

**BDAC Assurances Work Group
Meeting Summary
August 15, 1996**

The first meeting of the BDAC Assurances Work Group was held on Thursday, August 15, 1996 at the Resources Building from 10 a.m. to noon.

BDAC Members of the Work Group present were:

Hap Dunning
Alex Hildebrand
Tib Belza
Rosemary Kamei

Invited Participants in the Work Group present were:

George Basye
B.J. Miller
Gerald Meral
Dennis O'Connor

Other Participants included:

Stu Pyle, BDAC member, KWCA
David Guy, BDAC member, California Farm Bureau
David Briggs, CCWD
Greg Wang, CVP Water Association
Elizabeth Patterson, Friends of the Estuary
Ken Bogden, Jones & Stokes
Michael Jackson, RCRC
Lynn Barris, Butte environmental Council
Linda Cole, Valley Water Protection Association
Robert Clark, CCV Flood Control Association
Frank Dimick, HYA Consulting Engineers
Stuart Cohen, Sierra Club
Gary Bobker, Bay Institute
Jeanette Thomas, Stockton East Water District
Jeff Jaraczski, NCWA
Tom Hagler, EPA
Penny Howard, USBR
Karen Shaffer, USACE
Stephen Roberts, DWR
William Dunn, Calaveras County Water District
John Mills, RCRC
Randall Neudeck, MWD
Don Jones, MWD

Jim Chatigny, Nevada ID
William Johnston, Modesto ID
Amy Fowler, SCVWD
Kathy Kelly, DWR
Greg Zlotnick, DFG
Larry Puckett, FWS
Dan Fults, Friant Water Users Authority

Introduction

Work Group Chair Hap Dunning opened the meeting. Lester Snow introduced the support team from the CALFED Program for the Work Group. Mary Scoonover will be the Program staff member in charge of the Work Group. She will be assisted by two consultants, David Fullerton and Mike Heaton.

Lester Snow also discussed the purpose and context of the Work Group. Without a package of strong assurances, even a good solution will not be implementable. The Work Group will need to consider mechanisms to provide assurances in several areas:

- Project v. program. Some elements of the solution may be implemented early (e.g., specific projects), while others may take much longer to implement (e.g., ongoing programs). How can we assure that the long-term programs will be implemented as promised?
- Operational certainty. How can we assure that project operations will take place as promised?
- Flexibility. How do we provide assurances on outcomes, when we must manage many elements of the solution adaptively?
- Water Rights. How do we assure protection of water rights?
- Phasing. How do we link different phases together in order to assure full implementation?

Mission and Goals

The Work Group discussed the draft Mission Statement and Goals for the Work Group. After some editing, the group agreed that its task is to formulate, discuss, analyze and recommend to BDAC appropriate mechanisms to assure implementation of the long-term Bay-Delta solutions identified by the CALFED process.

B.J. Miller argued that the Mission and Goals should be written so as to focus explicitly on the major concerns of the major stakeholders. Others including Mike Jackson and Alex Hildebrand argued that this approach would be counterproductive in that it implied that the needs of less influential groups could be ignored. Mary Scoonover noted that the task was to assure that any solution selected through the CALFED process was implementable. This means that any solution, including assurances, must meet the CALFED Solution Principles, including those that require a solution to be equitable and have no significant redirected

impacts. These principles require CALFED to treat stakeholders' fairly regardless of the political power of the stakeholder. The Work Group agreed that all needs should be identified and organized in a logical way in order to make decisions about priorities at a later date.

Work Plan

The Work Group also discussed its tasks. Mary Scoonover, Lester Snow and David Fullerton explained that the CALFED Program intended to:

1. articulate needs (what objectives must the assurances satisfy in order for the long-term solution to be implementable);
2. describe various tools or mechanisms of assurance;
3. define guidelines or principles to be followed in assessing assurance mechanisms;
4. assess the advantages and disadvantages of the mechanisms; and
5. craft a package of preliminary assurances.

This approach uses the components of the project as the structure for creating assurances. By contrast the alternative approach of starting from institutional structures and attempting to incorporate various needs into this structure carries the risk of abstract discussion that may not lead to a resolution within the necessary time frame. The Work Group endorsed the proposed needs-based approach.

The Work Group discussed how it would carry out its tasks. After a great deal of discussion, the Work Group agreed that, given the tight schedule (the CALFED Program must have a rough assurance package together by March of 1997), the Work Group would need to react to drafts produced by CALFED staff. However, communication between CALFED and stakeholders should be ongoing and should not await formal Work Group meetings. Many members of the Work Group suggested monthly meetings. The Work Group scheduled meetings for October 2, November 6, and December 13 from 9 a.m. - noon.

The Work Group suggested that CALFED hold a workshop on assurances, once rough products have been generated by CALFED and the Work Group, but before the assurances products have gelled into a specific proposal. Lester Snow agreed on the need for a workshop. The target date will be in late 1996 or early 1997.

Operating Procedures

The Work Group agreed that decision making would be made by consensus where possible. Consensus does not mean there are no differences of opinion. For purposes of this effort, consensus is a process used to define the highest level of agreement without

dividing the parties into factions. Everyone in the group supports, agrees to, or can live with a particular decision. If consensus can not be reached, agreement by a majority of the work group members and minority opinions will be relayed to BDAC.

There was a great deal of discussion over the opportunity for public comment in the Work Group discussions. Hap Dunning proposed to make no distinction between members of the Work Group, invited participants, and members of the public when allowing people to speak. Some members of the Work Group felt that this would prove to be unduly cumbersome. In the end, the Work Group agreed that Hap Dunning will attempt to allow open participation by all who attend the meetings, but will consider regulating comments as allowed by the Bagley-Keene Open Meeting Act should it become necessary.

Miscellaneous

A number of other specific points were made during the discussion:

- Cliff Schultz suggested that the necessary assurances may vary by alternative so that a different assurance package may be needed for each alternative. On the other hand, Lester Snow felt that the alternatives will have assurance packages which are qualitatively similar, even if the emphasis of various elements changes between alternatives.
- Alex Hildebrand and George Bayse stated that physical limitations are a valid form of assurance and should be within the purview of the Work Group. There may be no adequate assurances for particular physical configurations.
- Dennis O'Connor indicated that it will be very important to create a structure which is resilient enough to accommodate future glitches. It should not be so fragile that mistaken assumptions tear the implementation process apart.
- Jerry Meral argued that the concept of "assurances" must be defined from the point of view of the stakeholders. That is, the stakeholders must have confidence in the solution, whatever the specific legal and institutional mechanisms.

The staff agreed to prepare a draft list of needs and a schedule for future meetings in advance of the October 2 meeting.