

## **California Bay-Delta Authority - Tribal Forum**

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**February 26, 2004, Sacramento (7:30a.m – 4:00p.m.)**

### *Draft Summary*

On February 26, 2004 the California Bay Delta Authority provided a Tribal Forum funded by a grant to the North Folk Rancheria. Participants met at the Radisson Hotel in Sacramento. Project Managers for various CALFED projects were asked to provide display information about their project and to answer questions during an open house before and at breaks during the forum. Participants heard presentations from numerous agency representatives explaining the various CALFED projects and grant programs. Participants had time to ask questions and provide comments throughout the day.

The primary issues heard from meeting participants revolved around communication. Both tribes and agencies agreed that better communication is needed in order to increase involvement of tribes in CALFED projects and grant programs. Many tribe representatives voiced frustration over past discussions with agencies that led to no action on part of the agencies. Rather than repeat past experiences, participants want to discuss ways to acknowledge past successes and mistakes and figure out how to best move forward.

Participants also noted that forums such as these are good venues to facilitate discussions between agencies and tribes. It was suggested that the format of the next forum should minimize presentations and lectures and encourage dialogue and discussions. One participant suggested that participating tribes design the agenda for the next forum tentatively scheduled for June 2004.

Attached is a more detailed summary of the presentations given at this Tribal Forum. The attachment also includes a summary of the comments and questions heard from meeting participants.

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### ***Draft Summary***

Elaine Fink and Cathy Messersmidt welcomed participants to the Tribal Forum. They explained that the forum is funding by a CALFED grant awarded to the North Fork Rancheria by EPA. The forum was cohosted by the Natural Resources Conservation Service. Running Grass facilitated the meeting. Although the agenda was packed with presentations, Running Grass noted that participants would have opportunities to ask questions after each presentation and during the breaks as the presenters would be available in the lobby.

Below is a summary of the presentations heard at the Tribal Forum. The presentation summaries are followed by a bulleted list of comments and questions from the participants. Responses given are indicated in *italics*.

### **Presentations**

#### **California Bay-Delta Authority Overview - Patrick Wright, Director, California Bay-Delta Program**

Mr. Wright provided an overview of the CALFED Program and the broad approach taken to improve the Bay-Delta system in California. He noted the conflicting interests existing among Delta users (agriculture, urban, environmental, etc.). He also noted that prior to CALFED there was little coordination between agencies. With the approval of the California Bay-Delta Authority (CBDA), the focus is on public involvement from the local level to the regional level to the whole program overall. Mr. Wright explained that the 4 goals that lead the programs and projects are: Water Supply Reliability, Water Quality, Ecosystem Restoration and Levee System Integrity.

#### *Comments / Discussion*

- CALFED has not addressed issues identified by tribes in previous discussions. There is a feeling that the unresolved issues keep going back to the same people. Tribes are not included in the conveyance, modeling or allocation programs. Tribes must be part of the equation.

*CALFED wants to have everyone involved and can provide a forum for discussions with federal and state agencies that run the programs. CBDA has no decision making authority, but will work with those involved to include all interested parties.*

#### **CBDA Environmental Justice – Ken McGhee, CBDA Environmental Justice Coordinator**

Mr. McGhee provided an overview of the Environmental Justice Subcommittee (EJ). He explained that EJ was created with the basis that all people are able to enjoy equal levels of environmental protection. He noted that CALFED has maintained an EJ Coordinator and a Tribal Coordinator. Mr. McGhee walked through materials used to determine EJ issues.

#### *Comments / Discussion*

- EJ must be accountable. It is important to see action taken from comments given by tribes. Agencies may not be sensitive to impacts other than environmental impacts – must consider

economic, cultural and other potential impacts. Agencies need to communicate with tribal governments.

*The Environmental Justice Subcommittee is currently working on performance measures. After approval from CBDA, the group can have more of a formal membership which will move from advocacy to an action oriented group.*

## **Water Supply Reliability – Tom Gohring, CBDA, Deputy Director**

### **Surface Storage**

*Panel:*

Shasta Lake Water Resources Investigation, Donna Garcia, Project Manager, USBR  
North-of-the-Delta Offstream Storage Investigation, Sean Sou, Project Manager, DWR  
In-Delta Storage, Tirath Pal Sandhu, Project Manager, DWR  
Los Vaqueros Reservoir Expansion, Marguerite Naillon, Project Manager, CCWD  
Upper San Joaquin River Basin Storage Investigation Jason Phillips, Project Manager, USBR

Mr. Gohring introduced the 5 potential surface storage projects identified in the CALFED ROD. He explained that under each project, teams are working on feasibility studies and potential designs to evaluate the potential benefits and impacts. He noted the tribes that have been contacted as part of each project.

### *Comments / Discussion*

- Are the tribes recognized in as part of CALFED projects only federally recognized tribes?

*The law requires that federally recognized tribes are included in the projects. Tribes that do not have federal recognition can certainly be involved as stakeholders.*

- Federally recognized tribes can open the door for the non-recognized tribes by acting as an umbrella.
- Agencies should contact the State Historic Preservation Officer (SHPO), as required by the National Historic Preservation Act, to ensure the correct tribes are involved.

### **Conveyance**

*Panel:*

Delta Mendota Canal / California Aqueduct Intertie, Patricia Roberson, Project Manager, USBR  
South Delta Improvement Program, Paul Marshall, Project Manager, DWR  
San Luis Reservoir Low Point Improvement, Kurt Arends, Project Manager, SCVWD

Mr. Gohring introduced each of the 3 conveyance projects as strategies to optimize ability to convey water south of the Delta. He explained that they are close to a break through in knowledge of impacts and how to most efficiently move water through the system. He noted the tribes that are involved in each of the conveyance projects.

### *Comments / Discussion*

- Within some CALFED projects, non-federally recognized tribes are included in contacts. Why is this not consistent throughout all CALFED projects?

*CALFED is committed to working with all stakeholders. If tribes are known to be in a project area or potentially impacted by a project, they are contacted. In some cases, agencies are unaware of tribes in the project area and could use prompting to ensure their involvement. Agencies can also be limited by the federal policies for formal consultations.*

- The definition used by agencies to determine projects affecting or impacting tribes may need to be looked at and evaluated.

*Agencies assess what tribes would be impacted by construction if a project is in the vicinity of tribal lands. Agencies may need to expand that to determine impacts to trust. This would be a good discussion to initiate better communication between agencies and tribes.*

- Specifically on projects dealing with mercury in the water ways, agencies have failed to include tribes in the discussions from the beginning. Tribes need to be informed in a formal process and not treated like focus groups.
- If more water is being shipped to Southern California from Northern California, everyone in Northern California is impacted.

*What steps can agencies take to include all North Delta tribes?*

*Cortina Rancheria completed a project that mapped out aboriginal areas for California. Agencies should do mass mailings for all projects and let the tribes work out who should be involved.*

#### **Groundwater Storage – John Woodling, Chief, Conjunctive Water Management Branch, DWR**

Mr. Woodling explained groundwater storage projects noted that most of these are driven by local agencies. He noted that the State's role is primarily as technical and financial support. Mr. Woodling explained that the goal of these projects is to increase water supply reliability through conjunctive use.

#### **Water Transfers – John Fielden, Action Chief of the Water Transfer Branch, DWR**

Mr. Fielden explained that the water transfer program does not buy or transfer water. This program develops the guidelines that are used in water transfers. He encouraged representatives of tribes to participate in the development of these guidelines. He explained that they are currently refining methods to identify third party impacts.

#### *Comments / Discussion*

- Agencies do not include tribes in net water evaluations. Tribes are ignored in standard water calculations and tribes may be financially damaged if forced to buy water.
- Tribal water rights have not been quantified. Many counties have over committed water supplies already and tribes are left out.

#### **Environmental Water Account – Teresa Geimer, P.E., Chief of Acquisitions, DWR**

Ms. Geimer explained that the agencies involved with the Environmental Water Account (EWA) include the state and federal fisheries agencies. She explained that EWA aims to decrease pumping at the state and federal pumps to decrease fish mortality by purchasing and transferring water. She noted some projects that are underway to protect fish populations.

*Comments / Discussion*

- Are acquisitions from conservation easements for riparian corridor restoration?

*Water acquisitions are used to make up for cut backs at the State and Federal pumps.*

**Water-Use Efficiency – Debra Gonzalez, Water Use Efficiency, DWR**

Ms. Gonzalez explained each of the grant programs available under Water-Use Efficiency program. Those include Agriculture Water Conservation, Urban Water Conservation and Water Recycling & Desalination. She pointed out the purpose of each of these programs noting how tribes have been notified about the available funding.

*Comments / Discussion*

- Is DWR tracking the number of proposals received from tribes?

*DWR has not yet received a grant application from any tribe for the water use efficiency programs. Tribes are included in the review process*

- Tribes have given input to DWR. Sometimes tribes would not participate because of limitations such as necessary matching funds. Suggest that DWR look at comments given by tribes to see what issues have been addressed.
- Consider that tribes may not participate in general public meetings because they may need to discuss confidential topics.

*Tribes may consider submitting written comments noting confidentiality in order to protect information.*

- How can water-use efficiency programs apply to tribes?

*The programs offered by DWR can apply to a wide range of communities.*

**Ecosystem Restoration – Dan Castleberry, CBDA Deputy Director**

Mr. Castleberry walked through the details of the Ecosystem Restoration program. He explained that grant opportunities under this program are open and competitive for all projects aimed to protect and enhance Delta species and habitats. Mr. Castleberry showed the group how monitoring projects are showing increases in salmon populations. He noted that tribes are contacted when proposals are received that may impact tribal lands. He also noted a need to review this contact process with tribes to ensure the correct tribes are included in reviews.

**Environmental Water Program – Campbell Ingram, USFWS**

Mr. Ingram explained that the goal of the Environmental Water Program (EWP) is to acquire water for tributaries to the Sacramento River and the San Joaquin River. He noted that principles of the EWP require working with willing sellers, developing projects with local interests and testing a hypothesis which includes monitoring within a project. He stated that the priority watersheds are Clear, Mill, Deer and Butte creeks, and the Tuolumne River. He noted that tribes are involved in many projects and EWP wants to continue this open and inclusive level of participation.

### **Environmental Water Quality – Donna Podger, CBDA**

Ms. Podger explained the major issues that are of concern to the Environmental Water Quality program: Oxygen depletion, Mercury, Organic Carbon, Toxicity and Pesticides. She focused on the mercury issues as potential impacts include fish, avian populations and humans. She noted available forums to discuss abandoned mines and programs to monitor fish contaminations. Ms. Podger mentioned that CALFED has an upcoming grant solicitation for mine remediation projects that specifically will enhance Bay-Delta water quality.

#### *Comments / Discussion*

- CALFED is getting departmentalized by the elements included in each program. Decisions are made on the basis of money.
- Fish studies need to evaluate the whole fish including the head, tail and such parts. Native Americans utilize the whole fish and the tests that are done, nation-wide, are limited to certain parts of the fish. Native Americans will continue to eat fish regardless of the fish advisories as part of their culture, tradition and ceremony. Impacts to those ceremonial activities can have ripple effects through generations. Tribes are asked to put a dollar value on impacts when a tribe considers what it takes to sustain a healthy community.

*The right people need to be involved to ensure monitoring activities are valid and appropriate. Department of Health Services wants to involve the local communities with the short term goal of advising the public of a problem and the long term goal of eliminating the source of the problems.*

- Tribes need to be involved in programs and activities as cooperating stakeholders.
- CALFED projects focus time and funding on the lower parts of the Delta. CALFED should reprioritize programs to include projects in the upper watersheds where sources of mercury contamination are located.

### **Science – Kim Taylor, CBDA Program Manager**

Ms. Taylor walked through 3 examples of Science review at CBDA.

- 1) Concern about arsenic levels in soils and what would happen to rural wells as ground water levels increase. CALFED put together a team to develop a risk assessment and evaluation and asked for performance measures.
- 2) Concerning the Environmental Water Account – How does one compare the benefits and costs in valuing water and fish saved under this program? CALFED goes through a routine of explanations and detailed steps during any evaluation. Experts are then brought in to evaluate.
- 3) Outreach and Communication – Working on activities, including a Science Conference Workshop, to involve interested groups and members of the public. The purpose is to engage interested people in a discussion of what is known and not yet known.

She then asked the participants how CALFED can get people involved in the science activities to bring in the right expertise.

#### *Comments / Discussion*

- Many tribes have scientists working with them already. CALFED should coordinate with these people.

- There is concern that science outcomes can sometimes be skewed by the source of funding. National organizations/working groups currently exist; the National Tribal Research Council and the National Environmental Council. These working groups can be used to help scientific groups. Tribes also have a lot of historical information that can be used to fill in technical information.

### **Watershed Management – John Lowrie, CBDA Program Manager**

Mr. Lowrie discussed the Watershed Management program. He explained that this is a program for local groups (watershed groups, tribal councils, etc.) to fund watershed coordination. He reviewed projects in process around California.

#### *Comments / Discussion*

- How many tribes have received grants for watershed projects?  
*To date, no grants have gone directly to a tribe, but several grants have involved tribes as project partners (e.g. Upper Putah Creek and Middle River).*
- How does the grant application work for watershed grants? Is match required?  
*No match is required for watershed grants, but in-kind services are encouraged. CALFED has different categories for projects that fit into this grant program. There are funds for watershed coordination activities as well as on-the-ground projects.*
- CALFED needs to use the available conduits (e.g. national tribal mailing lists) to contact tribes with grant solicitations.  
*Those conduits are being used at this time and CALFED has not seen an increase in interest from tribes. CALFED will continue outreach efforts of this sort to ensure the information is getting to the right audience.*
- What are the objectives of watershed management in relation to the grant?  
*The main objective is to build the capacity of those living in a local watershed to manage their own watershed.*

### **Drinking Water Quality – Sam Harader, CBDA Program Manager**

Mr. Harader explained that the main purpose of the Drinking Water Quality program is to enable local entities to provide good water quality. This program focuses on basic water quality issues not toxic constituents like Arsenic or MTBE. He noted that agricultural operations are a focus of this program.

#### *Comments / Discussion*

- Is there a grant program for source water improvement and can projects in this program include source water protection (e.g. Conservation easement to stop building by source water)?  
*Department of Health Services does provide grants for source water protection. Most of the grants on this program are for water quality improvement.*

**Drinking Water Policy – Karen Larsen, Environmental Scientist, Central Valley Regional Water Quality Control Board**

Ms. Larsen walked through the steps taken to develop the Central Valley Drinking Water Policy. She explained that a workgroup consisting of agencies, storm water groups and other groups formed to develop the policy that would set a range of water quality goals and control alternatives. She explained that a draft resolution will go to the Central Valley Regional Water Quality Control Board (CVRWQCB) in mid-2004 approving that the development of a policy is necessary. She noted that 2009 is the target date for an amendment to the Basin Plan.

*Comments / Discussion*

- Allow time for tribes to review resolution for the Drinking Water Policy to provide input before it goes CVRWQCB for approval. For a basin-wide plan, the tribes should meet to review. Tribes should be involved with the resolution now so in the future involvement of tribes is not limited.

**Levee System Integrity – Dave Mraz, Delta Levee's Program Manager, DWR**

Mr. Mraz reviewed the importance of the levees in the Delta in protection of water supply and water quality. He explained how the Levee System Integrity program runs to repair and maintain the large system of levees in the Delta. He noted that to date, no tribes have participated in the program, but he mentioned that tribes receiving CVP/SWP water may be interested.

**Next Steps**

After the presentation, participants were presented with discussion topics to begin a conversation focused on how agencies and tribes can work together more effectively. The discussion topics included:

- What input would agencies like from the tribes for process, programs, etc.? How will information from tribes be used by agencies?
- What are the best methods to initiate contact with tribes?
- Complete the connection between questions from tribes and available information. How should agencies ensure that information provided by tribes is best incorporated into existing programs?

Participants provided comments and suggestions to answer these questions and more. A summary of these comments is included below.

*Comments/Discussion*

**Communication**

- Use venues like this forum as an opportunity to open up a dialogue with interested parties. Work with tribes to rebuild institutional memory of available information to ensure that personnel changes within an agency does not impact the working relationship with tribes.
- Communication is the key. We need to devise a plan framing out how agencies and tribes will work together. Tribes can develop an initial communication plan and then work with agencies to refine this plan.

- Agencies need to build trust with the tribes. Agencies need to have a consistent presence participating regularly in meetings with tribe representatives. Tribes may consider invited agencies to regular meetings.
- CALFED ROD contains a statement that the program “does not affect tribes”. This statement was made without any input from tribes which has created an antagonistic relationship.
- What can Irenia do to help communications? What should Irenia’s role be?
  - Agencies should not use Irenia for all communications or consider her as the agency “expert” – still need to communicate with tribes.
  - Irenia should clarify the communication plan with consultation from tribes from the beginning.
  - Ensure that clear and accurate information is exchanged between agencies and tribes.
- The Environmental Justice program through CALFED provides advocacy for tribes and offers a forum to raise tribal issues.

### **Evaluation / Measuring Success**

- Success of this forum will be determined by what the group does next. We need to develop a method to measure performance, monitor successes and learn from mistakes. Use examples of existing successful relationships as models.
- Acknowledge what has happened in the past and move forward. Document mistakes made in the past as well as the desire of tribes and agencies to move forward together.

### **Suggested Actions**

- Involve tribes at higher level of decision making.
- Provide workshops to assist communities and tribes in developing grant proposals.
- Provide grant opportunities that are sensitive to capacity issues. Restructure grant programs to provide flexibility to individual circumstances and be fair to all stakeholders.
- Funding sources do provide guidelines that designate how funding will be used. Tribes should look into becoming involved with the initial bond proposals in order to provide early input into criteria.
- Develop a map that shows tribes and tribal lands. Utilize existing information, while being sensitive to confidential and sacred information from tribes, to build a tool to identify current and historical tribal lands.
- Tribes need to have their own water rights to avoid competition with communities, farms, and agencies.

### **Next Forum**

As of now, the date is not set, but the forum will be held in June. Participants suggested a different meeting structure for the next round to allow for more discussion. Participants suggested that tribes are given the opportunity to design the agenda for the next meeting.