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September 16, 2003

Ms. Sammie Cervantes
United States Bureau of Reclamation
2800 Cottage Way (MP-140)
Sacramento, California 95825

Ms. Delores Brown
Department of Water Resources
3251 S Street
Sacramento, California 95816

Re: Stockton East Water District/Calfed Bay-Delta Program

Dear Mses. Cervantes and Brown:

These policy comments to the Environmental Water Account Draft Environmental Impact Statement/Environmental Impact Report are submitted on behalf of the Stockton East Water District.

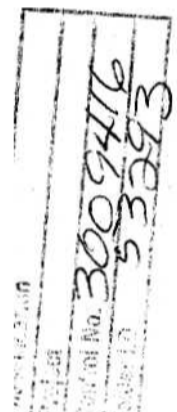
EWA Goals and Purpose

More care should be taken throughout the document to clarify the purpose and goals of the EWA. These are set forth succinctly and accurately in several places in the document as follows:

"To address the ability of EWA agencies in meeting the goal to provide water for the protection and recovery of fish beyond that available under the regulatory baseline, the CALFED ROD identified the EWA as a 4-year (2001-04) cooperative management program of which the purpose is to provide protection to the fish of the Bay-Delta estuary at no uncompensated water cost to the Project's water users. The approach involves acquiring alternative sources of Project water supplies to replace water supply otherwise lost through changes in Project operations. The EWA agencies may determine through written agreement to extend the EWA beyond September 30, 2004, as stated in the CALFED ROD. Because there is a possibility for extension, this EIS/EIR analyzes EWA actions that will start at the time of the signing of the EWA ROD through 2007. The EWA ROD is scheduled for signing in early 2004." *EIR/EIS Executive Summary, at p. 3.*

This states clearly that the protection to fish is to be provided at no uncompensated water cost to the Project's water users. Elsewhere in the document, however, reference is made to a narrower purpose:

"The CALFED Multi-Species Conservation Strategy Conservation Agreement and the CALFED Biological Opinions included commitment by several CALFED agencies [list omitted] that there would be no additional CVP or SWP export reductions from actions conducted to protect fish under the Federal Endangered Species Act, a California Endangered Species Act, or Natural



Community Conservation Planning Act beyond the regulatory baseline of fishery protection."
Draft EIS/EIR Chapter 2, at p. 2-3.

The document should be clarified to consistently state that EWA protections are not limited to export reductions, but apply to any reduction in supply to SWP and CVP contractors beyond the regulatory baseline.

Baseline Definition

There is also some confusion regarding the definition of the regulatory baseline. In the CALFED Programmatic Record of Decision (Appendix A to EIR/EIS) at Page 55, the baseline level of protection identified as Tier 1 in the EWA discussion, consists or:

- 1993 Winter-run Biological Opinion (NMFS)
- 1995 Delta Water Quality Control Plan (SWRCB)
- 1995 Delta Smelt Biological Opinion (USFWS).
- Full Use of 800 TAF Supply of Water Pursuant to Section 3406(b)(2) of the CVPIA in accordance with Interior's October 5, 1999 Decision

Chapter 2 of the EIR/EIS describes "Alternatives, Including the Proposed Action/Proposed Project". This chapter also discusses the regulatory baseline actions to protect fish and states:

"The CALFED ROD identified a baseline level of fishery protection requirements for Project operations. Existing regulatory programs established these requirements prior to implementation of the CALFED ROD, and these programs alter Project operations in ways that improve Delta water conditions for fish. The No Action/No Project Alternative includes the environmental requirements identified below."

The document then describes not only the baseline levels bulleted above, but also includes the Spring-run Chinook and Steelhead Biological Opinion. A footnote states: Fisheries issued this biological opinion after the signing of the CALFED ROD; however, it is included in the No Action/No Project because it also changes the operations of the Delta to benefit fish and the environment. The text should clarify that while this action is included in the No Action/No Project, it is not included in the regulatory baseline for CALFED EWA purposes.

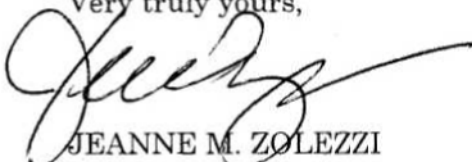
Provision of EWA Assets to Upstream Contractors

The document includes descriptions of how water will be acquired for the EWA and provided to CVP and SWP exporters south of the Delta. While the document also includes discussions of water acquisition "Upstream from the Delta Region" (See EWA Draft EIS/EIR Chapter 2 at p. 2-36) there is no concurrent discussion on how any adverse impacts to CVP contractors "Upstream from the Delta Region" would be mitigated by providing EWA acquired water.

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Overall, the EWA agencies must keep in mind that there are project water users upstream from the Delta region entitled to protection under EWA who either are being or will be injured by additional fish protection actions above the regulatory baseline set forth in the CALFED ROD. The EWA EIR/EIS must acknowledge this fact, and establish mechanisms to address the needs of these water users in addition to the project exporters on whom it focuses most of the document.

Very truly yours,



JEANNE M. ZOLEZZI
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JMZ:rl

Mr. Kevin Kauffman

cc