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SENATE

{ REPORT
{ 108-268

CALFED BAY-DELTA AUTHORIZATION ACT

MAY 20, 2004.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1097]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1097) to authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Calfed Bay-Delta Authorization Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) CALFED BAY-DELTA PROGRAM.—The terms “Calfed Bay-Delta Program” and “Program” mean the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State agencies and Federal agencies as set forth in the Record of Decision and the California Bay-Delta Authority Act (Cal. Water Code § 79400 et seq.).

(2) CALIFORNIA BAY-DELTA AUTHORITY.—The terms “California Bay-Delta Authority” and “Authority” mean the California Bay-Delta Authority, as set forth in the California Bay-Delta Authority Act (Cal. Water Code § 79400 et seq.).

(3) ENVIRONMENTAL WATER ACCOUNT.—The term “Environmental Water Account” means the Cooperative Management Program established under the Record of Decision to provide water, in addition to the quantity of the regulatory baseline, to protect and restore Delta fisheries.

(4) FEDERAL AGENCIES.—The term “Federal agencies” means—

- (A) the Department of the Interior, including—
 - (i) the Bureau of Reclamation;
 - (ii) the United States Fish and Wildlife Service;
 - (iii) the Bureau of Land Management; and
 - (iv) the United States Geological Survey;
- (B) the Environmental Protection Agency;

- (C) the Army Corps of Engineers;
- (D) the Department of Commerce, including the National Marine Fisheries Service (also known as “NOAA Fisheries”);
- (E) the Department of Agriculture, including—
 - (i) the Natural Resources Conservation Service; and
 - (ii) the Forest Service; and
- (F) the Western Area Power Administration.
- (5) GOVERNOR.—The term “Governor” means the Governor of the State of California.
- (6) RECORD OF DECISION.—The term “Record of Decision” means the Calfed Bay-Delta Program Record of Decision, dated August 28, 2000.
- (7) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (8) STATE.—The term “State” means the State of California.
- (9) STATE AGENCIES.—The term “State agencies” means—
 - (A) the Resources Agency of California, including—
 - (i) the Department of Water Resources;
 - (ii) the Department of Fish and Game;
 - (iii) the Reclamation Board;
 - (iv) the Delta Protection Commission;
 - (v) the Department of Conservation;
 - (vi) the San Francisco Bay Conservation and Development Commission;
 - (vii) the Department of Parks and Recreation; and
 - (viii) the California Bay-Delta Authority;
 - (B) the California Environmental Protection Agency, including the State Water Resources Control Board;
 - (C) the California Department of Food and Agriculture; and
 - (D) the Department of Health Services.

SEC. 3. BAY DELTA PROGRAM.

(a) IN GENERAL.—

(1) RECORD OF DECISION AS FRAMEWORK.—The Record of Decision is approved as a framework for addressing the Calfed Bay-Delta Program, including its components relating to water storage, ecosystem restoration, water supply reliability, conveyance, water use efficiency, water quality, water transfers, watersheds, the Environmental Water Account, levee stability, governance, and science.

(2) REQUIREMENTS.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsection (b) subject to—

- (A) the constraints of the Record of Decision; and
- (B) the requirements that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage and conveyance), and protecting Delta levees will progress in a balanced manner.

(b) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in paragraphs (2) through (5) in furtherance of the Calfed Bay-Delta Program as set forth in the Record of Decision, subject to the cost-share and other provisions of this Act, if the activity has been—

- (A) subject to environmental review and approval, as required under applicable Federal and State law; and
- (B) approved and certified by the relevant Federal agency, following consultation and coordination with the California Bay-Delta Authority, to be consistent with the Record of Decision.

(2) AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER APPLICABLE LAW.—

(A) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in subparagraphs (A) through (J) of paragraph (3), to the extent authorized under the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(B) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency is authorized to carry out the activities described in subparagraphs (C), (E), (F), (G), (H), and (I) of paragraph (3), to the extent authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law.

(C) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in subparagraphs (A), (B), (F), (G), (H), and (I) of paragraph (3), to the extent authorized under flood control, water resource development, and other applicable law.

(D) SECRETARY OF COMMERCE.—The Secretary of Commerce is authorized to carry out the activities described in subparagraphs (B), (F), (G), and (I) of paragraph (3), to the extent authorized under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(E) SECRETARY OF AGRICULTURE.—The Secretary of Agriculture is authorized to carry out the activities described in subparagraphs (C), (E), (F), (G), (H), and (I) of paragraph (3), to the extent authorized under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(3) DESCRIPTION OF ACTIVITIES UNDER APPLICABLE LAW.—

(A) WATER STORAGE.—Activities under this subparagraph consist of—

(i) planning and feasibility studies for projects to be pursued with project-specific study for enlargement of—

(I) the Shasta Dam in Shasta County; and

(II) the Los Vaqueros Reservoir in Contra Costa County;

(ii) planning and feasibility studies for the following projects requiring further consideration—

(I) the Sites Reservoir in Colusa County; and

(II) the Upper San Joaquin River storage in Fresno and Madera Counties;

(iii) developing and implementing groundwater management and groundwater storage projects; and

(iv) comprehensive water management planning.

(B) CONVEYANCE.—

(i) SOUTH DELTA ACTIONS.—In the case of the South Delta, activities under this clause consist of—

(I) the South Delta Improvements Program through actions to—
(aa) increase the State Water Project export limit to 8,500 cfs;

(bb) install permanent, operable barriers in the south Delta;

(cc) design and construct fish screens and intake facilities at the Tracy Pumping Plant facilities; and

(dd) increase the State Water Project export to the maximum capability of 10,300 cfs;

(II) reduction of agricultural drainage in south Delta channels, and other actions necessary to minimize the impact of drainage on drinking water quality;

(III) design and construction of lower San Joaquin River floodway improvements;

(IV) installation and operation of temporary barriers in the south Delta until fully operable barriers are constructed;

(V) actions to protect navigation and local diversions not adequately protected by temporary barriers; and

(VI) actions identified in subclause (I) or other actions necessary to offset the degradation of drinking water quality or adverse impacts to fishery protection in the Delta due to the South Delta Improvements Program.

(ii) NORTH DELTA ACTIONS.—In the case of the North Delta, activities under this clause consist of—

(I) evaluation and implementation of improved operational procedures for the Delta Cross Channel to address fishery and water quality concerns;

(II) evaluation of a screened through-Delta facility on the Sacramento River; and

(III) design and construction of lower Mokelumne River floodway improvements.

(iii) INTERTIES.—Activities under this clause consist of—

(I) evaluation and construction of an intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal, near the City of Tracy; and

(II) assessment of a connection of the Central Valley Project to the Clifton Court Forebay of the State Water Project, with a corresponding increase in the screened intake of the Forebay.

(C) WATER USE EFFICIENCY.—Activities under this subparagraph consist of—

- (i) water conservation projects that provide water supply reliability, water quality, and ecosystem benefits to the Bay-Delta system;
- (ii) technical assistance for urban and agricultural water conservation projects;
- (iii) water recycling and desalination projects, including projects identified in the Bay Area Water Plan and the Southern California Comprehensive Water Reclamation and Reuse Study and other projects, giving priority to projects that include regional solutions to benefit regional water supply and reliability needs;
- (iv) water measurement and transfer actions; and
- (v) certification of implementation of best management practices for urban water conservation.

(D) WATER TRANSFERS.—Activities under this subparagraph consist of—

- (i) increasing the availability of existing facilities for water transfers;
- (ii) lowering transaction costs through permit streamlining; and
- (iii) maintaining a water transfer information clearinghouse.

(E) INTEGRATED REGIONAL WATER MANAGEMENT PLANS.—Activities under this subparagraph consist of assisting local and regional communities in the State in developing and implementing integrated regional water management plans to carry out projects and programs that improve water supply reliability, water quality, ecosystem restoration, and flood protection, or meet other local and regional needs, in a manner that is consistent with, and makes a significant contribution to, the Calfed Bay-Delta Program.

(F) ECOSYSTEM RESTORATION.—Activities under this subparagraph consist of—

- (i) implementation of large-scale restoration projects in San Francisco Bay and the Delta and its tributaries;
- (ii) restoration of habitat in the Delta, San Pablo Bay, and Suisun Bay and Marsh, including tidal wetland and riparian habitat;
- (iii) fish screen and fish passage improvement projects;
- (iv) implementation of an invasive species program, including prevention, control, and eradication;
- (v) development and integration of Federal and State agricultural programs that benefit wildlife into the Ecosystem Restoration Program;
- (vi) financial and technical support for locally-based collaborative programs to restore habitat while addressing the concerns of local communities;
- (vii) water quality improvement projects to reduce salinity, selenium, mercury, pesticides, trace metals, dissolved oxygen, turbidity, sediment, and other pollutants;
- (viii) land and water acquisitions to improve habitat and fish spawning and survival in the Delta and its tributaries;
- (ix) integrated flood management, ecosystem restoration, and levee protection projects;
- (x) scientific evaluations and targeted research on Program activities; and
- (xi) strategic planning and tracking of Program performance.

(G) WATERSHEDS.—Activities under this subparagraph consist of—

- (i) building local capacity to assess and manage watersheds affecting the Calfed Bay-Delta system;
- (ii) technical assistance for watershed assessments and management plans; and
- (iii) developing and implementing locally-based watershed conservation, maintenance, and restoration actions.

(H) WATER QUALITY.—Activities under this subparagraph consist of—

- (i) addressing drainage problems in the San Joaquin Valley to improve downstream water quality (including habitat restoration projects that reduce drainage and improve water quality) if—
 - (I) a plan is in place for monitoring downstream water quality improvements; and
 - (II) State and local agencies are consulted on the activities to be funded;

except that no right, benefit, or privilege is created as a result of this clause;

- (ii) implementation of source control programs in the Delta and its tributaries;

(iii) developing recommendations through scientific panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in Delta water quality for all uses;

(iv) investing in treatment technology demonstration projects;

(v) controlling runoff into the California aqueduct, the Delta-Mendota Canal, and other similar conveyances;

(vi) addressing water quality problems at the North Bay Aqueduct;

(vii) supporting and participating in the development of projects to enable San Francisco Bay Area water districts to work cooperatively to address their water quality and supply reliability issues, including—

(I) connections between aqueducts, water transfers, water conservation measures, institutional arrangements, and infrastructure improvements that encourage regional approaches; and

(II) investigations and studies of available capacity in a project to deliver water to the East Bay Municipal Utility District under its contract with the Bureau of Reclamation, dated July 20, 2001, in order to determine if such capacity can be utilized to meet the objectives of this clause;

(viii) development of water quality exchanges and other programs to make high quality water available for urban and other users; and

(ix) development and implementation of a plan to meet all water quality standards for which the Federal and State water projects have responsibility.

(I) SCIENCE.—Activities under this subparagraph consist of—

(i) establishing and maintaining an independent science board, technical panels, and standing boards to provide oversight and peer review of the Program;

(ii) conducting expert evaluations and scientific assessments of all Program elements;

(iii) coordinating existing monitoring and scientific research programs;

(iv) developing and implementing adaptive management experiments to test, refine, and improve scientific understandings;

(v) establishing performance measures, and monitoring and evaluating the performance of all Program elements; and

(vi) preparing an annual science report.

(J) DIVERSIFICATION OF WATER SUPPLIES.—Activities under this subparagraph consist of actions to—

(i) diversify sources of level 2 refuge supplies and modes of delivery to refuges; and

(ii) acquire additional water for level 4 refuge supplies.

(4) NEW AND EXPANDED AUTHORIZATIONS FOR FEDERAL AGENCIES.—

(A) IN GENERAL.—The heads of the Federal agencies described in this paragraph are authorized to carry out the activities described in paragraph (5) during each of fiscal years 2005 through 2010, in coordination with the Bay-Delta Authority.

(B) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in subparagraphs (A), (B), and (D) of paragraph (5).

(C) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE SECRETARIES OF AGRICULTURE AND COMMERCE.—The Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of Commerce are authorized to carry out the activities described in paragraph (5)(D).

(D) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in subparagraph (C) and (D) of paragraph (5).

(5) DESCRIPTION OF ACTIVITIES UNDER NEW AND EXPANDED AUTHORIZATIONS.—

(A) CONVEYANCE.—Of the amounts authorized to be appropriated under section 8, not more than \$184,000,000 may be expended for—

(i) feasibility studies, evaluation, and implementation of the San Luis Reservoir lowpoint improvement project, except that Federal participation in any expansion of the Pacheco Reservoir shall be subject to future congressional authorization;

(ii) feasibility studies and actions at Franks Tract to improve water quality in the Delta;

(iii) feasibility studies and design of fish screen and intake facilities at Clifton Court Forebay and the Tracy Pumping Plant facilities; and

(iv) feasibility studies to investigate the recirculation of export water to reduce salinity and improve dissolved oxygen in the San Joaquin River.

(B) ENVIRONMENTAL WATER ACCOUNT.—Of the amounts authorized to be appropriated under section 8, not more than \$90,000,000 may be expended for implementation of the Environmental Water Account.

(C) LEVEE STABILITY.—Of the amounts authorized to be appropriated under section 8, not more than \$90,000,000 may be expended for—

- (i) reconstructing Delta levees to a base level of protection;
- (ii) enhancing the stability of levees that have particular importance in the system through the Delta Levee Special Improvement Projects program;
- (iii) developing best management practices to control and reverse land subsidence on Delta islands;
- (iv) refining the Delta Emergency Plan;
- (v) developing a Delta Risk Management Strategy after assessing the consequences of Delta levee failure from floods, seepage, subsidence, and earthquakes;
- (vi) developing a strategy for reuse of dredged materials on Delta islands;
- (vii) evaluating, and where appropriate, rehabilitating the Suisun Marsh levees; and
- (viii) integrated flood management, ecosystem restoration, and levee protection projects, including design and construction of lower San Joaquin River and lower Mokelumne River floodway improvements and other projects under the Sacramento-San Joaquin Comprehensive Study.

(D) PROGRAM MANAGEMENT, OVERSIGHT, AND COORDINATION.—

(i) IN GENERAL.—Of the amounts authorized to be appropriated under section 8, not more than \$25,000,000 may be expended by the Secretary or the other heads of Federal agencies, either directly or through grants, contracts, or cooperative agreements with agencies of the State, for—

- (I) Program support;
- (II) Program-wide tracking of schedules, finances, and performance;
- (III) multiagency oversight and coordination of Program activities to ensure Program balance and integration;
- (IV) development of interagency cross-cut budgets and a comprehensive finance plan to allocate costs in accordance with the beneficiary pays provisions of the Record of Decision;
- (V) coordination of public outreach and involvement, including tribal, environmental justice, and public advisory activities in accordance with the Federal Advisory Committee Act (5 U.S.C. App.); and
- (VI) development of Annual Reports.

(ii) PROGRAM-WIDE ACTIVITIES.—Of the amount referred to in clause (i), not less than 50 percent of the appropriated amount shall be provided to the California Bay-Delta Authority to carry out Program-wide management, oversight, and coordination activities.

SEC. 4. MANAGEMENT.

(a) COORDINATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall coordinate their activities with the State agencies.

(b) PUBLIC PARTICIPATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall cooperate with local and tribal governments and the public through an advisory committee established in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and other appropriate means, to seek input on Program planning and implementation.

(c) SCIENCE.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall seek to ensure, to the maximum extent practicable, that—

- (1) all major aspects of implementing the Program are subjected to credible and objective scientific review; and
- (2) major decisions are based upon the best available scientific information.

(d) GOVERNANCE.—

(1) IN GENERAL.—In carrying out the Calfed Bay-Delta Program, the Secretary and the Federal agency heads are authorized to participate as nonvoting members of the California Bay-Delta Authority, as established in the California Bay-Delta Authority Act (Cal. Water Code § 79400 et seq.), to the extent con-

sistent with Federal law, for the full duration of the period the Authority continues to be authorized by State law.

(2) RELATIONSHIP TO FEDERAL LAW AND AGENCIES.—Nothing in this subsection shall preempt or otherwise affect any Federal law or limit the statutory authority of any Federal agency.

(3) CALIFORNIA BAY-DELTA AUTHORITY.—

(A) ADVISORY COMMITTEE.—The California Bay-Delta Authority shall not be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) FINANCIAL INTEREST.—The financial interests of the California Bay-Delta Authority shall not be imputed to any Federal official participating in the Authority.

(C) ETHICS REQUIREMENTS.—A Federal official participating in the California Bay-Delta Authority shall remain subject to Federal financial disclosure and conflict of interest laws and shall not be subject to State financial disclosure and conflict of interest laws.

(e) ENVIRONMENTAL JUSTICE.—The Federal agencies, consistent with Executive Order 12898 (59 Fed. Reg. 7629), should continue to collaborate with State agencies to—

(1) develop a comprehensive environmental justice workplan for the Calfed Bay-Delta Program; and

(2) fulfill the commitment to addressing environmental justice challenges referred to in the Calfed Bay-Delta Program Environmental Justice Workplan, dated December 13, 2000.

(f) LAND ACQUISITION.—Federal funds appropriated by Congress specifically for implementation of the Calfed Bay-Delta Program may be used to acquire fee title to land only where consistent with the Record of Decision.

SEC. 5. REPORTING REQUIREMENTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 15 of each year, the Secretary, in cooperation with the Governor and the California Bay-Delta Authority, shall submit to the appropriate authorizing and appropriating Committees of the Senate and the House of Representatives a report that—

(A) describes the status of implementation of all components of the Calfed Bay-Delta Program;

(B) sets forth any written determination resulting from the review required under subsection (b); and

(C) includes any revised schedule prepared under subsection (b).

(2) CONTENTS.—The report required under paragraph (1) shall describe—

(A) the progress of the Calfed Bay-Delta Program in meeting the implementation schedule for the Program in a manner consistent with the Record of Decision;

(B) the status of implementation of all components of the Program;

(C) expenditures in the past fiscal year for implementing the Program;

(D) accomplishments during the past fiscal year in achieving the objectives of additional and improved—

(i) water storage;

(ii) water quality;

(iii) water use efficiency;

(iv) ecosystem restoration;

(v) watershed management;

(vi) levee system integrity;

(vii) water transfers;

(viii) water conveyance; and

(ix) water supply reliability;

(E) Program goals, current schedules, and relevant financing agreements;

(F) progress on—

(i) storage projects;

(ii) conveyance improvements;

(iii) levee improvements;

(iv) water quality projects; and

(v) water use efficiency programs;

(G) completion of key projects and milestones identified in the Ecosystem Restoration Program;

(H) development and implementation of local programs for watershed conservation and restoration;

(I) progress in improving water supply reliability and implementing the Environmental Water Account;

(J) achievement of commitments under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and endangered species law of the State;

(K) implementation of a comprehensive science program;

(L) progress toward acquisition of the Federal and State permits (including permits under section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a))) for implementation of projects in all identified Program areas;

(M) progress in achieving benefits in all geographic regions covered by the Program;

(N) legislative action on the issues of—

- (i) water transfers;
- (ii) groundwater management;
- (iii) water use efficiency; and
- (iv) governance;

(O) the status of complementary actions;

(P) the status of mitigation measures; and

(Q) revisions to funding commitments and Program responsibilities.

(b) ANNUAL REVIEW OF PROGRESS AND BALANCE.—

(1) IN GENERAL.—Not later than November 15 of each year, the Secretary, in cooperation with the Governor and the Calfed Bay-Delta Authority, shall review progress in implementing the Calfed Bay-Delta Program based on—

(A) consistency with the Record of Decision; and

(B) balance in achieving the goals and objectives of the Calfed Bay-Delta Program.

(2) REVISED SCHEDULE.—If, at the conclusion of each such annual review or if a timely annual review is not undertaken, the Secretary, the Governor, or the Calfed Bay-Delta Authority determines in writing that either the Program implementation schedule has not been substantially adhered to, or that balanced progress in achieving the goals and objectives of the Program is not occurring, the Secretary, the Governor, and the Calfed Bay-Delta Authority, in coordination with the Bay-Delta Public Advisory Committee, shall prepare a revised schedule to achieve balanced progress in all Calfed Bay-Delta Program elements consistent with the intent of the Record of Decision.

(c) FEASIBILITY STUDIES.—Any feasibility studies completed as a result of this Act shall include identification of project benefits and a cost allocation plan consistent with the beneficiaries pay provisions of the Record of Decision.

SEC. 6. CROSSCUT BUDGET.

(a) IN GENERAL.—The budget of the President shall include requests for the appropriate level of funding for each of the Federal agencies to carry out the responsibilities of the Federal agency under the Calfed Bay-Delta Program.

(b) REQUESTS BY FEDERAL AGENCIES.—The funds shall be requested for the Federal agency with authority and programmatic responsibility for the obligation of the funds, in accordance with paragraphs (2) through (5) of section 3(b).

(c) REPORT.—At the time of submission of the budget of the President to Congress, the Director of the Office of Management and Budget, in coordination with the Authority, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report certified by the Secretary containing—

(1) an interagency budget crosscut report that—

(A) displays the budget proposed, including any interagency or intraagency transfer, for each of the Federal agencies to carry out the Calfed Bay-Delta Program for the upcoming fiscal year, separately showing funding requested under both pre-existing authorities and under the new authorities granted by this Act; and

(B) identifies all expenditures since 2000 by the Federal and State governments to achieve the objectives of the Calfed Bay-Delta Program;

(2) a detailed accounting of all funds received and obligated by all Federal agencies and State agencies responsible for implementing the Calfed Bay-Delta Program during the previous fiscal year;

(3) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the upcoming fiscal year with the Federal portion of funds for activities under section 3(b); and

(4) a listing of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds for activities under section 3(b).

SEC. 7. FEDERAL SHARE OF COSTS.

The Federal share of the cost of implementing the Calfed Bay-Delta Program for fiscal years 2005 through 2010 in the aggregate, as set forth in the Record of Decision, shall not exceed 33.3 percent.

SEC. 8. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Secretary and the heads of the Federal agencies to pay the Federal share of the cost of carrying out the new and expanded authorities described in paragraphs (4) and (5) of section 3(b) \$389,000,000 for the period of fiscal years 2005 through 2010, to remain available until expended.

PURPOSE

The purpose of S. 1097, as ordered reported, is to authorize the Secretary of the Interior, and other Federal agency heads, to implement the Calfed Bay-Delta Program during fiscal years 2005 through 2010.

BACKGROUND AND NEED

The Bay-Delta is the region east of San Francisco Bay, where the Sacramento and San Joaquin Rivers converge. It supplies drinking water to over two-thirds of the people of California and irrigation water for over 7 million acres of highly productive agricultural land. The Bay-Delta is the largest estuary on the west coast, and supports over 750 plant and animal species. It is also the hub of two massive water projects, the Central Valley Project (“CVP”), operated by the U.S. Bureau of Reclamation, and the State Water Project (“SWP”), operated by the California Department of Water Resources. These two projects divert some 20 to 70 percent of the natural flows in the region, depending on water conditions. The Bay-Delta also marks the boundary between northern California, where most of the State’s water supply originates, and southern California, where most of the population and consumptive demand exists. On average, in normal water years, over 5 million acre feet of water is exported south of the Delta by the two projects.

The Bay-Delta is in decline due to decades of competing demands for its limited water resources. The area has experienced serious problems relating to water quality and fish and wildlife, raising compliance issues under both the Clean Water Act and the Endangered Species Act. Water supply reliability for urban and agricultural users is a difficult and challenging issue that has significant ramifications for the economy of the State.

The State and Federal governments entered into a Coordinated Operation Agreement (“COA”) in 1986 in order to coordinate operations of the CVP and the SWP. The COA received Congressional approval in 1986 (Public Law 99–546). Subsequent to enactment of the Central Valley Project Improvement Act (Public Law 102–575, Title XXXIV) in 1992, and in large part as a result of issues related to water quality and fisheries impacts, State and Federal agencies signed an agreement in June 1994 to address these issues and to seek a long-term solution to the problems of the Bay-Delta.

In December 1994, State and Federal officials and representatives of agricultural, urban and environmental stakeholders signed what is known as the Bay-Delta Accord (“Principles for Agreement on Bay-Delta Standards between the State of California and the Federal Government”), which provided interim measures for ecosystem restoration and regulatory stability. The Calfed Program, a cooperative interagency effort, commenced in 1995, with agencies relying on existing statutory authorizations to undertake Program activities.

The stated mission of the Calfed Bay-Delta Program “is to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay-Delta” (“Calfed Bay-Delta Program Annual Report 2003”). Federal agency participants in the Calfed Bay-Delta Program are: the Department of the Interior (including the Bureau of Reclamation, the Fish and Wildlife Service, the Bureau of Land Management, and the U.S. Geological Survey); the Environmental Protection Agency; the Army Corps of Engineers; the Department of Commerce (including the National Marine Fisheries Service, also known as “NOAA Fisheries”); the Department of Agriculture (including the Natural Resources Conservation Service and the Forest Service); and the Western Area Power Administration. Participating State agencies are: the Resources Agency of California (including the Department of Water Resources, the Department of Fish and Game, the Reclamation Board, the Delta Protection Commission, the Department of Conservation, the San Francisco Bay Conservation and Development Commission, the Department of Parks and Recreation, and the California Bay-Delta Authority); the California Environmental Protection Agency (including the State Water Resources Control Board); the California Department of Food and Agriculture; and the Department of Health Services.

Stakeholders, including representatives of agricultural, urban, environmental, fishery, and business interests, and Indian tribes and rural counties, all participate in the collaborative effort. Input is provided through the California Bay-Delta Public Advisory Committee, established pursuant to the Federal Advisory Committee Act.

The California Bay-Delta Environmental Enhancement and Water Security Act (Division E, Title 1, Public Law 104–208; Title XI, Public Law 104–333) was enacted in late 1996. The legislation authorized a total of \$430 million for fiscal years 1998 through 2000 for the Federal share of the costs of developing and implementing certain ecosystem restoration measures relating to the Calfed effort. Funds were appropriated under this authority in the amounts of \$85 million in fiscal year 1998; \$75 million in fiscal year 1999; and \$60 million in fiscal year 2000. Subsequent to the expiration of this authority, no funds were appropriated for the Calfed Bay-Delta Program in fiscal year 2001. However, funds were appropriated for the Calfed Program under existing authorities in the amounts of \$30 million in fiscal year 2002; \$15 million in fiscal year 2003; and \$9 million in fiscal year 2004.

In order to develop a long-term program, Calfed undertook an extensive planning effort. This resulted in a June 1999 Draft Programmatic Environmental Impact Statement/Environmental Impact Report (“EIS/EIR”) and a July 2000 Final Programmatic EIS/EIR. The planning effort was based on a collaborative process, with active stakeholder participation. On June 9, 2000, a framework agreement entitled “California’s Water Future: A Framework for Action,” was released. On August 28, 2000, the Federal and State agencies released the Record of Decision (“ROD”), setting forth a programmatic, 30-year, long-term plan for the Bay-Delta.

The ROD selects a preferred program alternative for the Bay-Delta Program, setting forth the long-term, overall direction of the Program. The ROD provides that the Calfed Bay-Delta Program

continue as a Federal-State partnership in order to build a framework for managing water in California. According to the ROD, the objectives of the long-term program for restoration and management of the Bay-Delta estuary are four-fold: to restore the ecological health of a fragile and depleted Bay-Delta estuary; improve the water supply reliability for the State's farms and cities that draw water from the Delta and its tributaries, including 7 million acres of the world's most productive farmland; protect the drinking water quality of the 22 million Californians who rely on the Delta for their drinking water supplies; and protect the Delta levees that ensure the integrity of the Delta as a conveyance and ecosystem.

Under the ROD, the Program has the following components: water storage; ecosystem restoration; water supply reliability; conveyance; water use efficiency; water quality; water transfers; watersheds; Environmental Water Account; levee stability; governance; and science. The ROD describes the Calfed Bay-Delta Program as one of the most extensive ecosystem restoration efforts ever proposed, the most intensive water conservation effort ever attempted, the most far-reaching effort to improve drinking water quality for Californians, and the most significant investment in water storage and conveyance in California in decades.

In 2002, California enacted legislation (Cal. Water Code § 79400 et seq.) creating the California Bay-Delta Authority, an agency established to oversee implementation of the Calfed Bay-Delta Program. It is comprised of representatives of six State agencies, six Federal agencies, five members of the public, one representative of the Bay-Delta Public Advisory Committee, two at-large members appointed by the California Legislature, and four non-voting members of the Legislature. The Authority is intended to provide accountability, ensure balanced implementation, provide program monitoring and assessment, ensure the use of sound science, ensure public involvement and outreach, and coordinate and integrate existing and future government programs. Currently, Federal representatives attend the Authority meetings but do not vote. Authorization for the Authority sunsets on January 1, 2006, unless Federal legislation is passed authorizing Federal participation.

LEGISLATIVE HISTORY

S. 1097 was introduced by Senator Feinstein on May 21, 2003. Senator Boxer is an original co-sponsor. The Subcommittee on Water and Power held a hearing on S. 1097 on October 30, 2003. At its business meeting on April 28, 2004, the Committee ordered S. 1097 favorably reported with an amendment in the nature of a substitute.

A similar measure, S. 1768, was introduced by Senator Feinstein in the 107th Congress. The Committee favorably reported the measure, with an amendment in the nature of a substitute, on June 26, 2002, but the Senate took no further action on the measure.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on April 28, 2004, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1097, if amended as described herein.

COMMITTEE AMENDMENT

The amendment in the nature of a substitute makes the following changes to S. 1097 as introduced:

1. Authorizes the Calfed Bay-Delta Program for six years as opposed to three years;
2. Reduces the overall authorization from \$880 million to \$389 million;
3. Limits the Federal share to no more than 33.3 percent of cumulative Program costs from Fiscal Years 2005 through 2010;
4. Lists specific activities to be undertaken by the Secretary and other Federal agency heads to the extent authorized by existing law, subject to the provisions of this Act, environmental review and approval, and consistency with the ROD;
5. Provides new authority for the Secretary and other Federal agency heads to undertake additional specific activities, subject to the provisions of this Act, environmental review and approval, and consistency with the ROD, relating to conveyance, the Environmental Water Account, levee stability, and Program management, oversight, and coordination;
6. Authorizes the Federal agencies to participate as non-voting members of the California Bay-Delta Authority, as opposed to directing the Federal agencies to participate as voting members;
7. Adds a provision directing the Secretary, the Governor, and the Calfed Bay-Delta Authority to prepare a revised schedule to achieve balanced progress in implementing the Calfed Program if it is determined, in writing, that the Program is not proceeding in a balanced fashion;
8. Provides that Federal funds appropriated by Congress specifically for the Calfed Bay-Delta Program may be used to acquire fee title to lands only where consistent with the ROD which requires purchases from willing sellers only when neither public land nor partnerships are appropriate or cost effective for the specific need;
9. Deletes certain language relating to construction contracts;
10. Directs use of Advisory Committee established in accordance with the Federal Advisory Committee Act;
11. Streamlines reporting requirements; and
12. Makes technical and conforming changes.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title.

Section 2 defines terms used in the Act.

Section 3(a)(1) approves the August 28, 2000 CalFed Bay-Delta Program ROD as a “framework” for addressing the Program. The Committee notes that approving the ROD as a “framework” in no way codifies the ROD, but rather signals the Committee’s approval of the ROD as a roadmap for the Program. That is, the Committee is not providing blanket authorization of all the actions enumerated in the ROD. Instead, only those actions in the ROD that are authorized by this, or other law, may be undertaken by the Federal agencies. *Section 3(b)* of the bill addresses specific actions to be un-

dertaken during fiscal years 2005 through 2010. Pursuant to section 3(b)(1), these activities enumerated in section 3(b) can be undertaken as part of the Calfed Bay-Delta Program only if certified to be “consistent with” the ROD.

Subsection (a)(2) makes the actions of the Secretary and the heads of the Federal agencies subject to the “constraints” of the ROD. That term refers to the Implementation Commitments set forth on pages 32 through 35 of the ROD. These include commitments relating to stakeholder consultation, tribal consultation, land acquisition, adaptive management and science, beneficiaries pay, and compliance with California water rights laws. This subsection further makes the actions of the Secretary and the heads of the Federal agencies subject to the requirement that Program activities progress in a balanced manner.

Subsection (b)(1) authorizes the Secretary and the heads of the Federal agencies to carry out the activities described in the subsection subject to the provisions of the Act if the activity has been subject to environmental review and approval as required under applicable Federal and State law and has been approved and certified by the relevant Federal agency to be consistent with the ROD. In making this consistency determination, the relevant Federal agency shall consult and coordinate with the California Bay-Delta Authority.

Subsection 3(b)(2) authorizes the Secretary of the Interior and the other Federal agency heads to carry out activities as described to the extent authorized under applicable law. At the October 30, 2003 hearing on S. 1097 conducted by the Energy Committee’s Subcommittee on Water and Power, the Department of the Interior testified that the “Federal agencies have been able to rely on over fifty existing authorities (passed by Congress) that continue to enable Federal agency participation.” In support of this statement, the Department submitted for the record a detailed matrix of those existing authorities. See Appendix I. In enacting this legislation, the Committee expects that the Federal agencies will fully use these or any other authorities, in effect on the date of enactment or as they may be amended or enacted subsequent thereto, to carry out the activities identified in this legislation.

Subsection (b)(3) sets forth a description of activities under applicable law. The Committee recognizes that the activities listed in subsection (b)(3) are already authorized. Nevertheless, subsection (b)(3) specifies activities that the Committee expects will be undertaken by the Federal agencies under existing authorities (as they may be modified or amended) as part of the Calfed Bay-Delta Program during the period 2005 through 2010. This listing of activities is intended to reflect the balanced progress required of the Calfed Program. The inclusion of sections 3(b)(2) and 3(b)(3) is not intended to preempt or otherwise affect the existing authorities and ongoing responsibilities of the Federal agencies. The Committee understands that the activities to increase the State Water Project export to the maximum capability of 10,300 cfs, as set forth in subsection (b)(3)(B)(i)(I)(dd), are limited to technical assistance. (Further authority is needed for feasibility studies and construction.) Also, recycling and desalination activities identified in subsection (b)(3)(C)(iii) may be undertaken by the Administrator of the Environmental Protection Agency under the Clean Water Act and re-

lated existing authorities. In addition, to the extent authorized by Congress, the Secretary may carry out these recycling and desalination activities. The Committee anticipates that both the Secretary and the Administrator will work with local districts and make full use of their authorities to undertake recycling projects, giving priority to projects that include regional solutions to benefit regional water supply and reliability needs.

Subsection (b)(4) authorizes the heads of the Federal agencies to carry out during fiscal years 2005 through 2010 the activities described.

Subsection (b)(5) sets forth a description of the new and expanded authorizations for Federal agencies relating to conveyance, the Environmental Water Account, levee stability, and Program management, oversight, and coordination for fiscal years 2005 through 2010 and sets authorization limits under each of the listed areas.

Section 4 (a) requires the Federal agencies to coordinate with the State agencies in carrying out the Calfed Bay-Delta Program.

Subsection (b) requires the Federal agencies to cooperate with local and tribal governments and the public in carrying out the Program through an advisory committee.

Subsection (c) requires the Secretary to seek to ensure to the maximum extent practicable that all major aspects of implementing the Calfed Bay-Delta Program are subjected to credible and objective scientific review and that major decisions are based on the best available scientific information.

Subsection (d) authorizes the Secretary and the Federal agency heads to participate as non-voting members of the California Bay-Delta Authority. The Committee expects and encourages the Federal agencies to participate fully as non-voting members of the Authority by regularly attending meetings and working collaboratively with the State on matters coming before the Authority. Subsection (d) contains additional provisions that are self-explanatory.

Subsection (e) provides that the Federal and State agencies should continue to collaborate to develop a comprehensive environmental justice workplan for the Calfed Bay-Delta Program and fulfill the commitment to addressing environmental justice challenges referred to in the Calfed Bay-Delta Program Environmental Justice Workplan dated December 13, 2000.

Subsection (f) provides that Federal funds appropriated by Congress for implementation of the Calfed Bay-Delta Program may be used to acquire fee title to land only where consistent with the ROD. The ROD acknowledges that “[s]ome of the land needed for program implementation is already owned by the Federal or State government and that land will be used to achieve program goals.” The ROD also emphasizes the pursuit of partnerships with landowners, including easements with willing landowners, if public land is not available for the intended purpose. Consistent with the ROD, the Committee acknowledges that fee acquisitions will be made when neither public land nor partnerships are appropriate or cost effective for the specific need. The Committee recognizes with approval the current efforts of the Calfed Bay-Delta Program to acquire land from willing sellers only and to consider the potential third-party and redirected impacts.

Section 5(a) requires the Secretary, in cooperation with the Governor and the California Bay-Delta Authority, to submit a report by February 15 of each year to Congress describing the status of implementation of all components of the Calfed Bay-Delta Program. This annual report will also include any written determination that the Program is out of balance, along with a revised schedule to bring the Program into balance, as set forth in subsection (b).

Subsection (b) requires the Secretary, in cooperation with the Governor and the California Bay-Delta Authority, to review progress in implementing the Calfed Bay-Delta Program by November 15 of each year. This annual progress review shall be based on the consistency with the ROD and balance in achieving the goals and objectives of the Program. If it is determined in writing by the Secretary, the Governor, or the Authority that the Program implementation schedule has not been substantially adhered to or that the Program is out of balance, the Secretary, the Governor, and the Authority must prepare a revised schedule to ensure that the Program will proceed in a balanced manner. The intent of the provision is to help ensure that the Calfed Bay-Delta Program is carried out in accordance with the principles, linkages and commitments of the ROD.

Subsection (c) directs that any feasibility studies that are completed as a result of this Act, must identify project benefits and a cost allocation plan that is consistent with the beneficiaries pay provisions of the ROD. As noted in the ROD, a fundamental philosophy of the Calfed Program is that costs should, to the extent possible, be paid by the beneficiaries of the Program actions.

Section 6(a) requires the President's Budget to include requests for the appropriate level of funding for each of the Federal agencies to carry out its responsibilities under the Calfed Bay-Delta Program.

Subsection (b) requires the funds to be requested for the Federal agency with authority and programmatic responsibility for the obligation of the funds.

Subsection (c) directs that, at the time of submission of the President's Budget, the Director of the Office of Management and Budget is to submit to the Congress an interagency budget crosscut report that displays the budget proposed for each of the Federal agencies to carry out the Calfed Bay-Delta Program for the upcoming fiscal year under both the pre-existing authorities and the new and expanded authorities granted by this legislation. The report is to identify all expenditures since 2000 within the Federal and State governments used to achieve the objectives of the Calfed Bay-Delta Program and provide a detailed accounting of funds obligated by the Federal and State governments to implement the Program during the previous fiscal year. The Report must also include a list of proposed projects, to be undertaken in the next fiscal year with federal funds, along with a budget for such projects.

Section 7 provides that the cumulative Federal share of the cost of implementing the Calfed Bay-Delta Program for fiscal years 2005 through 2010, as set forth in the ROD, shall not exceed 33.3 percent. The intent of this legislation is to establish the overall Federal cost share for Calfed actions to be undertaken by Federal agencies in fiscal years 2005 through 2010. The cost-sharing provi-

sion provided by this Act establishes that the overall federal cost share shall not exceed 33.3 percent. The ROD recognizes that the exact share of costs for specific projects will vary depending on the specific activities undertaken, the program elements, and funding sources. The Committee notes that the specific cost-share arrangements will be developed through agreements and will be consistent with applicable federal law. This provides flexibility for implementation so long as the cumulative Federal funding for the Program does not exceed 33.3 percent of the overall cost of the Program in fiscal years 2005 through 2010.

Section 8 authorizes to be appropriated to the Secretary and the heads of the Federal agencies \$389,000,000 to pay the Federal share of the cost of carrying out the new and expanded authorities set forth in sections 3(b)(4) and 3(b)(5), for the period of fiscal years 2005 through 2010. The funds are to remain available without fiscal year limitation.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 5, 2004.

Hon. PETE V. DOMENICI,
*Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1097, the Calfed Bay-Delta Authorization act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

S. 1097—Calfed Bay-Delta Authorization Act

Summary: S. 1097 would authorize multiple federal agencies to participate in the implementation of the Calfed Bay-Delta Program as outlined in the August 28, 2000, Record of Decision for the Calfed Bay-Delta Program Programmatic Environmental Impact Statement and Report. This bill would authorize the appropriation of \$389 million over the 2005–2010 period specifically for the proposed environmental water account (\$90 million), stabilizing levees (\$90 million), evaluating and constructing water conveyance structures (\$184 million), and coordinating the federal portion of the Calfed Bay-Delta Program (\$2225 million). S. 1097 would authorize the Departments of the Interior, Agriculture, and Commerce, the Environmental Protection Agency, and the Army Corps of Engineers to participate in these projects. Under this bill, the federal share of the cost of these projects would be limited to 33.3 percent of the total cost for the 2005–2010 period as outlined in the Record of Decision.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1097 would cost about \$265 million over the 2005–2009 period and \$124 million after 2009. Enacting this bill would not affect direct spending or revenues. S. 1097 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1097 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION						
Calfed Bay-Delta Spending Under Current Law:						
Budget Authority	0	0	0	0	0	0
Estimated Outlays	17	23	20	2	0	0
Proposed Changes:						
Estimated Authorization Level	0	65	65	65	65	65
Estimated Outlays	0	29	46	55	68	67
Calfed Bay-Delta Spending Under S. 1097:						
Estimated Authorization Level	0	65	65	65	65	65
Estimated Outlays	17	52	66	57	68	67

Basis of estimate: For this estimate, CBO assumes that S. 1097 will be enacted near the end of fiscal year 2004 and that the necessary amounts will be appropriated in equal amounts over the 2005–2010 period. Since this bill limits the federal cost share to 33.3 percent of the total funding for the 2005–2010 period, CBO expects that spending on these projects will be slower than historical federal spending on similar projects. CBO estimates that implementing the projects outlined in this bill would cost about \$265 million over the 2005–2009 period and \$124 million after that period.

Intergovernmental and private-sector impact: S. 1097 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Julie Middleton; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Selena Caldera.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1097. The Act is not a regulatory measure in the sense of imposing government-established standards or significant responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 1097.

EXECUTIVE COMMUNICATIONS

On April 30, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget. These reports had not been received at the time the report on S. 1097 was filed. The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF BENNETT W. RALEY, ASSISTANT SECRETARY
FOR WATER AND SCIENCE, DEPARTMENT OF THE INTERIOR

INTRODUCTION

Madam Chairman, members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the proposed bill authorizing the Secretary of the Interior to implement the CALFED Bay-Delta Program. S.1097 provides authorization for the Secretary of the Interior and the heads of the participating Federal agencies to carry out implementation of the CALFED Bay-Delta Program as set forth in the Record of Decision. Furthermore, S.1097 would authorize funding, as well as governance and management authorities for a comprehensive, balanced, and timely water management program for California.

I would like to express my sincere appreciation to the Committee for your continued support and commitment to making significant progress with the CALFED Program. I also appreciate the concerns demonstrated by this Committee that progress be made and your efforts in developing the bill being considered here before us today. Your continued willingness to work with the administration and Department on this matter is of real and continuing importance to us. The current bill addresses many of the concerns raised in previous testimony, and we appreciate the approach the Senate is taking to authorize a clean CALFED bill. While we appreciate the effort and commitment that has gone into this bill, this testimony highlights several outstanding concerns that will need to be addressed for the administration to support this legislation.

OVERVIEW OF PROGRESS ON CALIFORNIA WATER ISSUES

Before addressing S.1097, I would like to briefly focus on several key California water issues and provide you with an overview of CALFED accomplishments to date. Virtually every Western state has issues of concern and controversy demanding our collective attention. The Department of the Interior has recently initiated Water 2025 which is a commitment to work with states, tribes, local governments, and the public, within existing resources, to address the realities of water supply challenges in the West. Water 2025 recognizes crisis management is not an effective solution for addressing long-term systemic water supply problems. This effort is intended to focus sustained attention on measures that local communities can be put in place to proactively anticipate and mitigate the water

conflicts we will otherwise inevitably experience, even in non-drought years. In some areas of the West, communities are already implementing water banks, voluntary transfers between existing users, and water conservation measures to address potential water supply crises in advance.

COLORADO RIVER WATER DELIVERY AGREEMENT

A prime example of crisis prevention is the recent conclusion of decades of controversy with the signing of the Colorado River Water Delivery Agreement. On October 16, 2003, Secretary Norton was joined at Hoover Dam by representatives of the seven Colorado River Basin States and the four California water agencies (Imperial Irrigation District, Coachella Valley Water District, the Metropolitan Water District of Southern California and the San Diego County Water Authority), to celebrate this historic agreement that allows for the largest “ag to urban” transfer in the West. This agreement, forged under the Secretary’s leadership resolves important issues that were of significant concern to many in the West and in Congress.

By executing this pact, California will keep its 1929 promise to limit its use of Colorado River water to 4.4 million acre-feet by adopting specific, incremental steps to gradually reduce its use over the next 14 years. This Agreement includes measures that provide water for San Diego and its other growing cities in the southern half of the state, which are dependent on additional water conservation within California’s farming communities. Under recently enacted state legislation, California will develop strategies to address the environmental concerns of the Salton Sea.

The California water management agencies have agreed among themselves as to how California’s 4.4 million acre-feet will be allocated within the state. Reaching this agreement benefits not only California, but also the seven states in the Colorado River Basin, allowing them to protect their authorized allocations and meet their future water needs. The key elements of the deal are:

1. Caps previously unquantified water entitlement of the Imperial Irrigation District (IID) and Coachella Valley Water District.
2. Provides for the conservation and transfer of up to 277,700 acre-feet from IID to the San Diego County Water Authority.
3. Resolves longstanding disputes over the beneficial use of Colorado River water.
4. Reinstates the availability of Colorado River surplus water for California and Nevada urban water users, providing for a 14 year gradual reduction to California’s allocated share of Colorado River water (a reduction from 5.2 to 4.4 million acre-feet).
5. Provides water and wheeling arrangements for settlement of the San Luis Rey River Indian Tribes.

This is a historic Agreement that settles longstanding disputes regarding the allocation of Colorado River water within California that have been in dispute since 1931. This Agreement provides several immediate and long-term benefits to the beneficiaries of the Colorado River, such as:

1. The fundamental principal of the Law of the Colorado River is upheld in this Agreement: Legal allocations to each state must be respected and enforced. In the past commentators and others within the Basin have suggested that transfers of additional water from the Upper Basin's allocation to California would be the best approach to resolve problems associated with California's overuse of the River. That approach would have been inconsistent with the basic structure and the allocations to each basin as provided in the Colorado River Compact of 1922. The Department does not believe that undermining the certainty of the allocations established over the past century would solve problems within the Basin; rather, such an approach would lead to a prolonged period of uncertainty and instability for all water users within the Basin. As a recent editorial in Utah stated: "By firming up the water-rights issue, California will have to adhere to its fair share of water from the Colorado River."

2. Through this Agreement, California has taken concrete steps to honor the commitment its legislature made in 1929 to live within an allocation of 4.4 MAF from the Colorado River. As a result, reinstatement of the Interim Surplus Guidelines, will once again allow California to have a grace period to reduce its use to 4.4 MAF. This will allow California to better plan and implement water conservation activities in a manner that avoids adverse impacts to its economy.

3. Reduction in water use by California directly reduces demand on water stored in Colorado River reservoirs—thereby reducing the risk of future shortages on the River. Arizona, with the most junior priority in the lower Basin, is particularly at risk of future shortages, and we are currently experiencing historic drought in the Basin.

4. This Agreement is a resounding endorsement of the role of the Basin States to collectively fashion new approaches to solve issues within the Basin. The success of this Agreement builds on the Seven Basin States' consensus plan that was ultimately adopted by the Department as the Interim Surplus Guidelines. Secretary Norton chose to live by, and enforce, the deadlines that were agreed to by all seven Basin States. This Agreement honors and respects the agreements and obligations among the states that were incorporated in the Interim Surplus Guidelines.

5. Lastly, bringing Southern California's water use into alignment with its allocation from the Colorado will also help reduce pressures on supplies from Northern California. As we saw earlier this year, the reduction in available Colorado River supplies to MWD lead to additional transfers from Northern California. The agreements

reached on quantification of agricultural allocations in the Colorado River Water Delivery Agreement will provide a framework for additional transfers in the future.

President Bush summarized these benefits in his statement of October 16: "this Agreement allows the Colorado River to meet emerging water needs and provides certainty for the people of the Basin States."

CALFED

The CALFED Bay-Delta Program is also an example of crisis prevention. The CALFED Program is a response to the water management and ecosystem problems that came so clearly into focus in the drought of 1987 to 1992 experienced within the Bay-Delta system. Furthermore, the historic and ongoing conflicts between water management for supply and fishery protection have given rise to the urgency of the CALFED Program. For more than 7 years the collaborative State-Federal CALFED Program has been searching for the equilibrium among the Delta's complex problems and stakeholders with divergent interests.

Since Secretary Norton last appeared before the Senate Energy and Natural Resources Committee in July 2001 on the CALFED Program, much has been achieved in California water issues through the implementation of the CALFED Bay-Delta Program. I have attached to my statement a description of the accomplishments the program has achieved in years one through three. A collective investment of approximately \$1.925 billion has been made in years one through three from numerous Federal, state and local funding sources which has attributed to a vast array of project accomplishments in the program areas of water supply reliability, drinking water quality, levees, ecosystem restoration, watershed, science and oversight and coordination. Of the \$1.925 billion, \$1,204 million was state funding, \$491 million was local funding and \$230 million was Federal funding. The Federal investment for all directly related and overlapping programs and projects that contribute to achieving the CALFED ROD objectives within and overlapping the geographic solution area is a total of \$600 million.

RECENT CALFED DEVELOPMENTS

State Established California Bay-Delta Authority

The California Bay-Delta Authority (CBDA) was established by State legislation enacted in 2002 to provide a permanent State governance structure for the collaborative State-Federal effort that began in 1994. Pursuant to that legislation which was effective January 1, 2003, the CBDA formally assumed responsibility for overseeing State implementation of the CALFED Bay-Delta Program. The legislation calls for the CBDA to sunset on January 1, 2006, unless Federal legislation has been enacted authorizing the participation of appropriate Federal agencies in the CBDA. Currently Federal agencies are participating with the

CBDA and have engaged with their State CALFED partner agencies in the first two meetings.

Interior and other Federal agencies involved with CALFED are discussing among themselves and with CBDA how our interaction with this new entity will evolve. As this is a unique intergovernmental arrangement, there are no prototypes to examine and from which to learn. We are proceeding cautiously in our examination of the many legal and institutional issues that have been identified.

Renewed Agreements

The California Bay-Delta Public Advisory Committee Charter was renewed in August under the Federal Advisory Committee Act. The renewal of the Charter allows the Committee to continue to provide recommendations to the Secretary of the Interior, the Governor of California, and the 24 Federal and State CALFED cooperating agencies on Program implementation of the CALFED Bay-Delta Program. Our participation under the MOU has advanced the Program's implementation through the coordinated planning, scheduling, and budgeting for programs and projects.

Establishment of D.C. Level Federal-Agency Coordination Working Group

The Department of the Interior as the lead Federal Agency for CALFED Program implementation has established a Washington-Level Working Group consisting of a representative liaison from each of the 11 Federal participating agencies. This group will meet on a regular basis to facilitate coordinated support at the Washington level for each of the participating agencies. The group will focus on providing the higher level support and coordination needed by the 11 Federal agencies for Program implementation.

Napa Proposition

The Napa Proposition is a process to develop feasible plans to implement key actions contained in the CALFED ROD. The primary objective of the initial Napa discussions was to develop a proposal for the integration of the State Water Project (SWP) and the Federal Central Valley Project (CVP) in a manner that is consistent with the spirit and intent of the CALFED ROD. The proposition was developed during meetings that were a continuation of an ongoing relationship between the project agencies and their contractors to ensure better coordination of the day-to-day operations of both projects.

The proposition is expected to increase moderately supplies for both projects. By better managing risk, it will allow higher allocations earlier in the year, increasing certainty for both CVP and SWP contractors. Most importantly, the proposition sets the stage for implementation of key CALFED programs, including increasing pumping capacity at the SWP Banks Pumping Plant to 8,500 cfs and continuation of the Environmental Water Account. It also

recognizes the fundamental CALFED objective of improving Delta water quality.

I would emphasize that the Napa Proposition is only a recommendation at this time and that no final decisions have been made. This recommendation will be considered through a more formal decision-making process described in the CALFED ROD, including various stakeholders and public review activities.

Integration of Water Planning—CA Water Plan Update, Water 2025 and Bay-Delta Program

The State has just issued a Draft Update of the California Water Plan which proposes a set of water resource actions to meet future water needs. One central theme that is consistent across the Water Plan, Water 2025, and the Bay-Delta Program is the need to pursue regional and local water development as a critical element to help determine priorities and demand. All three programs call for coordinated and integrated planning for determining future projects, approaches, or strategies for addressing future water needs. With respect to Water 2025, Secretary Norton has stated that the CALFED Program is a perfect example of how agencies and stakeholders can effectively work together towards a common goal.

Re-evaluation of Program Budgets & Targets

Since the signing of the Bay-Delta Programmatic ROD in 2000, financial conditions have changed, and the implementing Federal and State agencies, as well as Bay-Delta Public Advisory Committee and the CBDA, have concluded that it is time to reassess and develop a strategic plan for the near-term implementation of the Program. The CBDA recently directed its staff to reassess the Program which will include a review of the targets and budgets necessary to meet Program goals specified in the ROD. The reassessment will make recommendations on replacing original monetary targets with performance-oriented targets as they are developed. Careful consideration will also be given to Program implementation that can be fully funded in the current fiscal climate; program implementation must be firmly based upon realistic expectations regarding actual appropriations. Failure to develop affordable CALFED Program components may jeopardize the progress of a balanced CALFED Program.

A CALFED Finance Plan is being developed to enable the Program to continue implementation in a balanced manner. The Draft Finance Options Report will develop finance options for each of the CALFED Program elements based on an evaluation of benefits, beneficiaries, and costs. A Final Finance Options Report will propose a final set of finance options, including the institutional structure to implement a finance plan. An Independent Review Panel (8 nationally recognized experts) has been established to review and comment on each of these reports.

Let me now turn to the legislation before us. In order to support the Federal component of the reevaluated Program, it is important that appropriate legislation be enacted to authorize Federal Government participation.

FEINSTEIN LEGISLATION

This legislation represents a comprehensive approach to water issues in California. The bill proposes the commitments made in the 2000 Record of Decision as the road map for implementation of the CALFED Bay-Delta Program and respects past agreements Californians have made by representing compromise language negotiated at great length.

In general, however, the bill addresses a larger authorization package than may be required by the 11 Federal agencies to implement and participate in the Record of Decision actions. Our Federal agencies have been able to rely on over fifty existing authorities (passed by Congress) that continue to enable Federal agency participation. We are submitting for the record a detailed matrix of those existing authorities. The key areas in which additional authorization is necessary are as follows:

Environmental Water Account (EWA)—While the bill provides authority and participation for EWA program activities for the period years 4–7, we believe that the bill should authorize implementation of a long-term EWA in a fashion that supports the vision and flexibility envisioned in the ROD. The establishment and successful operation of a long-term EWA will be one of the most significant accomplishments of CALFED in reducing the conflicts between fisheries and water project operators.

Levee Stability Program—The goal of the *Levee System Integrity Program* is to provide long-term protection for multiple Delta resources by maintaining and improving the integrity of the extensive Delta levees system. Authorization for feasibility study for risk assessment strategy, Delta Emergency management plan, dredged material reuse on Delta Islands, and best management practices to control and reverse land subsidence is needed as noted in the ROD.

Implement Conveyance Program Elements—Authorization is needed for feasibility studies for the increased pumping to 10,300 cfs at H.O. Banks Pumping Plant, fish screen and intake at Clifton Court, and San Luis Reservoir Low Point Project.

Ecosystem Restoration Program Financial Assistance—Authorization is needed to carry out the Ecosystem Restoration Program activities through the use of grants and cooperative agreements with non-Federal entities.

Cross-Cut Appropriation—Finally, Interior supports the concept of a cross-cut appropriation as delineated in the proposed bill which we believe will reduce inefficiencies and further improve Federal agency participation and recognition of implementation requirements. A cross-cut appropriation would more accurately reflect the contributions

of the participating Federal agencies and lessen the risk to other Reclamation funded programs and projects in the Western states.

Additional Concerns—The Administration has several specific concerns with the proposed legislation.

2. As mentioned, appropriations are unlikely to approach the \$880 million envisioned for Stage 1. Balanced progress in the program can only be achieved with a realistic expectation of CALFED appropriations.

4. Section 3 (C, iii): While the Administration supports improvements in Water Use Efficiency, this section references two studies that the Administration has not yet cleared. We cannot support legislation that codifies any studies that have not finished Administration review. Similarly, §3 (C, iii, II) directs the Secretary to review any seawater desalination and regional brine line feasibility studies, regardless of the lack of prior Department involvement in those studies. Such studies are generally not conducted with the best interests of the taxpayer in mind, and should under no circumstances be adopted by either the Administration or Congress without being subjected to the same scrutiny that applies to federally-sponsored studies.

6. The legislation presumes authorization of storage projects that are only now in the early phases of feasibility studies; if those projects are not pursued beyond the feasibility study stage, for whatever reason, it could indicate that CALFED implementation is out of balance; however, the legislation offers no alternate path for getting implementation back in balance. CALFED should identify alternate paths for achieving the outcomes of the storage component (as well as other components) of the program.

8. The Administration is concerned that the bill gives blanket authorization to projects that have not undergone the normal process of Executive Branch review. Completing this review process for all federal projects is crucial to ensure that the projects are in the national interest and appropriately address the problems facing the Bay Delta.

10. Section 5(e) and Section 6(a) duplicate one another to a large extent; reporting requirements could be integrated and streamlined by requiring a single budget cross-cut.

12. Section 6(a): There are Constitutional concerns regarding this section; Congress cannot direct what the President includes in his budget requests. The Department of Justice has provided alternate language that we plan to share with the Committee.

CONCLUSION

The CALFED Program is truly at a critical juncture. After years of planning, the Program is now moving into the strategic implementation of key program and project activities. This forward momentum has been invigorated recently by the resolution of California's use of Colorado River water, the Napa Proposition's recommendations on coordinated operations of the CVP and SWP, and the im-

plementing CALFED agencies' commitments to re-evaluate the CALFED Program. I strongly believe that re-evaluation of the Program with a focus on developing affordable component actions that create a durable and balanced solution to continuous improvement in water supply, water quality and the environment will best serve the interests of all Californians. These objectives are within our reach.

The Administration is encouraged by the accomplishments to date under the CALFED Program. Your support of the CALFED Program through enactment of pertinent authorizing legislation and associated funding for the participating Federal agencies is fundamental to continuing Federal implementation efforts under the Program. Through Federal, State, and public collaborative implementing efforts, progress has been made in improving water supply reliability and the ecological health of the Bay-Delta Estuary. By working together, we are putting programs into action that I believe will lead to the realization of the long term benefits and expectations of the CALFED Program.

This concludes my testimony. Madam Chairman, I would like to reiterate my appreciation to the Subcommittee and others for continuing to work with the Administration to address the significant water issues facing California. I would be happy to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1097 as ordered reported.

APPENDIX

CALFED BAY-DELTA PROGRAM

[Federal Authorities for ROD & Related Activities, October 16, 2003]

Program element	Program lead agency/project agency	Existing Federal authorization regarding CALFED ROD activities	Needed Federal authorization	Comments*
Storage				
Shasta Enlargement	USBR	P.L. 96-375 § 2		(1) Feasibility authorized. (2) Feasibility investigation underway. (3) Implementing through direct Federal contracts.
Los Vaqueros Enlargement	USBR	§ 215, Title II, Division D of P.L. 108-7		(1) Feasibility authorized. (2) Feasibility investigation underway. (3) Implementing through direct Federal contracts and cooperative agreements w/CCWD.
Sites Reservoir	USBR	§ 215, Title II, Division D of P.L. 108-7		(1) Feasibility authorized. (2) Feasibility investigation underway. (3) Implementing through direct Federal contracts.
Upper San Joaquin Storage	USBR	§ 215, Title II, Division D of P.L. 108-7		(1) Feasibility authorized. (2) Feasibility investigation underway. (3) Implementing through direct Federal contracts.
In-Delta Storage	USBR	Reclamation Act of 1902—tech assistance	Feasibility Investigation Authority.	(1) Require feasibility investigation authority to progress beyond technical assistance activities. (2) Performing appraisal level studies through existing authority. (3) Feasibility investigation would be through direct Federal contract.
Groundwater Management & Storage	USBR	Reclamation Act of 1902—tech assistance	Block Grant Authority	(1) Require block grant authority to pass-through funding to a state competitive grant program. (3) Implementing through block grant program.
Comprehensive Water Management Planning.	USBR	PL 102-575 § 3408(f)		(1) Authorized to perform general planning investigations. (2) e.g., Integrated Resource Planning (IRP) Investigations. (3) Implementing through direct Federal contracts.
Farmington Groundwater Recharge Seasonal Habitat Program.	USACE	WRDA 1992, §219, as amended by WRDA 1999, §502 Environmental Infrastructure.		(1) Project directed by Congress.
In-Delta Storage and Reservoir Storage	USACE	Senate Resolution, 1 June 1948, within the Delta, (Sacramento-San Joaquin Delta, Special Study) and FC Act 1962, HR 8 May 1964, outside the Delta, (Sacramento-San Joaquin Comprehensive Study).		(1) Feasibility authorized: Feasibility Studies for individual projects submitted to Congress for Authorization. Non-Federal sponsor(s) required.
Conveyance	USBR			

South Delta Actions									
8,500 CFS Capacity at HO Banks	USBR	P.L. 102-575 § 3408(i), P.L. 99-546, Reclamation Project Act of 1939, NEPA						(1) Authorized to plan and implement. (3) Implementing through direct Federal contracts/labor.	
Temporary Barriers	None							(1) No Federal agency project implementation role for this effort.	
Permanent Barriers	USBR	Reclamation Act of 1902—tech assistance, PL 102-575 § 3406(b)(15).						(1) Authorized to plan, design and construct 3 of the four barriers: Middle River, Old River and Head of Old River. (3) Implementing planning/design through direct Federal contracts/labor and will cost share with State for construction.	
10,300 CFS Capacity at HO Banks	USBR	P.L. 102-575 § 3408(i), P.L. 99-546, NEPA					Feasibility Investigation Authority.	(1) Require feasibility investigation authority to progress beyond technical assistance activities. (2) Performing appraisal level studies through existing authority. (3) Feasibility investigation would be through direct Federal contract.	
Tracy Fish Screen	USBR	P.L. 102-575 § 3406(b)(4)						(1) Authority exists to conduct feasibility studies and design and construct facility. (2) N/A. (3) Implementing through direct Federal contracts.	
Protection of Navigation and Local Diversion During Temporary Barriers.	USACE	River and Harbors Act of 1946						Ports of Stockton and Sacramento will monitor and keep USACE apprised of impacts and benefits to ensure navigation interests are not impacted.	
Lower SJR Floodway Improvements	USACE	FC Act 1962, HR 8 May 1964						(1) Feasibility authorized; Potential Environmental Restoration Feasibility Study. Non-Federal sponsor required.	
Fish Screen/Intake at Clifton Court	USBR	Reclamation Act of 1992—tech assistance						(1) Require feasibility investigation authority to progress beyond technical assistance activities. (3) Feasibility investigation would be through direct Federal contract.	
North Delta Actions									
Delta Cross Channel Operations	USBR	P.L. 102-575 §§ 3406(b)(14), (b)(21), § 3406(g).						(1) Authorized for general planning, studies and reoperations currently in progress. (3) Studies through direct Federal contracts/labor, interagency agreements and grants.	
Sacramento-San Joaquin Delta, North Delta Improvement Study.	USACE	Senate Resolution, 1 June 1948						(1) Feasibility authorized; Currently amending existing FCSA for FC and Environmental Restoration Feasibility Study (Sacramento-San Joaquin Delta, Special Study) with Reclamation Board and DWR.	
Lower Mokelumne R. Floodway Improvements (San Joaquin River Basin, Cosumnes and Mokelumne Rivers).	USACE	FC Act 1962, HR 8 May 1964						(1) Feasibility authorized; Potential Environmental Restoration Feasibility Study. Non-Federal sponsor required.	
Through Delta Facility Evaluation	USBR	Reclamation Act of 1902—tech assistance						(1) Authorized to undertake general planning investigations.	

CALFED BAY-DELTA PROGRAM—Continued
 [Federal Authorities for ROD & Related Activities, October 16, 2003]

Program element	Program lead agency/project agency	Existing Federal authorization regarding CALFED ROD activities	Needed Federal authorization	Comments*
Interties				
DMC/CA Aqueduct Intertie at West of the City of Tracy.	USBR	Reclamation Act of 1902, Emergency Relief Appropriations Act of 1935, First Deficiency Appropriations Act of 1936, and Reclamation Act of 1937, Rivers and Harbors Act of 1940.	.....	(1) Feasibility, design and construction authorized as part of the CVP. (3) Implementing through direct Federal contracts/labor.
CVP/SWP Intertie at Forebay	USBR	Reclamation Act of 1902, Emergency Relief Appropriations Act of 1935, First Deficiency Appropriations Act of 1936, and Reclamation Act of 1937, Rivers and Harbors Act of 1940.	.....	(1) Feasibility, design and construction authorized as part of the CVP. (3) Implementing through direct Federal contracts/labor.
San Luis Reservoir Low Point Project	USBR	Reclamation Act of 1902—tech assistance	Feasibility Investigation Authority.	(1) Require feasibility investigation authority to progress beyond technical assistance activities. (2) Performing appraisal level studies through existing authority. (3) Feasibility investigation would be through direct Federal contract.
Water Use Efficiency	USBR			
Water Conservation Projects	USBR	P.L. 102-575 § 3405(e), § 3408(a), RRA	Authorization as indicated under Comments, Item (1).	(1) Require authorization to enter into grants for Age and Urban Water Conservation Projects for educational purposes and projects that go beyond demonstration and pilot level efforts. Also, require authorization to enter into grants for Ag and Urban Water Conservation Projects for any purposes with non-CVP contractors. (3) Implementing through grants.
	NRCS	Title II of the Farm Security and Rural Investment Act of 2002 § 2301 Environmental Quality Incentives Program (EQIP).	.....	(1) Authorized to enter into competitive grants and provide technical assistance. (2) E.g., Central Fresno project, Lower Colorado River Desert Region project, Gooselake Drainage project. (3) Competitive grants for on-farm conservation activities.
	USEPA	Clean Water Act 104b3 .....	.....	(1) Research, investigation, demonstrations, training. (3) Limited to grants for pollution projects that are demonstration projects.

Technical Assistance (including Science, Monitoring, Oversight & Coordination).	USBR	P.L. 102-575 § 3405(e), § 3408(a), RRA	Authorization to Provide Technical Assistance to Non-CVP Contractors.	(1) Currently authorized to enter into contracts for direct benefit of Reclamation mission. Require authorization to provide technical assistance to other entities including Non-CVP Contractors. (3) Implementing through direct Federal contracts/labor.
Water Recycling & Desalination Projects ..	USBR	P.L. 102-575, Title XVI	Authorization by Project	(1) Authorization has typically been provided by project for feasibility and construction. (2) E.g., San Jose Area Water Reclamation & Reuse Program, San Gabriel Basin Project, San Diego Area Reclamation, N San Diego Recycling Project, Calleguas Municipal Water District Recycling Project, Orange County Regional Water Reclamation Project, Long Beach Area Recycling Project. (3) Implement through Cooperative agreements.
	USEPA	Clean Water Act 601		(1) State Revolving Loan Program. (2) Publicly Owned Treatment Works (POTW) construction; estuary protection plan; and non-point source projects. (3) Funds must go to state to make loans.
Water Measurement/Transfer Incentive Actions.	USBR	P.L. 102-575 § 3405(e), § 3408(a), RRA		(1) Authorized as these activities relate to ways to improve our water conservation criteria under 3405(e). (3) Implement through direct Federal contracts/labor.
Certification & Implementation of BMPs for Urban Water Conservation.	USBR	P.L. 102-575 § 3405(e), § 3408(a), RRA		(1) Authorized as certification efforts are linked to Reclamation evaluation and approval process for Urban CVP Contractors. (3) Implement through direct Federal contracts/labor.
CYPIA, financial and technical assistance for managed wetlands.	USFWS	P.L. 102-575 § 3406(d)	Require authority to provide grants through CALFED.	(1) Require authority to provide grants through CALFED. (2) E.g., Water efficiency/conservation planning documents for refugees (accounting for water usage). (3) Implementation is through Federal labor/coordination.
Water Transfers ..	USBR	Warren Act		(1) Implementing program efforts through existing authorities.
Increase the availability of existing facilities for water transfers.	USBR			(3) Implementing through direct Federal contracts/labor.
Lower transaction costs through permit streamlining.	USBR	P.L. 102-575 § 3405(a)		(1) Implementing program efforts through existing authorities.
Maintain a water transfer information clearinghouse.	USBR	P.L. 102-575 § 3405(a)		(3) Implementing through direct Federal contracts/labor.
Environmental Water Account ..	USBR, USFWS, NOAA			(1) Clearinghouse has been established and is operating. (2) E.g., On-Tap Website. (3) Implementing through direct Federal contracts/labor.

CALFED BAY-DELTA PROGRAM—Continued

[Federal Authorities for ROD & Related Activities, October 16, 2003]

Program element	Program lead agency/project agency	Existing Federal authorization regarding CALFED ROD activities	Needed Federal authorization	Comments*
Water/Power/Wheeling and Operations	USBR	Reclamation Act of 1937, P.L. 102-575 § 3406(b)(93), ESA, P.L. 81-356.	See comments	(1) Beyond actions that tie to Federal benefits, programmatic authority is needed to implement the program with the flexibility and vision of the CALFED ROD. (3) Implementing through Direct Federal contracts/labor.
	USFWS	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended; Fish and Wildlife Coordination Act.	.....	(1) Programmatic authority is needed to implement the program with the flexibility and vision of the CALFED ROD. (2) Reduced state water project exports in winter and spring to protect listed salmon and delta smelt. (3) Implementation through direct labor—coordination with state and Federal agencies.
	NOAA	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended; Magnuson-Stevens Fishery Conservation and Management Act; Fish and Wildlife Coordination Act.	.....	(1) Programmatic authority is needed to implement the program with the flexibility and vision of the CALFED ROD. (2) Agency participation in the water operations management team during 2001, 2002, and 2003. (3) Implementing through base funding and annual appropriations.
Ecosystem Restoration	USFWS, NOAA	.....	.....	.....
Large-Scale Restoration Bay-Delta and Tribes	USBLM	FLPMA 43 U.S.C. 1701 et seq .....	.....	Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands.
	USBR	PL 102-575 §§ 3406(b)(1), (12), (13) .....	.....	Authorized to implement mitigation and enhancement actions within scope of CVPIA.
	USFWS	PL 102-575 §§ 3406(b)(1), (12), (13)	Require authority to provide grants through CALFED.	Require authorization to supplement actions beyond scope of CVPIA mitigation and enhancement.
CVPIA, Anadromous Fish Restoration Program.	USFWS	PL 102-575 § 3406(b)(1)	Require authority to provide grants through CALFED.	(2) E.g., Improve fish passage on the Cosumnes River, Juvenile salmon outmigration monitoring at Caswell, Tuolumne River Special Run Pool (SRP 10). (3) Implementation through Grants/Cooperative Agreements.
CVPIA, Creek restoration	USFWS	PL 102-575 § 3406(b)(1) .....	.....	(1) Butte and Clear Creek Restoration efforts.

CVPIA, Spawning Gravel/Riparian Habitat.	USFWS	PL 102-575 § 3406(b)(13)	.....	(2) E.g., Upper Sacramento River, American River, and Stanislaus River (Goodwin Dam). (3) Implementation through Grants/Cooperative Agreements.
CVPIA, b(1) Other Program	USFWS	PL 102-575 § 3406(b)(1)	.....	(2) E.g., CA red-legged frog investigations in Cottonwood Cr., survey and trap the introduced water snake (Nerodia fasciata), a threat to the giant garter snake. (3) Implementation through Grants/Cooperative Agreements.
Cooperative Endangered Species Conservation Fund.	USFWS	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended, Department of the Interior Appropriations, P.L. 107-63.	.....	(2) E.g., Recovery Land Acquisition Program, Habitat Conservation Planning Assistance, and Habitat Conservation Plan Land Acquisition. (3) Implementation through Grants/Cooperative Agreements.
Endangered Species Recovery Program Funds.	USFWS	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended.	.....	(2) E.g., Riparian brush rabbit recovery, CA red-legged frog translocation, and Butte County meadowfoam projects. (3) Implementation through Grants/Cooperative Agreements.
Partners For Fish and Wildlife	NOAA	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended.	.....	(1) Recovery planning and conservation strategy development. (2) Sacramento River winter-run Chinook salmon recovery planning. (3) Implementing through annual appropriations.
NAWCA (CV Joint Venture)	USFWS	Fish and Wildlife Act of 1956, 16 U.S.C. 742(a)-754 and Fish and Wildlife Coordination Act, 16 U.S.C. 661-667(e). North American Wetlands Conservation Act of 1989 (PL 101-233).	.....	(2) E.g., Manuhui Partners, Big Lake Farms, and Mill Creek Phase 2 projects. (3) Implementation through Grants/Cooperative Agreements.
Habitat Restoration Delta, San Pablo Bay, Suisun Bay and Marsh.	USBR	P.L. 102-575	.....	(2) E.g., Yolo Basin Wetland Habitat Project, Tulare Lake Basin Wetland Habitat Project, and Poso Creek Flood Plain Wetland Habitat Project. (3) Implementation through Grants/Cooperative Agreements.
Fish Screen/Passage	USFWS	P.L. 102-575	.....	(1) Authorized to implement restoration mitigation and enhancement actions within scope of CVPIA. Self-explanatory.
	USBR	PL 102-575 §§ 3406(b)(10), (21)	.....	(1) Authorized to implement fish passage/screening actions within scope of CVPIA. (2) E.g., Natomas Mutual Water Co., Sutter Mutual Water Co., and RD 108 Fish Screen Projects. (3) Implementing through Federal grants and cooperative agreements.
	USBLM	FLPMA 43 U.S.C. 1701 et seq., Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), PL 107-13.	.....	Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands.
	NOAA	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended; Federal Power Act.	.....	(1) Fish screen/Fish passage design and engineering. (2) Glen-Colusa Irrigation District; Banta-Carbona Irrigation District; CVP/SWP Pumps. (3) Implementing through annual appropriations.

CALFED BAY-DELTA PROGRAM—Continued

[Federal Authorities for ROD & Related Activities, October 16, 2003]

Program element	Program lead agency/project agency	Existing Federal authorization regarding CALFED ROD activities	Needed Federal authorization	Comments*
Anadromous Fish Screen Program	USFWS	PL 102-575 §§ 3406(b)(21)		(1) Require authorization to supplement actions beyond scope of CVPIA, mitigation and enhancement. (2) E.g., Natomas Mutual Water Co., Sutter Mutual Water Co., and RD 108 Fish Screen Projects. (3) CVPIA Implementation through Grants/Cooperative Agreements.
Land/Water Acquisitions	USBR	PL 102-575 §§ 3406(b)(3), 3406(d)(2)		Authorized to implement environmental water acquisitions within scope of CVPIA.
	USBLM	FLPMA 43 U.S.C. 1701 et seq, Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460 et seq.), Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 et seq.), Federal Land Exchange Facilitation Act of 1988 (43 U.S.C. 1716).		Primarily for the management of Public Lands. Involvement would be mostly restricted to areas with Public Lands.
CVPIA, Water Acquisition	USFWS	PL 102-575 § 3406(b)(2)		Self-explanatory.
Land Acquisitions	USFWS	Migratory Bird Conservation Act, The Fish and Wildlife Act of 1956 (16 U.S.C., 742a-742j).		(2) E.g., Lyons Land Management and Faith Ranch Easements (San Joaquin River NWR) Kelly Property Easement (Grasslands Wildlife Management Area (East)). (3) Implementation through Grants/Cooperative Agreements.
	USFWS	The Endangered Species Act of 1973, as amended (PL 93-205), The Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718-718i), 48 Stat. 452), The Refuge Recreation Act of 162 (87-714), The Emergency Wetlands Resources Act of 1986 (PL 99-645), and Land and Water Conservation Fund (16 U.S.C. 4601-4601i-1).		

Integrate State/Federal Ag Programs for Agricultural Sustainability.	NRCS	Title II of the Farm Security and Rural Investment Act of 2002 §2301. Environmental Quality Incentives Program (EQIP).	.....	(1) Authorized to enter into competitive grants and provide technical assistance. (2) E.g., Alameda County Agricultural Enhancement project, Colusa Basin Drain project, Integrated Orchard Management in Butte and Glenn Counties. (3) Competitive grants for on-farm conservation activities.
Local Habitat Restoration	USBLM	FLPMA 43 U.S.C. 1701 et seq., Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001, Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901–1908, The Migratory Bird Act of 1929, as amended (16 U.S.C. 715) and treaties pertaining thereto, National Fish and Wildlife Foundation Establishment Act, as amended, (16 U.S.C. 3701).	.....	Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands.
Local Habitat Restoration	NRCS	Title II of the Farm Security and Rural Investment Act of 2002 §2201 Wetlands Reserve Program.	.....	(1)(2)(3) Authorized to enter into competitive grants and provide technical assistance for permanent easements, 30 year easements, and 10 year restoration agreements.
Integrated Flood Mgmt, Eco Restoration and Levee Protection.	USBLM	FLPMA 43 U.S.C. 1701 et seq., Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001, Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901–1908, The Migratory Bird Act of 1929, as amended (16 U.S.C. 715) and treaties pertaining thereto, National Fish and Wildlife Foundation Establishment Act, as amended, (16 U.S.C. 3701).	.....	Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands.
Sacramento-San Joaquin Comprehensive Study.	USACE	FC Act 1962, HR 8 May 1964, outside Delta, and Senate Resolution, 1 June 1948, within the Delta.	.....	Feasibility Studies for individual projects that would be submitted to Congress for Authorization. Non-Federal sponsor(s) required.
EPA authorities can support various elements of ERP, including restoration, invasive species, AG for wildlife, and water quality improvement.	USACE	FC Act 1962, HR 8 May 1964 .....	.....	Feasibility Studies for individual projects that would be submitted to Congress for Authorization. Currently one study is Hamilton City, CA.
EPA authorities can support various elements of ERP, including restoration, invasive species, AG for wildlife, and water quality improvement.	USEPA	Clean Water Act 319h .....	.....	(1) Non-point source program implementation. (2) Implementation of best management practices: TMDL implementation. (3) Funds must go to state, which then passes a portion on to other entities.

CALFED BAY-DELTA PROGRAM—Continued

[Federal Authorities for ROD & Related Activities, October 16, 2003]

Program element	Program lead agency/project agency	Existing Federal authorization regarding CALFED ROD activities	Needed Federal authorization	Comments*
	USEPA	Clean Water Act 205j		(1) Water quality management planning. (3) Funds must go to state, which then passes a portion on to other entities. Limited to planning.
	USEPA	Clean Water Act 104b3		(1) Research, investigations, demonstrations, training. (3) Limited to grants for pollution projects that are demonstration projects.
	USEPA	Clean Water Act 601		(1) State Revolving Loan program. (2) POTW construction; estuary protection plans; non-point source control projects. (3) Funds must go to state to make loans.
National Estuary Program	USEPA	Clean Water Act 320		(1) National Estuary Program. (2) development of San Francisco Estuary Comprehensive Conservation and Management Plan (3) Grants limited to technical work necessary for development of estuary conservation and management plans.
ERP Administration	USFWS	Fish and Wildlife Coordination Act, 16 U.S.C. 661-667(e).	Require authority to provide grants through CALFED.	(3) Program Administrative costs; personnel support to manage ERP Program, travel, and training.
Program Oversight and Coordination	NOAA	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended; Magnuson-Stevens Fishery Conservation and Management Act; Fish and Wildlife Coordination Act.	Programmatic authority is needed to implement the program within the scope of the CALFED ROD and the new California Bay-Delta Authority.	(1) Program/Project review and recommendation. (2) Numerous Sacramento River Basin and San Joaquin Basin restoration projects. (3) Implementing through base funding and annual appropriations.
Watershed	Multiple Agencies			
Local Capacity to Assess and Manage Watersheds.	USBLM	FIPMA (43 U.S.C. 1701 et seq.), P.L. 101-512, November 5, 1990; Fire Plan Governance, P.L. 106-291, P.L. 101-512, November 5, 1990.		Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands. Does allow for coordination with others in a watershed with Public Lands. Many Technical Publications in coordination with NRCS and USFS, National Riparian Team available for consultation and community building.

USEPA	Clean Water Act 319h	(1) Non-point source program implementation. (2) Implementation of Best Management Practices; TMDL implementation. (3) Funds must go to state, which then passes a portion on to other entities.
USEPA	Clean Water Act 205j	(1) Water quality management planning. (3) Funds must go to state, which then passes a portion on to other entities. Funds are limited to planning.
USEPA	Clean Water Act 104b3	(1) Research, investigations, demonstrations, planning. (3) Limited to grants for pollution projects that are demonstration projects.
USBLM	FLPMA 43 U.S.C. 1701 et seq	Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands. Does allow for coordination with others in a watershed with Public Lands. Many Technical Publications in coordination with NRCS and USFS; National Riparian Team available for consultation.
USEPA	Clean Water Act 319h	(1) Non-point source program implementation. (2) Implementation of Best Management Practices; TMDL implementation. (3) Funds must go to state, which then passes a portion on to other entities.
USEPA	Clean Water Act 205j	(1) Water quality management planning. (3) Funds must go to state, which then passes a portion on to other entities. Funds are limited to planning.
USEPA	Clean Water Act 104b3	(1) Research, investigations, demonstrations, training. (3) Limited to grants for pollution projects that are demonstration projects.
NRCS	Title II of the Farm Security and Rural Investment Act of 2002 §2301 Environmental Quality Incentives Program (EQIP).	(1) Authorized to enter into competitive grants and provide technical assistance. (2) E.g., American River-Yuba River-Traverse Creek project, Deer and Mill Creeks Conservancies, Fall-Pit River project. (3) Competitive grants.
Local Watershed Conservation, Maintenance and Restoration		
Technical Assistance		

CALFED BAY-DELTA PROGRAM—Continued

[Federal Authorities for ROD & Related Activities, October 16, 2003]

Program element	Program head agency/project agency	Existing Federal authorization regarding CALFED ROD activities	Needed Federal authorization	Comments*
USBLM		<p>FLPMA 43 U.S.C. 1701 et seq., Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460 et seq.), Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 et seq.), Federal Land Exchange Facilitation Act of 1988 (43 U.S.C. 1716), P.L. 101-512, November 5, 1990, Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001), The Clean Water Act of 1987, as amended (33 U.S.C. 1251), Executive Order 11988, Flood Plain Management, May 25, 1977 (42 FR 26951), Executive Order 11990, Protection of Wetlands, May 25, 1977 (42 FR 26961), Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901-1908), The Migratory Bird Act of 1929, as amended (16 U.S.C. 715) and treaties pertaining thereto, The Sikes Act of 1974, as amended (16 U.S.C. 670 et seq.), National Fish and Wildlife Foundation Establishment Act, as amended, (16 U.S.C. 3701), Wyden Amendment codified at 16 U.S.C. 1011.</p>		<p>Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands. Does allow for coordination with others in a watershed with Public Lands.</p>
USEPA		Clean Water Act 319h		<p>(1) Non-point source program implementation. (2) Implementation of Best Management Practices; TMDL implementation. (3) Funds must go to state, which then passes a portion on to other entities.</p>
USEPA		Clean Water Act 205j		<p>(1) Water quality management planning. (3) Funds must go to state, which then passes a portion on to other entities. Funds are limited to planning.</p>

USEPA	Clean Water Act 104b3	.....	(1) Research, investigations, demonstrations, training. (3) Limited to grants for pollution projects that are demonstration projects.
USEPA USEPA	Clean Water Act 319h	.....	(1) Non-point source program implementation. (2) Implementation of best management practices; TMDL implementation through to other entities. (3) Funds must go to state, which then may pass through to other entities.
USEPA	Clean water Act 205j	.....	(1) Water Quality Management Planning. (3) Funds must go to state that then may pass through to other entities. Funds are limited to planning.
USEPA	Clean Water Act 104b3	.....	(1) Research, Investigation, Demonstrations, Training. (3) Limited to grants for pollution projects that are demonstration projects.
USEPA	Safe Drinking Water Act 1444	.....	(1) Special Study and demonstration project grants. (3) Limited to grants for study/demonstration projects related to safe drinking water.
USEPA	Clean Water Act	.....	(1) State Revolving Loan Program. (2) POTW construction; estuary protection plans; non-point source control projects. (3) Funds must go to state to make loans.
USEPA	Safe Drinking Water Act 1452	.....	(1) State Revolving Loan Program. (2) Drinking Water Infrastructure Improvements. (3) Funds must go to state to make loans.
USBR	P.L. 86-488	.....	(1) Executing Court ordered activity consistent with the San Luis act. authority needed to participate in drainage activities outside of San Luis Unit. (3) Implementing through direct Federal contracts/labor
USBR	P.L. 102-575 §3406(h)	.....	(1) Authorized and implementing land retirement program. (3) Implementing through direct Federal contract/labor.
USBR	P.L. 102-575 § 3406(d)(5)	.....	(1) Authorized and implementing Action Plan in accordance with Interagency MOU and CVPIA. (3) Implementing through direct Federal contract/labor and cooperative agreements.
USBR	Reclamation Act of 1902—tech assistance	.....	(1) Authorized to perform general planning investigations. (3) Implementing through direct Federal contracts/labor.
USACE USACE	Senate Resolution, 1 June 1948 within the Delta, Sacramento-San Joaquin Delta, Special Study.	.....	Assumption for construction authorization: Complete Environmental Documentation and commence with Delta levee construction based on ROD commitments of approx. 520 miles of levees constructed to a level of protection of P.L. 84-99. For Feasibility Studies.
Drinking Water Quality Source Water Protection and Drinking Water Improvement Programs.			
SJ Drainage Program		Authority to participate in drainage activities outside of San Luis Unit.	
Land Retirement			
San Joaquin Basin Action Plan			
SJR Recirculation		Feasibility Investigation Authority.	
Levee Stability		Authorization for Construction	
Delta Levees Base Level of Protection (to P.L. 84-99 Level of Protection).			

CALFED BAY-DELTA PROGRAM—Continued

[Federal Authorities for ROD & Related Activities, October 16, 2003]

Program element	Program lead agency/project agency	Existing Federal authorization regarding CALFED ROD activities	Needed Federal authorization	Comments*
Delta Levees Special Improvement Projects program (8 Western Delta Islands beyond P.L. 84-99 protection due to significance of importance.	USACE	Senate Resolution, 1 June 1948, within the Delta, Sacramento-San Joaquin Delta, Special Study.	Authorization for Construction	Assumption for construction authorization: Prioritizing the 8 Western Islands based on significance and commence with islands construction above a level of protection of P.L. 84-99. Approx. 82 miles of levee construction. For Feasibility Studies.
BMPs to Control and Reverse Land Subsidence on Delta Islands.	USACE		Authorization for Feasibility Study of the Feasibility of Reversing Land Subsidence.	Feasibility Report submitted to Congress for project authorization.
Delta Emergency Management Plan	USACE		Authorization	Assumption based on ROD that annual Federal appropriations would allow funds to be carried-over each year to create a fund that would allow significant reserve funding in a time of emergency in the Delta. State of CA would match Federal funds each year.
Risk Management Strategy	USACE		Authorization for Feasibility Study.	Feasibility Report would determine risk and prioritize Delta Levees Special Improvement Projects (8 Western Delta Islands beyond P.L. 84-99 protection).
Dredged Materials Reuse on Delta Islands	USACE		Authorization	Funding for O&M dredging projects to assist in the cost of handling, remediation, transporting, and off-loading dredged materials for levee, reverse land subsidence, and ecosystem restoration construction.
Sacramento-San Joaquin Comprehensive Study.	USACE	FC Act 1962, HR 8 May 1964		Feasibility Study for individual projects that would be submitted to Congress for Authorization. Non-Federal sponsor(s) required.
Suisun Marsh	USACE	WRDA 2000 § 416		Feasibility Study for individual projects that would be submitted to Congress for Authorization. Non-Federal sponsor(s) required.
Science	USGS			

Produce authoritative summaries of relevant scientific knowledge.	USGS	42 U.S.C. 4331 et seq., 42 U.S.C. 7701 et seq., P.L. 101-614; 43 U.S.C. et seq., 43 U.S.C. 50; P.L. 101-606.	.....	CALFED ROD—CALFED Lead Scientist—CALFED Implementation MOU, USGS National Water Quality Assessment—Sacramento and San Joaquin Projects (CALFED Category B)—local USGS staff following national protocols, USGS Federal-State Cooperative Program—local hydrologic studies (CALFED Category B)—Joint Funding Agreements.
Create relevant new knowledge	USGS	42 U.S.C. 4331 et seq., 42 U.S.C. 7701 et seq., P.L. 101-614; 43 U.S.C. 31 et seq., 43 U.S.C. 50; P.L. 101-606.	.....	CALFED ROD—CALFED Lead Scientist—CALFED Implementation MOU, USGS National Water Quality Assessment—Sacramento and San Joaquin Projects (CALFED Category B)—local USGS staff following national protocols, USGS Federal-State Cooperative Program—local hydrologic studies (CALFED Category B)—Joint Funding Agreements.
Facilitate use of best available science to make decisions.	USGS	42 U.S.C. 4331 et seq., 42 U.S.C. 7701 et seq., P.L. 101-614; 43 U.S.C. 31 et seq., 43 U.S.C. 50; P.L. 101-606.	.....	CALFED ROD—CALFED Lead Scientist—CALFED Implementation MOU.
Evaluate program performance	USGS	42 U.S.C. 4331 et seq., 42 U.S.C. 7701 et seq., P.L. 101-614; 43 U.S.C. 31 et seq., 43 U.S.C. 50; P.L. 101-606.	.....	CALFED ROD—CALFED Lead Scientist—CALFED Implementation MOU.
Improve communication of scientific knowledge.	USGS	42 U.S.C. 4331 et seq., 42 U.S.C. 7701 et seq., P.L. 101-614; 43 U.S.C. 31 et seq., 43 U.S.C. 50; P.L. 101-606.	.....	CALFED ROD—CALFED Lead Scientist—CALFED Implementation MOU.
Coordinate existing monitoring and science programs.	USGS	42 U.S.C. 4331 et seq., 42 U.S.C. 7701 et seq., P.L. 101-614; 43 U.S.C. 31 et seq., 43 U.S.C. 50; P.L. 101-606.	.....	CALFED ROD—CALFED Lead Scientist—CALFED Implementation MOU, CA State Water Resources Control Board Water Rights Decision 1485—Interagency Ecological Program (CALFED Category A)—formal MOU among participating agencies.
	USBR	P.L. 102-575 §§3406(d)(2) and (16) (IEP, CAMP).	.....	(1) CA State Water Resources Control Board Water Rights Decision 1485—Interagency Ecological Program (CALFED Category A)—formal MOU among participating agencies. Also, Monitoring Program under CVPIA, (3) Implementing through direct Federal contracts/labor and cooperative agreements.
	USFWS	Fish and Wildlife Coordination Act, 16 U.S.C. 661-667(e).	.....	CA State Water Resources Control Board Water Rights Decision 1485—Interagency Ecological Program (CALFED Category A)—formal MOU among participating agencies.
	USACE	See comments .....	.....	CA State Water Resources Control Board Water Rights Decision 1485—Interagency Ecological Program (CALFED Category A)—formal MOU among participating agencies. Require authority to implement efforts beyond project specific agency related mission, including participating in CA Bay-Delta Science Program.

CALFED BAY-DELTA PROGRAM—Continued

[Federal Authorities for ROD & Related Activities, October 16, 2003]

Program element	Program lead agency/project agency	Existing Federal authorization regarding CALFED ROD activities	Needed Federal authorization	Comments*
	NOAA	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended; Magnuson-Stevens Fishery Conservation and Management Act; Fish and Wildlife Coordination Act.		(1) CA State Water Resources Control Board Water Rights Decision 1485—Interagency Ecological Program (CALFED Category A)—formal MOU among participating agencies. Also, Monitoring Program under CVPIA. (3) Implementing through base funding and annual appropriations.
	USEPA	Clean Water Act 104b3		(1) Research, investigation, demonstrations, training. (3) Limited to grants for pollution projects that are demonstration projects.
Science Administration	USFWS	Fish and Wildlife Coordination Act, 16 U.S.C. 661-667(e) and P.L. 102-575 Sec. 3406(b)(2) and (16).		(3) Implementation directly through Federal labor.
	NOAA	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended; Fish and Wildlife Coordination Act.		(1) CA State Water Resources Control Board Water Rights Decision 1485—Interagency Ecological Program (CALFED Category A)—formal MOU among participating agencies. Also, Monitoring Program under CVPIA. (3) Implementing through base funding and annual appropriations.
Program Management, Oversight & Coordination (Governance).	USBR		Block Grant Authority	Require authority to pass-through funding to the CBDA for performance of Program oversight/coordination work: annual report, comprehensive finance plan, program tracking of schedules, finances and performance.
Oversight and Coordination	USBR		Block Grant Authority	Require authorization to participate as voting members of the State CA Bay-Delta Authority and programmatic authority to implement efforts beyond project specific agency related mission.
	USFWS, USBLM, USBR, USACE, USFS, NOAA, WAPA, USEPA		Authorization to participate in State CA Bay-Delta Authority and programmatic authority to implement all aspects of CALFED ROD.	

Regulatory compliance responsibility for Levees, ERP, Watershed, Storage, and Conveyance programs.	USFWS	ESA, Fish and Wildlife Coordination Act, 16 U.S.C. 661–667(e).	..... (3) Implementation directly through Federal labor.
Regulatory compliance responsibility for all CALFED Programs.	NOAA	Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended; Magnuson-Stevens Fishery Conservation and Management Act; Fish and Wildlife Coordination Act; Federal Power Act.	..... (1) CALFED Bay-Delta ROD and Implementation MOU. (3) Implementing through base funding and annual appropriations.
Integrated Regional Water Management Plans Flood Damage Reduction, Ecosystem Restoration, Recreation, Storage.	USACE	FC Act 1962, HR 8 May 1964, outside Delta, or Senate Resolution, 1 June 1948, within the Delta.	..... Feasibility Studies for individual projects submitted to Congress for Authorization. Non-Federal sponsor(s) required.

* Legend for comments:
 (1) Program/Project Description or Function Authority or Explanation of Discretion,
 (2) Example Projects and
 (3) Implementation Method—loans contracts and/or grants/cooperative agreements.
 Federal Agency Acronym Legend:
 NOAA—NOAA Fisheries Service.
 NRCS—Natural Resources Conservation Service.
 USACE—US Army Corps of Engineers.
 USBLM—US Bureau of Land Management.
 USBR—US Bureau of Reclamation.
 USEPA—US Environmental Protection Agency.
 USFS—US Forest Service.
 USFWS—US Fish and Wildlife Service.
 USGS—US Geological Survey.

