

**BDAC ASSURANCES WORK GROUP**  
**Meeting Summary**  
**January 12, 1999**

The BDAC Assurances Work Group held its nineteenth meeting on January 12, 1999, from 1:00 p.m. until 4:00 p.m. in Room 1118-30 of the Resources Building.

BDAC Members present:

Hap Dunning

CALFED Staff/Consultants:

Dennis O'Bryant

Stein Buer

Eugenia Laychak

Rob Cooke

Mike Heaton

Marti Kie

Others present:

**See attached sign-up sheet**

1. Chairman Hap Dunning convened the meeting and participants introduced themselves. The meeting summary of November 12 was reviewed. It was noted that the sign-up sheet should be attached to the meeting summary.
2. Dennis O'Bryant reported that the Babbitt-Dunn meetings had resulted in the revised Phase 2 Report, released on December 18, 1998. He summarized the section on assurances and governance issues. The report calls for action or decision by the time of the Record of Decision for the final PEIR/EIS in four areas: (1) the CALFED management/oversight structure; (2) the Ecosystem Restoration Program (ERP) management and governance structure; (3) the development of strategic plans for each program element, including management and governance of each element; and (4) the development of linkages between and among program elements. In addition, the Phase 2 Report calls for the appointment and convening of an expert panel to consider program oversight, management and governance issues. A task group chaired by Michael Mantell is exploring possible foundation funding for the panel.
3. Cliff Schulz reported that the Ag-Urban group worked mostly on the Phase 2 Report during November and December. The discussions among agency representatives and stakeholders generated a lot of questions about assurances, but

not many answers. Ag-urban is currently developing their work plan for 1999 on various CALFED issues and processes. Cliff said that he expects the issues to include a Stage 1 implementation agreement and the development of program element linkages. There was no report on EWC activities.

In response to Hap's question about the nature of an implementation agreement, Cliff said that he saw it as an agreement among agencies and stakeholder groups to document how the program will be implemented, what legislation would be needed, and how funding and appropriations would be handled.

4. Dennis O'Connor reported that he expects legislation on CALFED to be introduced this session. There has been talk about a bill on CALFED oversight, management and governance, as well as possibly bills on the ERP and the water transfer clearinghouse.
5. Hap then opened the discussion on the functions and oversight alternatives identified in the January 5 discussion paper. He reminded the Work Group that following its recommendation to BDAC for a new entity to manage the ERP, BDAC had charged the Work Group to also develop a recommendation on Program oversight, management and governance. The January 5 discussion paper describes the functions which a Program oversight entity should be able to perform. (Oversight here used in the sense of overall Program governance, not program element or project implementation.)

Dennis O'Bryant added that we also need to think about management and governance for the other program elements as well. Should we assume, for example, that program elements other than ERP will be managed and implemented by existing agencies in substantially the same manner as they are now? What about elements, such as watershed management which do not have a counterpart in existing agency programs? To some extent, individual program element implementation issues will be addressed in the strategic plans for each element.

There followed a lengthy discussion among the meeting participants of the oversight functions and alternatives. Some of the points made or questions raised are summarized as follows:

There are three major issues - what are the functions of an oversight entity, what authorities are required, and how will coordination among program elements be provided?

For example, how will the levee program be coordinated with the ERP? What are the linkages between these program elements?

Concern was expressed that the functions in the paper are more implementation functions than oversight functions. Is CALFED an implementation entity or an oversight entity? We need to distinguish between implementation and oversight.

How do we reconcile the potential for conflicts when implementation and regulation is handled by the same agency?

Do we look at each program element and how it is implemented now? How do we take into account a situation such as that with the current levee program, which has lost its funding on the assumption that CALFED is going to step in and provide funds for continued implementation?

We should not assume that existing structures are adequate to implement the water transfer or water use efficiency program elements. These programs will not operate in isolation from storage and conveyance program elements.

We need a CALFED type structure to provide conflict resolution and oversight; currently we have no mechanism for inter agency conflict resolution.

We need to focus on linkages among program elements, not implementation of specific program elements. The focus should be on linkages and conflict resolution and the decision making process.

There is concern about moving away from assurances and talking only about program implementation. We need to ask what has to be done to assure program objectives are met. We should be thinking about how the ops group may need to be changed. Will we need other groups like the ops group? But our primary focus should be on assurances of achieving program goals.

The provision of assurances should be at the top of the list of management and oversight functions of CALFED. At this point we do not need to spend a lot of time on each program element implementation plan.

Hap summarized the key points of the discussion as the need to focus on program element linkages, coordination among agencies and program elements, funding and budget issues, and interagency conflict resolution. These seem to be the important questions and should

be the focus of Work Group attention, rather than detailing out specific program element implementation. Hap also expressed his concern about losing sight of the need for broad program assurances.

6. The discussion continued with more attention to the oversight alternatives described in the January 5 discussion paper. Some of the comments are summarized as follows:

We should consider a model like the Tahoe Regional Planning Agency (TRPA), which is a joint federal state agency.

Alt. 1 should be clarified to explain that it does not preclude a new ERP entity. Alts. 3 and 4 need more detail.

A suggestion was made for a new alternative, between 1 and 2, based on a joint powers agreement among the state agencies, and then an MOU or MOA between the federal agencies and the state JPA.. This would provide a mechanism for federal agency involvement, which would not be provided by a state-only agency.

7. Discussion then shifted back to the type of functions to be performed by an oversight entity. Some of the comments are summarized as follows:

We will need something more than oversight and coordination at Program level. We need to clarify the functions, as being implementation functions or oversight functions. Some participants thought that conflict resolution is a good example of an oversight function. Others suggested also that budget prioritization was in the oversight category.

The view was expressed that implementation should be accomplished at the lowest level, i.e, by local or existing state/federal agencies. Oversight and broad Program management is a CALFED function or a top level function.

8. There was further discussion and general agreement that the following functions are probably more in the nature of oversight than implementation:

- Providing general policy direction and guidance
- Evaluation of achieving performance goals and program objectives
- Establishing Program level budget and funding priorities
- Interagency conflict resolution

- Interagency program coordination
- Program oversight
- Providing assurances that program goals and objectives are met
- Legislative/congressional contacts on Program funding, appropriations and budget
- Stakeholder communications and coordination
- Contingency response (when unsuccessful at implementation level)

There was some general agreement that usually environmental documentation will be done at the project level and is an implementation function, not an oversight function. Similarly, project ownership and operation will normally be at the implementation level. Other points were that the implementation entity should be in charge of its own budget on a project by project basis and that coordination of actions and projects within a program element is an implementation function, not a CALFED oversight function.

It was also noted that the ability to respond to uncertainty and unexpected change is essential to adaptive management and that the Program oversight entity needs to have the ability to make adaptive management type corrections to the Program if necessary.

There was some additional discussion about the issue of which level of management has the authority to decide whether performance measures or indicators are being successfully achieved. We also need to make a better distinction between the authority to carry out a function (which may be vested at both oversight and implementation levels, and the performance of the function (which in the normal course of things will be at the implementation level.)

Accountability to the legislature and Congress is a critical issue. Elected officials want to know who they can hold accountable, and whose performance and budget they can review.

It was suggested that performance measures may need to be evaluated at both levels. For example, water use efficiency accomplishments can be evaluated at the implementation level, by the appropriate conservation council, but will also need to be evaluated at the oversight level in terms of how well broad Program goals and objectives are being met.

Another example is that ERP performance may be evaluated at one level by an independent scientific review panel and also by the CALFED oversight entity.

It was suggested that the most likely scenario is that the oversight level will be similar to the existing CALFED Policy Group with stakeholder advice and input as now provided by BDAC, but with some modification and formalization to increase efficiency in decision making and to improve accountability. Individual program element budgets may be developed at the implementation level, but the overall Program budget should be handled at the CALFED Program oversight level.

With respect to stakeholder input at the oversight level, it was suggested that BDAC or a similar entity could be given additional responsibility in the implementation stages. There is some concern that a more formalized CALFED entity will just be another agency/bureaucracy which will not improve implementation efficiency.

9. In summary of the discussion, staff suggested that the discussion paper should be refined to better articulate the distinctions between implementation functions and oversight functions and to better describe the interface between the two, in particular to address the question when is an oversight function triggered. At this point, the assurances discussion papers probably do not need to go into great detail regarding specific program element implementation since this will be addressed in the strategic plans. However, management and governance issues need to be considered in both vertical and lateral aspects, meaning that we have to look not only at the relationship between oversight and implementation, but at the linkages and coordination between and among program elements. The paper should also provide additional detail and explanation of three or four entity models for Program oversight.
10. Finally there was a brief discussion about possible legislation. It was reported that Assemblyman Machado's staff has prepared a draft bill creating a Bay Delta Commission, apparently modeled on the California Transportation Commission. There was a report that Senator Johannessen is also considering legislation on CALFED.
11. Eugenia reported that staff will be presenting a report to BDAC making some recommendations about Work Group re-organization. Recommendations include the appointment of a co-chair for the Assurances Work Group, the addition of agency representatives, a restatement of the Work Group objectives to focus on oversight, management and governance issues, to establish a coordination mechanism with the Mantell Group (which is working on the public symposium on interagency management and governance issues alternatives) and that the Work

Group should meet quarterly in conjunction with regional BDAC meetings. These recommendations will be discussed at the February BDAC meeting.

12. The next Assurances Work Group meeting was scheduled for February 24, 1999, in Room 1412 of the Resources Building. The meeting was adjourned at 4:00 p.m.