Statement of
Mike Chrisman, Secretary
California Resources Agency
Before the
Little Hoover Commission

Concerning CALFED Bay-Delta Program Governance
October 27, 2005

Introduction

Chairman Alpert and members of the Little Hoover Commission, thank you for the opportunity to appear before you today to discuss the important issue of CALFED Bay-Delta program governance. Governor Schwarzenegger has consistently supported the CALFED program. The Governor acknowledged the importance of CALFED in the May revision to his 2005-06 budget. He said, "The CALFED Bay-Delta program continues to play an important role in meeting California's future water needs. CALFED must be part of the long-term water resources investment strategy for the state." The program has had significant success, but has not been without challenges. Most recently, the state Court of Appeal issued a decision raising questions about the CALFED Record of Decision (ROD). The Administration is currently evaluating the impacts of the decision and potential responses to it.

The CALFED program is in its sixth year of implementation, and the California Bay-Delta Authority has been in operation for two years. As I am sure you are aware, this is a very complex program. Your review is timely and we welcome your advice on how to improve the governance of the program. As part of the larger independent review that the Administration is conducting, we hope to make changes in program priorities, governance, and fiscal and performance tracking that are necessary to expand upon the successes thus far.

Governance Challenges

The recent reports from the LHC staff on governance issues and challenges provide a useful accounting of the current governance problems facing the CALFED program. The Administration has requested reviews by the Department of Finance on financial management by KPMG on management issues and this Commission on governance. As these reviews are still in process and will benefit this CALFED evaluation, it is premature to offer comprehensive governance recommendations. However, there are four key components that are essential to any final governance structure. These are:

- Accountability and leadership
- Interagency coordination
- External independent oversight
- Public involvement and transparency

1. Accountability and Leadership

As your staff report indicates, accountability for the success or failure of the CALFED program needs to be clarified and strengthened. The California Bay-Delta Act (Act) that established the California Bay-Delta Authority was not clear about which agency or agencies would be accountable for the CALFED program. The Act directed CBDA to oversee program implementation and progress. CBDA was viewed by many as the agency ultimately accountable for program success or failure -- but the Act gave no authority to CBDA to follow through on this mandate. The Act gives responsibility for program implementation to the agencies. However, determining which agencies are responsible for what parts of the program needs to be more clearly defined.

Given the size and complexity of the program, and the number of departments responsible for implementation, it appears to be wise for public accountability to clearly rest with departments given their authority for implementation.

The Governor has supported this program from his first days in office. In one of his first actions as Governor he urged passage of a new federal CALFED authorization bill intended to increase federal funding for the program. This ongoing support is reflected in this year's May budget revision that called for this independent review of the program to better focus and reinvigorate it to meet future challenges. To further strengthen the accountability and leadership for the CALFED program, the Administration intends to designate a state lead and will request that the federal government do the same. This was the practice prior to the creation of the CBDA and should be reestablished.

2. Interagency Coordination

A second key component of CALFED governance is interagency coordination. CALFED has achieved many of its successes because state and federal agencies were able to remove their institutional barriers and acknowledge the goals and responsibilities of other agencies as well as their own. This coordination needs to occur at multiple levels to resolve conflicts and make vital policy, budget and technical decisions. Part of this coordination includes the need to jointly develop and implement strategic plans, develop and track performance measures, and identify program priorities.

To enable this level of interagency coordination, the CALFED agencies at the highest levels need to meet regularly. The Administration supports the re-establishment of the CALFED Policy Group to address this increased need for high level department coordination and conflict resolution. The original policy group was formed before the ROD was signed, and provided the forum for policy level coordination of the state and federal agencies.

In addition, it is critical to continue to provide CALFED staff that can facilitate the interagency coordination. CBDA staff is uniquely qualified to serve the functions of program integration and coordination, science review and input, strategic planning, program tracking, and support to the policy group and public advisory committees. As an internal planning and coordination department, CBDA would not need increased authority

over the CALFED departments, but would instead rely on the existing authorities and leadership of the Resources Agency and the designated state lead for the program.

3. External Independent Oversight

The third key element for CALFED governance is independent oversight. The Administration supports continuation of external and independent review of the program. The call by the Governor for an independent review reflects the Administration's support to daylight the problems, as well as the successes. To ensure oversight is independent, it is important to acknowledge the issue raised by the LHC report that indicated the "coordination and oversight functions of the CBDA are seemingly in conflict" in the existing governance structure. Currently, CBDA is mandated to coordinate internally with the CALFED agencies. They also report to the Resources Agency regarding agency programs and issues, and to provide oversight and report to a board made up of independent public members and the CALFED agencies. CBDA cannot serve both functions effectively.

The need to provide program oversight in a public forum that has separation from state or federal implementing agency control is important to ensure open reporting on progress. The Administration is evaluating various options for providing the oversight function. For example, this function could be provided through existing oversight entities like this Commission, integrated into a new or existing board, or through the Legislature. As part of a state Water Resources Investment Fund, under consideration by the Administration, there is a possibility that a new board will need to be established to oversee the allocation of the funds. One possibility is that the same board could serve the oversight function for the CALFED program.

4. Public Involvement and Transparency

Finally the fourth element of governance is public involvement and transparency. The CALFED program will continue to exist only as long as a broad range of stakeholders see it as the best way to achieve their goals. Even with the recent Court of Appeal decision, the last 10 years have been remarkably free of lawsuits related to management of the Bay-Delta system. This is because stakeholder groups have viewed collaboration as more constructive and proactive than litigation. To ensure continued cooperation, it is critical that the CALFED program receive stakeholder and public input prior to major agency decisions being made.

The Administration believes that the continuation of a Public Advisory Committee, and subcommittees as needed, as one of the key forums for public input is important. In order to provide additional transparency and accountability, if the Policy Group is reestablished it should meet in a public forum several times a year and prior to major policy or funding decisions.

Levee System Integrity

Since the Commission's next panel today will address the status of our levee system, I would like to share a few observations on this topic as it pertains to CALFED governance.

This year, flood management issues have been a high priority for CALFED implementing agencies. In January, the Department of Water Resources released a white paper entitled, "Flood Warnings: Responding to California's Flood Crisis", the Administration proposed legislation (AB 1665 and ACA 13) to address legal and financial impediments to levee system improvements. The Governor proposed and secured almost $10 million in new funds for levee work. Recently, the Governor urged Congress to provide an additional $90 million for immediate levee repairs and risk assessment work.

As you know, one of the four CALFED objectives is to "reduce the risk to land use and associated economic activities, water supply, infrastructure and the ecosystem from catastrophic breaching of Delta levees." This issue is a perfect example of why we need a CALFED program to support coordination and integration.

Numerous activities and investments are currently underway to protect and restore the Sacramento-San Joaquin Delta and protect Delta levees. Analysis of the threats to levee integrity, studies and restoration of the Delta ecosystem, and research on continued subsidence are in various stages of preparation. Finally, modeling of potential future climate change is yielding information to help understand the threat of sea level rise and manage flows and water supplies. Despite these investments and activities, there is no single effort to consider the fragility of the Delta as we know it, the values that would be lost if the Delta were altered by earthquake or flood, or how California can avoid or cope with future calamity. To ensure protection of Delta resources into the future, a long-term vision must be created. Ongoing Delta planning efforts must be coordinated. Investments in the Delta must be more strategic. Water planning must be integrated with agriculture, environmental restoration, transportation, energy and land use. We need such an effort, and CALFED is the appropriate place for this effort to occur.

In closing, the program and the CBDA are still works in progress that have had mixed results. We intend to build upon the success of both while we address areas that require clarification and improvement to overcome the challenges we face. There is no doubt that the CALFED Program should continue and that change is needed to improve the governance structure to prepare for difficult decisions ahead.