

Summary of
The Bay-Delta Institutional Issues Assembly
Held on July 24-26, 1996
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BACKGROUND

The Bay-Delta Institutional Issues Assembly was organized by Public Officials for Water and Energy Reform (POWER) and the Water Education Foundation. The three day Assembly was attended by approximately 110 individuals, representing a broad cross section of interests, including agriculture, agribusiness, irrigation districts, business, construction, the Delta, environmentalists, federal, state and local government, policy organizations, civic groups, urban water agencies, groundwater management entities, and fish and wildlife. The first day of the Assembly was devoted to background presentations. On the second day, the participants were divided into four working groups, each of which spent the day in providing feedback to a series of questions on assurances and institutions. On the third day, a document representing the consensus of the workgroup discussions was presented to the full Assembly for modification and ratification.

The purpose of the Assembly was to generate consensus on how solutions developed by the CALFED Bay-Delta Program could best be planned, implemented and managed. Specifically, the Assembly examined various:

- o Assurances which might be needed for the success of the CALFED Program.
- o Tools for providing those assurances.
- o Institutional constructs with which the water system can be managed and the tools applied.

The product of the Assembly, the "Assembly Statement," represents a consensus of the group as a whole (attached). Modifications to a draft consensus statement were approved on a majority basis. The document, therefore, represents broadly supported propositions, but is not intended as a unanimous endorsement of every proposition by participants.

The CALFED Program team is sorting through the lists of ideas generated in each of the workgroups in the expectation that additional information is to be found there.

LESSONS LEARNED

The full text of the Assembly Statement is attached. What follows is an attempt to extract the key lessons which emerged out of the discussions.

1. Assurances are a prerequisite to the success of the CALFED Program. The Assembly recognized that there are no absolute assurances and that future generations should have

the right to alter priorities to conform to future values. However, the group generally agreed that future modification of the balance of benefits established by the CALFED solution should be difficult and should be made only with the agreement of the stakeholder interests.

Note that there was skepticism among some participants that assurances could always be crafted which were strong enough to eliminate concerns. For example, Delta agricultural interests were skeptical that assurances could make an isolated system acceptable.

2. There must be legal guarantees. The participants generally took for granted that legal guarantees must be part of the solution. Of the specific legal guarantees discussed, strong interest was expressed in state and federal legislation, and contracts (particularly contracts involving private parties). Little support was given for the use of regulations, executive orders, etc.
3. The assurances and the apportionment of benefits and costs should be unambiguous. All sides want to know what they will pay and what they will get (and what others will pay and get). They agreed that reaching an acceptable cost/benefit allocation will not be easy. The bottom line is that, while all sides agree that the CALFED Program should provide an equitable level of benefits to all sides, they do not necessarily agree on the reference point from which those benefits are measured. Some environmentalists feel that additional programs will be needed for the environment before the point is reached that additional benefits should be shared equally. Some federal contractors feel that the playing field will not be level until they recoup the supply losses caused by the CVPIA.
4. The management system should operate flexibly within a fixed framework. Acceptance of this concept was a major outcome of the Assembly. The participants agreed that we cannot predict the future well enough to write a detailed blueprint for what we will do. On the other hand, all sides want assured benefits. The only way to accommodate both factors simultaneously is to lock in the goals of management (the ends) while preserving flexibility about how those goals are achieved (the means). Thus, the Program cannot simply lock in a series of elements (e.g., operating rules or habitat restoration plans) for all time. Rather, it must develop mechanisms for assuring that various endpoints are achieved, without completely specifying the path.
5. There must be meaningful stakeholder involvement in planning and management. There was broad support for the concept that the stakeholders (including the public) should be involved in planning for and implementing the solution. This position is consistent with the recent trend to work out solutions in direct consultation with the stakeholder community. The stakeholders have had direct involvement in the December Accord, the Operations Group, Category III decisionmaking, SB 900 language, and so on.
6. Coordination is necessary to the success of the Program. One of the most striking outcomes of the Assembly was the nearly universal support for increased coordination and possibly centralization in planning and management. Many participants noted past

difficulties in managing a single water supply/ eco system when authority to act is distributed widely among agencies. The participants agreed that the pattern of overlapping, but uncoordinated authority is a recipe for inefficiency and instability. On the other hand, the creation of CALFED and successes within the Operations Group and the Category III groups provide examples of the benefits that might result from greater coordination or centralization.

The Assembly did not come to agreement on what form this coordination or centralization might take. Some participants thought that a fully centralized structure in which a single entity made all operational decisions (for supply and the environment) was the best approach. At the other end, some supported the extension of CALFED as a coordinating entity (with the authority and activity of individual agencies left intact). Some were only interested in centralization with respect to the ecosystem restoration program. However, even if a specific form of coordination/centralization did not emerge, the broad support for a better integrated approach to management was a unifying theme.

7. The environmental trustee concept may be a valuable tool. An environmental trustee would have the authority and resources to generate environmental enhancements (restoration, water purchases, etc.), just as water agencies have the authority and resources to provide services for people, agriculture, and business. Participants were interested in the environmental trustee concept, but were not ready to give it a ringing endorsement without more thought. Many considered the trustee concept to be merely one example of how the coordination/ centralization problem discussed above could be resolved. The specific authorities of a trustee -- the ability to buy water or land for the environment -- were not particularly controversial. More controversial was the idea that the trustee might be controlled by environmental interests and that the trustee might have the right to sell environmental assets (e.g., water).