



To promote the economic, social and environmental viability of Northern California by enhancing and preserving the water rights, supplies and water quality of our members.

THE NORTHERN CALIFORNIA PERSPECTIVE ON FINANCING THE CALFED PROGRAM

May 7, 2004

The Bay-Delta Authority (formerly CALFED) is undertaking an ambitious effort to develop a long-term finance plan for the CALFED Bay-Delta program (hereafter CALFED or Bay-Delta program). As these deliberations proceed, it is important that the Authority and other interested parties understand the role that Northern California watersheds of origin and parties upstream of the Bay-Delta have played in the development of the CALFED program and the efforts to solve problems focused in the Bay-Delta. Any failure by the Authority or the Legislature to recognize this important role and to impose taxes (or taxes characterized as fees) will not only face legal challenge, it will also destroy the positive efforts in the Sacramento Valley to integrate water supplies for the benefit of the Bay-Delta system.

We complimented the “Framework for Action” on the Capitol steps in June 2000, but we also expressed grave concerns with the insistence on a diversion tax that was thrust into the process in the final hour without full public discourse. We stated then, and we more strongly believe today, that “a diversion tax flies in the face of the local partnerships that are being developed and which will be the key to successful water management in the Sacramento Valley.” We believe that the “beneficiaries’ pays” concept requires the Authority to look at the broader context in which water is managed in the Sacramento Valley and to recognize the Sacramento Valley’s numerous contributions to the Bay-Delta.

To be clear, water use within the Sacramento Valley does not contribute, in any meaningful way, to the Bay-Delta problem, including those issues being addressed by the Authority. Because of its location upstream from the Bay-Delta, all water not consumptively used within the Sacramento Valley returns to the system for subsequent diversion by others or for Bay-Delta outflow. Moreover, most upstream water uses existed decades before the Bay-Delta actions caused the problems that the CALFED program has been designed to correct.

It is important to recall that CALFED was born in the Bay-Delta Accord in December 1994 and was largely motivated by gridlock in the Bay-Delta between export water supplies and ecosystem and water quality needs in the Delta. From the outset, CALFED articulated a “problem area” focused in the Bay-Delta and a “solution area” (including the Sacramento Valley) where programs, with the appropriate local support, might be implemented to help meet

the challenges in the problem area. Therefore, by definition, CALFED beneficiaries are those participants that directly benefit from improvements to the “problem area.” As part of the “solution area,” the Sacramento Valley has developed a pro-active program that will help resolve conflicts and improve the “problem area.”

The Sacramento Valley Has Contributed Valuable Assets To the Bay-Delta Program and the Problem Area

Since the formation of CALFED in 1994, Northern California has developed an integrated water management program (see www.norcalwater.org.) that has helped implement many of the CALFED program elements. Most notably, in developing this integrated program, we have offered to assist the Authority to implement a viable program in the Sacramento Valley by contributing the following:

- 1) We have forged partnerships for the protection and development of upstream habitat. Sacramento Valley interests, in partnership with state and federal agencies, have resolved many long-standing endangered species problems by constructing fish screens and siphons, removing fish passage impediments and by re-managing water supplies for various environmental and water quality benefits. In addition, several water users have forged partnerships with agencies to deliver water to wildlife refuges and to provide water for environmental water programs. Sacramento Valley interests seek additional partnerships as a means to enhance wildlife and fishery habitat. Cost sharing agreements have been effectively utilized to advance these partnerships.
- 2) Sacramento Valley interests over the past decade have developed an overall water management program to fully utilize our existing supplies for both present and future needs within the area of origin, but also to help meet urban, agricultural and environmental needs within the Bay-Delta and in other parts of the state. The heart of this regional program is the Sacramento Valley Water Management Program, which includes groundwater planning and management, system improvements and other water use efficiency measures and surface storage re-operation. This program has been fully integrated with the habitat improvements described above and contains a cost sharing agreement among the various partners, including state and federal agencies.
- 3) The Sacramento Valley Water Quality Coalition is undertaking an ambitious program to improve and enhance water quality in the Sacramento Valley. More than 200 agricultural and managed wetlands entities have joined with local governments throughout the region to develop and implement this program. The Coalition is forging partnerships with downstream urban water suppliers to improve and enhance water quality. To date, this program has been entirely funded by local contributions.
- 4) Sacramento Valley interests are willing to partner with state and federal agencies to develop upstream surface water storage. Not only are we willing to discuss the utilization of our facilities to wheel water for off-stream storage, but also to combine direct diversions of surface water and groundwater management to maximize the benefits that can be achieved through any upstream

storage project. Cost-sharing agreements will serve as an effective financing mechanism for these projects.

In sum, the Sacramento Valley has contributed to the Bay-Delta program in many ways. These contributions include water supplies (i.e., environmental water programs, water use efficiency and water transfers), a local financial contribution as part of numerous cost-sharing agreements (fish passage improvements and conjunctive management) and general support for the Authority and the Bay-Delta program where support would not otherwise exist.

The Sacramento Valley Is Not a Direct Beneficiary of the Program

We believe that direct beneficiaries should pay for reasonable costs associated with the benefits received from the CALFED Program. An Authority funding strategy that incorporates the “beneficiaries’ pays” concept and seeks to foster collaboration in the Central Valley should consider the following:

Broad-Based Revenues Should Continue to Support the Program

NCWA has actively supported Propositions 204, 13 and 50. These public funds should be utilized fully to advance the voters’ will in approving these bonds. It is important to note that the revenues to pay for these bonds, including the debt service, will come from the general fund and therefore be spread across the tax base for the entire state, including Northern California. Additionally, both Congress and the Legislature have properly directed general funds to support the CALFED program. We will continue to support such funding if these broader financial issues are appropriately addressed. To the extent that additional broad-based revenues are sought, we encourage the Authority to be forthright and characterize such broad-based public revenues as taxes (not fees) that meet the appropriate requirements under the California Constitution.

Cost-Share Agreements Are an Effective Funding Mechanism for CALFED

We believe that cost share agreements are the most effective way to finance certain projects or a package of projects to implement the CALFED program. As described above, these agreements have already been used effectively in the Sacramento Valley for fish passage and other habitat improvements, the Sacramento Valley Water Management Program and the Sacramento Valley Water Quality Coalition. Such agreements can be structured to offer potential participants a choice to participate based on sound economic, business and environmental stewardship principles. As a result, these agreements assure that direct beneficiaries pay for the project or package of projects.

Conclusion

Northern California has been willing to play a constructive role in implementing a successful CALFED program. Future partnership and cooperation between the Sacramento Valley and the Authority is possible, yet it must be based on a framework that does not redirect negative impacts, such as diversion fees or taxes to the Sacramento Valley. Instead, any fees or taxes must be assigned directly to the benefits received and not to those providing the benefits.

NCWA and Northern California interests have developed a relationship and partnerships with the Authority, many of its agencies and other parties that will benefit the Bay-Delta program. These partnerships have been developed and fostered on the premise that the water users and citizens in the watersheds of origin will help solve the problems in the Bay-Delta and will help contribute to the program's success. This cannot and will not happen, however, if the Authority or others look to these upstream areas to pay fees or other costs that are not related to benefits received from the Program.