

**Regional Council of
Rural Counties**

98-17

December 30, 1997



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Mr. Tib Belza and Mr. Roger Strelow, Co Chairs
BDAC Water Transfer Work Group
CALFED Bay-Delta Program
1416 Ninth Street
Suite 1155
Sacramento, Ca. 95814

Dear Messrs. Belza and Strelow:

As a member of BDAC and the above referenced workgroup I am compelled to write to you regarding the efforts of the workgroup. I believe that we all agree (at least in principle) that water transfers could advance the goals of a CALFED solution, if they are consistent with the CALFED solution principals.

Satisfying the CALFED solution principals is critically important to achieving success in water transfers. Without compliance with those principals, especially that of redirected impacts, there can be little hope of long-term transfers achieving success.

Transfers are only sketchily described in the CALFED program and yet they are perceived by most participants as being a critical element of the solution. The CALFED discussion of conveyance facilities does not even include a discussion of water transfers. Transfers however, will require flexible conveyance schedules and adequate facilities. The Ecosystem Restoration Program Plan clearly indicates the need for additional instream flows - to be acquired through transfers from willing sellers- yet discussion of transfers is less than one page in the four volume report.

Water transfers are central to both ecosystem restoration and water supply reliability. They are also important in achieving water quality objectives for the Delta. I do not raise these issues simply to applaud transfers but rather to show that the resources and attention which must be given to this portion of the CALFED program has thus far been wholly inadequate. Furthermore, this workgroup's progress to date does not inspire the ability to incorporate transfers into the CALFED program by next spring. Therefore, I believe, that as a first item of business, this workgroup should discuss our meeting schedule and assess realistically our potential to achieve significant progress.

As a second recommendation, I would urge that the workgroup closely examine the relationship of transfers between a willing seller and willing buyer and the closely associated relationship of water

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resources in the public trust. Water transfers must recognize that water resources are a public asset - not a narrowly owned property right. The California Constitution underscores the water ownership by the people of this state.

The marketplace in which transfers takes place has a role, but only as a tool, not as a forum for balancing landowner desires against those of the community. The marketplace should be used to provide a cost efficient method of distributing water from one area to another. However, the market must be an open market, and not one artificially constrained through the use of price setting or state agency sole control. There is clearly a role for the private sector in water transfers however, the nature of water as a resource of the people must also be recognized. The marketplace values of water cannot be captured in the simple barter between one willing seller and one buyer. There are basin and watershed wide issues of equity that can only be addressed by internalizing the complete range of social and environmental costs associated with water transfers.

I am disturbed by the discussions regarding equity in water transfers. We seem to have moved so quickly to simply trying to achieve a "handle" on third party impacts that we have completely failed to examine the larger landscape. Without a larger perspective, the evaluation of public trust issues of transfers and discussions may focus only on predictable subjects. Those can be condensed into subsidies for farm workers and the collective hand wringing that "we don't really know how to do good socioeconomic impact analysis within the schedule we have - so we won't..." That sort of discussion will lead us not to a water transfer solution, but alternately to the edge of a political abyss none of us really wants to jump into.

As a third recommendation I would point out that we must recognize that viable, achievable, water transfers are dependent upon marketplace certainty. As a conjunct of that, an equitable water marketplace is the only water market that will be implementable and affordable in the long-term. Therefore, our objective should be to create a relatively open, secure marketplace, yet one in which the other public values of water are recognized. That recognition should come not as an afterthought, but rather in the creation of the marketplace itself and in its ongoing operation. Certainty in a marketplace is predicated on the ability to understand what the conditions for a transfer will be, when the transfer could take place, the pricing structure(s) of the resource, and the regulatory process necessary to achieve the transfer.

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Marketplace certainty will be dependent, to a great part on trust. The trust factor will not simply be between those actively participating in the transfer, but also between those benefiting from the transfer and those potentially impacted by the transfer. That trust will only exist if the broader public values of the resource are understood and accepted.

My fourth recommendation is that we assume that the existing system of water rights be maintained and that the rights of the transferor, within those rights be supported. Water transfers should not impair the water rights of others in either the short or long-term. Wheeling pricing and wheeling structures should be agreeable to all affected parties and not limited to a discussion between the seller and buyer. Water quality is a component of a water right. The public value of the water should be maintained by the user. Therefore, water quality protections for surface and ground water should be an integral portion of any transfer process.

The fifth recommendation is that just as there must be certainty in the marketplace there should also be certainty for those affected by the marketplace. Successful transfers must be premised on a commitment to a "no surprises" and "no damages" policy. This is central to establishing the community and public trust critical to making transfers part of a long-term solution.

A requisite to establishing trust is the development of an adequate data base and a public distribution of the information through the environmental analysis process in place. There is a clear need for an overarching framework for assessing the impacts of water transfers (long-term) on a local as well as basin wide or watershed wide basis. The lack of adequate data could greatly inhibit the potential for transfers to provide early flexibility in the Delta solution for both ERPP implementation as well as water supply reliability.

It would be a positive step for the CALFED to convene an independent panel to develop and test modeling and monitoring protocols. This is especially critical in the case of ground water transfers or surface water transfers involving ground water substitution. The interaction between surface and ground water needs to be resolved, based upon good science, as soon as is possible.

This process should be developed in spite of legislative intent to do water transfer legislation. The central point remains that regardless of what is or isn't accomplished in the legislature, the need to answer questions posed by the general public - the voters - will remain. No amount of Sacramento- side-stepping

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will escape that scrutiny. Public involvement, in the development of the panel recommendations is also recommended. Seeking to improve market certainty by limiting public involvement will not work any better now than it has in the past.

As a final recommendation I would also point out that perhaps the largest source of "new" water, available for long-term transfers is present in the upper watersheds. In those areas, through meadow and watershed restoration efforts, improvements in water quality as well as quantity are available. This can be achieved without impairing or impacting existing water rights, storage or conveyance facilities. The magnitude of this potential can be made clear through the examination of just one watershed.

A conservative model of the Feather River Watershed, including ground and surface water interactions indicates that over one quarter of a million acre feet of water storage has been lost to gulying and dewatering of upland meadows. That water no longer in storage is "lost" to transfer and instead is added to the high spring floodwaters. That water could be recaptured for transfer by restoring those natural ecological process in the upper watershed meadow recharge areas. In stream benefits accrue to all downstream reaches to the point(s) of diversion in the augmentation of base flows. The increases in summer and early fall flows comes at a time of higher water value when the water can be of value to all - as a benefit.

I remain firmly committed to the CALFED process and the involvement of the BDAC. I must however, remain a realist and point out that our current workload and publicly stated schedule do not square. There is a very real prospect that the release of the Draft Environmental Impact Statement/Report will act as a catalyst for criticism of the CALFED program rather than as a banner upon which to rally support.

Sincerely,



Robert A. Meacher, Member
Bay Delta Advisory Council
Chair, RCRC Water Committee

Cc: The Honorable Richard Dickerson, President
Ms. Marcia L. Basque, Executive Director
Mr. Anthony W. Farrington, Special Programs Coordinator
Mr. John S. Mills, Water Resources Consultant
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