

Meeting Summary

Community Benefits Program Case Study Workshop

Delta Conveyance Project

November 17, 2021, 6pm - 8pm



Meeting Synopsis

The Department of Water Resources (DWR) is developing a Community Benefits Program for the proposed Delta Conveyance Project which will ultimately identify and implement commitments, if the Delta Conveyance Project is approved, to help protect and enhance the cultural, recreational, natural resource and agricultural values of the Delta. On November 17, 2021, 58 people attended the Delta Conveyance Project Community Benefits Program Case Study Workshop. DWR held three previous workshops for community members to learn about and provide input on the proposed Community Benefits Program for the Delta Conveyance Project. DWR designed this workshop to provide information to community members about existing community benefits programs for other projects. To achieve this, Juliana Birkhoff, Managing Facilitator with Ag Innovations, and DWR invited three panelists to speak: Ben Beach, Legal Director of PowerSwitch Action; Omar Muhammed, Executive Director of Lowcountry Alliance for Model Communities; and Scott Collins, City Manager for the City of Morro Bay. The three panelists presented case studies about their experiences with community benefits programs. Juliana Birkhoff facilitated a conversation between the three panelists to comment on their insights and lessons learned. For the last 45 minutes of the workshop, the panelists participated in a question-and-answer session with the workshop attendees.

The workshop concluded with information about the proposed Delta Conveyance Project Community Benefits Program development and next steps, including details related to DWR's public release of the Draft Environmental Impact Report (EIR) for the Delta Conveyance Project, which is expected in mid-2022. Background on the proposed program is available on the Delta Conveyance Project website: <https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Community-Benefits-Program>.

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This workshop summary paraphrases individual comments from participants in the Community Benefits Program Case Study Workshop. All materials are available on the project website at: <https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Community-Benefits-Program> or for any questions, please contact DeltaConveyanceCBP@water.ca.gov or 1-866-924-9955.

Welcome and Introductions

Presenters:

Ben Beach (Legal Director, PowerSwitch Action)

Omar Muhammed (Executive Director, Lowcountry Alliance for Model Communities)

Scott Collins (City Manager, City of Morro Bay)

Agenda Review and How to Participate

Juliana Birkhoff, Managing Facilitator, Ag Innovations said that the objectives of the workshop were to provide information about the community benefits programs and lessons learned, such as:

- Different organizational structures of community benefits programs
- How long community benefits programs take to develop
- What are typical and important milestones for community benefits programs
- What worked in various community benefits programs
- What they would do differently

Dr. Birkhoff explained how to participate in the workshop in either English or Spanish. She also explained how to access the resources associated with this workshop, including the agenda and presentation, on the [DWR website](#). She demonstrated how to use Zoom to provide verbal input. Finally, she reviewed the agenda.

Community Benefits Programs Overview

Dr. Birkhoff presented an overview of the proposed Community Benefits Program for the Delta Conveyance Project. She stated the Delta Conveyance Project acknowledges that:

- The direct project benefits of this project are related to water supply reliability of the State Water Project and, as such, are not focused on the local Delta communities.
- If the project is approved, construction could potentially have adverse effects on communities in the Delta.
- California Environmental Quality Act (CEQA) environmental mitigation may not fully address some of the potential project non-environmental adverse effects that a community benefits program may be able to address.

Dr. Birkhoff explained the proposed Community Benefit Program objectives are to:

- Provide a mechanism for the project proponents to demonstrate good faith, transparency, and accountability to the community through formal commitments developed with community members' input.
- Protect and enhance the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.
- Provide a mechanism for the Delta community to identify opportunities for local benefits.

She said the two components of the Delta Conveyance Project Community Benefits Program under consideration are:

1. **The Delta Community Fund:** Grassroots framework to fund community priorities, developed and managed to empower the local community.
2. **Project Implementation Commitments:** Hiring targets, jobs training, education, local business utilization, infrastructure, and facilities.

Dr. Birkhoff explained that to provide the community with more information about community benefits programs, DWR researched different community benefits programs. DWR looked for projects that generally met the following criteria to present as examples:

- Large infrastructure
- Long-term construction impacts
- Project benefits were not local but impacts of the project were local
- Potential for environmental justice and economically disadvantaged community concerns

Dr. Birkhoff noted these criteria were chosen to match concerns regarding the proposed Delta Conveyance Project as closely as possible. She also said she looked for large-scale water conveyance projects in rural agricultural areas but could not find any.

Characteristics of Community Benefits Programs Presentation - Ben Beach, Legal Director, PowerSwitch Action

Ben Beach, Legal Director of PowerSwitch Action, presented information on the characteristics of community benefits programs. He described his organization as a national network of local organizations dedicated to building power and reshaping the economy and urban environment for workers and communities.

To begin his presentation, Mr. Beach noted that he believes major projects should deliver real and substantial community benefits. He stated that he does not provide support for any outcome and his role is to provide information about community benefits programs.

Mr. Beach described the use of a legally binding agreement as one potential option, related to a single development, which operated with three core principles. Those were:

- **Accountability.** That is clear, specific, and legally binding that the community can enforce. He emphasized the importance of community oversight over the delivery of benefits.
- **Meaningful benefits.** The benefits are responsive to genuine community needs, address the adverse impacts of a project, and are delivered at an appropriate scale.
- **Democratic participation.** He stressed that the process of arriving at a community benefits agreement is as important as the agreement itself.

Mr. Beach described his experience with these types of agreements, noting that they had common benefits, including:

- Living wages and benefits
- Stable and predictable work

- Targeted and fair chance hiring
- Affordable housing
- Environmental mitigation
- Small business support
- Community services like grocery stores, public art, meeting spaces, health clinics, and workforce development

Mr. Beach noted that there are different ways to arrive at a community benefit agreement. These agreements can be formalized in ordinances and policies, in land use planning, in government agreements, in private agreements, or agreements to share resources. Additionally, he explained that these tools can be used in conjunction with each other and are not mutually exclusive.

Finally, Mr. Beach shared community benefits resources.

- [Common Challenges in Negotiating Community Benefits Agreements and How to Avoid Them](#)
- [Delivering Community Benefits Through Economic Development: A Guide for Elected and Appointed Officials](#)

Community Benefits Programs Case Study Presentations

Omar Muhammed, Executive Director, Lowcountry Alliance for Model Communities

Omar Muhammed is the executive director of the Lowcountry Alliance for Model Communities (LAMC). He described LAMC as a nonprofit based in South Carolina founded to advocate environmental justice and promote community development, education, employment, quality housing, and community involvement.

Mr. Muhammed described one of LAMC's success stories. LAMC helped to negotiate a "community mitigation plan" (the first such plan in the state and in the nation) between the South Carolina State Ports Authority and the City of North Charleston. The agreement addresses the direct and indirect impacts of the South Carolina State Ports Authority's new port terminal. He also said that in addition to this success, LAMC has created two additional nonprofits to address critical needs: The Charleston Community Outreach to Action Board (to address environmental justice issues) and the Community First Land Trust (to address the lack of affordable housing).

Mr. Muhammed presented the LAMC theory of change, which is "Educate, Engage, and Empower". He said that LAMC believes that community dynamics are unique and contextual. It is important to enter a community without expectation or solutions. He said that solutions must be co-created with a foundation of trust and address a wide breadth of topics. He noted there are always competing agendas, and it is important to be able to negotiate and navigate between them. He said that the role of LAMC is to help the community build confidence that they are contextual experts for their lived experiences.

Mr. Muhammed described potential elements of the LAMC agreement:

- Economic development: support local hiring initiatives, business development opportunities, and affordable housing efforts through the creation of a community trust fund or community land trust.
- Education: invest resources in quality public education for young people.
- Employment: prioritize training, hiring, and advancement opportunities for residents.
- Housing: prevent displacement of long-term residents by preserving existing affordable housing options and creating additional units of affordable housing.
- Sustainability: promote transparency and public accountability in the planning process and ongoing operations.

Mr. Muhammed also described specific examples of how those elements might be implemented by creating specific and measurable metrics.

Mr. Muhammed gave an additional example of a specific agreement that LAMC participated in: The Chicora/Cherokee Community Benefits Agreement in 2019. He said that in this case, a warehouse applied for a zoning variance, and a nearby community was concerned with the number of trucks entering and leaving the facility, air quality, noise, and aesthetics. He said that the zoning commission approved the community's request to deny the application. However, the zoning administrator overruled the zoning commission and approved the application. The community appealed to the Board of Zoning. He said the developer requested a meeting with the community to negotiate a path forward. Mr. Muhammed explained that the participants agreed that their role was:

- Commitment to the best interest of the community
- Commitment to educating and supporting the power within the community
- Willingness to engage and innovate new forms of cooperation
- Appreciative Inquiry and Alternative Dispute Resolution as organizational change processes

He explained that the outcome included removing semi-trucks from community streets, developing a partnership with a local school, creating a buffer zone between the warehouse and the community, and priority hiring for qualified residents.

Scott Collins, City Manager, City of Morro Bay

Scott Collins, City Manager for the City of Morro Bay, presented the Castle Wind, Offshore Wind Project and the community benefits program they established in Morro Bay.

Mr. Collins said that Morro Bay is historically a fishing community and fishing is an important part of Morro Bay's culture. He said that fishing revenues have decreased. Therefore, Morro Bay is interested in exploring economic diversification in the community. He said wind energy could provide economic benefits to improve the region. However, fishing groups were concerned that wind energy might affect fishing. Morro Bay wondered if wind development could provide jobs and other direct benefits to Morro Bay.

Mr. Collins described how they developed their community benefits program. Castle Wind directly approached a local fishing organization to develop an agreement to mitigate impacts on fishing groups. He said that Castle Wind also approached the City of Morro Bay in 2016.

They met with the City Council and Sub-Committee many times and held several community forums. He explained that in 2018, an agreement was approved and signed by the Mayor, on behalf of the City Council, and the CEO of Castle Wind.

Mr. Collins described how the plan will be implemented. Morro Bay agreed to support Castle Wind's application. The City of Morro Bay also granted Castle Wind first refusal on City infrastructure. He said that Castle Wind provided \$250,000 to the City of Morro Bay to be used in harbor related activities/projects. If Castle Wind is selected for the lease site by the federal government, their operations will include local hiring, apprenticeship opportunities, developing a maintenance facility in Morro Bay for local jobs, developing local construction accommodations, purchases through the local supply chain, and electrical charging stations. Additionally, the City of Morro Bay and Castle Wind set up regular talks to stay abreast of wind development and address community concerns.

Panel Discussion

Dr. Birkhoff facilitated a discussion between the three speakers related to their personal experiences developing community benefits programs.

Dr. Birkhoff: How did the idea develop in your project? When should you start thinking about a community benefits agreement?

Omar Muhammed: Now. Begin thinking about those things now. Communities have challenges they are trying to address, and they need to think about what the project can address, what it cannot address, and how to articulate those needs. Often, communities need to be able to prove that they are disproportionately impacted.

Dr. Birkhoff: Could community benefit discussions happen too late or too early?

Omar Muhammed: No, on our first project we came in during the draft Environmental Impact Statement. On the second we came in during the application. Get in when you can and keep an open mind of several types of ways of how to get to a "win."

Dr. Birkhoff: Scott, your project has not yet been permitted so you may have an opinion about timing.

Scott Collins: Correct. To Omar's point, the earlier you get into the community the better to build relationships and trust. You should not get too in the weeds too early, you might miss opportunities to talk with community members, like schools and churches.

Ben Beach: I agree with Omar and Scott. Another tool that we employ, and encourage folks to employ, is a "Community Impact Report," in addition to the Environmental Impact Report. A Community Impact Report is a report that includes things that might be more relevant to communities, like jobs, wages, and it can be part of the early process. It is also important for a community to coalesce around a set of demands. The most effective processes we have seen are when there is a unified, broad, and deep community resolution. The only time I

would wait is if you do not know the contours of the project. For example, if you do not know if you are dealing with housing, or warehousing, or a power plant, those are very different projects. But that is not the case in the Delta.

Dr. Birkhoff: In this case, the Delta is a rural area, a region, not a city. So how do you get the community together? What are some organizing strategies or engagement strategies?

Scott Collins: Our fallback is a taskforce; you may not have time for a Joint Powers Authority. You need to think of all the actors besides the community. That might include county governments, the board of supervisors, cities, and nonprofits. You need to think big.

Omar Muhammed: A coalition framework is useful, where you ensure community representation is at the table. Early on it must be established that the communities are an expert at the table. There can be a power dynamic in the room, and noncooperation can happen if people do not feel that they are being heard. It needs to be established that communities are at the table as equal partners, and as experts.

Dr. Birkhoff: We asked people what category of benefit they would want, and what category was the most important. People responded that natural resources and water quality (for drinking and habitat) were important. How did you prioritize the priorities? How did you make sure not to favor certain people?

Omar Muhammed: We listed all of the identified priorities. We gave people sticky dots, and everyone had four or five depending on how long the list was, and people placed dots next to their interest areas. The categories with the most dots became our priorities.

Scott Collins: For us, it was Council directed. Community benefits were tangential to the project. They needed to use our harbor to make their project viable, so why not reinvest in that area.

Ben Beach: I am accustomed to working with self-organizing coalitions, when those coalitions are big and powerful, they include a lot of different interest groups, and so it's a negotiation inside of the coalition. But most often, stakeholders honor the top priorities of everyone at the table and accept that things shift. To set up the initial list, our coalitions bring a long list of priorities based on community priorities. That is why the coalition needs to be broad and deep. Also, on the government side, we recently worked in a city that developed a stakeholder process that brought a lot of people to the table. The local government itself used a racial equity matrix.

Dr. Birkhoff: How did you all formalize your programs?

Ben Beach: In my experience, it is most important to start with the "what." Then you can work with lawyers on the "how". Different demands can be realized through different vehicles, so you should stay open to that. It might be that the way you get to a job training program is through working with funding opportunities outside of a community benefits agreement. Or you can memorialize the targeted hiring requirement in a thing that already exists. But that is

a significant role that lawyers can play. As an attorney, I try to not overemphasize the role of lawyers. I liked Omar's description of "we figured it out, and lawyers helped us write it down."

Public Questions and Discussion

Adequacy of a Community Benefits Program to Mitigate Impacts of Delta Conveyance Project

A participant expressed frustration at the harm that the Delta Conveyance Project would bring to the Delta region. The participant did not believe that the example projects were like the Delta Conveyance Project. The participant said the Delta Conveyance Project would have a significantly worse impact to the Delta region, especially in terms of agricultural and housing resources.

- Mr. Mohammed responded that he understood the frustration of the participant. He noted that these development projects are difficult and emotional for impacted communities. He explained that in his presentation he did not mean to suggest that the approach that LAMC employed is the only approach, or that that the community benefits program would translate to this context. He believes that communities should be open to the process and that the community impacts should be mitigated and compensated.

Another participant stated that they were a Delta Conveyance Design and Construction Authority (DCA) Stakeholder Engagement Committee member and do not feel that DWR is listening to community suggestions or concerns. The participant said that no community benefits could offset the impact of the project. The participant stated that DWR did not have a history of fulfilling their promises.

- Dr. Birkhoff reminded participants that this was a question-and-answer opportunity to learn about case studies in other areas. The panel speakers are not familiar or versed in the Delta Conveyance Project.

Another participant said that the Delta Conveyance Project would be the most destructive and expensive project in California history. They said the presenters and the scale of their community benefits projects were not relevant to the scale of the Delta Conveyance Project and explained that the Delta was an entire region made up of five counties, not a single community.

- Dr. Birkhoff reminded participants that the meeting was organized as a response to input from community members to provide information about community benefit program examples.

Union Labor for Construction

A participant stated that the community benefit agreements discussed were a euphemism for a Project Labor Agreement (PLA), which is a discriminatory agreement that only employs union labor. The participant said that most Delta construction workers are non-union. They said labor agreements should include non-union stakeholders.

- Ben Beach responded that although some use the terms "community benefit agreement" and a PLA interchangeably, in most situations, there is a distinction. A PLA

relates specifically to the labor part of it, however a community benefits agreement can be much broader. Additionally, there is another separate term, a Community Workforce Agreement.

- Dr. Birkhoff noted that at this moment, DWR is proposing a community fund and project implementation commitments. The project implementation agreements might relate more directly to construction.

Clarification Regarding Morro Bay Wind Development Project

A participant wondered why Morro Bay had jurisdiction over the offshore wind development project and was curious if other nearby communities had input.

- Scott Collins clarified that the City of Morro Bay does not have permitting authority on this project. He responded that the reason Morro Bay is being consulted is that the City of Morro Bay has a decommissioned power plant that does not operate but connects to the grid through City of Morro Bay infrastructure, and that Castle Wind needs to use that infrastructure.

How to Determine the Benefit Amount?

A participant asked how an agreement might arrive at an “upper limit,” of a total program benefit amount, and how that upper limit is determined. The participant asked if there was an open-ended model that provides benefits to the community while the contractor is receiving benefits?

- Scott Collins responded that ultimately it is a negotiation to determine that upper limit. He thinks it is important to build a big enough coalition to ensure that you are asking for the right amount.
- Omar Muhammed responded that he had experience working on this. In the negotiations he has been involved in, the community took the resources from the agreement and invested them in an endowment. The community can take the interest from the endowments and invest that interest in various projects to improve the community’s quality of life.
- Ben Beach responded that he appreciated this question. He has seen agreements specify the developer or project owner's minimal contribution and has also seen agreements where the project developer or owner must create an outcome, regardless of the cost. Some projects specify a revenue sharing program, so a community fund receives a percentage of the profit. He elaborated that what he likes about community benefit agreements is how they can be flexible and unique in each case. He said that no one negotiating should be bound by precedent and the tool should be designed for the moment or project.

Tribal Involvement

A participant asked which tribal communities the DCA would work with as it negotiates community agreements. In particular, the participant asked if the DCA would negotiate with the federally recognized Indian Tribes in and around the Delta, including Wilton Rancheria, Buena Vista Rancheria, and the California Valley Miwok.

- Dr. Birkhoff responded she would pass on this question. As a reminder, DWR is leading the Tribal consultation and engagement efforts for the Delta Conveyance Project, not the DCA. DWR has held two Community Benefits Program workshops specifically for

the Tribal community and will continue to conduct formal Tribal consultation as prescribed under CEQA's AB 52 requirements and DWR's Tribal Engagement Policy.

Concern About the Implications of Participating in the Community Benefits Program Development

A participant described their understanding that DWR integrated the community benefits program into the CEQA process, and that anyone could be involved in the community benefits process without endorsing the project. The participant asked how to negotiate with the developer when the developer is a large public entity. They asked if the community does not endorse the project, should they not participate in the negotiations?

- Scott Collins described a project in Morro Bay, where there was a planned wastewater project that might have impacted a community and the community was opposed because of the cost. Even though they were opposed they participated in conversations to help the City of Morro Bay understand their concerns. Learning about their concerns helped the project develop ways to mitigate those concerns.

Drought Impacts

A participant asked if the drought was considered in the planning process, and questioned how droughts would be handled?

- Dr. Birkhoff explained that the panel was specifically about examples and experiences of other community benefit programs.

Mistrust Between Communities and DWR

A participant suggested that instead of this project, the participating water agencies could spend the money improving existing infrastructure. The participant said the DWR did not have a history of following through on commitments to communities. The participant said there is historical lack of trust between DWR and the impacted communities.

- Dr. Birkhoff asked panelists, "How do you negotiate with a party or parties that you feel are not accountable?"
- Ben Beach responded that the principle of accountability makes an effective community benefits program. He said that an agreement for a community benefits program should contain clear, specific, and enforceable terms. He said that agreements are often negotiated between people and entities that those people do not trust.
- Omar Muhammed said that this was one of the reasons LAMC wanted to memorialize the agreement with legal assistance. Additionally, he suggested that projects have an oversight committee. He explained that the LAMC oversight committee has quarterly check-ins with each of the groups to ensure that they are meeting the mitigation agreements and the other expectations, which are measurable.

Funding Sources

A participant asked how a community would get funding to organize with a group or codify terms in a community benefit program development process.

- Omar Muhammed said that LAMC does not charge community groups. He explained that LAMC supports those services through grants and has an operational endowment to support community organizations.

- Ben Beach said that PowerSwitch Action is a nonprofit that receives charitable support from foundations and others. He said PowerSwitch Action principally works with a network of grassroots affiliates who are also nonprofit organizations.

Project Scope

A participant questioned why the project had to be a tunnel as opposed to a pipeline and hoped to pass that question to DWR.

- Dr. Birkhoff confirmed that she would put that question forward to DWR and clarify the benefits of a tunnel versus other conveyance.

Next Steps

Dr. Birkhoff explained the next steps in the public engagement process. She advised people that the Draft EIR is expected to be released for public review and comment in mid-2022, and there would be more opportunities for engagement. She reminded people that all the information is on the DWR website, and that participants can submit questions by email to DeltaConveyanceCBP@water.ca.gov.