



## **THE RETURN OF THE BACKROOM WATER DEAL Why the Napa Agreement Threatens California's Water Future**

### What is the Napa Agreement?

This agreement is a backroom deal calling for a massive increase in pumping from the Sacramento-San Joaquin Delta. This deal was reached, among the Department of Water Resources, the Bureau of Reclamation and the South of Delta contractors for the State Water Project (SWP) and the Central Valley Project (CVP), after an intense, week-long set of closed door negotiations last summer in Napa. This process was facilitated by Jim Waldo, who previously facilitated the Monterey Agreement – which has been discredited in state court.

### What Would the Napa Agreement Do?

If implemented, the agreement would increase the maximum pumping rate at the State Water Project from 6,680 cfs (cubic feet per second) to 8,500 cfs. South of Delta water users have stated that this agreement could increase Delta pumping by 1,000,000 acre-feet –approximately a 40% increase in average annual SWP pumping. This water would come from aggressive joint operations of the CVP and the SWP, reduced flows to San Francisco Bay and water transfers from the Sacramento Valley. All of this water would be shared solely among those who arranged the Napa process.

### What Water Transfers are Contemplated by the Napa Agreement?

Department of Water Resources staff have indicated that this agreement could lead to 800,000 acre-feet of dry-year water transfers from the Sacramento Valley. By way of comparison, this is more than half of the water used in average years by the entire Sacramento Valley rice industry.

### Is the Napa Agreement Legally Binding?

No, but the state and federal agencies who participated are treating it as a binding commitment. These agencies have admitted that the Napa Agreement is the preferred alternative for future Delta management.

### Are There Proposals to Increase Delta Pumping Even Further?

Yes. If the SWP pumping limit is raised to 8,500 cfs, as proposed by the Napa Agreement, water exporters plan to seek another increase to 10,300 cfs.

### Who Was Excluded From the Napa Agreement?

The Napa process excluded many interests who have a legitimate interest in the management of the SWP and CVP Delta pumps, including:

- Delta farmers
- Delta and Sacramento Valley water districts
- The City of Stockton and other local governments
- Environmentalists
- Commercial and recreational fishing interests
- Native Americans on the Trinity River (a major source of CVP water)
- Trinity County
- Upstream interests whose water would be transferred under the agreement
- Waterfowl interests and wildlife refuge water managers
- Bay Area local governments

### Why Weren't More Stakeholders Included?

CALFED agencies initially convened a broad stakeholder group to develop a balanced package for Delta water management. However, apparently because they were dissatisfied with these inclusive discussions, a few water interests convened the Napa process with the participation of a small fraction of interested stakeholders.

### What's Wrong with the Agreement?

The agreement represents a radically unbalanced proposal that would harm those who were not in the room in Napa. The agreement could make it difficult or impossible to solve some of the following problems.

- *The Delta Environment.* Biologists are seriously concerned about potential impacts to the Delta environment, including to endangered fish species.
- *Drinking Water Quality.* The agreement could degrade water quality for the 22 million Californians who get a portion of their drinking water from the Delta.
- *Massive New Subsidies.* The water districts participating in the Napa Agreement propose that hundreds of millions in state and federal funds be used to mitigate for the environmental impacts of the Napa Agreement – leaving the water users to pay virtually none of these costs.
- *Delta Water Quality.* The agreement fails to resolve – indeed it could worsen -- ongoing violations of water quality standards in the South Delta, harming the City of Stockton and Delta farmers. The CALFED plan calls for these violations to be resolved before any increase in Delta pumping is contemplated.
- *Refuge Water Supplies.* The agreement fails to assist federal agencies in providing legally-mandated water supplies for South of Delta wildlife refuges.

Despite claims to the contrary, the agreement would not provide a drop of additional water for refuges.

- *Environmental Water Account.* The agreement fails to resolve serious issues regarding the CALFED Environmental Water Account, while simultaneously increasing dramatically the burden placed on this tool.
- *Water Supply Impacts.* The agreement fails to consider supply impacts to water districts which rely on the CVP, but were excluded from the Napa process.
- *Environmental Flows.* The agreement fails to provide environmental flows required by the CALFED program for the Delta and upstream tributaries.
- *Anti-Environmental Litigation.* The agreement fails to resolve ongoing litigation brought by Napa participants in an effort to block Trinity River and Delta restoration.
- *San Joaquin River.* The agreement fails to provide for the restoration of flows to the dry portions of the San Joaquin River.
- *CVP Contracts.* The agreement would be used by the Bureau of Reclamation to justify new CVP water contracts far in excess of the deliveries assumed in computer modeling regarding the Napa Agreement.
- *Water Transfers.* The agreement does not fully address potential impacts from up to 800,000 acre-feet of dry-year water transfers from the Sacramento Valley.
- *Flawed Computer Model.* Recent peer review by the CALFED science program has raised serious questions about the reliability of the computer model used to predict the impacts of the Napa Agreement.

In short, the agreement, as written, precludes a balanced Delta program. In fact, resolving many of the above problems would require sharing water that the Napa Agreement locks up for the exclusive benefit of a small set of stakeholders.

#### Is the Napa Agreement Consistent with the CALFED Plan?

No. In both process and substance, the Napa Agreement represents an abandonment of CALFED. The CALFED approach has always been to identify a full range of issues, to consult with all interested stakeholders and then to design a balanced plan. The Napa Agreement left many issues off of the table, barred many stakeholders from the negotiating table and was designed to benefit the few stakeholders who participated. In addition, as discussed above, the Napa Agreement ignores or violates clear requirements of the CALFED plan. Rather than follow the CALFED model, the Napa Agreement represents a return to the backroom deals, gridlock and divisive regional politics embodied by the proposed Peripheral Canal.

#### How Can These Problems be Resolved?

Resolving the problems with the Napa Agreement will require several discrete actions.

- Legislative oversight and legislation is clearly required, to prevent the collapse of the CALFED process and to ensure a balanced Delta package.

- State and federal agencies must honor the commitments and requirements in the CALFED Record of Decision.
- The State and federal project operators must agree to comply with existing legal requirements regarding fisheries and water quality protection.
- State agencies must abandon the current timeline, which currently calls for final agency actions within a few months. The current timeline does not allow time to resolve the many problems created by the Napa Agreement.
- State and federal agencies must agree that the basic terms of the Napa Agreement must be reopened and renegotiated.
- State and federal agencies should determine the full range of issues that must be addressed by a balanced Delta package.
- Future negotiations must include all stakeholders with a legitimate interest in Delta management.