Biological Objectives Stakeholder Advisory Group

Meeting Summary

May 18, 2011

Note: The list of attendees follows the meeting minutes. Additional materials from the meeting (agenda, presentations) have been posted on the project website (http://www.waterboards.ca.gov/plans_policies/biological_objective.shtml).

Another note: The summary captures the major issues presented and discussed during the meeting, though they are not intended as an exhaustive record of all comments made. Where it contributes to the readability of the summary, discussion of the same issue that occurred at more than one place during the meeting is summarized together. Items on which the Group expressed general agreement are indicated **in bold**, although it is important to emphasize that the Group did not vote on these items and achieving consensus is not a goal of the Group. Specific commitments by State Board staff, SCCWRP, the facilitator, or Group members are also indicated **in bold**.

Meeting objectives

The objectives of the meeting were to:

- Provide an update on the recent meeting of the Scientific Advisory Group
- Review and discuss the CEQA scoping alternatives
- Provide an update on the April 11 meeting of Water Board program heads that initiated discussion about improving coordination among these programs where they may overlap

Scientific Advisory Group update

(see presentation "Scientific Advisory Group Update" posted on the project website http://www.waterboards.ca.gov/plans_policies/biological_objective.shtml).

Ken Schiff summarized the Scientific Advisory Group's main findings and recommendations (see presentation).

Discussion related to slide #7 emphasized the presence of natural variability in the definition of reference condition. For example, no site is a perfect duplicate of other sites, and conditions at individual sites are also likely to vary over time. Reference condition is thus not a single number but encompasses a range of condition and the assessment tools are being developed to account for that.

The upcoming pilot study is intended to try out various approaches the science team is developing and to obtain real-world feedback on which approaches should be pursued and which discarded. The pilot study is not intended to develop a formal assessment of condition, and any results it obtains will not be used in the 2012 303(d) listing process. On the other hand, the listing process will use all available data, including available bioassessment data, in the same manner as it is currently used.

The science team presents material for discussion and review at three stages of development: preliminary ideas / proposals, working materials and analyses, draft documents that present aspects of the program that are near completion and are ready for more formal review. At any one time, there will be activities

that are in all three stages of development. For example, the approach for defining reference condition is nearing completion while methods for stressor response modeling are at an earlier stage. The science team will engage the stakeholder advisory group in discussion and review of materials at all three stages of development. Stakeholders will see draft documents as soon as is feasible and documents will not be finalized without first be provided to stakeholders for review and comment. Stakeholders emphasized their desire to see any materials related to implementation and the structure of the policy as soon as possible in the process.

Picking up on the scientific advisory group's recommendation that the pilot study proceed all the way through mock implementation, participants suggested that the pilot study directly include members of the regulatory advisory group (RAG). The RAG will include agencies other than the Water Boards, but the Water Boards cannot require that other agencies take specific actions. However, the new policy could include recommendations to other agencies on implementation plans.

Stakeholders also requested that any guidance on stressor identification be as detailed as possible, perhaps even to the level of individual facilities or facility types. Stakeholders requested that stressor identification approaches recognize that hydromodification and contamination are separate issues and there are cases where removing all contaminants would not improve stream condition because of the impacts of hydromodification.

CEQA scoping

(see slides 1 – 9 in presentation "Bio-objectives_RegUpdate_051811" posted on the project website http://www.waterboards.ca.gov/plans_policies/biological_objective.shtml).

Karen Larsen described the CEQA scoping process and the several alternatives being considered for inclusion in the CEQA scoping document. The alternatives are intended to be cumulative, with each successive alternative including elements of the preceding alternatives. Thus, for example, the antidegradation concept in alternative #2 is included in all subsequent alternatives. The CEQA scoping document will not identify a preferred alternative. The staff report, to be produced later in the process, will identify the preferred alternative.

The definition of reference condition is an issue for all alternatives except #1, maintain the status quo. While no stream looks the same as it did 100 or 10,000 years ago, there are enough streams in different settings with very low human disturbance that the science team is confident that a useful reference condition can be defined.

Terry Fleming (USEPA) pointed out that the term "high quality" used in alternative #2 has a very specific meaning in regulatory terminology and recommended that staff ensure that this and other terminology is being used correctly in project materials.

Discussion on alternative #3 focused on how highly altered streams would be dealt with, since there would be no expectations for categories of streams other than reference. Such streams might be dealt with through further evaluation of a narrative objective at the local level or development of site-specific objectives (which would require Basin Plan amendments). These are two very different policy mechanisms. Because there would be no statewide policy for such actions under this alternative, there would most likely be a large amount of inconsistency from region to region and stream to stream.

A possible 5th alternative would be a kind of hybrid of alternatives #3 and #4. In the new alternative #5, attention would be focused on the approximately 85% (very rough estimate) of streams that have the

potential to meet reference conditions. The altered streams that cannot meet reference condition would be set aside for now (as the non-perennial streams have been set aside) to deal with later. The benefit of this approach is that it focuses attention on the better quality streams that can be maintained or restored, on the assumption that a marginal improvement in a higher quality stream is more valuable to the state than a marginal improvement in a much poorer quality stream. A related assumption is that improvements in highly altered streams may be more costly and difficult to obtain than similar (in terms of increases in IBI scores) improvements in higher quality streams. While the current alternative #4 provides the flexibility to allocate resources first to higher quality streams, such decisions would be made at the level of the regional boards, most likely with a high degree of inconsistency among regions. The proposed alternative #5 would prevent this by making a statewide policy decision that higher quality streams are a higher priority than highly altered streams. In that sense, the proposed alternative #5 is actually a hybrid of alternatives #2 and #3.

While the policy is focusing on perennial streams, most of the best streams in the state are ephemeral, not perennial. The policy focuses for now on perennial streams because those are streams for which there is sufficient data to develop a policy. The State Water Board's intention is to expand the policy to address other types of streams as more data and funding become available. The ultimate goal is to have biological objectives for all water bodies based on multiple indicators.

For this project, effluent dominated streams are included in the perennial category, even if they are perennial only because of effluent discharge. The project team has not yet decided how to treat many types of agricultural discharge ditches and is hoping to gather additional data to help making this decision. In addition, there are some places where the IBI does not neatly apply and this is a technical issue that will have to be resolved. As the project proceeds, there are likely to be several types of non-standard settings that will have to be addressed.

There may be conflicts between different policies in cases where existing discharge flows are desirable because they maintain ecological habitat but other policies (e.g., stormwater, water conservation) desire to reduce flows as much as possible. Reduced flows could lead to lower IBI scores and noncompliance with the biological objectives policy, even in cases where the stream is currently perennial only because of the discharge. Thus, an artificially perennial stream could end up out of compliance with the biological objectives policy as a result of being returned to its natural (i.e., non-perennial) condition.

Policy coordination

(see slides 10 – 15 in presentation "Bio-objectives_RegUpdate_051811" posted on the project website http://www.waterboards.ca.gov/plans_policies/biological_objective.shtml).

Karen Larsen reviewed discussion at the April 11 meeting of several of the Water Board program heads and noted that the listing / delisting policy should be added to the list on slide #10 for future meetings. Representatives of these other programs will be invited to participate on the RAG. At the moment, no decision has been made about whether stakeholders will be involved in the RAG, although joint meetings of the RAG with the stakeholder advisory group are envisioned.

Stakeholders recommended that consideration of hydromodification account for both increases and decreases in flow because many policies and BMPs now focus on reducing flow. In addition, some hydromodification is natural, as in the Santa Clara River watershed where is a fair amount of natural erosion.

Stakeholders asked what actual permit limits would look like, as well as how responsibility would be allocated for impairments that stem from actions by others (not the permittee). This would most likely be dealt with through TMDLs, although how this would be implemented for biological objectives has not yet been worked out.

The biological objectives based on invertebrates address only one aspect of stream health. For example, they do not necessarily measure conditions related to the health of salmonid fish populations. For impairments of conditions that are related to benthic invertebrates, however, the biological objectives could be used to delist a stream, though the specific procedure has not yet been defined. This sort of decision is linked directly to the types of stressors responsible for poor condition. Some such stressors may be covered by regulation and others are not. Stakeholders requested that the policy consider this distinction when discussion stressor identification and subsequent actions to address impairment.

Next meeting and next steps

The next planned activity is the next meeting of the scientific advisory committee on October 12 – 13. The CEQA scoping meeting has not yet been scheduled.

Attendees

Name	Organization	Representing
Staff		
Brock Bernstein	Facilitator, Committee Chair	
Karen Larsen	State Water Board	
Toni Marshall	State Water Board	
Peter Ode	CA Dept. Fish and Game	
Ken Schiff	SCCWRP	
Stakeholder group members		
Parry Klassen	E. San Joaquin Water Quality Coalition	Agriculture
Chris Sommers (P)	SCVURPPP	Flood / Munic / SW
Kathy Mannion	Reg. Council of Rural Counties	Flood / Munic / SW
Ed Struffenegger	CA Forestry Association	Forestry / Timber
Kim Anthony (P)	Southern California Edison	Hydro / Utilities
Karl Stein	US Bureau of Land Management	Management Agencies
Perry LeBeouf	CA Dept. Water Resources	Management Agencies
Chindi Peavey	San Mateo County Mos. Ab. District	Mosquito Abatement
Theresa Dunham	Somach Simmons & Dunn	Pesticide Manufacturers
Phil Markle	LA County Sanitation Districts	POTW
David Bolland	Assoc. of CA Water Agencies	Water Agencies
Other participants		
Karen Ashby	Larry Walker Associates	
Shakoora Azimi-Gaylon	State Water Board	
Adam Ballard	State Water Board	
Lauren Bauer		
Lilian Busse (P)	San Diego Regional Water Board	
Spencer Cronin (P)	EMR Inc.	
Terry Fleming	USEPA Region IX	
Christine Gracco (P)	Brown and Winters	
Betty Gustafson (P)	City of San Bernardino Munic. Water Dist.	
LeAnne Hamilton (P)	Inland Empire Utilities Agency	
Lisa Haney	Orange County Sanitation Districts	
Dustin Harrison	RBF Consulting	
Emiko Innes (P)	LA County Dept. Public Works	
Nardy Khan (P)	Orange County Public Words	
Jen Kovecses	CoastKeeper	
Heather Merenda (P)	City of Santa Clarita	
George Nichol	State Water Board	
Jeff Orrell (P)	Brown and Winters	
Robert Rodarte (P)	Orange County Public Works	
Jennifer Shepardson (P)	City of San Bernardino Munic. Water Dist.	
Marco Sigala (P)	Moss Landing Marine Lab / SWAMP	
Tom Suk (P)	Lahontan Regional Water Board	
Jennifer Thiemann (P)	EMR, Inc.	
Josh Westfall (P)	LA County Sanitation Districts	
Dennis Westcot	San Joaquin River Group	

(P) indicates remote participation by phone and Webex