

CALIFORNIA BAY-DELTA PUBLIC ADVISORY COMMITTEE MEETING

May 13, 2004

650 Capitol Mall, Fifth Floor
Bay-Delta Room
Sacramento, California

MEETING ACTION ITEMS

Mercury Strategy: BDPAC recommended that the California Bay-Delta Authority adopt the Mercury Strategy and direct its implementation. As a result of this action, BDPAC expects to have an opportunity to review the implementation plan and associated budget.

Program Plan Criteria: Gary Hunt asked Steve Hall to convene a subcommittee to develop recommended criteria for the Program Plans, with the assistance of Wendy Halverson Martin, that includes Dennis O'Connor and Robert Meacher, and take the proposed criteria to the Authority in June for its consideration. BDPAC unanimously recommended the action.

Finance Options: Gary Hunt recommended that Patrick Wright and other agency directors, with the assistance of environmental, agricultural and urban stakeholders, should work together on the next steps regarding a water user fee. This should start as soon as possible and be brought to the Authority for its consideration.

Drinking Water Quality Program Plan: Greg Gartrell, co-chair of the subcommittee, requested the Drinking Water Program implementing agencies explicitly state their commitment to and better define their roles in the Program Plan.

MEETING SUMMARY

Committee members in attendance: Gary Bobker, The Bay Institute; Christopher Cabaldon, City of West Sacramento; Tom Clark, Kern County Water Agency; Marci Coglianesse, City of Rio Vista; Martha Davis, Inland Empire Utilities Agency; Gregory Gartrell, Contra Costa Water District; Joe Grindstaff, Santa Ana Watershed Project Authority; David Guy, Northern California Water Association; Steve Hall, Association of California Water Agencies; Robert Meacher, Plumas County; Jerry Meral, Planning and Conservation League Foundation; Barry Nelson, Natural Resources Defense Council; Bill Pauli, California Farm Bureau; Mike Rippey, Napa County; Michael Schaver, Big Valley Rancheria; Frances Spivy-Weber, Mono Lake Committee;

O. L. "Van" Tenney, Glenn-Colusa Irrigation District; and Tom Zuckerman, Central Delta Water Agency. Others in attendance included Lester Snow, Director of Department of Water Resources; Diana Jacobs, Deputy Director of Fish and Game; Susan Ramos, Assistant Regional Director, Mid-Pacific Region, U.S. Bureau of Reclamation; and David Harlow, U.S. Fish and Wildlife.

1. WELCOME AND OPENING REMARKS

Chairman Gary Hunt called the meeting to order at 9:18 a.m. He noted there were vacancies at the table and within Bay-Delta Public Advisory Committee (BDPAC) and he asked for nominations of individuals who would be willing to serve and make a commitment to BPDAC.

The co-chairs of the Water Supply Subcommittee requested that Agenda Item 9, Surface Water Storage Investigations, be moved to the front of the agenda because they would like to make comments as subcommittee co-chairs in the context of the presentation.

2. DIRECTOR'S REPORT

Director Wright provided a brief overview of the day's program.

3. STAFF REPORTS

There were no staff reports.

9. SURFACE WATER STORAGE INVESTIGATIONS: UPDATE ON CRITERIA FOR WORKPLAN PRIORITIES

Mark Cowin, Department of Water Resources (DWR) Chief, Division of Planning and Local Assistance, made a presentation on how DWR might proceed on Surface Water Storage Investigations, given there is: (1) insufficient funding to complete planning on all five storage projects; (2) a need to focus additional planning; and (3) a need to prioritize work to maximize the value of available funding. The preliminary proposal is for all projects to develop common assumptions, update operation studies, and enhance economic analyses methodology, and to develop criteria and a process to determine how to invest remaining funding. Three possible approaches to investing the remaining funding are: (1) to make across-the-board cuts to all five storage projects; (2) to focus planning on specific benefits, not specific projects; and (3) to fund planning for projects with the most interest from potential participants.

4. SUBCOMMITTEE REPORTS

Water Supply Subcommittee

Jerry Meral and Steve Hall, co-chairs of the Water Supply Subcommittee, had a number of questions and comments that arose from the discussions at the Water Supply Subcommittee meetings. They emphasized that these concerns were only their views as co-chairs.

Jerry Meral wanted to discuss the issues of: (1) how to make decisions at the subcommittee level; (2) the process for subcommittee consensus; and (3) the potential for conflict of interest issues with the subcommittee members, and whether it is a policy or legal issue.

Virginia Cahill, Deputy Attorney General, said that the conflict of interest issue does not appear to be a legal issue, but the attorneys will look into it.

Regarding conflict of interest, Gary Hunt said that whether or not it is a legal issue, it is an integrity issue. There needs to be full disclosure of any bias; and if there is a legal issue, it needs to be dealt with, because all of the BDPAC members have a vested interest in water projects. Gary Hunt clarified that it is inappropriate for BDPAC or subcommittee members to voice opinions or make recommendations regarding specific funding decisions; however, it is appropriate to make recommendations on other issues. He said BDPAC and subcommittee members should keep in mind their role, not be motivated by self-interest, and to look at the big picture. Addressing the members, he said it is not appropriate to express views if you'll be financially rewarded by a decision, or if you cannot keep an open mind about certain issues or actions.

Steve Hall said that there is \$20 million left for the Surface Water Storage Investigations but \$40 million worth of work to be done. The common assumptions work needs to be done and will be completed by December 2004. Hall said that he wanted to go through the Surface Storage Program and budgets with the agencies; and that if they do this well, they will attract partners for the surface storage projects. Hall said that it will not be easy to compare the projects and that it will be necessary to carefully analyze the budgets and workplans.

Gary Bobker said that (1) working on common assumptions for the surface storage projects is a good thing to do, and prioritization will lead to greater support of the projects; and (2) the BDPAC subcommittees can help with the prioritization of presumed benefits such as environmental and water quality.

Mark Cowin said that DWR will be more specific in the Storage workplan at the next Water Supply Subcommittee meeting on June 23.

Lester Snow said that public funding can be used to develop the business case, and to refine the operating rules that lead to benefits. Once that is done, depending on the results, financial partners may be attracted to the projects.

Susan Ramos said that the U.S. Bureau of Reclamation will need to take the storage projects through the traditional cost/benefit analysis by the Office of Management and Budget.

Andy Moran, Delta Wetlands Project, as a member of the public, stated to BDPAC that he would like to be at the table when the agencies talk about priorities. He said that it is very important what questions are asked of the stakeholders when discussing the benefits of the storage projects.

Drinking Water Subcommittee

Greg Gartrell, co-chair for the Drinking Water Subcommittee, announced that: (1) the draft Drinking Water Subcommittee Strategic Plan should be prepared in late 2004; (2) the State Water Resources Control Board (SWRCB) Drinking Water Policy resolution is moving forward, and they expect to develop a policy by 2009; (3) there are three new members of the subcommittee representing agricultural interests; and (4) the two water quality projects on Veale and Byron Tracts should be completed by next year.

Watershed Subcommittee

Robert Meacher, co-chair of the Watershed Subcommittee, announced the availability of the Watershed Program Grant Projects Catalog for Grant Awards for Fiscal Year 2000-01 published by the Authority. It is available either on disk, through the Authority website, or a limited supply in hard copy. He also announced that \$9 million in grants was just released from the Department of Conservation for funding watershed coordinators, as recommended by the Authority at its meeting on April 7 and 8.

5. ECOSYSTEM RESTORATION PROGRAM. MERCURY STRATEGY (*Action Item*)

Dan Castleberry, Deputy Director for the Ecosystem Restoration Program, made a presentation on the Mercury Strategy for the Bay-Delta Ecosystem.

Robert Meacher said that he had learned of the problem at the county level and that it was not a problem that you could treat, but that it was a management and education issue.

Tom Clark inquired as to the cost of implementing the Mercury Strategy. Patrick Wright said that the agencies will need to develop an implementation plan and budget that will then be brought back to BDPAC and the Authority for consideration. In the interim, the Authority is supporting studies through the Ecosystem and Water Quality Programs that have provided most of the funding for this effort to date.

Gary Hunt recommended that the Department of Health Services and CalEPA: (1) consider the Mercury Strategy; (2) be able to address this issue at the Authority meeting and indicate whether or not they support the Mercury Strategy; and (3) be prepared to use Proposition 50 funds (public health money) to support the effort.

Christopher Cabaldon wanted to be sure that there is value in going forward with the Mercury Strategy.

Tom Clark said that he thought CALFED money should be used to leverage other programs, not just add to their budgets, and that we are in a time of limited budgets and funds.

Vicky Murphy from the Cache Creek Watershed, during the public comment period, spoke about the challenges of dealing with mercury in the Cache Creek watershed. She had three questions for the Authority staff and wanted the answers in writing. The three questions were: (1) What, if anything, is the CALFED Program doing to stop the contributions of mercury from Cache Creek to the Bay-Delta?; (2) Does the Authority staff support a wilderness designation in the Cache Creek watershed?; and (3) She asked for a response to the Central Valley Regional Water Quality Control Board's policies and practices in Cache Creek.

6. INTEGRATED DELTA IMPROVEMENTS PACKAGE UPDATE

Patrick Wright introduced the item and said that the agencies are working on key linkages and schedules. A specific proposal will be available in advance of two public workshops on May 27. Patrick Wright hoped that the agencies could have an agreement by the next Authority meeting on June 9 and 10.

Lester Snow said that the proposal will include how many actions will precede increased pumping to 8,500 cfs, including the permanent operable barriers, and meeting Delta water quality salinity standards.

Barry Nelson stated that the SWRCB D-1641 clearly states that compliance with all standards is a requirement.

Susan Ramos said that she recognized there is a need for a plan for compliance at Vernalis.

7. PROPOSED CRITERIA FOR PROGRAM PLANS

Wendy Halverson Martin, Chief Deputy Director of the Authority, presented the criteria for program plans.

The California Water Code contains direction on the use of criteria for the BDPAC and Authority to make recommendations about the annual and multi-year plans. Section

79421(o) of the California Water Code requires the Authority to adopt criteria for review, approval, and modification of the annual program plans. The criteria shall be consistent with existing State and Federal agency budget development, review, and approval processes. The Authority shall submit a copy of the criteria to the appropriate policy and fiscal committees of the Legislature.

Questions arose as to why these criteria were needed and whether they would need to be prepared every year. She responded that the criteria will not need to be prepared every year, but the program plans will be.

Steve Hall said that historically the criteria were felt to be needed to make the program more effective and ensure that the program plans contain the key elements of the budgets, timelines and commitments.

Tom Zuckerman questioned whether the program plans are the best structure to achieve balance between elements or if restructuring the subcommittees may be necessary to insure integration across elements.

Dennis O'Connor said that he could provide guidance on setting up criteria and that they should be developed to achieve the goals of reducing conflict in the Delta.

Gary Hunt asked that Steve Hall, Dennis O'Connor and Robert Meacher work with Wendy Halverson Martin to develop recommended criteria for the program plans. He then asked BDPAC to approve Authority staff proceeding with the development of the proposed criteria. BDPAC unanimously agreed to this recommendation

The proposed criteria will be recommended for adoption by the Authority at its June 9 and 10 meeting. The criteria will be used by both BDPAC and the Authority in considering the annual and multi-year program plans at their respective meetings in July and August. Once adopted, the criteria will be submitted to the Legislature.

8. 2004 PROGRAM PLAN DEVELOPMENT

Wendy Halverson Martin presented the process for the development of the 2004 Program Plans including the schedule, the role they have in the development of the annual report, and discussions later in the year of assessment of the CALFED Program.

Regarding the issue of water quality funding, Gary Hunt asked that BDPAC work on getting Federal appropriations, resolving Federal authorization issues, and securing Proposition 50 money for water quality actions with the same enthusiasm as with getting the Bay-Delta Authority Act passed.

Staff from the implementing agencies presented the major activities for the Program Plans in each Program element and the subcommittee co-chairs presented the subcommittee issues.

During the discussion of the Water Quality Program Plan, Greg Gartrell requested more engagement by the implementing agencies, for example, through their Proposition 50 grant programs. Greg Gartrell requested that the implementing agencies sign on to the Water Quality Program Plan indicating their commitment and present this item as an informational item at the next Authority meeting, June 9 and 10.

Patrick Wright suggested that the Department of Health Services (DHS) align their existing Proposal Solicitation Process (PSP) criteria and priorities with the Drinking Water Quality Program Plan.

Dave Spath, DHS, stated that two of the Proposition 50 chapters that DHS is involved with are for statewide programs and small and disadvantaged communities.

Beth Jines, SWRCB, said that when projects meet multiple goals and objectives of the Program, they receive more points in the PSP.

Karen Schwinn, US Environmental Protection Agency (EPA), said that even though EPA money (approximately \$100 million) goes into the State revolving fund, it does not currently count towards Federal CALFED funding.

10. DRAFT FINANCE OPTIONS REPORT

Kate Hansel, Assistant Deputy of Finance and Policy, made a presentation on the Draft Finance Options Report that was just released. BDPAC members were generally complimentary on the overall effort. Additional comments included: (1) concern regarding how the various elements will be funded; (2) whether beneficiaries can be found for certain Program elements and the possibility that some elements will be funded and others may not; (3) if the State needs a tax for the Program, then there should be an honest discussion about that; (4) the different groups should be able to determine whether or not they are beneficiaries; and (5) creative funding for projects is possible. Martha Davis suggested that points of commonality should be found, and the Program should get started on an incremental solution.

Steve Hall said there are three things the water community supports in this order: (1) water quality; (2) water supply; and (3) environmental protection and enhancement. The Program has run out of what he called "other people's money", and we need to take stock of the situation. We need to address the situation in bite-size chunks and form partnerships where they can be formed.

Gary Hunt complimented staff on the Draft Finance Options Report that has conveyed the complexity of the issues surrounding funding the CALFED Program through 2030. He pointed out that the recently released May Revision of the State Budget supports the "beneficiary pays" concept and enactment of a water user fee. Chairman Hunt stated that the future of California and water development leaves no choice but to figure this

out. He then addressed the BDPAC members and restated that we need collectively to figure out how to pay for the Program.

Van Tenney and David Guy said the decision on who benefits should not be decided on a "top-down" basis. Benefits should be decided on a project-by-project negotiated basis.

Gary Hunt recommended that Patrick Wright and other agency directors, with the assistance of environmental, agricultural and urban stakeholders, should work together on the next steps regarding a water user fee. This should start as soon as possible and be brought to the Authority for its consideration.

11. WATER QUALITY PROGRAM. Department of Health Services. Drinking Water Program Grant Process and Criteria for Proposition 50 Chapter 3, 4 and 6 (a) and (c)

This item was not discussed.

Adjournment

Chairman Hunt adjourned the meeting at 4:22 pm.