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DRAFT PROPOSAL FOR CALFED LONG-TERM GOVERNANCE*
September 8, 1999

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1. CALFED Commission. A new CALFED Bay-Delta Commission (Commission) would be created by new legislation to oversee and direct implementation of the CALFED program. The Commission would also manage and coordinate each of the four CALFED resource areas: water management, water quality, ecosystem restoration, and levee system integrity. A partnership between the State of California and the Federal government is critical to the success of the CALFED Program. Both State and Federal governments will provide a full commitment to the 30 year implementation of the CALFED Program.

QUESTION: Can the Federal partnership be best provided by creating a joint state and federal entity or by providing federal authorization for federal agencies to vote and serve as equal members on a State entity? Both provide equal participation in decisions but a joint entity may provide a stronger federal funding commitment and could better receive federal appropriations.

2. 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 would be designated chair.

NOTE: State and Federal agency representatives will participate so as to help resolve conflicts and enable a unified program to proceed. But all State and Federal agencies would retain all legal authority and regulatory responsibilities, as these exist at the beginning of the Commission and may be changed over the anticipated 30-year CALFED Program

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The staff of the California Environmental Trust prepared this draft proposal to help focus discussion of long-term governance needed to carry out the CALFED Bay-Delta Program. This draft is not a formal recommendation of the Trust.

QUESTION: Should another member be added, so there would not be an even number, perhaps leading to tie votes? Should the Commission have State and Federal Co-chairs rather than a State Chair?

2.1 Public Members. The six public members would each represent a specific interest: agricultural water users, urban water users, environmental concerns, the Delta, rural watersheds, and fishing. Public members would serve staggered 4 year terms and would be appointed after consultation with federal officials, as follows: four by the Governor, one by the President Pro Tem of the State Senate and one by the Speaker of the Assembly.

QUESTION: Should other interests be represented on the Commission such as Indian tribes? How can the appointment of public members be best shared between the State and Federal governments? If the State makes the appointments with Federal consultation, how should the six specified interest areas be divided among the three State appointing powers? 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.

2.2 State Agencies. 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.

2.3 Federal Agencies. U. S. Fish and Wildlife Service, Bureau of Reclamation, National Marine Fisheries Service, Environmental Protection Agency, Army Corps of Engineers, and Natural Resources Conservation Service.

3. Legislation to Establish Commission. State and Federal legislation would be needed to create the new Commission. 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.

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.

5. Commission Duties and Powers. The Commission would be responsible for broad program oversight and for managing and coordinating the four CALFED resource areas. The Commission would be responsible for achieving the program objectives and targets identified in the CALFED Final EIS/R. The Commission would coordinate and oversee CALFED actions implemented by State and Federal agencies, local agencies and private and non-profit organizations.

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 The Commission oversight responsibilities would include:

- Overall program direction, balance and integration;
- Staged decision-making and adaptive management; and
- Annual program assessment.
- Direct a monitoring, assessment and research program.
- Prepare an annual science report on the CALFED Program, after having received the independent advice of a Science Review Board (as described below).
- Review and approve program priorities.
- Allocate funds directly appropriated to the Commission.
- Review and make recommendations on the programs and budgets of participating federal and state agencies related to CALFED (known as the CALFED crosscut budget).
- Coordinate the work of participating governmental agencies and seek to resolve conflicts among them. 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 Within the four resource areas, the Commission would:

- Manage and oversee implementation;
- Identify priorities, propose actions and develop budgets;
- Assess and report on performance and progress;
- Develop and coordinate monitoring, assessment and research programs; and
- Coordinate the work of implementing agencies, stakeholder interests and coordinate among CALFED resource areas.

5.4 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 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 and water. But the Commission would have authority to do these things to (1) assist for short periods in implementation efforts; and (2) as needed to manage the environmental water acquisition program. Long-term ownership of lands should be by other governmental or non-profit organizations.

6. Scientific Review Board. The Commission would appoint a Scientific Review Board (SRB), to provide it with scientific information necessary for decisions on adaptive management.

7.1 In appointing members to the SRB, the Commission would seek the help of national scientific organizations and would consult with SRB members in making appointments to fill vacancies.

QUESTION: Or should the initial appointments be selected by national scientific organizations and future appointments made by existing SRB members with the Commission having veto authority over proposed nominations?

7.2 The SRB would have, among other responsibilities, the duty to draft the Commission's annual science report.

QUESTION: Should the SRB draft the report or review and comment on a staff draft?

7.3 Working with the SRB, the Commission would establish scientific and technical review processes for each of the four resource areas, with the goal of ensuring sound technical and scientific bases for these programs.

7.4 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 science report and for all adaptive management decisions remains with the Commission.

8. CALFED Agency Coordination and Public Participation. The Commission will coordinate its program and activities with other State and Federal agencies not represented on the Commission and with tribal groups, 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.

9. Funding. All staff and administrative expenses incurred and needed by the Commission to carry out its responsibilities would be provided equally by State and Federal governments.

NOTE: Funding may come from user fees as well as general taxpayer revenues and bond funds.