

Environmental Justice Coalition for Water

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September 2, 2005

Mr. Michael Alpert, Chair
Little Hoover Commission
925 L Street, Suite 805
Sacramento, California 95814

RE: Environmental Justice in CALFED

Dear Mr. Alpert,

The Environmental Justice Coalition for Water (EJCW) is a coalition made up of over 60 community-based and non-profit organizations throughout California, working on water issues impacting low-income and people of color communities both urban and rural. Our role in CALFED has been to elevate Environmental Justice (EJ) as a priority in all the CALFED program areas.

All eyes are on New Orleans in the aftermath of Hurricane Katrina. It is impossible to ignore that the most impacted, and most devastated are low-income and people of color. Besides lacking the resources to evacuate and survive in a crisis situation, patterns of institutional racism in land use planning and in the entire water management system had much to do with who was left behind.

Racism and inequities exist in California water management as well. This harsh reality is diluted by the time it reaches the bureaucracy of CALFED. CALFED has done very little to effectively address EJ since the ROD was signed in 2000. Funding for the CALFED Environmental Justice Subcommittee did not even represent 1% of the total annual finance plan target of \$756.1 million dollars for all CBDA programs when the 2004 CBDA Draft 10-Year Finance Plan was written. In 2004, the EJCW asked that the EJSC workplan be increased from \$300,000 to \$1.3 million per year. This request was denied.

The Record of Decision (ROD) describes the role of the EJSC's workplan. The ROD states:

“This workplan should, at a minimum, include commitments such as the development of environmental justice goals and objectives for each program area, investments in staff and resources across program areas and agencies, development and implementation of an environmental justice education program for agency and program staff, collection and analysis of additional demographic information to assist in the identification of impacts, and actions to ensure effective participation on technical and advisory workgroups by those populations adversely impacted.”

The EJSC's and the Environmental Justice Coordinator's ability to carry out this basic workplan have been an embarrassing failure. The majority of EJ communities and stakeholders originally interested in participating through the EJSC no longer find it a worthwhile forum. Previous CALFED EJ grantees, such as the Bayview Hunters Point Community Advocates now feel

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abandoned because the CALFED grant they received did not truly solve their problems of toxic sewage and PCB-contaminated fish. The grant funded outside scientists to come into the community and do studies, rather than work more directly with the community.

In 2003 the EJCW tried to establish EJ performance measures for every program area and every subcommittee. Because this was vetted through the CALFED EJSC, the language was watered down into "EJ guidelines." Only three subcommittees adopted these EJ guidelines, even so, we have not seen them reflected in the annual program plans, in decisions to fund projects in low-income communities and communities of color, or even in terms of expanding public participation to include more EJ communities. CALFED programs must be held accountable with performance measures created by Environmental Justice constituents.

In May of 2005, the Bay Delta Authority nominated 30 new people to serve on the BDPAC. Not a single African American was chosen to serve on this body. Without environmental justice representatives from affected communities at the table, "Environmental Justice" will continue to be a politically correct buzzword in a checkbox with no substance. Without allowing a space for affected communities to speak for themselves, exclusion, injustice, and even racism will continue to be a part of California's system of water governance. The burden of unsafe water quality, levee instability, and lack of access to affordable drinking water, will be felt by low-income communities and communities of color. Our communities cannot afford to wait until a natural disaster in California forces policymakers to take EJ seriously. We continue to ask CALFED to grapple with the very simple questions: How will your water management decisions impact low-income and people of color, and how will you mitigate those impacts?

We respect this effort to reevaluate CALFED for its effectiveness in governance and fiduciary management. Despite our displeasure with the EJSC, we do believe that coordinated dialogue between agencies, legislators, and the public on the management of California water is worthwhile and necessary. Attached are our policy recommendations. CALFED needs to actually *show* its commitment to addressing the needs of people of color and low-income people in water management by having representatives at the table reflective of California's demography. We are hopeful that the Little Hoover Commission can ask the critical questions that will get this entire process back on track.

Thank you,

Alisha Deen-Steindler
Legislative Analyst

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EJ Policy Recommendations for CALFED Restructure

September 6, 2005

The EJ component of CALFED must be restructured and low-income and people of color communities must be part of the new structure design and implementation. The new structure:

- will not allow EJ to continue to be ignored
- will not allow EJ communities to be starved from CBDA-wide program funding
- will allow for actual public participation from EJ communities
- will have EJ performance measures
- will utilize the 2004 proposed EJSC workplan, budgeted at \$1.3 million

If CALFED uses beneficiary pays, the needs of low to low-income and people of color communities must be addressed through a lifeline rate:

- Beneficiary pays must trigger a requirement that agencies receiving CVP and SWP water have lifeline rate structures in place for low-income communities.
- Before approving any increase in any export, CALFED must require exporters to offer lifeline rates to their low-income constituents.
- A lifeline rate will also be available to communities with severe drinking water problems; for example Alpaugh which had over 70ppb of arsenic in their water.

Every CALFED project must include a framework to evaluate an analysis of third party impacts to EJ communities, such as water rate costs.

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In all water transfers an assessment of third party impacts in the area of origin must be included. For example, the negative impacts to the Winnemem Wintu from the raising of Shasta dam.

Exported water that is used to mitigate a health problem in an EJ community will be exempted from an export fee. For example: when perchlorate, MTBE, or arsenic, are present in water exceeding safe levels.

All CALFED programs must commit more funding to community outreach and education and offer local employment opportunities to community based organizations.

Grantees of programs must provide better representation of people of color in the carrying out of their CALFED grant.

CALFED must allow a more competitive and broader process for the work it contracts out. The master contracts with select consultants must be opened up to more non-profit, community-based and people of color groups.

Because 22 million Californians get their water from the State Water Project, thus from groundwater, groundwater must be considered as part of the Bay-Delta solution area.

A regional approach must be used in drinking water management: regional drinking water management plans must be required.

All CALFED programs must commit to the actual inclusion, of communities from the beginning of the process to ensure their issues are properly included and addressed.

**Environmental Justice Coalition For Water – EJCW
Projected cost figures for EJSC Workplan {10/27/04}**

EJSC Goals, Objectives, and Strategies	Timeline	Lead(s)	Status	Annual Costs
Objectives				
1. EJSC, CBDA program staff, and BDPAC Subcommittees develop program-wide environmental justice goals, objectives, strategies, and performance measures and integrate them into CBDA Program Plans.				
Strategies / Action				
1a. EJ Subcommittee (EJSC) and CBDA Programs draft goals, objectives, strategies, and performance measures for integration of environmental justice into CBDA program plans with technical assistance from EJ reps on each Subcommittee, EJ Coordinator, and EJSC.	Dec 2003 – Feb 2004	<ul style="list-style-type: none"> • Program managers • Subcommittee Co-chairs and members • Technical assistance provided by EJ reps for each Subcommittee, EJ Coordinator, and EJ Subcommittee 	Completed for 2002 Program Plans; <u>Separate EJ (and Tribal) Sections to be added to 2003 Program Plans</u>	<p><i>Program Coordination / Program Management - \$120,000</i></p> <p><i>Consultancy – \$25,000</i></p>
<p>1b. EJSC review and public comment on draft environmental justice goals, objectives, strategies, and performance measures for each CALFED program</p> <p>1.b.1. Contract with a consultant to develop criteria to track funding and actions related to environmental justice in Program activities. Require EJ tracking from each subcommittee to be part of annual reports.</p> <p>1.b.2. Contract with a consultant to create performance measures and objectives/strategies for each program element</p> <p>1.b.3 Develop program-wide</p>	<p>Dec 2003 – Feb 2004</p> <p>Jan – June 2004 {in conjunction with CDBA Finance Plan Activities}</p> <p>Nov 2003 – Dec 2004 Feb – May annually {for inclusion in CBDA Program Plans}</p>	<ul style="list-style-type: none"> • EJ Coordinator • Administrative support • EJ Coordinator • EJSC • Program Managers • EJSC • EJ Coordinator • EJSC • Program Managers • CDBA Science Board 	<p>Draft Goals & Objectives and Performance Measures under review (Dec 2003 – Feb 2004)</p> <ul style="list-style-type: none"> • Draft Goals & Objectives and Performance Measures under review (Dec 2003 – Feb 2004) 	<p>\$60,000</p>

**Environmental Justice Coalition For Water – EJCW
Projected cost figures for EJC Workplan {10/27/04}**

EJSC Goals, Objectives, and Strategies	Timeline	Lead(s)	Status	Annual Costs
performance measures in consultation with EJSC to evaluate CBDA effectiveness in addressing environmental justice each year				
1c. Enhance Public Participation Tools		<ul style="list-style-type: none"> • EJ Coordinator • Dep. Dir. for Comms 	•	\$20,000
1e. Secure increased funding to support EJ Activity in CBDA (logistics and admin support)	Dec 2003 – Feb 2004	<ul style="list-style-type: none"> • Co-Chairs • EJ Coordinators 	•	<i>Administrative Support / Paid Intern - \$60,000</i>
1f. Develop a process to disperse funds under the EJC workplan.		<ul style="list-style-type: none"> • Co-Chairs • EJ Coordinator 	•	\$0
1g. Assess EJSC receiving internal CBDA funding stream	Nov 2003 – Dec 2004	<ul style="list-style-type: none"> • EJ Coordinator • Deputy Director 	•	\$0
Objectives				
2. Develop annual EJ Work Plan. The EJSC shall assist programs with implementation of program-wide goals, objectives, strategies, and performance measures.				
Strategies / Action				
2a. Convene EJ Subcommittee to review previous year's annual plan, evaluate its effectiveness using performance measures, and develop a revised annual plan and budget consistent with program-wide goals and objectives	July – Sept annually	<ul style="list-style-type: none"> • EJ Coordinator • Administrative support • CBDA Budget Coordinator • BDPAC Coordinator 	•	\$0
2b. EJ Subcommittee review and public comment on draft annual program plans and budgets. ¹¹	Feb – May annually	<ul style="list-style-type: none"> • EJ Coordinator • EJSC • Admin support 	•	\$10,000
2c. Integrate EJSC annual plan goals and objectives into all eleven program plans during program subcommittee meetings	Feb – May annually	<ul style="list-style-type: none"> • EJ Coordinator • EJSC • Program managers • Co-chairs 	Completed 2002; Process for 2003 begins in Dec 03 and Jan 04	\$29,700
Objectives				

**Environmental Justice Coalition For Water – EJCW
Projected cost figures for EJSC Workplan {10/27/04}**

EJSC Goals, Objectives, and Strategies	Timeline	Lead(s)	Status	Annual Costs
3. Ensure meaningful and substantive participation of CBDA Agencies, community-based organizations and environmental justice interest groups in CBDA program planning, program implementation, and decision-making, including BDPAC Subcommittee and regional workgroups.				
Strategies / Action				
3a. Representation of environmental justice stakeholder(s) on CBDA and BDPAC Subcommittees. Ensure at least one EJ stakeholder on each.	Completed	<ul style="list-style-type: none"> • EJ Coordinator • Subcommittee Co-chairs • BDPAC Coordinator 	•	
3b. Ensure equitable representation of EJ stakeholder(s) on each regional CALFED body.		<ul style="list-style-type: none"> • EJ Coordinator • <u>Regional Coordinators</u> • EJSC 	•	\$1,500
3d. Contract with a Consultant to do capacity building and technical assistance to/among EJ groups and communities – linked to EJSC (and other CBDA) meetings, workshops, and trainings. Develop processes for EJ organizations to better access funds. CBDA to provide information/training. 3.d.1 Develop regional outreach and community participation workplan and strategies	Apr – Dec 2004 {then annually} Jan – Mar 2004	<ul style="list-style-type: none"> • EJ Coordinator • Regional Coordinators • EJSC <ul style="list-style-type: none"> ▪ In 9 hydrologic regions throughout • EJ Coordinator • Regional Coordinators • EJSC Consultant 	• •	\$300,000
6l. Availability of technical assistance in development of responses to PSP's.		<ul style="list-style-type: none"> • EJ Coordinator • EJSC Program Managers 	•	\$0
3e. Link specific CBDA Programs with specific community groups		• EJSC	•	\$0
Objectives				
4. Develop and implement a CBDA program-wide environmental justice education and technical assistance program.				
Strategies / Action				
4a. . Contract with a	Jan – Mar	EJ Coordinator	•	\$50,000

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EJSC Goals, Objectives, and Strategies	Timeline	Lead(s)	Status	Annual Costs
Consultant to devise and conduct needs assessment of CALFED agencies and staff to ascertain environmental justice training and technical assistance. Revisit and revise earlier survey.	2004	EJSC Consultant		
4b. Based upon results of needs assessment, develop and implement a tailored training program to provide needed education and technical assistance to CBDA programs/staff. <i>Trainings to include EJ Analysis of CBDA programs</i>	Apr – Dec 2004 {then annually}	<ul style="list-style-type: none"> • EJ Coordinator • EJTC 	•	\$3,000
4c. Conduct needs assessment of the barriers in implementation of EJ within CBDA				\$0
Objectives				
5. Develop tools and capacity of CBDA agencies and staff to identify, evaluate, and avoid/mitigate environmental injustices.				
Strategies / Actions				
5a. Identify/acquire source of demographic, environmental, land use, water, and other related information by watershed within CBDA solution area 5.a.1 Utilizing demographic methods and GIS, identify low-income populations, underrepresented communities, Tribes or others potentially impacted by CBDA actions. 5.a.2 Contract with a consultant to gather GIS data related to EJ that is specifically linked to each Program Element	June 2003 – Feb 2004 June 2003 – Feb 2004 Feb 2004 – May 2004	<ul style="list-style-type: none"> • EJ Coordinator • Watershed Program Mgr • Resources Agency (CA Legacy Project) • EJ Coordinator • Science Program • USEPA and/or other CALFED agency • Resources Agency (CA Legacy Project) • EJ Coordinator Consultant 	• • •	\$50,000
5c. Develop an		• Science	•	\$200,000

**Environmental Justice Coalition For Water – EJCW
Projected cost figures for EJSC Workplan {10/27/04}**

EJSC Goals, Objectives, and Strategies	Timeline	Lead(s)	Status	Annual Costs
environmental justice impact assessment methodology and guidance for CBDA programs for CEQA, NEPA, and Title VI compliance		Program • USEPA and/or other CALFED agency • CALEPA • EJ Coordinator		
5d. Train CBDA agencies and staff to use environmental justice impact assessment tools for CBDA actions requiring environmental review		• EJ Coordinator • Program Managers	•	\$300,000
Objectives				
6. Address priority environmental justice issues in each CBDA program. Identify priority issues using notes from regional EJ workshops.				
Strategies / Actions				
6a. Designate an environmental justice liaison for each CBDA agency	<i>Jan – Mar 2004</i>	• EJ Coordinator	•	\$0
6b. Contract with a consultant to develop specific criteria, guidelines, community partnership requirements, and outreach process for Program Solicitation Proposals (PSP) to address existing and emerging environmental justice issues in CBDA solution area. Identify within scope of work and budget selected activities to address environmental justice issues and concerns.	<i>Jan- Mar 2004</i>	• EJ Coordinator • EJSC • Consultant	•	\$13,200
6c. Develop program to address mercury contamination / fish contamination in CBDA solution area	<i>Jan – Mar 2004</i>	• Ecosystem Restoration Program Manager • EJ Coordinator • Tribal Coordinator	•	\$10,000

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EJSC Goals, Objectives, and Strategies	Timeline	Lead(s)	Status	Annual Costs
6d. Contract with a consultant to develop program to address the potential impacts of land retirement on EJ communities of color, specifically the Westside land retirement in CBDA solution area.	Dec 2003 – June 2004	<ul style="list-style-type: none"> • Ecosystem Restoration Program Manager • EJ Coordinator 	•	\$25,000
6e. Contract with a consultant to Develop program to assess the impacts of water transfers on EJ communities of color in CBDA solution area.		<ul style="list-style-type: none"> • Water Transfers Program Manager • EJ Coordinator <ul style="list-style-type: none"> ▪ Consultant 	•	\$20,000
6f. Develop program to address the basic water infrastructure needs of EJ communities in CBDA solution area. Contract with a consultant to research and compile a list of communities / projects for each subcommittee.		<ul style="list-style-type: none"> • Drinking Water Quality Program Manager • EJ Coordinator 	•	\$10,000
6g. Develop program to address existing drinking water quality problems affecting EJ communities in CBDA solution area		<ul style="list-style-type: none"> • Drinking Water Quality Program Manager • EJ Coordinator 	•	\$10,000
6i. Identify and secure resources for participation in Program activities. Annual Funding Plan for CBDA approval	Mar – May annually	<ul style="list-style-type: none"> • EJ Coordinator • EJSC • Deputy Director 	•	\$0
6j. Address issue of contract funding on reimbursable basis. Offer 20% of the grant funding up front	Dec 2003 – Jan 2004	<ul style="list-style-type: none"> • EJ Coordinator • EJSC 	•	\$0
6k. Assess obstacles and consider options to contract funding on reimbursable	Jan- Mar 2004	<ul style="list-style-type: none"> • EJ Coordinator 	•	\$0

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EJSC Goals, Objectives, and Strategies	Timeline	Lead(s)	Status	Annual Costs
basis.				
6n. Identify three EJ related projects for each Program Element 6n.1 Contract with a consultant to identify additional existing and emerging environmental justice issues through community outreach and workshops related to EJSC, regional task forces, other EJ programs/workgroups/activities, and project-specific environmental justice review/analysis	Jan – Mar 2004 Apr – Dec 2004	<ul style="list-style-type: none"> • EJSC • EJ Coordinator • Consultant 	<ul style="list-style-type: none"> • • 	\$10,000
2e. Ensure that each CBDA subcommittee / Program Element has an EJ Project completed by end of year	Feb – May annually	<ul style="list-style-type: none"> • EJ Coordinator • Program Managers • Co-Chairs 	<ul style="list-style-type: none"> • 	\$0
6.o. Define and Inform an Environmental Health from and EJ Perspective. What is the public health exposure to EJ communities?				\$15,000
				TOTAL \$1,342,400