

# **San Joaquin River Dissolved Oxygen TMDL Steering Committee Decision Making Process July 10, 2002 Update**

*Originally adopted by consensus at the July 21, 1999 Steering Committee meeting. Updated on September 5, 2001. Updated again on June 5, 2002. Most recent update based on changes made at the July 3, 2002 Steering Committee meeting. Kevin Wolf*

## **A. Purpose of the Decision Making Process**

The purpose for adopting a decision making process is to help the committees involved in the San Joaquin River Dissolved Oxygen TMDL make decisions important to advancing its mission and goals in a "consensus-building stakeholder process."

## **B. Goals of the Decision Making Process**

1. Make clear decisions needed to advance the goals and strategies detailed in the strategic plan and as needed through the process.
2. Create a method that resolves all opposition to a proposal and only falls back to voting when consensus cannot be reached and a decision must be made due to a deadline.
3. Develop a fallback voting process that allows for deadline-forced decisions to be made in an efficient manner.
4. Meet any decision-making requirements of the Regional Water Quality Control Board.
5. Have in place the decision-making framework needed to gain support from all interest groups on the final, stakeholder-proposed TMDL and Adaptive Management Plan.

## **C. Strategies**

1. Involve all interested parties and provide meeting notes and agendas to all identified organizations and individuals. Make periodic person-to-person communication with uninvolved but important stakeholders.
2. Have all committees send out notes that, at a minimum, record who attended, what decisions were made, and whether they were made by consensus or by vote.
3. Gain consensus by participants on the Steering Committee's mission and goals.
4. Agree on definitions of important terms and "operating philosophies."
5. Form a Technical Advisory Committee of experts from every interest group, which reaches consensus (with a fall back voting procedure) on:
  - a. The conceptual model for how low dissolved oxygen occurs. This conceptual model will be the foundation for the Adaptive Management Plan (AMP).
  - b. A computer model that accurately predicts how and when low dissolved oxygen levels occur and how different changes in practices improve or harm the system.
  - c. The development of data important to the conceptual and computer models through an agreed-upon monitoring program.
  - d. Recommendations on and the development of technical proposals to develop funding and other resources important to completing the TMDL and AMP.
  - e. Other decisions as directed by the Steering Committee.
6. Develop a communication process which provides interested parties with access to important information in a timely manner. Use an email listserv and a website.
7. Agree on the step-by-step process for reaching consensus and how a fallback voting process will occur if consensus cannot be reached and a decision must be made.
8. Agree on policies for when committees can make decisions on their own without being reviewed by the Steering Committee.

#### **D. Proposed Step-by-Step Process for Reaching Consensus.**

1. A proposal is developed and placed before the committee for consideration. It is always best for the proposal to develop via subcommittee or email beforehand so that when the group formally considers it, it has as many consensus components built into it as possible. All proposals (whether developed at meetings or by individuals) should arise from a growing foundation of previous, consensus-based decisions and meet the goals and priority strategies of the effort.
  - a. Committees, such as the TAC can make decisions without having to bring them back to the Steering Committee, if decisions fall within the strategic plan or other guidelines previously approved by the Steering Committee.
  - b. At any duly called meeting, the Steering Committee can delegate decisions to regular and ad hoc committees. Decisions by these committees will use guidelines, if any, that are provided by the Steering Committee. Notice of the delegation should appear in the Steering Committee meeting notes, which then acts as notice that the committee is authorized to decide on the issues. Meeting agendas with clear objectives should be circulated beforehand.
2. The facilitator or chair of the committee helps clarify the proposal and then asks who might have serious objections. If key interest groups are not at the table, everyone present should put themselves in the place of the missing stakeholders and ask the questions they would ask. Once serious objections are clarified and listed, the group is asked to address the objections or develop a new or variation of the proposal. If possible, documentation of objections and resolutions should be recorded.
3. When a proposal advances to the stage when all serious objections are addressed, friendly amendments and other minor changes are made. The questions who, what, when, where, how and why should be answered at that time or delegated to a committee to finalize.
4. The facilitator or chair should then ask participants to either support with an Aye voice vote, or hearing no objection, pass the proposal as amended.
5. Meeting notes should clearly document the decisions that were made at the meeting. Draft notes should go out to all meeting participants and everyone on the mailing list.
6. Anyone can write within two weeks after receiving the notes and object to a decision. At this time, they must clearly state in writing their objections and offer an alternative proposal. If this is done and a decision can be delayed until the next meeting of the committee, the action the decision advanced will be suspended. In between Steering Committee meetings, the Executive Committee is authorized to determine whether a decision can be delayed until the next meeting or must be made beforehand.
7. If participants at a meeting cannot reach consensus in the time available at the meeting, the facilitator or chair should suspend the discussion and ask for a proposal on how to proceed. If a deadline forces a decision to be made, a vote can be called and the fallback voting process will occur.
8. If no deadline is pending for a decision, an ad hoc committee of proponents and dissenters of the proposal should be organized and a meeting or conference call scheduled while everyone is still at the Steering Committee meeting. The issue should then be placed on the agenda of a future Steering Committee meeting. All conference calls and meetings should be open to any interested member.

### **E. Proposed Step-by-Step Process for Fallback Voting**

1. A proposal has been advancing and a decision must be made, but not everyone can accept the proposal as presented and amended. The facilitator, chair or any member of the committee requests a formal vote on the proposal.
2. Before advancing, the facilitator or chair calls for a vote to determine if a majority support "calling the question" and pursuing the fallback voting process. A simple majority (51%) of eligible voters carries and debate does not continue on the issue.
3. With the "question" successfully called, the facilitator or chair asks for any reasons why a vote should not occur at this time. Everyone who wishes is permitted to speak; though the Chair may impose a time limit on each speaker. At this time, speakers should not speak on the value of the proposal, only on whether or not the decision must be made at this meeting.
4. After first hearing from participants arguing for delay, other participants are given an opportunity to provide clarifications or differing facts.
5. After everyone is heard on the timing of the decision, the facilitator or chair clarifies the proposal and a vote is taken. If less than 20 voting members are attending the meeting, an 80% supermajority must be reached for the motion to pass. (E.g. if 10 voting members attend a meeting, three can block the decision.) If 20 or more voting members are in attendance, a 90% supermajority is needed to pass a proposal. (E.g. If 20 voting members are at the meeting, three are needed to block a decision.) Abstentions are considered support for the proposal in terms of determining the number needed to block the decision from advancing.
6. After the vote, anyone may object to the voting credentials of any participant if it would make a difference in the decision. (The credential test is taken after the vote because, in many cases, credentials would not make a difference in the outcome.) Attendance lists should be accessible via the website and active voting membership established via these records. At the beginning of each meeting, the voting member list should be updated by a meeting participant. Only representatives from organizations in good standing are eligible to vote. This is why it is important for participants to review the notes at least enough to see if their attendance was accurately recorded. Meeting notes should accurately record the reasons participants dissented from the decision. Final notes should include any additional written communication provided by dissenters on why they oppose the final decision.
7. If a supermajority cannot be reached, a deadline pressing decision can still be resolved if all dissenting participants sign off in writing on a new proposal developed before the deadline, but after the meeting. Dissenters who want to participate in any rewrite attempt should be formally recorded at the meeting and included in the process. Ideally they would be involved in the new attempt to develop a "consensus" proposal before the deadline. Or they can respond to one crafted by others. The new proposal cannot fundamentally alter the original proposal discussed at the Steering Committee meeting. Not all dissenters have to sign off on a new proposal if they delegate someone else to make the decision for them. This should be recorded in the next meeting's notes.

Comment:

### **F. Definitions:**

1. "Consensus" in the stakeholder process means that voting members of the Committee (see below) can accept the decision even if they may not like the decision. Stakeholders should "block" consensus when they believe their fundamental interests, ethics, values, or principles are being violated. Consensus processes allow and encourage participants to express their concerns on all issues but work best when participants are willing to let go of more minor disagreements for the overall good of making advancements in a timely manner.

2. A voting member of the Steering Committee is any representative of an organization that has a stake in the outcome of the TMDL and Implementation process and has attended at least four Steering Committee meetings within a 12-month period. The meeting at which a vote is taken will count toward the four meeting requirements.
  - a. For attendance counting purposes an individual can only represent one organization per meeting.
  - b. Unless the Steering Committee votes that an organization is not either a true stakeholder or a real organization, it will be assumed that all participating representatives represent an organization that has a stake in the outcome of the process. (Individuals not representing organizations cannot become voting members, though they can attend meetings.)
  - c. An individual can represent different organizations at different meetings and earn voting membership rights for those different organizations. The individual can only represent one organization per meeting and needs to indicate on the sign-in sheet, which organization he or she is representing.
  - d. Each organization has only one vote.
  - e. An individual cannot have multiple votes even if they represent multiple organizations.
  - f. The individual representative does not have to have attended a meeting before as long as the organization has had a representative attend the required number of meetings (three) in the previous 12-month period.

#### **G. Miscellaneous**

1. Placing items on the agenda.
  - a. Issues that need a decision at a meeting must be circulated at least one week before the meeting as part of the agenda so that everyone knows that a decision is being proposed and could be finalized. A new item can be added to the agenda on the day of the meeting if it is approved by a supermajority of voting members.
  - b. Issues such as announcements and updates that do not involve making decisions can be added to the agenda without pre-notification.
  - c. The Executive Committee meets more than a week before the next Steering Committee meeting to determine the agenda.
  - d. Agendas for all meetings should be sent out at least one week beforehand to the sjr-tmdl email list, though exceptions can be made to this guideline.
2. Setting special meetings.
  - a. A committee can call a special meeting but should attempt to provide at least one week of notice and an agenda beforehand.
  - b. Notice of the meeting along with the agenda should be posted to the sjr-tmdl list.
3. Meeting Notes
  - a. All meetings should have meeting notes that include at a minimum: the attendance list, a list of issues, and a record of any decisions that were made. The notes should be circulated via the sjr-tmdl list.
  - b. The Executive Committee's notes can consist of an agenda for the next Steering Committee meeting, but any other decisions should be separately recorded.
  - c. It is incumbent on the meeting participants to review the notes to determine if they are accurate. Changes meeting notes should be reposted to the sjr-tmdl list.
  - d. Meeting notes are not formally adopted or approved at future meetings. The comment period on the previous month's meeting notes will end when the final agenda is sent one week before the next meeting.

