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January 14, 2008

Delores Brown, Chief
Office of Environmental Compliance
California Department of Water Resources
901 "P" Street
Sacramento, California 95814

Re: Draft Environmental Impact Report
Monterey Plus Project
SCH # 2003011118

Dear Ms. Brown:

This letter is written on behalf of Buena Vista Water Storage District and Rosedale-Rio Bravo Water Storage District.¹ Said entities appreciate the opportunity to comment on the DRAFT ENVIRONMENTAL IMPACT REPORT for the project described as MONTEREY AMENDMENT TO THE STATE WATER SUPPLY CONTRACTS (INCLUDING KERN WATER BANK TRANSFER) AND ASSOCIATED ACTIONS AS PART OF A SETTLEMENT AGREEMENT (MONTEREY PLUS). Our comments are as follows:

GENERAL COMMENTS

1. **Monterey Settlement Supported**

We support the Monterey Settlement, the amendment to the State Water Supply Contracts consistent therewith, and other associated actions taken in furtherance thereof, including the transfer of the Kern Water Bank (KWB) lands to local interests. We are, however, concerned with the past, present and potential future use and operation of the KWB lands. Our comments are, therefore, focused on those portions of the DEIR dealing with the past, present and potential future use and operation of said lands, particularly Appendix E (App-E).

¹ Two of the entities identified as surrounding the Kern Water Bank. [App-E, pp. 2-3, 15].

2. Scope of DEIR

A Notice of Preparation (NOP) for the Monterey Plus project was published on January 24, 2003. In that document it is stated:

In general, the EIR will serve as a Project EIR (CEQA Guidelines Section 15161). That is, the EIR will address the SWP contract amendments and the settlement actions at a project-level of detail where no subsequent actions are expected and/or where sufficient information on subsequent actions are known or can be generated.

In some cases, subsequent actions that stem from the contract amendments or settlement actions may require additional environmental review prior to implementation. In these cases, the EIR will serve as a program EIR (CEQA Guidelines Section 15168) and will provide information and analysis that could provide a foundation for subsequent, site-specific environmental review. [NOP, p. 1].

We understand that the DEIR is intended to cover the potential “environmental and economic effects” of the transfer of the KWB lands. [DEIR, p. ES-2]. However, it is also stated that the Monterey Settlement Agreement (MSA) requires “...an independent study of some Kern Water Bank operations.” [DEIR, p. ES-3]. Our question is this: is the DEIR a project EIR or a program EIR with respect to past, present and/or potential future use and operation of the KWB lands? If the latter, what additional CEQA review may be expected from the current owners prior to continuation of KWB operations?

3. Project Description Inadequate

We believe the project description is inadequate because we are unable to determine from the DEIR what the KWB project actually is or consists of. Of course, it is impossible to assess the environmental impacts of the project without knowing the nature and scope of the project. For example, when the KWB lands were transferred to the project participants we understood that the KWB lands would be used as a groundwater banking project to provide dry-year water supplies to participating entities

to support ongoing, local² primarily agricultural operations. This opinion is bolstered by the following:

- Appendix E states that the KWB lands were transferred to KCWA and then to the KWBA “...for local agency development and use as a groundwater bank” [App-E, pp. 1, 7];
- the property was to be developed and improved “...for the importation, percolation and storage of water in underground aquifers for later extraction, transportation, and, for the beneficial use of Project Participants” [App-E, p. 9];
- the Statement of Principles (SOP) governing KWB operations is said to contain a “key” provision which states that the “...KWB’s primary purpose is to augment water supplies for KWB participants” in Kern County [App-E, p. 14];
- during the late 1990s and early 2000s, KWB participants “...appeared to be setting aside the stored water for use in dry periods...” [App-E, p. 47];
- “The primary water conservation objective is the storage of water in aquifers during times of surplus for later recovery during times of shortage” [App-E, p. 51]; and
- in a 2001 KCWA memo we were told “...existing groundwater banking programs had been established for the primary purpose of providing a dry year supply to the project participants with sales of stored groundwater to third parties anticipated to be only a small portion of the project operations to assist in financing the projects....”

Notwithstanding the foregoing, it appears that the KWB has been operated primarily for water marketing purposes. The DEIR shows that, from 1995 to 2005, fully seventy-five percent (75%) of banked water recovered from the project has been for water sales to third parties. [App-E, p. 27]. To our knowledge, no environmental review has ever been conducted with respect to the use and operation of the KWB lands as a water marketing project, particularly with respect to out-of-county sales, and no such review is provided in the DEIR. If the KWB lands will be used in the future for water marketing purposes, the

² With the exception of Dudley Ridge Water District which is an out-of-county participant.

DEIR should clearly identify this fact, should define the parameters of the water marketing program, and should analyze the actual and potential environmental effects thereof.³

The project description is further inadequate for the reason that the DEIR does not include an operating plan for the KWB which identifies realistic recharge and recovery parameters and/or which identifies resources (lands, bank accounts, etc.) devoted to marketing and those resources devoted to meeting the dry-year requirements of KWB participants. The project description/operating plan should include, without limitation, the following:

- A forecast of the expected minimum, maximum and average annual recharge and recovery operations (rates, volumes, sources, and durations) on behalf of project participant water supplies through the year 2035 for all waters other than unregulated, high-flow waters.
- A forecast of the expected minimum, maximum and average annual recharge and recovery operations (rates, volumes, sources, and durations) on behalf of 3rd party water supplies (i.e., non-participant banking operations) through the year 2035.
- A forecast of the long-term predicted high-flow water recharge and recovery events (rates, volumes, sources, and durations) through the year 2035.
- A forecast of the projected or desired minimum, maximum and average annual in-county and out-of-county water sales (rates, volumes, sources, and durations) and out-of-county water transfers through the year 2035.
- A forecast of the estimated facilities and estimated time periods during which the project can be made available to second-priority right holders.
- Operating limits based on sustainable, non-impacting criteria (which may be significantly less than the physical capacity of the facilities that are over-built for operational flexibility).

³ It is particularly important that the parameters of the marketing program be defined because such definition affects second priority rights to use the KWB lands, i.e., according to the SOP use of KWB recharge and/or recovery facilities for in-county purposes by second priority right holders is paramount to use thereof for out-of-county marketing purposes.

- Expected minimum, maximum and annual recharge and recovery scenarios including rates, durations, critical limits, and trigger conditions for impact avoidance.
- A priority-of-use schedule for all facilities and all scenarios so that water level and water quality impacts from discretionary extraction does not occur under adverse circumstances.
- The magnitude of KWB recharge and recovery operations to date are unprecedented and largely unanticipated. Accordingly, water level, water quality, interzonal flow, and subsidence impact analyses related to the full range of recharge and/or recovery operations are needed.

4. Errata

Reference is made to Figure 9.2-1, Figure 9.2-2, and Table 16 but the same could not be found in the document.

Again, we reiterate that we support the Monterey Settlement, the amendment to the State Water Supply Contracts consistent therewith, and other associated actions taken in furtherance thereof, including the transfer of KWB lands to local interests. Our comments are directed at that portion of the DEIR dealing with the past, present and potential future operation and use of the KWB lands and should not be otherwise construed. Thank you for the opportunity to provide these comments. If you have any questions, please advise.

Very truly yours,

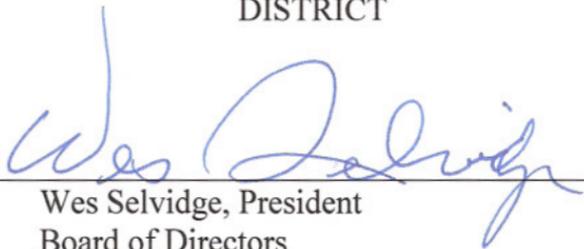
BUENA VISTA WATER STORAGE DISTRICT

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ROSEDALE-RIO BRAVO WATER STORAGE
DISTRICT

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