

**MARCH 19-20
MEETING SUMMARY**

Draft
BDAC MEETING SUMMARY
MARCH 19 & 20, 1998
BURBANK AIRPORT & CONVENTION CENTER

MEETING OUTCOMES

- About one third of the BDAC members expressed caveated general support for staging and linking Program actions in the Implementation Strategy.
- Nearly 25 Southern California interests recognized that the CALFED solution must address northern and southern California interests and provided suggestions for establishing and maintaining the linkage between the regions.
- A few BDAC members continue to be concerned over the delay in the SWRCB water rights hearings.
- BDAC members generally agreed with two financial principles: to impose fees on water users to help finance the CALFED Program, and that costs could be allocated using a benefits-based approach, but only after agreement has been reached on mitigating impacts from past water projects.
- Through the two days, BDAC members and public speakers expressed interest in revising the Water Use Efficiency Program to meet their needs and interests.
- BDAC and public speakers provided suggestions for broadening public participation in and oversight of the CALFED process.

MARCH 19TH

1. WELCOME & INTRODUCTIONS (Mike Madigan)

Chair Mike Madigan convened the meeting at 9:40 AM and welcomed Bay-Delta Advisory Council (BDAC) members and members of the public. Chair Madigan welcomed new BDAC member E.Z. Burts representing the Los Angeles Area Chamber of Commerce. Another change reported by Chair Madigan is the substitution of Patrick Wright (U.S. Fish & Wildlife Service) for Roger Patterson (U.S. Bureau of Reclamation) as the federal representative to BDAC.

2. ORIENTATION OF THE PHASE II REPORT & THE NATURE OF THE DECISION (Lester Snow, Mary Scoonover)

Presentation

Lester Snow (CALFED Program Executive Director) informed BDAC that the draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) was released for public review on Monday, March 16, 1998. CALFED staff presented testimony on the Program at a joint state legislative hearing on Tuesday, March 17. Lester Snow provided an overview of the "Phase II Interim Report", an appendix to the EIR/EIS which describes the technical and policy considerations for the upcoming decision on the

preferred alternative for the CALFED Program. Copies of the Phase II report were distributed to BDAC members and available to members of the public at the meeting. He noted that the Common Programs were expanded to include the water transfers and watershed management elements. These had formally been elements of the Water Use Efficiency and Water Quality programs, respectively. Additional analysis will be forthcoming including an economic analysis of the Water Use Efficiency program, development of a framework for water transfers, and more thorough integration of the Levee program with the other Common Programs.

Lester Snow explained that the upcoming decision on a preferred alternative will require a commitment to a staged set of Program actions that are integrated and linked over time. Staged implementation will require meeting certain performance standards in some areas prior to moving ahead with other parts of the CALFED preferred alternative. Not only does this apply to integrating the Common Programs with new storage and conveyance facilities, but also applies to staging and linking among the Common Programs themselves.

He asked that BDAC consider the following two questions during its discussion on the Phase II report and future discussion on a preferred alternative:

- What is your assessment of the proposed implementation approach based on the integrated program activities and staging over time?
- What are the reasonable conditions to be met to continue funding of the Common Program and to construct any storage and conveyance facilities?

Mary Scoonover (CALFED Program staff) explained that the Assurances Work Group has identified discrete stages for Program implementation as well as broad actions to complete in each stage. The Work Group is presently developing a staging plan using the following general guidelines:

- Each stage should be completed prior to proceeding to the next.
- Build in incentives and disincentives so that each interest group supports completion of each stage.

Included in the mailing packet for the BDAC meeting was a report on Program-wide implementation strategy, including discussion on considerations for staged implementation.

Lester Snow pointed out that some implementation can be done incrementally such as conjunctive use water management. Other implementation actions such as the construction of storage facilities are less amenable to incremental implementation. However, they can be started at a later date after some conjunctive use is underway and the need for more surface storage is clearly established.

Lester Snow reviewed the public comment time frame and schedule of public hearings for the EIR/EIS. He noted that the Program is reviewing the adequacy of the length of the comment period. He added that the Program is proceeding with expert review of several areas of the alternatives. Rick Breitenbach (CALFED Program staff) stated that EIR/EIS's will be available for BDAC members. He explained that

the Program mailed flyers announcing the availability of the documents to a 7,000-person mailing list. Additionally, the Executive Summary and the Phase II report are posted on the CALFED website.

Discussion Points

- BDAC member Eric Hasseltine remarked that the through-Delta component of Alternatives Two and Three appeared to significantly differ, possibly precluding a solution of staging implementation starting with Alternative Two and then proceeding to Alternative Three. He asked whether a pipeline option was included in Alternative Three. Lester Snow replied that if a solution calling for staging from Alternative Two to Alternative Three was agreed upon, then the through-Delta component would be the same for both stages. He noted that a pipeline is included in Alternative Three.
- BDAC member Richard Izmirian asked for clarification about the assumptions made regarding the volume of export water and for yield from new surface storage facilities. Lester Snow replied that with surface storage one can expect to see additional water yield available for export. He added that modeling for water quality purposes assumed that new storage facilities would be part of the system.
- BDAC members Tom Graff and Roberta Borgonovo asked about the sufficiency of the current Delta water quality standards, including the X2 standard, to meet regulatory objectives for the Endangered Species Act and other environmental statutes. Lester Snow responded that the Program is undertaking sensitivity analyses ranging from more flexible to more restrictive standards in an effort to address the uncertainty of outcomes.
- Mr. Hasseltine, Vice Chair McPeak, Ms. Borgonovo, BDAC members Byron Buck, Martha Davis, Roger Fontes, Ann Notthoff, Alex Hildebrand, and Stu Pyle discussed with Lester Snow and Ms. Scoonover issues with staging implementation of the CALFED Program. A key policy issue is the concern that robust incentives for conservation and recycling will be lacking in the alternative. The use of a water budget would help the Program to identify the risks associated with staging and address water supply reliability issues. Lester Snow noted that agreement is more likely to be reached on a set of stages rather than on an entire package.

Staged implementation raises issues of governance and conflict resolution. Several members expressed interest in using performance standards as a means to determine when to move from one stage to the next. Assurances will likely differ for proposed conveyance facilities compared to proposed storage facilities. Some stakeholders are seeking reliability of water supply, hence moving ahead with implementation on all parts of the CALFED preferred alternative would be preferable rather than placing storage and conveyance on hold until other conditions are met. Placing these kinds of conditions on construction of storage and conveyance could jeopardize financing for other parts of the Program.

- BDAC member Bob Raab expressed concern that at this time it appeared the storage and conveyance components were receiving more emphasis in the Program than ecosystem restoration. It appeared that a quid pro quo relationship was being proposed requiring new storage and conveyance facilities in exchange for achieving improvement for endangered species.

Chair Madigan reviewed the four goals of the CALFED program and replied that they were of equal importance. Lester Snow reviewed the Program's mission statement and noted that the Ecosystem Restoration Program (ERP) was already in advance of the other CALFED resource areas. Mr. Pyle noted the independent scientific review that had occurred for the ERP and Ms. Borgonovo expressed support for independent review of other parts of CALFED as well.

- Ms. Notthoff and Vice Chair McPeak discussed with Mary Selkirk (CALFED Program) the calls for further independent review, particularly of the Water Use Efficiency Program. Staff is preparing for such a review within the next several months.
- Mr. Hildebrand remarked that BDAC needs adequate dialogue on the technical feasibility of the proposed alternatives. He endorsed the longer meeting format. He had discussed the EIR/EIS with several BDAC members and remarked on their agreement that several points in the report had not been recommended or endorsed by BDAC.

3. PANEL ON SOUTHERN CALIFORNIAN ISSUES & INVITED REMARKS (Sunne McPeak, moderator)

Presentation

Vice Chair McPeak explained that, in an ongoing effort to enhance the discussions of BDAC, several persons representing various perspectives in southern California had been invited to present short statements to the Council. These were grouped into panels. Following the invited presentations, BDAC members Ms. Davis, Tom Decker and Chair Madigan would add additional comments.

Elected Officials Panel

Bill Cole (County Supervisor, Imperial County) noted that all parties regardless of perspective are part of the answer.

Kathy Davis (County Supervisor, San Bernardino County) commented that the county is presently building extensions from the State Water Project. The Board of Supervisors of San Bernardino County is interested in assurances that will allow fulfillment of water contract obligations with adequate water quality and done so in an environmentally sound manner. She added that all parties are co-equal in their needs.

Todd Spitzer (County Supervisor, Orange County) addressed the growth experienced by Orange County. He remarked that repairing the Delta will help Orange County as it will provide for a long term solution. He submitted a letter of comment on the CALFED process.

Environmental Panel

Bong Hwan Kim (Korean Youth and Community Center) described the low-volume flush toilet retrofit program undertaken by his organization. He noted that it has been more effective than the rebate program offered by the City of Los Angeles. He added that it raised public awareness of water issues at the same time as providing job skills training. He urged that similar programs be replicated around the state.

Dorothy Green, former commissioner for the Los Angeles Department of Water & Power, stated that the city is using the same amount of water as in 1970 while sustaining a 28% population increase. This was accomplished at the same time as the successful effort to save Mono Lake. She noted that conservation and water reuse add stability to the water supply and decrease sewage treatment costs. The city is using an inverted rate structure for water rates. Significant outstanding issues are: 1) reducing the use of water softeners as a means to improve water quality, 2) where appropriate, addressing water disinfection byproducts as a local issue, rather than a source water issue and 3) addressing the unused storage capacity in southern California which exists because of contamination by nitrates and toxics.

Business Panel

Ernesto Grijalva (Greater San Diego Chamber of Commerce) commented that the CALFED preferred alternative must ease the transport of water through and around the Delta in a cost-effective manner, thereby increasing water reliability for the region. He noted that there is a multi-billion dollar economy in southern California.

Bob Bein (Orange County Business Council) remarked that an environmentally sound, reliable water supply of sufficient quality and quantity is necessary. Without such, the seventh largest economy in the world will deteriorate. He noted that water issues have been overlooked in much the same way as other infrastructure such as schools and highways. He added that his region is willing to pay its fair share.

Denise Coleman (Valley Industry & Commerce Association) stated that the CALFED preferred alternative should improve the quality, reliability and affordability of water supply. She recommended that better wet weather management be part of the Program. The solution with the greatest long-range benefits, rather than simply that of the lowest cost, should be selected. She added that southern California is not apathetic to the needs of the San Francisco Bay and Delta.

Jim Creitol (Kern County Farm Bureau) expressed concern regarding projected water shortages for 2020. He noted that agriculture is a renewable resource and that several water conservation and recovery measures have been undertaken in the county. He added that fallowing farmland is not a feasible option for achieving water conservation.

Marv King (Proctor & Gamble) explained that water is an important part of the production of paper products and that his company is a leader in its industry in water recycling. He noted that the expansion of the company's facilities in Oxnard is a vote of confidence in overall water management in California.

Bob Kreiger (Riverside County business interests) spoke of efforts to re-use and reclaim water throughout the county. He added that rates for water are structured to reduce domestic water use and noted his region's support for Proposition 204. He urged the Program to select an alternative and proceed with implementation. After the Delta issues are addressed, then attention should be turned to the Salton Sea.

Tom Topuzes (Valley of Imperial Development Alliance) urged that a balanced approach be selected for the Bay-Delta and noted that regions of the state are connected to one another. He provided examples of the economic interconnections among regions. These included the \$1 billion agricultural economy in the Imperial Valley of which nearly all products are exported out of the region, while at the same time the

Valley benefits from the tourist economy related to the Salton Sea. Additionally, the business sector is aware of the influence of international markets due to the manufacturing facilities immediately across the U.S.-Mexican border.

Geoffrey Vanden Heuvel (Chino dairy farmer) commented that CALFED has produced a feasible roadmap for a Bay-Delta solution. He noted that there is broad support for the Program's environmental efforts. Water quality problems in his region necessitate increased imported supplies of water that are adequate, dependable and affordable. He explained that alfalfa is the base of the dairy industry and that conservation alone will not meet water supply needs for the industry. He expressed disappointment with the Environmental Water Caucus' initial reaction to the EIR/EIS and also expressed concern over new surface storage being held hostage to the program.

Bob Seat (Orange County tree grower) described a tree seeking water during a drought as a metaphor for the water supply issue in the state.

Steve Zapoticzny delivered a prepared presentation on behalf of Ted Roth (Alliance Pharmaceutical Corporation) who could not attend. In San Diego County, 250 biomedical firms employ 25,000 people. A significant raw material for the industry is high quality water. The availability of water and its cost are factors used in business location decisions. Without reliable water supply of sufficient quality the region risks losing this new sector of business.

Environmental Panel, continued

Susan Munves (City of Santa Monica) provided an overview of the city's conservation efforts. These resulted in reductions in water usage, wastewater flows, and improved stormwater management. The city uses several tools including requiring the replacement of plumbing fixtures at the time of sale and offering a revolving loan fund. She added that up to 60% of the city's groundwater supplies are contaminated resulting in increases in water bills. The city and Mobil Oil Company have reached agreement regarding clean-up and reimbursement.

Nick DiGroce (California Trout) urged CALFED to undertake efforts to change water pricing policies in an effort to reduce agricultural water demand thereby redistributing the overall supply of water. He estimated that a 10% reduction of agricultural water use would significantly reduce the mismatch of future water supply and demand. He predicted that southern California residents will oppose parts of the CALFED Program unless there is some success in redistributing the overall water supply.

David Czamanske (environmental consultant) recommended that CALFED re-examine assumptions underlying water demand, including population growth, per capita use, and demand for imported water. He urged that measures be undertaken to protect source water for both surface and groundwater supplies and that an incremental approach to capital investments be the adopted course of action.

Jim Stewart (Southern California Council on Environment and Development) spoke in favor of expanded water recycling efforts and noted that support for this ranges from the business sector to environmentalists to the public sector. He suggested that the Program place more staff resources on the Water Use Efficiency program.

Jenna Olsen delivered a presentation on behalf of Connor Everetts (Public Officials for Water and Environmental Reform) who could not attend. BDAC was informed that new technology offers new opportunities for water use efficiency. Citizen support for demand reduction programs exists, despite recent cut backs in conservation programs. Advice to state and local officials includes addressing conjunctive use through various conservation and reclamation efforts, enforcing existing policies, and creating a tie between land-use and water supply. By doing so officials will be responding to existing public support for water use efficiency measures.

Fran Spivy-Weber (Mono Lake Committee) cited the success of protecting Mono Lake while meeting water supply needs for the City of Los Angeles as a model for resolving the Bay-Delta issues.

Water Agencies Panel

Sterling Fox (Yorkland Water District) reiterated the call for reliable water supplies of sufficient quality. He commented that the potential for water transfers and marketing to meet these needs is significant.

Hank Panian (Water Advisory Committee of Orange County) urged better education of the public about the Bay-Delta issue and noted that many water suppliers understand the need to heal the Delta. He recommended that the Program establish liaisons with the state Chamber of Commerce and the California League of Cities and that BDAC work closely with the Urban Water Council. In Orange County substantial investments into recycling and groundwater treatment are being made and the CALFED preferred alternative will complement these investments. Diminished supplies from the Colorado River heighten the need for a CALFED solution. He expressed concern that the Water Use Efficiency program contained internally conflicting statements.

James Bond (San Diego County Water Authority) remarked that the county's \$86 billion economy is at risk without reliable water supplies. He reiterated the interest in affordable, high quality water supplies. He explained that reclaiming and re-using water from the Colorado River is very difficult due to the high quantity of total dissolved solids in that source. Therefore, supplies from the Delta are needed to blend with Colorado River water.

Remarks from Assemblyman Machado

Following lunch, Vice Chair McPeak introduced Assemblyman Michael Machado who then made a presentation to BDAC.

Assemblyman Machado explained that while the CALFED process has been extraordinary it also has been solely a process of the administrative branches of state and federal government with no legislative oversight occurring to date. A "trust me" message has been sent, yet that will not work for decisions about assurances, for addressing third party impacts, and for addressing the needs of areas-of-origin. Additionally, the timeline for review of the EIR/EIS is too short and no hearing was scheduled for the San Joaquin County portion of the Delta. He predicted that the state Legislature will demand an oversight role, possibly in the selection of the preferred alternative or in determining funding mechanisms for the preferred alternative. He noted that the CALFED effort and current discussions on a water bond act should be complementary but separate.

Ongoing issues include balancing water demands and water supply, and establishing a framework for

water transfers and a water market. A baseline for environmental protection is necessary. Balancing water supply and demand may require all sectors, including agriculture, to address the implications of a finite supply of water. Discussion on water re-use, recycling and costs for water supplies should continue. Discussion is also needed on third party impacts due to water transfers, and the policy issues that arise with both homogeneous and heterogeneous water markets.

Assemblyman Machado spoke about the current climate in the Legislature. He noted that some constituencies are already pushing to eliminate Alternative Three followed by legislative oversight of revisions to the remaining alternatives. He commented that the effects of term limits on legislative behavior seem to increase focus on what is beneficial for one's own district and that more complex and controversial issues remain unresolved.

Discussion Points

- Vice Chair McPeak asked Assemblyman Machado for recommendations for public outreach actions. She noted that a public hearing on the EIR/EIS had recently been scheduled to take place in Stockton. The Assemblyman recommended that the stakeholder process continue and endorsed the upcoming series of public hearings.
- Mr. Decker urged the Program to respond to Assemblyman Machado's points by meeting with legislators in the near future.
- Ms. Davis asked for the Assemblyman's recommendations for changes to the CALFED timeline. Assemblyman Machado replied that the timeline should be extended, perhaps as much as a year.
- Ms. Notthoff noted that some progress in coming to agreement had been made and that much work is yet to be done.
- Mr. Wright and Vice Chair McPeak discussed with Assemblyman Machado federal and state relationships on Bay-Delta management and oversight. Federal agencies should be undertaking more outreach to the state legislature. Additionally, state and federal elected representatives need to meet to discuss Bay-Delta issues from an overall perspective. The need for state legislative oversight was reiterated.
- Mr. Raab commented that legislators would be advised to reach out to constituents, as it was public interest groups in the 1970's that initiated the first steps towards changes in Bay-Delta management. Assemblyman Machado replied that very few people in the state or in the legislature understand the intent and process of CALFED. He suggested acknowledging that there may be a deal-breaker which people may need to back away from to allow the process to move forward. He remarked that if the proposed flood/water bond does not move ahead consider how difficult it would be to implement the CALFED Program. Vice Chair McPeak thanked the Assemblyman for his participation at the BDAC meeting.

BDAC Panel

Vice Chair McPeak introduced the BDAC Panel comprised of Mr. Decker, Ms. Davis and Chair Madigan. She noted that they were asked to address the questions:

- What do you think are the three most critical water management issues facing Southern California as the region moves in the 21st century. How do you think CALFED can be of greatest assistance in the short and long-term in solving these dilemmas?

- Given that it is not CALFED's mission to solve the overall mismatch of supply and demand facing California, what do you think is the most important outcome from CALFED from your perspective?

Mr. Decker opened his comments noting that California's economy is the seventh largest in the world and southern California's is the 11th largest economy in the world. It has unbelievable economic clout and power and significant political power and at the same time is located in a desert region. The state's population will continue to grow significantly and most of that growth will likely occur in the southern part of the state where the shortage of water supply is highest. Concurrently, some stakeholders in southern California understand more clearly the connection between the health of the Delta and southern California water needs. Thus the southern California issues are reliability, quality and affordability. He suggested that CALFED follow Mr. Panion's recommendation to develop relationships with the League of Cities and the state Chamber of Commerce. Mr. Decker commended CALFED staff for good work so far and added that keeping and maintaining focus and showing progress towards resolution was important. In conclusion, Mr. Decker noted that within the legislature there is virtually no historical perspective on water issues in the state while at the same time the locus of voting power in the state appears to be shifting to central Los Angeles.

Ms. Davis provided background on the efforts of the Mono Lake Committee, the City of Los Angeles and the Metropolitan Water District to address water supply needs during the drought of the early 1990's. Significant water conservation efforts were undertaken. The region learned that imported water supplies were an unreliable source. To address unreliability, integrated resources planning was undertaken to link conservation, recycling and groundwater management. At the same time the largest recycling plant in the nation was built. Ms. Davis described ongoing water quality problems due to problems with local delivery systems and the need to place this in the context of the protection of quality for the supplies from the State Water Project. Additionally, the opportunity for regional groundwater management is threatened by possible contamination of local groundwater basins.

Chair Madigan reviewed many of the advances achieved in southern California to improve and stabilize local water supplies through water conservation, reclamation and recycling. Yet, no estimates for water usage and supply for 2020 for the region assume that demands will be met by local supply only. Rather a three-legged stool of Colorado River imports, Delta imports and local sources will continue to provide water supply for the region. Looking specifically to San Diego, the Water Agency is working to firm up conservation programs. At the same time it is attempting to undertake water transfer with the Imperial Irrigation District in an environmentally sound manner. The legal and political challenges of the transfer are great and it is yet to be seen whether it will proceed. Chair Madigan remarked on the consistency of the messages from the earlier panels. He expressed his hope that the efforts by southern California to heed the needs of the Delta through improvements in water use efficiency would be met by understanding and addressing the region's future water supply needs.

Discussion Points

- Mr. Graff summarized the water use efficiency efforts in southern California and supported the

progress made especially in comparison to the level of effort in northern California. He added his organization, the Environmental Defense Fund, and the San Luis-Delta Mendota Water Authority held similar critical views of a proposal by the East Bay Municipal Utilities District for diversion from the American River. This District could undertake measures as aggressive as those in southern California before undertaking such a diversion project.

- Mr. Raab remarked that quantification of the desired amount of water for export from northern California has not been undertaken nor has there been an estimate of northern California water supply demands. Additionally, CALFED has not addressed the issue that water resources are finite. Lester Snow replied that if new storage is constructed the supply system could yield between 800,000 to 1 million acre-feet of additional water for use throughout the system. This estimated yield assumes that water rights in upstream areas will be exercised.
- BDAC member David Guy commented that nearly every panelist spoke of the significance of the Delta ecosystem. The global significance of agriculture should also be recognized.
- BDAC member Don Bransford noted that stakeholders in parts of northern California are very nervous. He added that, if backed into a corner, his part of the state will take on the fight, which will only prolong the entire process. Already it is becoming difficult to keep some of the northern California parties at the table. It is important to remove the obviously contentious issues and stick to principles and solutions. Lester Snow responded that the next BDAC meetings will be in Redding, Fresno and the Bay Area.
- Mr. Hildebrand noted that using DWR's Bulletin 160 estimates as the basis for demand estimates is weak because there are flaws in how the estimates for the urban and agricultural sectors are calculated.
- Mr. Buck reported that the largest issue of concern for urban water agencies and Bay-Delta water quality is the level of bromides and the second round of drinking water regulations from the federal government, rather than controlling trihalomethanes. It is likely to be extremely difficult or prohibitively expensive to meet these regulations.
- Ms. Borgonovo commented that environmental stakeholders would like an independent review of the Water Use Efficiency program such as was done for the Environmental Restoration Program. Environmental interests are aware of the importance of supply reliability to southern California, but all parties are approaching the issue from differing perspectives. She added that pricing mechanisms should be included in the review.

4. CHAIR'S REPORT (Mike Madigan)

No topics were raised under this agenda item.

5. ECOSYSTEM RESTORATION PROGRAM STATUS (Dick Daniel)

Presentation

Dick Daniel (CALFED Program staff) provided an overview of the process underway for the creation of

a strategic plan for the Ecosystem Restoration Program Plan (ERPP). He reviewed the three elements of the CALFED's ecosystem restoration program—the Restoration Coordination Program for early implementation, the Conservation Strategy to comply with federal and state endangered species requirements, and the long-term ERPP. He explained that a draft of the strategic plan is to be released this August. As part of the revision process and through discussion with the BDAC Ecosystem Restoration workgroup, the goals for the ERPP have been modified. Recovery of endangered species dependent on the Delta estuary and supporting native species found in the overall ecosystem serves as one of the goals. The Program probably can not restore the natural processes of the ecosystem, but it will strive to rehabilitate the capacity of the system to support organisms dependent on the system and to do so with minimal human maintenance and intervention. Mr. Daniel noted that there will be several strategic planning workshops and that implementation plans will be developed for the 14 geographic areas in the ERPP.

Discussion Points

- Ms. Borgonovo commented that the Program has responded to stakeholder's concerns regarding the need for a strategic plan and to the recommendation by the Scientific Review Panel for embedding science into implementation of the ERPP. She noted that the Program is just beginning to integrate the ecosystem restoration program with other parts of the CALFED Program.
- BDAC member Robert Meacher, Ms. Borgonovo and Mr. Daniel discussed types of desirable expertise to review the upper watershed portions of the ERPP, such as a resource economist and aquatic ecologist with statewide expertise. Three tiers of scientific review are being created for the ERPP. The first is those scientists who will assist with creating the strategic plan, the second is the creation of a standing review body, and the third is independent scientific review of the ecosystem restoration program along with other parts of the overall CALFED Program. It was noted that CALFED's watershed management program and the ERPP need to be integrated.
- Mr. Hildebrand commented that the Strategic Plan lacked adequate review of impacts on the ability to manage floods and that without such review he could not concur with the Program's approach for the Ecosystem Restoration Program. Mr. Daniel replied that the topic would be addressed in the EIR/EIS.

6. STATUS REPORT ON THE RESTORATION COORDINATION PROGRAM (Lester Snow)

Presentation

Lester Snow reviewed the material on the program in the BDAC mailing packet. He reminded BDAC that these early implementation grants are fulfilling obligations agreed to in the Bay-Delta Accord. He noted that 71 projects have been funded to date. The Program anticipates distributing the remaining federal funds prior to the close of the fiscal year on September 30th. Presently before Congress is a request to appropriate an additional \$143 million.

Discussion Points

- Mr. Graff asked if water transfers would be facilitated by the creation of a lead staff person to coordinate transfers. Lester Snow replied that the concept of a transfers clearinghouse is being

discussed in the Water Transfers workgroup. There are universal complaints with how the present system works. The possibility of establishing a lead transfers staff position might be a practical first step towards a clearinghouse, which would require legislation to implement.

- Mr. Hildebrand, Ms. Borgonovo, Mr. Meacher, Mr. Graff, Vice Chair McPeak and Ryan Broddrick (substituting for Jim Branham, state representative to BDAC) discussed with Lester Snow and Marc Luesebrink (California Resources Agency) the proposed \$20 million directed towards water acquisition. The same purposes could be met using less money through implementing Delta re-circulation. The drawback to re-circulation is possible increased fish entrainment at the Delta pumps, though that has not been verified through scientific review. From one perspective, purchasing water for environmental purposes, rather than legislating a specific amount to be used, could reduce conflicts. Another perspective is that this is a technique that might work in some localities, but would be a re-allocation of water away from agriculture if implemented on east-side tributaries in the San Joaquin Valley. The re-allocation would occur because no one would be required to reduce their consumptive use of water as part of the requirements for the transfer. If the acquisition effort were implemented in the same manner as DWR's supplemental water purchase program, it would be met with great resistance in northern California upper watersheds. A suggestion was made to delay water acquisition expenditures. The types of acquisitions being considered are opportunities due to dam re-licencing and small projects in the north Sacramento Valley. Some type of oversight of water acquisitions and transfers is necessary to protect against third party impacts and over-allocation of existing supply, given that transfers can proceed under existing law. These issues will have to be addressed because they will emerge again as implementation of the ERPP moves forward. The alternative is a regulated water transfers program which would likely be inefficient. A sub-committee of the Ecosystem Round table is deliberating on principles for water acquisitions and transfers for environmental purposes.
- Mr. Graff remarked that it would be unlikely for Congress to appropriate the requested \$143 million and inquired how the Program would manage. Lester Snow replied that the 1996 authorization was for \$430 million to be spent over 3 years. If Congress decided to extend the authorization period, smaller annual appropriations are suitable and would work well with the overall CALFED Program.
- BDAC member Stu Pyle asked when progress reports on the 1997 grants would be available. Lester Snow replied that quarterly reports by the U.S. Bureau of Reclamation are required and will be out in late March. He added that a comprehensive report from CALFED would be produced later in the year.
- Vice Chair McPeak asked if the federal funds could be used for CALFED purposes other than ecosystem restoration. Lester Snow replied no and noted that the tasks to which the monies could be applied are restricted.
- Mr. Graff commented that this authorization and appropriation process has had much higher stakeholder involvement than is typical of Congressional appropriations. Congressional staff at first were uncomfortable with this process, but are increasingly in favor, provided there is

adequate communication and feedback. Lester Snow agreed, but noted that the funds must go to on-the-ground projects in order to continue to be viewed favorably. Vice Chair McPeak added that this is an awkward phase as federal funds need to be spent now in order to keep receiving future federal monies, yet the overall CALFED approach is still being formulated. Lester Snow noted that it is important to determine the outcomes of these grant projects and the links to actual changes in the ecosystem and in water quality. CALFED is preparing some information for Congressmen Doolittle and Pombo on how the Program has shaped the land acquisition program to work with willing sellers and to address possible impacts to nearby owners and communities.

- Mr. Wright commented that for future rounds of appropriations, it will be helpful to show the linkages between the ERPP and the proposed restoration coordination grants.

7. PUBLIC COMMENT

There was no public comment.

The meeting recessed at 5 PM.

MARCH 20th

The BDAC meeting reconvened at 8:40 AM.

1. STATUS OF THE STATE WATER RESOURCES CONTROL BOARD BAY-DELTA WATER RIGHTS HEARINGS (Mike Madigan)

Presentation

Ms. Selkirk reviewed a memorandum dated March 19, 1998 from Walter Pettit, Executive Director of the State Water Resources Control Board and the attached letter to Deputy Secretary of the Interior John Garamendi from John Caffrey, Chairman of the Water Board. The letter to Deputy Secretary Garamendi related to the Board's Bay-Delta water rights process. The materials were distributed to BDAC members and available to members of the public.

Discussion Points

- Mr. Graff commented that a consequence of the extended schedule for the water rights hearings was that westside contractors to the Central Valley Project would bear the largest responsibility for meeting Delta water quality standards, that this could continue indefinitely, and that it was a poor foundation for the CALFED Program.
- Mr. Wright informed BDAC that the federal agencies had agreed to the extension of the Accord based on conclusion of the hearings in 1998. Thus, they continue to be concerned with the hearings schedule. Discussions need to begin now to ensure that the bulk of the hearings process is concluded by year's end.
- Ms. Borgonovo and Vice Chair McPeak discussed whether the water rights decision should ultimately be based on the performance standards that will result from the ERPP. Environmental stakeholders view the water quality standards established by the Bay-Delta Accord which is the subject of the hearings, and the Central Valley Project Improvement Act as the foundation on

which CALFED stands. Lester Snow concurred that the present water quality standards were established under the Accord. He explained that the hearings were a process to allocate responsibility for meeting those standards. Additionally, water quality standards are examined and sometimes revised in the Triennial Review. It is the expectation of the Program that following a decision on an alternative, a Triennial Review would occur and standards might change again. He noted that presently the standards are being enforced by agreement under the Accord and not by a water rights order.

2. ASSURANCES (Mary Scoonover)

Presentation

Ms. Scoonover provided an overview of the Program's Implementation Strategy which is in draft form and accompanies the EIR/EIS. The Strategy will address assurances, finance, mechanisms for consistency between the Common Programs and the Storage and Conveyance Programs, and comprehensive program-wide monitoring.

The Implementation Strategy section on assurances will address program element implementation, program-wide coordinated implementation, staging, and contingency planning. Ms. Scoonover reviewed material on staging that was included in the BDAC mailing packet. The Assurances Work Group is working on contingency planning by identifying categories of actions, developing Program response mechanisms, and distinguishing different milestones and the consequences and procedures that will engage when milestones are not met. Ms. Scoonover reported that her staff is working with program managers to identify indicators of success and milestones.

Development of a proposal for entity(ies) that will implement the Ecosystem Restoration program and possibly other parts of the CALFED Program is also proceeding. Ms. Scoonover noted three documents on the topic are now available. CALFED has contracted with the Natural Resources Law Center at the University of Colorado to assist with designing the entity. It is expected that the Center will submit a paper on institutional arrangements for the April 28th meeting of the Assurances Work Group.

Discussion Points

- Mr. Buck suggested that as the assurances packages for each component of the Program are completed, they should be brought forward for discussion.
- Ms. Davis and Vice Chair McPeak discussed with Ms. Scoonover the amount and type of work, and the opportunity for public review on assurances that should be completed for Phase II and the programmatic EIR/EIS. At the programmatic EIR/EIS stage, the Program attempts to address cumulative impacts for the overall Program. Later, as specific projects emerge, project level environmental impact review would tier off from the programmatic EIR/EIS. It may also be necessary to supplement and re-circulate the programmatic EIR/EIS. The Program could also require that additional public review be a milestone in Phase III, prior to proceeding. This might include legislative oversight.
- Mr. Hildebrand acknowledged the competent staff work being done on assurances, but expressed reservation about the possibility of crafting substantial assurances.

- Ms. Borgonovo expressed concern about the opportunity for public review of performance standards or measures of success. Ms. Scoonover replied that performance standards will vary by program. They need to be measurable, but not necessarily limited to numeric criteria. Devoting time at a BDAC meeting or for a Program-wide work group discussion may be valuable.
- Mr. Guy commented that legislators need to be continually briefed. Additionally, assurances should address landowners needs as well as those of water users.
- Mr. Buck commented that it appears the Program may be grossly underestimating the implementation costs for some Program components. He cited the estimated costs for water recycling to achieve savings of 1 million acre-feet as an example. He explained that the importance of this is that the share of funding that could come through CALFED may not be a strong enough incentive to achieve the desired results. Steve Yaeger (CALFED Program staff) agreed that there will likely be additional costs. CALFED staff are trying to refine the cost estimates the Program can influence and implement.
- Mr. Pyle commented that it is very challenging to discuss assurances at the programmatic impact review level. He suggested that a new term be used for “completed” when describing staged implementation. Ms. Scoonover responded that the Program needs to break things into doable actions and that there needs to be agreement on actions to be done up front.
- Ms. Borgonovo remarked that while eminent domain is one of the possible tools, it is not a given that it will be used. Ms. Scoonover agreed and noted that it is being analyzed both from the perspective of the usefulness to the Program and concern by stakeholders about that tool.
- Mr. Raab commented that political insulation will be key to the success of an implementing entity. Ms. Scoonover replied that in-depth research into an entity is being undertaken and that a judicial decree is one possibility.
- Mr. Graff asked for the Program’s response to Assemblyman Machado’s view that legislative action is necessary under the provisions of the Burns-Porter Act. Lester Snow explained that it was premature for the Program to discuss the role of the legislature prior to selecting a preferred alternative. Chair Madigan commented that an interesting and difficult question is surfacing which is, to what extent will elected representatives grant over sufficient power to an implementing entity to give the Program a chance of long-term success.
- Ms. Notthoff commented that it is difficult to imagine completion of the work and selection of a preferred alternative in the specified timeframe.
- Vice Chair McPeak commented that in all likelihood there will be involvement by the legislature as the Program moves forward. Additionally, the decisions the Program must make require significant stakeholder involvement. The topic of political insulation of an implementing entity is difficult. When disagreement emerges with decisions made by the entity, questions about that

body's responsiveness will also emerge. Success of the Program is dependent on clear performance standards or objectives that are observable and to the extent possible, quantitative. Until such standards are formulated, discussions about an implementing entity's responsibility are premature. She noted one of the preliminary recommendations from the Natural Resources Law Center, that the implementing structure should follow the function of its program.

3. FINANCE (Zach McReynolds)

Presentation

Mr. Hasseltine introduced the presentation by noting that the Finance Work Group has been working to define and address the issues of a benefits-based approach to financing CALFED programs. He commented that an overriding difficulty is that many of the benefits, especially those for ecosystem restoration, are not quantifiable which make it difficult to assign costs to beneficiaries. Following staff's presentation, BDAC would be asked to deliberate on the topic of what to do when benefits cannot be quantified and whether or not any adjustment for past impacts is appropriate prior to using the benefits approach. Background material on finance issues was included in the BDAC mailing packet.

Zach McReynolds (CALFED Program staff) stated that a recurring issue in the work group's deliberations is formulating a recommendation for determining the portion of the Common Programs that should be funded through user fees. He provided information on several related issues: the justification of the use of user fees for the Common Programs, method for calculating such a fee, criteria for starting and ending use of the fees, and method for collecting fees.

Discussion Points

- Mr. Hildebrand expressed concern that a enormous bureaucracy would be necessary to implement a user fee. Mr. Hasseltine agreed and commented that the first step is determining the benefits at a general level before allocating costs, in order to provide a general approach for the CALFED Policy Group. Mr. McReynolds stated that the following concerns had been identified so far: affordability, practicality of implementation and the future management of funding. Mr. Raab noted that the Bay Area Council had attempted to address some of these concerns, and while he didn't fully agree with their figures, he suggested their approach be used as a model.
- Mr. Buck commented that certain basic principles those being equity, ease of collection, and simplicity, need to be balanced.
- BDAC member Howard Frick commented on a map displayed by Mr. McReynolds of a possible geographic area in which a fee might be collected. If a fee were not collected on a statewide basis, the Salinas Valley and certain areas in the southern portion of the San Joaquin Valley should be excluded.
- BDAC member Judith Redmond recommended that the Program re-characterize and couple the user fee with the concept of achieving a degree of success in the Common Program rather than basing a fee concept on redressing past harm done.
- Mr. Buck noted that preliminary discussion among his constituency show support for some

degree of user funding for the Common Programs. The geographic area proposed for application of the fee was generally correct. While the fee should be applied across the board, some consideration should be paid to the ability of the user to pay the fee. Amy Fowler (Santa Clara Valley Water District) noted that her water district, a member of Mr. Buck's constituency, is considering the user funding idea. While there appears to be support for a user fee for part of the Common Programs, it is clear that the fees must be tied to benefits received. She added that ultimately it will be the ratepayers in the districts who will determine if the benefits received are worth payments that will be incurred.

- Mr. Graff suggested that it would be beneficial to consider the history of strategies used to pay for past water projects. Some of the questions raised by staff have been addressed in other policy forums such as for the Central Valley Project Improvement Act (CVPIA). While not all parties agree with past strategies, there would likely be useful information that could be applied to CALFED. Mr. McReynolds clarified that when the Program refers to across-the-board, it is referring to all types of water rights.
- Ms. Borgonovo, Vice Chair McPeak, BDAC members Mike Stearns and Rosemary Kamei, Ms. Redmond, Mr. Hildebrand, Mr. Pyle, Mr. Graff, Mr. Buck, and Mr. Izmirian discussed the concept of beneficiaries of the Program paying for its costs, and the issues of equity, ability to pay and tradeoffs of funding certain facilities. Environmental stakeholders want the full cost of impacts of new storage and conveyance facilities borne by all users who will benefit from these facilities. They acknowledge that some adjustments can be made based on an user's ability to pay. They raise this concern because in the past, water charges did not cover the full environmental cost of existing facilities. They emphasized that water users must pay for mitigation of new and old projects.

Despite not having resolution on these issues some financing debate has already begun during discussions on the Governor's proposed water bond. A helpful addition to the work group's discussion would be a review of funding that is already in place for various parts of the Common Programs, and a review of the total funding support for water resources dependent on the Delta. This should include funds from water contracts as well as programs authorized by the legislature.

It was suggested that a practical method for addressing past projects is to consider standards from the Bay-Delta Accord, X2, and requirements from the CVPIA as mitigation (paid for by responsible urban and agriculture water users) to restore the environment to an agreed upon baseline level. Restoration above the baseline would be considered enhancement and would be paid for by all who benefit from the Program. Other opportunities for mitigation for past damages are limited, probably to the water rights proceeding that will follow CALFED and to any improvement that occurs due to a conveyance mechanism.

It would also help policy discussions to separate the discussion on storage into two parts; what environmental benefits may flow from new storage, and who might buy any additional yield from new storage. If the general public, rather than users, pays for new storage facilities it is likely general public funds for other water management activities would be reduced.

Agriculture stakeholders emphasized that while they agree with the concept of across the board user fees, a water user's ability to pay must be considered. The cost allocation model provided by CVPIA is useful. In addition, collecting and distributing the fees will be difficult.

From the perspective of certain urban water users, the general public does not distinguish between across the board general benefits and benefits specific to a user group because they will pay whether the fees are pump taxes or property taxes. It was suggested that everyone will benefit from the program, therefore everyone should pay irrespective of the baseline.

An ongoing concern is that the cumulative financial burden for the Program, regardless of the financing mechanisms, could be so great that public support will be difficult to achieve. Also, it is likely that new conveyance will be paid for with bonds and that the bond covenants will specify repayment conditions. Some stakeholders encourage the Program to incorporate the costs of ecosystem impacts into the cost of water.

- Mr. Hasseltine summarized the previous discussion and noted that there seems to be consensus among BDAC for a water user fee, yet the details of a fee are yet to be worked through. He suggested that the discussion of the environmental baseline should be concluded soon, as it will likely not effect the mechanics of the financing arrangements.

Public Comment

- Laura King (San Luis-Delta Mendota Water Agency) commended staff for the material on environmental baseline included in the BDAC mailing packet. She suggested that the underlying issues of the baseline discussion should be identified and addressed separately from financing. She remarked that internalizing costs is not necessarily punitive and that inventive approaches could be developed and applied.

4. PUBLIC INVOLVEMENT STRATEGY & ACTIVITIES (Judy Kelly)

Presentation

Judy Kelly (CALFED Program staff) reviewed material on public involvement contained in the BDAC mailing packet. Ms. Selkirk informed BDAC that Dan Carroll is CALFED's staff legislative coordinator. The May BDAC meeting will be on the 14th in Redding. In June, the meeting is on the 17th and 18th in Fresno.

Discussion Points

- Chair Madigan encouraged BDAC members to contact staff to organize events in their localities.
- Vice Chair McPeak recommended that staff invite legislators to EIR/EIS hearings held in or near their districts.
- Mr. Pyle asked about the format for the EIR/EIS hearings. Ms. Kelly and Ms. Scoonover replied that these are formal public hearings. The primary task is to take testimony on the EIR/EIS. Unlike other public meetings hosted by CALFED, staff will not engage in dialogue with persons attending the hearing. Lester Snow reminded BDAC that CALFED must comply with public

comment requirements of National Environmental Policy Act and California Environmental Quality Act. Testimony can be provided in two ways, through public hearings or written comments. Should BDAC members have comments on the EIR/EIS that they desired entered into the comment record, members must provide their comments in the same manner.

- Ms. Notthoff complimented staff on having a publicly noticed orientation session for the EIR/EIS. She suggested that representatives of the three major categories of stakeholders be encouraged to attend each public hearing. She also suggested that staff schedule a briefing day with legislators, in which representatives of the stakeholders could inform elected representatives of the CALFED Program and the issues that are being addressed. Chair Madigan cautioned BDAC members that the Council's role is to inform decision-makers, but not to lobby legislators, so that any briefings must be held consistent with this role.

5. CHAIR'S REPORT continued

The Chair reported that Sharon Gross (CALFED Program staff) will be leaving with CALFED and returning to the U.S. Fish and Wildlife Service.

6. PUBLIC COMMENT

- At the beginning of the day, John Mills (Regional Council of Rural Counties) commented that his organization is composed of 27 northern California counties providing approximately 50% of the water going into the Delta. The Council is committed to the CALFED process and is also committed to learning about the water supply needs of southern California. In response to points made during the invited remarks the previous day, he stated that water transfers are part, but not all of the needed solution. Also, the economy of scale for water conservation in northern California differs from that in the southern part of the state. He recommended that the watershed management program proceed on the same schedule as other CALFED programs. The Council is working to resolve outstanding issues with the Sierra Nevada Ecosystem Alliance. The public review period for the EIR/EIS should be lengthened. Mr. Buck responded that the Council has taken on the role of a bridge-builder. Mr. Mills expressed support for the watershed management component of the CALFED Program and its potential benefits for all stakeholders.
- Peter Kiriakos (San Geronio Chapter, Sierra Club) recommended that solutions to some of the water management issues include moving from a flood control to flood management perspective, preserving open space through the use of urban limit lines, encouraging water recycling and conservation, encouraging drought-tolerant landscaping, and integrating land use planning with water supply availability. He added that program elements should be simple and mimic natural processes, thereby reducing the risk of failure. He encouraged fees based on water usage and encouraged water conservation in the agricultural sector.
- Irwin Haydock (Fountain Valley) submitted typed comments and asked that they be included in the public record. He encouraged CALFED decision-makers to think of the statewide interest rather than specific perspectives such as a region, a type of water user, or a single species. He noted the importance of water flows and healthy watersheds to enriching coastal resources. He urged BDAC to use existing data and proceed with selecting a preferred alternative as time is running out. It is essential that all interests are able to live with the long term outcomes.

- Margaret Clark (Rosemead) recommended that CALFED analyze how Prop. 218 will affect financing mechanisms. She suggested that any funding decisions that require a popular vote must be relayed in simple terms, clearly discussing the pros and cons and identifying which parties support which alternative. She asked if the EIR/EIS public hearings would offer a question-and-answer session. She noted that in her experience as a politician often people do not testify at public hearings because they do not understand the issues at hand. In order to faithfully state that the public understands and supports a CALFED decision dialogue is required. Lester Snow replied that BDAC meetings would be a more appropriate place to participate in dialogue, as the hearings were simply for gathering public testimony. Vice Chair McPeak commented that the SCAG is interested in providing a forum for public dialogue and that CALFED should explore that opportunity.

The meeting adjourned at 2:14 PM.