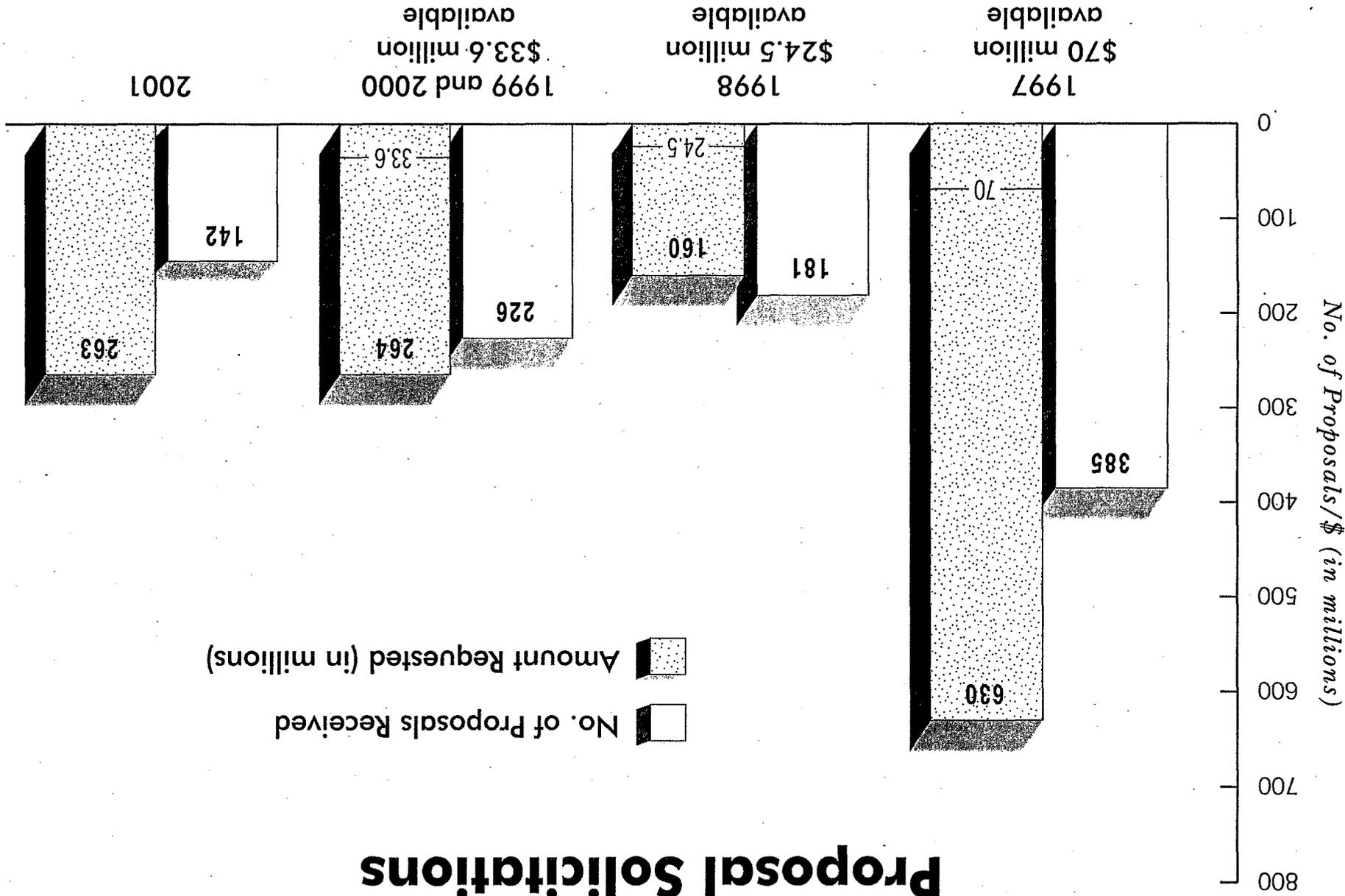
MONITORING

What kind of monitoring protocols can be built into acquisition agreements to determine whether the acquired water is reaching its destination, and whether the acquired water adequately met the purposes for its purchase?

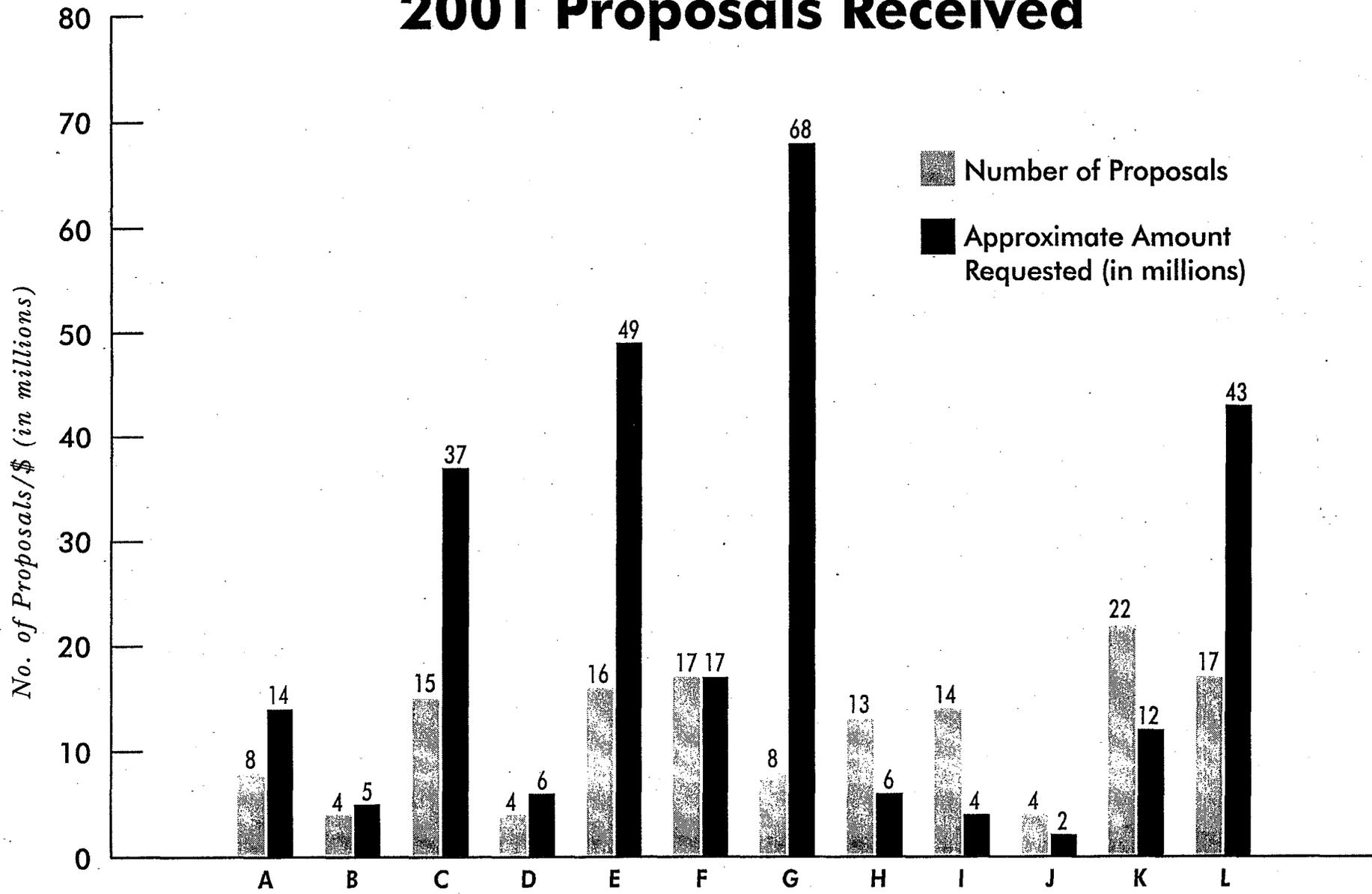
Ecosystem Restoration Program 2001 Proposals Received and Amounts Requested

Topic	Number	State Amount	Federal Amount
A. Natural Flow Regimes	8	\$13,711,004	\$13,859,350
B. Non-native Invasive Species	4	\$5,110,136	\$5,281,305
C. Channel Dynamics, Sediment Transport and Riparian Vegetation	15	\$36,835,594	\$36,670,624
D. Flood Management & Bypasses As An Ecosystem Tool	4	\$6,463,516	\$6,463,516
E. Shallow Water Tidal & Freshwater Marsh Habitat	16	\$48,605,274	\$48,605,274
F. Contaminants	17	\$17,220,930	\$17,220,930
G. Beyond Riparian Corridor	8	\$67,994,101	\$68,129,157
H. Local Watershed Stewardship	13	\$6,491,879	\$6,491,879
I. Environmental Education	14	\$3,618,351	\$3,618,351
J. Special Status Species Surveys & Studies	4	\$1,390,482	\$1,738,168
K. Fishery Monitoring, Assessment & Research	22	\$11,638,488	\$11,638,488
L. Fish Screens	17	\$42,861,357	\$43,346,215
TOTALS	142	\$261,941,112	\$263,073,257

Summary of CALFED Ecosystem Restoration Program Proposal Solicitations



2001 Proposals Received



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|---|---|---------------------------------------|--|
| A. Natural Flow Regimes | D. Flood Management & Bypasses
as an Ecosystem Tool | F. Contaminants | J. Special Status
Special Surveys & Studies |
| B. Non-native Invasive Species | E. Shallow Water Tidal & Freshwater
Marsh Habitat | G. Beyond Riparian Corridor | K. Fishery Monitoring,
Assessment & Research |
| C. Channel Dynamics, Sediment
Transport and Riparian Vegetation | | H. Local Watershed Stewardship | L. Fish Screens |
| | | I. Environmental Education | |

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