

BDAC ECOSYSTEM RESTORATION AND ASSURANCES WORK GROUP JOINT MEETING
MEETING SUMMARY
OCTOBER 6, 1998
1:00 PM TO 4:00 PM

Forty-six stakeholders, members of the public and agency representatives attended the meeting.

BDAC members present:

Roberta Borgonovo, Chair, Ecosystem Restoration Work Group

Hap Dunning, Chair, Assurances Work Group

Other Meeting Participants:

(get from sign up sheets)

1. The Chairs opened the meeting at 1:05 with introductions of participants in the room. Mr. Dunning announced that after the meeting, there would be a brief planning session to prepare for the next Assurances Work Group meeting (the meeting was rescheduled from November 6, 1998 to November 12 from noon to 3:00 pm).
2. Stein Buer, CALFED staff, provided an overview of recent CALFED staff work and agency discussions on assurances, in general, and on governance issues, specifically.
3. Cynthia Koehler, Environmental Water Caucus, and Cliff Shultz, Agriculture/Urban Water Caucus, reported on their respective areas of agreement and disagreement on implementation of the Ecosystem Restoration Program (ERP), and the discussion they had with the CALFED Policy Group on September 14, 1998. Both referred to their papers on the ERP entity issue, "Briefing Paper on New Institution Issues" dated July 8, 1998 (Cynthia Koehler) and "Ecosystem Entity White Paper" (Cliff Schultz), handed out at the meeting.

Ms. Koehler, suggested the entity should limit its mission to achieving the ERP performance standards and questioned whether the entity should assume liability for implementing endangered species act (ESA) policies.

Ms. Koehler and Mr. Schultz expressed frustration with the reluctance shown by members of the Policy Group to discuss the need for a new ERP management entity. The functions of an ERP implementing entity have been discussed for months by the Assurances Work Group, but it appeared the Policy Group was unaware of the Work Group discussions. The pragmatic ERP governance issues appeared to have been brushed aside by some agencies perhaps because agencies are concerned that some of their responsibilities and resources may be transferred to the proposed new entity. Other agencies are more willing to discuss the need for a new entity. Proposed functions of a new entity should be considered in light of what is politically feasible.

Discussion on this issue continued with comments from agency representatives and other stakeholders. Stakeholders should clearly articulate the problems with the existing

arrangement, such as administrative delays in dispersing the Category III funds to contractors. They should be aware that agencies fear a proliferation of new agencies. It was mentioned that some members of the Policy Group expressed outright hostility toward the proposal for a new ERP entity. Currently, state agencies have no interest in a new entity, and there is no consensus on the federal level. The impetus for a new entity will have to come from the stakeholders who should form a united front on the issue.

Participants discussed different options for addressing agency concerns and ensuring political feasibility of their proposal. Phasing of responsibilities, for example using Stage 1 implementation as a pilot or experimental period and monitoring the entity's work, was suggested. Its scope could be limited to administering new CALFED funds, or by geographic or program area, such as starting with certain watersheds, or allowing existing agencies to keep responsibility for ESA implementation. The tasks for the entity should evolve over time and address the tension between simplicity and comprehensiveness. It was suggested that the entity coordinate state and federal funding sources.

4. Dave Fullerton, CALFED consultant, provided an overview of key governance issues. The ERP entity needs to nest within the CALFED structure. For example, the overall structure needs to be considered when establishing the board of directors, the relationship to the monitoring program and the structure of the agency. The existence of a new agency will not fix all the problems. It needs to be decided whether the rights and authorities granted to the agency will include the right to exercise the power of eminent domain. Also, the role of the entity in guiding operations of the water system and providing regulatory reliability will need to be determined.

Participants discussed aspects of overall CALFED governance. It was mentioned that whoever controls the funding controls the program. It is envisioned by some that the CALFED agency addresses general policy and budgetary issues and leaves the day-to-day operations and management to other agencies. CALFED staff propose leaving technical issue resolution to the individual agencies. It was suggested that the different governing levels within the CALFED hierarchy would be linked and that the existing agencies would retain their regulatory authority.

5. Participants began discussion on refining the functions and duties of an ERP management entity. Their discussion on sections 5. and 6. was recorded on flip charts and they periodically reviewed the charts with the recorder. The recorder carefully noted when they reached concurrence, when they did not, and when they were providing options or a range of comments on an issue.

They reached concurrence on the following principles that would guide implementation of the ERP. The ERP managing entity should:

- implement the program using an adaptive management framework,
- manage based on scientific and biological principles and processes,
- be proactive in restoring the ecosystem,
- be responsible for meeting the performance standards of the ERP,
- implement the ERP as efficiently as possible.

The participants also reached concurrence on the following functions and responsibilities needed to implement the ERP.

Planning and program development. The ERP should achieve performance standards by implementing the strategic plan, including the quantitative objectives. It should conduct all aspects of the restoration program using an adaptive management approach to guide the program through planning (including budgetary), execution and monitoring. Adaptive management should be looked at as a learning experience, rather than as a series of failed and successful individual projects. Monitoring functions have two aspects: tracking or monitoring the ERP operations and monitoring of implementation actions.

Support and conduct science. Actions taken to implement the ERP should be scientifically based and sound.

Ability to hold land and water rights. The ERP should hold environmental rights to land and water as necessary and appropriate.

Manage contracts and grants. The ERP should determine which portions of the program are best to put out to bid and which are best served by a grants program or other third party options. The program would administer and manage those contracts and grants.

Review water management operations. The ERP can only be successful if it is fully integrated with the water management system. The ERP would be represented on the CALFED Operations Group, or its successor, and would advocate for management of the water projects consistent with the ERP strategic plan.

Provide a feedback loop for the CALFED implementation superstructure. Assuming there will be an overall CALFED management structure or entity, the ERP would report back to CALFED regarding its progress, problems with implementation, and how well it is coordinating with other CALFED programs. The program would report to individual regulatory agencies regarding its success in achieving their legal mandates that are related to the program mission. For example, the entity would be the first voice of alarm if it appears that species are not meeting their recovery goals.

Meeting participants discussed the need for a new ecosystem restoration entity and the ability of the current CALFED structure to perform the functions and responsibilities listed above.

They did not reach concurrence. Generally non-CALFED agency stakeholders and the Strategic Plan Core team agreed that a new entity is needed. CALFED agency representatives questioned the others and proposed that many of the concerns can be addressed through better coordination of the agency actions.

Nevertheless, the participants discussed the qualities needed to manage and operate the ERP and some of the problems with the current CALFED structure.

Adaptive management must be implemented in an effective and efficient manner. The different funding sources and authorities should be consolidated within one agency. Existing agencies a) have conflicting and limiting mandates, b) have conflicting cultures or approaches for solving problems, c) do not share information well, and d) lack the ability to manage resources consistent with the ERP goals. These shortcomings may limit the ability of the agencies to manage the program of this size and complexity.

The CALFED Bay-Delta program, as a whole, and the ERP, specifically, need to be legally responsible. They should have the ability to sue and to be sued.

The ERP should have the ability to manage water set aside for environmental purposes.

The program should have the a formal and legal relationship to the water operators and the ability to acquire water to meet the ERP goals.

6. Balancing scientific independence/integrity and policy making was the next item for discussion.

The discussion raised the questions of how to use science and integrate it into ERP decision-making. The participants mentioned the need to distinguish between the decision-making roles of the ERP manager and an overall CALFED entity. They discussed the following options.

Provide the science program with a degree of autonomy by having it provide advice to the ERP management entity and giving it the authority to appeal the entity's decisions to the overall CALFED entity. Concern was raised that this approach may overly politicize ERP decision-making and it may lead to circumventing decision-making. It was suggested that tools be identified that will integrate science into ERP decision-making.

Create a science coordination team that reports to the ERP management entity and coordinates the scientific actions; create an independent scientific panel for peer review of ERP implementation. This arrangement models the south Florida Everglades and Chesapeake Bay management programs. The science coordination team members should have the ability to communicate scientific concepts to the general public, resource economists and natural resource managers. This ability will help integrate science and policy on a daily basis. The ERP management entity would be made up of decision-makers who have a scientific background and experience with natural resources management. The independent scientific panel will balance

out the political, economic and financial duties of the ERP management entity.

Integrate CMARP and monitoring into decision-making and the ERP. Different CALFED decision-making structures will dictate different approaches for integrating monitoring into the ERP.

7. Public comment was taken throughout the meeting. There were no further public comments.
8. The meeting was adjourned at 4:00 pm.