

Department of Water Resources
SBx7-7 Agricultural Stakeholder Committee
Meeting #2 Draft Summary
September 22, 2010
9:30am-3:30pm
Sacramento, California

*All documents can be found at <http://www.water.ca.gov/wateruseefficiency/sb7/>
Please send all comments and inquiries to the project staff email: agwue@water.ca.gov*

Action Items:

1. The Agricultural Stakeholder Committee (ASC) will give final comments regarding the draft charter to Manucher Alemi, Department of Water Resources (DWR), by September 27, 2010 at 5:00 p.m. A finalized charter will be posted the week of September 27th.
2. Mr. Alemi will share DWR's AB 1404 guidelines, including the glossary, at the next ASC meeting to allow for a more in depth discussion on how compliance with AB 1404 and SBx7-7 relate.
3. DWR will consult with counsel to confirm whether or not Bureau of Reclamation (USBR) service contracts are exempt from SBx7-7 provisions.
4. DWR will confirm on behalf of the USBR if their contractor is exempt from provisions.
5. DWR shall consider building the USBR data lag into the farm-gate aggregate reporting deadline.
6. DWR will consult with counsel regarding implications for noncompliance with SBx7-7.
7. Mr. Alemi will check on providing a milestones timeline with thresholds.
8. DWR will post information on the USBR rice water use study to their website. (Reference page 7)
9. DWR will provide a revised *Range of Options Discussion Paper* to ASC.

Welcome and Introductions

The second meeting of the SBx7-7 was held on September 22, 2010, in Sacramento. Facilitator Dave Ceppos, Center for Collaborative Policy, California State University Sacramento (CCP), welcomed ASC members and participants. Each member of the ASC took a moment to introduce themselves, as did DWR staff and members of the public that were present.

Agenda and Meeting Objective Review

Dave Ceppos walked the group through the agenda for the day and explained that the ASC will focus on the agricultural water measurement provisions of SBx7-7 (project A2) for this second meeting. He explained that staff will outline the timeframe and why this focus is necessary at this time. There will be a presentation in the afternoon on the quantification of agricultural water use efficiency (project A1). Staff has a revised discussion paper on A1 as part of the meeting packet. This discussion paper was not sent out ahead of time to maintain the focus of this meeting on the A2 project. He explained that the first agenda item is to close out the discussion on the ASC Charter.

Draft ASC Charter

Mr. Ceppos made reference to the draft charter that had been sent out in advance of the ASC meeting. The purpose of the charter is to 1) define the roles and responsibilities of this committee and 2) identify work assignments of what the DWR has defined as the rules of engagement. Mr. Ceppos noted that the SBx7-7 Urban Stakeholder Committee (USC) which has been meeting since April has a nearly identical charter. The USC uses the procedures in the charter to document their recommendations to DWR.

The draft charter was reviewed for input from the group. Mr. Ceppos reviewed the changes made to the charter, which were in track changes to make for easier review by the ASC. In particular, Mr. Ceppos highlighted a change made to page 10 as a result of a comment from an ASC member that the gradients for agreement and disagreement seemed unbalanced. The change added a second degree of disagreement to the charter. He also noted this was also changed in the USC charter. Mr. Ceppos requested that all final comments be sent to agwue@water.ca.gov by the deadline of Monday September 27th by 5pm (see action item #1).

Mr. Ceppos said that the membership of the group is still being finalized, as there are positions at the table that DWR would like to fill. Mr. Ceppos noted an inequity of environmental advocacy group participants. He mentioned that thus far this has been a challenge that staff continue to address. Mr. Ceppos requested that if ASC members have suggestions on environmental advocacy group representatives who may be interested that they send contact information to Mr. Ceppos and Baryohay Davidoff.

ASC co-chairs, Mr. Alemi and Mike Wade, Agricultural Water Management Council, provided opening comments as co-chairs. Mr. Alemi reviewed some of the meeting materials that had been previously sent to the ASC. He mentioned that a proposal was submitted to DWR by a group of agricultural water suppliers who also met with the DWR Director to review the proposal. Mr. Alemi admitted that in a sheer oversight, the project team overlooked including the recommendations of this group into the materials to be discussed today. He committed that staff will be sure to review this proposal and consider it as they update the draft materials. This proposal will be posted on the project website (see title page above for website) to make it available for others to review and can be submitted to the subcommittee for consideration as well.

Mr. Wade also welcomed the participants and acknowledged that the time schedule which has been laid out is an aggressive one. Despite this, he assured that input from all stakeholders will be considered.

Agricultural Water Measurement Presentation

Baryohay Davidoff, DWR, began the presentation on agricultural water measurement. He explained that throughout the meeting, DWR and their consultants will present information based on the discussion paper and will ask for feedback from the group on key questions. DWR will continue to edit and make changes based on feedback throughout upcoming meetings. The presentation focused on the timeline for completing the regulation for agriculture water measurement, outlining the Department's current interpretation on the applicability of the regulation and posing questions to the stakeholders for feedback. He noted that the group is not limited to only the questions posed to them – they are encouraged to ask other questions or share other input. The questions are meant to start the conversation.

Mr. Davidoff stated that pricing is not part of regulation. DWR will be only dealing with the measurement aspect.

Project Timeline

Mr. Davidoff continued presenting on the project timelines. He explained that DWR changed their internal target date for permanent measurement regulation to July 31, 2011 based on feedback at the first ASC meeting that the previous date, which only gave six months before implementing Agricultural Water Management Plans (AWMPS), was not enough time.

Given this revised deadline for the permanent regulation, the emergency regulation should be submitted by January, meaning that the ASC must finish the technical work and input by December 15, 2010. There is a lot of work that DWR needs to do with the ASC to get a package ready for submission to DWR's Director for review. DWR will submit that package in January. Emergency rulemaking has a timeframe of 180 days. Committee members expressed some concern that this is too short of a timeframe to come up with the best regulation, while acknowledging the need for a regulation to be in place for the AWMP deadline of July 2011. Mr. Alemi offered that this should be the target timeline; however, DWR will not do this at the expense of quality. If more time is needed, DWR will consider moving back the deadline to accommodate such input.

Comments circulated around whether the AWMPs require suppliers to report data or instead report how they plan to deliver measurement numbers. Mr. Alemi stated that by July 31st, 2011 water suppliers must report the numbers from what they have already implemented. DWR consultant, Steve Hatchett, added that he will be talking further on this during the meeting, but that the 2012 plan will report how you will comply with the requirement. This is different than reporting on the aggregate deliveries.

A question was posted about whether the regulation will be voted on by this committee. Mr. Ceppos explained that a subcommittee will be working to do the heavy lifting, and then will take their input to the ASC. There does not need to be consensus. At the end of the process, DWR holds the responsibility to make a decision. Mr. Alemi added that there are additional steps and approvals needed to finalize the text of the regulation.

Mr. Ceppos requested a vote on the proposal to leave the schedule as is. No one opposed that proposal.

Applicability of SBx7-7 Provisions

Mr. Hatchett continued the presentation on water measurement, reviewing the provisions on behalf of DWR.

A question was posed on how “authorities” is defined. Mr. Alemi explained that the DWR and USBR are excluded; however, USBR customers are not exempt. A discussion continued regarding who is exempt. Francis Mizuno, San Luis & Delta-Mendota Water Authority, explained that his agency is doing work on behalf of USBR through a contract. He asked for clarification on whether they are included or excluded as suppliers (see action item #4).

A clarification was requested on the definition of aggregate. Mr. Alemi answered that DWR has compiled and will provide draft guidelines on Assembly Bill 1404, Section 531.1 to the group. He did not bring those guidelines today because he thought it would add confusion and take away from the priority discussion. Greg Young, DWR Consultant, offered that Section 531.1 has a definition of aggregated farm data. Mr. Ceppos suggested that a defining such terms and coming up with a glossary may be a task of the proposed subcommittee.

Debra Liebersbach, Turlock Irrigation District, pointed out that the existing Water Code (Section 531.10) does not require the implementation of “water measurement programs and practices that are not locally cost effective.” She asked if SBx7-7 will only require the measurement to what is cost effective. Mr. Alemi stated that the cost effectiveness requirement does not apply to SBx7-7.

Anisa Divine, Imperial Irrigation District (IID), asked when the aggregated farm-gate deliveries are to be reported. Mr. Alemi replied that the law is not clear, it only says annually. According to DWR counsel, DWR can begin requiring the submission in 2008 because AB 1404 was enacted in 2007. However, DWR will wait to require this until the 2012 AWMP. Ms. Divine mentioned that there is a lag in receiving data from USBR for each year, she requested that DWR build that into the requirement (see action item #6).

Discussion on requirements for applicability and compliance with the different regulations continued. Thad Bettner, Glenn-Colusa Irrigation District, asked why the reference to AB 1404 is being made within this discussion on SBx7-7. He remarked that it seemed confusing. Mr. Alemi clarified that while the SBx7-7 provision for agricultural water measurement is a rulemaking process and applies to specific acreage thresholds and AB 1404 is a reporting requirement, they are both requirements to submit information to DWR. If a supplier complies

with SBx7-7 they will automatically comply with AB 1404 because the former has more stringent requirements.

Mr. Davidoff added that according to the DWR legal department's definition, it is a matter of acreage thresholds. If you fall under the threshold, the measurement method has to be "cost effective", if the supplier is above the threshold they are subject to SBx7-7 for measurement regardless of cost effectiveness. Mr. Alemi suggested furthering this discussion at the next meeting when the group has reviewed the draft AB 1404 guideline. Definitions in terms of AB 1404, section 531.1, and SBx7-7 can be clarified.

Roger Reynolds, Summers Engineering, Inc., asked what happens if the measurement requirements cannot be implemented by 2012. Discussion turned toward what qualifies an organization for an exemption. Mr. Davidoff stated that there are implications for noncompliance within the bill. Ms. Divine believed that the implications meant ineligibility for grant money if an organization is not in compliance. As an action item, Mr. Davidoff will get further clarification from his counsel on the consequences of non-compliance (see action item 6). Mr. Reynolds added that if there was not a strict interpretation by DWR, and if ineligibility of grants was the only consequence, many districts may feel that non-participation is their best alternative. Mr. Young noted that the A2 discussion paper includes the code section on eligibility and explains that for compliance in 2012, suppliers can submit a plan for implementation. He also mentioned that there are other consequences for non-compliance outside of the hands of DWR including local legal action.

Mario Santoya, Friant Water Authority, asked how this requirement might differ from federal requirements for suppliers that submit plans to USBR. Mr. Alemi responded that his current understanding is if plans were accepted by USBR, then it would by default be accepted under the state plan. He will double check this interpretation with his legal counsel. Mr. Santoya asked a follow up question on whether a supplier recycling both federal and state project water would be subject to SBx7-7. Again, Mr. Alemi offered to check and clarify the answer, but he believed the same rule would apply if the USBR report accounted for all the water. Anna Sutton, USBR, clarified that they receive water management plans that cover federal water. If state and federal water can be separated, they can send a report for just the federal water (which would require a plan be submitted to the state to fulfill the SBx7-7 requirements). If the state and federal water get combined, they report on both to USBR.

Discussion continued as Kevin King, Solano Irrigation District, proposed that implementation goals be set based on timeframes and thresholds. For example, 2012 farm gate deliveries could be measured down to 10,000 acre feet and deliveries / organizations above that would only have to measure to that level. Mr. Alemi mentioned that timelines and guidelines are dictated by the law, and DWR only has discretion on that which does not have specific deadlines called out in the law. However, this is something worth discussing further.

Mr. Ceppos referred to slide 16 of the presentation, DWR requested feedback on what period of time should a water supplier's irrigated acreage be calculated, and what lands should and should not be included in irrigated acreage. Mr. Bettner pointed out that the definition of irrigated acreage will affect how one falls on the threshold of whether you must report or not. He

suggested to use “five years irrigable” rather than irrigated. Ms. Sutton pointed out that the USBR uses the measurement of acre feet. She also thinks they use the average over the last five years. Dave Bolland pointed out a five year average is also in line with the AWMP submittal timeframe. Doug Obegi, Natural Resource Defense Council, noted that because applicability of the law depends on succeeding a threshold, a supplier could be subject to the law during the 5 year average, and they should be held to that year rather than at the end of the average.

The presentation continued with the question of whether or not crop lands, habitat wetlands and hunting clubs should be included or if it should be limited to commercial lands. Ms. Divine responded that her agency supplies water to the US Fish and Wildlife Service as well as duck clubs and IID does not charge for this water, nor do they measure it. Mr. Mizuno, on the other hand, suggested that they should be included. Mr. Bolland elaborated that agencies should go into the detail of counting deliveries to duck clubs to account for that water. Ms. Sutton mentioned that USBR has separate contracts with habitat wetlands, they are called refuge contracts. Juliet Christian-Smith, Pacific Institute, cautioned that to have a full data collection, all agricultural water should be accounted for, and that these deliveries should not be excluded. She suggested this be a topic of further discussion for the subcommittee. Ms. Divine mentioned that her services area includes service pipes which rural residents can turn on and off for non-potable water, which her agency does not and has no plans to measure. After some discussion, Mr. Alemi suggested these users may be excluded as customers since they receive their potable water from another source.

Requirements and Criteria

Members requested clarifying the word “customer”, which was defined as a “purchaser” in one place and one who “distributes and sells” in another place. There was some question on whether the issues of pricing or measurements are part of the definition of customer. It was suggested that a customer be defined by a threshold of water delivery, and anything under that threshold would not be counted.

Mr. Hatchett next focused on a question about the point of measurement. Mr. Davidoff stated the objective is to develop a measurement plan to reflect the “real world”, as well as be something that suppliers could easily implement. He suggested that perhaps measuring upstream would be more accurate. Some resistance to additional metering was expressed, as it would be too costly to implement and upkeep. It was pointed out that the legislation allows for several options aside from metering.

Mr. Bettner then presented the measurement proposal document put together by the group of broad group of suppliers (mentioned at the beginning of the meeting). The proposal, he explained, includes measurement alternatives for consideration. For example, suppliers can use lateral turnouts. Four separate options for measurement are outlined on the bottom of page 2 of the proposal (the proposal was posted as a meeting material for the ASC Meeting 2). One option is basin analysis, which accounts for every drop of water. Another is an agency lateral. Digital measuring instruments can account for capturing data 365 days/year. After questions were exhausted, some members agreed that this might be an item for a subcommittee.

Lewis Blair, Reclamation District 108, brought up a recently released study by USBR on rice field measurement. The study identified the challenges with assigning a flow standard to rice irrigation. The study includes recommendations. Mr. Blair encouraging reviewing these recommendations and applying them to the SBx7-7 requirements. Mr. Davidoff agreed to post the study as a meeting material from ASC Meeting 2.

Water Measurement Options

Mr. Young addressed the group and referred to slides 22 – 26 on water measurement options. He began the conversation with the two primary water measurement approaches and asked the ASC for input on additional approaches that meet the requirements of the law.

The ASC discussed the idea of using flow rate versus volume. Some members believed that making an accuracy standard based on volume is not practical. However, it was pointed out that “volume” is the term used in the law and is the metric used in other standards such as the USBR’s. Some members voiced concerns that it would be too expensive to put in more devices to capture flow rate, and sometimes these devices are unreliable. Members suggested that there be an acceptable accuracy range, rather than one number. The advantage of measuring flow rate is that a device’s manufacturer will certify its accuracy. One participant observed that two top-notch flow devices installed in the same location at the same time still did not give identical readings. Some discussion was given to using lab measurement results versus field measurement results. Another comment was made that participation is more important than precision, and one object should be getting agencies to participate rather than making the standards too high so they cannot.

Mr. Ceppos suggested this determination can be further explored within the subcommittee.

Mr. Young continued the presentation by asking the ASC if accuracy standards should be different should for open channel delivery systems than pressurized system; and whether there should be exceptions for those crops where irrigation occurs differently (rice fields for example).

One suggestion was to have different standards for the “flat users” and “small users”. Ms. Sutton mentioned that if DWR requires a different standard than USBR’s 6%, the USBR standard will not change. Some discussion occurred of the difficulty (and sometimes lack of cost effectiveness) to meet the 6% accuracy rate. Mr. King pointed out that suppliers will replace meters that have return on investment, so meters that only have small amounts of water passing through that are off by 1% but would not return the investment will not be replaced. Some differences were pointed out between measurement and quantifying. One farmer may get the benefit of water running onto his field that has been purchased by a farmer next to him. One member pointed out that the legislation is clear that there must be billing that supports volumetric pricing. It was summed up that we need to recognize there are different methods and techniques of delivering water, and the end result needs to be something that works for everyone.

Devise Accuracy Ratings

Mr. Young continued with questions to the ASC on device accuracy rating.

Grant Davids, Davids Engineering, suggested that “flow checks” may be the best way to describe field checks on devices. Chris Kapheim, Alta Irrigation District, explained that his team keeps notes on their hand-held computer each day noting any discrepancies in equipment measurements. It was brought up that writing in extensive requirements may be meaningless if DWR does not enforce them.

Several members of the ASC spoke about how DWR should assure best practices by those performing recalibration. Challenges to setting a specific requirement were mentioned, such as using a pressurized system versus an open canal, the point of the season at which the meter is read, and the importance of a supplier’s employees getting an accurate reading. Ms. Divine would like DWR to establish criteria for how a site is working and not for DWR to assign fixed numbers. Mr. Bolland, Association of Water Agencies, would prefer some performance standards, not a set of specific compliance numbers. Ms. Sutton suggested setting a standard at plus or minus some value, with additional methods for a supplier to show how they are maintaining accuracy. Further comments highlighted a preference for performance standards. Mr. Rodriguez noted how standards would be a challenge for the open channel delivery system. A mix of quantitative standards and performance standards was suggested. There was a general recognition that making the bar too high could eliminate many people from participating. DWR should be able to allow for a range of alternatives that employ best management practices (BMP).

Mr. Alemi pointed out that if a supplier has less than 10,000 irrigated acres, they can use BMPs, but that SBx7-7 has higher standards for those beyond 25,000 acres. It was observed that a one size fits all doesn’t fit in California for probably anything and certainly not for water.

A2 Measurement Subcommittee

Mr. Ceppos reviewed the charge and expected work assignments of the subcommittee. He explained it is open to all members of the ASC and that all work done by the subcommittee will be reported back to the full ASC. The project team will try and schedule subcommittee meets for the day before full ASC meetings for travel convenience. A draft timeline and expected topics for discussion by the subcommittee were passed around and discussed, Mr. Ceppos mentioned all those topics called out today as additional topics that will be added to the list. A sign-in sheet was passed around to the ASC and Mr. Ceppos requested members to sign or initial by their names if they are interested in participating in the subcommittee.

Presentation: Methods for Quantifying the Efficiency of Agricultural Water Use (Project A1)

Mr. Young began the presentation on methods for quantifying the efficiency of agricultural water use (Project A1). Mr. Young reiterated that because the focus of this second meeting was on the measurement provisions, the presentation on Project A1 will be brief. SBx7-7 stipulates the

development of a methodology for quantification of agricultural water use efficiency. After completing the presentation on the A1 Discussion Paper, which should be viewed as DWR staff's initial interpretation of the provision, Mr. Young asked ASC members if they feel DWR is moving in the right direction.

Mr. Davids asked where the data reported in the AWMPs for SBx7-7 might be used other than in DWR's report to the legislature, because that will affect the ASC's input. Mr. Young mentioned that data would be used to guide regional and state policies, he clarified that the law only says to develop a methodology, whether it is reported or implemented is not specified. Mr. Bolland affirmed that no one can assure where the data will be used in the future as it will be made public as part of the legislative report.

Ms. Christian-Smith asked if the definitions in the Discussion Paper include groundwater and surface water or if it is limited to surface water. Mr. Davidoff explained that to the extent possible they would like to include groundwater. Mr. Young added that how ground and surface water come into play has yet to be determined and that discussion can continue as future agenda items for the ASC.

Closing Remarks

Mr. Alemi and Mr. Wade thanks the participants for their attendance and participation.

Attendees

ASC Members and Alternates in Attendance

Thad Bettner, Glenn-Colusa Irrigation District
Lewis Blair, Reclamation District 108
David Bolland, Association of California Water Agencies
Kathryn Chandler, Reclamation District 108
Juliet Christian-Smith, Pacific Institute
David Cone, Kings River Conservation District
Grant Davids, Davids Engineering
John Davids, Oakdale Irrigation District
Anisa Divine, Imperial Irrigation District
Erin Field-Huston, Merced Irrigation Association
Mike Grundvig, California Agricultural Irrigation Association
David Hamilton, Kern County Water Agency
David Hampton, Buena Vista Water Storage District
Kevin Johanson, Provost & Pritchard Consulting Group
Chris Kapheim, Alta Irrigation District
Bill Ketscher, Modesto Irrigation District
Kevin King, Solano Irrigation District
Gary Kienlen, MBK Engineers
Debra Liebersbach, Turlock Irrigation District

Todd Manley, Northern California Water Association
Brad Mattson, Richvale Irrigation District
Francis Mizuno, San Luis & Delta-Mandota Water Authority
Doug Obegi, Natural Resources Defense Council
Jovita, Pajarillo, United States Environmental Protection Agency Water Division (WTR-1)
Blake Plourd, Imperial Irrigation District
Roger Reynolds, Summers Engineering, Inc.
Larry Rodriguez, Kern County Water Agency
Anna Sutton, U.S. Bureau of Reclamation – Mid-Pacific Region
Marc Van Camp, MBK Engineers
Bob Siegfried, Fifth Clara Valley Water District
Mario Santoya, Friant Water Authority

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