

BDAC Governance Workgroup
February 15, 2000 Meeting Summary
(26th meeting)

BDAC Member Attendees: co-chair Hap Dunning, co-chair EZE Burts, Byron Buck, Roberta Borgonova (by phone) Stu Pyle, and Mike Schaver,

Attached is the sign-in sheet for the meeting.

Report of Related Activities: The Workgroup discussed the recently introduced bill that creates a Bay-Delta commission to oversee the CALFED Program (AB 1839, Machado). The upcoming legislative hearing on CALFED finance and governance was also briefly discussed.

Staff Update on Governance Plan. A revised Governance Plan was distributed as part of the Workgroup Packet. The Plan combines the June draft governance plan, which had focused on interim CALFED governance, with the long-term proposal for CALFED governance.

At the suggestion of the co-chairs the workgroup reviewed the list of open issues included in the governance plan and solicited the following issues to add to the list:

- EWA management in both long-term and interim
- Name of the Commission
- Who is in charge of adaptive management decisions and assessing performance measures?
- Who is in charge of project operations?
- Management of CMARP
- Open meeting laws and interim governance
- Sunset provisions for interim governance

The workgroup proceeded in discussing the open issues including those listed in the Plan and those added by the Workgroup.

Commission Membership.

- Tribal members – stated the importance of participating in a CALFED Program, having equal participation in the program, and if a new Commission is established the Tribal nations should have equal representation on that governing body.
- Suggested additions for membership or representation on a new Commission also included
 - Boating, recreation, business, and labor
- SWRCB commented that it may not be appropriate to have the SWRCB represented on the Commission because of potential conflict with their regulatory responsibilities
- A comment was made that it is premature to select membership until the CALFED Plan is complete. The content of the Plan and what is left for future decisions will influence who should be in the decision making role

- Questions were raised about what the voting structure or decision rules would be for an new Commission. Staff indicated that the proposal does not address that issue—but it will need to be spelled out in a future draft.

Legal Structure. The group briefly discussed the issues related forming a State and Federal entity and how the Tribal nations should play a role. The group supported a continued push for a joint entity and not to let legal hurdles be impediments. There was doubt that it was actually legal impediments related to creating a joint entity but more policy issues. Staff indicated that the Federal layers are reviewing the CALFE Governance proposal to identify any legal or policy concerns.

Crosscut budget. The Crosscut budget exercise was briefly discussed. There was concern expressed about the intent of the crosscut budget and how it could be used to hurt program rather just to help coordinate. Staff indicated that the Crosscut budget was to report what funding is already budgeted not to redirect funds for other purposes after funds are budgeted. CALFED is preparing an updated Crosscut budget to reflect FY 2000.

Program Management. The governance proposal leaves open the program management for several programs because workgroups and staff are still evaluating the appropriate governance. Several inconsistencies were pointed out regarding how the planning responsibilities are described in the draft. A suggestion was made to provide a summary that includes a matrix that lists the governance proposal for each program element. Issues were raised about the duplication of having two public decision making processes for one program—for example it seems burdensome and unnecessary to have SWRB and a new Commission approving program. However, for certain programs, coordination or consistency with CALFED needs provided and how can that be done if the new Commission does not have a sufficient role in the appropriate programs. Some balance needs to be developed to address both issues.

Interim Process/Governance. The workgroup suggested the need for a revised Framework Agreement that has a 2 year sunset date. Also the Framework Agreement should reflect an open transparent decision making process. The recent State and Federal discussion have caused distrust in the current process because there is a belief that decisions are being made behind closed doors rather than in a public forum.

Science/CMARP. Questions were raised about the description of science and CMARP in the governance proposal. Concern was raised that if the ERP Conservancy manages the monitoring and assessment of the ERP—then is there enough independent oversight—or is it a case of the fox guarding the hen house. The workgroup suggested a more thorough briefing on the science aspects of the CALFED program at a future meeting.

Closing—Staff indicated the deadline for comments before the governance proposal is put in the final EIS is February 29th—but it appears that date may slip. A next meeting date was proposed for Feb 29th in the afternoon after the hearing. (Subsequently, the EIS deadline was shifted by 30–60 days so the Feb 29th meeting was postponed.)