



BDCP
BAY DELTA CONSERVATION PLAN

Meeting: Governance Working Group – Meeting #2
Location: 1416 Ninth Street, Sacramento – Room 1131
Date: June 20, 2011
Time: 1:00 – 4:00 pm

Attendees:

	Name	Affiliation
1.	Federico Barajas	Bureau of Reclamation
2.	Steve Ottemoeller*	Friant Water Agency
3.	Jeffrey Volberg	San Diego County Water Authority
4.	Osha Meserve	
5.	Kathy Barnes-Jones	Solano County/Delta Counties
6.	Melinda Terry	North Delta Water Authority
7.	Mark Rockwell	Federation of Fly Fisherman
8.	Jason Peltier	Westlands Water District
9.	Jim Monroe	Department of Interior
10.	Maria Rea	NOAA – NMFS
11.	Richard Roos-Collins	American Rivers
12.	Laura King Moon	State Water Contractors
13.	Cynthia Koehler	Environmental Defense Fund
14.	Thad Bettner	Glenn-Colusa Irrigation District
15.	Tom Gibson	Department of Fish Game
16.	Susan Tatayon	The Nature Conservancy
17.	Greg Zlotnick	SFCWA
18.	Scott Cantrell	Department of Fish and Game
19.	Michelle Morrow	Department of Water Resources
20.	Patti Idlof	Reclamation
21.	Chandra Ferrari	Department of Fish and Game
22.	Jim Fiedler	Santa Clara County Water District
23.	Nadine Westcott	
24.	Roger Patterson	Metropolitan Water District
25.	Jennifer Norris	Fish and Wildlife Service
26.	Robert Morrow	ES Analytics Group
27.	Jerry Meral	Resources Agency
28.	Marc Ebbin	Legal Consultant
29.	John Clerici	URS

*Participated by phone

Meeting Summary

The BDCP Governance Working Group met on Monday June 20, 2011, in room 1131 of the Resources Building. This was the second meeting of the Working Group. Working Group leader Dr. Jerry Meral welcomed attendees who then introduced themselves and their affiliation. Dr. Meral reviewed the agenda and materials (revised Chapter 7 of the BDCP Working Draft) with meeting participants.

The outcome of this meeting will be reflected in the revised Chapter 7. These notes are intended to capture the major discussion points as they relate to the Working Groups review of Chapter 7, and are not meant to be detailed meeting minutes.

Notes from the June 9, 2011 meeting were approved by the Working Group with minor clarifications.

Overview

The purpose of the meeting was to review and comment on the revised Chapter 7. These revisions were based on stakeholder comments from the June 9 Working Group meeting and written comments provided subsequently by participants.

7.1.3 Implementation Board

Revisions to this section included clearer cross-references to Chapter 6, and better clarity around the relationship between the Implementation Board (IB) and the fish and wildlife agencies. The revisions were accepted by the Working Group.

7.1.5 Permitting Agencies

Revisions to this section focused on clarifying the role of fish and wildlife agencies and their interaction with the IB and Implementation Office (IO). Specifically the new text provides for numerous points of contact with the IC and the IO in order to enhance collaboration on BDCP implementation. The goal is to broaden interaction between the IC and Stakeholder Committee (SC), highlighting the importance of this relationship. The group generally agreed with the language, and stressed that these types of interactions needed to be reflected in other entities (the Delta Protection Commission for example). It was suggested that reclamation districts, water agencies and water districts be added to “other agencies” described on page 7-21.

7.1.7 Supporting Entities

Revisions to this section provided clarity regarding the meaning of willing participation in the BDCP related to the assignment of implementation tasks by the Program Manager. The group agreed with the change to the language.

7.1.8 Stakeholder Committee

Revisions to this section clarified role and function of the SC, clarified and expanded SC membership, and provide additional cross-references to pertinent sections in Chapter 6. Additionally, the revisions added detail to the dispute resolution process and clarity regarding the availability of claims and remedies outside the BDCP process.

Committee Make-Up

It was noted that the State Water Board will be on the SC and will coordinate with the regional boards as necessary. The group generally accepted the revisions as provided. It was suggested that additional Delta civic groups (cities, counties, RD's, etc.) be included in the SC. The group discussed the problem solving nature of the SC and how the number of participants may impact their ability to act on important issues. The group agreed that additional fine-tuning of the roster will be in order.

Dispute resolution

Revisions for this section provide a process for dissenting opinions and challenges to SC and IB decisions and a conduit for taking issues beyond the IB. It also provided clarity on processes for raising third-party issues or complaints. It was noted that nothing in the revised language interferes with third-parties ability to pursue remedies outside of the SC/IB process. A request was made to remove the word "solely" from this section in the places where it occurs.

The group found the revised language generally acceptable. However there was significant discussion around the following issues:

Has a dispute resolution process similar to this one been successfully implemented? Several similar processes were discussed by the group (specifically one involving the Klamath River) but it was recognized that this was different in that the process was more strategic and less legally oriented.

Will the results of a dispute resolution process have an impact on implementation? Some suggested that the language indicated that operations would continue irrespective of dispute resolution activities. The group recognized that not every issue addressed would rise to the level where it impacted operations. On the other hand there is a desire to ensure that the process would react with changes to implementation if the issue warranted. The group agreed that ultimately it would be the SC that would determine the substance of any particular complaint or issue, and the ability to dismiss issues or complaints that are intended specifically to interfere with implementation. The group thought that a graphic describing how the dispute resolution process might work would be a good addition.

Again the size and composition of the SC was an issue for some. The group weighed the need for adequate representation (focusing on Delta interests) against the fear that too large a deliberative body

would not be nimble enough to address the very issues and disputes the same stakeholders might bring. Further refinement of the membership and dispute resolution pieces will be forthcoming.

7.3.2.2 Real Time Operations Response Team

Revisions to section clarify language regarding the purpose of the team, decision making process, relationship to Conservation Measure 1, and adaptive management.

The group had a lengthy discussion on the role of Real Time Operations (RT), how it would be administered, and its relationship to the implementation plan. The group agreed that this is a work in progress and that additional work was likely. The discussion focused on how best to describe how the fish agencies would inform RT implementation and how RT would be triggered. The stated purpose of RT is to provide additional opportunities for fish enhancement, but some contend that that language in this section does not adequately state that, or protect fish from RT activities. The group agreed that coordination with Chapter 6 was critical. The group also discussed the difference between RT and adaptive management, and whether RT had the potential to adversely affect other resources like recreation, farming irrigation, etc.

Other Comments

7.1.5.1 & 3 – The group discussed the impact on local governments when properties for mitigation are removed from local tax rolls. Requested language to indicate that a funded endowment or some other agreement be required to cover on-going maintenance and taxes. There was some question as to whether this was governance, but that it would be considered. Eminent domain was also discussed, but it was made clear that the state would not relinquish its access to eminent domain to procure mitigation lands.

Next Steps

The next revised version of Chapter 7 will be made available to the working group within the next 10 days. The next Working Group meeting will be scheduled to allow enough time for Working Group members to read through the revised document.

Action Items

1. Revised Section 7 text for Working Group review

Prepared by: John Clerici, URS