

Memorandum

To: Participants, Urban Certification Ad Hoc Work Group
From: Bennett Brooks and Eric Poncelet, CONCUR, Inc.
Re: Summary Report: Urban Certification Stakeholder Interviews
Date: February 28, 2002

I. Background:

The CALFED Bay-Delta Program is launching a stakeholder dialogue, the Urban Certification Ad Hoc Work Group, to inform its design and subsequent implementation of an urban certification process. CONCUR, Inc., has been asked by CALFED's Water Use Efficiency Program to facilitate the Ad Hoc Work Group's deliberations.

In preparation for the Work Group's upcoming discussions, CONCUR conducted two-dozen, confidential interviews with a cross-section of water suppliers, environmental organizations, CALFED agencies and California Urban Water Conservation Council (CUWCC) staff and consultants. A list of interviewees, developed with input from CALFED, the CUWCC and stakeholders, is provided in the table below.

Bear Valley Community Services District • Bill Miller	Castaic Lake Water Agency • Robert Sagehorn • Mary Lou Cotton	Contra Costa Water District • Wally Bishop • Chris Dundon
San Diego County Water Authority • Maureen Stapleton • Bill Jacoby	East Bay Municipal Water District • Dennis Deimer • Richard Harris	Metropolitan Water District of So. Cal • Tim Quinn • Ed Thornhill • Mike Hollis
Sacramento Water District • Jim Sequira	California Urban Water Association • Walt Petit	Southern California Water Company • Joe Young • Kirk Brewer
League of Women Voters – CA • Roberta Borgonovo	Mono Lake Committee • Fran Spivy-Weber	Natural Heritage Institute • David Fullerton
Natural Resources Defense Council • Ed Osann	CUWCC • Mary Ann Dickinson	DWR • Luana Kiger
USBR • Tracy Slavin	SWRCB • Tom Howard	

Attached is a summary report developed by CONCUR, Inc., based on our interviews. This report is intended to draw out and highlight key themes raised during the interview; it is not intended to be a comprehensive listing of all issues mentioned. No comments included in this report are attributed to a specific individual; rather, this report represents a synthesis across all interviews.

This summary report is presented in two broad categories:

- **Key Findings.** This section highlights key findings related to areas of agreement and significant issues yet to be resolved.
- **Preliminary Recommendations.** This section presents our initial recommendations for moving forward.

We invite your comments and additional feedback during our discussion of this topic.

II. Key Findings

Interviews with stakeholders, including agency representatives, yielded several overarching observations. Importantly, the interviews suggest:

Strong base upon which to build. Stakeholders broadly agree that there is a strong foundation from which to build a broadly supported urban certification framework. Among the key elements noted in the interviews:

- All interviewees share the goal of developing an implementable and effective urban certification framework that fosters effective water conservation measures. Interviewees appear eager to resolve outstanding disagreements and strengthen Group 1-Group 2 relations.
- Virtually all interviewees support CALFED's convening of an Ad Hoc Work Group to assist in the *drafting* of an urban certification framework and believe there is sufficient time to resolve outstanding issues.
- Interviewees see a range of benefits related to developing an agreed-upon urban certification framework. These benefits include: (1) putting forward a consistent standard for water suppliers; (2) developing a process perceived as "fair" (i.e., objective, yet flexible performance measures; affordable; balance within and across CALFED programs); (3) fostering practical, results-oriented practices; (4) supporting the CUWCC's current efforts; (5) ensuring consistency across differing regulatory requirements; and, (6) realizing potential water conservation savings.
- Interviewees note the value of past discussions in clarifying the key issues necessary to incorporate into an urban certification framework. Significant progress has been made on many of these topics, and – while interviewees disagree on an appropriate starting point for the Ad Hoc Work Group's deliberations – all recommend drawing on these past materials as a resource.

Agreement in several key areas. The interviews suggest stakeholders are in or close to apparent agreement on several key approaches related to an urban certification framework. These areas of emerging agreement are:

- **Certifying entity.** Virtually all those interviewed agreed that an existing regulatory agency – most likely the State Water Resources Control Board – is best positioned to serve as the certifying and enforcement entity.
- **CUWCC role.** Interviewees broadly agree that the CUWCC should, at a minimum, continue its role in helping water suppliers implement Best Management Practices (BMPs) by, among other things, providing technical assistance, fostering ongoing review and revisions to the BMPs, finalizing key analytic methods related to BMP implementation, and collecting data. Virtually every individual interviewed agreed that the CUWCC should not be the certifying entity.
- **Certification criteria/process.** Interviewees widely view the CUWCC's Memorandum of Understanding (MOU), including its BMPs, as serving as the basis

for urban certification criteria. Participants further generally call for a certification process that is well defined, practical, cost-effective and flexible. Interviewees agree that a final certification process needs to recognize and account for water suppliers' differing resources and valid constraints.

- **Incentives/disincentives mix.** Interviewees agree that an assurances package should include benefits for water suppliers certified as in compliance. Participants further agree that the framework should, as much as possible, emphasize incentives (“carrots”); disincentives should be graduated over time. The precise mix of incentives and the inclusion of possible sanctions requires further discussion.
- **Adaptive management.** Interviewees acknowledge that any urban certification framework will likely require revisions over time. To ensure an urban certification process remains viable and effective, all interviewees support the development of a framework that emphasizes monitoring, evaluation and adaptive management. More discussion is needed to flesh out this approach.
- **Legislative linkage.** Most, though not all, interviewees agree that an urban certification framework will necessitate legislative action. Most interviewees further agree that strong Group1/Group 2 support will be required to pass legislation and ensure the certifying entity receives the mandate and resources needed to implement an urban certification program.

Well-defined process needed for moving forward. As noted above, interviewees acknowledged the significant progress made in past discussions. At the same time, almost all of those interviewed identified gaps in past discussions that hindered participants' ability to reach agreement. Key barriers cited include:

- Insufficient and inconsistent representation in past discussions;
- Key decision makers not at table or not sufficiently “on board;”
- Competing draft documents;
- Insufficient mutual commitments among participants to meet and enforce deadlines; and,
- Limited vetting of evolving proposals with broader constituencies.

Based on these needs, interviewees offered a handful of concrete suggestions for moving forward. The most frequent recommendations included:

- Convene a standing body, but keep its deliberations open to interested stakeholders;
- Provide strong facilitation focused around in-person meetings;
- Improve clarity around participants' mutual commitments and responsibilities;
- Identify and adhere to interim benchmarks and deadlines;
- Ensure relevant CALFED agencies are at the table to serve as a resource and “reality check;” and,
- Incorporate broad stakeholder review and comment following the Work Group's deliberations.

Significant issues yet to resolve. As noted above, the interviews suggest there is strong interest in moving forward. At the same time, interviewees identified a number of

significant issues that the Work Group will need to engage and resolve as it develops an urban certification framework. Among the key issues identified include:

- **Value and potential of a tiered/phased implementation process.** Interviewees offered varied reactions to the environmental community's recent proposal to put in place a tiered implementation process focused on the largest water suppliers first. A number of interviewees expressed interest in the proposal, suggesting that such an approach would: facilitate implementation; center the earliest efforts on those water suppliers with the greatest resources; and, focus certification on those entities handling the greatest volumes of water. Others, however, suggested that such an approach was potentially problematic. Concerns included: placing an unfair burden on only a subset of water suppliers; equating size (rather than wealth) with ability to implement; and, ignoring the small- and medium-sized water suppliers' potential water savings.
- **Incentives/sanctions mix.** Interviewees generally agree, as mentioned in the section above, on using a mix of incentives and sanctions to promote certification. There is, however, a range of opinions regarding the precise mix and timing of such a package of assurances. In general, interviewees agree that it is appropriate for CALFED to link certification with access to grant/loan money. Views diverge, however, when it comes to defining the linkage. Should certified water suppliers' have sole access to grant funding or should they have only preferential treatment? Should all suppliers have initial access to grant funding – several interviewees argue this is necessary to facilitate BMP implementation – or only those already certified? Discussion of water-based sanctions triggered even more divergent views. A number of interviewees suggested that water-based sanctions are both appropriate and fair, particularly as it relates to the most intransigent water suppliers. Others said water-based sanctions are too drastic and politically infeasible. Several interviewees noted that any final package must be careful not to undermine CALFED's overarching objectives related to water conservation nor run afoul of local city/county policies.
- **BMP definition.** The interviews emphasized the need to resolve the following question: To what extent must and can BMP-related issues be resolved prior to the development of a broadly supported urban certification framework? Interviewees generally agreed on the key areas necessitating further technical work, including issues related to determining cost-effectiveness (environmental costs and benefits, avoided costs) and better defining "at least as effective" provisions. Some interviewees suggested that the Work Group articulate a general approach related to these topics, but leave final resolution to the CUWCC's ongoing discussions. Others called for the issues to be completely resolved, suggesting that the eventual analytic methods may impact parties' views of other elements in a certification approach.
- **CUWCC role in review process.** As noted above, interviewees strongly support the CUWCC's technical role in developing and refining the BMP process. There are divergent views, however, on to what extent – if any – the CUWCC should be involved in the certification process. Some interviewees believe the CUWCC, using its agreed upon voting rules, should offer a preliminary recommendation related to water suppliers' certification compliance. Such an approach, interviewees said,

would help ensure that Group 1 and Group 2's intimate knowledge of certification-related issues informs the decision-making process. Others suggest the CUWCC and its technical staff should collect and analyze data, but defer any preliminary or final judgements to the certifying entity. Still others believe the CUWCC should not be involved in any activities related to certification and should limit its efforts to the technical and member-support role described earlier.

- **Wholesaler role.** In general, interviewees agree that wholesalers are important players in facilitating aggressive and effective water conservation practices. Interviewees described several potential strategies for addressing distinctions between retailer/wholesaler roles: (1) place the full burden on retailers; (2) place the full burden on wholesalers; (3) let regions determine their preferred approach; or, (4) encourage, but don't require, assistance to retailers. In general, interviewees favor an eventual approach that: offers flexibility and is equitable; addresses issues related to "free-riders;" preserves wholesalers' role as "incentivizers;" ensures retailers are not unduly burdened with wholesaler pass-through costs; and, ensures wholesalers are not saddle with costs they can not pass on.

The interviews identified other issues necessitating discussion. While these issues are not necessarily in dispute, they are of concern to interviewees and merit additional consideration and eventual resolution. They are:

- What needs to be done to ensure that an urban certification framework is consistent with other requirements (CVPIA, CPUC, Urban Water Management Plans) and does not place an undue burden on a group of water suppliers? This is a particularly important issue to investor-owned utilities.
- How can a certification process be structured in a manner that minimizes the costs associated with its implementation?
- How can/should certification account for past conservation activities?
- Is there a constructive way to involve Group 1 and Group 2 members in the decision-making process, even if the CUWCC is not the certifying entity?
- What should an appeals process look like? What are the grounds for appealing? What entities are able to appeal a certification decision?
- How should issues related to monitoring, evaluation and adaptive management be incorporated into an urban certification framework?
- To what extent is it necessary and possible to implement urban certification legislation during the current session?

Additionally, a number of interviewees identified issues related to **implementing** an urban certification framework. Most notably, some water suppliers (particularly at the general manager level) voiced strong concerns – and sought assurances – that any agreed-upon framework not be implemented until issues related to intra- and inter-program balance are adequately addressed. Specific balancing issues cited include: sufficient funding to support implementation of the WUE grant/loan programs; and, appropriate progress on ROD-stipulated actions related to storage, conveyance and water quality. Other interviewees expressed concerns that the agreed-upon certifying entity be provided adequate resources – appropriate staffing, funding, etc. – to effectively implement a certification framework

III. Preliminary Recommendations

Based on the interview findings and our own professional judgement and experience, we suggest a handful of key recommendations for moving forward. We strongly advise that these proposed recommendations – already embedded in a number of draft documents developed and distributed in support of the Work Group’s first meeting – be discussed and confirmed at the outset of the Work Group’s deliberations. (More detailed recommendations associated with issue-specific discussions will be prepared in advance of future meetings.)

Key recommendations at this point are:

- **Convene standing body.** Past certification discussions, while productive, have been hampered by inconsistent participation. It is our strong recommendation that the Work Group be structured as a standing body with set participants. At the same time, we acknowledge the wide interest in this topic and recommend that meetings be open to the public. We further recommend that the Work Group bring in additional expertise, as needed, to support its deliberations.
- **Use staff-driven effort.** It is our recommendation that discussions related to urban certification be focused around WUE staff-driven drafts and approaches. Such an approach is consistent with the nature of CALFED ad-hoc work groups. Moreover, it is our sense that a staff-driven dialogue is necessary to provide the essential sideboards that will allow the WUE Program Manager to integrate past discussions into an approach capable of being developed consistent with ROD commitments.
- **Seek stakeholder input, not commitments.** The interviews suggest that stakeholders have varying capacities to “deliver” their organization or constituencies. Given this imbalance – and the nature of CALFED ad-hoc work groups – we recommend that the Work Group be structured to serve as an informal sounding board, providing informed feedback to the WUE Program Manager.
- **Foster formal/informal stakeholder review.** It is our recommendation that any work products developed with the input from Work Group participants be discussed with a broader set of affected stakeholders and CALFED decision-making bodies. Such a wider vetting – and buy-in – is seen as necessary to garner the requisite legislative action and funding. It is also consistent with CALFED governing policies.
- **Acknowledge broader linkages.** The interviews suggest that many affected stakeholders see direct linkages between the development and *implementation* of an urban certification framework and progress in other WUE and CALFED initiatives. We believe it is important that CALFED identifies at the outset a process that will, at the appropriate juncture, take stock of such linkages and evaluate a strategy for moving forward.
- **Use Table of Contents as starting point.** It is our strong recommendation that the Ad Hoc Work Group develop an agreed-upon Table of Contents as the starting point for fleshing out an urban certification framework. Past drafts represent great progress and incorporate agreements upon which to build; these documents should

be used as resources and mined for language and approaches. However, given both the lack of consensus around a preferred starting point and a concern that past drafts embed now-stale disagreements, we believe it would be a mistake to use any single past draft as the Work Group's single-text document.

- ***Develop interim/final benchmarks.*** Interviewees appear eager to develop an effective urban certification framework. At the same time, they say they are wary of re-hashing old disagreements and investing time in an unsuccessful effort or non-productive directions. To build agreement and give participants a sense of progress, we suggest that the Work Group assist the Program Manager in the development of two primary work products:
 - **Agreement-in-Principle.** It is our recommendation that the Program Manager prepare an Agreement-in-Principle, developed within the first six to eight weeks, that lays out a broad approach identifying the key elements of an urban certification framework. Elements of an Agreement-in-Principle might include: 1) certification entity; 2) participation criteria; 3) implementation timeline; 4) certification frequency; 5) certification criteria; 6) participation incentives and penalties; and 7) inter-/intra-program linkages.
 - **Detailed Agreement.** Given adequate time, it is our recommendation that the Program Manager develop, with input from Ad Hoc Work Group participants and consistent with ROD deadlines, a more detailed agreement that articulates as much as practicable an approach to implementing an urban certification framework. Such a detailed agreement – building off of an Agreement-in-Principle – would likely need to take account of and be informed by ongoing, relevant discussions within the CUWCC.

To support this effort, we recommend participants agree to a series of meeting dates and deadlines. We further recommend that participants quickly discuss and confirm those issues necessary to incorporate into an Agreement-in-Principle and those capable of being deferred to later discussions. Finally, we suggest that participants discuss the desired look and feel of these work products.