

Agenda Item: 8-5
Meeting Date: December 8 and 9, 2004

Amended December 9, 2004
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ANNUAL JOINT MEETING WITH BAY-DELTA PUBLIC ADVISORY COMMITTEE

California Bay-Delta Authority Meeting

October 13 and 14, 2004
650 Capitol Mall, Fifth Floor
Sacramento, California

SUMMARY OF MEETING ACTION ITEMS

Resolutions

Integrated Regional Water Management Grant Program

The Authority approved Resolution 04-10-01 recommending to the Department of Water Resources (DWR) and the State Water Resources Control Board (SWRCB) that they proceed with adoption of guidelines for the Proposition 50 Integrated Regional Water Management Grant Program (Prop 50 Chapter 8).

Local Groundwater Assistance Program

The Authority approved Resolution 04-10-02 recommending to DWR that it proceed with its Local Groundwater Assistance Program Proposal Solicitation Package (PSP) (AB 303, Prop 50 Chapter 8).

Water Recycling Funding Program

The Authority approved Resolution 04-10-03 recommending to SWRCB that it proceed with adoption of Water Recycling Funding Program guidelines (Prop 50 Chapter 7).

Water Desalination Grant PSP

The Authority approved Resolution 04-10-04 recommending to DWR that it proceed with its 2004 Proposition 50 Water Desalination Grant PSP (Prop 50 Chapter 6 (a)).

Water Use Efficiency Grant PSP

The Authority approved Resolution 04-10-05 recommending that DWR proceed with its 2004 Proposition 50 Water Use Efficiency Grant PSP (Prop 50 Chapter 7).

Drinking Water Contaminant Reduction Grant PSPs

The Authority approved Resolution 04-10-06 recommending to the Department of Health Services that it proceed with its 2004 Proposition 50 Drinking Water Contaminant Reduction Grant PSPs (Prop 50 Chapter 6 (b) and (c)).

Follow Up

Chairman Gary Hunt asked Director Patrick Wright to try to resolve the issues of regulation of in-channel work to allow for longer duration and greater flexibility in timing and consider the possibility of integration with real-time fish monitoring.

Chairman Hunt recommended that the Operations Criteria and Plan (OCAP) be a standing agenda item.

Director of DWR Lester Snow, said that they would begin workshops on the South Delta Improvements Project soon, and USBR said that they would hold another workshop in late October or early November on the process and substantive issues regarding OCAP.

Jason Peltier asked for a Battle Creek briefing in the spring.

The Authority accepted the staff recommendation to streamline approval of the implementing agencies' PSPs. The staff will prepare a checklist to ensure that a PSP meets CALFED goals, integrates Environmental Justice, Tribal coordination and Science and has been reviewed by the appropriate Bay-Delta Public Advisory Committee's Subcommittees and CALFED agencies. Once the checklist for a PSP has been completed, the staff will then bring it to the Authority for final approval.

Note: Copies of the packet materials mentioned in this summary can be found on the California Bay-Delta Authority website at: <http://calwater.ca.gov> If you have any questions, please contact Heidi Rooks at (916) 445-0533.

California Bay-Delta Authority Meeting
October 13 and 14, 2004

MEETING SUMMARY

11-1 CALL TO ORDER AND INTRODUCTORY REMARKS

The meeting was called to order at 1:15 p.m., October 13, 2004, by Gary Hunt, Chair of the California Bay-Delta Authority (Authority) and Representative Member of the Bay-Delta Public Advisory Committee (BDPAC).

11-2 ROLL CALL AND ESTABLISHMENT OF QUORUM

Roll call was taken and a quorum was established. The following Authority members or designees were present for the meeting:

Public – Paula Daniels, representing the Southern California Region; Susan Kennedy, representing the San Francisco Bay Region; Al Montna, representing the Sacramento Valley Region; and Daniel Wheeler, Member at Large.

Bay-Delta Public Advisory Committee Representative – Gary Hunt.

State – Mike Chrisman, Secretary for Resources, and designee Crawford Tuttle; Lester Snow, Director of Water Resources (DWR) and designee Joe Grindstaff; Ryan Broddrick, Director of Fish and Game (DFG) and designee Diana Jacobs; Steve Shaffer, designee for A.G. Kawamura, Secretary of Food and Agriculture (CDFA); Jim Branham, designee for Terry Tamminen, Secretary of the Environmental Protection Agency (CalEPA); and Dave Spath, designee for Sandra Shewry, Director of Health Services (DHS).

Federal – Jason Peltier, Deputy Assistant Secretary for Water and Science, U.S. Department of the Interior (DOI); Susan Ramos, designee for Kirk Rodgers, Regional Director, Mid-Pacific Region, U.S. Bureau of Reclamation (USBR); Mike Aceituno, designee for Rodney R. McInnis, Acting Regional Administrator, Southwest Region, National Marine Fisheries Service (NOAA Fisheries); Mark Charlton, Sacramento District Deputy District Engineer for Project Management, U.S. Army Corps of Engineers (USACE); Tom Hagler for Wayne Nastri, Region IX Administrator of the U.S. Environmental Protection Agency (USEPA); and Dave Harlow for Steve Thompson, Manager of California-Nevada Operations Office, U.S. Fish and Wildlife Service (USFWS).

Ex-Officio –Dennis O'Connor for Senator Michael Machado, Chair of the Senate Agriculture and Water Resources Committee; Jeff Volberg for Assemblyman Joseph Canciamilla, Chair of the Senate Agriculture and Water Resources Committee.

After the introductions, Tom Hagler said that SB 1353 (Perata, Chapter 484, Statutes of 2004) was signed into law on September 10, 2004. This bill makes various changes to the Political Reform Act of 1974 but most importantly revises the definitions of “designated employee” and “public official” to exclude any Federal officer or employee serving in an official Federal capacity on a State or local government agency. This will enable Federal members to fully participate in Authority meetings without triggering State financial disclosure laws. He recognized and thanked the many attorneys who had worked to pass the legislation.

In addition, Gary Hunt said that the U.S. Senate amended and passed House Resolution 2828 on September 15 authorizing \$389 million to help implement the CALFED Bay-Delta Program and provide for Federal agency participation in the California Bay-Delta Authority. The House must adopt the amended bill before it is sent to the President for signature. The 108th Congress is likely to adjourn on October 15; however, the possibility of a post-election session remains. He recognized Senator Feinstein, and Representatives Calvert and Pombo for their great accomplishment.

Jason Peltier indicated his appreciation for the support from Patrick Wright and staff for working through the legislation.

13-3 SUMMARY OF AUGUST 11 and 12, 2004 AUTHORITY MEETING

Gary Hunt asked about the Planning and Conservation League (PCL) comments on the Finance Plan and asked whether a matrix had been prepared comparing PCL's Investment Strategy and the Authority's 10-year Finance Plan. Kate Hansel, Assistant Director of Policy and Finance said that PCL has been working on the matrix. (A spokesperson for PCL presented the matrix later in the meeting.)

The meeting summary was adopted as submitted.

13-4 DIRECTOR'S REPORT

Authority Director Patrick Wright noted the Senate's passage of the Federal authorization bill and briefly summarized several State legislative measures that passed:

- AB 2572 (Kehoe) requires urban water suppliers to install water meters on all municipal and industrial services by January 1, 2025;
- SB 117 (Machado) requires each State implementing agency, to the maximum extent feasible, to provide outreach to disadvantaged communities to promote access to relevant Proposition 50 grant application and award information;

- SB 1155 (Machado) requires DWR in collaboration with the Secretary of the Interior to develop a plan by January 1, 2006 to meet the existing permit and license conditions for which the Department has an obligation;
- SB 1353 (Perata) makes various changes to the Political Reform Act of 1974 which enables Federal members to participate fully in Authority meetings without triggering State financial disclosure laws.

He also noted that two bills were vetoed by the Governor: one that would have given additional responsibilities to the Delta Protection Commission and the other that would have established the Sacramento-San Joaquin Delta Conservancy Program within the State Coastal Conservancy.

Jason Peltier asked when the Authority could expect to hear a briefing on Battle Creek; and Tim Ramirez, Authority Senior Advisor, responded that it would be presented in the spring.

13-5 LEAD SCIENTIST'S REPORT

Dr. Kim Taylor, Deputy Director for the Science Program, reported for Lead Scientist Johnnie Moore, who was not available.

- The Legislature has requested a plan on how to answer the question of how much water at-risk fish need in the Delta. The plan will be submitted before January 10, 2005. Jason Peltier asked how you can segregate out flow when at-risk species are impacted by ocean conditions, invasive species, etc. Kim Taylor responded that scientists will address the complexity inherent in the question.
- The CALFED Science Conference in October set records. There were 1,200 attendees, 300 presentations and 150 posters. Kim thanked those who took the lead in organizing the conference. The next one will be in 2006 and planning for it will begin in early 2005. Additional topics to integrate into the conference will be the science of watersheds and water use efficiency.
- The Interagency Ecological Program is experiencing a budget shortfall and as part of the Science Program financial contribution to the Program there will be a wholesale review of the program.
- The Independent Science Board (ISB) is looking into how best to serve the CALFED Program. Its next meeting will be in November.

13-6 SUBSIDENCE, SEISMICITY AND SEA LEVEL RISE: The Dynamic Future of the Delta – Informational Item

Dr. Jeffrey Mount, Director for the Center for Integrated Watershed Science and Management, University of California, Davis, (UCD) gave a presentation on the dynamic condition of the Delta islands and risks to Delta levees.

Dr. Mount is a professor in the Department of Geology at UCD and a member of The Reclamation Board. Professor Mount is active in teaching and research about California's rivers and watersheds. Professor Mount's research program is centered on river restoration and evaluating the links between hydrologic and ecologic processes in lowland river settings.

Dr. Mount prefaced the presentation by saying that he had conducted the research with funding from ISB, which has seen his presentation and commented on it. He and ISB will work together to further refine the work with the ultimate goal of it becoming an ISB work product. In the meantime, he had presented the talk at the CALFED Science Conference in October and is presenting it to the Authority in order to keep them informed as to his preliminary conclusions on the subject.

Dr. Mount explained that in the Delta there is significant space below sea level that has been created by human activity and is filled with neither water nor sediment. The void has been created by building of levees, subsiding peat soils and rising sea level. With the passage of time, there is an increased risk of islands flooding due to a flood event, earthquake or simply levee failure; a 2-in-3 probability of such a major event within the next 50 years. In addition, there is only one contractor in the area with suitable equipment to repair levees and that contractor would be only able to repair two or three levee breaks per year. The conclusion is that the vulnerability of the structure of the islands and levees puts the water conveyance system at risk.

The Authority members asked what advice Dr. Mount could give them and he responded that ISB will consider the issues and risks and make recommendations to the Authority which they can do possibly by spring 2005.

Jason Peltier asked what data gaps there are and Dr. Mount said that there is insufficient high resolution serial elevation data to monitor change in elevations, soils data needs updating and the geotechnical information on levees is being developed through the levee integrity research.

Jason Peltier also asked about the planning for disasters such as floods or earthquakes that might result in multiple levee breaks. Patrick Wright said that DWR is doing a comprehensive review of the Levee Program and it is being

incorporated into the Finance Plan. Ryan Broddrick said that a great deal of work has been done regarding emergency response; however the cost would be in the millions.

Lester Snow said that there is a policy paper being developed on the flood liability issue, and there will be a Flood Management Workshop in Sacramento on November 9 and 10.

Tom Zuckerman thanked Dr. Mount for focusing attention on this topic and the need to develop more data on this subject. He felt we need to get the money and tackle this issue together.

Tom Zuckerman also brought up a levee issue that needs to be resolved with the help of the Science Program. Regarding permitting levee maintenance work, he said there is a need to streamline the permitting process. The permits have been difficult to secure. The Levee Subcommittee has grappled with this subject and has given up trying to work with the US Army Corps of Engineers (Corps) to get a general permit.

Another concern is that the work window available in which to repair or maintain levees is very short and only open when no sensitive fish species are present. The stakeholders would like longer work windows and have the timing flexible, perhaps tied to real-time fish monitoring. Mr. Zuckerman went on to say that the annual maintenance work is what supports contractors with specialized construction equipment, not the levee failures, and the contractor and equipment need to be available for the emergencies.

Chairman Hunt asked Patrick Wright to try to resolve the issues raised by Tom Zuckerman.

Mark Charlton, Corps, brought up the related issue of soil materials used to repair levees such as those used for levee repair on Jones Tract, which has now been classified as waste. He suggested that CALFED should facilitate a long-term strategy or management plan to address the issues of dredge spoils and levee maintenance materials.

Ryan Broddrick said that there was a Dredge Reuse Study that was conducted prior to the Record of Decision (ROD).

Tom Zuckerman said that the San Francisco and Central Valley Regional Water Quality Control Boards have different views on the topic and they need help from scientists to work out a solution.

Gary Hunt said that we need to better understand what the State is facing. At this meeting there was a presentation on Delta levees; and at the next meeting,

there will be one on climate change. The Authority needs to bring these issues together to help develop a water policy that will be a long-term continuing effort.

PUBLIC COMMENTS

The following comments from the public were made:

- Ulrich Luscher, geotechnical engineering consultant, made the following comments: (1) another factor influencing construction timing is the nesting of birds; (2) even the \$1 Billion backlog of levee work that would bring the levees up to the PL 84-99 standard would not prevent damage in a seismic event and the 10-Year Finance Plan is only planning for \$0.5 billion; and (3) the issues surrounding emergency response to levee breaks is being reviewed in the subcommittees.

13-7 DELTA IMPROVEMENTS PACKAGE UPDATE – Informational Item
Tim Ramirez, Authority Senior Advisor, said that in response to the letter from Gary Hunt to the five Federal agencies, four had responded: USEPA, USBR, USFWS AND USACE. NOAA Fisheries has not yet responded. Also, the dates in the Program Plans and the Delta Improvements Package, Appendix A, have been reconciled and made consistent.

Jerry Johns, Deputy Director of DWR, gave a short presentation on the update of the Delta Improvements Package schedule.

Paula Daniels asked whether, when new information comes up, there could be a review of the basis for the OCAP decision. Jerry Johns responded that the proposed process has not changed.

Gary Hunt proposed that the agenda items be taken out of sequence: Item 9 will be followed by Item 8, and Item 10 will be moved to the next day.

13-9 STATE WATER RESOURCES CONTROL BOARD PERIODIC REVIEW UPDATE – Informational Item

Harry Schueller, Chief Deputy Director of SWRCB, said that SWRCB under State and Federal law is required to periodically review the Delta Water Quality Standards that were adopted in 1995. The SWRCB picked 11 subject areas to review and on October 27 will have a fact-finding workshop. If at the end of the process, the staff proposes changes to the standards, environmental documents will be prepared and hearings will be held on the standards.

**13-8 U.S. BUREAU OF RECLAMATION/DEPARTMENT OF WATER
RESOURCES OPERATIONS CRITERIA AND PLAN CONSULTATION
UPDATE – Informational Item**

Chet Bowling, USBR, and Curtis Creel, DWR, gave a report on the October 7 Central Valley Project (CVP)-Operations Criteria and Plan (OCAP) workshop. There will be a follow-up meeting in several weeks; however it is not yet scheduled. They reviewed the topics that were discussed at the workshop.

Chet Bowling said that some people did not believe that OCAP is not a decision document. Curtis Creel said that there are a number of related public processes. There will not be one document that describes the cumulative effects of all these actions except that each California Environmental Quality Act (CEQA) document will address cumulative effects. More information will be developed on the actions by the next workshop. Chet Bowling said that the Coordinated Operations Agreement (COA) needs to be reviewed, as is mentioned in the ROD. At the next workshop, the issues to be addressed will include the COA, Sacramento River temperatures and operations and Lower American River operations.

Additional concerns expressed at the workshop were: 1) the process should slow down; 2) the parts of the process should be better synchronized; 3) the funding amount for Environmental Water Account (EWA) was inappropriate; and 4) the CALSIM2 model was not sufficiently accurate.

Chet Bowling said that there is a Memorandum of Understanding with the Sacramento River Water Forum in which there is a commitment to develop a minimum flow standard for the Lower American River. There is not a proposed flow standard in the OCAP document. USBR plans to go through the technical and public process necessary to develop a standard and then OCAP will be revisited. As conditions change, it will be necessary to reinstate endangered species consultation.

PUBLIC COMMENTS

The following comments from the public were made:

- Zeke Grader, Executive Director for the Pacific Coast Federation of Fishermen's Associations (PCFFA), stated that the fishermen rely on salmon fisheries. They request a delay of the release of the Biological Opinions (BO) on the CVP-OCAP from NOAA Fisheries and from USFWS. There are three reasons for this: 1) the Opinions must address recovery of the fish species per a court decision on the Columbia River in which a District Court threw out an Opinion because it was inconsistent with the Endangered Species Act (ESA); 2) there needs to be scientific peer review of both Opinions; and 3) there has been political interference

on endangered species issues on the Columbia and Klamath Rivers, and because there is a cloud of suspicion of interference in this case, the Inspector Generals need to review the case. In addition to the need to have these reviews and delay the release of these Opinions, there also need to be a CEQA/National Environmental Policy Act (NEPA) review of the OCAP document before proceeding.

- Barry Nelson, Water Policy Analyst for Natural Resources Defense Council (NRDC), made reference to the letter from 21 environmental and fishing groups regarding agency actions regarding OCAP and restoring the credibility of CALFED and the letter from Congressman George Miller, Senator Dianne Feinstein and 17 other members of Congress requesting an investigation of allegations of USBR undermining NOAA Fisheries review of the long-term CVP-OCAP. He said that NRDC is a supporter of CALFED, yet CALFED is failing due to failures of process such as the Napa Agreement and now OCAP. The OCAP document was not presented until it was final. He said CALFED was created to help agencies coordinate a balanced solution, science integration, etc. The concerns are that 1) the renewal of contracts is a related action; 2) there will be an additional 1 million acre-feet (MAF) diverted from the Delta; 3) there has been a final agency action on the Intertie without a CEQA/NEPA document; 4) there a proposed re-operations of the Sacramento and American Rivers; 5) there has been approximately one half billion dollars spent on Ecosystem Restoration it is at risk of being undone by these actions.

Barry Nelson went on to say that the claim is that OCAP does not propose changes in operations but in fact it does. He urged that the State and Federal agencies reopen the Napa Agreement and OCAP and involve the public, integrate the CALFED agencies, comply with State and Federal laws and honor commitments. If this does not happen, he said CALFED will not survive.

- Gary Bobker, Program Director of The Bay Institute and BDPAC member, said that not only has there not been an open and transparent process, but the public has not been included in the process and the process has not been legal.
- David Nesmith, Environmental Water Caucus, commented that the fisheries are not getting better, water quality is not getting better and the Delta is losing its capacity to recover. With OCAP and the pending water contracts, there is the potential that an additional 1MAF could be exported. The concern is that the public has not been involved and the cumulative effects of these actions have not been addressed. There are 2 MAF of pending water contracts that are for periods of 25 or 40 years. He urged CALFED to engage the public in a meaningful way because the fish are

not going to be able to wait for 40 years. He asked the participating agencies to answer the questions that have been asked.

- Dr. Mark Rockwell, North California Council/ Federation of Fly-Fishers commented that the USBR schedule is that 140 water contracts will be signed by January 20, 2005. They will then be committed to delivering an additional 200 thousand acre-feet (TAF). The Red Bluff Diversion Dam contractors requested an additional 250 TAF. He suggested a practical solution: just cut back on the amount of the water contract. He asked where is the review of the contracts. Once USBR has signed the contracts, then there is a commitment. It will become a question of how the water will be delivered, not if the water will be delivered.
- Michael Jackson, Sportfishing Protection Alliance, stated that there is no longer environmental support for the CALFED Program because of OCAP. The Authority does not have any authority and the agencies are working off-line. He went on to say that: 1) OCAP is piece-mealing of the worst kind; and 2) a NEPA document should be prepared for the Coordinated Operations Agreement (COA). COA is out of date (created in 1978), needs to be updated and, as part of that updating, a NEPA document should be prepared.
- Mark Franco, leader of the Winnemem Wintu Tribe, and Gary Mulcahy, tribal member, introduced themselves. Gary Mulcahy commented that the USBR OCAP decision influences the amount of water in the Sacramento River, in Shasta Dam and the survival of the endangered salmon. The raising of Shasta Dam is not on the agenda; however, it is related to this agenda item. The Tribe is concerned about flooding impacts to the McCloud River and their cultural and spiritual sites that would result from raising Shasta Dam even 6 feet. When Shasta Dam was built, the waters backed up and flooded 95 percent of their land and spiritual sites, and any raising of the dam would destroy the remaining 5 percent of their sites. The Tribe held a war dance on Shasta Dam recently because they believe the USBR is not adequately addressing their concerns. They are not a federally recognized tribe; however, they are directly impacted by Shasta Dam.

Mark Franco, also of the Winnemem Wintu Tribe, said that his tribe is in a state of war. He is the head man of the village; and unless there is a change in how the USBR communicates with the Tribe, they will not come back. The war dance was very serious and hard work and it was the only way to get people's attention. Historically, there were nine bands of Winnemem Wintu. The McCloud River no longer has salmon. They are water people, they sing to the water for its health. They do not like being at war, but they did not see an alternative.

Paula Daniels said that she comes from indigenous Hawaiian people and that they have a tradition of “Ho o pono pono” which is translated as right conduct, right actions, resolving disputes and resolution of conflicts. She hoped that the tribal concerns could be resolved in a similar fashion.

Lester Snow said that the OCAP discussion is related to a lot of issues. The State is clearly committed to public review. The Napa Agreements will go through CEQA review and most of the actions will go through the South Delta Improvements Project (SDIP) public review. All actions that include more pumping and sharing pumping capacity of the Federal and State facilities--those decisions have yet to be made. There are water quality, environmental and water supply issues to be addressed.

Gary Hunt asked how the workshop process will address substantive issues. Lester Snow said that DWR workshop will cover project integration proposals, the Napa Agreement, pumping up to 8,500 cfs; however, the topic of contract renewals is strictly a DOI issue.

Jason Peltier said that this whole issue is not a show-stopper and that DOI will make the process work. They have been working on this process for a number of years. There is a responsibility to contractors and Congress to follow through with these contracts that will be signed in late January. There have been 190 negotiation sessions, and there will be a NEPA process on six or seven groups of contracts based on geographic distribution.

- Hal Candee from Natural Resources Defense Council said that this process is an example of piece-mealing: 1) DWR is not looking at the contracts; 2) the NEPA documents for the contracts are not done yet and will not be before the contracts are signed; and 3) NOAA Fisheries BO is not yet finalized. DOI has not been consistent on the issue of water shortages. Sometimes they are sued by contractors and DOI cannot assure CALFED that there will not be water amount conflicts.

Dennis O'Connor said that they have not passed a “fail-safe” point, but CALFED is dealing with an issue of trust. CALFED is just now discussing significant issues on documents that were completed last June. Also there is a significant issue between the actions addressed under formal and early consultation. There appears to be a formal BO on planned operations.

Gary Hunt asked Patrick Wright to summarize the situation. He explained that it is DOI's position that the proposed actions are within the range of historical operations; but that others are concerned about the lack of public review on the proposed changes.

Paula Daniels recommended that the process stop and USBR bring more explanation of the process to the Authority before it resumes.

Daniel Wheeler agreed with Paula Daniels that the public needs to be more involved. Also, he wanted clarification of the differences in what he heard relative to 1 MAF or 2 MAF deliveries, and was this related to the 8500 cfs increased pumping, and whether it is related to what is in the ROD.

Chet Bowling said that the contract amounts are different from the amount of deliveries. Generally, south of the Delta, deliveries are approximately 65 percent of the contract amounts. With 8500 cfs pumping, it is unclear what percent can be delivered--perhaps an additional 300 TAF. With OCAP there could be an increase of 1 MAF and with water transfers from 800 TAF to 1 MAF that would be voluntary sales of water in critical and dry years.

Jason Peltier suggested that there be a presentation to the Authority on OCAP the next day. Paula Daniels said she did not want just a presentation but wanted public input into the process as well. Dennis O'Connor said that the last USBR presentation at the workshop was not a dialogue but more a lecture with clarifying questions. Jason Peltier said that USBR is trying to explain what the operations are and how they have been developed; however, OCAP is not the forum for changing operations. Dennis O'Connor said that there should be some room for discussion regarding carryover storage in Shasta Reservoir.

- Barry Nelson summarized the reference to the 1-2 MAF of additional diversions in response to Daniel Wheeler's question. Although the numbers are not entirely additive the proposed operations would result in the following:
 - 800,000-1 MAF, estimated by DWR and USFWS, would be transferred in dry years from north to south of the Delta. These are transfers, not traditional project deliveries.
 - 200,000-300,000 AF additional diversions would be expected in the American River basin based on OCAP.
 - 560,000 AF additional diversions in the Sacramento Valley, above recent diversion levels, would be allowed by the new CVP contracts.
 - 400,000 AF additional diversions are anticipated by USBR for the Westlands Water District during the life of the new CVP contract (from the USBR pricing documents).
 - 125,000 AF (approximate) increased diversions are anticipated for State share from 8,500 cfs increased pumping.

He said these numbers are not entirely additive and the transfers and the additional diversions for Westlands would not happen in all year types.

Gary Hunt said that he would keep this item open until the next day, and indicated that it is fundamental that the Authority keep the process open and transparent although different stakeholders will perceive it differently. He said that the Authority is not the final decision-maker in this process; the decision-makers are DWR and USBR. He said the role of the Authority is to facilitate between the members of CALFED and make recommendations to the agencies.

- Dr. Mark Rockwell, Northern California Council of the Federation of Fly Fishers, said that in the past USBR operations in the upper Sacramento River brought the winter-run Chinook salmon down to a population of 300 fish. The run is beginning to recover and now USBR wants to go back to previous operations.

13-11 PUBLIC COMMENT

No additional Public Comments were made.

Chairman Hunt adjourned the first day of the meeting at 4:05 p.m.

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October 14, 2004

14-1 CALL TO ORDER AND INTRODUCTORY REMARKS

The meeting was called to order at 9:20 a.m. on October 14, 2004.

Gary Hunt outlined the plan for the day with further discussion on Item 13-8, then Item 13-10 and then Item 14-3.

14-2 ROLL CALL AND ESTABLISHMENT OF QUORUM

Roll call was taken and a quorum was established.

The following Authority members or their designees were present for the meeting:

Public – Paula Daniels, representing the Southern California Region; Al Montna, representing the Sacramento Valley Region; Susan Kennedy, representing the San Francisco Bay Region and Daniel Wheeler, Member at Large.

Bay-Delta Public Advisory Committee Representative – Gary Hunt.

State – Mike Chrisman, Secretary for Resources and designee Crawford Tuttle; Lester Snow, Director of Water Resources (DWR) and designee Joe Grindstaff; Ryan Broddrick, Director of Fish and Game (DFG) and designee Diana Jacobs;

Steve Shaffer, designee for A.G. Kawamura, Secretary of Food and Agriculture (CDFA); Jim Branham, designee for Terry Tamminen, Secretary of the Environmental Protection Agency (CalEPA); and Dave Spath, designee for Sandra Shewry, Director of Health Services (DHS).

Federal – Jason Peltier, Deputy Assistant Secretary for Water and Science, U.S. Department of the Interior; Susan Ramos, designee for Kirk Rodgers, Regional Director, Mid-Pacific Region, USBR; Mike Aceituno, designee for Rodney R. McInnis, Acting Regional Administrator, Southwest Region, National Marine Fisheries Service (NOAA Fisheries); Paul Bowers for Mark Charlton, Sacramento District Deputy District Engineer for Project Management, USACE; Karen Schwinn for Wayne Nastri, Region IX Administration of USEPA; and Dave Harlow for Steve Thompson, Manager of California-Nevada Operations Office, USFWS.

Ex-Officio –Dennis O'Connor for Senator Michael Machado, Chair of the Senate Agriculture and Water Resources Committee; Jeff Volberg for Assemblyman Joseph Canciamilla, Chair of the Senate Agriculture and Water Resources Committee; John Moffat for Senator Charles Poochigian, Vice Chair of the Senate Agriculture and Water Resources Committee.

**13-8 U.S. BUREAU OF RECLAMATION/DEPARTMENT OF WATER
RESOURCES OPERATIONS CRITERIA AND PLAN CONSULTATION
UPDATE – Informational Item – Continued**

Gary Hunt introduced this item by saying that prior to CALFED, no forum existed in which to discuss substantive issues. He said CALFED is working. The parties not agreeing to everything does not mean a failure of CALFED.

He said there should be additional discussions regarding OCAP: It has not been as open a process as some would like.

He said CVP contract negotiations have been going on since about 1998 and a lot of time has been spent on these issues by many others. The Authority is not here to talk about whether contracts should be signed, but they are here to talk about the process.

Jason Peltier said that there will be a number of challenges that CALFED will face in the future. The ROD was difficult and the future will be difficult. Decisions will be made in which some will consider themselves losers. If CALFED is to survive, there needs to be a sense of unity and purpose.

Jason Peltier suggested a link to the USBR regional website for access to the PowerPoint presentation from the October 7 OCAP workshop. (http://www.usbr.gov/mp/cvo/ocap/10-07-04_OCAP_BA_public_mtg.pdf). He then discussed in more detail several of the issues of contention.

Jason addressed some specific points that had been raised. He said the 1.9 MAF carry-over storage amount was a requirement of the NOAA Fisheries BO. Eighty million dollars was spent on the temperature control device on Shasta Dam that expands accessibility to cold water while allowing power generation. Subsequent to that, there were more stringent operations of reservoirs for fisheries protection. With the proposed operations of Shasta Reservoir, carryover storage will drop below 1.9 MAF three times more often than would occur with the 1.9 MAF carryover storage amount.

Jason said the American River Forum will want to address minimum flows in the lower American River so that will cause OCAP to be re-opened. There will be many changes to OCAP in the future.

Jason also said there is a need to have a follow-up workshop in the week after next; the time and place will soon be determined. It may be an evening meeting. The workshop will provide a more detailed explanation of the operations now and in the future.

Lester Snow said that with SDIP there will be an environmental process that will be the largest CEQA/NEPA process since the ROD. The process will pull many pieces together including the ESA and CESA consultation. The Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) will be out in the first quarter of 2005. There will be one or two workshops about the time of the release of the draft. If there is a risk that the proposed project will erode fisheries protection, then that would be the opportunity to address those issues. DFG has been very much in this process.

Ryan Broddrick said that regarding SDIP, DFG will be tiering off the Multi-Species Conservation Strategy (MSCS) in compliance with CESA and the Natural Community Conservation Planning Act (NCCPA).

PUBLIC COMMENTS

The following comments from the public were made:

- Gary Bobker commented that there are process issues, and there are real and substantive disagreements regarding ongoing versus future operational changes. The agencies made commitments regarding these distinctions. The 8500 cfs review process is not adequate to address the changes that are authorized through OCAP.

He said there is a fundamental contradiction. The ERP put water back into the system and out-of-system demands pull more water from the system. The legislative question and the answer to that question will provide guidance on how we go from mitigating impacts to managing the

system for recovery. The contracts and 8500 cfs should be linked to the Science Program's answering questions for the Legislature. If we do not resolve this, the debates will continue.

Jason Peltier said that he thought that the CALFED Operations Group and Data Assessment Team were the forums for real-time discussions on these issues.

Gary Bobker responded that the short-term operations are dealt with in this way; however, he was referring to long-term issues such as contracts. On one hand, there is an expectation that the regulators are current, but how are the operators adjusting their allocations or diversions of water? Are they using the latest technology, water use, etc.?

Jason Peltier said that he would ask USBR to put together a white paper on how they make these decisions.

Gary Hunt said that if there are resource limits and the extractions from the system are not sustainable, then users should be looking for other sources of supply.

- Barry Nelson said that bypassing CALFED, bypassing the Authority, is a tremendously important issue. There has never been a presentation on water contracts or B (2) water issues. These decisions have been bypassing CALFED. Even if there is a robust analysis on SDIP, he said it will be after the horse is out of the barn. It will not work.

Nelson said the Winnemem Wintu Tribe is intimately associated with Shasta Reservoir and the river and the 1 MAF of contracts that suggest there will be profound pressure to build an additional surface storage project.

The questions he had for the State agencies included: 1) what is the State strategy for complying with CESA and ESA in regards to OCAP; and; 2) has there been an impact analysis on the 1 MAF of new contracts, impacts on the Sacramento River upstream, and the changes in operations.

The questions for USBR are: 1) will the agency honor the commitment they made earlier this year; 2) why are there two sets of books for accounting water; 3) is DOI contemplating a change in policy regarding B(2) water; and 4) will they comply with Senator Feinstein's request to re-open the comment period.

Ryan Broddrick responded that when NOAA Fisheries releases the BO for OCAP, then DFG will go through its analyses. For the SDIP, there will be both a CEQA and CESA review. There will be an attempt to do a consistency

determination; however if that is not possible, then they will address the issue of take.

Lester Snow said that DWR needed to wait for the NOAA Fisheries BO to see how they analyzed the increased pumping to 8500 cfs.

Patrick Wright suggested that the agencies are counting on the EIS/EIR document to answer Barry Nelson's questions.

Jason Peltier said that in response to Barry Nelson's questions: 1) he rejected the notion that there are two sets of books; 2) DOI will keep commitments signed by Kirk Rogers earlier this year; 3) USBR does many financial and water rate analyses; 4) he is not aware of any B (2) policy changes under consideration; and 5) regarding the request to re-open the comment period, he is not sure when that determination will be made.

- Ara Azhderian, San Luis and Delta-Mendota Water Authority, commented that there is a long history of these long-term contracts. It was assumed that they would be done by 1997 and yet they were started in 1999. Now they might be signed in early 2005.

He said there have been hundreds of publicly noticed meetings that environmental groups have attended. OCAP is meant to be an administrative document to describe operations and does identify decision points. He said criticisms aimed at the USBR are unfair. USBR made a decision to maintain an open and transparent process. The allocations are very flexible. Although the issues have not been heard here, they have been heard elsewhere.

He noted that there is an attempt to get better together. Small communities are very much affected by water. The contracts do not address storage and 8500 cfs is an attempt to move water when there are few environmental impacts.

Paula Daniels said that a lot of questions remain. The hallmark of government is public input. She appealed to the government agencies to design a way to restructure the process to involve the public more.

Al Montna said that there was a fear about these contracts, however, whole lives and families are without certainty until the contracts are signed. These have been developed with consideration for environmental impacts and consideration for the public. In 1991, 1MAF of water was moved and not necessarily through the Delta. The transfers do not necessarily go through the Delta.

Susan Kennedy said that although there might be disagreement on items, there needs to be a review of the process.

Dennis O'Connor said that there are still unanswered questions. How do we avoid this problem in the future? Should it be assumed that the agencies are doing the right thing?

Director Wright summarized the discussion by noting that: 1) DOI would have a second workshop after the NOAA Fisheries BO is out; 2) the State will soon begin launching workshops for the South Delta Improvements Project, which will provide additional information on the issues of Upper Sacramento River temperature, carryover storage and cumulative impacts; and 3) Authority staff needs to make sure that members are fully aware of the issues.

Gary Hunt said that he wanted to have this as a standing agenda item so that the Authority could play its oversight role.

13-10 WATER SUPPLY AND DRINKING WATER GRANT PROGRAMS

A. Review of Processes for CALFED Grant Programs

Tom Gohring gave an overview of the processes and said that the key features were public review and transparency. There was an effort to balance three tensions: 1) the integrity of the PSP process, 2) reporting to the Authority with a minimum of burden to the agencies; and 3) to make the process as efficient as possible by allowing the staff to review the PSPs and tell the members that the processes are correct. He proposed that the Authority staff prepare a checklist (Item 10 - Attachment 1) that indicates that the PSP meets the CALFED goals, integrates environmental justice (EJ), tribal coordination and science and has been reviewed by the appropriate BDPAC Subcommittees and CALFED agencies. Once the checklist for a PSP has been completed, staff will then bring it to the Authority for final approval.

Lester Snow said that he would like to see more narrative developed in the checklist to address the issue of agency responsibility regarding changes to the PSP.

Patrick Wright emphasized that the Authority would generally not be approving PSPs but recommending to the agencies that they proceed with PSP as proposed.

Paula Daniels asked whether the members could provide input on what integration of EJ meant on the checklist. Mr. Gohring responded that the intent was that the EJ Subcommittee would review the PSP, but he could add more narrative to clarify the requirement.

Steve Shaffer asked how program integration issues would be addressed: For example, how does SWRCB Agricultural Water Grant PSP integrate with ERP. Mr. Gohring responded that the checklist does not force the program integration

but that would be achieved through the Program Planning process. In addition, there would be a summary table of the funding amounts for the PSPs.

The Authority unanimously (11-0) approved the staff recommendations for streamlining the PSP processes.

PUBLIC COMMENTS

The following comments from the public were made:

- Kathy Caldwell, Project Manager, Southern California Drinking Water Quality Plan, regarding Item10B, the Integrated Regional Water Management Grant Program, had two suggestions for the agencies: First, consider broadening the definition of regions; and secondly, include additional planning money to include Equivalent Level of Public Health Protection (ELPH) planning. Regional planning in Southern California incorporates ELPH and in BDPACs Drinking Water Subcommittee, ELPH is at the core of the strategy. She encouraged DWR and SWRCB to incorporate these suggestions into their grant program.
- Richard Denton, Contra Costa Water District, also wanted clarity on the definitions of regions or integrated regions and wanted greater definition regarding a Water Management Plan including ELPH.

Joe Grindstaff said that DWR will address regions more carefully because regions are important. Bulletin 160 will incorporate regional planning and then build up to statewide planning. Some parts of the State may be over- or under-represented.

Susan Kennedy asked about the process for determining whether private water agencies would qualify for funding.

Lester Snow said that the issue is still under legal review and DWRs position is to encourage people to apply and await a decision whether or not they qualify.

Dave Spath said that whether or not a private water agency would qualify depends on which chapter of Proposition 50 is guiding the grant program. A legal opinion has been given to DHS, using Chapter 4; but DWR, using Chapter 8, has not yet received a legal opinion.

The Authority members moved and seconded and unanimously approved (11-0) a recommendation to the agencies to proceed with the following PSPs:

Item 10 B. Department of Water Resources and State Water Resources Control Board Guidelines for the Proposition 50 Integrated Regional Water Management Grant Program (Prop 50 Chapter 8).

Item 10 C. Department of Water Resources Local Groundwater Assistance Program (AB 303, Prop 50 Chapter 8)

Item 10 D. State Water Resources Control Board Water Recycling Funding Program Guidelines (Prop 50 Chapter 7)

Item 10 E. Department of Water Resources 2004 Proposition 50 Water Desalination Grant PSP (Prop 50 Chapter 6 (a))

Item 10 F. Department of Water Resources 2004 Proposition 50 Water Use Efficiency Grant PSP (Prop 50 Chapter 7)

Item 10 G. Department of Health Services 2004 Proposition 50 Drinking Water Contaminant Reduction Grant PSPs (Prop 50 Chapter 6 (b) and (c))

Chairman Hunt called for a 10-minute break from 11:20-11:30.

14-3 10-Year Finance Plan Update. (Informational Item)

Kate Hansel gave a presentation on the latest draft of the Finance Plan and said that the Authority will take action on it in December.

Susan Kennedy asked about putting in Federal funding that is authorized and the State-Federal cost share split. She asked if the assumed 50:50 cost share is appropriate when it might end up 90:10.

Jason Peltier responded that Federal funding authorization allows up to 33.3 percent cost share. There needs to be recognition that the funding proposals could be considered as a change to the ROD.

Kate Hansel clarified that there will not be a change in the objectives. Also, the funding does not include local cost share. If current bond funds are available, then they are included; prospective bond funding is not included.

PUBLIC COMMENTS

The following comments from the public were made:

- Randy Kanouse, East Bay Municipal Utility District, said that EBMUD along with nine other organizations submitted a letter to the Authority and said that the public's and users' needs need to be determined. He observed that the Finance Plan is a proposed expenditure plan without an idea of which users will come forward to pay.

Gary Hunt said that the issue is being discussed.

Mr. Kanouse continued by saying that we need to document this process and make sure it is an open process because nobody would want future accusations of backroom deals. He said that EBMUD and others are motivated by great concern and do not want to see another surcharge or water tax. The benefit to the customers and the nexus to public good need to be on the record.

Gary Hunt said that the intent is that it be an open and transparent process and that it be acknowledged and documented. The process will come about in the next 60 days of where the money will come from and who will pay.

Mr. Kanouse said he had one last point and that was that the water surcharge will resurface in the Legislature due to uncertainty regarding State bonds and Federal authorization. He has no faults with the principles or the process but will submit written comments on this.

- Mindy McIntyre, PCL, presented a follow-up to her comments at the August Authority meeting and provided a comparison of their Investment Strategy versus the Authority Finance Plan. She went through the matrix (Attachment 1) she had prepared and pointed out the major differences between the two plans.

Gary Hunt asked Kate Hansel and she confirmed that construction funding for storage project(s) is put off until the future.

- Richard Harris, WaterReuse Association, commented that SWRCB has been funding recycling for 20 years. He felt they have done a good job and he encouraged the use of their guidelines for the Water Recycling PSP.
- Richard Denton, Contra County Water District, commented that he had sent a letter to Patrick Wright on October 6, regarding the issue of beneficiary pays and that in the case of drinking water quality, it is appropriate that the public pays. He also referred to the October 8 letter referred to by Randy Kanouse and said that this was major policy headed in the wrong direction and that adoption of the principles of the letter will kill the Authority's Drinking Water Quality Program.
- Jennifer Clary, Clean Water Action, commented that she supported Randy Kanouse's October 8 letter and that there needs to be a permanent funding stream for the priority of the Drinking Water Subcommittee, which is for the development of Regional ELPH plans. Currently, the only funding identified under Water Quality is for the Delta Improvements

Package, and this could result in the priorities of the Drinking Water Quality Subcommittee and the Program not being met.

Dennis O'Connor commented in light of the presentation by Dr. Jeff Mount on the vulnerability of the levee system in the Delta, and the work to get levees up to PL84-99 standards should begin at once.

Joe Grindstaff said that DWR is increasing the budget immediately for flood control.

Patrick Wright commented that the \$1 billion backlog of work that it would take to bring the levees up to the PL 84-99 standards is an unrealistic target. It is important to prioritize this work, and an evaluation is necessary.

Al Montna commented that the Finance Plan has come a long way and that the ERP is the last component that needs to be addressed. He asked why the ERP funding has stayed the same and stated that there needs to be a definition for beneficiary pays. The impact to the rice industry could be substantial, and they contribute habitat. He said there is a need to revisit this issue.

Diana Jacobs said that Ryan Broddrick agrees with much of what Al Montna was saying ~~but~~ and that such lands, in addition to Federal refuge lands, are part of the foundation of ERP. DFG can work with Kate Hansel and staff on this issue.

Steve Shaffer said that there is an overarching consideration that ties the water to the land. At the Department of Food and Agriculture, the mission is to preserve and protect the agricultural resource base of the state. There has been a contribution of water and land and now agriculture is being asked to pay interest on that capital. One needs to look at the issue on a system wide basis. For example, with an EWA transfer predicated on 20% fallowing, there could be an economic benefit to a willing seller; however, it diminishes capacity of the agriculture resource base of production in that area, especially if it is a 10-year transfer. If it is an agriculture to agriculture transfer, there is no net gain to the agricultural system in that transaction. If some of the water is going to refuge water supply, there is some diminishment of the resource. There are different ways to analyze the benefits. This system wide analysis is proposed for consideration.

- David Guy, Northern California Water Users, said that Kate Hansel correctly characterized how/where they stand. He said she has done a good job. There needs to be a clear understanding of what beneficiaries means and who brings what to the table. The north part of the State has institutional capital and water and has what it takes to bring this deal together.

- Steve Macaulay, California Urban Water Agencies, said that money is not the only limiting factor regarding the implementation of the Program, that part of the annual CALFED Program balance analysis results in implementation challenges.
- Laura King Moon, State Water Contractors, complimented Kate Hansel and staff on the Finance Plan and said that they have been and need to keep working through the issues. They have been making a lot of progress on three of the straw proposals.

Gary Hunt said that the time is short and that the Finance Plan will come back to the Authority in December so that it can be factored into the Governor's budget.

Patrick Wright said that there have been spirited discussions on every item in the plan and on November 15th there will be a workshop for the Authority and BDPAC members to review the Final Finance Strategy.

Gary Hunt said that this is the tip of the iceberg: Ms. Hansel's work has been like peeling an onion on each item. There are outstanding issues, but it is all about the fact that CALFED resources are limited and who is going to pay for it. The process is going well, and it is a great example of collaboration and open process.

14-4 Public Comment

No further public comments were received.

ADJOURNMENT

Chairman Hunt adjourned the meeting at 2:30 p.m.

Comparative Matrix

Planning and Conservation League 10-14-04

Investment Strategy For

California Water

Draft 10 Year Financing Plan

Beneficiary Pays

Calls for beneficiary pays to be implemented this year

For many programs, (EWA, ERP) calls for no beneficiary pays until all public funds have been expended. (Principle 7, page 5)

Water Use Efficiency

Urban water conservation

Agricultural water conservation

The highest priority investment due to potential to improve water supply reliability while decreasing the need to increase reliance on the Bay-Delta Estuary. Targets 2.0-2.3 million acre feet of savings by 2030-

Targets only 520,000 acre feet for BOTH Urban and Ag conservation by 2014. Targets only \$50 million per year for urban programs and \$33 million per year for agricultural programs, only one third the annual budget for years 1-4. A low priority for state investment due to cost-effectiveness at local level, does not account for benefits of reducing pressure on the Bay-Delta Estuary

Targets 300,000-600,000 savings by 2030

Water Recycling

Targets 1.5 maf by 2030 based on the state's Recycled Water taskforce findings. A high priority investment due to potential to improve water supply reliability while decreasing the need to increase reliance on the Bay-Delta Estuary. Recycled water taskforce estimated an average cost of \$600 per af

Targets only 750,000 af by 2030, half of the potential identified by the state's recycled water taskforce. Estimates a cost of \$5000 per acre foot. Very low priority due to local cost effectiveness. Does not take into account public benefits of eliminating the need to increase reliance on the fragile Bay-Delta Estuary, or ecosystem benefits of recycled water versus alternative sources of water. No straw proposal for recycled water programs.

Groundwater Treatment and Desalination	Targets at least 290,000 af from groundwater desalination and recommends remediation existing groundwater and groundwater aquifers.	Offers no recommendations for groundwater desalination.
Environmental Water Account	Calls for beneficiary pays starting this year. Consistent with the recommendation of the LAO budget analysis.	Requires 100% public funding for another three years. Reduces funding target by \$10 million while recognizing that MORE water will be necessary for a functional EWA. Asks for 70% taxpayer funding over ten years.
Watershed Program	Identifies watershed management as a priority investment because it is an important tool to provide multiple benefits (Water quality, water supply reliability, ecosystem restoration, etc.)	Suggests a financing level that BDPAC watershed committee advises will not achieve program objectives.
Drinking Water Quality	Recommends remediation and treatment of existing water supplies in order to maximize water quality and water supply reliability. Places priority on groundwater treatment, surface water treatment and pollution prevention. Recognizes that some communities are entirely dependent on groundwater that must be remediate. Focuses on reducing or minimizing dependence on additional exports from the Bay-Delta Estuary	Even though drinking water quality has not been able to achieve goals under past funding, the financing plan suggests cutting funding targets by \$39.5 million per year. Focuses on DWQ actions needed for increased conveyance, does not focus on groundwater treatment or local water treatment that will reduce the pressure and need to increase reliance on the Bay-Delta Estuary.

Levee Program	Recommends cost sharing to maintain and improve Delta levees up to PL 84-99 standards. Recommends that SWP and CVP pay for share of levee improvement and maintenance necessary for project operations.	Similar recommendations, however, asks for funding targets to be cut by \$19 million per year.
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Surface Storage	Calls for beneficiaries to pay for feasibility studies, and projects that they will benefit from. This is consistent with the recommendations of the LAOA budget analysis. Recognizes that surface storage does not have the potential to provide the level increased water supply reliability of other programs, primarily water recycling and water use efficiency. Calls for beneficiaries to be identified before projects continue, so as to ensure beneficiary pays principle is implemented.	Calls for continued public funding 100% of the costs of feasibility studies. Beneficiaries are not required to pay any portion of feasibility study costs, targets taxpayer contributions. Mentions that beneficiaries might pay, but public should continue to pay until beneficiaries can be identified. Suggests that storage is high priority to maintain balance in CALFED. Does not discuss the economic, environmental or political feasibility of increasing surface storage. Bases funding on public funding to date, and not according to beneficiary pays principle.
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Conveyance	Calls for beneficiary pays principle to be followed for all projects. Targets funding for projects that will decrease the need for increased reliance on Bay Delta Estuary.	While recognizing that there are clear beneficiaries of the conveyance program, the Financing plan suggests that public funds alone cover the costs of this program. All public funds, including redirecting Prop. 50 funds from other programs, which could be used for this program are targeted prior to any beneficiary cost sharing is pursued. (p89 &94)
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