

Summary Of Discussion On Decision-Making Process

Note: These are in no particular order. Comments were grouped by common topics.

1. Decisions should be made using logic and common sense. Decisions should be well thought through with a basis in fact. They should be defensible. This committee should focus on making decision and proceeding steadily toward its goal.

2. This group should to recommend to the Water Quality Board a selenium standard that is based on good science, that is site specific, and is protective of all species in the Great Salt Lake ecosystem (this includes all of us). The standard should comply with federal and state statues and should enhance the eco-system and protect public health. The uniqueness of the Great Salt Lake eco-system should be given good weight.

3. If the group is divided on science, the precautionary principle should be used to answer questions.

4. Science should be placed above everything in creating an acceptable standard – unless the cost is out of sight. Economic health should be considered.

5. Time should not be allowed to dictate good science. A decision could come as late as the summer or 2007.

6. Public input should be considered. This committee should hear all sides of the issue.

7. The committee should try to reach consensus whenever possible. When consensus is not possible, a super majority should be used (The group needs to decide what that number should be. Three-fourths of those present was suggested. If decisions reached are not well beyond 50/50, then the group has failed). Members should think about things with an open mind and be willing to consider ways to accommodate the minority. The committee should work to fill in any gaps and narrow opinions. If/When there is a minority opinion, that side should have the right to express its opinion and explain its position, in writing.

On the really substantive votes, like what a proposed selenium standard should be, I believe strongly in the supermajority concept, for the reasons I explained. It forces people to accommodate in order to get enough support for a positive vote, and prevents under-represented interest groups from getting rolled while not allowing one or two outliers to veto the process. But for procedural matters, if you only approve something with a super-majority vote you can end up with procedural gridlock if neither side of an issue can ever muster the required percentage. Sometimes you need to decide on SOME procedure, or nothing happens. So for actions regarding how the committee works, a majority vote is probably fine in my view. The problem, as my Civil Procedure students learn very quickly, is that the line between "substance" and "procedure" can become obscure very quickly, since "procedural" matters often have a way of driving substance.

8. Commitment is needed from the State on the role of this committee.