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Agenda Item: 13-3
Meeting Dates: April 13 and 14, 2005

JOINT MEETING WITH BAY-DELTA PUBLIC ADVISORY COMMITTEE

JOINT MEETING CALIFORNIA BAY-DELTA AUTHORITY AND BAY-DELTA PUBLIC ADVISORY COMMITTEE

February 9 and 10, 2005
Sacramento Convention Center
Sacramento, California

SUMMARY OF MEETING ACTION ITEMS

Resolutions

California Bay-Delta Authority Independent Science Board Nominees

The Authority approved Resolution 05-02-01 approving the nominations of Dr. Richard Adams and Dr. Warner North to the Independent Science Board.

State Water Resources Control Board -- Water Recycling Grants

The Authority approved Resolution 05-02-02 concurring with the State Water Resources Control Board's adoption of the Water Recycling Funding Program Competitive Project List. (Proposition 50, Chapter 7: \$42 million)

State Water Resources Control Board – Agricultural Water Quality Grant Program

The Authority approved Resolution 05-02-03 recommending that the State Water Resources Control Board adopt the Agricultural Water Quality Grant Program Proposed Recommended Project List. (Proposition 50, Chapter 50: \$29.5 million)

California Bay-Delta Authority Ecosystem Restoration Program Grant Amendment

The Authority approved Resolution 05-02-04 approving an Ecosystem Restoration Program Grant Agreement Amendment with Yuba County Water Agency and authorizing the Director, or designee, to process the approved amendment. (Proposition 204: \$4,254,967)

Action Items

Chair Hunt directed Patrick Wright and staff to meet with fish management agencies as necessary to define an appropriate funding target for the Ecosystem Restoration Program (ERP).

Chair Hunt directed staff to report back in April on what bond funds remain to be expended and what projects are expected to be funded with that money. He would like to discuss whether there is a need to re-prioritize expenditures or reduce spending.

Kirk Rodgers agreed to provide interim reports to the Authority on efforts to study and refine the Department of Interior's proposal to integrate Environmental Water Account actions with so-called b(2) actions under the Central Valley Project Improvement Act.

Marc Holmes requested additional information on the proposed enlargement of Shasta Reservoir and sections of the Public Resources Code that protect the McCloud River and sacred sites. He also asked for more information about the Yuba River Project and the Battle Creek project costs relative to other ERP projects.

Dan Wheeler requested additional details on projects funded through the ERP and other Proposition 50 grant programs.

Greg Gartrell requested regular updates on DWR's interim initiatives on flood management to see if progress is being made.

JOINT MEETING
CALIFORNIA BAY-DELTA AUTHORITY AND
BAY-DELTA PUBLIC ADVISORY COMMITTEE

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MEETING SUMMARY

9-1 CALL TO ORDER AND INTRODUCTORY REMARKS

Gary Hunt, Chair of the California Bay-Delta Authority and Chair of the Bay-Delta Public Advisory Committee (BDPAC), called the meeting to order at 9:20 a.m., February 9. Chair Hunt noted the format for the joint Authority-BDPAC meeting was designed to allow maximum interchange and dialog between the members of the Authority and BDPAC. He noted that voting on action items would be by Authority members only.

Chair Hunt invited members of the Legislature to make opening comments before the Roll Call.

Assemblywoman Lois Wolk, Chair of the Assembly Water, Parks and Wildlife Committee, expressed interest in working with Authority members and fostering communication between the Authority and the Assembly. She said she is particularly interested in governance issues and looked forward to discussing the Authority's work to address water issues and how it fits in with other government structures. She noted that the Legislative Analyst's Office had recommended that the Environmental Water Account (EWA) be recognized by State law, and said she looked forward to participating in that effort. She also expressed interest in discussing the 10-Year Finance Plan for CALFED and said public discussion of a potential water user fee for the Ecosystem Restoration Program would be very important both before the Authority and at the Capitol.

Senator Mike Machado, member of the Senate Natural Resources and Water Committee, said the CALFED Program is at a critical stage and faces significant financial challenges. He said the 10-Year Finance Plan is not yet fully embraced by stakeholders and legislators, and noted that a budget subcommittee recently recommended against funding CALFED until issues are resolved regarding not only finances, but also where CALFED is going in terms of progress on water quality and other issues. He said the way these matters are handled here will help determine the future of California water.

Senator Bob Margett, Vice Chair of the Senate Natural Resources and Water Committee, urged Authority members to make sure they are developing water policy in the interest of the whole state. He noted that finance issues will be critical and that the Governor has indicated his desire to have a role in addressing them.

Chair Hunt thanked the legislators for committing their time and effort to the Authority.

9-2 ROLL CALL AND ESTABLISHMENT OF QUORUM

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

Public – Paula Daniels, representing the Southern California Region; Patrick Johnston, representing the Delta Region; Alfred Montna, representing the Sacramento Valley Region; and Marc Holmes and Daniel Wheeler, Members-at-Large.

Bay-Delta Public Advisory Committee Representative – Gary Hunt

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

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

Ex-Officio – Senator Mike Machado for Senator Sheila Kuehl, Chair of the Senate Natural Resources and Water Committee, and designee Dennis O'Connor; Senator Bob Margett, Vice Chair of the Senate Natural Resources and Water Committee, and designee Justin Matheson; Assemblywoman Lois Wolk, Chair of the Assembly Water, Parks and Wildlife Committee, and designee Alf Brandt; and Ivan Altamura, designee for Assemblyman Michael Villines, Vice Chair of the Assembly Water, Parks and Wildlife Committee.

BDPAC Members in Attendance: Gary Bobker, The Bay Institute; Denny Bungarz, Glenn County; Tom Clark, Kern County Water Agency; Marci Coglianese, City of Rio Vista; Martha Davis, Inland Empire Utilities Agency; Greg Gartrell, Contra Costa Water District; David Guy, Northern California Water Association; Steve Hall, Association of California Water Agencies; Leslie Lohse, Paskenta Band of Nomlaki Indians; Robert Meacher, Plumas County; Barry Nelson, Natural Resources Defense Council; Dan Nelson, San Luis and Delta-

Mendota Water Authority; Bill Pauli, California Farm Bureau Federation; Tim Quinn, Metropolitan Water District of Southern California; Frances Spivy-Weber, Mono Lake Committee; Maureen Stapleton, San Diego County Water Authority; O.L. (Van) Tenney, Glenn-Colusa Irrigation District; and Tom Zuckerman, Central Delta Water Agency.

9-3 MEETING SUMMARY

It was moved and seconded to approve the December 8 and 9, 2004, Meeting Summary; the vote was left open until a quorum was established.

Jason Peltier referred to Marc Holmes' suggestion at the last meeting that an independent consultant review the Authority's organizational approach. He said the Agency Coordinating Team (ACT) is following up on the suggestion and will be considering an interagency planning session in the future to look at how the agencies are functioning as a group.

9-4 DIRECTOR'S REPORT

Director Patrick Wright reviewed the agenda for the next two days and referred to his written report. He said updates on the budget and legislation will be covered under those agenda items.

9-5 PROPOSED STATE LEGISLATION (INFORMATION ITEM)

Chris Reynolds, Authority Assistant Director for Legislation, outlined three legislative proposals under consideration by the Administration. They include:

- Federal conformity – The measure would address inconsistencies in State and Federal authorizing statutes for the CALFED Program. Key provisions include eliminating a 2006 sunset clause, clarifying the number of members needed for a quorum and aligning the procedures of the Independent Science Board with provisions of the Federal Advisory Committee Act applicable to science panels convened by the National Academy of Sciences.
- Water use measurement and reporting – Consistent with the staff proposal from April 2004, the proposal calls for creating a water use reporting database, requiring reporting of aggregate farm-gate delivery data, requiring measurement and reporting of agricultural diversions, and requiring measurement of urban water deliveries.
- Finance Plan implementation – The Governor's proposed State budget directs Authority staff to work with stakeholders to develop options for financing the CALFED Program. Financing proposals will be incorporated into the May revision of the budget.

The Governor's staff is currently reviewing the proposals and will determine whether they will be introduced as part of the Administration's legislative package.

Senator Machado said legislators do not want to wait until the May revise of the budget to look at finance proposals for CALFED, since that would leave less than two weeks to evaluate them. He noted that stakeholders and individual legislators are raising questions now and that the Legislature is committed to working in cooperation with the Authority and the Administration to define a finance plan that will work and provide a mechanism to achieve balance as prescribed by the CALFED Record of Decision (ROD).

Dan Nelson asked how the Authority staff gets guidance on which policies to advocate, particularly with regard to legislation on Federal conformity.

Director Wright said once the legislation is introduced, there will be an open and transparent process to ensure that Authority members' views are considered.

Senator Machado said that policy questions, including those related to the Finance Plan, need to be heard in the Legislature so all parties can participate.

9-6 LEAD SCIENTIST'S REPORT

Science Board Nominations

Dr. Johnnie Moore briefed the Authority on two nominations to the Independent Science Board (ISB) aimed at adding expertise in the areas of resources/ agricultural economics and risk analysis. Drs. Richard Adams and Warner North were nominated to meet those needs.

It was moved and seconded to approve the nominations; the vote was left open until a quorum was established.

Dr. Moore also provided an update on staffing changes in the Science Program and noted there would not be a report from the ISB this meeting since the Board would not meet again until February 22-23.

Update on Science Proposal Solicitation Process

Dr. Moore reported that the Science Program's Proposal Solicitation Process (PSP) had resulted in 141 completed proposals covering a broad range of topics. A total of \$18 million in funding is available, compared with a total of \$142 million requested in the proposals. The proposals will undergo technical and external scientific review through March and April, with preliminary selection completed by May 13. The Authority will be asked to vote on final grant funding in August.

Several Authority and BDPAC members asked questions about the proposals and steps being taken to ensure the projects funded will help provide answers to key scientific issues.

Dr. Moore noted that the selection panel includes agency representatives and others with a policy understanding. He said a large percentage of the proposals deal with key issues. He also noted that the ISB's ongoing effort to develop a research agenda will involve seeking input from BDPAC committees, stakeholders and others to ensure key questions are addressed.

Delta Pelagic Fish Trends

Gary Hunt introduced Chuck Armor, Department of Fish and Game, to provide an update on Delta fish trends.

Mr. Armor, program manager for the Interagency Ecological Group (IEP), said the briefing was prompted by data showing that estimates of Delta smelt appear to be at their lowest since 1964. Estimates for other species that share the same pelagic environment in the Delta, such as striped bass, threadfin shad and longfin smelt, also are down this year.

Biologists are looking at a number of possible causes for the low numbers, including changes in the food chain, toxics, blue-green algae blooms, introduced species, and water exports. Because these factors are inter-related, it will be a challenge to tease them apart. The next steps will be to develop an interagency work plan to look at data from a number of sources, identify new research needs, expand existing monitoring and begin new monitoring and long-term term research. The plan will be brought to agency directors and coordinators for approval.

Several Authority and BDPAC members commented on the presentation and possible causes of the trend. They also asked questions about CALFED's science agenda and the best way to address the issue.

Ryan Broddrick, DFG Director, said that while no one has the answers yet, the issue was brought to the Authority in the interest of transparency. In the past, it would have taken longer to rise to the policy level. He noted that data and expertise from all sources would be brought to bear in analyzing the problem.

Authority members asked whether the new data on fish trends would affect the timeline for approving actions such as increased pumping in the Delta as part of the South Delta Improvements Program (SDIP).

Lester Snow, DWR Director, noted that potential fish impacts already are being studied and discussed as part of the environmental review for the SDIP. Under the current timeline, it will be 2008 before Delta pumping is actually increased under the program, so there is time to consider the latest data. He also noted that increasing the permitted pumping capacity at Harvey O. Banks Pumping Plant would provide flexibility to shift pumping to times that may be less sensitive for smelt and other species.

9-9 ENVIRONMENTAL WATER ACCOUNT TECHNICAL REVIEW PANEL REPORT (INFORMATION ITEM)

Dr. Moore introduced Ken Rose to outline the findings of the Environmental Water Account (EWA) Technical Review Panel.

Dr. Rose provided an overview of the 2004 review process, which included a four-year evaluation of EWA. The panel's report, issued in January, analyzes the performance of EWA so far, examines some key questions and makes some recommendations for improvement.

A key conclusion overall was that EWA managers need to better document how use of the EWA affects fish protection and restoration.

Dr. Moore said the panel had been put in place to review the first four years, and that the Science Program is looking at continuing and reconstituting the review panel and may decide there are other ways to discuss issues and identify solutions. He noted that several workshops are scheduled to look at issues identified in the report. An EWA-specific research agenda also is being developed to feed into overall research efforts.

Diana Jacobs, DFG, was introduced to present the agency response to the panel's report. She noted that the agencies are looking at short- and long-term steps to improve monitoring, increase the sophistication of modeling and bring in additional expertise.

Several Authority and BDPAC members commented on the panel report and how its findings may drive research and future decisions. There were also questions about future funding for EWA and whether enough is known about its benefits to justify further investments.

Ryan Broddrick noted that the ROD provided for regulatory assurances and that EWA was seen as a necessary tool to move the program on a trajectory toward ecosystem recovery. He said he knew of no other program within CALFED that has subjected itself to this level of outside scrutiny and review. He said the question of EWA's value is bigger than the fish benefits and must consider the additional flexibility it provides for operations.

Lester Snow emphasized EWA provides two functions – dealing with recovery issues, and regulatory certainty. He said that in the absence of EWA, water would be taken away from water users without knowing whether it is doing any good; and regulatory fights and economic damages would result.

Several more Authority and BDPAC members commented on EWA and generally agreed that the key issue is not that EWA is not working but that agencies lack the tools to measure whether EWA is working. While EWA is providing certainty to water users and is reducing the take of key species at the pumps, it is still not clear what effect it is having on overall fish populations.

Senator Machado said that when it comes to considering EWA in the Legislature, lawmakers will be looking at benchmarks and asking questions about whether progress is being made; and if not, what course changes are needed. He said it may be harder to reach consensus on EWA among broader constituencies.

Jason Peltier noted that President Bush's proposed budget includes about \$10 million for EWA in Fiscal 2006 (out of about \$80 million total proposed for CALFED-related programs) and wondered if that is the appropriate amount and what the timeline is for developing the population models to determine what is happening and how EWA may or may not be playing a role.

Dr. Moore said the answers are not simple. Two competing models exist for Delta smelt, he said, and some are proposed for development in the Science PSP. He noted that population models are different than fish monitoring because they look at all factors that affect populations in a system – flows, food chain, temperature, salinity, and more.

A recess was taken for lunch at 12:22 p.m.

The meeting reconvened at 1:50 p.m.

Chair Hunt asked for a final vote on the two items held open earlier in the agenda pending establishment of a quorum:

9-3 MEETING SUMMARY from December 8 and 9, 2004.

9-8 NOMINATION OF INDEPENDENT SCIENCE BOARD MEMBERS. RESOLUTION 05-02-01. Approving the nominations of Dr. Richard Adams and Dr. Warner North to the Independent Science Board.

Both actions were approved unanimously by the Authority.

Chair Hunt asked to switch the order of the next two agenda items and introduced Kate Hansel, Authority Assistant Director for Finance and Policy.

10-6 FINANCE PLAN IMPLEMENTATION STRATEGY AND STATE AND FEDERAL BUDGET UPDATES (INFORMATION ITEM)

Kate Hansel provided background on the 10-Year Finance Plan approved by the Authority in December as a framework. She said staff had been working since that time to refine the plan, incorporate comments and respond to the Authority's request for information on a user fee option for the Ecosystem Restoration Program, State funding options and water user-requested assurances.

She noted that the Governor's State budget proposed in January endorsed the plan as a framework and directed the Authority to work with stakeholders to further develop the plan for incorporation into the May revision of the budget proposal.

Ms. Hansel said the plan reduces funding targets by 35 percent from ROD levels, pushes a benefits-based approach and sharpens criteria for public funds. It also includes a framework for seeking funding from all beneficiaries (State, Federal and local) and lays a foundation for annual review of program priorities.

The State and Federal share of funding amounts to about 50 percent, with the remaining 50 percent provided by local funds, including water user fees and local matches provided on a project-by-project basis. Compared with the first four years of the program, the State's share of funding dropped from 59 percent to 30 percent, while the Federal share increased from about 7 percent to 21 percent. She noted that the total funding target for the program in 2005-06 is \$800 million, but only about half of that amount is available.

Alan Oto, U.S. Bureau of Reclamation, was introduced to provide an overview of the President's proposed budget for 2006. He noted that a revised budget crosscut will be issued soon showing budget data for seven different agencies that have projects/programs that contribute to or complement CALFED's goals. A total of \$203 million is proposed for all CALFED-related programs (so-called Category A and Category B activities). The proposal represents a 30 percent increase over the \$154 million budgeted for CALFED activities in the 2005 fiscal year. Mr. Oto said Congress is now reviewing the proposed budget and will hold hearings and begin developing the Energy and Water Development appropriations bill for approval by October 2005.

Ms. Hansel said a key question is whether to ask for additional Federal funding. There is also a need to prioritize spending for programs since available dollars will likely fall short of the funding target.

Turning to the topic of water user funding, she said new water user contributions were being proposed in four areas: ERP, EWA, Science/IEP, and the Delta Levee Program. Focusing on ERP, she outlined a schedule that calls for gathering information and input on a proposed ERP user fee in February, public workshops and outreach with legislators on a straw proposal in March, and an Authority recommendation on an ERP fee option and related assurances in April. The recommendation would then be presented to the State Administration for inclusion in the May revision of the budget.

Ms. Hansel said the funding target for ERP is \$150 million. Under the ROD, the water user share was identified as \$50 million, with an additional \$35 million envisioned to come from a new user fee. Under the Finance Plan, the water user share would be \$45 million, or about 30 percent of the program's cost. An additional \$25 million would come from a new water user fee, and another \$10 million is identified to come from local grant matches.

She said water users have analyzed the plan and agreed that 30 percent is a reasonable share if appropriate linkages and assurances are in place. She said ERP provides benefits to water users in the Bay-Delta system, including stability/

recovery of fish populations, water quality improvements, water supply reliability, and regulatory assurances for Delta exporters. The benefits vary according to the amount of water diverted or stored, seniority of water rights, and location of diversion. These and other factors must be considered to ensure a fee is linked to specific benefits.

Key issues include who will pay the fee and how much, what additional linkages and assurances are needed, what assurances are possible to ensure the fee is not diverted for other budget purposes, and uncertainty over State and Federal contributions.

Several Authority and BDPAC members commented on a potential fee and the question of assurances. A number of questions centered on what water users have given up or contributed to the ERP to date, and what additional assurances they believe are appropriate.

Ms. Hansel outlined three options for a possible water user fee.

1. A fee on water diversions
2. A fee on water storage capacity
3. A combination diversion / water storage fee

She described possible scenarios for each option, and identified some of the pros and cons of each.

Authority and BDPAC members asked several questions about the potential fee. Much of the discussion centered on the \$150 million funding target and whether it is the appropriate amount for ERP activities. Ms. Hansel said the \$150 million is actually a budget-constrained number, and that an in-depth analysis showed it would actually take \$240 million to fund all of the actions identified through ERP.

Chair Hunt noted that numbers in the Finance Plan were developed with input from stakeholders, BDPAC subcommittees and the public.

Al Montna said that while the Sacramento Valley is very supportive of ecosystem restoration, imposing fee after fee on water users could diminish that level of cooperation.

Tim Quinn said many water users are willing to discuss a specific fee through an open process that includes sitting down with regulators to discuss what level of assurances can be achieved. But a more broad-based diversion fee could diminish willingness to work on it.

Barry Nelson said that although the increase in proposed Federal spending for CALFED is a step forward, the Program still faces a sobering gap between funding targets and available funds. ERP is still \$30 million short of meeting the \$150 million target. He pointed to the Central Valley Project Restoration Fund as a mechanism that has worked and suggested that all water users in California should pay into something like it.

Steve Hall said water users support a robust ERP but the question is what amount of funding it needs. He said the diversion fee approach is problematic because ecosystem health is driven by more than just outflow and exports. Rigorous linkage will be needed between future ERP activities, assurances, and fees or it will be tough to build support for it.

Chair Hunt urged parties to get together and discuss what would be an appropriate ERP funding target. He also suggested that Director Wright, Lester Snow and Ms. Hansel hold a series of meetings with the fish management agencies to arrive at the correct target.

Lester Snow said all stakeholders had contributed in this process and that all parties have benefited from three consecutive bond measures that have provided ample money for ERP to date. That money is now winding down, and the program needs to find other revenue streams.

Mr. Snow said DWR is developing the concept of a California Water Resource Investment Fund as a mechanism to provide funding for water supply projects and programs. One option may be a water utility fee to fund broader activities. He said the concept is still in the early stages of development, but will be discussed broadly in the coming months because there is a clear need to fund investments in water. Since the Administration has indicated it will not support general fund spending or additional bond measures for these investments, there will have to be a new way to pay for these programs.

Maureen Stapleton cautioned that water ratepayers and taxpayers are not the same. She said water users are obligated to pay their fair share for obligations and mitigations, but the State is obligated to come up with funds for public benefits. Water agencies are willing to step up but want to make sure costs are allocated in a way that recognizes the difference between water ratepayers and taxpayers. She introduced Steve Macaulay of California Urban Water Agencies (CUWA) to present key points related to the Finance Plan.

Mr. Macaulay referred to a February 8, 2005, letter to the Authority and stressed the need to prioritize expenditures in the Finance Plan. He said that while CUWA will work to make sure all funding materializes, it will be necessary to have a back-up plan that prioritizes spending in the event that some of the projected funding falls through. He noted that while everyone supports the notion that beneficiaries pay, there are different interpretations of what that means. He suggested voluntary, cost-share agreements be negotiated to come up with the

41 percent of total CALFED costs envisioned to come from beneficiaries. Local boards of directors will need to decide if and how they will participate and how they will provide financial support. The agreements should be handled through contracts to provide certainty and ensure that costs are linked to adequate regulatory assurances.

Barry Nelson said there is a need to distinguish between mitigation responsibilities and true public benefits. He suggested that once an honest conversation takes place about who is going to pay, ways will be found to lower program costs and still preserve balance.

Several questions followed about the difference between a broad-based utility fee and more specific water user fees, and whether a utility fee would amount to a new form of taxation.

Steve Hall predicted the matter would spark vigorous debate in the Legislature and noted that it is unclear how ratepayers would feel about a new utility fee. He suggested that the question could be put to voters rather than decided by the Authority.

Marc Holmes said any new fee would have to be designed carefully and tied to the benefits derived. He said it is not the intent of the Authority to impose taxes on the people of California.

Chair Hunt urged the water community to keep its options open in the context of looking at proposed fees. He noted that 79 percent of the total program costs would be paid by citizens of the State in one way or another for the benefit of reliable water. The beneficiaries are everyone who drinks water, grows crops, waters their lawn and works and lives in California.

Senator Machado said the reality is the State is in a fiscal crisis, and while water and water infrastructure have been part of the budget in the past, in recent years that has been displaced to bonds. He cautioned against coming up with a package and dropping it on the Legislature in April, and urged all parties to engage in broader discussions to fashion something together.

Chair Hunt said the Authority has about 60 days to put something together. The reality is that for about 30 percent of the program's cost, there is no general fund support and no willingness to do additional bonds. If this is the level of spending wanted, there will have to be decisions about where that level of funding will come from. If it will not be general fund and it will not be bonds, what will it be?

Public Comment

- Gary Mulcahy, a member of the Winnemem Wintu Tribe in Shasta County, said he opposes the Finance Plan implementation strategy because it includes items he believes should be removed from the CALFED plan. The proposed enlargement of Shasta Reservoir should be dropped because it would violate several State statutes protecting the McCloud River and sacred sites. He also asked for further details about the tribal coordination element of the budget and said no CALFED representative had ever come to address the Winnemem Wintu. He suggested the beneficiaries of Shasta Dam be asked to pay a user fee since only a small percentage of the project's costs have been repaid.
- Randy Kanouse, East Bay Municipal Utility District, commented that local water users are now being asked to pay as much as 80 percent of CALFED Program costs. He said the impact on his agency's rates could be as much as 30 percent on top of costs associated with EBMUD's own water supply projects. He cautioned against submitting a recommendation for the May revision of the State budget until total program costs have been re-evaluated, and suggested the matter should be addressed through the legislative process.
- Janet Goldsmith, representing the Placer County Water Agency, referred to a letter submitted from the water agency laying out conditions under which PCWA could support the finance plan. She said the water agency had not previously considered itself a stakeholder in the CALFED process, but now that a broader water user fee is being considered, the agency might want to have a say in how the dollars are spent. She noted that impacts on the Delta may not be an appropriate basis for a fee.
- Ryan Bezerra, Bartkiewicz, Kronick and Shanahan, said he supported earlier comments about Sacramento Valley water users and cautioned that unless benefits to those water users are better defined, they are not likely to support a user fee. Yolo County Flood Control and Water Conservation District, which he represents, diverts water from Cache Creek. He said the State Water Resources Control Board has determined Cache Creek is not hydrologically connected to the Delta, so why should its water users be asked to pay fees to fund the CALFED program?

Marc Holmes said he would like more information on the issues raised by Gary Mulcahy regarding Shasta Reservoir and the public laws he cited. He noted that water users are not convinced that "benefits" have been defined clearly enough to support a water user fee.

The meeting was recessed for the day at 5:30 p.m.

February 10, 2005

10-1 CALL TO ORDER AND INTRODUCTORY REMARKS

The meeting was called to order at 9:13 a.m. on February 10, 2005. Chair Hunt outlined the agenda for the day and said the first item taken up would be 9-6 regarding Flood Management Issues.

10-2 ROLL CALL AND ESTABLISHMENT OF QUORUM

Roll was taken and a quorum was established for BDPAC and shortly thereafter for the Authority. The following Authority members or their designees were present:

Public – Paula Daniels, representing the Southern California Region; Patrick Johnston, representing the Delta Region; Alfred Montna, representing the Sacramento Valley Region; Marc Holmes and Daniel Wheeler, Members-at-Large.

Bay-Delta Public Advisory Committee Representative – Gary Hunt

State – Crawford Tuttle, designee for Mike Chrisman, Secretary for Resources; Lester Snow, Director of the Department of Water Resources (DWR) and designee Joe Grindstaff; Ryan Brodrick, Director of the Department of Fish and Game (DFG) and designee Paul Stein; A.G. Kawamura, Secretary for Food and Agriculture (CDFA), and designee Steve Shaffer; Alan Lloyd, Secretary for Environmental Protection (CalEPA), and designee Jim Branham; and Dave Spath, designee for Sandra Shewry, Director of the Department of Health Services.

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

Ex-Officio – Senator Mike Machado for Senator Sheila Kuehl, Chair of the Senate Natural Resources and Water Committee, and designee Dennis O'Connor; Justin Matheson, designee for Senator Bob Margett, Vice Chair of the Senate Natural Resources and Water Committee; Alf Brandt, designee for Assemblywoman Lois Wolk, Chair of the Assembly Water, Parks and Wildlife Committee; and Ivan Altamura, designee for Assemblyman Michael Villines, Vice Chair of the Assembly Water, Parks and Wildlife Committee.

BDPAC Members in Attendance: Gary Bobker, The Bay Institute; Denny Bungarz, Glenn County; Tom Clark, Kern County Water Agency; Marci Coglianesse, City of Rio Vista; Martha Davis, Inland Empire Utilities Agency; Greg Gartrell, Contra Costa Water District; David Guy, Northern California Water Association; Leslie Lohse, Paskenta Band of Nomlaki Indians; Robert Meacher, Plumas County; Barry Nelson, Natural Resources Defense Council; Bill Pauli, California Farm Bureau Federation; Tim Quinn, Metropolitan Water District of Southern California; Frances Spivy-Weber, Mono Lake Committee; O.L. (Van) Tenney, Glenn-Colusa Irrigation District; and Tom Zuckerman, Central Delta Water Agency.

Chair Hunt introduced Lester Snow, DWR Director, to set the stage for the next item.

9-6 FLOOD MANAGEMENT ISSUES (INFORMATION ITEM)

Lester Snow noted that the California Water Plan Update (Bulletin 160) now underway stresses the importance of integrated regional water management plans. DWR is looking at ways to integrate flood management strategies with ecosystem restoration and water quality improvements to increase efficiency and get more benefits from investments. He introduced Les Harder of DWR to present a white paper on flood management released by DWR in January 2005.

Les Harder showed a brief audio-visual presentation on flood issues and noted that DWR has statewide responsibility for flood management. In the Central Valley, the flood management system protects 2 million acres of cultivated land, 500,000 people and 20,000 structures. He said the system is aging, maintenance is under-funded, and more and more people are choosing to live in floodplains, resulting in more serious risk for public safety. A recent court decision expanding the State's liability for flood damages is another factor in what he called a "perfect storm" of conditions that means the next big flood could have a major impact on people, the State budget, and local economies.

To address the issue, DWR's white paper recommends several actions to improve the system. These include evaluating facilities and preparing a viable rehabilitation plan; improving emergency response; finding sustainable funding for maintenance; updating floodplain maps; and providing education on flood issues.

The paper also suggests that the State consider creating a California Flood Insurance Fund and a Central Valley Flood Control Assessment District with authority to assess fees to pay for maintaining the system. It also suggests legislative and constitutional changes to reduce taxpayer liability for flood claims.

Mr. Harder also reported on the Delta Levee Comprehensive Program Evaluation now underway by DWR in conjunction with CALFED. As part of the effort, DWR is evaluating current and future risks to Delta levees and identifying risk reduction

measures including levee upgrades and land use changes. A technical advisory committee is in place and will help develop a proposed project plan for carrying out the evaluation. A final report is expected in about two years. In the interim, DWR is looking at actions to reduce risks while the comprehensive evaluation is conducted.

Tom Zuckerman said the BDPAC Delta Levee Subcommittee is also looking at the issue. He said a special conference on the Delta is planned for June 6 in Stockton in coordination with the University of the Pacific.

Greg Gartrell said he would like to see regular updates on DWR's interim initiatives to see if progress is being made.

Several Authority and BDPAC members commented on flood/Delta issues and the need for coordination. Several comments touched on land use decisions and the role of the State Reclamation Board, counties and local planning agencies in approving development.

9-11 PROPOSAL SOLICITATION PROCESS AND GRANT AND CONTRACT APPROVALS (ACTION ITEMS)

Wendy Halverson Martin, Authority Chief Deputy Director, presented the items up for concurrence and / or approval by the Authority.

- A. Water Use Efficiency Program – State Water Resources Control Board, Water Recycling Funding Program. **Resolution 05-02-02. Concurring with the State Water Resources Control Board's Adoption of Water Recycling Funding Program Competitive Project List.** (Proposition 50, Chapter 7. \$42 million.)
- B. Water Quality Program – State Water Resources Control Board, Agricultural Water Quality Grant Program. **Resolution 05-02-03: Recommending that the State Water Resources Control Board Adopt the Agricultural Water Quality Grant Program Proposed Recommended Project List.** (Proposition 50, Chapter 5. \$29.5 million.)
- C. Ecosystem Restoration Program – California Bay-Delta Authority. Ecosystem Restoration Program Grant Amendment. **Resolution 05-02-04: Approving an Ecosystem Restoration Program Grant Agreement Amendment with Yuba County Water Agency and Authorizing the Director, or Designee, to Process the Approved Amendment.** (Proposition 204. \$4,254,967.)

Several Authority and BDPAC members asked questions about the proposed actions and commented on the need to ensure that remaining bond funding is spent on the appropriate projects.

Marc Holmes asked for more information at the next meeting on the Yuba River Project.

Dan Wheeler said he would also like additional information on the projects being funded.

Patrick Johnston suggested that the Authority should consider delaying further expenditures until there is consensus on funding the program into the future. Otherwise the program could run out of money while parties argue over fees and taxes.

Chair Hunt recommended proceeding with the proposed actions but asked that the staff report back at the next meeting on what funds remain to be expended, what projects are expected to be funded with that money. He said he would like discuss whether there is a need to re-prioritize expenditures or reduce spending. He directed staff to come back with a report in April.

There was a motion and a second to approve all three actions. The motion was approved unanimously by the Authority.

9-10 DELTA IMPROVEMENTS PACKAGE UPDATE (INFORMATION ITEM)

Tim Ramirez, California Bay-Delta Authority Senior Advisor, provided an update on the Delta Improvements Package and referenced recent correspondence from Senator Kuehl and State agencies regarding the Department of Interior's proposal to integrate the Environmental Water Account with actions taken under the Central Valley Project Improvement Act. He noted that the calendar includes two key actions this year: draft environmental documents for the long-term EWA are expected in December 2005, and final documents on the South Delta Improvements Program are also expected in December.

Kirk Rodgers gave a quick overview of policy discussions regarding potential changes to so-called b(2) actions and EWA. He said State and Federal agencies have developed a plan to evaluate the proposal and determine whether it makes sense to pursue it. He introduced Ron Milligan of the Central Valley Project Operations Office to give a more detailed presentation.

Mr. Milligan said more formal integration of EWA and b (2) actions could help make the system and both programs work more efficiently. It could also improve year-to-year variability. He said the Department of Interior (DOI) is now looking at existing tools, schedules and accounting and hopes to formulate a suite of options to discuss in more precise terms. That process should last through July.

He said DOI also is looking at opportunities for broader coordination among other agencies, the CALFED Science Program and others to refine alternatives, evaluate alternatives and associated risk in such areas a carryover storage, in-stream flows and water supply reliability.

Some Authority members asked how the effort fits in with other programs being pursued by CALFED and asked for interim briefings to allow the Authority to stay current and to hear from multiple agencies.

Kirk Rodgers said DOI is open to having the Authority's input and will provide interim reports.

9-7 BDPAC SUBCOMMITTEE REPORTS (INFORMATION ITEM)

Ecosystem Restoration Subcommittee: Prospect Island Update.

Subcommittee Chair Gary Bobker said he would like to postpone the update until the April meeting to allow for more detailed discussion about the process and alternatives.

10-3 ECOSYSTEM RESTORATION PROGRAM – BATTLE CREEK SALMON AND STEELHEAD RESTORATION PROJECT (INFORMATION ITEM)

Dan Castleberry, California Bay-Delta Authority, introduced Mark Stouffer, Department of Fish and Game, and Wayne White, U.S. Fish and Wildlife Service, to provide an update on the project and an upcoming request for approval by the Authority.

Mr. Stouffer described the Battle Creek project and said it offers a key opportunity to support spring-run and winter-run Chinook salmon and steelhead populations in a nearly drought-resistant, climate-change resistant setting. The project, which would restore 42 miles of habitat on Battle Creek, calls for the removal of five hydroelectric diversions, installation of fish screens and ladders on three hydro dams, increased flows and dedicated flows.

Mr. White said draft environmental documents have been released for a 60-day comment period. Final documents are expected to be released in June. The Authority will be asked to approve funding for the project in August 2005.

Dan Castleberry noted that the project was selected for funding as a directed action in 1999. In 2001, a request for additional funds was submitted as part of the PSP process. A final revised proposal will be submitted in March 2005. The agencies will be seeking about \$60 million in Proposition 50 funding for the project.

Chair Hunt noted that the project will be looked at as a \$60 million element of the money left for the next year a half.

Director Wright said the Battle Creek project is number one on the list of priorities for the agencies. It would be the single biggest project undertaken through ERP.

Public Comment

- Steve Evans, representing Friends of River, said Battle Creek is the best opportunity for significant salmon and steelhead improvements in the

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Sacramento River watershed. But the Memorandum of Understanding (MOU) for the project is a political compromise between PG&E and the regulatory agencies. The cost has nearly tripled, and the timeline has doubled. He said the project would require constant hands-on human management and constant maintenance. One study showed that removal of all eight hydro dams would be cost-competitive and require less hands-on management. He cautioned that if ERP is going to invest more than \$70 million in public funds but only partially restore the creek, it may not be the best investment.

Marc Holmes asked for more information to help put the project and its costs in context.

Chair Hunt said the April meeting's discussion of available funding by category should provide some context.

No further public comments were received.

ADJOURNMENT

Chair Hunt adjourned the meeting at 12:10 p.m.