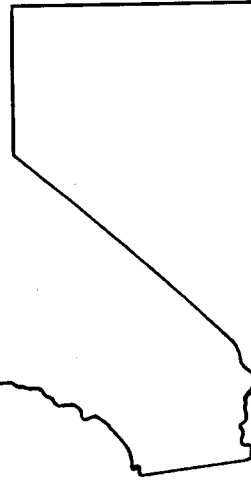


# State Water Contractors

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September 15, 2003



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Ms. Sammie Cervantes  
U.S. Bureau of Reclamation  
2800 Cottage Way  
Sacramento, CA 95825

## **RE: Draft Environmental Impact Statement/Environmental Impact Report On the Environmental Water Account**

Dear Ms. Brown and Ms. Cervantes:

These comments on the Draft Environmental Impact Statement/Environmental Impact Report (EIS/R) for the Environmental Water Account (EWA) are submitted on behalf of the State Water Contractors (SWC). The SWC is a non-profit association of 27 water agencies that contract for up to 4.1 million acre-feet of water each year from the State Water Project. These comments on behalf of SWC will focus on general policy issues pertaining to the EWA and the EIR/S.

I would like to emphasize that the SWC strongly supports the EWA as a tool "to provide protection to the fish of the Bay-Delta estuary through environmentally beneficial changes in SWP/CVP operations at no uncompensated costs to the projects' water users" (see 2000 CALFED Record of Decision, page 54). Indeed, we are prepared to support continuation of the EWA beyond the current 2004 sunset date as part of a package that includes other water supply improvement projects identified in the 2000 CALFED

Ms. Delores Brown  
Ms. Sammie Cervantes  
September 15, 2003  
Page 2

Record of Decision, including the 2004 Operation Criteria and Plan, South Delta Improvements Program, and the California Aqueduct Intertie. Our main concern with the EWA EIR/S is that its description of EWA assets and operation is dated in light of current discussions about the 2004 OCAP and how best to extend the EWA. We are also concerned that 1) the projected size of the EWA is potentially much larger than needed; 2) the discussion of the rationale for the EWA is premised on outdated assumptions; and 3) the projected duration of the EWA is too short in light of current discussions to establish it permanently.

The Proposed Action is to implement the "Flexible Purchase Alternative," which would allow the EWA agencies to purchase up to 600,000 acre-feet of water (page ES-8), depending on the hydrological circumstances. While we understand that this number is intended as an upper bound on the amount or purchases contemplated, it is not clear from the discussion when or why such a large amount would be needed. In light of the fact that the EWA has been used to accomplish its goals during the last three years with a quantity averaging about half of this amount, we believe that the projection of 600,000 acre-feet as an upper bound is well beyond the range of reasonable alternatives. At a minimum, the EIS/R must clarify that the likelihood of the EWA needing this large an amount is very low. It should also provide a clearer discussion, earlier in the document, as to the average amount likely to be needed by the EWA in the near-term future.

We are also concerned that the description of the rationale for the EWA is not entirely accurate, which may have led to an exaggerated projection of the amount of water needed. The EIS/R states that, "The CALFED agencies established an EWA to provide water for the protection and recovery of fish **beyond that which would be available through the existing baseline of regulatory protection**" (page 2-1, emphasis added). While it may be true that the EWA provided additional protection beyond the level assumed to exist at the time of the ROD, we do not agree with the implied conclusion that a certain size of EWA is needed in order to meet regulatory requirements. The EWA has been and should continue to be used as a tool to avoid "take" without imposing additional supply impacts on water users, but it is clear from the last few years' of experience that most of the EWA has been used for actions to promote recovery, and **such actions are not required as part of the CalFed regulatory baseline**. Therefore, we disagree with the conclusion that additional EWA acquisitions might be needed because "There has been a loss in the flexibility to manage the CVPIA (b)(2) water that contributed to the existing regulatory baseline of fishery protection" (page 2-15).

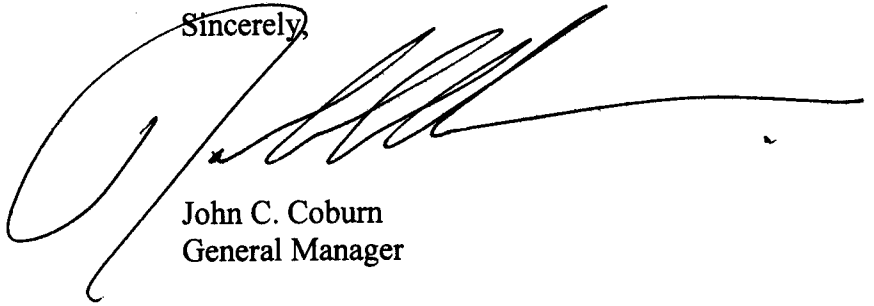
We are surprised that the description of the rationale for the EWA simply repeats the description of all the old "fish actions" for which the EWA has previously been used, without any reference to any of the new thinking that has emerged from the CALFED science program's peer review of the EWA and Delta operations fish impacts. In particular, there should be a reference to the growing recognition that pumping impacts on Chinook salmon population levels are probably minimal, that so-called "indirect impacts" on salmon survival appear somewhat questionable, and that pumping impacts

Ms. Delores Brown  
Ms. Sammie Cervantes  
September 15, 2003  
Page 3

on Delta smelt population levels may range from negligible to significant depending on certain factors. All of these findings suggest that, while the EWA may be valuable for overall habitat improvement, it may not be at all essential for endangered species protection. The EIR/S should at least reference the fact that the size and usage of the EWA may change adaptively over time depending on the results on continuing scientific peer review.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'John C. Coburn', written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John C. Coburn  
General Manager

Xc: SWC Member Agencies  
Mike Spear, Interim Director, DWR