

MOKELUMNE RIVER FORUM

MEETING No. 16

DRAFT MEETING SUMMARY

MEETING DATE: January 19, 2006

LOCATION: San Joaquin County Farm Bureau
3290 North Ad Art Road
Stockton, CA 95215

ATTENDEES: Tom Francis – East Bay Municipal Utility District
Charles Hebrard – Calaveras County Water District
Hank Willy – Jackson Valley Irrigation District
Gary Goffe – Calaveras Public Utility District
Tom Gau – San Joaquin County Dept. of Public Works
Mel Lytle – San Joaquin County Dept. of Public Works
Jim Hanson – San Joaquin County Dept. of Public Works
Ed Pattison – Calaveras County Water District
Jeanette Thomas – Stockton East Water District
Lena Tam – East Bay Municipal Utility District
Rob Alcott – East Bay Municipal Utility District
Gerald Schwartz – East Bay Municipal Utility District
Frank Beeler – City of Lodi
John Skinner – East Bay Municipal Utility District
Fred Weybret – North San Joaquin Water Conservation District
Ed Steffani – North San Joaquin Water Conservation District
Mike Floyd – State of Cal. Department of Water Resources
Mike Harty – Center for Collaborative Policy

ACTION ITEMS

1. Forum members asked Mike Harty to take comments generated regarding the 2nd Draft of the Assurances Document and prepare (with the help of a Forum sub-group) a 3rd Draft for circulation prior to the February 16, 2006 meeting of the Forum.
2. Time permitting, Forum members will commit to reviewing the 3rd Draft of the Assurances Document ahead of the February meeting and will be prepared to share and discuss their comments.
3. Mel Lytle of San Joaquin County (SJCO) is tasked with presenting an update regarding Northeastern San Joaquin County Groundwater Banking Authority's

- Integrated Regional Water Management Plan (IRWMP), and in particular regarding the list of project alternatives that are being forwarded for further consideration / ranking in their IRWMP.
4. Mike Harty will request Jim Abercrombie of Amador Water Agency (AWA) to be prepared to present an update of an IRWMP effort his agency is taking a lead role in (partners in that effort include upcountry agencies and EBMUD). Jim will be asked to detail project alternatives that may be included in the IRWMP (assuming that such information has been developed).
 5. John Skinner of EBMUD and Jim Hansen of Hansen Engineering / SJCO will be tasked with providing a presentation to the group in regards to “known” components of the upcoming Water Availability Study (e.g., current water rights, known existing agency water uses, etc.). Jim and John will work on the particulars of what will be included in the presentation during late January / early February.
 6. Protocol has been set regarding media contact that references matters of the Forum. It was decided that any agency should be able to provide media comments when asked and if they so choose. However, those comments would be limited to the views and/or position of their particular agency. All agreed that they would not offer comments on what they believe to be the views and/or positions of another agency. Questions that were of a general nature regarding the Forum would be directed to Mike Harty for his comment. Mike will answer questions posed of a general nature but will refer questions that pertain to what particular agencies positions may be to the respective member Forum representative.
 7. Ed Steffani and Fred Weybret of North San Joaquin Water Conservation District (NSJWCD) agreed to provide Breakfast at the February Forum meeting.
 8. The next meeting of the Forum will be held at the SJFB’s Stockton office from 9 am – noon on February 16, 2006.

PRELIMINARY MATTERS

December Meeting Summary

Minutes from the meeting of December 15, 2005 were distributed via email prior to this meeting. Printed copies of the minutes were provided at the meeting. No additional changes were requested.

Agenda

The proposed agenda for the morning's Forum meeting was discussed with one addition as proposed by Mike Harty of the Center for Collaborative Policy (CCP). Mike asked that a discussion be included regarding what other efforts (other than the development of an assurance document) the group could / should be working on currently and concurrently. He asked that this topic be included since some participants may have the view that additional activities are warranted to better assure that the work of the Forum is progressing at an acceptable pace.

New Attendee Introductions

Jeanette Thomas attended on behalf of SEWD and in light of the fact that Kevin Kauffman was unable to attend due to a meeting conflict (his attendance at an annual water contractor's conference put on by the Bureau of Reclamation in Reno, NV.).

AGENDA TOPIC: UPDATES FROM FORUM MEMBERS

EBMUD: Rob Alcott of EBMUD noted that his agency is working with Jim Abercrombie of AWA to prepare an IRWMP for a region that includes Amador County, Alpine County and Calaveras County. The IRWMP received grant funding from the State of California from Prop. 50, Ch. 8. Currently a consultant has been holding meetings with partner agencies as part of the document planning and development process. Rob noted that at some point there needed to be coordination between this effort and similar efforts by the Northeastern San Joaquin Groundwater Banking Authority (GBA) to integrate (if possible) strategies for regional water resource management and perhaps to identify project synergies (i.e., projects as may be proposed in the respective plans that complement each other). It was noted that projects proposed in IRWMP's would potentially find their way into implementation grant proposals (under Prop. 50 Ch. 8) in the year(s) ahead, and hence there may be benefits gained from integration of the two group's efforts.

Mel Lytle noted that he (in his role as the water resources coordinator for the GBA) had been in contact with the consultant hired by AWA to help in IRWMP preparation. Mel indicated a willingness to take part in some form of a joint meeting and/or an information sharing exercise. Details for just what should occur could be developed in the months ahead.

Rob mentioned that there was a meeting of the Mokelumne River Technical Advisory Committee (a group in which EBMUD is a participant) today. At that meeting, he understood that there would be a discussion of SJCO's plans (as understood by outside groups) regarding their proposed MORE WATER Project.

EBMUD provide information regarding their current year hydrology experience. A returning salmon count of 16,242 was recorded by their Mokelumne fisheries staff. Mr. Alcott also noted that 42 to 45 steel-head were counted, which was a high number since in year's past there were no steel-head observed.

In comment to EBMUD's hydrologic observations, Jim Hanson of Hanson Engineer / SJCO noted that the newly installed Woodbridge Dam's fish ladder was functioning particularly well. Edwin Pattison commented that he understood that the salmon numbers in the lower Tuolumne River were significantly lower this year, and that perhaps there was some offset correlation.

SJCO: Mel Lytle of San Joaquin County noted that the GBA had recently completed work on additional updates to the groundwater model for the basin that underlies the northeastern region of the County. The model results indicate that should no action(s) be performed to address the continuing matter of groundwater overdraft, and assuming a 2030 level of development is reached in the region, at some time in the future (approximately in 80 years) a major cone of depression is predicted to occur underlying a large portion of the region (extending from south of the City of Stockton's southern limits to well north of San Joaquin County's border with Sacramento County). Groundwater levels in this depression would bottom out at an elevation of approximately -100 ft. msl. Hence should this condition occur the effects outside of the SJ County region would be pronounced (effects would included much lower groundwater elevation, changes in current groundwater flow directions and gradients, increased advancements of the saline front toward the east).

Mel also indicated that the GBA was holding a consultant selection interview in regards to a Programmatic Environmental Information Report (PEIR) that will be prepared in conjunction with their IRWMP. Selection would take place that afternoon (01/19/06) following interviews.

CCP: Mike Harty of the Center for Collaborative Policy (CCP), the Mokelumne Forum's facilitator, noted that he had been holding continued conversations with non-governmental organization that were potential Forum participants.

Mike mentioned that members of the Foothill Conservancy indicated that the driving distance to the current Forum meeting location influenced their interest in participating. The Conservancy's apparently lack of interest in dedicating resources to the Forum together with the apparent lack of interest by other NGO's Mike has contacted is a cause of concern (in his view) in that the organizations may perceive that they did not have an ability to participate in the development of the assurances document (and hence perhaps would be reluctant to sign such a document) if and when a time comes in the future when they do show interest and/or have an inclination to participate in the Forum.

Mike indicated that he intends to shift focus away from NGO's and toward resource agencies. Perhaps those agencies would be interested in the Forum and would enjoy an opportunity to have a seat at the table.

Forum members suggested that Mike contact John Brodie of the Lower Mokelumne River Stewardship Council as well as members of the Mokelumne River Technical Advisory Committee as they may know of NGO's interested in participating. Mike indicated he would make those contacts.

AGENDA TOPIC: MEDIA POINT OF CONTACT

Mike Harty directed the group to a recent newspaper article that appeared in the January 6, 2006 edition Stockton Record entitled "Forum members' ideas differ" written by Warren Lutz. Copies of the article were distributed to the group to facilitate the discussion.

The subject of the article was the Mokelumne Forum and in particular the differences that exist between the various Forum members in regards to the respective reasons behind their desire to participate in the Forum. The article also noted that in general agencies had differing water resource goals and objectives.

Mike asked the group to consider if the Forum should have a single point of contact to respond to media questions.

It was noted that agencies are often contacted by the media to offer their perspective on a matter pertinent to their facilities, system, operations, finances, future plans, etc. The public and the rate-payers / users are in most circumstances entitled to being kept informed. There were risks associated with not providing comments when an interested party may view that a more forthcoming behavior was warranted (especially when one considers that often comment requests are tied to proposed cost expenditures by agencies).

It was also noted that while agencies may be in positions to comment in regards to matters that pertain to their individual operations and/or positions, it would not be appropriate for them to assume to understand and hence comment on the operations and/or positions of other member agencies of the Forum.

Tom Gau of SJCO mentioned that perhaps a fact sheet could be prepared regarding Forum particulars, and that this Fact Sheet could be used by all members should general questions regarding the Forum be posed by media and/or outside interests. Such a process could better ensure the consistency as well as the accuracy of the response to general Forum questions. The idea of preparing a Fact Sheet was viewed as a possible one for future consideration as the Forum matures.

Following additional discussion on the topic, it was decided that any agency should be able to provide media comments when asked and if they so choose. However, those comments would be limited to the views and/or position of their particular agency. All agreed that they would not offer comments on what they believe to be the views and/or positions of another agency. Questions that were of a general nature regarding the Forum would be directed to Mike Harty for his comment. Mike will answer questions posed of a general nature but will refer questions that pertain to what particular agencies positions may be to the respective member Forum representative.

<p style="text-align: center;">AGENDA TOPIC: REVIEW OF THE 2ND DRAFT OF THE ASSURANCES DOCUMENT</p>

A fifteen minute break was provided during which Forum members were given time to read a 2nd Draft of the Assurances Document (2nd Draft) that had been prepared by a Forum sub-group.

Following the above-noted break, Mike Harty lead a discussion on the 2nd Draft. Mike asked members to first refer to the meeting minutes of December 16, 2005. Those minutes noted that certain edits were required of the 1st Draft. Table 1 (as follows) summarizes the changes as noted in the December minutes.

Table 1
Requested Edits to the 1st Draft of the Assurance Document
(As provided in the Dec. 16, 2005 Forum Meeting Minutes)

#	Comment	Associated Considerations
1	Add a purpose statement regarding the need for assurances	
2	Add an interest summary for all parties	<ul style="list-style-type: none"> ○ Business objectives ○ More details on commitments
3	Assurances are diverse	<ul style="list-style-type: none"> ○ Is there a project ultimately that will meet the needs of participants? ○ How can we incorporate the need to protect agency water rights? ○ Will participants commit to removing project protests?
4	What is the Scope of the Assurance Document	<ul style="list-style-type: none"> ○ Should it be broad based / for any report prepared by the Forum? ○ Should it be narrowly defined / only in regard to the preparation of the Water Availability Study (WAS)? ○ Should it be “project assurances” or “information / program assurances”?
5	What should the term of the document be	<ul style="list-style-type: none"> ○ Should it be tied to the life of the Forum? ○ Should it terminate is a certain number of participants drop out of the Forum? ○ Should it match DWR’s Forum funding commitment timeframe? ○ Should the assurance document run indefinitely (e.g., have a life not tied to the life of the Forum)?
6	How should Forum participation be tied to the signing of the Assurance Document	<ul style="list-style-type: none"> ○ Should there be different levels of participation? ○ Would DWR agree to different levels of participation?
7	What “Consequences” would be incorporated into the Assurance Document	<ul style="list-style-type: none"> ○ Of failing to provide information? ○ Of using the document by a party in an activity outside of the Forum?

After Mike directed participants to review the list of required edits (as shown in Table 1), he noted that both he and Mel Lytle of SJCO had made edits to the first draft of the assurance document and that those drafts had been circulated in January for a review by sub-group members of the Forum.

Mel indicated that his edits were his attempt to translate the document into “legal” language, since it was his view that such language is what would ultimately be used in the final version adopted by members. However, the sub-group that was assembled to prepare and approve of the revisions to the 1st draft concluded that until such time as the broader Forum reached agreement regarding the “layman / readily understood” language, it was a bit premature to present a version that included the legal tone Mel proposed. Mel’s version was viewed as a good reference for use when this legal version was ready to be drafted.

Mr. Harty noted that it was the sub-group’s plan that today’s meeting would serve to highlight how the list of the changes proposed during December’s meeting (as outline in Table 1 to these minutes) were incorporated. He planned to discuss:

- Key points contained in the 2nd Draft;
- Discussion as to whether there were sections of the 2nd Draft that are unclear and/or that a member or members don’t understand (and hence require re-wording);
- Discussion as to whether there were elements missing from the 2nd Draft; and
- Discussion as to whether there were components that particular members could not agree with and/or would in their view be unacceptable for their agencies and/or by their legal counsels.

The sub-group members were first asked to note their opinion as to the 2nd Draft and respond as to whether their particular agency was satisfied with its’ content (note that Jim Abercrombie of Amador Water Agency could not attend today’s meeting, and further that Jim was a key member of the sub-group).

Lena Tam and John Skinner of EBMUD were on the sub-group. Ms. Tam noted that EBMUD was in agreement that with the proposed 2nd draft and had no comments at this time.

Similarly, Mel Lytle of SJCO was on the sub-group. Mel also noted that his agency is in agreement with the proposed 2nd draft although he suggested that there were some components not present that should be included in the final draft. Those included:

- A procedure for how the Forum process could be terminated if it appears that a majority of the members so choose to end discussions / meetings (majority as to be defined). Considerable discussion followed on this topic, with some viewing that no such provision was necessary and others viewing that such provisions

were important to include. An agreement as to which view was more acceptable was not reached. It was concluded, however, that the “confidentiality” of information shared while participating should be held to a “constant / un-voided” standard (as will be established in the assurances document) regardless of the status of an agency’s future participation status.

- Mel viewed that a section whereby terms (as may be used in upcoming studies and technical efforts) are defined should be included. Mel felt such definitions were necessary to avoid potential mis-understandings that could occur by groups having differing views/opinions of what is meant by a particular water-related term.

Fred Weybret of North San Joaquin Water Conservation District (NWJWCD) pointed out that some language that was contained in the 2nd draft appeared contradictory. Specifically, he pointed out that language as contained on page 3 of the 2nd draft, in the section entitled “Use of Written Information Prepared Exclusively for the Mokelumne Forum”, concerned him and needed to be reworded such that there remains an ability by any party to utilize publicly available information in efforts they view may be necessary as part of their particular water resource efforts (including legal efforts). He understood that information developed by the Forum would be precluded from such use, but he viewed that the document’s wording did not provide a clear enough understanding of such purposes. He noted that his agency must not sign a document that would in essence result in them giving up a potential future water right and/or project option, especially if it was unclear what the agency would get in return for making such a concession. It appeared to him that based on the current language in the 2nd draft of the assurance document what his particular agency would gain and perhaps what others would gain by signing the document remained unclear.

Discussion that followed noted that language revisions could be included to address Fred’s concerns. There was also the potential to better define the length of time / life (e.g., term) as associated with assurance document matters, and that perhaps by doing so some concerns would be eliminated.

Mike Harty also directed the group to review comment number 5 on page 2 of the document, under the section entitled “Types of Assurances”. This comment dealt with the potential for groups or agencies to dismiss and/or forgo adversarial water right protests. He noted in discussion that followed indicated that agencies still may view it necessary to file protests, since such actions could be viewed as “strategically necessary” instead of perhaps as “adversarial”. Mel Lytle of SJCO indicated that language was intended to prevent those from taking an adversarial stance while in the midst of negotiating in good faith (as Forum participants) on a particular solution to regional water issues (Mel made an additional comment to this topic as noted later in the minutes).

Charles Hebrard of Calaveras County Water District expressed some displeasure by the earlier comments made regarding the potential use of information in a setting outside of the Forum. He was concerned that parties could use information as provided by a particular agency in the context of the development of a Forum document and/or of a regional conjunctive use project (information that is not necessarily publicly available) in an outside proceeding(s) aimed at capturing what could be viewed as a right held by others. Hence if there was an unwillingness by parties to sign provisions that would protect the interests of his agency to protect the use of this information, his agency in turn would view it necessary to scale back or possibly eliminate their participation in the Forum.

Mike Harty understood Charles' concerns, as well as those brought up earlier by parties with differing issues. He summed up the matter by stating that "no entity should be put in a position where they are being asked to sign a document that puts their particular agency at risk". Hence the assurance document had to have components in place that included language that removes and/or mitigates said risks.

Further to the above statement, Mike Harty expressed that the concept that an agency "does not get to improve its' adversarial option by participating in the Forum" needed to be incorporated into the assurance document.

Mel Lytle of SJCO noted that if Forum members could work through the assurance matter, there was a tangible opportunity to leverage regional cooperation to gain political and financial support for Forum water projects (particularly in light of the bond initiatives that are upcoming in the State Legislature).

Additional comments to language in the 2nd Draft were as follows:

- On page 2, bullet list item # 1, Edwin Pattison asked that the term "respected" be better defined and/or another word selected;
- Mel Lytle of SJCO noted that within the document there was reference to a "two-year period of the Mokelumne Forum". He asked if that meant that after 2 years would then something change. He suggested that the language needed to be amended to take out any misunderstandings;
- Mel noted that bullet items #2 and #3 on page 2 could likely be combined with minor rewording";
- Mention was made that in bullet item #3 on page 2, the words "who are water purveyors" should be eliminated since perhaps not all Forum participants are purveyors;
- It was suggested that bullet item #5 on page 2 be modified to include the "not improve your position" concept as discussed previously during the meeting by Mr. Harty;
- Also in regards to item #5 wording, it was noted that some protests could not be removed and/or would not be removed until an agreement is reached (and a

- description of said agreement is provided to the State Water Board whereby the Board could then make note of such an agreement in their subsequent ruling(s));
- Mel Lytle of SJCO noted that while #5 perhaps required rewording, the removal of protests was nevertheless an important concept that his agency viewed a required element of the assurances document.

Mike Harty noted that there was a possibility that not all the agencies would be willing to sign the final assurances document. There also is a situation in which perhaps DWR could not sign the document and/or NGO's and resource agencies could or would not sign the document. The Forum would then be left with a decision to make. Specifically, should two or more categories of participants be developed such that some discussions and/or work efforts are open to only signatory agencies?

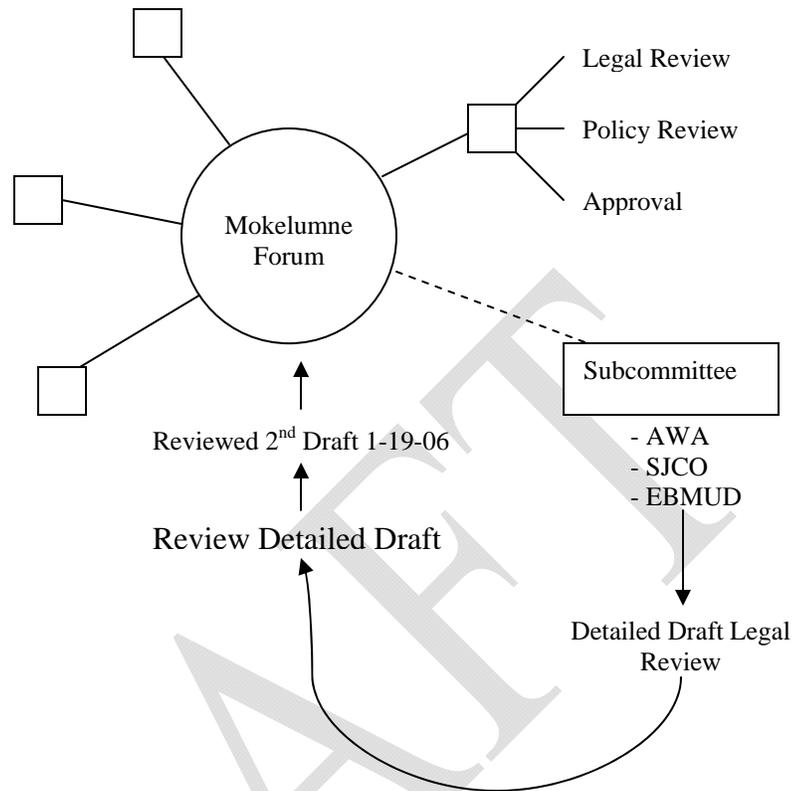
Examples of how two categories of participants would impact the work of the Forum was provided. In one example mentioned, it was noted that even routine documents such as meeting minutes should perhaps only be available to signatories (as based on whether information was discussed that could be viewed as a confidential nature). It was suggested that perhaps an edited version of the minutes would then be provided that would be made available for broad distribution.

Matters regarding what would be considered as available under a Freedom of Information Act, etc. were also briefly debated.

Mike Floyd of DWR commented that he understood that an environment of trust needed to be established before parties could move forward. That concept would be considered by his agency when they review any assurances document proposed and decide internally what DWR's formal position should be on the matter.

No final decision was made as to how to address the need for multiple participant categories, although it was recognized that this issue will come up again as the Forum moves forward.

To close the loop on the discussion of the 2nd Draft of the assurances document, Mike Harty directed the participants to a diagram he placed on a nearby easel / paperboard. That diagram is reproduced as Figure 1 to these minutes (see the Figure that follows).



**Figure 1 – Diagram of Formulation Process
Mokelumne River Forum Assurances Document**

Based on the process as detailed in Figure 1, Mike Harty noted that he together with the sub-group would make an additional round of edits to the document, creating a 3rd draft of the Assurances Document. If the sub-group was able to finished that effort in a short period of time (one to two weeks), they'd then attempt to share it with their particular legal representatives to gain their comment (in the hopes of being able to provide that legal feedback to the group at the next meeting). It was uncertain as to whether there would be enough time to perform that legal-review activity.

A commitment was made to provide the revised 3rd Draft of the Assurances Document to Forum members (via email) prior to the February 16, 2006 meeting of the Forum. Time permitting, each member would be asked to review the document and be prepared to provide additional comments (if any). The intention, following the February meeting, is to then take the 3rd Draft and work with a subset of the member's legal representatives to craft a version that would consist of language consistent with a document of the nature that water agencies would enter into. From there, the next step would be to discuss that legal sub-group edit at the Forum meeting that follows, and from have each Forum member provide it to their respective legal counsel for additional review and comment. It was the hope that following that step, a draft final document would be prepared for recirculation / comment prior to the preparation of a final version for signature. It was recognized that this process would take several months.

NEXT FORUM MEETING AGENDA DISCUSSION ITEMS

Aside from a discussion of the 3rd Draft of the Assurances Document, Mel Lytle of SJCO asked that under a parallel track of efforts, some discussion of work that could be performed as associated with the proposed / upcoming Water Availability Study also be provided. He noted that he had been in discussions with Jim Hanson of Hanson Engineering / SJCO to prepare a presentation on documented water use by member agencies and perhaps on existing water rights and entitlements held. Jim asked that John Skinner of EBMUD also be a presenter. It was agreed by SJCO and EBMUD that both John and Jim will jointly work together and give an informative presentation at the February meeting.

Rob Alcott of EBMUD asked Mel Lytle of SJCO to provide the group with an update of the GBA's IRWMP efforts and in particular the project options that are being proposed for further study and analysis as they move their IRWMP forward. Mel suggested that Jim Abercrombie of AWA also provide a similar presentation regarding the IRWMP that his agency is taking the lead on. Mike Harty indicated he'd contact Jim Abercrombie and discuss the presentation request. Rob noted that these presentations could be viewed as the first of possible future IRWMP coordination efforts.

NEXT FORUM MEETING

The next meeting of the Forum is scheduled for Thursday, February 16th at 9:00 a.m. at the SJFB's meeting facilities in Stockton.

Ed Steffani and Fred Weybret of North San Joaquin Water Conservation District agreed to provide breakfast at the next Forum meeting.

CLOSING

The January 19th Mokelumne River Forum Meeting was adjourned at approximately 12:15 pm.

NOTE: The initial draft of these meeting minutes was prepared by Tom Francis of EBMUD. Mike Harty reviewed and edited the draft. Please send comments or questions to Mike.

DRAFT