

Colorado and Lavaca Rivers and Matagorda and Lavaca Bays  
Basin and Bay Area Stakeholder Committee (BBASC)  
**Facilitators' Summary of Stakeholder Interviews**

**Introduction**

This summary was developed by facilitators for the BBASC following interviews with 16 BBASC members.<sup>1</sup> The summary is intended to provide insight into expectations, issues, interests and concerns of BBASC members, with the hope that the insights gained from such understanding can improve the chances for success in this stakeholder effort. As facilitators, we were impressed with BBASC members' desire to learn, their dedication to the process, their genuine belief in the need for the decisions they will be making, and their desire to assure that water is available for human and environmental needs.

**Expectations**

Most people felt an agreement could be reached; many indicated that success would involve developing consensus recommendations in a timely manner, providing sufficient water for both human and environmental needs.

Some stakeholders noted that existence of permits and management plans in the basin which provide for environmental flows helps people accept the concept of environmental flow requirements more readily.

We heard different descriptions about what the consensus recommendations would look like. For example, we heard the expectation of a consensus report that includes:

- meaningful flow recommendations,
- fleshed out in an implementable concept,
- that protects a sound ecological environment.

Another described a less detailed (though not mutually exclusive) consensus report that:

- is a summary and simple,
- provides clarity to the layperson, and
- has the details in appendices.

We also heard the expectation of consensus in which:

- everyone understands the recommendations, and
- the recommendations address stakeholder needs in a way that allows the group to continue the process (working together) after August.

Some stakeholders were more specific about the flow regimes used to formulate the BBASC recommendations. Some stakeholders perceived success as adopting the BBEST recommendations or a modification of them. One elaborated that identifying other factors for developing the recommendations would be difficult and that the [BBEST] scientists know the environmental needs of the basins and bays. Another stakeholder perceived success as having

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<sup>1</sup> BBASC retained Margaret Menicucci and Suzanne Schwartz of the Center for Public Policy Dispute Resolution at the University of Texas School of Law to assist in facilitating several meetings.

recommendations that are in line with the environmental flow regime of the LCRA proposed excess flow permit. Another stakeholder viewed success as implementable environmental flow recommendations.

### **Substantive Issues**

BBASC members identified many substantive issues that were important to them. The overriding two issues that were identified as important by most people were:

- Providing sufficient water of sufficient quality to provide a sound ecological environment in the water courses and the bays and estuaries for both the present and future,
- Providing a reliable water supply and meeting human needs including municipal, agricultural, industrial, electric generation, and recreation for both the present and future.

Finding the balance between these, and supporting both human and environmental needs, also was listed as the focus of the BBASC, especially during drought and as human demand increases. Most BBASC members recognized the finite nature of the water resource, and felt strongly the interconnection of all interests and their reliance and impact on water.

Some specific issues raised by various BBASC members included:

- Whether BBASC recommendations should seek to remedy any currently bad environmental conditions
- Recognizing the linkage to groundwater and keeping springs flowing for the environment, for human use and to enhance the value of riparian land
- Supporting the BBEST science
- Showing that the SB3 process can work
- The impact of environmental flows on return flow usage
- How to handle the transitional East Matagorda bay system. Concerns were expressed that if it is considered a sound ecological environment, does that mean it might be OK to lose other habitat?
- Recognize differences that reservoir locations in the Colorado and Lavaca/Navidad basins create
- How to get affordable water in the future for the large needs of rice farmers, who have few firm rights to water
- Whether the environment should receive water in excess of what nature has provided, especially in dry periods when the river has run dry historically.

While most BBASC members felt there had been no strong areas of disagreement on these issues expressed so far, most acknowledged that differences in individual goals and needs, and desires to assure that water is available for their specific use could lead to competition over the resource. If water is determined necessary for the environment, from what users does it come? Competition between different parts of the basins also was acknowledged. Some commented that the group must balance different interests. We also heard people voice the expectation that the group can come together to develop a report but that people can't get everything they want.

A strong undercurrent over LCRA's control of the Colorado basin resources, and a lack of understanding about LCRA's management and rights, created concern over potential disagreement in the future. Some users identified a desire to use the BBEST recommendations as their ending point, while others thought they only were the starting point. Also, concerns about implementation may lead to substantive disagreement over the actual structure and complexity of BBASC's recommendations on environmental flow standards.

### **Understanding Impacts**

Understanding the impacts of the BBASC recommendations for environmental flow standards is a significant part of the process of developing final recommendations. Many BBASC members discussed the need to better understand the WAMs, anticipated to be the primary tool to understanding impacts. Specific questions and concerns related to using the WAMs are identified under Appendix 1 (Information Needs and Concerns) at the end of this report. More generalized concerns about impacts included:

- Do stakeholders know how much water they need so as to evaluate potential impacts?
- Why is BBASC to set environmental flow standards for new permits when there is not water available in the Colorado for new permits?
- How can BBASC select a project to test environmental flow standards against when Region K has no new projects recommended? What projects to use in running WAMs for future scenario?
- If users could not access surface water, what would be the impact on groundwater?
- What are the impacts from environmental flows on bay productivity?

### **Understanding Implementation**

Some stakeholders identified "implementation of the recommendations" as an important discussion item. Implementation concerns fell generally into two areas. One area was understanding how TCEQ will use and enforce the standards. Some stakeholders were concerned that uncertainty about use and enforcement could affect the way participants negotiate and might result in them becoming entrenched in positions. Another area was concern about developing standards that can be implemented in a manageable way (focusing on the level of complexity). Comments relating to the complexity of the standards included:

- Determining the appropriate complexity of the levels of base flows for instream flows,
- Concern about who would make determinations to implement dry/wet/average flows,
- Concern that implementing a flow regime that matches the natural condition is difficult; BBASC should therefore limit the number of gauges and how often they are monitored,
- Determining the types of triggers [hydraulic or others] for implementing EFS.

### **Process Insights**

Several stakeholders said that the process has worked well so far. We heard comments that people seemed open to looking at the issues, people respected each other. Many were eager to move forward in the process, integrating the BBEST report with the decisions they need to make and drafting a report. There was recognition that relationships could be more strained as the stakeholders proceed with negotiations.

### **Concerns about the process**

Some stakeholders thought that the group needed to be clear on the BBASC role as they go forward. Others commented that they need a group vision of a final product.

Some BBASC members recognized that the technical content required in this process could be difficult to manage. In particular they noted:

- a hope that everyone read the BBEST report in full and start out on an even basis,
- a concern that people may be hesitant to ask technical questions, and
- a concern that the report is complex and that they need to keep the concepts simple.

Another concern was that BBASC members might leave the process because of frustration over unmet expectations, if the process becomes too technical and difficult to understand, or becomes too time consuming.

Genuine conversation is critical to airing and understanding needs. It also builds trust. Some stakeholders commented on the need for understanding people's interests before getting into more detailed conversations and before making substantive decisions. Some stakeholders wondered if there are still concerns that have not been raised. There was also a desire for participants to talk rather than debate over difficult issues.

### **Making the Process More Productive**

Some stakeholders expressed concern about the time available to develop the recommendations. Stakeholders also expressed a desire to work efficiently while ensuring that all participants understand the tasks. Some comments relating to productivity in meetings include:

- Get many people involved in the various tasks, not just a few,
- Run meetings efficiently; don't use meeting time for things that should be done out of meetings,
- Keep process and education simple, straightforward and on a human level,
- Be nimble with getting modeling runs. Empower the WAM subcommittee to do detailed discussion and make choices, with guidance from BBASC at appropriate points,
- Run scenarios soon and process them as a group,
- Understand early and often what TCEQ does with the information and understand the BBASC job,
- Get to the heart of the issues; do not dissect or even expect to understand in detail each page of the BBEST report,
- Empower all of the BBASC to be responsible for the process and call process checks,
- Parse into straightforward tasks that group experiences together.

### **Structural Concerns**

Structural concerns can involve unequal control or distribution of resources, time constraints and constraints related to organizational structures. Three structural concerns identified in the interviews were:

- whether everyone in the room has the resources needed to participate,
- whether representatives of interest groups and organizations are capable of quickly coordinating with their constituency so that they do not impede the process as decisions are ready to be made, and
- what pressure a constituency will put on the BBASC member to seek unrealistic solutions.

The second and third concerns recognized that the stakeholders have a larger constituency to whom they may answer and the importance of understanding whether some stakeholders need decisions to be ratified.

### Information Needs and Concerns

There was an overwhelming sense that BBASC members needed help to better understand the BBEST report and other technical and legal issues. The following are some of the specific needs and questions we heard.

#### Technical or scientific

##### **BBEST report**

- Understand and discuss BBEST assumptions
- Concern over using “historical” flows to base future on. Future could have less water.
- Questions about HEFR as it applies to basins without abundant flow
- What effort was made to verify the data?
- Concerns about how BBEST used pre-development and post-development data
- Concern about the BBEST choice to call the 70-year history a sound ecological environment, given the fact that it blends pre-development and post-development flows
- Concerns about making recommendations if post-development data not adequately considered
- Is BBEST saying things need to stay as they currently are to assure a sound ecological environment?
- How to convert Matagorda Bay Health Flows (MBHE) analysis into an environmental flows regime. This looks backwards at a how these flows were met, not forward at what flows are actually needed for environmental health.
- While BBEST science might be valid, is it a good fit with what the statutory charge is for BBASC? Does it tell us anything?
  - Are averages appropriate to use?
  - What happens in drought?
- How to deal with the interrelationship of the two bay systems
- Recognize that the BBEST report is itself a compromise and incremental process.

##### **Integration of Instream Flow and Freshwater inflow**

- How to convert Matagorda Bay Health Flows (MBHE) type of analysis into an environmental flows regime. Lends itself to looking backwards at a how these flows were met. Not looking forward. Mentions LCRA excess flow permit.
- MBHE numbers and “OP60”. A way to look at these numbers in a management scenario.
- Linkage of instream flow and bay and estuary flows
- Since species need different amounts of water, how much water is needed to maintain the various marine populations on the coast, by species

## Using and Understanding WAMs

- Education on the WAMs. There is concern that BBASC members understand the WAMs
  - What the WAMs mean, how to choose WAMs, what any set of standards means for water rights going forward
  - What attainment frequency means
- Group must decide what to model.
  - *WAM 3 run is what TCEQ will use to evaluate permit applications but is it likely that all permitted flows will be engaged together in the future?*
  - *Consider what is important to us in deciding what to model*
- Understanding the impacts of various environmental flows on each interest. People need to know how much water they can get. Need to run various scenarios to show people the impacts.
- How are return flows captured in the WAM?
- Need to compare BBEST recommendations to Region K report

## LCRA Operational Questions

- What is the interaction with the LCRA Water Management plan and SB3 process? Is it desirable that environmental flows be handled the same way in the LCRA water management plan and in the SB3 process?
- How does LCRA operate
  - its flood control operations?
  - releases of water for downstream use, for environmental purposes?
  - in relation to the upper portion of the basin
- Understand LCRA excess flows permit
- Understand the study done on the Colorado system as a result of the SAWS contract. What is the Impact of LCRA operations on the river in the summer?

## Other

- Understanding all controls in place that impact management
- Strategies: what documentation and data does TCEQ want about recommended strategies? Do they need to be measurable and implementable? What kinds of things can be strategies, and how much does BBASC need to flesh them out?
- Understand what TCEQ does right now in the permitting process (Lyons) compared to what would happen after EFS adopted.
- People need to know how much water each interest actually needs.

## Legal or policy

### Implementation and Enforcement

- Who is impacted by EFS once actually adopted by TCEQ? Do they apply to LCRA excess flow permit? If not, are there unappropriated flows left? Will recommendations only apply to new water rights applications? What about amendments?
- How will BBASC report be used?
- How will these standards be implemented and enforced?
- How does adaptive management interact with this process?

### **Legal Context - Water Law and SB3**

- Primer on surface water law
- Need explanation about all of SB3
- Legally, what water would be impacted by the standards? What water is state water, what is private, when is it groundwater?
- Impact of environmental flow standards on existing rights and contracts from a takings perspective

### **Other**

- What should BBASC's product look like? What is the end result?
- What does TCEQ want in the recommendation?
- Make sure new water rights consider existing uses
- How do the Region K, LCRA water management plan and SB3 fit together? How do or should the regional water planning and LCRA choices of modeling and other matters impact SB 3.