

JOINT WORKSHOP MEETING OF THE
BOARD OF DIRECTORS
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
10500 Ellis Avenue, Conference Room 101, Fountain Valley, California
October 5, 2005, 8:30 a.m.

AGENDA

PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC PARTICIPATION/COMMENTS

Members of the public may comment on Agenda items before action is taken and after the item has been discussed by the Board. The public is requested to identify themselves when called on.

At this time, members of the public, wishing to address the Board concerning items within the subject matter jurisdiction of the Board, are requested to identify themselves.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED

Determine need and take action to agendize item(s), which arose subsequent to the posting of the Agenda. (ROLL CALL VOTE: Adoption of this recommendation requires a two-thirds vote of the Board members present or, if less than two-thirds of the Board members are present, a unanimous vote.)

(NEXT RESOLUTION NO. 1780)

1. RESOLUTION ACCEPTING DWR PROPOSITION 50 WATER USE EFFICIENCY GRANT

Recommendation: Adopt the resolution accepting the \$404,801 Proposition 50 grant from the California Department of Water Resources

2. WATER AUDIT DEMONSTRATION PROJECT

Recommendation: (1) Authorize use of budgeted funds of \$25,000 for implementation off the Project; and

(2) Execution of a Professional Services Agreement with McGuire Malcolm Pirnie for Project implementation

3. APPROVE ATTENDANCE AT THE GROUNDWATER REPLENISHMENT SYSTEM WORKSHOP, OCTOBER 14, 2005

Recommendation: Authorize attendance by Directors and such members of District staff as approved by the General Manager.

4. RESOLUTION RECOGNIZING EDDIE RIGDON ON THE OCCASION OF HIS RETIREMENT AS ASSISTANT GROUP MANAGER FOR WATER SYSTEM OPERATIONS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Recommendation: Adopt the Resolution recognizing Eddie Rigdon on the occasion of his retirement from the Metropolitan Water District of Southern California, and that district representatives present the resolution to Mr. Rigdon at his retirement dinner on Thursday, October 6.

5. TRACKING AND DISCUSSION OF MET ITEMS CRITICAL TO ORANGE COUNTY

- a. Colorado River Issues
- b. Riverside Orange Corridor Authority (ROCA)
- c. CALFED Update
- d. Central Pool Augmentation Project
- e. Desalination Policy
- f. MET's Rate Structure
- g. Surplus Water Storage Proposal

Recommendation: Discuss and provide input on information relative to the MET items of critical interest to Orange County.

6. METROPOLITAN (MWD) BOARD AND COMMITTEE AGENDA DISCUSSION ITEMS

- a. Summary regarding September MWD Board Meeting
- b. Review items of significance for the October MWD Board and Committee Agendas (to be distributed at the meeting)

Recommendation: Review, discuss and take action as appropriate.

7. DIRECTORS' REPORTS

- a. MET Directors
- b. MWDOC Directors

ADJOURNMENT

Note: Accommodations for the Disabled. Any person may make a request for a disability-related modification or accommodation needed for that person to be able to participate in the public meeting by telephoning Maribeth Goldsby, District Secretary, at (714) 963-3058, or writing to Municipal Water District of Orange County at P.O. Box 20895, Fountain Valley, CA 92728. Requests must specify the nature of the disability and the type of accommodation requested. A telephone number or other contact information should be included so that District staff may discuss appropriate arrangements. Persons requesting a disability-related accommodation should make the request with adequate time before the meeting for the District to provide the requested accommodation.



ACTION ITEM

October 5, 2005

TO: Board of Directors

FROM: **Planning & Operations**
(Directors Clark, Bakall, Dick)

Kevin Hunt
General Manager

Staff Contact: J. Berg

SUBJECT: Resolution Accepting DWR Proposition 50 Water Use Efficiency Grant

STAFF RECOMMENDATION

Staff recommends the Board of Directors adopt the resolution accepting the \$404,801 Proposition 50 grant from the California Department of Water Resources.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

As a condition of receiving the Proposition 50 Chapter 7 Water Use Efficiency grant in the amount of \$404,801 that has been awarded to MWDOC for "Industrial Process Water Use Reduction Program", DWR is requiring a resolution of the Board of Directors for acceptance of the grant. DWR has requested that this resolution be submitted by November 1, 2005.

Staff recommends the P & O Committee and Board of Directors adopt the attached resolution accepting the grant and approving designated staff to sign the contract and submit invoices.

The project cost is \$819,009 and is proposed to be shared between the Proposition 50 grant (\$404,801 or 49%) and funds MWDOC will access from Metropolitan's Conservation Credits Program (\$414,208 or 51%).

A Draft Scope of Work for the project is attached and outlines both Focused and Comprehensive Surveys to be offered to Industrial water users throughout Orange County

Budgeted (Y/N):	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	

and incentive payments for participants to implement industrial process water use improvements recommended in the surveys.

Staff will be conducting a Request For Proposals process to select a well qualified and competitively priced contractor to administer this program. This RFP process should be completed by January 2006 at which time staff will return to the Board to request authorization to proceed with implementation of the Program.

RESOLUTION _____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY,
ACCEPTING A PROPOSITON 50 WATER USE EFFICIENCYGRANT
FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR AN
INDUSTRIAL PROCESS WATER USE REDUCTION PROGRAM

WHEREAS, in November 2002, California voters passed Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, which includes Chapter 7, Section 79550 (g) grants for Urban Water Use Efficiency Projects,

WHEREAS, in April 2004 the Municipal Water District of Orange County Board of Directors authorized the preparation and submittal of a grant application under the Implementation Projects funding category,

WHEREAS, the Municipal Water District of Orange County submitted its grant application proposal in January 2005 for an Industrial Process Water Use Reduction Program,

WHEREAS, in July 2005 the Department of Water Resources (DWR) notified the Municipal Water District of Orange County of its award of a grant for \$404,801 under this program, and outlined the steps that are expected to be followed in finalizing the grant agreement,

WHEREAS, DWR requires a Resolution from the Board of Directors of the Municipal Water District of Orange County accepting the grant, designating an officer to sign a funding contract with DWR, and designating a person to approve the submission of invoices, and said Resolution is to be received by DWR no later than October 2005.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Municipal Water District of Orange County:

1. Accepts grant funding from the California Department of Water Resources for implementation of the Industrial Process Water Use Reduction Program
2. Authorizes the General Manager or Assistant General Manager to sign the funding contract; and
3. Designates the Water Use Efficiency Programs Manager to sign the submission of invoices.

Said Resolution was adopted, on roll call, by the following vote

AYES:

NOES:

ABSENT:

ABSTAIN:



ACTION ITEM

October 5, 2005

TO: Board of Directors

FROM: **Planning & Operations**
(Directors Clark, Bakall, Dick)

Kevin Hunt
General Manager

Staff Contact: J. Berg

SUBJECT: Water Audit Demonstration Project

STAFF RECOMMENDATION

Staff recommends the Board of Directors authorize:

1. Use of budgeted funds of \$25,000 for implementation of the Project,
2. Execution of a Professional Services Agreement with McGuire Malcolm Pirnie for Project implementation

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

In May 2005, representatives from McGuire Malcolm Pirnie contacted staff to propose a pilot project targeting retail agency Distribution System Water Audits. Staff recognized that little activity has been focused on this activity in the past; its consistent with Best Management Practice No. 3: System Water Audits, Leak Detection and Repair; and that benefits could include water savings and revenue recovery by retail agencies. A Bureau of Reclamation Water Conservation Field Services Request For Proposals was closing May 20, 2005. McGuire Malcolm Pirnie offered to write a Water Conservation Field Services grant application for a Water Audit Demonstration Project.

The concept proposed included two parts – first, a survey of all MWDOC retail agencies to assess the context for existing water loss among the agencies and second, select one agency (voluntarily) to conduct a water audit consistent with methods being developed by the AWWA Research Foundation.

Budgeted (Y/N): Yes	Budgeted amount: \$25,000
Action item amount: \$25,000	Line item: 02-2010-7010
Fiscal Impact (explain if unbudgeted):	

In August 2005, the Bureau of Reclamation notified staff that the application, written by McGuire Malcolm Pirnie on behalf of MWDOC, was selected for funding. As proposed, the Bureau and MWDOC will each provide \$25,000 for a total \$50,000. A copy of the Bureau funding agreement and Scope of Work is provided as Attachment A.

Board action is requested at the October 5, 2005 Joint Board Meeting to allow implementation of the project to proceed per the timeline contained in the Scope of Work.

A water audit is a thorough examination of the accuracy of water agency records and system control equipment. Water managers can use audits to determine their water distribution system efficiency. The overall goal is to identify, quantify, and verify water and revenue losses. This allows the water utility to select and implement programs to reduce water and revenue losses. Such examination should be done regularly.

In 1997 the Water Loss Task Force, a five-country group formed by the International Water Association (IWA), launched its effort to develop a workable water audit structure for drinking water utilities. AWWA Research Foundation participated on this task force, which published its results in 2000 as part of the IWA publication *Performance Indicators for Water Supply Services*. The format of the water balance of this method is given in [Figure 1](#).

Figure 1 IWA/AWWA Water Balance (All data in volume for the period of reference, typically one year)

System Input Volume (corrected for known errors)	Authorized Consumption	Billed Authorized Consumption	Billed Metered Consumption (including water exported)	Revenue Water
			Billed Unmetered Consumption	
		Unbilled Authorized Consumption	Unbilled Metered Consumption	Non-Revenue Water (NRW)
			Unbilled Unmetered Consumption	
	Water Losses	Apparent Losses	Unauthorized Consumption	
			Customer Metering Inaccuracies	
			Data Handling Errors	
		Real Losses	Leakage on Transmission and Distribution Mains	
			Leakage and Overflows at Utility's Storage Tanks	
			Leakage on Service Connections up to point of Customer metering	



ACTION ITEM
October 19, 2005

TO: Board of Directors

FROM: Planning & Operations Committee
(Clark, Bakall, Dick)

Staff contact: Katie Davanaugh

**SUBJECT: Orange County Water District and Orange County Sanitation District
Groundwater Replenishment System Workshop
October 14, 2005
Fountain Valley**

STAFF RECOMMENDATION

Staff recommends the Board of Directors consider authorizing Directors to attend the October 14, 2005 Groundwater Replenishment System Workshop.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

The attached flyer provides an outline of the workshop.



ACTION ITEM

October 5, 2005

TO: Board of Directors

FROM: Kevin Hunt
General Manager

Staff Contact: David J. Cordero

SUBJECT: RESOLUTION RECOGNIZING EDDIE RIGDON ON THE OCCASION OF HIS RETIREMENT AS ASSISTANT GROUP MANAGER FOR WATER SYSTEM OPERATIONS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

STAFF RECOMMENDATION

Staff recommends the Board of Directors adopt the resolution recognizing Eddie Rigdon on the occasion of his retirement from the Metropolitan Water District of Southern California, and that district representatives present the resolution to Mr. Rigdon at his retirement dinner on Thursday, October 6.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

Eddie Rigdon is retiring from the Metropolitan Water District of Southern California after 40 years of service. The Municipal Water District of Orange County wishes to recognize and thank Mr. Rigdon for his contributions to the Metropolitan Water District of Southern California, its member agencies, and the water community at large.

Staff has prepared the following resolution for presentation to Mr. Rigdon at the retirement dinner being held in his honor.

Budgeted (Y/N): N/A	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	

Resolution
Recognizing Eddie Rigdon on the occasion of his retirement as
Assistant Group Manager for Water System Operations of the
Metropolitan Water District of Southern California

Whereas, Eddie Rigdon has faithfully served the Metropolitan Water District of Southern California, its member agencies, and the water community at large with honesty, integrity, trustworthiness, passion, and an unwavering commitment to excellence; and

Whereas, Eddie has enjoyed strong working relationships with the directors and staff of the Municipal Water District of Orange County and others in the Orange County water community – always welcoming their guidance, suggestions and feedback on issues he was working on at Metropolitan or in Orange County; and

Whereas, Eddie has been an effective leader and mentor for the many people with whom he has worked, instilling in them his strong work ethic, educating them about and broadening their understanding of the water industry, helping them grow professionally, and inspiring them to meet their full potential; and

Whereas, Eddie made member agency customer service his priority, working closely with his colleagues and doing whatever possible, helping them solve problems by thinking creatively and outside the box, trying to accommodate their needs, and staying in contact with them out of both personal interest and as an ambassador of Metropolitan; and

Whereas, Eddie has always had the ability to get things done, whether it required getting a letter or an agreement expedited, or mobilizing an engineering, construction crew or a dive team, he was the person who could make it happen; and

Whereas, Eddie concludes this month a distinguished 40-year career of service with the Metropolitan Water District of Southern California, where his leadership has been integral to the District's successful operations.

Now, therefore, be it resolved, that the Municipal Water District of Orange County Board of Directors and staff thank Eddie Rigdon for his service to the Metropolitan Water District of Southern California, his friendship with and commitment to its member agencies, and for his innumerable contributions to the water community at large.

Resolved, unanimously, on this fifth day of October, two thousand five.



INFORMATION ITEM

October 5, 2005

TO: Board of Directors

FROM: Kevin Hunt
General Manager

Staff Contact: Deven Upadhyay

SUBJECT: Met Items Critical To Orange County

STAFF RECOMMENDATION

Staff recommends the Board of Directors receive and file the report.

SUMMARY

This report provides a brief update on the current status of the key Met issues that may affect Orange County.

DETAILED REPORT

Budgeted (Y/N):	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	

Issue	Recent Activity	Upcoming Activity
<p>Colorado River Issues</p>	<p>The Colorado River Basin States submitted a joint letter to the Secretary of the Interior at the end of August (letter attached). This letter detailed an approach to develop lower basin shortage criteria and conjunctive management rules for Lake Mead and Lake Powell. The letter represents a cooperative approach on the part of the states to work toward a solution on the Colorado River. The foundation of this approach is an attempt to avoid litigation as a way of solving the dispute between the states.</p> <p>Pat Mulroy (General Manager of Southern Nevada Water Authority (SNWA)) made comments about SNWA's future water projects at a meeting of the Colorado River Basin States on Sept 27, 2005. These future water projects include the use of rivers and groundwater supplies in Nevada that currently drain into the Colorado River. The other Basin States feel these projects are illegal because they will negatively affect the flows in the Colorado River. This issue could cause Nevada to choose the court system over cooperation with the other states as a method to solve their supply problems.</p>	<p>The Department of Energy (DOE) has committed to remove almost 12 million tons of uranium mill tailings from the banks of the Colorado River near Moab, Utah. DOE signed the Record Of Decision on September 14, 2005. The tailings will be moved vial rail to a new site 30 miles from the Colorado River.</p>
<p>Riverside Orange Corridor Authority (ROCA)</p>	<p>A Joint Project Authority has been established with Met and MWDOC as the initial members. The JPA is awaiting the signatures of Western MWD and the Transportation Corridor Agencies (TCA).</p>	<p>Western MWD and TCA could join the JPA in the coming weeks.</p>

Issue	Recent Activity	Upcoming Activity
<p>CALFED</p>	<p>The Interagency Ecology Program (IEP) is an organization of agencies designed to analyze the factors that affect the ecology of the Bay-Delta. IEP will hold a workshop on November 14th to review the results of their initial studies of the pelagic fish declines in the Delta. Based on these studies they will develop a work-plan for next year to further deal with the fish decline problem.</p> <p>DWR is scheduled to release the Draft EIR for the South Delta Improvements Program (SDIP) in October. The SDIP includes operable barriers in the area east of Banks Pumping Plant and an operating framework to allow Banks pumping at 8,500 cfs. Lester Snow (Executive Director of DWR) has made the construction of the operable barriers the top priority in the SDIP. These barriers will help prevent negative water quality impacts in the Delta due to water exports. Once these barriers are in place, it may be easier to get the authorization for Banks to pump at 8,500 cfs.</p> <p>Joe Grindstaff (Executive Director of the California Bay-Delta Authority (CBDA)) is working hard to forge an agreement with CALFED stakeholders, State and Federal agencies by November 9th. The focus of the agreement is on a 10-year action plan to develop regulatory commitments, water quality and water supply projects, and user contributions for the following:</p> <ul style="list-style-type: none"> ▪ Environmental Water Account ▪ Environmental Restoration Program ▪ South Delta Improvements Program <p>November 9th was the deadline set by the Governor for completion of this agreement.</p>	<p>In November three major reports should be released:</p> <ul style="list-style-type: none"> ▪ The Department of Finance’s report will show where CALFED money has been spent. ▪ A report from KPMG will review the business practices of CBDA and the other agencies directly administering CALFED programs. ▪ The Little Hoover Commission’s report will address the governance of CBDA

Issue	Recent Activity	Upcoming Activity
<p>Central Pool Augmentation Project (CPA)</p>	<p>Met’s System Overview Study (SOS) reports that a CPA is needed between 2018 and 2025. Debra Man (Met’s Chief Operating Officer) plans to present a draft copy of the SOS to the Board in November.</p> <p>The CPA is the single largest facility identified in the SOS. Met estimates that construction costs could be in excess of \$1.2 billion.</p> <p>Met would like to conduct a local area study after the presentation of the report in November. The goal of this area study would be to focus on analysis of the area served by the CPA.</p>	<p>The local area study for the CPA will come under significant scrutiny. Met initially wanted the local area study to only include participation from the Orange County agencies. While this would make the group small and manageable, it would also give the impression that Orange County is the only area that stands to benefit from CPA. MWDOC staff has tried to encourage Met to include other agencies that benefit from CPA in the area study. The final makeup of the area study group has not been determined.</p> <p>Given the potential for a Growth Charge that assigns costs of new facilities to the agencies that benefit from them, it is important that a CPA area study identify all of the agencies that stand to benefit from CPA.</p>
<p>Met’s Desalination Policy</p>	<p>In September, Met staff presented the Desalination & Reclamation Committee with the following options for Met’s future role in desalination:</p> <ul style="list-style-type: none"> ▪ Option 1: Facilitator for technical & regulatory issues ▪ Option 2: Partner with member agencies on regional project ▪ Option 3: Act as lead agency on a regional project <p>The committee debated these options in light of comments that were provided by staff from the member agencies. The feedback included a clear rejection of the idea that Met should solicit desalination proposals from third party entities. The door was left open for Met to evaluate unsolicited third party desalination proposals as long as it is done in an open fashion.</p>	<p>The Desalination & Reclamation Committee is scheduled to take action on a staff recommendation related to the three options in November.</p> <p>In the near future, Met staff will present ideas on how to evaluate unsolicited desalination proposals. It is likely that any evaluation of proposals will include participation by member agency personnel in addition to Met staff.</p>

Issue	Recent Activity	Upcoming Activity
<p>Met's Rate Structure</p>	<p>The member agency managers have met many times to discuss on-going rate structure issues. The major issues that have been identified are:</p> <ul style="list-style-type: none"> ▪ Growth/Infrastructure Development Charge – Some agencies would like Met to adopt a charge that shifts the burden of paying for new infrastructure onto the agencies that require the new infrastructure. This method is a departure from Met's previous "postage stamp" approach to charging for services. Growing agencies stand to suffer under this approach. (MWDOC may be hurt by this charge depending on the implementation) ▪ Treated Water Capacity Charge – Met staff proposes to implement a charge for the use of peak treated water capacity. This will penalize agencies with high peak-day demands relative to their annual treated water deliveries. (MWDOC is relatively unaffected by this charge) ▪ Wheeling – Met staff must present the current legal status of Met's wheeling policy along with a description of how wheeling works at Met. This should help define how an agency can wheel water through Met's system and how much that service should cost. Debate continues as to whether the wheeling rate should include Met's incremental cost of power and the water stewardship charge. (MWDOC's future transfer arrangements may be impacted by this issue) ▪ Water Surplus & Drought Management (WSDM) Plan – The WSDM report was adopted in 1999 to help define how Met would operate in times of surplus or drought. Met staff must update the WSDM Plan to reflect recent changes in water supply, water quality, and operational constraints. 	<p>In November a special Board Workshop will be held to review Met's rate structure. A letter from the member agency managers will be presented at this workshop. This letter will contain recommendations regarding the major issues the agencies have with certain components of the rate structure.</p> <p>In some cases, the letter may identify a rate issue without a specific recommendation due to lack of consensus among the member agencies (Wheeling, Growth Charge). These issues will be characterized with both majority and minority opinions represented. In this way, the Board will get background on the key issues of concern to the member agencies without negating an agencies' position.</p>

<p>Surplus Water Storage Proposal</p>	<p>The proposal was pulled from Met’s September agenda due to voting issues. Conflicts and absences would have left MWDOC without a representative to vote on the program at Met’s September Board meeting. The extra month has been used to deal with an issue some agencies had with the program</p> <p>Other member agencies criticized the program for looking like a special deal for Orange County. In response to this criticism, Met has re-characterized the deal as a general Supplemental Storage Program that applies to all the member agencies if they can make it work.</p> <p>The program was originally meant to be open to all agencies, but the item that was scheduled to come before the Board in September apparently wasn’t “open” enough.</p>	<p>The re-worked Supplemental Storage Program is scheduled for action at the Water Planning, Quality and Resources Committee meeting on October 10, 2005. If the committee approves the program, then the Board could take action on it the next day.</p>
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**The States of Arizona, California, Colorado, Nevada,
New Mexico, Utah and Wyoming
Governor's Representatives on Colorado River Operations**

August 25, 2005

Honorable Gale A. Norton, Secretary
Department of the Interior
1849 C. Street, NW
Washington, D.C. 20240

Re: Development of Management Strategies to Address Operations of Lake
Powell and Lake Mead under Low Reservoir Conditions

Dear Secretary Norton:

This letter responds to your May 2, 2005, letter to the Governors of the Seven Colorado River Basin States (basin states) in which you announced your intent to undertake a process to develop Lower Basin shortage guidelines and to explore management options for the operation of Lakes Powell and Mead. The Bureau of Reclamation published a notice on June 19, 2005, in the Federal Register announcing its intent to solicit comments and hold public meetings on the development of management strategies for Lakes Powell and Mead, including Lower Basin shortage guidelines, under low reservoir conditions.

For more than a year, the basin states Governors' representatives, the Bureau of Reclamation, and others have engaged in discussions on a variety of potential management options to address the system-wide drought in the Colorado River Basin. Recently, the basin states agreed that management strategies should be designed to delay the onset and minimize the extent and duration of shortages in the Lower Basin. The states agreed that management strategies should maximize the protection afforded to the Upper Basin by Lake Powell against possible calls upon the Upper Basin to curtail uses. The states agreed that shortage guidelines should be premised upon proportionate sharing of shortages by Mexico pursuant to the Mexican Treaty.

The basin states are in the process of developing and evaluating alternatives for coordinated reservoir management and Lower Basin shortage strategies to address the above objectives. In addition, the basin states are exploring a larger, more comprehensive management arrangement. This arrangement would avoid political and legal confrontation over the meaning of fundamental aspects of the Law of the River; supplement the supply of Colorado River water; develop acceptable interim shortage guidelines for the Lower Basin; and realize a common goal to implement management strategies that might allow more efficient, flexible, responsive and reliable operation of the system reservoirs for the benefit of the states of both the Upper and Lower Basin. The states regard such an arrangement as important to the continued development and use of the Colorado River resource in both the Upper and Lower Basins. The Secretary

should recognize that the coordinated management and shortage strategy outlined in this letter is recommended only on the condition that the other aspects of that more comprehensive management arrangement can be finally agreed upon and implemented by the states and the Secretary.

The states propose that any reservoir operational strategy developed by the Secretary be explicitly limited to an interim period. The interim operations should be tied to the implementation of additional measures that will accomplish the dual objectives of supplementing the supply of the Colorado River, and operating the existing infrastructure in the system more efficiently. The elements set forth in this letter are interrelated, and represent an integrated strategy for managing the Colorado River into the future. Therefore, all of the elements of this strategy will need to be implemented. In addition, practical resolution of differences among the basin states regarding mainstream and tributary development will be required. The states' strategy consists of three elements.

Coordinated Reservoir Management and Lower Basin Shortage Strategies

The states are discussing ways to utilize the water surface elevations or volumetric contents of both Lake Mead and Lake Powell to determine the beginning and end of a Lower Basin shortage condition. The strategy could incorporate various water management components including: tiered releases from Glen Canyon Dam; content balancing; alternative release schedules; continued operations under Section 602(a); other equalization strategies; and storage (banking) of water in Lake Mead. All of these operational components are currently being studied under the assumption that the Lower Basin shortage strategy would be two-tiered, the first tier protecting a Lake Mead water surface elevation of 1,050 feet, and the second tier assuring maintenance of a Lake Mead water surface elevation of 1,000 feet.

There may be additional reservoir water surface elevations identified to help achieve the management objectives prior to the actual declaration of a shortage. The quantities of reductions in demand are still being analyzed. After consultation with water users and completion of the analyses, the basin states will recommend conditions under which the Secretary may declare that insufficient water will be available for release from Lake Mead to satisfy 7.5 maf of consumptive use from the mainstream in the Lower Basin, and a delivery of 1.5 maf to Mexico. The basin states will also recommend reductions in deliveries that can be reasonably managed by the states and water users during the interim period. A plan to manage the shortage condition and to allocate reductions among water users within the Lower Basin will be developed and recommended to the Secretary. Acceptance of the recommendations is an essential condition for the success of an integrated strategy for the operation of the Colorado River.

The coordinated operational policies and procedures for the storage of water in and release of water from Lakes Mead and Powell may apply during a defined interim period consistent with the Interim Surplus Guidelines (until 2016, or as the ISG might be modified and extended), or for so long thereafter as may be necessary to achieve selected target elevations in Lakes Powell and Mead. Power and recreational impacts of such operations will be coordinated, but water supply operations will remain the first priority of coordinated operations.

Shortages to Mexico under the 1944 Treaty would be shared proportionately with those incurred by the Lower Basin states, as shortages may be imposed under the shortage guidelines. The states anticipate that shortages to both Mexico and the Lower Basin will be reduced proportionately with the implementation of the coordinated operation strategy.

Because such coordinated operations may alter the volume of water delivered from Lake Powell from that under existing operations during times of low reservoir conditions, the states are evaluating the effects that coordinated reservoir management may have on the recently adopted Interim Surplus Guidelines, as well as considering whether to agree that during the interim period they will not raise issues of the meaning, interpretation or enforcement of the Colorado River Compact, the 1968 Colorado River Basin Project Act, or other aspects of the Law of the River concerning any obligation of the Upper Basin to meet any requirement at Lee Ferry. The states are considering whether agreement not to raise Law of the River issues will continue to the end of the interim period, or longer.

System Efficiency and Management

The basin states will work with the Department of the Interior to analyze and implement a program of tamarisk eradication throughout the basin. The states believe such a program may yield multiple benefits to the environment and water supply of the basin.

The basin states will work with the Department of the Interior to develop a prioritized list of specific measures that will result in the more efficient management of the River in the Lower Basin. Initial priorities for implementation will include development of All-American Canal Drop 2 storage, evacuating accumulated sediments behind Laguna Dam, development of Wellton-Mohawk regulatory storage, and full utilization of Senator Wash Reservoir. Additionally, the states are discussing measures to better coordinate daily system operations and water orders of contractors in the Lower Basin to prevent the loss of water. It will be necessary for the Department to take all necessary actions to account for and replace water that has been released to Mexico through the bypass drain since 2004, and continue to implement measures that minimize the over-deliveries of water to Mexico. It will also be necessary for the Department to aggressively pursue elimination of unauthorized uses of Colorado River water in the Lower Basin.

Augmentation of Supply

The basin states will work with the Department of the Interior to implement a precipitation management (cloud seeding) program in the basin (both Upper and Lower). Any additional water generated to the Colorado River system will be considered system water. No entity or state will have any claim to any additional supply developed by precipitation management.

The basin states will work with the Department of the Interior to analyze the technological feasibility of desalination, and issues such as siting, environmental impacts and the potential to exchange desalinated water into the Colorado River system.

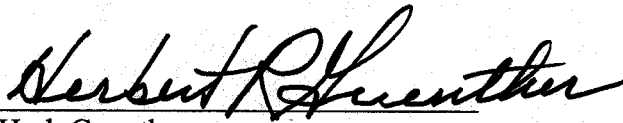
The states are discussing programs under which states may provide, and get the benefit of, individual supply augmentation including desalination; ground water developed and conveyed to add to the Colorado River system; tributary water that has been consumptively used for irrigation that is retired to permit its flow into the Colorado River; temporary consumptive use of additional water from Lake Mead; and wastewater that is generated by the direct use of any water and that is permitted to flow into the Colorado River. The basin states will work with the Secretary to explore additional methods of augmentation. It will be necessary for the Secretary to develop and implement regulations to allow the use of mainstream Colorado River water by forbearance, replacement or exchange.

The basin states representatives recommend that the Secretary adopt interim guidelines, concurred to by the states, for the implementation of the Long Range Operating Criteria (LROC) under low reservoir conditions in Lakes Mead and Powell, together with interim shortage guidelines in the Lower Basin. If at the end of the interim period changes to the LROC are warranted, then the Secretary may consider such changes.

Finally, the basin states recognize that the concepts discussed in this letter raise potentially significant legal and political issues. The basin states look forward to working with you and the Department in analyzing and addressing these issues.

[Signatures on Following Page]

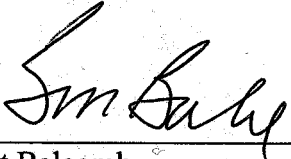
Sincerely,



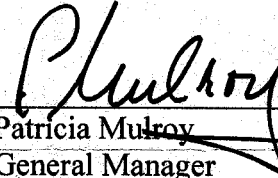
Herb Guenther
Director
Arizona Department of Water Resources



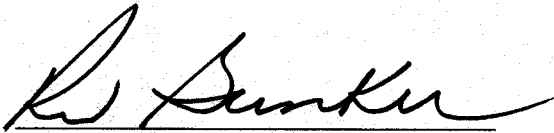
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Executive Director
Colorado River Board of California



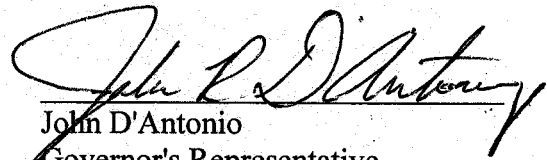
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Governor's Representative
Colorado



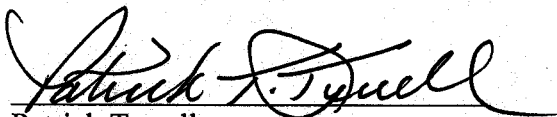
Patricia Mulroy
General Manager
Southern Nevada Water Authority



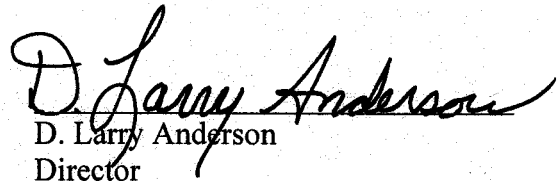
Richard Bunker
Chairman
Colorado River Commission of Nevada



John D'Antonio
Governor's Representative
State of New Mexico



Patrick Tyrrell
State Engineer
State of Wyoming



D. Larry Anderson
Director
Utah Division of Water Resources

CALFED Governance Issues

In its review of the “governance” of the CALFED program and the role of the Bay-Delta Authority, the Commission has surveyed participants and is interviewing and taking testimony from state and local officials and stakeholders. From this process to date, the Commission has been told about a number of significant issues, which are summarized below. This summary is not predicated on Commission deliberations and does not represent any conclusions by the Commission. Rather, the summary was prepared as a mechanism to focus future testimony and discussions related to the Commission’s review. In particular, the Commission would welcome written comments that correct, clarify or amplify these issues, as well as comments that identify other issues not included in this summary.

Leadership

It’s not clear who is responsible for the success or failure of CALFED.

Many expect the Bay-Delta Authority to speak for the entire CALFED program, but it has not become a unified and clear voice for all of the CALFED implementing agencies. A number of factors contribute to this disconnect. To some, the BDA is just one of many CALFED agencies, charged with coordination and oversight, but without authority over any of the implementing agencies. The non-voting status of the federal agencies dilutes the ability of the BDA board to “speak” for the CALFED implementing agencies. And because the board has public and legislative members, the BDA represents interests beyond the implementing agencies.

In addition, with an unpaid chairman and an executive director appointed by the Governor, the responsibility for the BDA is bifurcated. The Secretary of Resources, a position that was the State’s point person on CALFED prior to the BDA, appears to no longer be directly responsible for the success or failure of CALFED. As a multiyear and multiagency effort, it is often difficult for outsiders to understand the mechanics of CALFED. The untraditional governance structure further confuses the picture.

It’s not clear who speaks for the Governor.

Even within the state hierarchy, it is not clear who is the Governor’s point person on CALFED. The chairman of the BDA board is appointed by the Governor, but it is an unpaid position with few specific authorities in statute. The executive director of the BDA also is appointed by the Governor, confusing the director’s reporting authority to the BDA board. The Secretary of Resources, while clearly a position of leadership, is just one vote on the BDA board and is not the only cabinet secretary represented on the board.

This leadership void contributes to several problems. To the extent that problems need to be resolved within the executive branch, the roles and responsibilities of BDA officials, agency secretaries, department directors and the Governor’s direct staff are unclear. To the extent that the administration must communicate clearly, sometimes forcefully, to federal agencies, legislative members and to stakeholders, the authority and responsibility to do so is not clearly vested with a single individual.

Political leadership is needed to resolve policy disputes and reach agreements.

Some of the complaints about CALFED result from difficult decisions that have not been made, such as completing a balanced and agreed upon finance plan. In the August public hearing, a number of witnesses also identified challenging issues not fully incorporated in the ROD that government officials will need to deal with in the near future, such as the effects of global

warming. Some participants assert that the Authority needs more authority to deal with these kinds of problems, an issue described below. The current governance structure does not explicitly vest with any position or agency the political and policy responsibility for brokering difficult agreements, setting priorities, resolving high-level conflicts, and delivering solutions to the Governor and the Legislature.

Federal interest in CALFED has diminished since the ROD was signed.

Federal officials assert that they are still committed to CALFED. But state officials are increasingly frustrated that the federal government has not funded the program at the level anticipated in the ROD and that Congress did not authorize federal agencies to fully participate in the BDA. State participants also believe that federal agencies are not as engaged in CALFED as they once were. While it is unclear how involved the federal government must be for CALFED to reach its goals, the program was predicated on an equal commitment of executive-level support, agency buy-in, and financial contribution.

Extraordinary leadership is necessary to maintain strong federal-state ties.

The architects of the governance structure admittedly struggled to develop a workable partnership of federal and state agencies that does not infringe on the necessary legal separation of the two governments. Some participants describe this as an organizational design problem. Others describe it as an issue that cannot be resolved by structure – and the political will that was once present to overcome bureaucratic obstacles is now absent.

The state-federal partnership also is an executive-legislative partnership times two. To be sustained over time, the goals and commitments to CALFED must be shared by state and federal executive branches, and state and federal legislative branches. Some participants suggest that it may be too much to ask for California's congressional delegation to become united on the issue, and there is broad agreement that unanimity is only possible if there is strong consensus among the stakeholders on all of the substantial elements of CALFED. These dynamics require a combination of clear authority and extraordinary diplomatic skills.

Mission-Vision

There is waning consensus among participants on the goals and priorities of CALFED.

There is overall recognition that CALFED is focused on four goals – improving water quality, increasing the integrity of the levee system, enhancing water supply and restoring the ecosystem of the Bay-Delta region. But there is diminishing consensus among stakeholders to support the detailed actions related to each of these goals.

This trend is partially attributed to uneven progress among the programs – concerns that the parties are no longer getting better together. Some participants believe the program is out of balance and that inadequate progress has been made in some areas, such as the development of more surface storage and improving water quality. Others have suggested that greater progress is being made than many people realize, and that more robust accountability would help to restore confidence and trust.

Many people have suggested that the consensus reflected in the Record of Decision was predicated heavily on the belief of stakeholders that CALFED would be a source for substantial funding for projects that would otherwise not receive public support. As the hopes for full funding have waned, the value of CALFED in their eyes is diminished.

Still others hoped that CALFED would be able to advance their policy agenda, and to the extent they are disappointed, those stakeholders are looking to other venues to pursue their causes.

The core purpose of the BDA is not agreed upon by participants.

Some stakeholders believe the BDA should provide a coordinating role that identifies opportunities to integrate efforts to achieve shared goals. For others, the Authority should set goals, establish priorities, resolve conflicts and monitor performance. This fundamental tension, between BDA as a facilitating entity or a decision-making entity, hampers progress.

These disagreements over what BDA should be also fuel concerns regarding its performance. Those who see the Authority as having the potential to set priorities and actively resolve conflicts are disappointed by its focus on “coordination” and an apparent interest in avoiding conflict. Others are concerned by a perceived expansion of the BDA’s reach and believe it should be a “servant to the implementing agencies.” Without a clear or successful model for state-federal partnership to draw on, the BDA is burdened with trying to live up to widely different expectations. While many participants believe the BDA could be successful as an agency that governs through persuasion rather than regulation, the new agency has struggled to create gravitas without the benefit of a strong political sponsorship.

This and other issues related to mission and vision are difficult to resolve with structure alone. As physical conditions and political dynamics evolve, some participants assert that authoritative leadership is required to affirm what issues are in play, discern whether goals need to be modified and shepherd stakeholders through conflicts.

Stakeholders also do not agree on the scope of CALFED.

The Record of Decision provides a detailed roadmap for the CALFED program and specific activities for implementing agencies. Some participants believe that the ROD should be narrowly interpreted, if for no other reason than it presents a daunting number of projects and actions by itself.

Other stakeholders see CALFED as a mechanism for identifying and resolving problems that can lead to further degradation of the Bay-Delta as an ecosystem and source of freshwater. Some participants believe the governance structure must have the capacity to revisit the ROD to identify actions that are no longer priorities and to establish new action items for CALFED. Others, recognizing the significance of the Delta to the entire waterscape, believe CALFED should be a venue for debating and maybe even making statewide water policy decisions.

From a practical standpoint, this issue has led to significant disputes about which actions by the implementing agencies should be a concern of the BDA and CALFED, and which should not. These disputes have challenged an already fragile governance structure and injured relationships among some of the implementing agencies. To some degree, these disputes arise from imprecise definitions of the BDA’s coordinating and oversight responsibilities. Less directly, this issue confuses expectations for what should be accomplished with CALFED and makes CALFED and the BDA vulnerable to criticisms that they are not getting the job done.

Authority

The Bay-Delta Authority does not have the authority it needs to meet expectations.

The Authority is called upon to coordinate the work of state and federal agencies and provide oversight. But it cannot compel action by those agencies, nor can it impose consequences on agencies that fail to work toward CALFED priorities or even actively work against them. In

crafting the BDA, policy-makers deliberately rejected a plan to create a “strong” authority with purse-string and other controls over the implementing agencies.

As a result, the BDA does not have the legal authority to unilaterally implement financing and other actions that are expected from the CALFED leadership, and as described above, the BDA lacks the political authority to broker multilateral deals. In addition, others have suggested it is unrealistic to expect state and federal officials who are legally responsible to implement policy decisions – to be involved in brokering major new policy decisions.

Not only did policy-makers decline to give the BDA any authority over other agencies, but they explicitly stated that the creation of BDA does not limit those agencies in any way. While the language is clear, the result is not. Participants point out that some agencies – those with regulatory power, in particular – are always reluctant to “coordinate” efforts; they are even less likely to if their governing statutes are not amended to state how they must cooperate.

Neither the BDA, nor CALFED overall, are viewed as a place where member agencies, their customers and other stakeholders can achieve their goals quicker and more effectively than they can on their own or elsewhere.

A substantial part of the initial attraction of CALFED was to move the participants away from costly and time consuming conflicts, particularly in the courts and regulatory proceedings, to a venue where disputes could be resolved more quickly and to better ends. As described above, the faith in CALFED as a venue was enhanced by the promise of public funding, and as funding declines that benefit will be diminished.

But a number of participants also point to examples where agencies and stakeholders use the CALFED process only when in their best interest or are pursuing goals “outside” of the CALFED process, either through litigation or other avenues that circumvent the “collaborative” procedures available through the BDA. To some, this trend reflects a declining commitment to inclusive and non-confrontational decision-making. Others see this as a sign that the governance structure is not vested with the authority – or has not developed the means – of resolving disputes that stand in the way of balanced progress.

Organizational Issues

The structure of the Authority’s board does not support its functions.

The Authority’s board is made up of representatives of six state agencies, six federal agencies, seven public members, one member of the Bay-Delta Public Advisory Committee and four non-voting members of the Legislature. This membership configuration makes it difficult for the board to provide objective oversight, as department officials are hesitant to scrutinize the work of other state agencies or to point out their own failings. The inclusion of public and legislative members – who frequently lack technical expertise or do not understand the internal workings of the state and federal agencies – is a weak model for promoting coordination within the executive branch and between state and federal agencies.

The coordination and oversight functions of the Authority are seemingly in conflict.

Coordination and oversight often are conflicting responsibilities for the Authority. While the staff describes the BDA as one of the implementing agencies, some of those agencies have quickly come to see BDA as another “control” agency, where they must go to have their budgets reviewed and their program plans approved. To the degree that the Authority attempts to

exercise its oversight responsibilities, it endangers its relationship with those agencies that are necessary to effectively coordinate actions.

The role and function of the board of the Bay-Delta Authority, relative to its staff, is unclear.

The Bay-Delta Authority is housed within the state Resources Agency. The director is appointed by the Governor in consultation with the U.S. Secretary of the Interior. But the board is an independent entity – reinforced by its public and legislative members. The potential for conflicts – between the direction of the board and the priorities of the Governor – is significant.

Some federal agencies – and in particular, those that are members of the Authority board – are frustrated with the role of the Authority staff in providing information to the Authority board that the implementing agencies disagree with.

The independent science program has not meet needs or expectations.

The BDA's science program has not been given the resources identified in the ROD, and does not have the ability to direct the existing scientific resources within the implementing agencies. While participants support the idea of science-based decisions, the BDA has not been able to operationalize this function in a way that meets the needs of the agencies, policy-makers or the public. The effort appears to be complicated by the presence of multiple science boards and a diffusion of data among the agencies. The outgoing lead scientist has made numerous recommendations for improving the management of the science program to fortify its ability to assess, describe and communicate the scientific aspects of CALFED programs and the estuary.

Procedures

Adaptive management has not been adopted.

The ROD specified that program implementation would be achieved through an adaptive management model, but some participants express frustration that there is no established mechanism for using new information to influence CALFED decisions. Adaptive management is not institutionalized in the CALFED process. When management decisions do employ new information, it is the result of individual initiative rather than a robust decision-making process. While mid-course corrections do occur, there is no clear procedure – or expectation – that practical knowledge gained through implementation will routinely be used to make those corrections. This concern applied to information derived through scientific inquiry, as well as management experience.

Procedures are not established to resolve “boundary” issues.

As described above, there is ambiguity and sometimes disagreement as to what qualifies as an issue that must be addressed through the CALFED process. Some of this confusion could be resolved if the BDA board had clear and formal procedures for logically and consistently setting the agenda and making decisions. Administrative rules defining what belongs on the CALFED table and what does not could overcome the Authority's controversial boundary issues.

Decision-making procedures have not been adequately developed.

The BDA has not developed protocols or rules of procedures that establish who will make different decisions and how those decisions will be made. Some participants believe that CALFED generally, and BDA in particular, needs to adopt more collaborative decision-making

procedures. From this perspective, the Authority should be the venue for resolving most or all major conflicts that impact the Bay-Delta, and those procedures should involve all of the stakeholders who want to be part of the process. Advocates of that approach argue it is necessary to develop and maintain a stronger consensus on solutions and prevent conflicts from spilling into the courts, regulatory venues or the Legislature.

Others contend that procedures need to be developed that would focus the Authority on making difficult policy-level choices, such as setting priorities among the existing projects and determining how limited resources should be allocated.

Accountability

The progress of the program and evidence that progress is “balanced” is not clear to all parties.

The CALFED program is predicated on the idea of balanced progress – to prevent the priorities of some stakeholders from overshadowing the priorities of other stakeholders. But the BDA has not put in place required performance measures, making it difficult to monitor progress in ways that document added value or indicate whether progress is sufficient or “balanced.”

The Authority’s staff indicate that progress is being made on performance indicators, but that work was delayed by the Authority’s slow start and inadequate resources. They also point out that the development and use of indicators is farther along in those programs that had made substantial progress prior to the BDA opening its doors.

Still, the procedures of the board itself, as well as the annual report, do not focus attention on monitoring programs and assessing balance. There also seems to be some anxiety about the consequences of declaring the program unbalanced, even if many stakeholders already believe that is the case. Some of this anxiety is attributed to concerns that the CALFED consensus is too fragile to endure such a declaration, while others suggest that there is not the political sponsorship needed to make needed alignment and restart the CALFED program.

Legislative oversight has been ineffective.

Legislative members who have expressed concern about the progress of CALFED, and the operation of the BDA in particular, say they have inadequate tools for encouraging improvements. The placement of legislative members as non-voting members on the Authority board was presumably intended to provide a mechanism for the Legislature to monitor progress and influence decisions of the BDA. Those lawmakers who sit on the board also have used legislative mechanisms for expressing concerns and urging specific actions. Still, those lawmakers say that cutting CALFED’s budget – a sign often interpreted by the public as an attempt to diminish a program – is a blunt tool in their effort to strengthen the program.

Public decision-making is not providing needed transparency.

Several participants said a fundamental goal of the BDA was to improve “transparency” in the CALFED program, and the deliberations and decisions of the implementing agencies in particular. At the same time, a number of agency officials acknowledge that public managers are reluctant to air disagreements with partner agencies and so some of the issues that would have been squarely discussed and resolved prior to the formation of the BDA are not being dealt with effectively. More recently, agency officials have returned to their practice of discussing and working through issues among themselves prior to BDA meetings.

This issue is a persistent theme in the history of CALFED, defined by concerns that too many issues are worked out “behind closed doors” and the seemingly paradoxical assertion that

stakeholders have increasingly been involved in influencing those decisions. Some have suggested that this issue would be resolved in part if CALFED – and the BDA, in particular – fortified its use of collaborative decision-making and dispute resolution. Others have suggested that it is unrealistic for government officials to disagree in public. They suggest that stakeholders would be better off if the agencies committed to procedures for publicly identifying and describing issues, and allowing for public review and comment on issues prior to decisions being made. As currently structured, public meetings may not be the only or the most effective way of increasing public understanding of decisions that must be made and the information that is being used to make those decisions.

CALFED Governance Challenges Going Forward

Based on interviews, surveys and testimony, officials and stakeholders have identified a number of governance-related challenges facing the CALFED program and the Bay-Delta Authority. Previously, the Commission summarized the issues and problems associated with the current governance structure. This document 1) identifies underlying tensions that influence the governance discussion; 2) summarizes the desired attributes and expectations of the governance system; and, 3) distills the domains and direction of needed improvements.

As with the previous document, this summary is not predicated on Commission deliberations and does not represent any conclusions by the Commission. Rather, this summary was prepared as a mechanism to focus future testimony and discussions related to the Commission's review. In particular, the Commission would welcome written comments that correct, clarify or amplify these issues, as well as comments that identify other challenges not included in this summary.

Governance tensions

Various officials and stakeholders have identified different views of what lies ahead for CALFED, how the program should be focused, and what the governance system must accomplish. While some of these issues were identified in the previous work product, these differing perspectives present tensions that need to be reconciled for progress to be made:

1. Faithfully implement the ROD vs. Do what is necessary to fix the Delta.

The CALFED process has resulted in specific commitments – programs and actions – that are documented in the Record of Decision. While some conditions have changed – including fiscal and ecological conditions – some of the participants believe CALFED should stay focused on implementing the ROD. This requires a governance structure that is focused on coordinating the management of public programs. Other participants believe that the ROD is inadequate or antiquated, or both. Some of these participants believe the ROD did not really resolve conflicts about what needs to be done to restore the Delta and improve the water supply system. From this perspective, the governance structure must resolve fundamental policy issues and provide for an assertive adaptive management system that has never been successfully accomplished in the arena of natural resource management.

2. Rely on unilateral, agency-based decision-making vs. Rely on a collaborative decision-making approach.

Some participants believe the primary purpose of a governance structure is to coordinate the multiple programs identified in the ROD, to resolve conflicts among the government entities, and to assess and communicate progress. Public interest groups should be able to provide comments to the government agencies, but decisions within existing legal authorities are the sole responsibility of agency officials. From this perspective, the governance structure should not have any authority to direct or second-guess those decisions once they are made. In contrast, other participants – and some of the stakeholders, in particular – believe that CALFED should be a venue for resolving conflicts and developing consensus-based decisions among all of the major interests, including public agencies, their customers, and public interest organizations. While supporters of this idea do not necessarily believe the CALFED governance structure should have decision-making authority over the implementing agencies, they do believe the governance process should encourage or even require that all decisions that could have significant impacts on the Bay-Delta be shaped through the CALFED process.

3. Fix the Delta vs. Fix the problems that impact the Delta.

There is general agreement that support for the ROD was built by adding elements that various interest groups believed could contribute to the solution. Both tighter fiscal times and concern about growing problems in the Delta proper have prompted many to advocate for a tighter focus on the Delta. At the same time, there is still a substantial interest in solving problems that could reduce pressures on the Delta, even if that solution is hundreds of miles away. Some of this tension can be eased by separating problems that are worth solving and will be solved through CALFED from the problems that are worth solving, have an impact on the Delta, and will be solved through some other means. The Department of Water Resources' work on regional water plans is an example of an alternative mechanism for reducing water demands on the Delta. Easing this tension might also require refinement of what CALFED is specifically trying to accomplish and which strategy will be pursued to achieve those goals. For example, the unresolved discussion about how to best increase water supply reliability will need to be resolved to ease these kinds of tensions.

Desired attributes of a governance system

The legacy documents and those involved in crafting the current governance structure have identified the attributes that the system must provide. While these attributes may be the same in general terms, the CALFED experience and the reconsideration of the governance structure provides the opportunity to identify modifications that would improve these attributes. The following briefly summarizes what the Commission has been told about these attributes.

- **Transparency.** The record is clear that legislators and stakeholders want and need a governance structure that is “transparent.” The current structure relies heavily on public meetings to create transparency. Public and non-voting legislative members were placed on the BDA board to increase openness. But officials also are candid that most of the controversial issues are worked through outside of the public meeting process. Public members are at a disadvantage because they are not part of the everyday discussions among the officials, and the officials are reluctant to candidly discuss issues and disagreements in public. Stakeholders often include in their definition of transparency the ability to anticipate, influence and then ultimately understand administrative decisions. Some public officials believe general disclosure requirements provide adequate transparency, while other participants advocate for formal protocols that would identify and provide public debate for all significant decisions concerning the Delta.
- **Accountability.** Like transparency, accountability is a noble but illusive attribute. Part of this challenge is definitional. Good organizational designs provide for internal accountability so that individuals know their roles and responsibilities, managers can make decisions necessary to address problems and improve performance, and large organizations can orchestrate the contributions of various divisions to achieve an overall goal. But successful public agencies also must develop robust mechanisms for external accountability. In this way, transparency and accountability are closely related. Public agencies must report what they are doing and how they are doing it. And in particular, they must measure progress. Public agencies do not have elegantly simple measures, such as profit/loss statements. And most public agencies are trying to affect an outcome over which they have limited control. Still, both internal management and external accountability mechanisms require measurement and response.
- **Efficiency.** Public efforts are imbued with various requirements that diminish efficiency – personnel and contracting rules, public disclosure, comment and appeal procedures. But to be successful, government must also be responsive to dynamic natural, social and economic systems that require swift and definitive action. CALFED is both praised and

criticized for its allegiance to process. In the future, CALFED leaders will need to develop procedures that are transparent and inclusive, improve decision-making and reduce conflicts, and do all of these in ways that take less time and fewer resources.

- **Effectiveness.** A premise of CALFED is that the implementing agencies can accomplish more working together than they can individually. In some instances, effectiveness is improved by reducing conflicts, such as those between regulatory and service-providing agencies. By sharing priorities, different agencies also can align their efforts, leverage additional benefits and achieve goals quicker. Agencies also have the potential to integrate efforts, strategically using assets and authorities to accomplish something they cannot do alone.

Desired expectations of a governance system

Some of the problems that participants identify within the current governance structure also reveal what a fortified governance structure should achieve. One way to assess potential modifications to the governance structure would be whether those changes could be expected to improve these outcomes.

- **Stronger state/federal relationship.** The state and federal relationship has been one of those most dynamic and challenging aspects of CALFED, dating back to before there was a CALFED. The early efforts focused on coordinating actions to thwart regulatory stalemates; latter day efforts have focused on maintaining a degree of commitment and investment needed to solve problems over the long-term. There are both individual and institutional aspects of these relationships. Institutional solutions cannot make up for individual weaknesses, but the partnership might be strengthened by better aligning legal, regulatory, operational and fiscal incentives and sanctions to encourage state and federal agencies to work together. Over the long-term, partnerships are sustained and strengthened because they add value – principally by allowing the partners to accomplish something that they cannot by themselves.
- **Stronger legislative/congressional support.** Early discussions about CALFED governance focused on the need to bridge the federal and state executive branches and by implication, to provide continuity as administrations changed. Experience has revealed the importance of strong relationships between CALFED and policy-makers in Congress and the Legislature. The testimony suggests that this relationship should be predicated on a strong “mandate” for what will be pursued and how it will be pursued. To craft that mandate, policy-makers must affirmatively respond to major problems – existing or anticipated – with a definitive policy solution. That approach allows the relationship between policy-makers and administrators to focus on progress toward specific goals.
- **Growing consensus among stakeholders.** A common hope for CALFED is that it will reduce conflicts that rise to the level of legal action or significant losses to one side. An emerging recognition is that the ROD represents more of a cease-fire than an actual peace treaty. Some participants believe the water wars will return when CALFED cannot deliver new solutions to persistent problems. Regardless of whether CALFED is grounded in collaborative decision-making, many participants see potential to cooperatively solve fundamental policy differences as a reason to maintain and strengthen CALFED.
- **Quicker and better resolution of problems and conflicts.** While some participants believe that CALFED has been hobbled by a consensus that is only an inch deep, most participants recognize that trying to meet the broad objectives will present a stream of predictable and unpredictable conflicts. For CALFED to “add value” it must consistently resolve those conflicts in ways that are quicker and more satisfying than alternative venues, including the courts and the Legislature.

- **Better overall solutions.** The ultimate goal must be more than the absence of conflict, but CALFED has not yet detailed a vision for how everyone really gets better together. Through adaptive management and close coordination of efforts, CALFED has the potential to develop cost-effective solutions that can only be achieved by the agencies working together and sharing resources, regulatory tools and expertise to achieve commonly held objectives.
- **Better understanding of progress and outcomes.** Part of the current debate is whether CALFED has made progress, and in particular, whether that progress is “balanced” among the different objectives. Some officials believe the current controversy could be eased by better articulating the progress that has been made. Others have been frustrated that objective performance measures have not been adopted, while still others believe those measures cannot be developed until there is agreement on how CALFED will achieve broad objectives.
- **A willingness to pay.** The CALFED program must quickly evolve from a place where agencies, stakeholders and participants get “free money” to advance their agenda, to a place where they get the best return on their investment. This evolution will require resolving key policy decisions concerning current liabilities and future benefits.

The domains of needed changes

Government officials and stakeholders have identified a wide range of potential solutions to CALFED’s governance problems and the role of the Bay-Delta Authority. The following attempts to distill those suggestions into the domains of governance that need to be improved and the general direction of needed improvements. This summary is intended to encourage more specific discussion about how to best accomplish these needed improvements.

Executive leadership needs to be clarified and strengthened.

The previous summary identified some of the issues associated with leadership. Specifically:

1. It is not clear who is responsible for the success or failure of CALFED.
2. It is not clear who speaks for the Governor.
3. Political leadership is needed to resolve policy disputes and reach agreements.
4. Federal interest in CALFED has diminished since the ROD was signed.
5. Extraordinary leadership is necessary to maintain strong federal-state ties.

To address these issues, the leadership structure must focus responsibility and authority. It must provide clarity of roles and reporting authorities. It might be helpful to remember that the agency structure is intended to coordinate related government activities, and create a clear chain of command with a reasonable span of control. One concern is the governance structure should provide for some continuity over time and over administrations, but it should not diminish the Governor’s direct and ultimate responsibility for the program’s success or failure .

As in every discussion of leadership, the necessary qualifications of individual leaders are shaped by the job description. The leader of CALFED must be responsible for interagency and intergovernmental coordination. The leader must be responsible for legislative and congressional support, and ensure the effective participation of stakeholders and awareness among the broader constituency of civic leaders.

As the focal point for responsibility and authority, the leader also becomes the focal point for accountability – factually measuring the progress that has been made, seeking and making the changes necessary to improve the program’s performance.

Legislative leadership needs to be focused on policy choices and outcomes.

The previous document identified effective legislative oversight as important to building and maintaining the involvement and support of policy-makers. Additional testimony has since identified the need for a clear legislative “mandate” to give executive branch leaders the political authority needed to make change. The Legislature also must provide resources, to consider policy choices that arise, and to hold the executive branch accountable for progressing toward measurable goals. By focusing on goals, the Legislature’s interventions will be driven by results, rather than the complaints of individual constituencies.

Interagency coordination should be predicated on science-based adaptive management.

The legacy documents regarding CALFED governance focus primarily on an entity responsible for the range of management-related functions – including direction, coordination, review and approval of budgets and plans, internal oversight and accountability. The debate preceding the BDA focused on how much real authority to give to the BDA and how to make administrative decisions more transparent through a public process. As previously described, participants have identified several problems facing this entity, including:

1. Adaptive management has not been adopted.
2. The structure of the BDA board does not support its functions.
3. Public decision-making is not providing needed transparency.
4. Neither the BDA, nor CALFED overall, are viewed as a place where member agencies, their customers and other stakeholders can achieve their goals quicker and more effectively than they can on their own or elsewhere.
5. Decision-making procedures have not been adequately developed.
6. The coordination and oversight functions of the BDA are seemingly in conflict.
7. The role and function of the board of the BDA, relative to its staff, is unclear.

Some of these problems are structural and could be dealt with as suggested by some of the testimony provided to the Commission by separating management functions from external oversight.

But some of these problems may also be rooted in the vagueness of legacy documents and what the structure is really trying to accomplish. Coordination has different meanings that together constitute a continuum of options – everything from making sure agencies are not duplicating efforts or working at cross purposes to integrating the expertise, authority and resources of involved agencies to accomplish common goals.

By invoking adaptive management, the ROD seems to envision (and some stakeholders now advocate more clearly) an approach on the integration end of the continuum. But even the advocates of this approach acknowledge it is difficult, and has not yet successfully been modeled in the realm of natural resource management, in part because of the sophisticated and poorly understood dynamics of ecosystems.

Nevertheless, policy-makers, resource managers and stakeholders will need to consider what it would take to truly put in place adaptive management of the Bay-Delta system. That model would be different than the BDA model of a separate entity to monitor and nudge the work of other agencies. An adaptive management system would require consistent executive-level commitment. It would require the development of strong and well-known management practices. And it also may require modifications to organizational design and management procedures to integrate the decision-making and activities of the various implementing agencies.

The science program needs to be independent, adequately funded and used to guide decisions.

The adaptive management model referenced above would need to rely heavily on the science – what is known and what is unknown – that the science program is intended to produce. Participants frequently point to the science program as an important accomplishment of CALFED, although there is recognition that the program has not had the resources or the time needed to develop into the mature and sophisticated tool needed to inform management of the Bay-Delta estuary. As an organizational asset, the program needs to be fully integrated into deliberations and decisions – by stakeholders, by managers and by policy-makers. The science program, however, also must be independent enough so that its work is credible and that conclusions are not influenced by politics, and by the political agenda of the executive branch.

Stakeholder involvement should become more efficient and effective.

Stakeholder involvement has been a hallmark of the CALFED process, and participants have strived to improve the efficiency and the effectiveness of that involvement. In general, stakeholders agree that they should be consulted on problems and potential solutions. They should be informed of pending decisions, allowed to influence those decisions, and understand decisions when they are made. There should be an opportunity to identify and resolve conflicts among stakeholders and the government through the CALFED process.

More recently, there is concern that relying on the Federal Advisory Committee Act limits the ability of the Bay-Delta Public Advisory Committee to directly provide feedback to the BDA or to state policy-makers. To be efficient and effective, the stakeholder process will need to involve more Californians who are concerned about these issues and could contribute to better solutions. The process will need to make it easier for those people to monitor and engage in discussions, without necessarily attending meetings. And stakeholders will need to be able to directly inform whoever has a role in improving the Bay-Delta.

Oversight needs to be outcome-based and verifiable.

The legacy documents refer to oversight in ways that are closely linked – even combined with – coordination and accountability. In general, they describe oversight in terms of a management function. Good management requires executives to continuously assess performance and make changes to people and procedures to improve performance. The BDA's structure, however, is predicated on public and external oversight. Management oversight cannot be accomplished effectively through external mechanisms.

In government, the Legislature typically provides external oversight by investigating problems, and by reviewing and approving budgets. The Legislature has recognized the limitations of its ability to provide focused oversight of specific programs and has created other mechanisms to ascertain facts or to assess the performance of executive branch activities. In those instances, some of the most effective mechanisms are independent of management control, fact and outcome-based, and involve public procedures or public reporting of conclusions. As described above, there is agreement that the governance structure must publicly track progress, assess obstacles and identify changes needed in management and policy.

Summary

The tensions described above are not necessarily mutually exclusive, but need to be reconciled if changes to the governance structure are going to be predicated on what CALFED is trying to accomplish and how it is to achieve those goals. The attributes and expectations describe what all participants need and want from the governance structure. Finally, the domains of needed changes suggest where reforms must be made to improve the governance of CALFED.