



DATE: February 28, 2018

WHITEPAPER: SWCCWF-0008

SUBJECT: The State Water Project Public Water Agencies' (Public Water Agencies)¹ Issue Statements and Proposed Solutions for Objective One concerning the contract amendment process of the State Water Project² (SWP) Water Supply Contracts for California WaterFix (CA WaterFix).

Objective 1- Enhance management tools to facilitate greater flexibility for the Public Water Agencies (PWAs) to meet current and future water supply challenges.

Issue 1a: Transfers and Exchanges

In any given year, one or more PWAs may not have a need for their full SWP Table A allocation. Likewise, for certain PWAs, such allocations may exceed their needs for an extended period of time. Yet, the PWAs are obligated by the terms of their existing contracts to pay for all water supply-related costs associated with the SWP.

Despite this financial burden, most PWAs do not want to permanently relinquish their contractual right to receive SWP water, because they anticipate a need for it in the future. Rather, the PWAs would like broad flexibility to pursue both short-term and long-term transfers and/or exchanges of their Table A allocations. Such flexibility will enable the PWAs to meet their current and future water needs, while controlling the costs they incur.

¹ The State Water Project Public Water Agencies throughout this document are the public water agencies that hold contracts with DWR for the delivery of State Water Project water and include Alameda County Flood Control and Water Conservation District (Zone 7), Alameda County Water District, Antelope Valley-East Kern Water Agency, Castaic Lake Water Agency, City of Yuba City, Coachella Valley Water District, County of Butte, County of Kings, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Dudley Ridge Water District, Empire West Side Irrigation District, Kern County Water Agency, Littlerock Creek Irrigation District, The Metropolitan Water District of Southern California, Mojave Water Agency, Napa County Flood Control and Water Conservation District, Oak Flat Water District, Palmdale Water District, Plumas County Flood Control and Water Conservation District, San Bernardino Valley Municipal Water District, San Gabriel Valley Municipal Water District, San Geronio Pass Water Agency, San Luis Obispo County Flood Control and Water Conservation District, Santa Barbara County Flood Control and Water Conservation District, Santa Clara Valley Water District, Solano County Water Agency, Tulare Lake Basin Water Storage District, and Ventura County Flood Control District.

² The State Water Project is the name commonly used to refer to the State Water Resources Development System (Water Code Section 12931).



To that end, the PWAs should be allowed to pursue water transfers or exchanges on such terms and conditions as make sense to the parties involved, provided the transfer or exchange does not substantially undermine, impair, or interfere with the financial integrity, operations or maintenance of the SWP, the delivery of SWP water to other PWAs, or the storage of SWP water by other PWAs.

Furthermore, a PWA should be allowed to be both a buyer and seller in any given year. Given the ability to enter into multi-year transfers, prohibiting a PWA from being a seller and a buyer in the same year is problematic. The temporal variation in water demands, supplies, regulatory and operational constraints can result in instances where a seller that entered into a multi-year transfer, may determine that in a specific year it also needs to buy some water. This should not be prohibited.

Proposed Solution:

1. Add contract language that specifically provides for annual and multi-year transfers and exchanges between PWAs. This language should confirm section B of Notice to Contractors 17-11 as listed and modified below. This language should also clarify that a PWA can be both a buyer and seller in the same year, which is not clear in section B(3) of the Notice to Contractors.
 - a. All exchanges and transfers must be consistent with the existing Contracts.
 - b. All transfers and exchanges pertain only to SWP water in the year in which the water moves from one SWP PWA to another for compensation, which can but does not need to include the return of water.
 - c. SWP PWAs can be engaged in single or multi-year transfers and exchanges as a buyer, seller or both.
 - d. Multi-year transfers can be as long as the remainder of the contract period.
 - e. Terms and conditions, including compensation and exchange ratios, for all transfers and exchanges will be determined by the transfer/exchange proponents.
 - f. Proponents of all transfers and exchanges must comply with all applicable existing environmental (including CEQA compliance) and regulatory



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requirements. The Department will serve as a lead or responsible agency where applicable.

- g. The Department will review and approve all transfers and exchanges consistent with the terms of the Contracts, including but not limited to, assuring that: (1) the terms comply with the existing SWP Contracts; (2) the delivery of the water is possible/feasible considering the hydrologic conditions and delivery capacity of the SWP; and (3) the financial and operational integrity of the SWP is not substantially impaired.
- h. The Department retains its right to review and reconsider at any time a multi-year transfer agreement if it determines that delivery under the agreement is substantially impairing the financial feasibility of project facilities or is impacting any other SWP PWAs ability to deliver/store its SWP Table A.

**Issue 1b:** Prohibition from storing and transferring water in a given year

Currently Article 56(c)(4) disallows the PWAs from storing water and transferring water in the same year. This contract section removes flexibility that is needed within the same year to maximize the beneficial use of water within the SWP. Additionally, it would effectively take away flexibility for those PWAs entering multi-year transfers from storing a portion of their water during the term of those multi-year transfers. As an example, water demands and water supplies vary throughout the year and demand can't be precisely forecasted so a PWA needs the ability to store water at the end of the year for future use in the event the following year results in a low SWP allocation. As water supply develops in the following year, it is not uncommon for PWAs to have a need to exchange a portion of their SWP water while at the same time reserve some water in storage to plan for reduced allocations in future years. The ability to store water is becoming increasingly important as PWAs have been faced with multi-year droughts, hence non-SWP storage investments. During these times the PWAs still have hard demands that require water be delivered.

Proposed Solution:

1. Amend the contract to allow a PWA to store water and transfer water in the same year.

**Issue 1c:** Stored Water

In many instances, the most efficient way for PWAs to exchange or transfer water between SWP PWAs is to do so in San Luis Reservoir. Currently, Article 56(c)(1) does not allow the stored water to be transferred. This exclusion does not facilitate best management practices and often results in PWAs having to purchase water from non-SWP PWAs at a high cost. By allowing an exchange or transfer to occur within San Luis Reservoir it can also save significant transportation costs and losses while keeping SWP water in SWP service areas. This enhancement provides good water management by more efficiently allowing exchanges and/or transfers between PWAs.

Proposed Solution:

1. Amend the contract to allow stored water to be exchanged or transferred outside a PWAs service area to another SWP PWA for use in the SWP service area so long as there is no harm to other PWAs.
2. Amend the contract to prohibit the State from (1) supplying project or non-project water or from (2) authorizing any other PWA to supply project or non-project water for use within the boundaries of the PWA without the consent of the PWA.

**Issue 1d:** Turnback Pool

The Turnback Pool is an antiquated tool that is less and less used by the PWAs. While it was intended to assist in moving water between PWAs for single year transfers, it is no longer an effective tool. Essentially, the cost of the water far exceeds the payment for the water, so most PWAs elect to take delivery of the water. For example, in 2017 the price for Pool A water was \$34.44/AF and Pool B water was \$17.22/AF. These costs do not begin to cover the actual cost of the water that the PWA participating would have incurred. Furthermore, Article 56(d)(2) provides that the Turnback Pool is the exclusive means by which a PWA can sell annual Table A water.

Proposed Solution:

1. Amend the contract to eliminate the Turnback Pool and allow annual transfers of Table A water within the SWP; or
2. Alternatively, amend the contract so the Turnback Pool is not the exclusive means to sell annual Table A water and reference any new contract language that allows for annual transfers.

**Issue 1e:** Bona Fide Exchanges

The current contract language is vague regarding how to determine ratios for exchanges. This has resulted in disagreement between the PWAs and DWR about the interpretation of Article 56 (f). As DWR acknowledged in its Notice to Contractors 17-11, there are other factors that determine the value of water and those factors vary in different year types. For example, under the existing water supply contracts a “substantially similar amount” for an exchange considers timing and other non-financial considerations. In the Notice to Contractors 17-11, DWR acknowledged one such fact, hydrology, and tied the exchange ratio to the SWP allocation. However, the PWAs must consider many other factors in responsibly managing scarce water supplies. These other factors include local supplies, current water in storage, projected water in storage for the following year, and exchange terms between the PWAs as to the conditions for return of the water (i.e., priority of return and similar restrictions).

Proposed Solution:

1. Delete Article 56(f) consistent with Issue 1a solution.



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Issue 1z: Continuing Future Negotiations

There are several other water management tools the PWAs would like DWR to consider. However, in an effort to move this process forward within the prescribed time constraints, the PWAs have attempted to limit the items to resolve in this initial contract amendment.

Proposed Solution: Provide assurance that, no later than March 2019, DWR and the PWAs would continue good-faith negotiations on a contract amendment that would address additional water management tools.