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APR 12, 2002

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By this letter, the Project Agencies (Department of Water Resources and United States Bureau of Reclamation) are requesting concurrence from the CALFED Environmental Water Account Management Agencies (United States Fish and Wildlife Service, National Marine Fisheries Service, and Department of Fish and Game) regarding continued Endangered Species Act commitments in the CALFED Record of Decision. After several months of discussions, culminating on March 13, 2002, the Project Agencies and Management Agencies tentatively agreed how to use the Environmental Water Account and Central Valley Project Improvement Act 3406 (b)(2) assets in the 2002 operations plan. This agreement describes the foundation for the agencies to collectively provide protections for fish, Endangered Species Act commitments for project water users, and increases to Central Valley Project south-of-Delta agricultural water allocations. This letter provides the basis for our March 13 agreement used to develop the operations plan. It also documents subsequent discussions on EWA and (b)(2) assets.

The CALFED ROD specifies that three tiers of assets must be available in order for the CALFED Agencies to provide a commitment that no reductions in CVP or State Water Project Delta exports, beyond existing regulatory levels, will result from measures implemented to protect fish. The Project Agencies believe that the hard work and cooperation by everyone involved has generated sufficient assets in all three tiers to merit such commitments. In support of this statement, we provide the following information regarding the status of the assets.

**Tier I:** Tier I is the regulatory baseline and includes (1) existing biological opinions for winter-run Chinook and delta smelt; (2) Delta protective criteria contained in State Water Resources Control Board Decision 1641; and (3) water dedicated for environmental uses pursuant to Section 3406 (b)(2) of the Central Valley Project Improvement Act. We recognize that fewer Tier I assets are available than in prior years for fishery protection as a result of the October 19, 2001 and February 5, 2002 federal court decisions on (b)(2) accounting. Nonetheless, the Tier I regulatory parameters remain in place and Tier 1 assets are being utilized to implement fishery measures in the Delta consistent with the CALFED ROD. The Project Agencies believe adequate fishery protection can be provided with fewer assets under some hydrologic and biological conditions. We further believe such conditions exist this year.

**Tier II:** Tier II consists of the assets of the Environmental Water Account combined with the benefits of the Environmental Restoration Program. The CALFED ROD identified a funding threshold as the measure of successful implementation for the Multi-Species Conservation Strategy-ERP during Stage 1 of the CALFED program. This level of funding was made available this year and is being managed by the CALFED agencies. The ERP is functioning and the Project Agencies also believe a functional EWA is in place for 2002.

The EWA is made up of several parts; fixed assets (185 TAF), variable assets, source shift (100 TAF), stored water to be used as collateral (extractable at 100 TAF per year if needed) and other considerations (including the science review panel). Attachments 1, 2 and 3 provide detailed information about the acquisition strategy and status of assets that demonstrate the functional aspects of the EWA program. The [current interim protocols](#) for the operation of the EWA in 2002 are also enclosed. The EWA budget in 2002 from both State and federal sources is \$40.7 million. In addition, about \$2 million was committed from last year's budget to help purchase water supplies for EWA this year. This year's funding for EWA is about 40 percent less than last year. Contracting activities have progressed to the point that needed assets will likely be fully in place this year when needed. These activities are shown in Attachment 3. The water purchase strategy outlined in Attachment 2 relies on providing the fixed assets (185 TAF) for the EWA in a manner consistent with the functional equivalency provision set forth in the CALFED ROD. Specifically, the Project Agencies are placing greater emphasis on water purchases upstream of the Delta in dry years when Delta conveyance capacity exists to transfer EWA water. The Project

Agencies also propose to use the functional equivalency<sup>1</sup> provision to provide for the portion of the stored water that is intended to be used as collateral for EWA actions.

In order to provide the functional equivalent for the stored water asset envisioned in the ROD, DWR and Reclamation are willing in 2002 to allow the EWA to carryover up to 100 TAF of water supply expenditures not covered with variable and fixed assets. If annual EWA operations require the use of this capability, the debt taken on by the EWA would be extinguished with variable assets as they become available or as a first priority water purchase for the EWA in the following year. DWR and Reclamation made this determination after weighing water supply risks against the overall benefits of having a fully endowed EWA for this year. If similar actions are needed in the future, they will be considered on a case-by-case basis. Coupling this action (carryover of 100 TAF of EWA water supply expenditures) with existing EWA source-shifting agreements will ensure no adverse effects on the San Luis Reservoir low point. This 100 TAF of carryover, together with other EWA fixed and variable assets, define the extent of the EWA.

**Tier III:** Tier III assets are budgeted in FY 2001-02 at \$6.25 million. The enclosed Interim EWA Protocols include a protocol that defines when and how Tier III operations commence. If needed, Tier III funds will be used to purchase un-exercised options developed as part of the EWA Tier II asset acquisition strategy. Also, Tier III assets will be used to purchase water late in the year to the extent such water is needed for Tier III and such water is available.

**Managing EWA and (b)(2) Assets to Allow Continuation of ESA Commitments:** Since March 13, 2002, the Management and Project Agencies have continued to work cooperatively on a plan to provide sufficient assets in order to implement necessary fishery actions in 2002. Those actions have been identified as providing equivalent protection for fish as outlined in the February 2002 operations forecast published by Reclamation. Management and Project Agencies' staff analyzed the requirements and developed alternative strategies for achieving the fishery protection while also increasing CVP south-of-Delta agricultural allocations. The alternatives and their impacts and benefits are summarized in Attachment 4. Of the four alternative strategies explored, Case 2 shows the greatest promise of meeting the fishery objectives while allowing for

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<sup>1</sup> The concept of functional equivalency applies to the fixed and stored water assets. The Project Agencies believe that if the necessary fixed or stored water assets cannot be fully provided in any given year, the Project Agencies may choose to augment these assets through functional equivalent operations. The Project Agencies also believe that if such functionally equivalent operations are provided, ESA commitments would be continued and the water supply liability under Tier II for the SWP and CVP would be limited to the amount of water needed to ensure the fixed and stored water assets are provided as defined in Article I, Section 2.e-f of the EWA Operating Principles (as modified by the Interim EWA Protocols).

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an increase in CVP south-of-Delta agricultural allocations and minimizing impacts to future EWA operations. This alternative utilizes the EWA to provide assets for fishery measures that were covered by (b)(2) water prior to the February 5, 2002 federal court ruling (but not covered in the current (b)(2) plan).

The Project Agencies' staff has continued to review and update hydrologic and operational forecasts to reflect changed conditions and new information. The Project Agencies have concluded there would be minor effects on next year's EWA operations if this year remains dry. However, we agree with Management Agencies' staff conclusion that the EWA financial and water reserves for next year could be reduced if hydrologic conditions are similar to those used in the March 2002 50-percent exceedence forecast and all placeholders for fishery protection actions are implemented as assumed. However, we believe the EWA can be managed in a manner that minimizes how these impacts affect EWA operations and will continue to work with the Management Agencies to maintain future functionality.

In summary, the Project Agencies believe sufficient Tier I and Tier II assets are available to undertake the fish actions anticipated for the rest of the water year. Furthermore, we have implemented a Tier III strategy that meets the requirements of the CALFED ROD. We acknowledge the Management Agencies' concerns about the future functionality of the EWA given limited funding and resources. To reduce potential risks, we believe it is essential the Management and Project Agencies begin immediately planning for next year and beyond. To this end, we are committed to working with the Management Agencies to clearly define the issues that must be addressed next year, formulate alternatives to address these issues, and present recommendations to Assistant Secretary of the Department of the Interior, Bennett Raley, and Secretary of the Resources Agency, Mary Nichols.

If you have any questions regarding this matter, please contact Curtis Creel at DWR (916) 574-2722 or Paul Fujitani at Reclamation (916) 979-2197.

Sincerely,



for Raymond D. Hart  
Deputy Director  
Department of Water Resources



John Davis  
Acting Deputy Regional Director  
Bureau of Reclamation

Enclosures

# Attachment 1

## Status of Environmental Water Account Assets

### Water Year 2001-02

#### Initial and Annual Assets

##### 1. Variable Assets

- A. SWP Pumping of (b)(2)/ERP Upstream Releases
- B. EWA Use of SWP Excess Capacity
- C. Export /Inflow Ratio Flexibility
- D. 500 CFS SWP Pumping Capacity

**Status:** The variable assets are “in place” and ready for use as they were last year. Approximately 48 TAF of EWA variable assets were obtained in the dry year 2000-01. The “EWA gain” related to (b)(2) releases is expected to be less in 2001-02 than last year due to recent federal court decisions. Also, the “reverse joint point” capability that was sought but not approved last year is being addressed through a revised water level response plan that was submitted to the SWRCB in January and approved in March.

##### 2. Fixed Assets

- A. **Water Purchases** – Total 185 TAF (150 TAF downstream of the Delta and 35 TAF upstream of the Delta)

**Status:** In order to achieve the CALFED ROD commitment of 185 TAF in fixed assets with the current budget, the EWA Team is providing the functional equivalent of these water supplies but in a more cost effective mix of sources. This mix of sources within the constraints of this year’s budget is shown in Attachment 2. The table provides the proposals for achieving the equivalent of 185 TAF south-of-Delta depending on different Water Year Types (Above and Below Normal). The precipitation received so far this year virtually guarantees that the driest water year type that 2002 can be Below Normal. Therefore, staff is focusing on achieving the assets this year for the Below and Above Normal years. Attachment 3 shows the status of current water supply negotiations and the goals for Above and Below Normal years. Agreements have been negotiated to meet the fixed assets for the 185 TAF in Above Normal hydrology (135 TAF upstream of the Delta and 149 TAF downstream of the Delta). Additional water supply negotiations upstream of the Delta for Below Normal years have been completed (135 TAF of the 150 TAF needed will be provided from sources upstream of the Delta while another 97 TAF has been negotiated from sources downstream of the Delta).

- B. **Source Shift Agreement.** - Obtain the use of at least 100 TAF in San Luis Reservoir to enable an operational curtailment without causing a “summer low-point” problem.

**Status** – A source shift agreement with Metropolitan Water District has been negotiated and is awaiting signature by the DWR for up to 200 TAF. Generally, the EWA would use up to 100 TAF of source shift; however, in wet years, it may need more source shifting by MWD to avoid impacts to San Luis storage. This year, the EWA is not likely to need more than 100 TAF of source shift; moreover, it does not currently have sufficient funding to cover additional source shift.

- C. **Stored Water Acquisition.** – 200 TAF of stored water downstream of the Delta (or its functional equivalent) with 100 TAF extractable in any one year. This asset is intended to provide collateral for the carryover of EWA expenditures into future years where they are often extinguished with variable assets.

**Status** – In 2001 the EWA obtained about 83 TAF of EWA assets in excess of EWA expenditures which were held in San Luis Reservoir by the SWP. The EWA team has been unable to locate usable long-term groundwater storage related to this aspect of the EWA at a reasonable price (although, all but 17 TAF has been used to cover EWA export curtailments for delta smelt and Chinook salmon in January). Therefore, it is necessary for the Project Agencies to develop a functional equivalency for this asset for 2002.

The functional equivalency of stored water will be implemented by using Project flexibility and the existing EWA source shift. The EWA source shift as discussed above is sufficient to allow up to 100 TAF of EWA expenditures to be carried into the fall. The Project Agencies would carry the debt of up to 100 TAF of EWA expenditures into the subsequent years. Analyses performed by DWR operations staff concluded that if hydrology for next year is Below Normal and wetter, the EWA debt would likely be extinguished prior to the VAMP export curtailment in 2003 with variable assets. If next year is dry, the EWA could purchase enough water from sources upstream of the Delta to extinguish any carryover EWA debt (up to 100 TAF) and still acquire the needed 185 TAF of fixed assets. The functional equivalent of the stored water asset is achieved with this carryover capability.

### 3. **Additional Considerations**

#### **A. EWA Finance Plan**

Status – The finance plan to address the costs and budget of calendar year 2002 depending on various water year types is included in Attachment 2.

#### **B. Operation Protocols**

Status – Protocols covering the operation of the EWA are in place. These protocols are being reviewed and updated to cover additional issues raised during the first year of operation of EWA including the possible use of federal facilities.

#### **C. Science Review Panel**

Status – The science review panel recently completed its review of the first year of operation of the EWA. Science advisors to the EWA are in place and a science review of EWA will be conducted again next year.

#### **D. Coordination with CALFED Ops Group, ERP, EWP Etc.**

**Status** – The EWA Team representatives regularly update the CALFED Operations Group, Ecosystem Round Table, the ERP's Environmental Water Program workgroup, the (b)(2) Interagency Team and others on the EWA and mechanisms to coordinate the activities of the EWA with these related programs.

## ATTACHMENT 2

<b>2002 EWA Water Purchase Strategy</b>			
<b>WATER</b> (In TAF)	<b>ROD</b>	<b>ABOVE NORMAL</b>	<b>BELOW NORMAL</b> ( 60 percent delivery)
		Purchase (After Losses)	Purchase (After Losses)
<b>Upstream of Delta</b>	<b>35</b>	<b>145 (122)</b>	<b>145 (122)</b>
<b>South of Delta</b>	<b>150</b>	<b>149 (149)</b>	<b>97 (97)</b>
<b>Total Purchase</b>	<b>185</b>	<b>294 (271)</b>	<b>242 (219)</b>
<b>Source Shift</b>	<b>100</b>	<b>35*</b>	<b>100*</b>
<b>Long-Term Carry Over</b>	<b>100/200</b>	<b>Source shift and carry up to 100 TAF into next year</b>	<b>Source shift and carry up to 100 TAF into next year</b>
<b>Total Water Supply and Source Shift Purchase</b>		<b>329</b>	<b>342</b>
<b>BUDGET</b> (In Million)			
		Above Normal	Below Normal (60 percent)
<b>Upstream of Delta</b>		<b>10.88</b>	<b>10.88</b>
<b>South of Delta</b>		<b>26.5</b>	<b>17.92</b>
<b>Source Shift</b>		<b>2.625*</b>	<b>7.5*</b>
<b>Long-Term Carry Over</b>		<b>0</b>	<b>0</b>
<b>TOTAL</b>		<b>40.0</b>	<b>36.3</b>

\* Up to 100 TAF is available from MWD's source shift contract, but additional funding would be needed in above normal and wetter cases to fully exercise the contract.

**Attachment 3**  
**Status of EWA Acquisitions for 2002**  
**As of April 5, 2002**

Location	ABOVE NORMAL			BELOW NORMAL		
	Plan	Amt	Status	Plan	Amt	Status
Upstream of Delta	145			145		
Yuba County WA		135	Sig.		135	Sig
Sac Groundwater Authority		10	Neg		10	Neg
Merced Irr Dist						Dis
Total		145			145	
South of Delta	149			97		
Kern Cnty Water Agency		149	Neg		97	Neg
Total		149			97	
Source Shift	100			100		
Met. Water Dist.		100	Sig		100	Sig

Sig = Awaiting signatures

Neg = Negotiations complete contract in progress

Dis = Discussions in progress working out the details of the agreement

<b>90% Exceedence Scenarios -- EWA Operations</b>				
<b>Actions Covered by EWA</b>	<b>Net EWA Cost (TAF)</b>	<b>End-of-Year U/S EWA Assets (TAF)</b>	<b>End-of-Year D/S EWA Assets (TAF)</b>	<b>Comments</b>
Case 1	216	0	128	EWA ends the year with about \$9.5 million in reserve.
Case 2	359	66	22	Requires minimal source shifting and exercising additional options for YCWA water. EWA ends the year with about \$5.5 million in reserve.
Case 3	467	96	-86	Requires 125 TAF of source shifting by SL low point (the EWA has options for 100 TAF of source shift from MWD). Additional source shifting would cost about \$2 million. The EWA ends the year owing the CVP about 130 TAF of water in San Luis, but could hold title to 96 TAF upstream. The EWA ends the year with \$1.5 million debt.
Case 4	490	96	-109	Requires 150 TAF of source shifting by SL low point the EWA has options for 100 TAF of source shift from MWD). Additional source shifting would cost about \$4 million. The EWA ends the year owing the CVP about 150 TAF of water in San Luis, but could hold title to 96 TAF upstream. The EWA ends the year with \$3.5 million debt.
<b>EWA Actions</b>	<b>Description of Action</b>			<b>Cost to EWA (TAF)</b>
	Base Actions:	Curtail SWP Exports in March		75
		Curtail SWP Exports in April for VAMP		25
		Curtail SWP Exports in May for VAMP and shoulder		25
		Curtail SWP Exports in June		25
	Action 1	CVP share of VAMP (reduces CVP exports)		23
	Action 2	Post VAMP CVP export reductions May 16-31, & June:		108
	Action 3	Additional post VAMP CVP export reductions (beyond (b)(2) coverage) May 16-31, & June:		143
	Case 1:	Includes the EWA Base Actions only		
	Case 2:	Includes the EWA Base Actions plus action 3		
	Case 3:	Includes the EWA Base Actions plus actions 2 & 3		
	Case 4:	Includes the EWA Base Actions plus actions 1, 2, & 3		