

Summary of Meeting
BDAC Water Transfers Work Group
March 18, 1998
Eighth Meeting

Key Points

- The majority of the BDAC members or invited participants who normally participate in the Water Transfer Work Group meeting were not present. This was in part a result of the general BDAC meeting scheduled in Burbank on March 19 and 20.
- A significant majority of meeting participants agreed that one, statewide clearinghouse entity would be more appropriate than several watershed or basin based entities. In addition, there seemed to be a general consensus that this entity should be independent of DWR or the Bureau of Reclamation.
- Most participants did agree with the solution options identified in Issue Paper #3 on Instream Water Transfers. However, serious disagreement was voiced regarding whether or not water transferred to instream purposes needs to meet the same 'reasonableness' test applied to water transferred for consumptive use purposes.
- Though the general consensus of the Work Group is to support an informational-based clearinghouse, concern over who has regulatory oversight on transfers still needs to be resolved.

Discussion Overview

- A U.S. Bureau of Reclamation representative provided the Work Group with an overview of the Bureau's transfer guidelines and an update on the development of specific water transfer rules and regulations. A revised 1998 administrative proposal for water transfers, stemming from the "Garamendi Process", will be available in the next several weeks. This document will outline how the Bureau views particular solutions and the recommended action or interpretation they will take when implementing transfers. It was also noted that official water transfer rules and regulations will not be available until late 1998 or early 1999. Until then, the 1993 Interim Guidelines will remain in place.
- A question was raised about the sunset provisions in the CVPIA Water Transfer language. Some Work Group participants remembered that particular provisions were made to sunset because they were viewed to be redundant with pending state law (which was assumed to be in place by the time the provisions sunset). The Bureau's position is to still comprehensively review transfers even if the specific sections of the CVPIA no longer require it. For example, cumulative impacts of a proposed transfer will still be analyzed even after the requiring CVPIA provision sunsets.
- The Work Group further discussed proposed functions of a clearinghouse. A suggestion was made to subdivide function #8 into two parts: provide cumulative analysis, and determine if the water proposed for a transfer is surplus to the watershed.
- The Work Group generally agreed that the revised functions presented in the March 10 version of the Clearinghouse Discussion Paper reflected the desire to limit the clearinghouse to an informational role. Some debate still exists with regard to any advisory role the

- clearinghouse may play, such as indicating preference for particular types of transfers.
- It was suggested that the clearinghouse function on a larger, statewide scale and not be separate for various basins. For example, it was stated that having separate clearinghouses for the Sacramento Valley, the San Joaquin Valley and the Delta would be more cumbersome and could result in analytical and disclosure problems. The Work Group generally agreed that one functioning clearinghouse for the state would be most appropriate. However, this statewide entity may have local affiliations, etc. to ensure local coordination. Concern was also expressed that the use of separate clearinghouses could lead to different methods of analysis, thus creating more confusion. A single entity ensures more consistent methodology.
 - Some participants expressed support for the use of academic institutions to perform data collection and analysis functions of the clearinghouse, but with oversight from non-academic professionals. In addition, it was suggested that if a clearinghouse was a local entity (though the Work Group's consensus is more toward a statewide entity), there could be a problem with lack of expertise. It was noted that many local entities do not have staff with watershed expertise. Additional outside support from appropriate experts would be necessary in such situations.
 - Generally, the Work Group felt that the functions of the clearinghouse must be completed by people or organizations that can be trusted by all concerned stakeholders.
 - A suggestion was made to create a regulatory role for the clearinghouse that would allow linkage to other state and federal regulations. The notion would be to ensure that compliance with other regulatory requirements were achieved prior to approval of any water transfer proposal. It is possible that such a function could be included under the existing authorities of the SWRCB. However, most participants did not feel it was appropriate for the clearinghouse to play any regulatory role. Some participants suggested that the clearinghouse could disclose a transfer proponent's "standing" on regulatory compliance. Concern was expressed by others however, that such a grading could be more harmful because of inherent problems in our society's informational systems (credit reports and bond ratings were cited as examples). The disclosure of how a transfer proponent meets particular "criteria" directly related to a proposed transfer may be acceptable.
 - A suggestion was made to include on next meeting's agenda the topic of regulatory oversight for transfers. "Who should have the authority to approve what?" is the primary question some participants want to discuss. The group generally agrees that a clearinghouse should not have a regulatory or oversight role, but some also believes that the current level of oversight for water transfers is lacking and needs to be resolved. The Model Water Transfer Act was mentioned as an attempt to delve into the oversight issue.
 - The issue of instream flow tracking was reviewed by Mike Heaton. Two primary solution options (listed in Issue Paper #3) were presented. A question was raised regarding whether or not water proposed for an instream transfer has to meet the same 'reasonableness' test that water transfers for consumptive use purposes do. Opinions were stated that ranged on either end of the spectrum from: 1) water put back in stream is all useful regardless of its incremental benefit, to 2) water transferred for a 'reasonable' instream purpose on a tributary should not automatically be deemed as Delta outflow without establishing a 'reasonable' benefit for the additional Delta outflow.
 - A refinement to the solution options for instream transfers presented in the issue paper was offered by one participant. For instream transfers on small tributaries, local coordination and monitoring would be implemented to ensure the additional flow was not diverted. For

transfers to major rivers or Delta outflow, the CALFED Op's Group would be in charge of tracking and could use the method outlined in the issue paper to ensure the water was available for its designated purpose.

- Greg Young provided an overview of the Water Transfers Policy Framework White Paper. Mike Heaton and Greg are preparing an outline and a work-in-progress draft. These should be available in next month's meeting packet. It is anticipated that recommended solutions will be provided for all of the issues that have previously been discussed by this Work Group. The Work Group will continue to provide advice through review and comment on drafts of the white paper and by offering suggested solution options for further discussion.
- A question was raised regarding the development of specific water transfer assurances and linkages to other aspects of the CALFED Bay-Delta solution. It is anticipated that much of that discussion will need to occur in this Work Group. Internal to the CALFED Program, staff will interact with the other program managers and those working to develop the assurance packages to allow this Work Group's advice to be incorporated.

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

Tuesday, April 14, 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 an outline for the water transfer policy framework white paper.