BDAC Assurances Work Group
Meeting Summary
October 2, 1996

The second meeting of the BDAC Assurances Work Group was held on Wednesday, October 2, 1996 at the Resources Building from 9 am to noon.

BDAC Members of the Work Group present were:

Hap Dunning, Chair
Alex Hildebrand
Rosemary Kamei
Roger Strelow
Mike Stearns

Invited Participants in the Work Group present were:

George Basye
B.J. Miller
Gerald Meral
Dennis O'Connor
Dan Sullivan

Other Participants included:

David Guy, BDAC member, California Farm Bureau
Bob Raab, BDAC member, Save the San Francisco Bay Association
Robert Meacher, BDAC member, Plumas County Supervisor
Jeff Jaraczeski (for Tib Belza), NCWA
Byron Buck, CUWA
Steve Ritchie, San Francisco PUC
Greg Zlotnick, DFG
Liz Howard, USBR
Ken Bogdan, Jones & Stokes Associates
Gary Bobker, The Bay Institute
Tom Hagler, U.S. EPA
Mike Ford, DWR
Susan Pufahl, Sierra Club
Stuart Cohen, Sierra Club
Jim Chatigny, Mountain County Water Resources Association
Dan Sullivan, Sierra Club
Lena Tam, EBMUD
Cynthia Koehler, NHI
John S. Mills, RCRC

Glen Birdzell, City of Stockton
Kyra Emanuels, ILSG
Jim Monroe, USACE
Dan Wright, EDF
David Briggs, CCWD
Steve Macaulay, SWC
Dan Jones, MWD
Randall Neudeck, MWD
Pete Rhoads, MWD
Lynn Barris, Butte Environmental Council
Linda Cole, Valley Water Protection Association
Amy Fowler, Santa Clara Valley Water District
Steve Johnson, The Nature Conservancy
Polly Smith, League of Women Voters
Tom Howard, SWRCB
Robin Reynolds, California Dept. of Food and Agriculture
Larry Puckett, FWS
Larry Diamond, Calaveras County Water District

Introduction

Work Group Chair Hap Dunning opened the meeting and introduced the BDAC work group members who were present. Invited participants and members of the public introduced themselves.

Hap Dunning reviewed the Work Group's purpose statement and procedures drafted during the Work Group's first meeting on August 15, 1996.

B.J. Miller expressed concern that the Work Group's task as defined by the current purpose statement was too broad since the language suggests that the group will attempt to identify **all** needs for assurances. He recommended that the Work Group's task focus more specifically upon "dealbreakers"--potentially fatal objections to the long-term CALFED plan--and address the **major** needs for assurances.

Hap Dunning reminded the Work Group that the group's task had already been discussed extensively during the first meeting on August 15. He recalled that participants in that first meeting had expressed concern about focusing only upon the "dealbreakers"--that such an approach would favor stakeholders that traditionally enjoy political clout at the expense of less powerful stakeholders.

Gary Bobker suggested that a prioritization of assurance needs would develop naturally as the Work Group progressed. He felt that beginning with assumptions about priorities only undermines an open and honest political process.

Rosemary Kamei felt that the group should try to identify as many concerns as possible and not deliberately exclude any concerns assumed to be minor.

Dave Fullerton suggested that the list of assurance needs drafted by CALFED staff seems to be a manageable size currently and recommended that the Work Group move to a discussion of the Needs and Objectives.

Assurances Needs and Objectives

Mary Scoonover introduced the paper developed by CALFED staff and explained the process that the staff used to craft a list of needs and objectives. Staff used the program components (Part I) that currently form the Program's efforts (ecosystem restoration, water quality, conveyance, storage, financing, etc.) to frame the development of assurances. Since the Work Group is charged with developing assurances to guarantee the long-term implementation of the eventual Bay-Delta solution, staff reasoned that the Program elements would provide a suitable structure for organizing a list of assurances. Next, staff identified concerns of various interest groups (compiled from a variety of previous forums) and assembled these concerns into broad categories (Part II). Finally, for each Program element listed in Part I, staff used the list of identified concerns listed in part II to outline and categorize assurance needs and objectives.

David Fullerton added that the Work Group's task was to assure the implementation of the Bay-Delta solution, not to discuss abstract agenda items or broker deals between interest groups. He qualified that the Assurances Work Group could provide more than just "institutional cement" for pieces of the Bay-Delta solution and the products of other Work Groups.

Several participants addressed omissions or uncertainties in the list of assurance needs and objectives. Mike Stearns and Roger Strelow noted that the draft list of needs and objectives does not address the need to assure the **reliability** of water supply. George Basye felt that the Program needed to assure the reliability of current and future water supplies by guaranteeing area-of-origin protections. Rosemary Kamei felt the Program should assure continued public participation in the implementation and monitoring of the Bay-Delta solution by providing continued access to decision-making and issues of accountability. Dennis O'Conner felt the Program needed to assure the durability of the solution principles. Alex Hildebrand questioned the durability of solution principles and emphasized that physical, rather than institutional, constraints provided the best assurance. Jeff Jaraczeski added that the Program needed to define a shelf life for ecosystem restoration measures to assure regulatory certainty. Linda Cole remarked that the Bay-Delta solution would need to assure groundwater rights in addition to surface water rights and protect local economies and environments.

Process of Developing Assurances

The Work Group turned its attention to the process of developing preliminary assurances. B.J. Miller worried that the group was trying to accomplish too much at once by defining assurance

needs and objectives, delineating tools and methods of assurance, and developing guidelines to assess assurance mechanisms. He suggested that the group move in stages, first compiling a list of assurance needs, establishing a firm deadline for stakeholders to add their concerns to the compiled list, before moving on to the next step. B.J. Miller also suggested that CALFED agencies should add their assurance needs to the list. Dave Fullerton felt that the Work Group could manage the three activities simultaneously and that it was necessary considering CALFED's aggressive time schedule. Roger Strelow felt that pursuing the three activities simultaneously would be beneficial since each activity would help inform and refine the other activities. Gary Bobker warned that the aggressive CALFED schedule endangered the success of the Program since it precluded sufficient time for stakeholders and the public to review and digest Program material, as well as discussing the material with a wider audience and drafting responses.

Gerald Meral argued that the process for developing assurances should focus upon interest groups rather than the Program components of the emerging Bay-Delta solution. John Mills agreed and suggested that the current list of assurance needs and objectives was too abstract and conceptual and that specific regional interests should be addressed. Mary Scoonover warned that the Work Group could devolve into factionalism if the concerns of individual interest groups drove the process of developing assurance needs. She also reminded the Work Group that their purpose was to assure implementation of elements that constitute the eventual Bay-Delta solution rather than assuring particular stakeholder objectives. Rosemary Kamei suggested that staff provide the raw list of specific concerns that staff identified before grouping these concerns into the broad categories presented in the meeting document. Mary Scoonover agreed that staff could provide the raw, ungrouped list of concerns.

Staff welcomed written comments upon the list of assurance needs and objectives. Staff will consider stakeholder and public comments and provide a revised list at the next Assurances Work Group meeting.

Tools and Methods of Assurance

Staff provided a tentative list of tools and methods of assurances. Gerald Meral suggested the addition of judicial decrees to the list of tools. Dennis O'Conner suggested refining the general use of the term "statutes" into more specific measures such as constitutional amendments and voter-approved measures. Roger Strelow suggested that public reports and hearings could also be considered as a method of assurance. Hap Dunning commented that the concept of parallelism--the implementation of Program elements along parallel tracks--could also be a method of assurance

Guidelines

Staff provided a tentative list of guidelines to be used in assessing assurance mechanisms. Gerald Meral strongly objected to item E, which states the Bay-Delta solution should first "work

within the existing statutes, regulations and institutions where feasible" before developing new measures. Roger Strelow disagreed, arguing that the group should not begin with the presumption of developing new statutes, institutions, etc.

General Public Comment

Eugenia Laychak suggested that meeting participants not only confer with their constituents, but also report the products of these conferences to the Assurances Work Group.

Polly Smith expressed concern that the compressed CALFED schedule does not allow ample time to incorporate "grass roots" concerns into the process.

Next Steps

Staff will provide a revised list of assurance needs and objectives, a list of tools or methods of assurance, and a preliminary list of guidelines for the next Work Group meeting scheduled for November 6, 1996 from 9 to noon in room 1412 of the Resources Building (1416 Ninth Street, Sacramento).

The Program plans to convene an Assurances Workshop in late January/early February. A discussion of the structure and content of the workshop will be addressed in future Assurances Work Group meetings.

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