



California Office
Rockridge Market Hall
5635 College Ave.
Oakland, CA 94618
(510) 658-8008
Fax: (510) 658-0630

July 24, 1998

Mr. Steve Richie
CALFED Bay-Delta Program
1416 Ninth Street, #1155
Sacramento, CA 95814

Dear Steve:

You have asked for public comment on a the July 8, 1998 version of a CALFED document entitled **DRAFT: Developing a Preferred Program Alternative.**

As I mentioned to you yesterday, the July 8th DRAFT is so full of problems, and at the same time so full of holes, that EDF had intended simply to wait and comment on the revision now scheduled for July 31 (or thereabouts), viewing it as but one more in a series of hastily-compiled Drafts that has already undergone considerable behind-the-scenes revision. However, at your urging, I will at least make the following two observations:

First, the document purports to equate forward progress in the four "CALFED" resource problem areas (i.e., ecosystem quality, water supply reliability, water quality, and levee system integrity - see Phase II Interim Report, page 20) with concurrent progress among CALFED's six "common program elements" (ecosystem restoration, water use efficiency, water transfers, water quality, watershed coordination, and levee system integrity) *as well as* its two "variable program elements" (storage and conveyance). This is a fundamental change in orientation and scope which attempts to blur important and long-recognized distinctions between the common and variable program elements - e.g., what will (and will not) be common to a long-term solution (no matter what) and what can be done to ensure forward progress in the four problem areas by making better use of the very substantial investments in water storage and delivery capacity which have already been made over many, many decades of Bay-Delta water development, versus what (if any) new facilities are warranted, who will pay for any new capacity increments as a fundamental component of demonstrated "need," how will such new capacity be operated, how will such operations be assured to be consistent with and not contrary to the restoration of ecosystem health, etc., etc.

EDF urges CALFED to return to the notion of ensuring forward progress in the four problem areas - an approach that will be best accomplished by articulating a clear priority for the ecosystem restoration program above all, because everyone will benefit from the restoration of ecosystem health, and because no "comprehensive" or "durable" or "equitable" solution will be

Headquarters

257 Park Avenue South
New York, NY 10011
212 695-2100

175 Connecticut Ave., N.W.
Washington, DC 20009
202 387-3500

1405 Arapahoe Ave.
Boulder, CO 80302
(303) 440-1901

128 East Hargett St.
Raleigh, NC 27601
(919) 821-7793

44 East Avenue
Austin, TX 78701
(512) 478-5161

Project Office

6 Faneuil Hall Marketplace
Boston, MA 02109
(617) 723-2996

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possible without it. (To this end, I would only note that the Stage 1 ecosystem restoration program proposed as part of the July 8 draft has, well, a long way to go.)

Second, the Draft reaches significant programmatic conclusions (e.g., "New storage will be included in the preferred program alternative," page B-9) before extensive criticisms of the initial draft Programmatic EIS/R have even been considered, and certainly before a revised programmatic draft EIS/R has been re-circulated which addresses those problems in particular. This is part of a larger flaw in the NEPA/CEQA process which underlies the July 8 Draft, i.e., one that all-but-ignores the fundamental concerns and problems that EDF and others have identified as part of the initial programmatic draft (but which are now being swept aside due to the needs and pressures resulting from the unrealistic deadlines which have become a CALFED hallmark). Specifically, EDF believes that the July 8 Draft, like the initial programmatic draft EIS-EIR:

1. Fails to address the single most important factor in restoring and sustaining Bay-Delta ecosystem health, the total amount of water that can be extracted from the system; indeed, it improperly asserts the opposite, that significantly more water can be extracted from a severely-depleted system and then manipulated in a manner that results in net ecological benefits, as well as increased consumptive water supplies.
2. Fails to recognize that market-oriented alternatives can optimize the use of California's already extensively developed water management infrastructure in order to meet the needs of ecosystems and people at minimum long-term cost.
3. Fails to articulate a least-cost financial strategy that will pay for the common program elements, and it fails to establish who will be asked to pay for the many new dams and conveyance facilities that account for the majority of the program's projected capital costs.
4. Fails to emphasize the critical role that restored ecosystem health will have in securing and sustaining all other anticipated program benefits, and it fails to acknowledge the substantial water user benefits associated with an aggressively implemented ecosystem restoration program.
5. Fails to define legal, financial, operational, and hydrologic baselines (including comprehensive measurement of total water use and the basis for and quantification of its water supply reliability objective) that provide the foundation for a long-term agreement.
6. Fails to establish implementation mechanisms and performance criteria for the Ecosystem Restoration Program plan and other common program elements to assure that these programs actually will be implemented as promised.

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I will not at this point attempt to address our extensive specific concerns with the July 8 Draft's individual provisions. EDF believes, however, that only a comprehensive re-write (if not a fundamental re-orientation) of the July 8 Draft -- one that responds directly and materially to the above concerns and criticisms, and which proposes a framework for addressing and resolving any and all outstanding issues and concerns as a fundamental part of "Stage 1" -- can hope to serve as the basis for developing a draft preferred program alternative which has any real chance of meeting CALFED's long-term objectives.

We will be happy to provide more extensive review and comment on such a revision when it becomes available.

Thanks you and sincerely,

David Yardas

David Yardas
Senior Analyst