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Agenda Item: 5
Meeting Date: March 15, 2006

CALIFORNIA BAY-DELTA PUBLIC ADVISORY COMMITTEE

PLANNING FOR FUTURE DELTA DECISIONS

Description: In its sixth year of implementation, the agencies responsible for the implementation of the CALFED Bay-Delta Program are preparing for the end of Stage 1 and the important decisions that are called for in the CALFED Programmatic Record of Decision (ROD). This agenda item will describe some of the major activities that are underway or will influence future decisions about the Delta.

Recommended Action: This is an information item only.

The CALFED Program is structured to be implemented in stages to allow for assessment and revision of the Program as it moves forward. When the Programmatic Environmental Impact Statement/Report was prepared and the ROD signed, the preferred alternative was based on “through Delta conveyance”, where water moves through the Delta as compared with around it. At the same time, decision makers were aware that a “through Delta” approach might not be adequate to achieve the CALFED objectives for water quality and environmental improvements, so they included provisions for considering other options and alternatives at the end of Stage 1, the first seven years. Now in Year 6, the agencies responsible for implementing the CALFED Program are preparing for the end of Stage 1 and the important decisions that are called for in the ROD, including the decision on Delta conveyance.

At the same time as policy makers are considering the end of Stage 1 decisions for CALFED implementation, new information is becoming available and other significant changes are occurring or proposed for the Delta, including:

Delta Sustainability. Scientific information that has been collected and research that is underway indicates that the current physical configuration of the Delta is not sustainable. Increasing risk of a significant seismic event in the Delta, coupled with sea level rise associated with global warming, result in the levees of the Delta being at high risk.

Decline of Pelagic Organisms in the Delta. Population levels for pelagic organisms in the Delta, including important food web species and the listed delta smelt are at record low levels, and declining.

Delay in Meeting Water Quality Objectives. The water quality objectives set out in the ROD have not been met, and implementation of significant portions of the CALFED water quality program have been delayed.

CALFED Programmatic Environmental Documents. The California Court of Appeals overturned a lower Court decision supporting the CALFED Programmatic Environmental Impact Statement/ Environmental Impact Report (PEIS/R). This decision was appealed to the California Supreme Court which has agreed to hear the case. At issue, among other things, is whether CALFED should have analyzed in its programmatic environmental documents a reduced export alternative. The Court of Appeals ruled that it was required to do so; and because it did not, the Court ordered the PEIS/R to be decertified. The State's opening brief on the merits is due to the State Supreme Court on March 24, 2006.

Court of Appeals D-1641 Water Rights Decision. The California Court of Appeals has ruled against the State Water Resources Control Board on portions of its D-1641 water rights decision. The judgment indicates that the SWRCB did not have the authority to implement the Vernalis Adaptive Management Plan because it was not included in the SWRCB's basin plan for the Delta. In addition, SWRCB has issued a cease-and-desist order to the Department of Water Resources and the U.S. Bureau of Reclamation for failing to meet Delta salinity standards.

Potential Increases in Environmental Water Account (EWA) Costs. Improved modeling has provided new information about EWA which indicates more actions need to be taken in order to achieve the level of protection anticipated for fish. This is likely to result in significant cost increases, with the annual cost of EWA increasing to between \$40 million and \$50 million.

Delta Vision Process. The Resources Agency and the Business, Transportation and Housing Agency are preparing to launch an open and collaborative public process to develop a 100-year vision for the Delta. This process would involve local government and stakeholders to create a strategic plan for all Delta activities including land use and transportation.

Habitat Conservation Plans/Natural Communities Conservation Plans (HCP/NCCP). As part of negotiations on the 10-Year Action Plan, water users, environmental groups and regulatory agencies have negotiated a new approach for managing the environmental regulatory requirements for the Delta. Through a voluntary process, water users who need to comply with the California Endangered Species Act and the Federal Endangered Species Act regarding on-going operations of their water projects are working cooperatively to explore preparation of one or more Habitat Conservation Plans (HCP) under Section 10 of the Federal Endangered Species Act and Natural Communities Conservation Plans (NCCP) under the California Endangered Species Act. It is anticipated that an HCP/NCCP for the Delta would serve as a strategic plan for guiding restoration efforts in the Delta.

Each of these factors will influence the Delta and its role in the State's economic future. The critical and complex challenge before us once again requires the delicate balancing of environmental and water supply needs. Any opportunity for success will require careful integration of the information and activities described above and flexibility to adapt to changed conditions in the future. Consistent with the findings from the recent independent reviews which prescribe an increased emphasis on strategic planning, the CALFED Program will need to periodically reassess its progress and challenges before it, and set a course that moves implementation forward while balancing the diverse needs of the Program.

List of Attachments

None

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