

Summary of Meeting
BDAC Water Transfers Work Group
February 18, 1998
Seventh Meeting

Key Points

- The work group generally agreed to the concept of a "clearinghouse" that would primarily function in a data collection/analysis and public disclosure role. CALFED staff will revise the clearinghouse discussion paper to expand on this concept, but more discussion is needed to develop details of how this process may work.
- As stated by Lester Snow, the objective of CALFED's water transfer element is to provide a policy framework for the development of an efficient and protected water transfer market by resolving the issues that currently constrain the use of water transfers as a water management tool.
- This work group may not be able to fully resolve the issue of defining transferrable water given the time constraints and the complexity of the issue. The work group may provide recommendations on what process would be necessary to resolve this issue.
- The CALFED Program will develop a water transfer policy framework white paper that will recommend options for resolving the various issues that have been identified. This paper would be drafted by the end of June. The work group's advice on the recommendations forwarded in the paper will be critical to the success of this element.

Discussion Overview

- There was continued discussion among work group participants regarding CALFED's vision of how water transfers fit into a Bay-Delta solution. As stated at previous meetings, some stakeholders believe that CALFED is anticipating some minimum amount of transfers to occur and would like CALFED to disclose this. CALFED staff continue to state that transfers are one of several water management tools that are part of the solution. The amount transfers contribute to the future management of water cannot specifically be defined. The goal of this element in the CALFED solution is to resolve the serious issues that constrain transfers such that, based on local participation, the transfer market will operate more efficiently, with the necessary protections in place.
- Mary Selkirk announced that Greg Young would be the primary CALFED staff assigned to the water transfer element. Mary will be decreasing her role in this work group because of increased commitments in other areas of CALFED. Greg Young has been working as part of the CALFED consultant team since December 1995. Mike Heaton will continue to provide his assistance.
- Mary Selkirk provided a brief overview of the February 12, 1998 public meeting held in Chico. The Big Chico Creek Watershed Alliance invited CALFED to hold a public meeting on water transfers. Several good points were raised during the meeting. CALFED presenters made it clear that CALFED does not have any decision making authority. The agencies that comprise CALFED still have their various authorities. As a result of the public meeting, CALFED will develop a list of appropriate agencies and contacts and their

associated authorities as they relate to the CALFED Program.

- Solution options offered during the work group's November meeting but not discussed during the December "voting" session were brought forward by CALFED staff at this meeting. Handout A, distributed at the meeting, contained 8 solution options previously categorized under "New regulatory and/or legal requirements" (see November meeting minutes). The question was raised as to whether the Status Report paper should be modified to include any of these solution options. The work group discussed several of these options at length with many questions arising regarding the details of a particular solution options. A "straw" vote on the options did not produce meaningful results because of debate about the details. It was noted that the solution options being debated were really options for implementing some of the ideas that have already been agreed upon and discussed in the Status Report (i.e., greater public disclosure, adequate project specific environmental documentation). The request was made that work group participants provide their view on regulatory or legal changes necessary to implement desired improvements instead of trying to "vote" on the options listed in Handout A. Comments should be forwarded to Greg Young by March 2.
- Mike Heaton provide the work group with an overview of the December 2, 1997 memo regarding a "water transfer clearinghouse". He stressed that the clearinghouse concept is a "process". It does not involve any significant changes to existing authorities or regulations. The focus of a clearinghouse would be to ensure that specific transfer projects are open to greater public participation during their analysis and approval/disapproval stages. The paper brings forward several questions for which CALFED is seeking advice from this group including: Should this process be established for individual basins or be valley-wide? Should this simply be a process or does it require its own entity? If a new entity is needed, who would it be and how would it be organized?
- The group's general consensus was that the concept of a clearinghouse should be pursued. Most, however, felt that the role of the clearinghouse should be limited to information, public disclosure, and data collection and analysis. Allowing a clearinghouse to have a brokerage function could create conflict of interest problems. Some participants noted that the problem with transfers is the lack of public disclosure. There is not a problem getting buyers and sellers together. Therefore, the clearinghouse should not become involved in a brokering or banking role.
- With regard to when a clearinghouse process would be triggered, it was stated that once a proposed transfer begins the environmental review process, the clearinghouse should be notified and appropriate disclosure, data analysis, or other actions should be initiated. According to some, the clearinghouse process should not be initiated until after two parties have negotiated the initial framework of a potential transfer. Others felt that when a transfer is first proposed, the public should be notified. This was believed necessary (by some) to provide for the use of "first right of refusal" conditions (not in existence now).
- It was noted that use of a clearinghouse in the manner described in the draft memo would be a much more active process than the clearinghouse process included under CEQA. The CEQA clearinghouse only acts as a repository for the environmental documentation. It does not become involved in public notification or in any form of review or analysis.
- It was noted that a clearinghouse should not repeat the functions of other entities. The clearinghouse could refer people to the appropriate existing process, if such exists, for all or part of the functions being considered.
- Many participants felt that CALFED could play a major role in the funding of a

clearinghouse process. Concern was expressed that if the process becomes self-funded, it may try to solicit more transfers simply to ensure it has continued funding. The level of data collection and analysis will also be dependent on the amount of funding available. If there is little funding, then there will only be a small amount of data collection and analysis.

- CALFED staff will revise the clearinghouse working document before next meeting to facilitate further discussion.
- DWR representatives noted that they would still perform their own independent analysis of specific transfer proposals to identify potential impacts to their project and their customers, regardless of what a clearinghouse may develop. Others noted that if the clearinghouse analysis was done through an objective entity such as the University of California, or the Natural Resource Conservation Service, maybe there would be less need for independent analysis, and more trust among interested parties in the findings.
- The draft issue paper on defining transferrable water was discussed. Alex Hildebrand circulated a draft document regarding impacts from transfers on other water users when the water system is fully committed. It was agreed that there are almost always potential impacts under such conditions. The issue is to what extent are impacts acceptable and how can we mitigate for them. It was noted that the state and federal projects are perceived as interpreting transferrable water rules to protect their "junior" water rights and to ensure that they can meet Delta water quality and outflow requirements. A question was raised regarding the role that current State Water Resources Control Board hearings on water rights may have on this issue. Some felt that the issue of defining transferrable water will still exist regardless of the outcome of the SWRCB proceedings. Roger Strelow, as co-chair of the work group, stated that this work group may only be able to provide recommendations on the process necessary to solve this issue, but not come to resolution on the issue itself (primarily because of time constraints). Others feel that the work group should try to develop consistent rules for transfers, fearing that other forums may be swayed by state or federal interpretations and not consider the views of senior water rights holders.
- Lester Snow was able to spend a few minutes with the work group at the end of the meeting. He specifically stated his desire to develop a "white paper" that addresses options to resolve the issues that currently constrain transfers. This paper could be presented to the legislature for further action or the recommended solutions could be linked as assurance measures for new storage facilities. When asked about the role CALFED sees transfers playing in a Bay-Delta solution, Lester responded that transfers are an essential water management tool that will enable other water management tools to function effectively. There is a need for an efficient water transfer market with the proper measures to provide economic and resource protections. It is very difficult to understand the potential role that transfers may play. However, water transfer have and will continue to occur. CALFED must address the issues that have arisen during past successful and unsuccessful transfers and provide for a market such that it can work efficiently while protecting other interests.
- It was stated that what is needed is a regulated market coupled with a need to define up-front what would be considered an impact and how it would be mitigated.

The next meeting of the BDAC Water Transfer Work Group is scheduled for:

March 18, 1998 from 9:30 a.m. to 3:00 p.m. (Room 1412, Resources Building)

Lunch is not provided. Discussion will focus on further refinement of policy advice to BDAC and CALFED as well as discussion of other important water transfer issues.