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Before the Little Hoover Commission  
State of California

Concerning the CALFED Bay-Delta Program Governance  
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Introduction

Chairman Alpert and members of the Commission, I appreciate the opportunity to appear before you today on behalf of Secretary Norton to discuss the important issue of CALFED Bay-Delta Program governance. I would like to express the Secretary's support for the direction and charge Governor Schwarzenegger has given to the California Bay-Delta Authority (CBDA) and the CALFED community as a whole to step back and re-examine the accomplishments and priorities of this endeavor.

I would also like to express Interior's continued commitment in fulfilling the goals of CALFED as envisioned in the Programmatic Record of Decision (ROD). With the recent passage of the Federal "CALFED Bay-Delta Authorization Act" (P.L. 108-361), the Federal agencies now have a framework to continue implementation through 2010, and authority to participate as members of the CBDA. This commitment is also reflected by the continued engagement of the Federal managers and their staffs in the committees, workgroups, and meetings of the CBDA and CALFED. What the Federal agencies desire most is to see a governance and management structure for our CALFED Program that is efficient and adds value to the ongoing work of the implementing agencies.

CALFED Vision and Mission

The CALFED Program is tackling the complex water resource issues that surround the Bay-Delta. These include competing demands for the environment, agriculture, and millions of Californians that depend on the Bay-Delta for drinking water. We agree with the comprehensive approach as articulated in the ROD to resolving the problems of water quality, ecosystem restoration, water supply and reliability, and levee system integrity. The value of the CALFED process is that it allows policymakers to make informed decisions that are based on input from multiple agencies and diverse stakeholder groups and not forced through the courts.

The CALFED Experience

The level of coordination and cooperation among the 25 State and Federal agencies is highly unique to the CALFED process. These agencies come together on a regular basis to share ideas and resolve problems and issues in an expedited manner. There is a common recognition that we can achieve the goals identified in the ROD as long as all of us communicate, cooperate, and participate fully. Although agency participation is voluntary, there is an incentive to continue this collaborative process even without being compelled by a formal governance structure, particularly given that the goals and objectives of CALFED are consistent with individual agency goals.

### The CALFED “Way of Doing Business”

CALFED is indeed, as some have said, vapor. It is not an entity or an agency. It is an idea, a way of doing business. The interagency cooperation, coordination, and communication, along with the extraordinary engagement of local governments, the business sector, and representatives of the environmental organizations, are what make CALFED. CALFED, the cooperative spirit of agencies working together, can exist and forge ahead without CBDA, but CBDA cannot function without the interagency cooperation that is the hallmark of CALFED. CBDA cannot mandate coordination and the voluntary exercise of authorities in pursuit of agency mission in a collaborative program of this magnitude. CBDA can however provide a forum for the formal and public engagement of all the parties to work together. CBDA can facilitate the common understanding and the unity of purpose that is described in the ROD.

### Governance Overview

Regarding the issue of a CALFED governance structure, I would like to focus my comments on three points: 1) what the ROD envisioned as a governing body; 2) what is needed from a governing body; and 3) perceptions of the current governing body mechanism.

The ROD envisioned a permanent Federal-State commission, established by the State Legislature and Congress, to provide policy leadership and accountability, assure agency coordination, and assist in securing long-term funding. The responsibilities of the commission would include reviewing and agreeing upon Program priorities and budget proposals, assessing and reporting on progress toward Program goals, making sure the Program and its progress is balanced, and resolving disputes among CALFED agencies. The ROD also stated that the makeup of the commission should include Federal, State, and stakeholder members. Interior continues to agree and support this concept of a Federal-State commission with oversight and coordination responsibilities. Further we believe the CBDA can and should fill that role.

### Governing Body Attributes

Based on our experiences over the last several years, it is clear that there are significant functions required from a governing body in order to successfully implement the CALFED Program. The governing body should provide a forum for healthy and productive coordination and collaboration among policy-level decision makers. Their focus should be to establish and clearly articulate the highest priorities of the Program and guide the overall Program direction in order to ensure ROD commitments are met in a balanced fashion. These priorities could then be considered by the implementing agencies as current year budget decisions are being made and out-year budgets are being formulated. A unified set of Program priorities by the governing body would provide significant weight when the agencies seek funds needed for implementation. Additionally, the body should track Program accomplishments, measure performance related to Program actions, and define and assess balanced Program implementation. Finally, the body should facilitate and assure well thought out and directed science actions that help guide policy decisions.

Interior and other Federal agencies have participated as non-voting members in the Authority meetings along with their State partners. Our participation as non-voting members was authorized by Congress in the CALFED Bay-Delta Authorization Act. We do not feel that our

lack of voting privileges in anyway limits our contributions to the CBDA. It is in fact consistent with the voluntary, collaborative approach to the CALFED Program that has marked its accomplishments since the Bay-Delta Accord in 1994.

#### Concerns with the Current Governing Body

Despite the considerable accomplishments that have been made to date through the CALFED process, we have some significant concerns we hope you will consider in your examination of CALFED governance.

- **Oversight Role of the CBDA**

The intent of the CBDA was to provide a governance structure, including oversight and coordination of the Program; however, confusion over what this oversight responsibility entails has been an ongoing and evolving challenge. There is a significant difference between providing oversight and coordination of the Program and making final implementation decisions on projects within the Program. The implementing agencies clearly are responsible for the latter; however this distinction is not clearly understood by some stakeholders and some of us who sit on the CBDA board. It is clear in the ROD documents and the State and Federal legislation that, except in the case of the science program, the final decision-making authority resides with the implementing agencies and not with the CBDA.

It is the responsibility of the CBDA to provide policy leadership and accountability on a programmatic level; however, the CBDA has spent considerable time focusing more on debating project-level issues, a responsibility of the implementing agencies. This has resulted in the agencies becoming less willing to engage in the process. The relationship between the CBDA board members and the CBDA staff has been frustrating for the implementing agencies, some of whom are also members of the board. Too many times the information that has gone to the CBDA board has not been reflective of the views of the implementing agencies. This disconnect between the implementing agencies and the CBDA staff is a disservice to the board and causes unneeded friction between the agencies and the public members. More clearly defining the roles, responsibilities, and authority of a governing body and its staff will be essential as we move forward with Program implementation.

- **Program Tracking and Performance Measures “Where are We?”**

It has been a challenge to determine whether the Program is truly on track to achieve its goals. While the CALFED agencies and the CBDA have been tasked with developing and implementing performance measurements to measure program accomplishment, little meaningful progress has been made. This failure leads to an inability on the part of program managers to explain to agency management and CBDA “where we are.” An end result of the failure to develop performance measures is that the CBDA is limited in its ability to identify program priorities and make educated recommendations regarding the future direction of the Program. It also limits the ability of CBDA and CALFED agencies to monitor and assess Program accomplishments and determine overall balance of implementation. A similar problem exists in the area of program and project tracking where on-again and off-again efforts have left us without a functioning tracking system – a significant shortcoming.

Although the implementing agencies are ultimately responsible for achieving the goals of the Program, development and maintenance of a programmatic tracking system should logically be the responsibility of the CBDA as part of their oversight and coordination responsibilities. Providing accountability has been complicated because an effective and understandable system of tracking accomplishments and overall performance has not been developed. Consequently, there has not been an objective way of determining the overall balance and effectiveness of Program implementation.

Regarding performance measures, we anticipate the Office of Management and Budget may request that the Bureau of Reclamation undertake a review of its CALFED expenditures using the Program Assessment Rating Tool (PART) in 2006. The purpose of PART is to assess and improve program performance so that the Federal government can achieve better results. A PART review helps identify a program's strengths and weaknesses to inform funding and management decisions aimed at making the program more effective. The PART therefore looks at all factors that affect and reflect program performance including program purpose and design; performance measurement, evaluations, and strategic planning; program management; and program results. Because the PART includes a consistent series of analytical questions, it allows programs to show improvements over time, and allows comparisons between similar programs.

- Identification of CALFED and the CBDA

The identity of CALFED and the CBDA is also an issue. There were times after the CBDA was established and prior to the passage of the Federal CALFED authorization when we understood the CBDA wanted to eliminate the use of the term "CALFED" and replace it with CBDA. We found this to be a disappointing move on a number of fronts. However, existing statutory authorities, prior to P.L. 108-361, allowed the Federal agencies to "stay at the table" and engage with their State counterparts – despite the lack of appropriations anticipated in the ROD. The notion of having CALFED become CBDA is illogical.

- Role of the Bay-Delta Public Advisory Committee (BDPAC) and Its Subcommittees

The BDPAC was established and chartered under the Federal Advisory Committee Act as a Federally chartered Interior Committee. The role of the BDPAC whose members provide critical stakeholder input into the CALFED process has been somewhat unclear as to whom the BDPAC members advise in accordance with Federal law. In large part the ambiguity was created by earlier language in the BDPAC Charter. With the recent renewal of the Charter, the BDPAC role has been clarified as providing advice and recommendations to the Secretary of the Interior on implementation of the CALFED Bay-Delta Program. This lack of clarification also created confusion as to the role of the BDPAC Subcommittees whose sole purpose is to compile information, conduct research, and provide reports and recommendations back to the BDPAC to enable the BDPAC to make informed recommendations to the Secretary. Many of the BDPAC Subcommittees seem to be doing Authority business, rather than BDPAC business, and their focus seems to have strayed from the intended purpose under BDPAC. It would be more appropriate to have the Authority create its own workgroups, rather than utilize BDPAC Subcommittees, to support Authority needs.

- CBDA Member Makeup

The structure of the governing body may also be problematic. Half of the current board is made up of public members who are not as engaged in the process as the agency heads are on a regular basis, and prior to each BDPAC and CBDA meeting, the CALFED agencies have already thoroughly discussed the majority of on-going issues regarding Program implementation. Therefore, the meetings seem more directed at bringing the public members up to speed rather than engaging the body as a whole and focusing on big picture issues. It is critical to the success of the Program that we begin to engage all members of the CBDA board in a more focused discussion of the big picture issues and policies that have a direct bearing on the future and direction of the CALFED Program.

- CBDA Responsibility for Science

The hallmark of the CALFED Program is the recognition that policy decisions should be based on sound science. The CALFED agencies have looked to the Authority to ensure the use of sound science across all program elements. Although significant progress has been made by the Science Program, basic scientific questions vital to agency decision making have not been addressed. I believe the recent Science Program “Vision Statement” prepared by the Lead Scientist will prove to be significantly more responsive to the needs of the agencies and ultimately will serve as a cornerstone to Program implementation.

- Contracting Performance Issues

One of the often noticed problems during CALFED's implementation period has been the slowness of the State contracting process. An assessment of the time gaps between CBDA decisions and contract awards is likely to show an average of 1 or 2 years. We certainly admit to having our own set of challenges in Federal contracting, but we think a review of State contracting issues might be worth the Commission's attention.

### Conclusions

As I stated earlier, CALFED can continue to forge ahead without CBDA. This is an important point in considering whether there is a need to have a separate agency responsible for oversight and coordination, as currently is the case. Without the CBDA, the functions of CALFED oversight and coordination would revert back to the implementing agencies, who then could report to a commission or policy group, similar to the structure prior to the CBDA. Whatever the case, it is critical that those responsible for oversight and coordination are adding value and held accountable for maintaining a programmatic tracking system and developing performance measures to facilitate assessment of balance and priority setting.

In conclusion, I believe we are at a critical juncture in the CALFED Program, and the re-evaluation of the Program's governance structure is imperative to the long-term success of CALFED. I would like to thank the Commission for this opportunity to testify before you on this important issue. This concludes my comments, and I would be happy to answer any questions the Commission may have.