

- **Board of Directors**
Water Planning, Quality and Resources Committee
Communications, Outreach and Legislation Committee

March 12, 2002 Board Meeting

9-6

Subject

Adopt policy principles for formation of a CALFED Bay-Delta Program long-term governance structure

Description

The Record of Decision for the CALFED Bay-Delta Program (Program) recognizes the need for federal and state legislation to create a long-term governance structure that will assure balanced implementation of this multi-faceted 30-year Program. A short-term governance structure, addressed in the CALFED Program Implementation Memorandum of Understanding, currently governs operation of the Program. The California Legislature will be considering legislation to establish a long-term governance mechanism beginning in 2002.

Metropolitan's Board considered draft policy principles for CALFED governance at its Nov. 2001 meeting. In December 2001, staff reviewed Board and member agency comments and discussed planned modifications to the principles with the Board. **Attachment 1** is a revised set of board principles based on the comments received. If adopted, these principles will guide Metropolitan's comments on state and federal legislation affecting the long-term governance structure.

A summary of changes from the draft policy principles reviewed by the Board at its Nov. 2001 meeting is as follows.

- A principle stating CALFED Bay-Delta Commission (Commission) objectives has been added.
- Commission membership and appointment has been clarified to indicate appointments by the Secretary of the Interior are in consultation with other federal agencies and the Governor.
- A principle has been added indicating the Commission should hold meetings throughout the areas dependent upon CALFED solutions, which encompasses the Central Valley watershed and Metropolitan's service area, on a rotating basis.
- A principle has been added to provide procedures for resolving deadlocked decisions at the Commission through elevation of the issue to the Secretary of the Interior and Governor.
- The stakeholder appointees' principle has been modified to indicate that Commission and Advisory Committee appointments recognize the relative fiscal burden of where revenues are raised throughout regions of the state.

Policy

The Board has adopted detailed principles related to the CALFED Bay-Delta Program, Board Letter 9-3, July 12, 1999.

California Environmental Quality Act (CEQA)

CEQA determination for Options #1 and #2:

The proposed action is not defined as a project under CEQA because the proposed action involves continuing administrative activities such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in

question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination for Options #1 and #2 is: Determine that the proposed action is not subject to the provisions of CEQA per Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #3:

None required.

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and the proposed policy principles for a CALFED Bay-Delta Program long-term governance structure.

Fiscal Impact: None

Option #2

Adopt the CEQA determination and the proposed policy principles with modifications.

Fiscal Impact: None

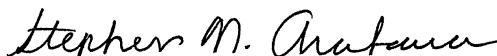
Option #3

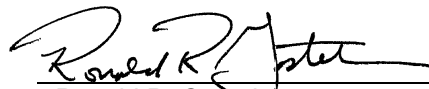
Do not adopt the proposed policy principles.

Fiscal Impact: None

Staff Recommendation

Option #1

 2/27/2002
Stephen N. Arakawa Date
Manager, Water Resource Management

 2/27/2002
Ronald R. Gastelum Date
Chief Executive Officer

Attachment 1 - Policy Principles for Formation of a Long-Term CALFED Governance Structure

Proposed Policy Principles for Formation of a Long-Term CALFED Governance Structure

Creation of a long-term CALFED governance structure, referred to as the CALFED Bay-Delta Commission (Commission) in the Record of Decision, should be supported consistent with the following principles:

1. Commission Objectives.
 - a. Assure effective, balanced, coordinated and timely implementation in all CALFED Bay-Delta Program areas.
 - b. Review and approval of program priorities and budget proposals, consistent with the Record of Decision.
 - c. Develop annual reports assessing progress toward CALFED Bay-Delta Program goals.
 - d. Provide coordination within CALFED and with related programs to: (i) maximize resources and reduce conflicts; (ii) resolve disputes among CALFED agencies; and (iii) maintain communications among the public, media, Congress and the California Legislature.
2. Commission Membership and Appointment. Recognizing the CALFED Bay-Delta Program is a unique effort in multi-jurisdictional resource management with funding from state, federal and local/stakeholder interests, the Commission should have an equal representation from these interests. State appointments should be made by the Governor of California in consultation with the Secretary of the Interior and with consent of the state Senate. Federal appointments should be made by the Secretary of the Interior in consultation with the Governor.
3. Commission Meetings. Commission meetings should rotate throughout the areas dependent upon CALFED solutions, which encompasses the Central Valley watershed and Metropolitan's service area, to provide broad Commission exposure to regional efforts, needs and input.
4. Dispute Resolution. The Governor and Secretary of the Interior should be authorized to resolve issues and disputes at the request of the Commission.
5. Conflict of Interest Provisions. Authorizing legislation should allow local governmental and other stakeholder appointees to the Commission to freely represent the interests of their constituency without it being deemed a conflict of interest insofar as no individual material interests are involved.
6. State and Federal Agency Appointees. Inclusion of state and federal executive agency decision-makers is critical to Program success and fostering the new culture of coordinated, balanced natural resources management. State and federal appointees to the Commission should be at the highest level possible for each agency. These appointees should have the authority to make decisions on behalf of the agency relative to the CALFED Bay-Delta Program.
7. Stakeholder Appointees. Because stakeholder participation in the Commission is both necessary and unprecedented, appointees to the Commission and the Public Advisory Committee advising the Commission should represent functional interests (water quality, ecosystem restoration, water supply reliability, etc.) of the CALFED Bay-Delta Program, provide for equitable geographic distribution of appointees and recognize relative regional fiscal burden for implementing the CALFED Bay-Delta Program. Specific stakeholder interests, including Southern California water quality and supply reliability interests, must be represented. Stakeholder representatives should not be limited to local governmental organizations but when such agencies are represented

those appointees should be policy-level representatives. This principle should also apply to appointees of the Bay Delta Public Advisory Commission.

8. Funding. Funding for the Commission must be both sufficient and stable so that CALFED's 30-year Program can be executed.
9. Commission Staff. The Commission staff shall include an executive director with authority to direct program implementation and a chief scientist with responsibility for scientific oversight and research on the CALFED Bay-Delta Program. The chief scientist and all coordinating staff must report to the executive director or a designated subordinate.
10. Program Management and Implementation. Most CALFED Bay-Delta Program areas have a single implementing agency responsible for a given program element. This is not the case for drinking water quality and ecosystem restoration programs that have multiple agency involvement in CALFED Bay-Delta Program development and implementation. Therefore, a discrete institutional mechanism within the Commission structure should be created to oversee the drinking water quality program and the Memorandum of Understanding regarding the Drinking Water Quality Program Management of the CALFED Bay-Delta Program, which is the steering mechanism for management of this Program element. Similarly, the Commission structure should provide for a discrete ecosystem program coordinating unit, dedicated to planning and overseeing execution of the ecosystem restoration program and coordinating the actions of all relevant resource agencies which affect the Bay-Delta system. Authority and responsibility for this function shall be consistent with the implementation structure for other CALFED Bay-Delta Program areas. The senior manager for the ecosystem unit shall report to the executive director in a manner similar to other program managers.
11. Reporting Requirements. Due to the unprecedented nature of creation of a state-federal commission with stakeholder representation, provisions requiring annual reports of the Commission's accomplishments to the Legislature and Congress should be included in the legislation.