

January 27, 1998

Draft Water Transfer Discussion Paper No. 2

**Preliminary Status Report to BDAC and CALFED
from the BDAC Water Transfer Work Group on
Tentative Solution Options for
Third Party Impacts and Groundwater Resources Protection**

At the first BDAC Water Transfer Work Group meeting, in July of 1997, BDAC members and invited participants identified third party impacts and groundwater resources protection as priority issues for consideration. CALFED staff proposed a process which would allow the Work Group to focus its efforts on developing solution options and, if possible, policy recommendations to BDAC and CALFED regarding these issues.

Other technical and operational issues identified in the July 17, 1997, Discussion Paper were referred to the Transfers Agency Group (TAG) for development of issue papers and policy questions to be brought back to the Work Group at the appropriate time. In its next few meetings the Work Group will expand the scope of its discussion to include: issues related to the definition of transferable water (e.g., the rules and criteria for quantifying transferable water, impacts on other legal users of water, interpretation of consumptive use and irrecoverable loss), and environmental water transfer issues (e.g., transfers to benefit instream flows or other environmental purposes and adverse environmental impacts of transfers).

After considering these issues, the Work Group will attempt to identify solution options which can be incorporated into the water transfer policy framework to be recommended to BDAC and CALFED agencies. A similar approach will be followed for other water transfer issues as time permits.

Transfer Work Group meetings subsequent to the first centered on presentation of case studies which provided "real world" illustrations of transfer projects, third party impacts and groundwater issues.

At the November and December Work Group meetings, participants "brainstormed" solution options and produced a rough list of ideas to be considered in developing policy recommendations for addressing third party impacts and groundwater resources protection. These solution options were sorted and, based on the discussion among Work Group members and meeting participants, CALFED Program staff have attempted to refine and prioritize the solution options which have some general measure of support as part of a water transfer policy framework to be incorporated into the long-term CALFED Bay-Delta Program.

Support for *all* of the refined solution options was not and will not be unanimous. However, the solution options listed below did receive unanimous or nearly unanimous support from participants present at the December 17, 1997 Work Group meeting. Support in some cases must be considered tentative or conditional, depending on other aspects of the policy framework, how the policy is implemented, or other components of the CALFED Program. The major themes of the broadly supported solution options are:

- baseline data collection,
- neutral party analysis and monitoring of transfers,
- cumulative impact analysis,
- public disclosure of data and analysis, and
- public participation in the transfer review process.

Specifically, the solution options discussed and supported by the BDAC Work Group can be described as functions to be performed by an institution or entity as yet undefined. This could mean a new entity of some type or existing entities and agencies.

The functions identified are:

- Research and development as necessary to establish credible and adequate baseline information on groundwater conditions and groundwater/surface water interaction.
- Extensive groundwater monitoring programs before, during and after specific water transfer projects.
- Development of analytical requirements for specific water transfer projects based on the type of water transfer (e.g., intra-basin, inter-district, change in purpose of use, instream or environmental use, or out of basin transfer).
- Adequate, project-specific environmental review and analysis of each water transfer proposal.
- Basin-wide planning goals for surface and groundwater resources.
- Definition of the range of transfers needed for the long-term CALFED Bay-Delta solution.
- Public disclosure of all pertinent information on each water transfer proposal, through a process funded by transfer proponents, and public participation in the review and approval process, including:
 - public notice of proposed water transfer projects;
 - public disclosure of water transfer proposals and plans, explanation of anticipated impacts and mitigation strategies;
 - disclosure and explanation of claims process for parties seeking compensation for damages resulting from water transfers;

- decision making by the parties to the transfer and other legally responsible authorities in and through the public process; and
- educational programs for the public regarding water transfer terminology, process and technical information.

In addition to the solution options which received unanimous or near unanimous support by Work Group participants at the December 17, 1997 meeting, a number of other solution options received support from a significant, though not unanimous, subset of the Work Group participants.

The solution options for functions which received significant, though not unanimous, support are summarized as follows:

- Local, independent groundwater monitoring should be established and financial support provided.
- Evaluation of water transfers should include analysis of local economic benefits and impacts of transfers. This might include fund tracking or establishing accountability for funds received for transferred water.
- Entities purchasing or receiving transferred water should be required to meet certain efficiency criteria including evaluation of tradeoffs of increasing conservation versus buying transferred water.
- Defined process for access to transfer markets and the criteria for selling water.
- Evaluation of water transfers should include analysis of redirected impacts and whether or not water offered for transfer is surplus to the system.

The Work Group also expressed a view with respect to a concept which should not be part of a CALFED water transfer policy framework - the idea that a physical limit should be imposed on the amount of water which a region or political entity may transfer. The sense of the Work Group was that this decision should be made at the local level, provided that the review and approval process is adequate to protect local interests from adverse impacts of the transfer.

In addition to the solution options discussed in this paper, some solution options involving legal or regulatory changes were identified by the Work Group during the brainstorming session. These have not been discussed further by the Work Group.

As discussions continue in the Work Group, these solution options may be further refined and may become the basis for policy recommendations to BDAC and the CALFED Program.