

Summary of Meeting
BDAC Water Transfers Work Group
January 21, 1998
Sixth Meeting

Key Points

- Discussion paper listing the Work Group's solution options will be referred to as a "status report", not recommendations. The status report will be provided to the BDAC at their meeting on January 29, 1998 and to the public at the Big Chico Creek public meeting on February 12, 1998.
- The Work Group still needs to discuss the solution options shown in the status report further prior to offering more official policy recommendations to BDAC or to CALFED.
- Solution options not receiving unanimous support at the December 17, 1997 meeting, but still having significant support will be included in the status report.
- The next meeting will continue until 3 p.m. to provide the participants more time to discuss appropriate issues.
- The Work Group generally supported discussing transferable water, instream use and environmental transfers, and no-injury issues next.

Discussion Overview

- Mike Heaton reminded the participants that the Work Group has agreed to make somewhat arbitrary distinctions between various issues. To date, the focus has been on finding solution options for third party impact and groundwater protection issues. Other issues identified in the initial Water Transfer Discussion Paper have not been discussed. This includes the issue of defining transferrable water.
- The listing of solution options contained in the *Draft Water Transfer Discussion Paper No. 2* were felt to adequately represent the work of this group to date. It was suggested, however, that those solution options that received a significant number of votes, but not unanimous, also be included in this document. CALFED staff agreed to include these as a subsequent list at the end of the document.
- It was generally agreed by participants that the listing accurately reflects what the Work Group conceptually agreed upon. However, specific details have not been discussed nor agreed upon.
- Concern was expressed regarding the term "an undefined entity" as used on page 2 of the document. Text should be included to clearly explain that this could mean an existing entity or agency, or a new agency.
- It was suggested that the solution options include a process to handle uncertainty. For example, if a transfer results in an unexpected impact, can the transfer be revised or conditions to avoid the impact? Some suggested that this may be handled as part of the on-going monitoring that is offered as a solution option. Individual transfer agreements possibly should provide for "adaptive management" to handle uncertainty.
- It was suggested to clarify one of the bullets under public disclosure on page 2 of the document. The current wording related to "decision makers" is vague. Reference to

decisions at all levels should be included, from local governments to the State Water Resources Control Board. CALFED staff agreed to revise this wording to clarify the understanding that *all* decisions should be made through the public process.

- Some participants requested a clear indication in the beginning of the paper that there are several outstanding issues that still need to be dealt with by the Work Group.
- Several participants discussed the desire to understand how CALFED views water transfers as part of the Bay-Delta solution. What amount of water transfers is CALFED expecting? Is this amount even feasible given what is known about transferable water? It was suggested by some participants that CALFED should not try to generate a target value (which they have not to date). The values CALFED has discussed are capacity oriented. Over time, the market and public process will determine the amount.
- There appears to be several interpretations of where the Work Group needs to direct its attention. Some feel that defining transferrable water is important, others feel more needs to be done regarding details of process to address third party and groundwater impact issues. Still others feel that environmental water needs should be addressed next. No clear consensus was reached by the Work Group regarding which of these to do next.
- Some participants expressed concern over the potential third party impact that may occur when “paper” water is transferred. Some debate ensued as to whether this is an issue of third party economic impacts or an issue of “no-injury” under the Water Code. Some feel the law clearly states that if potential injury to a downstream water user can be shown as a result of a transfer, than approval for the transfer cannot proceed. Others feels that the current approval and CEQA process inadequately handles the potential “injury” or third party economic impact on downstream water users. Work Group discussion to date have made a distinction between economic impacts that may occur to “non-water users” versus impacts that may occur to other “legal water user”. It was felt by several that these seem to be two separate issues that the Work Group can continue to address independently. However, others felt that there is no reason why CALFED cannot challenge existing water transfer laws. The premise would be that maybe some laws need to be rewritten.
- It was noted that the Water Code makes a distinction between “legal users of water” and the environment. While some have commented that the environment is a legal user, to stay consistent with Water Code terminology, it was generally supported to keep this same distinction in this Work Group.
- Several methods were offered to allow the Work Group to work on solution options related to defining transferable water. These included 1) starting with an understanding of current law and interpretations by the SWP and CVP, 2) starting from scratch and defining it as the Work Group views as necessary, independent of existing law or precedent, 3) only focus on creating a consistent set of definitions for SWP and CVP to operate under, or 4) determine what type of recommendation the Work Group should make to BDAC and CALFED, what the product should look like, and work backwards to understand what aspects need resolution.
- The concept of determining what type of recommendation the Work Group should make to BDAC and CALFED, what the product should look like, and working backwards to target necessary issues, was offered as an overall approach for all of the remaining issues. In other words, given the limited time, the Work Group should figure out what level of advice it wants to provide and work backwards to see what actions need to occur during the next several meetings.
- It was noted that taking on the issue of transferable water does not mean that the Work

- Group is leaving behind third party impacts and groundwater protection issues. Instead, as the group discusses defining transferable water, these issues will continue to be brought up.
- A suggestion was made to have the CALFED Program explain how their modeling is incorporating water transfers or transfer capacity into their analysis of various alternatives.
 - A suggestion was made that the Work Group should stay focused on third party impact and groundwater protection issues given the amount of time remaining. This can be of most value to the overall CALFED process. This would include expanding on the water transfer clearinghouse concept.
 - It was suggested that the Work Group direct their discussions at how to allow transfers to help meet the stated CALFED objectives. Perhaps the Work Group should be discussing public policy on transfers as it relates to the obtaining the desired CALFED goals, not technical definitions.
 - Mike Heaton raised a fundamental question to the Work Group. Do they want to resolve issues to allow more water to more easily transfer or less water transferable? Knowing the direction can change the focus of how we address the outstanding issues.
 - A suggestion was made that the Work Group attempt to place rules on land fallowing; what constitutes land fallowing? How long can land be left idle? When does land become abandoned?
 - Mary Selkirk informed the Work Group that the Big Chico Creek Watershed organization invited CALFED to come present information on water transfers at a Chico public meeting on February 12, 1998. This is intended to provide stakeholders in this area an opportunity to ask questions and provide input. The status report written for this group will also be provided to the public at that meeting. All of the Work Group participants are invited to attend.

The next meeting of the BDAC Water Transfer Work Group is scheduled for:
February, 1998 from 9:30 a.m. to 3:00 p.m. (location to be determined)

(Note that this meeting extends into the afternoon) . Lunch is not provided. Discussion will focus on further refinement of advice to BDAC and CALFED as well as discussion of other important water transfer issues.