

**BDAC Assurances Work Group
Meeting Summary
January 14, 1997**

The BDAC Assurances Work Group held its fifth meeting on Friday, January 14, 1997, at the Energy Commission Building, from 9 a.m. to noon.

BDAC Members of the Work Group present were:

Hap Dunning
Roger Strelow

Invited Participants in the Work Group present were:

BJ Miller
Gerald Meral
Elizabeth Patterson
Dan Sullivan

Other Participants included:

Tom Hagler, EPA
Penny Howard, USBR
Randall Neudeck, MWD
William Johnston, Modesto ID
Amy Fowler, SCVWD
Allan Highstreet, CH2M Hill
Dan Jones, MWD
Cliff Schulz, KCWA
Peter Candy, Surfrider
Doug Wallace, EBMUD
Anthony Barkett, SEWD
Polly Smith, SSFBA/LWVC
Robin Reynolds, Dept of Food & Agriculture
Karen Shaffer, USACE
Carol Thornton, Dept of Interior
Art Godwin, Griffith, Masoda & Godwin
Dan Fults, Friant WUA
Eugenia Laychak, CCPDR
John Mills, RCRC

Introduction

Work Group Chair Hap Dunning opened the meeting. Work Group members and participants introduced themselves. As an addition to the agenda, Jerry Meral summarized a recent meeting of some of the stakeholder representatives and introduced an implementation alternative as an additional "straw man" for discussion purposes.

Review of Modifications to the Case Study

Mary Scoonover introduced the discussion of the revision to the case study paper. She noted the case study is modeled generally around the CALFED Bay-Delta Program's Draft Alternative 3 but emphasized there is no intention to presume or prejudge any particular action or program. The purpose of the case study is only to facilitate discussion of the implementation and assurance issues by the Work Group.

Dave Fullerton reviewed the outline of the case study. He noted the case study is described in terms of actions and program, not in terms of implementation. It describes hypothetically the content of the CALFED Bay-Delta Program.

Dave summarized some of the revisions to the case study since the last Work Group meeting. The paper now includes two options for the conveyance component, a 5000 cfs isolated facility and a 15,000 cfs isolated facility. Some of the water quality actions were moved from the section on facilities operations to the water quality component. Some language was added to clarify the relationship between thru-Delta conveyance and the isolated facility. Some clarifying language was added regarding the CALFED approach to programs for conjunctive use of groundwater.

Dave then walked through the case study component by component and further described the specific action items and programs for each component, beginning with the ecosystem restoration component. There was some discussion about whether the case study adequately reflects the possibility of reduced exports as a result of ecosystem restoration actions or programs. Cliff Schulz observed that this highlights one of the critical assurance and implementation problems--the need for adaptive management flexibility versus the need for water supply reliability.

There was a discussion about whether the case study included a sufficient level of detail. Jerry Meral offered that the case study should include discussion of the organization structure to carry out the program. Hap Dunning suggested this is more an assurance or implementation issue.

Cliff Schulz agreed that the Work Group will need to discuss the organizational or institutional questions, because depending on the goals and objectives of the ecosystem program, for some stakeholders the only assurance may be in the governance and management structure.

Dave Fullerton noted if there is no agreement among stakeholders on the program content, this will make the assurance issues more difficult and makes the governance and management question more important. Mary Scoonover pointed out the premise behind the case study is that all parties will have agreed to the program content.

Dave Fullerton continued to summarize for the group the content of the case study for the various components: water quality, efficiency, levees, conveyance, storage and finance. B.J. Miller asked whether the case study assumes all existing regulatory constraints on the water projects would be subsumed by the operational rules referred to in the case study. Dave responded that the case study assumes operations consistent with other regulatory constraints, but the case study does not subsume such other regulatory constraints. Dave also noted there will have to be an agreed upon process or mechanism for changing the operational rules as circumstances may require. Cliff Schulz noted that the December 1994 Bay Delta Accord and the May 1995 Water Quality Control Plan will both require revision to be consistent with the CALFED program, and this will be an issue for the Assurance Work Group.

There followed a brief discussion of the relationship between the CALFED program and such external regulatory constraints as the Biological Opinions under the ESA and the WQCP. There seemed to be general agreement in the group that an essential part of providing assurances will be finding a way to incorporate these regulatory requirements into implementation of the CALFED program. Fullerton observed that while rules will certainly be necessary, it should also be possible to achieve some of the ecosystem goals through a market approach.

Discussion of example assurances in the case study [page 12]

The discussion then turned to the assurances portion of the case study paper. Dave reviewed the three components (ecosystem, conveyance and storage) for which specific assurance issues are to be analyzed, and summarized the basic assurance needs which have been identified.

There was a discussion about the distinction between assuring implementation and assuring outcomes. CALFED can assure that the program will be implemented in a certain way, but no one can guarantee specific outcomes or results. This is due in part to the level of uncertainty about cause/effect relationships in the ecosystem. We do not yet have the knowledge about the biology to say with certainty what will restore fish populations, for example. This uncertainty creates a great deal of tension between the flexibility required for an adaptive management approach to ecosystem restoration and the need for water supply reliability. This also illustrates the importance of governance and management: if stakeholders cannot be certain about outcomes, they must have a high level of confidence in the institution implementing the program.

There was a discussion about the need for performance measures or some quantifiable markers to determine the success of the program actions.

Fullerton described the two basic approaches for governance and management outlined in the case study paper: the existing institutions approach and the environmental trustee approach. Several other alternatives were offered for discussion. Mary Scoonover and others made the point that before assuming a new management agency would be part of the assurances package, the Work Group should go through the process of considering whether or not the program could be implemented by existing agencies. If it is established to the satisfaction of the Group that implementation by existing agencies cannot provide the necessary assurances, then a management/governance approach using a new entity or entities should be examined.

Discussion of May 1997 Workshop

A public workshop on Assurances is planned for May 1997.

There was a discussion about the need for and utility of a public workshop on implementation and assurance issues. In addition to public outreach and education, several participants think the workshop provides an opportunity to advance the discussion of how the program might be implemented and assurances provided. Others believe that it will be difficult to do both, i.e., educate the public and have substantive discussion of the issues.

Mary Scoonover stated that staff will prepare a preliminary workshop packet and circulate it to the Work Group for review and comment.

Future Meetings

Mary Scoonover identified the meeting dates set for the Assurance Work Group for the next several months. In connection with those meetings, Randall Neudeck asked for a work plan on what the Assurance Work Group is expected to achieve prior to the release of the Draft Programmatic EIR/EIS.

The next Work Group meeting is scheduled for March 6, 1997, from 1:30 - 4:30 p.m. in Sacramento.