

**Ecosystem Restoration Subcommittee Meeting**  
**Thursday, March 25, 2004**  
**650 Capitol Mall, 5th Floor, Bay-Delta Room**  
**Sacramento, CA**  
**Approved Meeting Summary<sup>1</sup>**

Subcommittee members (or their alternates) and agency liaisons present:

Gary Bobker (TBI)	Diana Jacobs (CDFG)
David Harlow (USFWS)	Mike Aceituno (NOAA Fisheries)
Walt Hoyer (MWDSC)	Diane Buzzard (USBR)
Brent Walthall (KCWA)	Patrick Akers (CDFA)
Steve Evans (FOR)	Lisa Holm (CCWD)
Rhonda Lucas (CFBF)	

### **Introductions and Subcommittee Status**

The meeting began with introductions; there was no subcommittee report. Gary Bobker announced the changed order of agenda items to accommodate scheduling conflicts. The summary of the previous meeting was approved.

There was a brief discussion changing the subcommittee's regular meeting time; the subcommittee decided to continue meeting every third Thursday of the month in the mornings.

### **Battle Creek Update**

Mary Marshall (USBR) briefly talked about the March 15, 2004, Battle Creek workshop held in Red Bluff. The three-hour meeting had a good turn out and focused on the 8-dam removal scenario (Alternative B) and the 5-dam removal scenario (MOU Alternative).

Wayne White (USFWS) presented a summary of the additional biological analysis done for the workshop. This analysis compared the potential biological benefits between the two scenarios. At the end of his presentation he handed out an executive summary of the comparative analysis.

Wayne noted that both scenarios focused on the same target areas, listed species and habitat. The MOU Alternative has state-of-the-art fish facilities at three dams while Alternative B removes those three dams. The data used in the analysis were collaboratively developed, and the analysis looked at four things: (1) habitat flow relationship of usable habitat for target species; (2) geomorphic

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<sup>1</sup> Meeting summary approved on April 15, 2004, with corrections submitted by Steve Evans and Steve Wald and clarification by Mike Aceituno. Corrections are in underline, strikeout format.

flow relationships for mobility of spawning gravel and sediment transport; (3) passage of juvenile and adult fish at certain times and natural barriers; and (4) the differences in patterns of the hydrograph during key life stages of target species.

The analysis looked at the critical time period for the target species with the assumption that if there was no significant difference during the critical time, there would not be a significant difference at the other times. With that foundational understanding, Wayne highlighted the two conclusions from the analysis. First, compared to the existing conditions, both scenarios significantly improve habitat and passage for target species. Second, no significant improvement is provided by the Alternative B over the MOU Alternative.

Wayne listed other highlights of the analysis:

- Passage conditions did not significantly improve for target species under Alternative B
- Alternative B did not significantly improve geomorphology
- Alternative B does not substantially change the hydrograph pattern for a normal year
- Passage for adults and juveniles in any year would not change with the MOU Alternative.

Gary asked by what process the conclusion had been reached. Wayne responded that the data was collaboratively developed with Steve Wald of California Hydropower Reform Coalition (CHRC) and the analysts also applied data from the Kier report and the flow study methodology used for the Trinity River. The analysts looked at critical time periods for key life stages (e.g., late summer, less water and higher temperatures).

Harry Rectenwald (CDFG) said that everyone from the agency team was involved and in developing the biological criteria. Gary asked who was on the team, and was told the team was everyone on the MOU team. Mike Aceituno (NOAA Fisheries) received confirmation to his question that the information used for the analysis is already published in other documents, and he observed that there is nothing new in the analysis other than a synthesis of the existing information. Patrick Akers (CDFG) asked about how the impoundment from the dams affected flows for fish and the response was that the dams are essentially flow-through dams and the impoundments are small.

Randy Livingston (PG&E) spoke next and stated that PG&E originally was excited to be part of the MOU that restored the amount of habitat the MOU Alternative proposed to do, met corporate goals, and provided a balance between a viable hydro project and restoration. He next recapped that the initial review of Alternative B came out of a request by then-Secretary of Resources Mary Nichols to see if there were a cheaper alternative than the MOU Alternative.

PG&E thinks that Alternative B puts a 20 to 27 percent reduction of power on the company and potentially impacts the long-term economic viability of the project. PG&E is looking at the balance between the two scenarios and relies on the agencies' science. Although the science seems to indicate that there are no significant habitat differences, with the potential magnitude of the power loss, schedule delays and increased costs, PG&E is not interested in exploring a revised MOU for Alternative B. PG&E still wants to be part of the existing MOU Alternative and supports that approach going forward.

Gary observed that he heard some "ifs"—such as if the science showed the habitat benefits were not significant and if the project costs did not pencil out—and asked whether Alternative B was still in play or has PG&E decided against it. Randy replied that there were three pieces to PG&E's decision: the habitat benefits do not seem to be there, there is a likely schedule delay, and Alternative B does not appear to be economically viable. He reiterated that the MOU Alternative is a good project.

Brent Walthall (KCWA) asked if PG&E's decision would change if someone covered PG&E's costs. Randy restated that Alternative B provides minor habitat improvement over the MOU Alternative but does present a potential 30 percent loss of power generation. Wayne stated that the analysts were looking at worst case scenarios and that there really is not much improvement when looking at the biological data.

Diana Jacobs (DFG) noted that the costs were not just money but also in power, because PG&E is required to replace the lost power with a renewable source. Randy confirmed that under current State law, PG&E is obligated to increase its portfolio in renewable sources of energy through contracts. At this time no one is bidding long-term renewable power contracts and Alternative B would take a big section of total production out of the project, which takes the economic viability for the project out and puts the project at risk.

Discussion next turned to schedule of the technical review panel report, the Alternative B analysis report and the NEPA/CEQA process. Mary reminded the subcommittee that an initial response was developed in January 2004 to the technical panel's September 2003 report; the completed final response is scheduled for an April 30, 2004, release. The final response looks at the design, costs and adaptive management plan for the project. In addition to this final response to the technical review panel, the Bureau will also submit a final report about the 8-dam removal scenario, a report about facilitating and developing an adaptive management plan for the Coleman National Fish Hatchery, and a report about the final costs. Meeting notes from the March 15, 2004, workshop will also be available at the end of April.

Mary stated that the agencies plan on having the final EIS/EIR completed by June 30, 2004, with a Record of Decision in time for the Bay-Delta Authority's

August meeting. This will allow contracts to be let by April 2005, and project construction to begin in May 2005. Mary reiterated that the Bureau thinks it has met the technical review panel requirements and the NEPA/CEQA requirements.

Steve Evans (FOR) asked to hear from Steve Wald (CHRC). Steve W. stated that initially he was excited by the January 2004 study findings, noted that between 1999 and 2004 costs rose dramatically, and saw the Alternative B as an opportunity for adaptive management. He saw the January study to be rough snapshot of the economics of the scenarios and that the effort culminated at the March 15 meeting. He believed that there are a set of objective findings regarding flow, temperature and fish passage; he said the conclusions presented earlier were not conclusions based on the data.

Steve W. said that Alternative B got closer to restoring the natural flow regime, which is the gold standard for restoring a river, and that it could provide up to two times as much flow. He said that it could restore between 58 to 82 percent of the flow. The flow under the Adaptive Management Plan would restore between 900 to 1,700 acre-feet efs by 2017 while Alternative B would provide 78,000 acre-feet efs immediately.

Regarding temperature, Steve W. said there was a 1 to 4 degree cooling over four additional miles of juvenile spawning habitat and that the temperature benefits were more dramatic in dry and warm years. As to passage, the technical panel review called the advantages of dam removal "obvious" and noted that there were much greater uncertainties with human constructed structures than there were with a natural channel barriers. He stated that the MOU Alternative flows below Eagle Dam were 35 cfs, and but that natural barriers had been documented at interim flows of were 37 to 40 cfs during migration times. Steve W. said that the MOU Alternative flows were too low to assure that adult salmon would pass through natural barriers.

Steve W. said he wanted to see the analysis peer reviewed and have the report looked at by independent experts.

As to the economics and process, Steve W. said that the closer CHRC looked at Alternative B the more promising it seemed to them. For CHRC, the savings yielded under Alternative B was in the \$24 million to \$27 million range and that was enough to support a long term renewable power contract, especially wind power, and that CHRC thought a 30-year contract beyond the license term could be reached to replace the lost power. Finally, he said that CHRC thinks that the 2 or 3 year estimate to negotiate a new MOU for Alternative B is a gross overestimate, if all the parties are willing to renegotiate.

Diana asked Steve W. if he would write up his analysis to be included in the final report being developed by Wayne et.al. She also asked if the report would be

given to ERP to send out for review. Steve W. said the intent is to collaborate with the agencies and present one document.

Dr. Steve Johnson (The Nature Conservancy) said that TNC, after carefully examining the alternatives, concluded that with the \$3 million to the Adaptive Management Plan the MOU Alternative is a good and exciting alternative and the organization continues to support that alternative. He said the benefits are greater the faster the project is done, the project is long overdue, and the MOU Alternative is a good way of achieving this. He acknowledged that in many respects Alternative B looks like a good alternative, but TNC supports the MOU Alternative.

Mike questioned the need for peer review of the new analysis since the information used in the analysis had already been peer reviewed. Mike did not recall the degree of differences in flows or temperatures, and asked CHRC which information they used for their analysis and if it was new information, asked if it was it made available to others. In looking at the information he has, Mike acknowledged that there were differences, but from the biological side it does not look like much of a difference, and with factoring in costs, schedule and the unwillingness of PG&E to work on a new MOU, then NOAA Fisheries supports the current of the MOU is gone.

Steve W. stated that the MOU Alternative is an exciting and large scope restoration project and CHRC will celebrate when dams come down, and thinks that it is to everyone's interest to pursue viable and feasible alternatives. His observations were based on ~~his belief, temperature data is from the same information as the SNTMP model and on the temperature information he had.~~ Steve W. said he is willing to look at additional ~~good~~ data.

Steve E. said that that it is difficult to generalize a single metric over a wide range, and urged the subcommittee to look at the totality of all the variables; he thinks that Alternative B does prove lower temperatures overall to Battle Creek.

Wayne acknowledged that Steve W. did not participate in developing the conclusions of the analysis. Wayne continued that the analysis measured the changes against the actual needs of the species, not just that changes occurred, and Wayne was looking forward to Steve W. participating in the report review. Wayne next talked about wind as a renewable energy source and mentioned the problem with migratory bird kills. He next reminded the subcommittee that the Adaptive Management Plan for the MOU Alternative provides tools to deal with the unique situations that may arise.

Diana noted that most of the subcommittee members were at a disadvantage because they have not see the data and graphs and it sounds like there are dueling conclusions. She asked when the first report will be available for the subcommittee to review. Mary replied the first report is anticipated between April

12 and 23; Steve W. said he could have his contribution to the report available by April 12.

Steve E. provided the subcommittee with background information about a letter sent to Dan Castleberry signed by several conservation groups. He said that the signatories to the letter thought that Alternative B needed to be seriously reviewed and legally need to be considered in the NEPA/CEQA process and that the Authority should proceed with allocating sufficient money that it can be analyzed in the NEPA/CEQA process. He said the groups signing the letter believe that Alternative B is the better alternative because it nearly restores Battle Creek to its natural state. Aiming for what is closest to natural conditions is the goal, and while variant of Alternative B—that is removing both dams and both powerhouses—is an even better way of restoring the creek, he is not pushing for that alternative because it is not economically viable.

Steve E. continued that in terms of single metrics, the volume of habitat based on flow is not a good one, because while people would agree that the fish tanks at Coleman Fish Hatchery was 100% fish rearing, no one would agree that it was fish habitat. He told the subcommittee they must look at the temperature metric as well and that Alternative B more nearly achieves natural water temperature than other alternatives. As to fish passage, he said most estimates about fish passage are overly optimistic and that the science is there to show that no obstruction is better than any obstruction. He said that while there may not be much change in sediment between the alternatives, there may be a nutrient change and that needs to be analyzed as well.

He concluded by stating that the nutrient question is an example of what needs to be in the EIS/EIR and is not and that Alternative B has not had the detailed analysis it deserves. He said his perception is that the environmental review was a paper exercise to justify the MOU Alternative rather than what it was intended to be by law—a review of all alternatives. He reiterated that Alternative B needed to be part of the formal environmental review process.

Randy cautioned that while the level of study done at the request of then-Secretary Nichols seemed to show that the costs of the MOU Alternative and Alternative B were similar, the study looked at market rates, not renewable rates, and it did not look at the option of looking at a potential 2-years of cost overruns. As for the \$24-27 million difference, he asked PG&E contract negotiators if such a long-term contract could be bid for that price and the answer was no. PG&E has looked at wind power as a renewable energy source, but the longest contract they have found was a 10 year contract with Federal subsidies, not a 30-year contract. The key issue for PG&E power contracts is the question: Is there equivalent costs and sources? The answer is no, regardless of the assumptions used and the end-of-the-day observation is that Alternative B is a big loss in power generation.

Gary commended everyone for the tenor of the conversation, and expressed his appreciation for the points of views expressed by all.

As the Bay Institute representative, Gary noted there are legitimate issues regarding the interpretation of data, that the disagreements of benefits are broad, costs are significant, there are things the technical review have not looked at, and to the extent that ERP funds are being spent, peer review on the biological processes needs to move forward.

Gary also advocated for the incremental approach to the project, and urged CALFED agencies to preserve some flexibility—and respecting that PG&E is voluntarily choosing to be involved—that the incremental approach might be the best way to move forward while providing the time for some uncertainties to be resolved. He invited comment from CALFED agency and CBDA representatives.

Walt Hoye said he heard things come together, what project needs to take place, and that the agencies ought to move forward with the defined project on the schedule that was laid out. Dave Harlow (USFWS) expressed concerns about redirected impacts of renewable energy, i.e., wind power, to offset the energy losses and he is concerned that proponents of Alternative B had not looked at the issue in totality, especially in light of the migratory bird kill issue.

Diana observed that a lot of back and forth discussion could still take place, and that silence should not be interpreted as the agencies not having opinions or views about the discussion. She noted that Steve E. said that Alternative B restored Battle Creek close to natural conditions, but that was not the goal of analysis. The goal was to compare and see if there were significant differences between the two scenarios; she cautioned against changing the question.

Mary offered clarification on some earlier statements regarding who was on the analytical review team, conversations about the schedule and timing to develop a new MOU. She also stated that a form of the 8-dam removal alternative was in the January 2000 scoping session and was not considered a viable alternative. Steve E. asked Mary to define viable alternative, which she replied: if it meets the projects purpose and need. Steve voiced his disagreement with her definition.

Tim Ramirez (CBDA) expressed concern that the letter may mislead people into thinking the Authority, because it funds projects, has the power to tell agencies to rescope their document; the Authority does not have that power.

Wayne restated that the agencies are in the NEPA/CEQA process and as such have responded to several of the issues through the various processes that have already taken place. The additional processes—such as responding to the former Secretary's questions—have generated additional workload that have consequences beyond the individual process, such as missed deadlines. He stated that at this point the agencies cannot develop a new purpose and need

without restarting the NEPA/CEQA process, and that the objective was to improve Battle Creek and the agencies believe the MOU Alternative will do that. The ultimate decision-maker is FERC, and the agencies look forward to continued collaborative work on the Battle Creek project.

Steve E. said that he sent the letter to the Authority because it is the Authority that will decide whether or not to fund the project. He noted that the Authority has conditioned funding in the past, and that perhaps they ought to consider placing conditions on possible Battle Creek funding too.

The discussion concluded after Dan reiterated the ERP's role as facilitator of project review.

## **Ecosystem Restoration Program Status Report**

### ***Program Plan Update***

Nancy Ullrey (ERP) handed out copies of the latest version of the ERP Years 5-8 Multi-Year Program Plan. At Gary's request she reviewed each section of the report, noting new text or where text revisions were being written.

Gary expressed concern about the transparency of the ERP reviewing and revising its targets, and cautioned not to let this review and revision disappear without adequate review in many forums. In particular, he wanted to know about what review thresholds are being considered, and what policy and science review were being used in the review and revision.

Several members raised questions about the role of the science board, stakeholders, and public review. Gary asked that ERP staff present information about the process and recommendations at the next meeting.

Gary noted that the ERP has several methods available to implement the program, such as suites of projects and regional strategies. He said that progress needed to be made on the regional plans, but that ERP ought not to wait for those plans to be completed before doing good things. He thought the program plan ought to reflect how ERP optimizes those opportunities and reflect the interaction between projects without having to wait for regional plans, such as targeted research, watershed restoration and environmental water acquisition.

Dan agreed that as a planning document, the program plan is lacking and said that the annotated budget would provide more detailed and specific information. He also said that the project solicitation proposals were also a more accurate way of defining ERP priorities.

Gary said it was extremely important that the subcommittee have adequate time to review any changes to the program plan. Rhonda Reed (ERP) suggested that

the subcommittee could take a role in recommending changes in the program plan format to address the unique needs of the ERP.

Burt Bundy (SRCAF) said that having read both the ERP and Watershed program plans, he wondered where his organization fit between the two programs. He suggested that the subcommittee look at the gaps between the two programs. Gary acknowledged that the question of where local initiative and empowerment and watersheds have been a long standing issue, dating back to the Ecosystem Roundtable meetings. Diana suggested having a joint meeting with the watershed committee to address this issue.

### ***Delta Regional Ecosystem Restoration Implementation Plan (DRERIP) update***

Lauren Hastings (ERP) provided a brief update about the DRERIP. The plan is on schedule, which currently is focused on developing a process for “vetting” actions in the ERP planning documents and ROD. Vetting means scientifically evaluating those actions. The ERP Science Board (ERPSB) developed a draft process and one DRERIP group, the Adaptive Management Planning Team (AMPT), has met and tried out the process. In trying out the process, the AMPT learned that the process needs to be modified; they have two more meetings scheduled in which they will continue to use the process, then they will write a report to the ERPSB with their recommendations for modification. The AMPT anticipates presenting their recommendations at the ERPSB meeting in May.

Gary asked that the report be submitted to the subcommittee as well. Gary also asked that the subcommittee receive more frequent updates, even if they are short and there is no written report associated with the update, because it helps to keep people clued in to what is going on.

### ***Environmental Water Program (EWP) update***

Campbell Ingram (USFWS) began his update with a brief review of the program’s purpose, guiding principles, and organization of the proposal preparation teams. He explained that in addition to public workshops, there are also two regularly scheduled kinds of meetings: Local Team Work Groups and Biologist Subgroup meetings. He then spoke specifically about the efforts on each of the four creeks under EWP consideration, including information about meeting schedules, next steps and projected schedule. The information was available in a handout as well.

Clear Creek, Deer Creek, and Butte Creek meetings have been well attended and EWP efforts are progressing in those areas. The Local Team Work Groups are addressing respective stakeholder concerns and more meetings are scheduled. Local Team Work Group meetings had not progressed as quickly on Mill Creek, but interest has been rekindled and a new scheduled meeting is anticipated soon.

Tim questioned the role of the EWP regarding the infiltration gallery connection on the Tuolumne River; Campbell suggested that it might involve funding. Tim said that the gallery was part of a FERC settlement agreement and he was unsure that EWP should be funding part of that project. Diana asked if EWP would just be paying for part of the plumbing; Gary asked if the issue was that EWP would be paying for something we'd be getting anyway. Campbell said that the Local Team Work Group would be developing a concept paper, and likely would address these issues.

Campbell presented a table of Potential EWP Scenarios in Acre-Feet, which showed estimated acre-feet totals for various objectives that were the result of preliminary discussions with stakeholders in priority watersheds. In response to questions, Campbell said that these figures represented long-term or permanent contracts for increases in instream flows, but those increases would not necessarily go beyond the instream use into the confluence with the mainstem of any river.

Rhonda L. asked what sort of environmental review for the permanent transfer of water rights was being considered. Campbell said that any permanent water rights transfer would undergo NEPA/CEQA review; Campbell also acknowledged that the schedule, in review of the need for NEPA/CEQA, appears to be ambitious. Following up on this discussion, Gary said that transparency and inclusiveness is important to this process, and asked Campbell to continue to check in with the subcommittee and keep them informed of what was happening with EWP.

### **Integration Matrix Discussion**

Gary reminded the subcommittee about the background of the integration matrix and that it was still a work in progress. The March 14 draft distributed at the meeting fleshed out the synergies and conflicts sections, but he noted that much of the policy and technical information was still missing. The ad hoc committee brought the matrix back to the full subcommittee for a second review, and asked subcommittee members to provide substantive comments so the matrix could be used in meeting with other subcommittees.

Gary asked staff to send the integration matrix via email to the subcommittee reflector, with a Wednesday, April 7 deadline for comments. Staff and agency personnel were asked to review and comment about the technical and other investigations aspects of the matrix. In response to Rhonda R.'s question, Gary said it was appropriate to send to ERPSB, but with their understanding that this is a draft and the subcommittee would welcome their viewpoints.

## **Public Comments**

There were no public comments.

## **Next Meetings**

The subcommittee scheduled its next four meetings for the third Thursday of the month through July, 2004. Meetings will be held 9 a.m. to 1 p.m. in the Delta Room at 650 Capital Mall on the following dates: April 15; May 20; June 17; and July 15.

Agenda topics for the April 15 meeting include the information items regarding DRERIP, Battle Creek, Integration Matrix, Frank's Tract, ERPSB update, and Milestones Review and Science Integration; action item for April 15 will be the program plan.

Proposed agenda item for the May 20 meeting is the next proposal solicitation package.

**Handouts:** The following handouts were available at the March 25 meeting: Agenda; February meeting summary; executive summary of the comparative analysis of the eight dam scenario and the five dam alternative for the Battle Creek salmon and steelhead restoration project; letter from the Friend of River et. al. regarding the Battle Creek Restoration of Project Alternatives; the ERP Year 5-8 Multi-Year Program Plan, EWP Update (PowerPoint presentation); and the draft Rationale-Interrelation of CALFED ERP Subcommittee Goals from the Ecosystem Restoration Subcommittee Perspective (draft Integration Matrix).