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The report says that upstream transfers are not allowed which is not true if there is a way to mitigate adverse impacts. Coupling downstream transfers with upstream transfers is a means of developing a water budget neutral upstream transfer that is currently legal and practiced.

DOE is required to defend rights in trust from third parties so that its attributes are preserved. Making trust water susceptible to subsequent ecologic or even economic considerations jeopardizes the basic function of the trust program to preserve the rights attributes for the purposes of the holder.