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April 16, 2008

Mr. Phil Isenberg, Chair  
Delta Vision Blue Ribbon Task Force  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Dear Chair Isenberg and Members of the Delta Vision Task Force:

We are a subcommittee of the California Bay-Delta Authority (CBDA); we write at this time to recommend to you the enclosed proposal for a CALFED Environmental Justice Framework. It had been planned that this proposal would be brought to the CBDA for final approval, but as you may know all efforts to convene the CBDA board have been suspended. We are therefore forwarding it to you for consideration by the Delta Vision Task Force as it pursues the important work of developing strategic plans for the management of the water resources of California.

Thoughtful foresight in strategic management of this vital public trust resource must include the commitment to the fair treatment and participation of people of all races, cultures, and incomes such that no segment of the population bears a disproportionately high or adverse health, environmental, social, cultural or economic impact resulting from the programs, policies, or actions. This is recognized in the CALFED Record of Decision (ROD), of August 28, 2000, and in the authorizing legislation for CALFED at both the state and federal level. Perhaps most important: it is, quite simply, the right thing to do. And, from a practical standpoint, a properly instituted environmental justice policy will enhance the quality of decision making and increase the likelihood of successful implementation and operation of critically important water projects.

The enclosed proposal provides a framework for some key management actions that will assist in transforming those principles into practice. Its core recommendations are based on fulfilling the express commitments in the ROD: (1) the collaborative funding and establishment of an annual education program for agency staff and members of the environmental justice community; (2) the establishment of an environmental justice coordinator within each agency; (3) the creation of an academically based technical advisory group specializing in environmental justice issues, to provide assistance to the agencies and to the environmental justice community; and (4) the creation of a process for utilizing social impact assessments in agency planning and decision making, where appropriate.

The CBDA subcommittee, comprised of the signatories to this letter as principal members, was formed in October of 2006, after a particularly contentious hearing in which members of the environmental justice community expressed intense frustration with the progress on developing

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an environmental justice framework to that point. We volunteered to help resolve those issues. We have been assisted in our subcommittee work by CBDA staff and the Center for Collaborative Policy.

The enclosed proposal, and particularly Section VI. dealing with implementation measures, has been refined since then. It is based on research regarding environmental justice programs at other state agencies, was done with consulting help from those with experience in the environmental justice movement, and has been reviewed by environmental leaders, scholars and attorneys for the relevant state agencies. An earlier version was reviewed by the board of the CBDA and informally approved for continued development, in June of 2007.

We recommend the enclosed draft CALFED Environmental Justice Framework become part of the Delta Vision Strategic Plan, which itself will be implemented by many of CALFED's member agencies. We would welcome any questions and would be willing to provide assistance at any level, including the opportunity to speak with the Delta Vision Task Force about this important aspect of water management in California.

Sincerely,



Paula Daniels  
CBDA Board Member



Marc Holmes  
CBDA Board Member

Enclosure: Final Draft Environmental Justice Framework (as of 2/21/08)

Copies:

Michael Chrisman, Secretary, Resources Agency  
Joe Grindstaff, Director, California Bay-Delta Authority  
John Kirlin, Executive Director, Delta Vision Blue Ribbon Task Force  
Kamyar Guveitchi, Department of Water Resources, California Water Plan

# Environmental Justice Framework

DRAFT

## Preface

This Environmental Justice Framework describes effective practices that can be collaboratively performed by the state and federal agencies within the CALFED Bay-Delta Program to advance the fundamental principles of environmental justice. A cohesive and properly implemented environmental justice policy will enhance the quality of decision-making and increase the likelihood of successful implementation and operation of the CALFED Bay-Delta Program.

The CALFED Record of Decision (ROD) dated August 28, 2000 provides, in pertinent part: "The CALFED Agencies will be responsible for ensuring this policy is carried out across all program areas through the development of environmental justice goals and objectives." It further provides that the CALFED agencies should create a workplan by December 2000, that should "at a minimum, include commitments such as the development of environmental justice goals and objectives for each program area, investments in staff and resources across program areas and agencies, development and implementation of environmental justice education program for agency and program staff, collection and analysis of additional demographic information to assist in the identification of impacts, and actions to ensure effective participation on technical and advisory workgroups by those populations adversely impacted." This workplan was to be developed in consultation with environmental justice and community stakeholders.

There are significant practical benefits for communities as well as state and federal agencies when the goals of environmental justice are an active part of the decision-making processes:

- Partner with other public and private programs to leverage agency resources to achieve a common vision for communities.
- Enhance the public-involvement process and strengthen community-based partnerships with CALFED programs.
- More efficiently minimize and/or mitigate unavoidable adverse impacts on disadvantaged communities by identifying concerns early in the planning process.
- Ensure that the design, construction, and operation of CALFED projects take into consideration the concerns of affected communities.
- Use monitoring and analysis tools that assess the needs and concerns of minority and low-income populations.
- Avoid disproportionately high and adverse impacts on minority and low-income populations.
- Make decisions that better consider the needs of impacted communities.
- Work toward educating communities and developing support for CALFED projects and actions.

## I. Introduction

This framework provides guidance to the CALFED Bay-Delta Program, specifically the implementing state and federal agencies, to ensure that environmental justice considerations are integral to all relevant decisions, programs and activities affecting the state and federal agencies and encourage active participation of individuals, communities, and governments.

Attachment 1 provides a graphical representation of how the CALFED state and federal agencies work together to implement environmental justice.

## **II. CALFED Environmental Justice Goals**

Many CALFED agencies have or are in the process of developing environmental justice (EJ) policies consistent with state and federal authorities (see Section IV). CALFED EJ goals include:

- A. Environmental Justice Integration – Integrate environmental justice principles into the development, adoption, implementation, and enforcement of environmental laws, regulations and policies.
- B. Public Participation and Community Capacity Building – Ensure meaningful public participation and encourage community capacity building to allow individuals, communities and governments to effectively participate in environmental decision-making processes.
- C. Research and Data Collection – Improve research and data collection to promote and address environmental justice related to the health and environment of communities of color and low-income populations.
- D. Cross-media Coordination and Accountability – Ensure effective cross-media coordination and accountability in addressing environmental justice issues.

## **III. Definitions**

California law defines environmental justice as, “the fair treatment of people of all races, cultures, and income with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies” (Government Code Section 65040.12 and Public Resources Code Section 72000). The federal government’s Executive Order 12898—“[e]ach Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations.” The Executive Order makes clear that its provisions apply fully to programs involving Native Americans.

As adopted at the April 13, 2006, CALFED Environmental Justice Roundtable, “The CALFED Program and its participating agencies are committed to fair treatment and participation of people of all races, cultures, and incomes such that no segment of the population bears a disproportionately high or adverse health, environmental, social, cultural or economic impact resulting from CALFED’s programs, policies, or actions.”

## **IV. Authorities**

- Title VI of the Civil Rights Act of 1964
- Federal Executive Order 12898 (Environmental Justice)
- Federal Executive Order 13166 (Limited English Speaking)
- California Government Code sections 11135 and 65040.12
- Public Resources Code sections 71110-71116
- Dymally-Alatorre Bilingual Services Act, California Government Code sections 7290-7299.8
- National Environmental Policy Act (NEPA)
- California Environmental Quality Act (CEQA)
- CALFED Record of Decision

- California Resources Agencies Environmental Justice Policy

## **V. Commitment of the State and Federal Agencies within CALFED Bay-Delta Program**

The CALFED state and federal agencies are committed to the meaningful implementation of environmental justice to provide an equitable degree of protection from environmental and health hazards to all people, and to provide equal access to the decision-making process to people of all races, cultures, and socio-economic status.

- A. The policies, programs and activities of the CALFED state and federal agencies will strive toward ensuring that no segment of the population, regardless of race, color, national origin, or socio-economic status, should suffer disproportionately from adverse human health or environmental effects, nor denied the opportunity to live in clean and sustainable communities, as a result of CALFED actions.
- B. Ensure meaningful involvement of communities impacted by CALFED decisions in the making of those decisions.
- C. The CALFED state and federal agencies will incorporate the goals described in Section II above into the development, implementation and evaluation of all CALFED programs.
- D. The California Bay-Delta Authority will provide coordination and oversight of environmental justice within CALFED

## **VI. Environmental Justice Policy and Implementation**

CALFED agencies will integrate CALFED environmental justice into their CALFED program actions, including the design, adoption, implementation, and evaluation of policies, programs, and activities, as well as the enforcement of laws, regulations and policies. This integration includes criteria for identifying and addressing gaps in existing programs, policies or activities that may impede achieving environmental justice.

- A. CALFED agencies will use best efforts to institutionalize environmental justice in the following ways:
  1. Address environmental justice principles whenever developing new or revising existing CALFED policies, programs or activities by:
    - a. Screening each proposal for a new or revised CALFED policy, program, or activity to determine whether it may raise environmental justice concerns. For these purposes, "proposal" means that stage in the development of a new or revised policy, program or activity when an agency has a goal and is actively preparing to make a decision on one or more alternate means of accomplishing that goal.
    - b. For those proposals that may raise environmental justice concerns, conducting a social impact assessment.
    - c. Providing the results of a social impact assessment to environmental justice stakeholders and an opportunity for public comment on the social impact assessment, either in writing or at a duly noticed public meeting.
    - d. Incorporating the results of the social impact assessment into the decision making process for the proposal in whatever manner is deemed appropriate by the proposing agency or agencies.

A "social impact assessment" is defined as a study of the human health, economic and social effects, of the proposal, including effects on minority communities and low-income

communities. Any number of methodologies may be available for conducting a social impact assessment, depending upon the circumstances. However, the assessment should generally include an analysis of the following:

- a. The composition of the affected community or population to determine whether minority or low income communities are present;
- b. Relevant public health data or projects concerning the potential for cumulative exposure to health or environmental hazards;
- c. Cultural, social, occupational, or economic factors that may amplify the effects of a proposed action;
- d. Public participation strategies;
- e. Analysis of the environmental impacts on the affected community;
- f. Community or tribal representation in the process.

Each CALFED agency may develop its own criteria for screening its actions for environmental justice concerns that will best serve its needs and the types of CALFED actions in which the agency is involved.

Each CALFED agency may consider whether and how to coordinate the environmental justice screening process and/or the social impact assessment with its procedures for compliance with NEPA and CEQA. Federal CALFED agencies may fulfill this policy by following Executive Order No. 12898, NEPA, the Council on Environmental Quality guidance for addressing environmental justice under NEPA, issued December 1997 (CEQ 1997b), or individual agency policies for addressing environmental justice under NEPA, as applicable.

2. Collaborate to fund and create an education program to be offered at least annually to the agency and program staff of the participating agencies and the environmental justice community, with the following parameters:
  - a. Scholarships shall be provided for attendance of at least 25 attendees from the environmental justice community, that will cover the costs of tuition and all reasonable expenses of attendance;
  - b. The curriculum shall be at least three full days and shall include the following topics:
    1. the water supply system
    2. water quality
    3. water use efficiency
    4. water transfers
    5. workshops on how to identify and obtain funding for community groups
    6. workshops to assist with obtaining funds relevant to the environmental justice community, available in the pending and following fiscal year
    7. integrated regional water management planning
  - c. The course materials shall be included in the tuition and shall include books, maps, and other such material sufficient to create a reference library for the attendee;
  - d. The course instructors shall include representatives from environmental organizations.
3. Ensure all public meeting notices include provisions for appropriate physical and language accommodations to the extent feasible to individuals with special needs.

4. Provide effective customer service for non-English speaking communities, including written and oral translation as needed.
  5. Develop performance measures to assess the effectiveness of EJ efforts.
  6. Establish an Environmental Justice Coordinator within each agency to support the agency's environmental justice policy implementation.
- B. To further integrate environmental justice considerations into decision making for CALFED program actions, the California Resources Agency, CALFED Program will establish an independent technical advisory group on environmental justice. The purpose of the independent technical advisory group shall be to provide CALFED agencies with the following services:
1. Technical assistance in screening agency proposals for new or revised CALFED policies, programs, or activities to determine if they raise environmental justice concerns.
  2. Technical assistance in preparing social impact assessments.
  3. Technical assistance in communicating the results of social impact assessments to environmental justice stakeholders.
  4. Technical assistance in developing educational programs and materials related to environmental justice.
  5. Education briefings to CALFED agencies, to the CALFED Bay-Delta Authority, and to CALFED advisory committees as needed.
- C. The foregoing provisions are intended as guidance to improve the internal management of federal and state CALFED agencies with respect to implementation of environmental justice principles. Those provisions do not create any right, benefit, or trust obligation either substantive or procedural, enforceable by any person or entity in any court against the United States, the State of California, or any federal or state agencies, officers, or any other person. Compliance with those provisions will not be justiciable in any proceeding for judicial review under NEPA, CEQA or otherwise of agency action