

Supplemental Staff Position Statements on Wheeling Non-Project Water

CONTRACTING PROCESS & PURPOSE

Contracting for the transportation of non-Project Water through the Central Arizona Project is a discretionary action on the part of the CAWCD Board. To help ensure that a wheeling program is viable over an indefinite period of time, staff recommends that reasonable measures be taken to prevent speculative activity ("reserving" capacity in advance of need) and that timely and equitable contracting processes be developed. To increase certainty and reduce potential duplication of effort, staff propose that the existing regulatory review processes be used as a primary "filter" for proposed wheeling actions. For Colorado River supplies, in evaluating and developing a recommendation to the CAWCD Board, staff anticipates deferring to the policies and determinations made by the United States and ADWR regarding the suitability of the intended end use. For other supplies, the staff recommendation is expected to be based on an evaluation of end use suitability that is comparable to those that apply to Colorado River supplies.

Staff are in favor a contracting process that provides potential wheeling parties with predictability of outcome. Staff propose that potential wheeling parties enter into an "Intent to Contract" agreement with CAWCD that that would specify a series of time and performance-based benchmarks tied to securing necessary regulatory approvals. Benchmarks will be tailored to the specific requirements that each applicant faces. The Intent to Contract agreement will also specify the timing of System Improvement Fee payments. The expectation is that parties that successfully meet their benchmarks will receive a favorable staff recommendation for final contracting.

TRANSFERS

Staff are in support of administratively straightforward procedures for transfer or modification of wheeling contracts pursuant to Article 22 of the Standard Form Wheeling Agreement. Wheeling contracts are inseparable from their underlying supply, so if some or all of the supply is transferred to a different user, the ability to wheel could follow that supply. Provided that the intended recipient has satisfied all regulatory requirements, a wheeling contract could be offered to the new party. The up-front System Improvement Fee would be waived, and any other financial terms of the transaction would be determined by the parties themselves.

Staff also support a simple amendment process that would conform the term of a wheeling contract if the term of the underlying fixed-duration water supply had been extended. In the event that a wheeling contract is relinquished or expires, staff propose that the contractor could be entitled to partial reimbursement from CAWCD of System Improvement charges that had been paid, provided that CAWCD has collected System Improvement fees from a new party.

WATER QUALITY

Staff proposes that Maximum Contaminant Levels (MCLs) established in the National Primary Drinking Water Regulations serve as the presumptive standard for water proposed to be introduced into the CAP system. CAWCD and the United States retain the right to establish different standards, and to periodically amend those standards. Prior to contracting for the transportation of non-Project water, a water quality impact analysis shall be required for any water supply other than Colorado River water. The analysis, performed at the sole expense of the wheeling applicant, shall include an evaluation of the potential impacts to public health, other customers, and the operation of the CAP system itself. CAWCD and the United States are entitled to request all necessary information to confirm the analysis. Parties introducing water into the CAP system are also bound by the monitoring and reporting requirements contained in their wheeling contracts.

RATES & CHARGES

Rates and charges for wheeling shall be set by the CAWCD Board. All wheeling costs, including system improvement projects (includes Peak Suppression Facility capacity), will be collected exclusively from wheeling contractors. To advance equity among wheeling contractors, staff recommends that a "catch-up" component be included as part of the up-front System Improvement Fee, and that it be calculated on the basis of the sum of annual fees assessed up to the time at which the wheeling contract is executed. To reduce the period in which wheeling contracts are subject to displacement, staff also recommends that the System Improvement Fee and the System Improvement Rate be set in a manner to allow early completion of the associated improvement project. Once the project has been completed, the annual System Improvement Rate could be set such that by the time the project's Certified Capacity is fully subscribed, all contractors will have paid the same cost per acre-foot of capacity, and the total collected will match the actual cost of the System Improvement project.