California Perspectives -- Water Transfers

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July 2011

California, we're different

Federal Central Valley Project

- Largest single water project in California
- Operated by U.S. Bureau of Reclamation
- 18 federal reservoirs plus 4 state-federal reservoirs, 12 MAF total storage capacity
- Largest generator of electrical power in California

The State Water Project

- California's 2nd-largest water project
- Operated by CDWR
- 20 reservoirs, 660 miles of aqueduct, 26 power & pumping plants
- 4th-largest generator of electrical power in California

California Background

- No state administration of groundwater rights
- Surface water rights: pre-1914 and post-1914
- CEQA, exemption for temporary (1 year) transfers
- Water rights v. contractual rights
- Most transfers are rentals/leases, not sale of water right
- General state policy to facilitate transfers

Ways to Move Water Around

- Exchanges
- Short-term transfers of rights (aka annual transfers, spot market transfers) (rentals/leases)
- Long-term transfer of rights (rentals/leases)
- Short- or long-term rental/lease of contractual entitlement
- (CVPIA special provisions)
- Sale of water right (less common)

Water Code Section 1725

- Transfers not to injure any legal user of water and not unreasonably affect fish, wildlife, or other instream beneficial uses

Water Code Section 1810

- Neither the state nor local agencies may deny a bona fide transferor use of a water conveyance facility with unused capacity, subject to payment of fair compensation. Use of conveyance facility to be made avilable w/o injuring any legal user of water and w/o unreasonably affecting fish, wildlife, or other instream beneficial uses, and w/o unreasonably affecting the economy/environment of county of origin.

Water Code Section 1014

- Transfer of water or offer of water for transfer not a basis for forfeiture, abandonment, modification of water right or contractual right. An offer of water for transfer, contract negotiations, or transfer negotiations not evidence of waste or unreasonable use, or cessation of use

Due to & Following 1987-92 Drought

- State law: Multiple Water Code provisions that a transfer (i.e. rental or lease) of conserved water does not constitute forfeiture, including water conserved through land fallowing
- Added Chapter 1.5 of Water Code, provisions for water leases, in 1991
- Federal law: Reclamation States Emergency Drought Relief Act of 1991 (authorization for USBR to participate in state drought water banks, wheel non-Project water)

State Drought Water Bank

- Initially required in 1991 Governor's Executive Order on drought
- Statutes of 1992 added drought water bank-related provisions to Water Code, including explicit authorization for water suppliers to contract with bank
- For example, restrictions on replacement of transferred surface water with groundwater (Sec 1745.10), land fallowing water limited to 20% (Sec 1745.05)

State Agency Roles in Transfers

- SWRCB – regulatory authority over water rights
- DWR – approval over use State Water Project facilities for conveyance of non-Project transfers, operate drought water bank, CEQA compliance activities
- DFG – regulatory authority over fish and wildlife impacts

State-Federal (SWP-CVP) Nexus in Delta

DRAFT
Technical Information for Water Transfers in 2011

Information to Parties Interested In Making Water Available for 2011 Water Transfers

JANUARY 2011

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Examples of Transfer & Wheeling Amounts

Drought Water Bank

- 1991 (1st year of bank) – 821 TAF
- 1992 – 193 TAF
- 2009 (most recent dry year) – 74 TAF

Other CVP/SWP Wheeling

- 2009 – 210 AF of transfers (not counting internal reallocations among CVP and SWP contractors)

Ballpark estimate in 2005 CWP of maximum historical annual transfers in California: 1+ MAF (varies w/ water year type). Note: some transfers are ag to ag.

Long-Term Transfers

- Less common than spot market transfers
- CEQA compliance required
- Can be every year or just dry year
- Some of largest ones driven by external forcing (state action, litigation)

Examples of Long-Term Transfers

- IID-MWD: Colorado River contractual entitlement, response to SWRCB finding of waste & unreasonable use
- IID-SDCWA: Colorado River contractual entitlement, part of agreements for California to reduce Colorado River use to 4.4 MAFA
- Lower Yuba River Accord: litigation, SWRCB action re fishery flows

Limitations/Factors Influencing Transfers

- Water year conditions
- Conveyance capacity
- ESA requirements for listed fish species
- Crop prices

Key Points

- Water transfers in California facilitated by state law AND extensive large-scale water infrastructure
- Capability (interconnections) to do transfers also important for drought response, emergency response