

**Discussion Paper – Access to Excess Water
Alternative Solution Issues**

1. Annual Pool Set Aside for AWBA and CAGR D Replenishment Reserve

- The intent is to annually determine the amount of water needed by the AWBA to meet its goals and obligations for M&I subcontract firming, Indian water settlement firming, interstate firming and on-river firming, and by CAGR D for its replenishment reserve. This would be a collaborative process among CAP, AWBA, and ADWR that would consider money available, GSF and USF storage space, progress towards the final goal, and total excess water supply.

PROS

This process would help insure CAP and statewide goals for long-term water storage are met. The CAP Repayment Stipulation provides that such a pool can be established.

CONS

Legislation is needed to change the AWBA statute that puts AWBA in last priority to store excess water that would not have otherwise been purchased by others. While it is probable that such legislation can be obtained in 2009, it is not certain. With the need for legislation, the policy and guidelines could not be in place until 2010 water deliveries.

2. Establish a Policy for No Profit on Sale of Excess CAP Water Credits

- The intent is to stop water speculation. That is purchasing credits for future sale at a profit as contrasted with the purchase for a business use such as a power plant, housing development, mining, golf course, etc.

PROS

This would stop any future large scale ordering of water for speculation purposes. The potential saved water would be available to others and, finally, to the AWBA if not otherwise ordered. We suspect a recent contract for this type of activity was entered into with Aqua Capital Management. We know that our long-term customer, Vidler Water Company, is in this category. CAP could adopt a policy and contract language before October 1 requiring any sale or transfer of credits to have CAP oversight and put limits on the price of the credits. The policy and contractual changes, if needed, would apply to all water sales for recharge beginning in 2009.

CONS

There is no assurance that this approach would result in Excess Water for the AWBA. All of the water might be purchased by cities, water companies, mining interests, power interests, development interests or golf courses.

ADWR maintains the account and records for underground storage credits. They would need to adopt an administrative process to track the appropriate credits and inform CAP of all transactions regarding credits obtained with Excess CAP Water. It would require legislation directing ADWR not to approve credit assignments without CAP concurrence.

PROS

CONS

ADWR is not willing to seek such legislation and does not want the additional administrative burden of tracking and notifying CAP.

The CAP would need to develop appropriate guidelines on what is acceptable cost recovery, value of money, and cost of administration for the “seller” of the credits. The CAP would need to develop an enforcement process to support legal action to recover excess profits or void the credit transfer if our policy was not honored.

3. Use a “First in Time, First in Right” Approach Using the Contract Date to Allocate the Water.

- The intent would be to have a process to allocate the scarce water supply that does not require a value judgment concerning the contractor or intended use of the water.

PROS

This process would preclude or limit the availability of water for water speculators who did not have contracts prior to 2008. It could provide a temporary mechanism for 2009 while a more comprehensive evaluation is completed and legislation obtained.

CONS

There is no assurance that this approach would result in Excess water for the AWBA. All of the water might be purchased by cities, water companies, mining interests, power interests, development interests or golf courses.