

Revised 1/20/97

## CALFED Water Transfer Element

### Draft Discussion Paper No. 4 - Access to CVP and SWP Facilities

#### Issue

What are the rules for priority of access to CVP and/or SWP facilities for conveyance or storage of transferred water? How can the existing CVP and SWP facilities provide reliable conveyance through the Delta for transferred water, without impairing CVP and SWP contractual obligations?

#### Background

Water Code section 1810 et seq. provide that the owner of a water conveyance facility (including the State and any regional or local public agency) must make up to 70% of the unused capacity of the facility available for transfers, subject to certain conditions. The owner of the facility is entitled to fair compensation and may establish terms and conditions for its use, including requirements for operations and maintenance, scheduling, water quality, terms of use, and priorities. Section 1810(d) also provides that the use of a conveyance facility is to be made without injuring any legal user of water and without unreasonably affecting fish, wildlife, or other instream beneficial uses and without unreasonably affecting the overall economy or the environment of the county from which the water is being transferred.

Access to federal facilities is governed by the Warren Act of 1911 (43 USC sect. 523). This law authorizes the Secretary of Interior to enter into contracts for the impoundment, storage or conveyance of water, in accordance with certain conditions (e.g., compliance with reclamation law and preserving a "first right" for project contractors).

As a practical matter, the availability of project pumping capacity for project water and transfers alike has been reduced in recent years by the pumping reductions in April and May and the additional "make up" pumping which must then occur in the fall of the year, as well other fishery protection constraints which may occur throughout the year. The effect of these actions is to further narrow the window of time in which transferred water can be pumped from the Delta.

## Discussion

Water transferred across the Delta must be pumped and conveyed by CVP or SWP facilities. Pumping and conveyance of project water has priority over non-project transfers. It is difficult for project operators to make firm commitments regarding the transfer of non-project water, more than a few months (sometimes, weeks) in advance, due to the many variable conditions and operating constraints in the Delta.

This lack of reliability in the timing or availability of project facilities for pumping, conveyance and storage of transferred water is a strong disincentive to transfers. Buyers are reluctant to purchase water, for short or long term transfers, not knowing whether it will be delivered when needed. However, given the current limitations in the Delta and the legal and contractual obligations of the projects to move project water before moving transferred water, it is impossible for project operators to provide any degree of reliability for transferred water, even in the short term.

Essentially, the issue presented here is how to reduce the risk of transfers, particularly long term transfers, for all parties. If the projects are going to commit capacity to long term transfers, it must be done in such a way that their contract deliveries are not put at risk. Is there a way to provide more reliability for transfers without impairing the projects' obligation to deliver project water?

## Solution Options

More flexible operating criteria (such as joint point of diversion for CVP and SWP) could provide for optimized pumping at certain times of the year, thereby creating a larger transfer window at other times of the year.

Additional capacity for storage and delivery of project water would create more and larger transfer windows, even with the same priority requirements as those currently in place.

New facilities could operate with a different set of priorities. For example, transfers could be given a priority for some portion of the capacity of an isolated conveyance facility.

The CVP and SWP or their contractors could sell on a long term or short term basis a quantified right of access to conveyance capacity (as distinguished from a quantity of water) in existing facilities. This capacity could then be used for transferred water on an equal priority with project water.

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