

Draft
BAY-DELTA ADVISORY COUNCIL
MEETING SUMMARY
October 29 and 30, 1998
Holiday Inn, Sacramento

OCTOBER 29

Welcome and Chair's Report (Vice Chair Sunne McPeak)

Vice Chair McPeak convened the meeting at 9:15 am and advised BDAC that a new member, Eugene Andreuccetti had joined the Council. She mentioned that Secretary of the Interior Bruce Babbitt was traveling to California on a weekly basis to conduct joint meetings with the State administration and discuss issues relevant to developing a draft preferred alternative.

Lester Snow, CALFED Executive Director, informed BDAC that staff is still concentrating on developing a draft preferred alternative. He, BDAC member Alex Hildebrand and Vice Chair McPeak discussed that a draft alternative is expected to be well developed, but not finalized, by the next BDAC meeting on December 10 and that BDAC will provide advice on the progress. Mr. Hildebrand and other BDAC members were invited to discuss their concerns regarding water transfers and water use efficiency during the discussions at this BDAC meeting so that those concerns and could be addressed in the draft preferred alternative and expected impacts could be addressed in the Phase II report due to be released around December 15, 1998.

Vice Chair McPeak introduced Allen Zaremburg, President of the California Chamber of Commerce.

Mr. Zaremburg stated that an improved infrastructure is needed to support California's growing population and to serve the State's productive individuals and businesses, including agriculture. He mentioned that CALFED must continue its work on the preferred alternative during the transition from one administration to another and that the process must be inclusive. He offered the Chamber's services to help solve the problem.

BDAC member Byrun Buck mentioned that during discussion at the last BDAC meeting on September 11, 1998, the quoted cost of \$10.00 per household for removal of bromides, organic carbon and pathogens was incorrect. The cost would be closer to \$50.00 per household, inclusive of capitol costs (amortized over twenty years) and annual operating costs.

Lester Snow introduced CALFED deputy director Judy Kelly and complimented her on a job well done. He announced that Ms. Kelly was leaving CALFED for a position in the private sector related to water transfers. Ms. Kelly complimented BDAC and accepted a plaque expressing appreciation for her hard work and accomplishments.

Opening Remarks on CALFED's Water Management Strategy Objectives and Proposed Stage 1 Actions (Executive Director Lester Snow)

Lester Snow reviewed and explained the four parts of a water management strategy: hydrologic foundation, water demand pattern, physical facilities, and institutional/operational framework.

Mr. Hildebrand, Mr. Buck, BDAC member Eric Hasseltine and Vice Chair McPeak discussed how important it is to understand the variation in flows, at different locations, during different seasons, and during dry, average and wet years. In addition, it was pointed out that estimates of historical runoff, before water flow was measured, may not account for the effects of marshes and other environmental factors.

Lester Snow further demonstrated annual supply and demand over many years and that fluctuations in water supply and demand caused by wet, average and dry years are masked by looking only at average supply and demand data. The specific data and situations must be used to help address the differences between supply and demand. An effective water management strategy can reduce diversion conflicts, increase supply predictability and availability, improve water quality, decrease drought impacts (such as groundwater overdraft which averages 1 maf per year) and increase operational flexibility. He defined operational flexibility as the ability of any set of water management tools to meet a range of objectives under a variety of unforeseen circumstances. Lester Snow finished his presentation by reviewing a list of water management tools and asked BDAC to help develop the right package of tools to ensure an effective water management strategy.

Discussion

- BDAC members Tom Graff, Mr. Hildebrand, Mr. Buck and Lester Snow discussed that the materials in the meeting packet are preliminary to figuring out how to link the water management strategy to the rest of the program and developing a draft preferred alternative. The water supply reliability actions are part of the program package and ecosystem restoration is important to ensuring water supply reliability.
- Mr. Hildebrand and BDAC member Richard Izmirian discussed with Lester Snow the need to define "water supply reliability." Although the definition includes the entire water management strategy and improvements to both water supply predictability and availability, individuals may interpret the definition in a different manner.

Orientation for Break-Out Groups and Introduction to Gradients of Agreement (BDAC Coordinator Mary Selkirk)

Mary Selkirk, BDAC coordinator, suggested that broad concerns be discussed during the afternoon and that BDAC concentrate on narrower issues during the breakout sessions to follow. The small groups were designed to allow members to deliberate on specific comments on the proposed Stage 1 actions. Ms. Selkirk stated that members would be asked to identify where they would locate themselves on a continuum of agreement with regard to each Water Use Efficiency and Surface Storage action. In response to questions from Mr. Izmirian and BDAC member Marcia Sablan BDAC was advised to represent their personal and their constituency's viewpoints. Ms. Selkirk also stated that results of the small group discussions would be aired in the afternoon plenary session.

Discussion

- BDAC member Roberta Borgonovo, Mr. Graff, Vice Chair McPeak and Lester Snow further discussed the intent of the exercise. Small groups can help define "water supply reliability" and that they will help frame a BDAC recommendation to all interested parties on how the preferred alternative package should be structured. The day's discussion is an opportunity to recommend what actions need to be changed and improved. BDAC's comments will also provide stakeholder insights to Secretary Babbitt and the Governor on the actions.

Break-Out Groups -- Identifying Areas of Agreement

BDAC then met in break-out groups, grouped in the three interest areas of agriculture/community, urban/business, and environmental. BDAC ended the morning with public comment to allow time for the small group conveners and facilitators to prepare for the afternoon session.

Public Comment

Gary T. Arant (Valley Center Municipal Water District) stated his district needs a commitment to surface storage, but a later decision on conveyance is acceptable. His district supports alternative 3 and it needs a complete solution, including ecosystem restoration, water supply reliability and improved water quality.

Marsi A. Steirer (City of San Diego) reviewed the progress made towards conserving water including full implementation of the urban best management practices (BMP's), large scale reclamation and per capita decrease in water consumption of 15% over the last five years. There are fewer opportunities available to conserve water and the City needs CALFED to solve water storage, water quality, water use efficiency and ecosystem restoration problems of the Delta.

Mike Sapunor (City of San Jose) clarified the City's issues with CALFED. With respect to water quality an objective analysis of the relative costs and benefits of new storage and drinking water treatment technologies is needed. Mandatory BMP's make water recycling and other conservation methods more feasible. There is a need for a comprehensive unbiased analysis of the amount and time of water needed to sustain a healthy ecosystem. The City supports water transfers and the rationale for new facilities needs to be defensible.

Laura King (San Luis - Delta Mendota Water Authority) expressed concern with the current version of the water supply bundling actions. She stated the package is very general and does not ensure additional water supply in Stage 1. She suggested groundwater and storage actions recommended by the Ag/Urban Water Caucus and different water facilities water operation criteria to help ensure additional supply.

Zach McReynolds (Western Water Company) generally supported the Stage 1 water transfer actions but stated that they were not linked to other actions. He suggested that an adaptive

management approach, such as an interim set of rules for each action, is needed to road test and possibly change the market rules. The water market needs competitive pricing, price transparency and liquidity.

Michael Jackson (Regional Council of Rural Counties) reminded BDAC that the RCRC counties do not support alternative 3 and believe an isolated conveyance will be disastrous to the fisheries.

Cynthia Koehler (Save San Francisco Bay Association) summarized a few of the upcoming Environmental Water Caucus (EWC) recommendations for water supply reliability actions. She explained that an improved ecosystem will improve water supply reliability and that a water management strategy should not induce any additional harm to the environment. Water pricing should reflect the environmental value of the water. CALFED should define the water supply and demand baseline. The key question is not whether a new storage reservoir or dam should be built, but what is the best way to restore the ecosystem and improve water supply reliability. The quid pro quo method of ensuring benefits expressed by some in the water community does not recognize that restoring ecosystem health is paramount to ensuring water supply reliability. In response to a question from BDAC member Steve Hall, Ms. Koehler stated that the EWC recommendations will be available the following week.

BDAC member Stu Pyle and Vice Chair McPeak suggested that the speakers submit their comments in writing.

Report from Break-Out Groups

Results of the morning sessions were reported in plenary after lunch. In each session, most BDAC members voted to support each action, with modifications.

Vice-chair McPeak requested that BDAC divide into small groups again, this time with mixed composition, and attempt to reach endorsement of each action and propose specific modifications.

Immediately after the members reconvened in plenary session, BDAC proceeded to the next agenda item, to allow preparation for the reporting session.

Optimizing the Through Delta Alternative (CALFED Staff Mark Cowin)

Mark Cowin, CALFED Program staff, introduced the findings from modeling by explaining that tidal action in the San Joaquin river causes so much mixing of fresh and sea water that the water quality at the state and federal pumps is about the same regardless of whether the north fork or south fork of the Mokelumne river is enlarged to transport water from the Sacramento River to the pumps. Francis Chun, CALFED Program staff, demonstrated, with a particle tracking model, how water would flow through the Delta using different conveyance configurations.

Discussion

Mr. Hildebrand, Mr. Buck, Vice Chair McPeak, Mr. Chung and Lester Snow discussed the results of the modeling. It was clear that mixing of water in the San Joaquin limits the advantage of a through Delta conveyance. It was stated that the modeling demonstrated that the current options do not satisfy the water quality needs of water exporters, the fishery needs, and the needs for flood control on the Mokelumne. It was also stated that export water quality needs can not be met by using the south fork of the Mokelumne as the conveyance channel and that the north fork alternative may actually improve water quality by as much as 20%. Confirmation of that last observation was requested.

Break-Out Groups -- Refining Areas of Agreement

Conveners of the three groups, Mr. Buck, Mr. Izmirian and BDAC member Pat McCarty, reviewed the results of the afternoon break-out sessions. The results are summarized below.

Water Use Efficiency Actions

Action #1 "Expand DWR and USBR programs to provide technical and planning assistance to local agencies and explore new ways of developing assistance and involving other CALFED agencies (yr 1-7)." Comments/Modifications:

- Expand DWR and USBR program "in conjunction with local agencies and other interested parties".
- Modify to emphasize and broaden local and stakeholder involvement.
- Add "objective, locally-based cost effective conservation is the base objective".

Action #2: "Develop mechanisms for approval authority for urban water management plans (yr 1-3); e.g., approved plans would be a condition for urban areas receiving CALFED benefits."

Comments/Modifications:

- Action 2 should be linked to Action 3, with implementation tied to CALFED benefits.
- Mechanisms need to be defined. There should be emphasis on self-governance.
- Need to define standards of performance and define cost-effective standards.
- Actions should be incentive-based to engender participation.

Action #3: "Implement MOU process fully with certification of agency implementation plans (yrs. 3-7)." Comments/Modifications:

- Implementation of plans should be tied to CALFED benefits.
- "CALFED benefits" need to be defined.
- Any condition that requires Action #3 as a condition for receiving CALFED benefits should be subject to cost-effectiveness financing.

Action #4 "Implement the Agricultural Water Management Council process fully with endorsement of agency plans under AB3616 and CVPIA (provided that the Council receives broad stakeholder support) (yr 1-7)); e.g., rely on Council to endorse plans of signatory members

agencies as condition for receiving CALFED benefits; explore additional ways to build consensus on the process." Comments/Modifications:

--Tie CALFED benefits to *implementation* of plans.

--Change to "AB3616 or CVPIA..."

--Early participants/implementors should not have to wait to receive CALFED benefits.

--CALFED should allow regional participation, i.e., allow small districts to group together to submit and implement plans and to receive benefits.

Action #5: Resolve legal, institutional and funding limitations for agricultural and urban water recycling (yr 1-3). Comments/Modifications:

--The action is fine as written.

--Resolution should apply not only to CALFED.

Action #6: Participate in conservation and water recycling projects (yr 3-7); e.g., preferential funding assistance for projects providing multiple CALFED benefits such as agricultural tail water recycling which could benefit fish by reducing diversions, reduce pollutant loading, etc."

Comments/Modifications:

-- Expand eligibility beyond local beneficiaries.

--Promote regional/watershed recycling projects.

--Include environmental improvement in watershed as benefit.

Action #7: Implement the methodology for refuge water management..."

--The concept is fine, but more information is needed.

Suggested additions:

--Include watershed management actions in the water supply reliability improvement.

--Promote projects which ensure strong and balanced public education on water conservation.

Surface Water Actions

Only two of the afternoon break-out groups had time to address the modifications on surface storage actions proposed in the morning sessions. Their comments were general in nature and are summarized below:

One group agreed that certain pre-conditions should be met before implementation of Stage I surface storage actions. These pre-conditions were:

--a definition of yield is required to accomplish CALFED's water supply reliability objectives,

--assess the mix of tools available to generate that yield, then proceed on Stage I actions.

Other comments from this group:

--Bulletin 160 is not adequate as a basis for determining supply and demand projections.

--More local initiative in planning projects is necessary, with less DWR/USBR role.

- Scientific evaluation of the time value of water is necessary early on.
- More detail is necessary on specification of linkages and conditions.
- The type of storage required depends on the gap between supply and demand.

The second group had the following general comments.

- No concurrence on Actions 2-7.
- Involve local communities in project planning.
- Identify local entities desiring to participate in financing and receiving benefits.
- Identify role of CALFED agencies in planning.
- Conduct economic analysis and identify who will pay.

Discussion

BDAC members Ann Notthoff, Mr. Pyle and Mr. Izmirian commented that clearer definition of water use efficiency is needed. It was also stated that the list of actions may need to be expanded. It was stated there should be links between storage and water use efficiency and that water supply from future implementation of water use efficiency actions should be estimated using objective methodology. It was also stated that there is still a divergence of opinion on the need for surface storage. Some believe there is a demonstrated need for it now and that it is unreasonable to require implementation of water use efficiency actions as a prerequisite for financing surface storage actions.

BDAC members Roberta Borgonovo, Mr. Buck, Mr. Pyle, Ms. Notthoff, Mr. Izmirian, and Mr. Hildebrand agreed that progress towards reaching agreement on storage and water use efficiency actions was made in the small groups. The exercise was useful and made for a worthwhile day, however not enough time was allowed for discussion of the issues. Also, the demonstration of the particle tracking model was another highlight of the day.

There was no additional public comment, so the Vice Chair reminded BDAC of the evening's reception and recessed the meeting at 5:00 pm.

OCTOBER 30

Chair's Report

Vice Chair McPeak resumed the meeting at 8:40 am. and reviewed the agenda for the morning.

CALFED Governance: Functions/Duties/Principles

Ms. Borgonovo (Ecosystem Restoration Work Group chair) provided a summary of the joint Assurances and Ecosystem Restoration Work Group meeting of October 6, 1998. A written summary of the meeting is in the meeting packet. She also reviewed the Core Team recommendations in the ERP strategic plan that call for a new entity to manage the Ecosystem Restoration Program. It was suggested that each BDAC member receive a copy of the strategic plan.

Mr. Dunning (Assurances Work Group chair) and Ms. Borgonovo explained that ERP management issues were a concern of both work groups and the purpose of the joint meeting was to reach concurrence on the functions and duties needed to manage the ERP program. The groups reached this concurrence and the work group chairs recommended that BDAC join in on the concurrence. It was pointed out a new ecosystem entity will raise the stakeholder confidence level that ERP actions will actually be implemented.

Discussion

- Mr. Hildebrand, Mr. Meacher, Mr. Pyle and Mr. Wright further discussed ERP management issues. Concern was expressed that a new entity may have too much power and that concurring was difficult without knowing or agreeing to the overall CALFED governing functions and structure. Agencies are also reluctant to endorse a new ERP entity in the absence of discussion on the overall CALFED functions and structure. BDAC was reminded that there have been several joint state/federal commission set up to deal with water issues and none are in existence today, due to difficulties related to state/federal agency coordination.

Rather than try to immediately reach concurrence on the ERP entity issue, Vice Chair McPeak suggested that BDAC engage in discussion on the overall CALFED entity. To frame the discussion Lester Snow provided brief introductory remarks, Mary Scoonover, Deputy Attorney General, presented background presentation on overall CALFED governance and Eugenia Laychak, CALFED consultant, provided guidelines for the scheduled brainstorming session.

Lester Snow introduced Dennis O'Bryant, as the lead CALFED staff person on assurances issues. He also reminded BDAC that in deciding on how CALFED will be governed in the future, the job description for the decision-making entity should be decided first followed by decisions on the best structure and membership of the entity.

Ms. Scoonover reviewed guidelines suggested by the Natural Resources Law Center, including 1) foster a regional perspective, 2) utilize a problemshed orientation, 3) use a process orientation, 4) let function dictate form, 5) consider political viability, 6) consider broad trends in federalism and intergovernmental relations, 7) do not burden administrative bodies with fundamental policy issues, 8) recognize the importance of conflict resolution, 9) design a mechanism for accountability, and 10) promote flexibility and creativity. There are seven key design issues, including the scope of the entity, its functions, membership, operational attributes, authorities, legal structure and financial resources. Ms. Scoonover then reviewed the problems/issues and proposed list of functions that appeared in the meeting packet.

Eugenia Laychak completed the background presentation with a brief explanation of guidelines for conducting the following brainstorming session. The purpose of the brainstorming session was to open discussion on overall CALFED governance by generating creative options for

addressing the governance issues. Evaluation of the options and development of recommendations will occur at subsequent meetings.

Brainstorming Session on CALFED Governing Entity Functions and Structure

The BDAC members who were present brainstormed on the CALFED and ERP governance issues, functions needed to govern the program, and structural possibilities. BDAC reached concurrence that a new ERP entity should be considered, in conjunction with making recommendations and decisions on the overall CALFED governing functions and structure.

BDAC was joined by Cliff Schulz (representing the AG/Urban Water Caucus), Cynthia Koehler, Dennis O'Connor (California Research Bureau), and Michael Umbrella (native American) during the brainstorming. Interspersed in the discussion, BDAC provided direction to the ERWG and Assurances work group chairs and concluded that the two work groups would define the ERP governing structure, in the context of an overall CALFED structure, and recommend an interim structure to accommodate the transition from planning to implementation. The following comments were made:

Key Governance Issues

CALFED should drive the issue and take the lead in developing the strategy for governance.

Others, including BDAC, should work off the staff recommendations. The CALFED Policy Group should provide the resources to explore the issues raised during the brainstorming session and the Program should be an unbiased reporter on discussions. Eventually it need to make trade-off decisions to balance the different interests.

Effective coordination is vital for a successful program. Decide which are the best approaches for managing coordination between agencies, between the different branches of government, between CALFED programs, between planning and implementation actions, between policy development and implementation, and between stakeholders and agencies. Many suggestions, some of them conflicting, were provided for overall CALFED and ERP management and governance.

Interim procedures will be needed to effectively transition from a planning to an implementing organization. The transition from planning to implementation may not be clear because an adaptive management approach will require ongoing planning. The institutional structure and functions will need clear definition. They should reflect a clear separation of policy development and implementation functions.

Determine if the current loose confederation of agencies will work for the future. Problems with the current situation included difficulty in coordinating implementation actions and agency responsibilities. Agency "turf" issues often get in the way. Good leadership is needed, as well, to

help solve the coordination problems. In addition, legislative and stakeholder concerns regarding accountability should be addressed.

Revisit the CALFED mission and determine where we are, in terms of agency relationships; look at what is working and determine how we improve the situation. Developing the governing structure should be a process of building on the existing structure. Consider whether there should be a net increase or decrease in the number of agencies.

Legislative Considerations. Concurrence on governance will need state legislative approval first before approval is sought from Congress. Do not consider Congressional approval as an insurmountable obstacle. The entity and/or CALFED agencies will need legislation to provide legal authorities, frame the policy to follow, give maximum flexibility to the structure, and ensure there are no conflicts with agency regulatory powers.

Proposed Functions and Related Issues:

Clarify CALFED future responsibilities...including whether CALFED will be an agent for change, whether it will have a technical orientation, or whether it will be an administrative/implementation entity. It was suggested that one entity have overall responsibility for the CALFED program and administration.

Consider expanding the list of functions in the meeting packet to:

- delegating responsibilities to other organizations and agencies that will be implementing parts of the program,
- overseeing coordination between the implementing agencies/responsibilities and regulatory agencies/responsibilities,
- overseeing coordination between the ERP, itself, and other parts of the Program, such as the levee program,
- integrating governance of all programs,
- ensuring decisions are adhered to,
- conducting financial tasks,
- administering water transfers,
- addressing native American concerns,
- having clear authorities, including contracting authority,
- having clear implementation responsibilities,
- having stable financing,
- conducting staged decision-making and overseeing adaptive management,
- doing coordinated resource management.

Structural Options and Considerations:

General Considerations:

- Make the size of the entity/governing board manageable. A large governing board does not work well on addressing complex issues.
- Decision-making should occur in a public forum.
- The new structure should be no more complicated or diffuse than the existing structure. It should have more focus and take a more integrated approach.
- New agencies to include in CALFED "family" to encourage appropriate coordination:
 - Federal Energy Regulatory Commission (its actions on relicensing of hydroelectric power plans will affect decisions on timing and quality of water flows),
 - Department of Health Services (to address water quality issues) .

Potential models:

- Joint Powers Authority (JPA). Considerations: Congressional approval is necessary. Getting that approval may require omitting some necessary authorities. Clear rules will be needed to ensure the appropriate level of accountability.
- Bi-state compact. Considerations: Assess different compacts, such as the Chesapeake Bay configuration. A CALFED compact would be less complicated than the Tahoe Regional Planning Authority or the Chesapeake Bay model since only one state is involved.
- Current structure. Considerations: Make the agency representatives on the Policy Group independent board members. Incorporate stakeholder involvement and determine whether the BDAC format is appropriate.

ERP Management Considerations

- Problems with current ERP management structure:
 - No existing agency can fulfill all of the necessary functions.
 - It is difficult for the existing agencies to implement the Category III program. Future implementation will be more complex.
 - Determine if there is a credible argument for implementing the ERP by the fifteen CALFED agencies.
- Considerations for a new entity:
 - Incorporate science in the decision-making.
 - Limit politics in the science-based decisions. Make the entity as non-partisan as possible.
 - Do not assign entity board appointments to political bodies.
 - Unified support will be needed to create a new entity.
 - More details are needed on how the ERP will fit in with the overall Program and structure. For example, how extensive should oversight of the ERP be? Who will the entity be accountable to?
 - An ERP entity should coordinate with the Levee Program. The levees program may need new functions, but it probably does not need a new structure or management entity.

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- Do not allow the ERP to supplant the State Water Resources Control Board and other agency authorities. The ERP authorities should be clearly stated.
- Decisions should be made now on ERP management to allow time for negotiating the entity's powers and authorities.
- Decisions on who the decision-makers will be should not be made until the role of stakeholders and other assurances issues are addressed.
- Management entity models:
 - A quasi-public, federally chartered corporation, similar to the Public Broadcasting System, as a model for the ERP management structure.
 - Exxon Valdez oil spill impact and response assessment process.
- Consider the following authorities, powers, and responsibilities for a new ERP entity:
 - contracts/grants management,
 - project development,
 - water and land rights holder,
 - ability to sue and be sued,
 - be a check on water management operations,
 - provide a feedback loop to the overall CALFED entity,
 - accountable to Congress and Legislature,
 - provide input/advice to regulators and water project developers, during NEPA/CEQA and Clean Water Act section 404 processes.

Before the conclusion of the meeting, Mr. Meacher, Vice Chair McPeak, Ms. Selkirk and Ms. Scoonover discussed some BDAC procedural issues. More lead time is necessary for receiving and reviewing meeting packets. Meetings between individual BDAC members and elected and federal officials will not violate Federal Advisory Committee Act and the Bagley-Keene Open Meeting Act.

The meeting adjourned at 12:15 pm.