

24 April 1997

MEMORANDUM FOR Commander, South Pacific Division

SUBJECT: Support for Regulatory Program Review of CALFED Bay Delta Program Environmental Documentation

1. The majority of physical actions proposed by the CALFED Program will require Department of the Army permits under §10 of the River and Harbor Act and §404 of the Clean Water Act. As we have jurisdiction by law under these statutes, we must act as a cooperating agency. We are also operating as a cooperating agency relative to our expertise in flood control and navigation. I must note that the need for independent review of the NEPA documentation for Regulatory program purposes would not change should USACE become a co-lead in the CALFED Bay Delta Program.
2. My Regulatory staff have informed me that, due to the unprecedented scale, scope, and pace of the CALFED Bay Delta Program, they lack both the capability and interdisciplinary expertise required to provide the adequate and independent review of the environmental documentation, as required under our NEPA implementing regulations for the Regulatory program.
3. Our implementing regulations make provision for projects whose scale exceed the finite resources of our Regulatory program. Essentially, the cost of providing the independent interdisciplinary review, through a third party contractor, is shifted to the permit applicant. Enclosure 1 is a detailed explanation of this process.
4. CALFED Bay Delta Program staff have requested that we streamline the permitting process to the extent possible. My Regulatory staff has indicated that they would be able to "tier" off of the Programmatic EIS (PEIS) for subsequent NEPA documents, associated with actions proposed in CALFED's Phase III that need DA permits. Such tiering may only happen if an adequate interdisciplinary and independent review is made by the Corps' Regulatory staff of the PEIS during Phase II. However, their ability to conduct an interdisciplinary independent review of the PEIS during Phase II is contingent on their receiving the needed support for such effort from the CALFED Program immediately. The alternative would be to conduct the same independent review of the Programmatic EIS after the submittal of permit applications by CALFED. This could add substantial lead time to implementation of the program.

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5. Enclosure 2 contains suggested language for a letter from Commander, SPD, to Mr. Lester Snow, Director of the CALFED Bay Delta Program. The letter restates the above mechanisms available to us to meet the needs that have been informally communicated by CALFED staff to my Regulatory staff.

6. In summary, time is of the essence in obtaining support for review of the PEIS from CALFED. Without this support, we cannot effectively streamline permitting of proposed projects during Phase III.

2 Encls

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