



DISCUSSION PAPER
ASSUMPTION OF AG DISTRIBUTION SYSTEM 9 (D) DEBT
TO FACILITATE SETTLEMENT

In order to reach settlements concerning the overall CAP water and repayment issues, the U.S. must have approximately 200,000 af of Non-Indian Agricultural (NIA) water reallocated to the U.S. for use in Indian water rights settlements. There is about 295,000 af of CAP water that is allocated and/or contracted for NIA purposes that is being considered for use to resolve this need. Approximately 183,000 af of this water is under subcontract to six irrigation districts (I.D.s) that still owe some amount of federal 9 (d) debt. Another 112,000 af is not under contract, but the Secretary is required by congressional direction to reallocate this water to NIA entities and offer those entities the opportunity to enter into new or amendatory subcontracts. To reach settlement with the U.S. about 85,000 af of NIA water currently under subcontract and bearing 9 (d) debt will need to be relinquished to the U.S.

For several months there has been a general consensus among the state water entities to settle all of the I.D.s 9 (d) debt and eliminate the current subcontracts. NIA water would be provided for Ag use from the excess water marketing program adopted by CAWCD. While that specific program is the topic of another issue paper, it has been assumed that NIA water would be available in declining amounts through 2030 at the price of the CAP pumping energy charge.

There are eight I.D.s with some level of 9 (d) debt. The remaining payout period varies from 2009 to 2043. The total debt (as of mid-1999) is about \$166 million; since this debt bears no interest, the present value is about \$52.8 million.

As noted above, the U.S. needs about 2/3 of the NIA water. The CAP M&I entities would like the opportunity to contract for remaining amounts at a future date. The first discussion of 9 (d) debt assumed that the U.S. would forgive 66% of the debt and the state, acting through CAWCD, would assume the remaining 34%. At some future date that amount would be recovered from the M&I entities who received allocation for the NIA water . The U.S. has rejected that proposal.

A second proposal discussed with the U.S. in late August includes 1) the I.D.s continuing payments through 2003, 2) the state parties who will receive future allocation would make the payments through 2018, 3) the U.S. and state would split the payments through 2029, and 4) the U.S. would forgive all payments from 2029 through 2043. Under this proposal the I.D.s would pay, on a present value basis, about 13% of the remaining debt, the state parties about 63%, and the U.S. about 24% or \$6.7 million, \$33.5 million, and \$12.6 million respectively. In exchange for this improved financial offer the U.S. would recognize the CAP M&I allocations as permanent service allocations and provide for the M&I subcontracts to be extended to 100 year contracts (or be amended to permanent service contracts). Also, the state is requesting RRA relief for the CAP I.D.s that have an NIA allocation.

Among the significant issues raised are why is it necessary to relieve the I.D.s of their 9 (d) debt and why are the CAP M&I entities willing to do so? As noted, about 200,000 af of NIA water is needed to facilitate the overall water settlement. About 42% of this water is under subcontract and the remaining 58% is subject to reallocation to the I.D.s. The I.D.s will not release their claims to this water while still paying 9 (d) debt and they also insist on having access to excess CAP water for another 30 years at a reasonably affordable price. There is precedent for this type of deal. Several previous Indian water rights settlements in Arizona have involved I.D.s relinquishing their water rights in exchange for 9 (d) debt relief and additional benefits. In addition, the U.S. and the cities acquired the Hohokam I.D. CAP NIA water in this fashion for a Cliff Dam replacement water supply. The CAP M&I entities support this proposal because most of them want either a GRIC settlement, overall settlement and certainty regarding CAP M&I water allocations, or both. They also want permanent service rights for their CAP allocations.

The CAP M&I entities would like CAWCD to be the financing partner for the state share of the NIA water and 9 (d) debt relief.

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May 18, 2000
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DATE: September 8, 1999
TO: Board of Directors
FROM: Larry Dozier
SUBJECT: CAWCD Assistance in Irrigation District Debt Relief to Facilitate Settlement

Attached is a discussion paper concerning a proposal for CAWCD to help assume the irrigation districts (I.D.s) distribution system debt (9 (d) debt) to facilitate the relinquishment of CAP non-Indian agriculture (NIA) water allocations. About 200,000 af of this NIA water supply is essential for overall settlement of state/U.S./CAP water issues.

In summary, there is about \$52.8 million present value of remaining 9 (d) debt. Under the latest proposal the I.D.s would pay about 13% (\$6.7 million), the state parties through CAWCD about 63% (\$33.5 million), and the U.S. would forgive about 24% (\$12.6 million). The CAP M&I entities appear to support this financial commitment, if the CAP M&I subcontracts are amended to permanent service right contracts and other benefits of the settlement discussions are forthcoming. It is presumed a settlement will specify that the 65,647 af of M&I water is allocated to CAP M&I entities, and the remaining approximately 100,000 af of NIA water is reserved for future allocation to CAP M&I entities.

At this time, it appears overall settlement of CAP water issues will include CAWCD accepting some part of the 9 (d) debt and agreeing to NIA pool of excess water through 2030 at a pumping energy only rate.

Attachment

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