

TO: Hap Dunning  
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Governance Work Group

FROM: Mike Madigan  
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DATE: December 10, 1999

RE: CALFED Bay-Delta Program Governance

Following the CALFED Policy Group discussion on November 17, 1999 regarding governance, we want to underscore a few matters for your consideration.

Before reaching conclusions about a specific governance structure, there must be agreement about essential functional characteristics of a governance structure. We think that there are at least three essential functional characteristics of a governance structure:

- All CALFED agencies must be represented in the governance structure and Governing Body, as now is the case with the Policy Group. The CALFED agencies must be represented on the Governing Body at the highest possible level of executive leadership. There must be the genuine attention of senior officials in order to succeed. In addition, it is essential that there be a binding agreement that requires all the CALFED agencies to comply with the adopted CALFED solution and bring concerns or issues to the Governing Body before unilaterally exercising independent authorities that would impact the CALFED program. This binding agreement should be enforceable in court by real parties of interest. In addition, the Governor and President through the Secretary of the Interior need to be directly represented on the Governing Body.
- Stakeholder participation must be institutionalized. This does not mean that there needs to be a continuing advisory body such as the Bay Delta Advisory Council. Rather, there needs to be an opportunity for self-initiated and self-identified stakeholder groups to be recognized by the Governing Body and to be consulted in an ongoing sincere fashion. In fact, it may be appropriate to discuss the concept of recognized

stakeholder groups nominating representatives into a candidate pool from which some public appointments are made. This approach does not need to preclude other public appointments to be made by specified officials.

- Participation by State Legislators and members of Congress from California should be institutionalized in the governance structure, perhaps even as ex officio (either voting or non-voting) in the Governing Body. Perhaps this could be the Chair and Vice Chair of the two standing committees in the State Assembly and Senate plus 2-4 members from the California Congressional Delegation (achieving bi-partisan and geographically diverse representation).

We recognize that these recommendations would need to be referred through review by legal counsel. However, we strongly encourage that your Work Group address these functional characteristics before finalizing recommendations about composition and size of a governance structure and Governing Body.

Thank you for your attention to these issues.

cc: BDAC  
Policy Group