

**LITTLE HOOVER COMMISSION**  
**Public Hearing on CALFED and the California Bay-Delta Authority**

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**Statement of**  
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Mr. Chairman and Members of the Commission, thank you for the opportunity to appear here today and share with you the views of the Metropolitan Water District of Southern California (Metropolitan) regarding the important issues before you today. My name is Timothy Quinn and I serve as Vice President, State Water Project Resources at Metropolitan. Metropolitan has been heavily involved in CALFED and related activities for nearly two decades. On behalf of Metropolitan, I was among a group of urban agricultural, and environmental stakeholders in the late 1980s and early 1990s effort dubbed the “Three-Way Process”, which laid some of the early foundation stones for what became CALFED. I also represented Metropolitan’s interests in the development of the Bay-Delta Accord and have been actively involved in all CALFED related activities since, including the development of the Record of Decision, the passage of Propositions 204, 13, and 50, the negotiation of the California Bay-Delta Act (SB 1653), and the passage of the Water Supply, Reliability, and Environmental Improvement Act (H.R. 2828), among other activities. I am currently a member of the CALFED Bay-Delta Public Advisory Committee.

**Do We Need CALFED? Fix It, Don’t Kill It.**

California water is undoubtedly among the most challenging natural resources in the nation, if not the world, to manage. If CALFED is having difficulties – and it certainly is – these difficulties must be considered in the context of the enormous challenges we are asking the institution to address. A little more than a decade ago, the California water management system was in utter chaos. State Water Project (SWP) supplies, upon which 22 million Californians and nearly one million acres of farmland depend, had become unreliable; in the early 1990s, rationing in the urban economy, with corresponding negative economic impacts, was widespread; in 1991, agricultural water supply agencies received *zero* State Water Project supplies. Meanwhile, water quality in the Sacramento-San Joaquin River Delta (Delta) was steadily degrading and key fishery populations were in a startling decline. The Winter Run Chinook Salmon was listed as a threatened species under the state and federal Endangered Species Acts in 1989, the Delta Smelt in 1993, and several other species would follow. During all this, the numerous state and federal operating and regulatory agencies with considerable influence over California water were not coordinating their activities and, in fact, were often in sharp conflict with one another.

It is important to keep in mind that this conflict was centered in one place in California: all of these problems had their roots in conflicts in the Delta. The Delta is essential to the well being of numerous aquatic and terrestrial species and it has evolved over time into the hub of the state's water supply system. The environmental and economic problems coming to a boil during those years had at their heart the conflict in the Delta between the ecosystem and the large water projects moving water through the Delta to keep the California economy going.

As an initial step to deal with this chaos, the federal and state agencies, and urban, agricultural, and environmentalist stakeholders under the leadership of Governor Pete Wilson and Secretary of Interior Bruce Babbitt negotiated the Bay-Delta Accord, which was executed on December 15, 1994.<sup>1</sup> The core mission of the Accord was to resolve the conflicts then raging in the Delta.

While CALFED gets more of the credit (and blame) for what was to unfold over the next decade, it cannot be denied that CALFED played a critical role in pulling California back from the brink during this period of substantial crisis. Today, water supplies are more reliable, we have identified key actions to improve source water quality in the Delta, and the anadromous fisheries of considerable concern a decade ago are doing substantially better. The fact that we made some significant mistakes and that we are still facing enormous challenges should not be surprising. But, in rising to these new challenges we need to improve CALFED, not get rid of it, or we will slowly sink back into the chaos we came from not long ago.

### **What Is the Role of CALFED? Of the California Bay-Delta Authority? Are They Different?**

For the Little Hoover Commission to do its very difficult job, it is essential to understand the differences between CALFED, the collaborative approach toward Delta problem solving initiated by the Accord, and the California Bay-Delta Authority (CBDA), the state agency created by the legislature in 2002. CALFED is a program of coordinated actions; it is not an agency or entity. The essence of the CALFED Program was (and is) to resolve the myriad conflicts in the Delta through a radically different approach: to replace conflict with collaboration in the interaction among the state and federal agencies; to rely on incremental progress, rather than “big-bang” solutions; and to assure “balanced” progress, meaning that we would implement linked sets of actions so that urban, agricultural, environmental, and delta interests realized simultaneous gains, rather than competing in the political or legal arena to accomplish their interests at the expense of others. These ideals – even if extraordinarily difficult to accomplish – have characterized most efforts to resolve issues in the Delta for more than a decade, since the

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<sup>1</sup> The Accord was organized into four categories: Categories I and II dramatically revised the operations of the SWP and Central Valley Project (CVP), reducing the yield of these projects for their contractors by millions of acre-feet in an effort to reduce pumping, especially during the spring, and help restore fisheries. In return for agreeing to these reductions in supply, the SWP and CVP contractors were assured that remaining supplies would be protected without additional cost to them. Category III established an unprecedented habitat restoration effort that has become a multi-billion dollar enterprise, and Category IV established CALFED and charged it with the development of a long-term plan.

Accord. The CALFED Program instated these values long before the CBDA was created. And they are the right values for addressing problems in the future.

As far back as 1993, the leaders of the CALFED Program argued that to assure the permanence of what was being accomplished, we should institutionalize these gains in some form of formal institution to keep the agencies on-track and prevent backsliding. The CBDA was created for this purpose. As an organization that has been heavily involved in these events, Metropolitan believes that the CBDA has four well-defined and critically important functions:

- 1) **Facilitation:** The primary function of the CBDA is to facilitate among the state and federal agencies to help them define common priorities and assure that sufficient resources are available to accomplish these priorities.
- 2) **Transparency:** The CBDA, through the creation of the BDPAC and the inclusion of public members on its Board, increased public involvement and was intended to provide transparency in the actions taken by the agencies.
- 3) **Sound Science:** A Chief Scientist was created to report to the CBDA directly and assure that the collaborative actions of the agencies are based on the best available, peer-reviewed science.
- 4) **Accountability:** The CBDA was charged with keeping track of joint activities of the agencies and assuring that the program remains balanced with benefits accruing to each major interest group.

In the legislation creating the CBDA, the legislature chose not to give the agency any implementation authority (with the notable exception of the Science Program). The CBDA was expressly forbidden to infringe on the implementation authority of the state and federal agencies. The State and federal agencies are responsible for the implementation of interagency projects under the CALFED Program umbrella. CBDA is responsible for coordinating activities for assuring transparency and sound science, and for keeping track of the program activities to make sure the program stays in balance. CBDA is a facilitator, not an ultimate decision maker. It does not have and should not have approval authority or the ability to make final implementation decisions.

### **Is CALFED Working? Is the CBDA? If Not, What Is Wrong?**

Under the CALFED umbrella, California has made considerable progress during the past decade in improving the management of its most valuable natural resource. Throughout the Bay-Delta watershed, hundreds of habitat restoration projects have contributed to rebounding fishery populations. The Environmental Water Account has been a success providing additional water for fish restoration, resulting in a more reliable water supply system for the state. It has been a decade since state and federal water users have lost supplies due to ESA take. The CALFED Record of Decision (ROD) provides a well thought out framework for moving forward on Delta issues at least in the near-term. The Delta Improvement Package, the first implementation steps approved by the CBDA, provides for additional resources to continue fishery restoration, innovative projects to

improve water quality, and improvements in Delta conveyance to increase flexibility and improve supply. Overtime, the CALFED Program provides the foundation to invest in much needed additional surface storage in California.

Despite this success, it is apparent that something is wrong. CALFED's press during the past year is almost universally bad. It enjoys very little support in either the legislature or the Congress. Until the recent change in management at CBDA, the relationship between CBDA and its constituent state and federal agencies was nearly dysfunctional. Among virtually all the stakeholder communities, the CBDA is treated with some level of suspicion and concern. To some degree, all of this reflects the fact that California water is, to put it mildly, resistant to orderly change. But beyond the historic animosities which will not likely go away in the near future, some clear missteps can be identified and remedied. For the most part, the collaboration among the state and federal agencies that began with the Accord remains in tact. However, a number of problems must be addressed to improve the effectiveness of the CBDA.

- 1) **CBDA Needs To Regain Its Focus.** Although CALFED arose from the enormous (and continuing) conflicts in the Delta, CBDA, in implementing an ambitious and far-reaching program, lost its focus. CBDA and the BDPAC have a staggering array of committees and subcommittees on everything from reservoirs and conveyance to conservation, recycling, watersheds, and Environmental Justice. In essence, while CALFED represented collaboration in the late 1990s to confront conflict in the Delta, CBDA since the ROD has evolved as a competitor to DWR to define a statewide water plan of its own. This was never intended and resulted in multi-billion dollar finance plans for far-reaching activities – most of which had little or no direct connection to CALFED's core task of resolving Delta conflicts. All of these other activities are, of course, important, but they can and should be planned for and implemented elsewhere. CBDA should narrow its scope and refocus on its primary mission of resolving short- and long-term conflicts in the Delta between the environment and the operation of the state's water supply system.
- 2) **CBDA Needs To Emphasize Progress Over Process.** As Governor Wilson put it in his testimony to the Commission, CALFED has substituted process for leadership. Rather than helping to facilitate joint priority setting among the agencies, the CBDA web of committees and subcommittees has become a process to avoid for agencies seeking timely implementation of their projects for which they are responsible. It is critical that the CBDA provide for public involvement and transparency, but not at the expense of timely decision making. CBDA should establish timelines that allow for timely public review through its committee structure but recognize that the responsible agencies will make implementation decisions that generally will not be unanimously supported.
- 3) **CBDA Needs To Develop Effective Project “Tracking” Capabilities.** In managing such a complex enterprise in which numerous linked projects and activities required coordination, it is essential that program managers have highly effective methods to track progress of all of these activities. In the case of the CBDA, tracking to assure

that various projects are advancing in a manner that benefits the key interests is at the heart of determinations of balance. However, CBDA currently has no meaningful ability to track such results, and therefore, has difficulty tracking both dollars and progress. While CBDA staff developed sophisticated tracking capabilities in the past, CBDA management, partly due to pressure from its constituent agencies, chose not to implement them. CBDA should immediately implement an effective tracking system in partnership with key state and federal agencies so that it can immediately respond to questions about progress (or lack thereof) and assist the CBDA Board in making decisions about balance.

- 4) **CBDA Needs To Play A Facilitation Role.** CBDA was designed to facilitate, not decide. Some argue that if the CBDA is an “Authority with no authority” over its constituent agencies, it has no real reason to exist. We respectfully disagree. The roles of facilitating decisions regarding joint priorities among the agencies and providing for transparency, sound science, balance, and the ability to track and better manage these joint priorities are extraordinarily important. However, as CBDA sought a more authoritative role, it became increasingly incapable of performing its primary functions. A facilitator who seeks to “trump” the decisions of the entities it is seeking to bring to agreement is doomed to failure. Under such circumstances, instead of seeking collaboration through CBDA, the agencies will inevitably seek to go around it. Unless CBDA respects the facilitation role given to it by the legislature, it will not be part of the solution and play the role necessary to reduce Delta conflicts.
  
- 5) **CBDA Can Not Become a Taxation Entity.** During the past year, it has become increasingly apparent that CBDA leadership believes they should be given the authority to impose general or “broad-based” water user fees to finance the program. No other single issue has done more to erode support for and confidence in the CALFED process. In recent years, several proposals surfaced that would provide the authority to impose such fees *irrespective of whether the parties paying the fees received a commensurate benefit*. Indeed, CBDA proposed that water users pay not only for water supply and water quality benefits that they rightfully should pay for under the beneficiaries pay principle, but that broad-based fees on water use should be used to finance the taxpayer share of CALFED projects as well a violation of the beneficiaries pay concept. Even if such arguments had merit (and we don’t believe that they do), such policy positions were sure to alienate elected Board members of public water agencies throughout the state. In essence, CBDA seemed to be on a path assuring a new era of subsidies except that the citizens of (urban) California would underwrite the subsidies through their water bills rather than tax bills. In the future, CBDA and the agencies must do a better job generating support for proposed financial tools demonstrating a nexus between benefits received and payments made by water users, whether for user fees for specific program activities, such as the Environmental Restoration Program (ERP) and Environmental Water Account (EWA), or for broader financial instruments like the proposed Water Resource Investment Fund. Wherever possible, Metropolitan urges CBDA to develop financial instruments through negotiated solutions in which water users agree to fund portions of Program activities, including the ERP and EWA, in exchange for implementation

of actions or policies that assure water supply and water quality benefits. Such contractual mechanisms have, in fact, been the financial linch-pin of the development of much of the state's (non-federal) water supply system. The State Water Project is financed solely through such voluntary contractual agreements. Similarly, environmental initiatives are frequently financed through negotiated agreements, such as NCCP and HCP agreements. More recently, CBDA has begun to rely on such negotiated approaches to finance core program activities. This approach has an excellent chance of succeeding precisely because payments are directly linked to benefits received, consistent with beneficiaries pay.

### **What Should Be Done to Put CALFED and CBDA “Back on Track”?**

Metropolitan believes that the CBDA and the overall CALFED program are essential to an environmentally and economically balanced future for the Bay-Delta watershed. We do not believe that any legislative changes are required, but rather that the Governor should seek to reform some of the management approaches of the CBDA. Accordingly, Metropolitan recommends several straightforward actions that the little Hoover Commission should consider in its report to the Governor:

- 1) **Focus:** CBDA must refocus on the original mission of CALFED – resolving conflicts in the Delta between the environment and the operation of the state's water supply system. Other activities, regardless of how important, should be left to other agencies.
- 2) **Quality Objectives:** CBDA should improve its management approach by quantifying its policy objectives, managing to achieve those quantified objectives in the most cost-effective manner possible, and establish monitoring and response approaches to assure it stays on track in accomplishing objectives.
- 3) **Accountability:** The governor should require that CBDA implement a highly effective tracking system for program activities and assure that the state agencies cooperate in its implementation and operation.
- 4) **Red Tape:** CBDA should streamline its staff and reduce the number of BDPAC committees and subcommittees. Defined comment periods should be established for public input on projects to assure that agency implementation decisions move forward in a timely manner.
- 5) **Authority:** CBDA should operate within the parameters established for it by the legislature. It should facilitate joint decision-making by the agencies and not seek implementation or approval authority of its own.
- 6) **Finance:** CBDA should not seek taxation authority and instead, to the maximum practical extent, should rely on collaborative approaches to finance program activities.

Mr. Chairman and Members of the Commission, this concludes my testimony and I would be glad to answer any questions.