

DRAFT

MEETING SUMMARY

Stakeholder Advisory Committee (SAC)

Water Storage Investment Program (WSIP)

California Water Commission (Commission)

July 1, 2015

Prepared by Sacramento State Center for Collaborative Policy

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Introduction

The Stakeholder Advisory Committee (SAC) held its fourth meeting on July 1, 2015. The SAC is comprised of organizations throughout California representing interests in CALFED Bay Delta surface storage; groundwater storage and contamination prevention; conjunctive use and reservoir reoperation; local and regional surface storage; ecosystem improvements; water quality; flood control; emergency response; recreation; business and agriculture; tribal; and environmental justice/disadvantaged communities. Of 30 invited organizations, 22 SAC members or their alternates attended (see attendees list in Appendix A). Dave Ceppos, Associate Director for the Sacramento State Center for Collaborative Policy, facilitated the meeting. Commissioners David Orth and Armando Quintero and Assistant Executive Officer Rachel Ballanti represented the Commission. The SAC was able to maintain quorum until 1:03pm. At this time, the formal meeting converted to a public dialogue as several SAC members needed to leave for various activities at the State Legislature.

The meeting objectives were to:

- Provide preliminary suggestions for common assumptions methods
- Provide preliminary suggestions for approach to assess net improvements to water quality and ecosystem benefits
- Conclude discussion of approach to quantify public benefits
- Conclude discussion on application evaluation process
- Review SAC input on definitions

Download meeting materials from https://cwc.ca.gov/Pages/2015/07_July/070115SACAgenda.aspx

Meeting Summary

Opening

Mr. Ceppos began the meeting by welcoming SAC members and public stakeholders. Following this, Commissioners Orth and Quintero provided opening remarks. Commissioner Quintero highlighted the importance of the SAC's role to help the Commission develop the WISP and he expressed appreciation for their commitment. Commissioner Orth underscored the SAC's importance and added that their feedback has been helpful to the Commission during its deliberations. Mr. Ceppos then reviewed the agenda and explained the logistics of the meeting.

Several SAC members indicated they would be leaving to attend other meetings throughout the day. Some indicated they would return, while others indicated they might not be able to rejoin. Mr. Ceppos noted that this could potentially result in the loss of quorum and proposed that if quorum were lost, the SAC meeting would move to a public dialogue rather than a formal meeting. Some SAC members expressed concern that by moving to a public dialogue their feedback would not be valued the same by the Commission as if given in a formal meeting. Commissioner Quintero assured the SAC that the Commission would still use feedback given during a public dialogue. Commissioner Orth asked Commission Legal Counsel Maureen King to clarify if moving to a public dialogue violated Bagley Keene requirements. Ms. King explained there would be no legal issues with using feedback from the SAC during a public forum.

SAC members unanimously approved moving to a public dialogue in the event that the group lost quorum.

A few SAC members questioned how the Commission uses the SAC's input in its decision making process. These SAC members requested Program Staff to describe the Commission's review process for SAC feedback and how the Commission develops its meeting agendas. Ms. Ballanti explained that the Commission receives detailed meeting summaries from SAC meetings. Staff also provides an update at each meeting on the stakeholder process. Ms. Ballanti added that Program Staff would post written comments from stakeholders on the Commission website. Commissioner Orth explained that the Commission refers to the SAC meeting summaries to prepare for meetings. Ms. Ballanti also explained that the Commission discusses issues during their meetings. However, the Commission will not make final decisions on all of WISP until they review the completed draft regulation in a few months.

One SAC member requested Program Staff provide the SAC with updates on upcoming WSIP issues on the Commission's agenda. Ms. Ballanti indicated that Program Staff has posted an issue topic schedule on the Commission's website. She added that Program Staff/CCP would send this summary to SAC members.

Action Item: CCP/Program Staff will send SAC members a copy of the Commission's issue summary table.

One member asked for an update on whether the Commission will extend its timeline to develop the draft regulations. Mr. Ceppos explained that the SAC would continue its work until October.

Common Assumptions for Project Analysis

Rob Leaf, CH2M Hill

Presentation: Refer to meeting PowerPoint

Mr. Leaf described the proposed methods and common assumptions to evaluate “with and without” project conditions. He explained that using common assumptions ensures that WSIP staff can consistently evaluate and compare benefits and costs for projects. In addition, WSIP staff will use common assumptions to determine how a storage project improves the water system, calculate net and measurable improvements, and assure public benefits are provided over time.

Mr. Leaf briefly reviewed the framework used to quantify benefits and allocate costs. He explained that the project analysis methods measure physical changes between the with project and without project conditions. Mr. Leaf also identified how common assumptions fit within the overall analysis of public benefits. Program Staff are developing appropriate “with and without” project conditions and assumptions. They are also developing common physical conditions/assumptions and economic conditions/assumptions. Mr. Leaf concluded with some example "without project conditions" and identified likely common assumptions for surface water, aquatic resources, and economics.

The SAC’s discussion centered on the following questions:

- How flexible or prescriptive should requirements for Common Assumptions be?
- What should requirements include?
- What other information should the WSIP provide to applicants?

SAC Discussion, Comments, and Questions

- One SAC member asked how WSIP staff is developing common assumptions for groundwater projects.
 - Mr. Leaf answered that the WSIP supports using information that characterizes hydrologic conditions. He added that Program Staff would develop common assumptions for groundwater projects this summer.
 - The SAC member recommended that groundwater applicants be able to provide analytical data in their applications without using a specific ground water modeling tool.
- A SAC member encouraged Program Staff to develop common assumptions for physical benefits and develop common economic value assumptions for the environmental physical changes attributed to a storage project.
 - Mr. Leaf explained that valuations depended on how projects are constructed and operated. He recommended projects submit all applicable information to identify measures for each public benefit.
- Another SAC member asked Mr. Leaf to identify the potential metrics Program Staff might provide to project applicants.
 - Mr. Leaf said that Program Staff is developing a common set of definitions for applicants. He added that they are working from the evaluation criteria to formulate the necessary common assumptions and metrics to demonstrate criteria compliance.
- Most SAC members expressed support for developing flexible requirements for common assumptions.
 - One SAC member noted that flexibility is practical. He advised that the Commission could not be the California Environmental Quality Act (CEQA) lead agency for evaluation of environmental benefits for all WSIP projects. He supported the Commission providing advice on how to measure benefits.

- One member supported flexibility because it is difficult to develop common assumptions for dissimilar projects.
- One member expressed support for Project Staff to identify how the common assumptions compare to CEQA requirements.
- Another member emphasized that common assumptions should be consistent with CEQA and be updated as CEQA is updated.
- A few SAC members voiced support for developing evaluation criteria before staff develops common assumptions. A SAC member explained that evaluation criteria help prospective applicants shape their project.
 - One member advocated for the Commission to develop its evaluation criteria so that projects and their investors can know whether to invest. He pointed out that projects cannot afford to wait for criteria that are more specific or be required to change what they have already done.
 - Another member recommended the Commission ensure that the criteria developed are consistent with what projects have already completed for their CEQA Environmental Impact Reports (EIR).
- One member expressed concern over differences that may arise between current project conditions, and actual long-range project conditions that cannot be forecasted. He asked whether Program Staff had reviewed different time horizons.
 - Mr. Leaf indicated that Program Staff has reviewed different time horizons but have made no decisions. Specifically, they have been reviewing possible conditions a century ahead as well as current conditions.
- Another member asked how the WSIP common assumptions differ from those developed for CALFED projects.
 - Mr. Leaf explained that WSIP has a broader scope and is less technical/prescriptive.

Net Improvements to Water Quality and Ecosystem Benefits

Jeremy Thomas, CH2M Hill

Presentation: Refer to meeting PowerPoint

Mr. Thomas stated that Program Staff are developing an approach to assess net water quality and ecosystem improvements. He asked SAC members to recommend how the WSIP will determine a project's net improvement and how the Commission should consider unmitigated impacts as they evaluate projects.

SAC Discussion, Comments, and Questions

- SAC members discussed how the Commission should consider impacts and unmitigated impacts when it evaluates project applications.
 - Some SAC members recommended the Commission assess project applications lower if the projects have unmitigable impacts. The Commission could also value projects higher if the project addressed impacts by changing the project design or developing mitigation measures.
 - One SAC member emphasized that public benefits cannot outweigh impacts that are not mitigated.
 - A few SAC members expressed concern that by ranking projects by unmitigable impacts the Commission will require projects to meet higher standards than are required by CEQA.

- Commissioner Quintero speculated that having unmitigable impacts will not exclude projects from funding but noted that it could influence how much funding a project would receive.
 - Some SAC members commented that the Commission does not need to address unmitigable impacts because other permitting and compliance processes address those issues.
 - SAC members discussed whether CEQA documents would provide the Commission with enough information to make decisions. The Commission will not have access to any of the information on unmitigable impacts because said impacts are not included in a draft CEQA document, but rather are included in a final CEQA document as a State of Overriding Consideration and that timing will be too late to inform the Commission.
 - A few members emphasized that including application criteria that require project applicants to address specific unmitigable impacts before they apply for funds.
 - Many SAC members supported the Commission asking applicants about unmitigable impacts and their plans to address those impacts.
 - One member explained that with information on unmitigable impacts, the Commission could gather data about potential physical environmental changes attributable to an applicant's project.
 - Another member supported asking about unmitigable impacts but emphasized that the Commission must determine if mitigation of such conditions will be a variable in the Commissions' funding decisions. If so, it will be up to project proponents, CEQA lead agencies, and associated regulatory agencies to ensure mitigation takes place.
 - A few SAC members suggested the Commission consider project impacts case-by-case for projects. The SAC member noted that projects are too complex to standardize an approach.
 - One member stated that the Commission must assess potential risks as it evaluates project with potential impacts. The Commission will need to decide if it should fund projects with unmitigable impacts because projects could be subject to litigation. He added that the Commission might also need to decide how long to hold funding to resolve legal actions in the event such actions are started over a specific project.

Public Comment

- A member of the public suggested that the WSIP application process include pre-mitigation activities so that projects comply with Assembly Bill 52.

How Example Projects Provide Public Benefits

Roger Mann, Independent Consultant

Steve Hatchett, CH2M Hill

Presentation: Refer to meeting PowerPoint

Please note: As of 1:03pm, there was no quorum.

Following up on their previous presentations on economic evaluation, Mr. Hatchett and Mr. Mann presented examples to illustrate how WSIP could calculate public benefits for conjunctive use and surface storage multi-purpose projects. The examples summarized benefits information, illustrated the concepts and the calculations, and showed how some actual projects' analysis would compare to the

likely requested information for WSIP. The examples provided did not endorse specific analyses, but demonstrated how the process could work.

Mr. Hatchett explained that conjunctive use projects could include the following potential ecosystem physical benefits:

- Water supply for ecosystem improvement
- Increased stream flow or habitat acreage
- Percolation ponds or increased flow may have habitat value
- Reduced Delta diversion and increased inflow

He also described how the WSIP could monetize economic benefits from improved water quality of ground water. Conjunctive use projects can also provide public flood control and recreation benefits as well as nonpublic benefits.

Mr. Hatchett outlined the benefits information that the WSIP could ask applicants to provide. These include:

- The most probable future without a project
- Costs that would be avoided with a project
- Targeted physical benefit
- Physical actions needed to obtain targeted benefit
- Monetary benefit associated with targeted physical benefit
- Alternative costs for those physical actions

Mr. Hatchett described a conceptual conjunctive use project. He provided the SAC with example study types to assist conjunctive use project applicants as they evaluate their benefits.

Following Mr. Hatchett's presentation, Mr. Mann provided a conceptual example of a multi-purpose surface storage project. He also provided some examples of existing projects elsewhere in the U.S.

SAC Discussion, Comments, and Questions

- One SAC member asked if all water quality benefits are public benefits (i.e. human right to water, land subsidence, and cultural benefits) in the WSIP.
 - Mr. Hatchett explained that the examples provided in the PowerPoint only refer to the five public benefits identified in Proposition 1.
 - The SAC member recommended that the Human Right to Water (HRTW) and improved water quality for disadvantage communities count as public benefits.
 - Ms. King informed the SAC that the Commission is working on how the HRTW fits within the overall framework of the WSIP.
- Another SAC member stressed the importance of defining the "public" and identifying who are the beneficiaries of public benefits. He emphasized that some projects will cause impacts that cannot be mitigated, which may also benefit others.
- One SAC member asked whether Proposition 1 could fund costs to acquire adjacent facilities to develop a ground water bank.
 - Mr. Mann explained that these would likely be eligible for funding and added that the project proponent would need to determine the costs allocated to each part.
- One member expressed concern that the examples provided to the SAC did not identify how projects south of the Delta can qualify for funding. He also expressed concern that projects

directly linked to the Delta would be favored in the evaluation process over those with an indirect connection.

- Mr. Hatchett noted that an example of such a project would be one that diverts water from the Delta.
 - One member questioned whether diversion projects would meet the requirements of Proposition 1 because they do not provide ecosystem benefits. He added that projects must provide durable benefits.
 - Commission Quintero explained that the Commission has discussed how south of the Delta projects could qualify. He noted there could be a hydrologic benefit to the Delta even if there is no hydrologic connection. He emphasized that the Commission would like to fund projects with the greatest benefit to all of California.
- Another SAC member asked for clarifications about the "constant dollar base year".
 - Mr. Mann informed the SAC that the constant dollar base year would depend on the inflation rate for the year in which a project applicant performs the analysis. The WSIP will assume no inflation.
 - The SAC member expressed concern that the definition for the constant dollar base year could be confusing to project applicants. Further, the SAC member wondered if it was overly prescriptive.
- There was a recommendation that the Commission endorse models that account for climate change assumptions.
- One SAC member expressed concern that the process does not include a way for project applicants to calculate how much funding they could receive. The member explained that not knowing the potential funding amount could inhibit a project applicant's ability to line up other (non-public) finances.
 - Commissioner Quintero clarified that the Commission has not determined funding levels for projects. He added that the Commission is also considering how it can work with applicants early on to ensure they are on the right track.
 - Jennifer Marr, WSIP Project Manager, advised SAC members that Program Staff has recommended that project proponents have access to Program Staff for technical assistance.
 - One SAC member proposed that the Commission should make available to the public, concise guidance about how staff will provide technical assistance to project applicants in a standard and equitable manner.
 - A few SAC members provided suggestions for how the Commission could add guidance earlier in the application process:
 - Use caseworkers to work with project applicants
 - Use a conceptual proposal phase to allow for conceptual review by Program Staff
 - One SAC member emphasized that there is a small amount of funding and the Commission will need to determine how it will spread this funding among the various projects.
 - Commissioner Quintero again emphasized that the Commission would like to distribute the funding so that it has the greatest impact on California through diverse projects. He added that the process would be transparent.

Application Evaluation Process Flow Chart

Joe Yun, DWR

Presentation: Refer to meeting PowerPoint

Mr. Yun reviewed how Program Staff incorporated recommendations by SAC members into the most current version of the evaluation process flow chart. See PowerPoint for all changes to the evaluation process flow chart.

Action Item: CCP will send SAC members a PDF version of the updated evaluation process flow chart and will provide such visual tools in stand-alone handouts at future SAC meetings to ensure SAC members can read said information. SAC members will continue to bring to meetings the project binders and all past materials that have been provided as a means to ensure member awareness of background materials, and to limit document reproduction costs and waste.

SAC Discussion, Comments, and Questions

- SAC members discussed whether the Commission should encourage integration. Several SAC members supported the Commission providing ways for projects to integrate (i.e. through the scoping survey) but emphasized that this should be the responsibility of the project applicants.
 - Several SAC members supported developing a second scoping survey to help determine the number of potential applicants, review project concepts and potential benefits, and support project integration.
- SAC members generally supported Program Staff providing technical assistance to project applicants during the application review process.
 - One member supported Program Staff providing technical assistance as long as the assistance did not involve final application decisions.
 - Another member recommended that Program Staff could add a level of transparency by posting, via the web, any question asked by project applicants and the answers provided by staff.
- One SAC member requested Program Staff consider creating a pre-submittal process to help screen initial project ideas. The pre-submittal process could select projects that would move forward to a second stage of the application process.
- SAC members differed about how long the public should have to review application evaluation materials prepared by Program Staff and independent reviewers. Some members advocated for a short public review period and others for a longer public review period.
 - SAC members discussed whether Program Staff should post all applications and then post updates as applicant's clarified issues, or wait to post applications until applicants resubmit their clarified applications.
 - Another SAC member recommended that Program Staff post all project applications on the web on receipt, regardless of whether the applications may need subsequent revisions, and post any subsequent application updates and reviews.
- One member asked whether the Commission has considered other statutory requirements.
 - Mr. Yun explained Program Staff is continuously considering other statutory requirements on ongoing basis.

WSIP Definitions

Jennifer Marr, WSIP Project Manager

Presentation: Refer to meeting PowerPoint

Ms. Marr updated the SAC on the definitions for the state water system, tributaries to the Delta, public benefits, and eligible projects discussed at previous SAC meetings. Tentative acceptance of a definition by the Commission indicates that Program Staff has the authority to continue working with the definition. It, however, does not reflect a final decision by the Commission and the public may still comment.

- The Commission has tentatively accepted Program Staff's proposed definition for the State water system and Delta tributaries.
- Program Staff provided draft definitions for public benefits and eligible project types to the Commission in April 2015 and the SAC in May of 2015.

Program Staff synthesized all comments related to these definitions and responded in a document that will be provided to the Commission at the July meeting. Program Staff will send a copy of the table to the SAC after the Commission meeting.

Ms. Marr explained that Program Staff received conflicting written suggestions from SAC members on what would be eligible as a public benefit for emergency responses. She asked the SAC to discuss whether water supplied for human consumption during an emergency should qualify as a public benefit. More specifically, Ms. Marr asked the SAC to consider the following questions:

- Should water stored for fire suppression be eligible for public benefit funding under the emergency response category?
- If yes, how should the program account for water supply for fire suppression?
- Should emergency reserves of drought water supply be eligible for public benefit funding under the emergency response category?

SAC Discussion, Comments, and Questions

- SAC members discussed whether Program Staff had determined the legislature's intent regarding public benefits for emergency purposes.
 - One SAC member recommended Program Staff continue researching legislative history to determine if they can glean the legislature's intent.
- Some SAC members suggested there should be no limit on what is considered a qualifying emergency because the real issue is whether an applicant can commit a dedicated volume of water for such emergencies.
 - One member emphasized that water agencies saving water for emergencies cannot control why they may need it.
 - Another observed that the legislation's expansive language (i.e. "not limited to") opens up the definition of an emergency purpose and agreed that water stored for emergency purposes should be counted as a public benefit. He recommended that project proponents be required to demonstrate their intent and commit that the water will be available for an emergency.
- Several members indicated that the use of dedicated emergency water supplies should be flexible, so emergency responders could manage the water based on specific emergency needs.
- SAC members discussed whether a drought would constitute an emergency.
 - Some SAC members stated that Program Staff should consider providing water during a drought as a private benefit and others stated it should be considered a public benefit during an emergency drought declaration.

- One SAC member pointed out that until declared as emergencies, people do not often consider a drought as an emergency.
- One SAC member noted there might be legal uncertainty whether a drought is an official emergency for the purpose of this benefit category.
- Several SAC members noted that water supply to customers is a private benefit regardless of emergency status.

Next Steps and Action Items

The next SAC meeting will be on August 5, 2015. During this meeting, SAC members will resume its discussion of common assumptions, receive an update on definitions, and be provided with an introduction to the rulemaking process.

Action Item: CCP/Program Staff will send SAC members a copy of the Commission's issue summary table.

Action Item: CCP will provide SAC members with the URL to the SAC webpage on the Commission's website.

Action Item: Program Staff will follow up with SAC member on the communication process to the Commission regarding the definition of tributaries to the Delta.

Action Item: CCP/Program Staff will send SAC members a PDF copy of the updated evaluation process flow chart.

Action Item: SAC members will bring their binders of information to all meetings.

SAC Discussion, Comments, and Questions

- Commissioner Quintero recommended that the Commission add a standing agenda item to receive updates from the SAC.
- One member requested that Program Staff provide more information to the SAC on common assumptions before the next discussion.

Appendix A: Meeting Attendees

Special Guest(s)

Commissioner David Orth
Commissioner Armando Quintero

SAC Members/Alternates

Lauren Noland-Hajik – Agricultural Presidents’ Council
Adam Walukiewicz – Association of California Water Agencies
Valerie Nera – California Chamber of Commerce
Danny Merkley – California Farm Bureau
Danielle Blacet – California Municipal Utilities Association
Nathan Rangel – California Outdoors
Mike Dozier – California Partnership for the San Joaquin Valley
Art Angle – Central California Tribal Chairs Association
Miriam Gordon – Clean Water Action
Marguerite Patil – Contra Costa Water District
Matt Machado – County Engineers Association, Flood Control, and Water Resources Committee
David Forkel – Delta Wetlands Project

Mark Smith – Ducks Unlimited
Gary Mulcahy – Environmental Justice Coalition for Water
Ronald Stork (alternate) – Environmental Water Caucus
Stephen Ottemoeller – Friant Water Authority
Chris Petersen – Groundwater Resource Association
Randall Neudeck – Metropolitan Water District of Southern California
John Kingsbury – Mountain Counties Water Resources Association
Doug Obegi – Natural Resources Defense Council
Susan Tatayon (alternate) – The Nature Conservancy
Thad Bettner – Sites Joint Powers Authority
Bo Mazetti – Southern California Tribal Chairs Association

California Water Commission Staff

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