

DRAFT
Governance of the Ecosystem Program
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The best means of securing environmental improvements in the Bay-Delta system is to endow an environmental trustee with the financial means, legal rights, authorities, and discretion needed to achieve the CALFED ecosystem goals. Many stakeholders support such an approach for a variety of reasons, many of which are listed below. This approach is also consistent with CALFED's determination that the ecosystem restoration program will not, in general, use regulatory mechanisms to secure new environmental improvements. At the same time, no regulatory authorities of existing agencies to protect the ecosystem will be weakened or altered. The creation of such an environmental trustee would:

- o **Increase accountability.** The trustee would be a single purpose organization whose success or failure would be judged solely by the success or failure of the ecosystem program.
- o **Simplify decisionmaking.** The trustee would be in a position to create and implement an integrated restoration program to meet the CALFED ecosystem goals.
- o **Force environmental efficiency.** Accountability will drive the trustee to invest its limited resources in highly leveraged restoration actions and studies.
- o **Assure Flexibility.** Many assets of the trustee would be fungible and could be reallocated as needed in light of improved science and changed biological conditions.
- o **Expand participation.** A trustee institution could be structured to allow significant participation from affected stakeholders and the public in the decisionmaking process. It could also be responsible for coordination with other restoration programs.

The trustee institution would play five roles within the CALFED Program:

- o **Manager.** Responsible for planning, executing, and funding ecosystem restoration actions. Responsible for directing ecosystem monitoring, ecosystem research, and for revising ecosystem restoration action plans adaptively.
- o **Rights Holder.** Hold rights to land, water, conveyance, and storage on behalf of the environment.
- o **Operations.** Have some degree of influence over water project operations on a "no net loss" basis to minimize diversion impacts.
- o **Overall Governance Structure.** Report back to CALFED oversight structure. Interface with other CALFED programs. Report back to NMFS, FWS, CDFG, EPA and other regulatory agencies on the status of implementation.
- o **Regulatory Reliability.** The possibility that the trustee might provide some (as yet undetermined) degree of regulatory stability to water users has been discussed. The trustee might provide regulatory reliability by committing to expend some portion of its

resources to insulate water users from the effects of future regulations.

The trustee institution would be endowed with the following resources, tools and authorities:

- o An initial endowment of money, water, storage, conveyance, pumping, and property rights. The water endowment would be based upon and built from a well defined baseline.
- o An assured income stream.
- o The right to manipulate funds and property to implement the ERP. That is, the trustee would be able to sell or trade its rights, purchase or lease new rights, spend its funds, entail future income through bonds, etc., in order to implement the ERP and to optimize environmental conditions.

The environmental trustee would be governed by a Board of Directors. The board would include membership from state and federal agencies and from affected stakeholder communities. The exact makeup of the Board and the rules for appointing members remain to be developed and will depend, to some extent, upon the details of the CALFED solution. The Board will hire an executive director, who will hire staff. The trustee may also need to form a public advisory committee and a scientific review panel to assure that proposed policies and actions have received adequate public and peer review.