

# Valley Water Protection Association

P.O. Box 1264, Durham, CA 95938

Mr. Rick Breitenbach  
CALFED Bay/Delta Program  
1416 Ninth Street, Suite 1155  
Sacramento, CA 95814

01454

JUL 0 1 1998

RE: Comments on the CALFED Bay/Delta Programmatic Draft EIS/EIR

Dear Mr. Breitenbach:

Valley Water Protection Association representing, farmers, domestic well owners, business, and environmental interests in the Areas of Origin, sympathizes with the goals of this massive restoration project CALFED is undertaking. We are encouraged by your Watershed Approach of looking for solutions. We recognize the limitations of a Programmatic Document and the choice to include all three alternatives further compromises any ability to respond to proposals in a meaningful way. Consequently we have chosen to highlight issues of concern for us rather than to specifically point to isolated calculations contained in your document volumes.

CALFED's stated goal is to avoid resource threats which cause declining habitats and their resident species or plants, degradation of the Delta as a reliable source of high quality water, and to cope with a compromised levee system. Some stakeholders advocate for making "hard choices" which will sacrifice water reliability, environmental protections, and water quality in source areas to chase "inexpensive water for new uses". Your water transfer action embedded in every program could impose these same problems on Areas of Origin. Application of your solution principal "No redirected impacts" must be honored. Nothing in this EIR reassures us or that principle. Of particular concern is the water transfer proposal which shifts water from one hydrologic basin to another supported by new groundwater extractions or temporarily fallowing land. This is not simply a water distribution tool. Out of basin transfers taking more water through the Delta are not the tried and true commonly accepted practice used in the south state.

CALFED must continue to solicit public input and participation knowing few can afford to travel to Sacramento meetings either in time or direct expenses. You must correct the imbalance in stakeholders at your work groups and at the BDAC Table. The current lack of meaningful public access makes consensus decisions invalid. We urge you to represent Public input on the CALFED Water Transfer Component by including comments submitted to the Supplemental Water Purchase Program Draft Programmatic EIR (SWPP). That document sought to implement a 6 year model program to be used during dry and critical years. Those comments were never published or answered.

The 1996 SWPP Draft Programmatic EIR proposal was identical to your Water Transfer proposal. The public in areas of origin, water source areas, rejected it. This is the same public which has but 2 places at your BDAC table. The Department of Water Resources never responded to SWPP comments. Print those comments and respond here! We attach our comments to this letter. In brief, the SWPP comments included questions about safety and damage:

- community impacts, social with unemployment
- environmental risks, valley oaks, riparian habitat, endangered species using oak habitat

- economic risks to current and future growth in area of origin
- private property rights threatened, and reducing property values of overlying groundwater-dependent individuals
- subsidence risks, underground pipes and cables, roads and bridges, drainage and levees
- Water Quality risks, drawing up poor quality water, inducing salt and arsenic into water supply from underlying strata
- county tax base integrity

Your program EIR has the following weaknesses:

- Unrealistic numbers for Sacramento Valley groundwater "storage" for your modeling of All Alternatives. ( a transfer of 105,000 AF from the North State in only one year caused unacceptable problems yet you calculate 250,000 AF)  
Currently the Butte Basin Aquifer has no capacity for ground water storage because historically, unless there is a time of continued drought, it refills in the winter months. CALFED must recognize the geologic and hydrologic limitations of ground water storage and not subscribe to the policy of pre-evacuation of a ground water basin in order to artificially create ground water storage capabilities.
- Identify Transfer Types- those going out of basin through Delta and those within same basin. In-Basin transfers will be implementable and give you realistic numbers with which to work.

We question the proposed Implementation of Transfer (Water Market) plans and request scientific verification of your assumptions.

- You expect to call on groundwater in dry, critical, and drought years  
50 out of 100 years would be the frequency
- You expect to "refill" first  
This is arbitrary and does not reflect hydrologic reality
- You expect that Demonstration Projects will prove and gain public acceptance for out of basin transfers. We urge you to look at the out of basin transfers already demonstrated.  
1994 Drought Water Bank was your demonstration project Here is a summary:
  1. Closed down one of two wells supplying the Durham community water... independent domestic well water for others questionable
  2. Caused crop damage where wells were unable to be refitted and pump adequate water due to dropping water table.
  3. Many Valley oaks died with final assault on water table
  4. Water levels didn't return for 2 years for many neighbors even with the '95 record rains.
  5. Uncompensated damages to neighbors ranging from increased pumping costs pump repairs, energy costs, labor costs, costs for research and legal advice
  6. Mitigation approach by DWR and Water District was denial, stalling tactics which raised costs to pursue claims, 2 years later a final token payment reflecting 14% of actual costs was offered and rejected as setting a dangerous precedent condoning damage to other legal water users.

The 1992 Drought Water Bank in Yolo (another demonstration project) highlights the risks to communities regarding employment, social services, and third party economic impacts of out-of-basin transfers. It demonstrates the lack of mitigation policy or intent by all agencies involved.

The assumption that current agencies have an existing right to enter into an active transfer market to augment growing water demands is questionable.

- Water Districts are not empowered to wield the kind of power over communities outside their district's borders that transfers bestow.
- DWR is not empowered to wield power over groundwater systems which are not part of the State Water Project.
- County ordinances must be respected
- correlative water rights must be respected

Lessons learned: DWR and Water Districts must be regulated if water transfers are permitted. Safe yield or identification of "surplus water" must not be perennial yield and must be calculated on period of highest use i.e. Summer and Fall demands. Not enough is known to proceed with out-of-basin water transfers as a water augmentation supply if environments and areas of origin are to be protected.

Agricultural ground water users in basins or sub-basins not currently managed by ground water storage and/or conjunctive use programs must be assured through locally supported programs and ordinances that historical ground water levels will be protected to prevent groundwater level impacts and the subsequent increases to pumping costs.

The CALFED EIR states water transfers can cause "adverse impact if they induce growth", yet you specifically state that a long term solution will anticipate growth. By implying that water transfers will permit "reoperation of existing dams" to move more water through the Delta, CALFED gives a false sense that more water will be available for growth.

Issues of concern covered in this Programmatic EIR:

Implementation: Do not increase capacity to export until you have captured new water to export. How can more water be shifted in the high demand season without environmental and economic impacts to source areas? Reference to consensus work is inadequate to proceed using any out-of-basin transfers for your calculations because of the imbalance of representation on BDAC and your Work Groups. Water Transfers are reallocation of existing water not "new water" except for rare exceptions and must be treated as such.

There are too many underlying issues not considered in this plan for modeled projections to be valuable in selecting a preferred alternative. Three examples of this are Striped bass, desalination, and land use strategies.

1. Exotic species prized by sports fishermen must not be accorded higher claims to water resources than native endangered species or overlying landowners who are dependent on groundwater alone. CALFED must develop an alternative plan for recreation and mitigation of lost striped bass fishing

in a project proposal that compensates for reduction of striped bass in native endangered species niches.

2. Water development: Desalination and recycling of lower quality water must be actively considered. This reduces demand for water coming through the Delta, and is a reliable source of water. Recycling lower quality water is more costly the first time only. Calculating carriage water and needs for infrastructure must be done when considering the potential for desalination and recycling to solve the mismatch in water supplies moving through the Delta. A CALFED proposal to provide incentives in this area should be part of the alternatives studied. Specifically, the feasibility of desalination plants on the coast near major metropolitan areas should be taken under greater consideration. Desalination may be costly, but it would truly be new fresh water. Capital costs of desalting plants could be shared with the entire state, ensuring the economic viability of the regions from which CALFED is proposing water transfers be made. Available funding could be funneled into research and development to improve desalting techniques. Economic efficiencies from energy deregulation, or application of new technologies in solar, and wind power will also make desalination of both sea water and brackish water a realistic option. This places the answer to urban water needs in their own backyard. This supplemental water would relieve the pressure on existing supplies allowing agricultural production to continue to supply the state, the nation, and the world with safe food. Reduction of urban dependence would free up additional water for environmental uses without the concerns equated with the construction of dams and conveyance facilities.
3. Implications of land use decisions have been given enough attention in the CALFED program. These are responsible for new water demands which cannot be met without capturing new water off stream or risking aquifers. Any growth must be calculated for the "beneficiary pays" policy. The price and projected time delays for acquiring this new water must be disclosed before growth is permitted or claims for more water through the Delta are considered. CALFED should recommend mandatory EIR disclosure of water demands, costs, and local alternatives before accepting general plans, zoning changes, and building permits as well as for Water Transfer EIR and Contracts.

Finally, the Costs for Water Transfers for out-of basin sales are misrepresented in your evaluation. Mitigation costs, environmental losses, and economic redirection, have been treated as "externalities" or simply ignored. Past examples of limited out-of-basin sales have not accounted for prolonged transfer projects. These must be recalculated, and disclosed in an updated comparison chart. It appears that only study approaches which reinforce preferred alternatives are undertaken.

When did Economic efficiency of water become a mandate for the CALFED Bay / Delta Environmental Impact Report?

Cordially,



Linda Cole  
Valley Water Protection Association

Valley Water Protection Association  
P.O. Box 1264  
Durham, CA 95938  
April 11, 1997

*Attachment to:  
Comments on Cal Fed-  
Bay/Delta Programmatic EIR  
include in publication and  
response*

Ms. Dale Hoffman-Floerke  
Environmental Services Office  
Department of Water Resources  
Post Office Box 942836  
Sacramento, California 94236-0001

Dear Ms. Hoffman-Floerke:

Valley Water Protection Association is a voluntary association of farmers, retailers, and domestic well owners. The group came together during the 1994 Drought Water Bank at first to address the abuses of that project in Butte County and later to track what we saw as disturbing trends in government policy on water. The past lack of advocacy by groundwater users is clearly reflected in this and other policy documents. We would like to offer some new perspectives.

An initial survey of the Environmental Checklist for your SWP Supplemental Water Purchase Program details our disagreement with your evaluation of the Mandatory Findings of Significance (XXI) for this project. Three of the four questions should be ranked "yes".

- b. Short-Term Goals: Does the project have the potential to achieve short term environmental goals to the disadvantage of long term goals?
- c. Cumulative Impacts: Does the project have impacts that are individually limited but cumulatively considerable?
- d. Substantial Adverse Impacts: Does the project have environmental impacts that will cause substantial adverse effects on people either directly or indirectly?

**Short - Term Goals:**

This project has the stated goal of acquiring 400,000 AF of water for the delivery of maximum contract water entitlements. The State Water Project has never been able to deliver those quantities of water which amount to about 4 million AF. Additional environmental needs can claim up to 1.2 million for the Bay/Delta Accord with the "share the pain" policy which takes the SWP share [ 400,000 AF ] out of the 2.2 million firm capacity of the State Water Project. This six year project can be expected to be used yearly. You go on to imply that the information will be used for future actions. Again it is clear that this is not just a six year study. The Drought Water Bank Program EIR, the U C study:

“California Water Transfers Gainers and Losers in Two Northern Counties”, and the Rand Study prepared for the California Department of Water Resources all warn of expected significant impacts for areas that are the source of water transferred out of basin for anything over the rare one year event.

Environmental risks will result from changing groundwater contributions to river flows through dropping groundwater levels, changing riparian habitat, springs, native vegetation and its habitat niche. Even more subtle will be the effects on ephemeral wetlands which are ignored.

**Cumulative Impacts:**

The following risks haven't been given the necessary consideration they deserve in this document. We feel all those listed here should be answered with a “yes on your EIR checklist”.

- Changes in absorption rate\*
- Changes in the amount of surface water in any water body
- Alteration of the direction or rate of groundwaters\*
- Changes in the quantity of groundwater through withdrawals\*
- Substantial reduction in the amount of water otherwise available for public water supplies\*
- Reduction in the numbers of any unique plant species
- Deterioration of existing fish or wildlife habitat
- Alteration of the present or planned land use of an area\*
- Increased rate of use of any natural resources\*
- Alteration of the location, distribution or growth rate of the human population of an area.
- Adverse effects on existing housing \*
- Adverse effects on maintenance or a need for new public facilities
- Adverse effects on or need for new or altered governmental services
- Use of substantial amounts of fuel or energy (16%+10% for pumping and transport)
- New water systems
- Impacts on the quality or quantity of existing recreational opportunities

Though each of these things are touched upon in your document, they are handled in isolation. We contend that the extensive interplay of this list represents a significant degradation of quality of life, and economy in areas exporting water. These things are beyond the scope of a Water District 3030 plan. The scope must be addressed by a full CEQA investigation. That investigation should have a validated study protocol, not ambient observations gleaned over a casual six year water market that treats information as isolated facts. This project involves risks and complications far more complicated than structural projects of the past.

\* Items developed from the “Butte County Experience in 1994”

This Program EIR states that it was written to fulfill CEQA for any supplemental water sale project in the State unless challenged and bases its contention of adequacy on the Draft Program EIR for the Drought Water Bank. The Drought Water Bank Program EIR was undertaken under the crisis of a prolonged drought. The sense of extreme urgency, even with extraordinary conservation actions being taken in water short areas, justified its lack of site specific study. That document did not provide any enforcement of even the limited safeguard requirements listed.

Weaknesses of the Drought Water Bank Program EIR showed up in 1994 in Butte County. The mandated public hearings for sales over 20% supply were neglected and even the preliminary EIR checklist was not done before the project was implemented. DWR entered into purchase agreements with water districts. DWR retained no oversight (black box contracts). DWR acted as the legal defense for the challenged water district, and a token offer for energy costs (made over a year later) was refused by injured parties to avoid setting the precedent of allowing such irresponsible actions to be covered up. The State essentially dragged the claim negotiations out, pricing the injured parties out of the market for mitigation. This EIR puts all burden for claiming mitigation on the injured parties again.

Your Supplemental Water Purchase Program document grandfathers the same weaknesses into a prolonged project. To say you expect Groundwater Exchange Sales to be intermittent, is no justification for using the previously flawed document to support this new action. Every year the State could qualify for conducting these transfers under the criteria of maximum entitlement supply which you have established in this new document.

### **Economics in Areas Exporting Water**

The 1991 Rand study is referred to for justification of this SWPP action. The SWPP says that over a million dollars was generated in regions receiving water through the Water Bank while only 12 million was lost to selling regions. Theoretically that justifies these sales along with the assumption that economic activity would move out of state if abundant water was not available in the naturally water short areas of California. There is no information presented to indicate that some of those industries wouldn't locate in Northern California thus keeping the gross economic activity within the State.

The Rand study qualifies its results continually stressing its study sample group and its application to a one year event, however you expand its tentative conclusions to this project. Given the Rand limitations there are still lessons to be gleaned from their study as it might apply to this prolonged program of water transfers.

- The study states that 67% of the farm reinvestment undertaken with money from GWEL (groundwater exchange) contracts was spent on wells. [This is a one time event.] Only 26% of that money went to farm equipment purchase and repair, [even that wouldn't be repeated yearly]. (pg. 28-9) The net loss of Ag related economic activity will be higher on successive years.

- The Rand study suggests ways to partially compensate for this pattern of spending by recommending that participation in groundwater exchange sales be limited, and spread to new participants for any successive Drought Water Bank. (pg. 68) The study goes on to state that the sample response for GWEL contracts was so small (13) that they didn't have a high "confidence" level in their results regarding crop impacts. (pg. 23)

Many other questions the Rand study felt were significant for even intermittent transfers are not addressed in this SWPP document: Appropriateness of DWR's role as a governmental agency acting as a "sole broker", prices set by a purchase committee, the role of pricing for demand management, requiring more information about Black-Box Contracts, how to compensate negatively impacted parties. (pg. 70.1) Why do you select Groundwater Exchange (GWEL) in your preferred alternative with no additional study given the Rand misgivings?

### Legal Ramifications

The SWPP document refers to the "California Water Transfers-Gainers and Losers in Two Northern Counties". A closer look at that study supports additional concerns we have regarding the program contemplated by the SWPP.

Attorney, Brian Gray, says that Water Code protections were circumvented by calling water sold 'surface water' for one code (Section 1220) and 'groundwater' to evade the scrutiny of the State Water Resources Control Board. Finally, DWR was innovative "in acquiring water from riparians, the water bank did not actually purchase the water itself [as downstream users have a claim on that water], but rather acquired the benefits of that water." (pg.55, 58-9) This will allow the entire burden of the State water shortage and Delta Fix to be operationally placed on Northern California water resources. Those summer water resources are critical to the economy of rural counties.

Attorney, Joseph Sax, acknowledges that "much of the water that will be sold does not come from the original place of origin, but rather from a place to which water has been imported. That fact should not affect the conclusion where a community has been established whether it is human settlement or natural habitat, such as a wildlife refuge. Once such uses are established, the removal of water constitutes a disruption in that community, even if the community is only a few decades old, and thus also constitutes wealth redistribution." (pg. 49-50)

Henry J. Vaux, Jr., Director of the UC Water Resources Center and a Professor of economics at UC Riverside makes the following comments: "Significantly, the opinions of these people who have most at stake in the water exporting counties coincide with the other research findings. They perceive that:

- Transfers involving groundwater put the groundwater resource very much at risk.
- Long-term impacts of continued transfers are likely to be much more severe than short term.

Clearly, these voices, as well as the other research findings of the UC study teams, deserve attention as California faces historic policy decisions on water resource allocation.” (pg. 66)

### **General Comments**

The SWPP document continually details benefits of sales projecting assumed interactions to support contentions of benefits. The only provision for specific interaction of known projects with the SWPP when considering negatives was the Drought Water Bank.

The Drought Water Bank will be able to claim 10% of the capacity of supplemental water for its participants. This means only 40,000 AF will be available for crisis supplies (an unsafe margin). The unspoken alternative is that even more than 400,000 AF of water will be expected to leave its area of origin users during times of crisis. Either alternative is threatening the integrity of water supplies in California. We cannot afford to harden our water demands to this extent and thus lose flexibility for emergency responses.

Unfortunately the SWPP EIR is fatally flawed in its glossing over of predictable interactions with 2 other programs that will interact with the Supplemental Water Purchase Program.

### **Monterey Agreement**

The Monterey Agreement provides for sales of entitlement water outside the contractor circle and therefore allows the SWPP water, which can be claimed up to maximum entitlements, to be used to meet new demand. This SWPP document states that the program will not be growth inducing. How will the provisions of the Monterey Agreement marketing freedom be stopped when you state that SWPP water will be treated like regular entitlement water supplies for the contractor? There should be a triggering mechanism which cancels all SWPP sales if even 1 AF of water is sold outside the SWP contractors or in any way sold, traded, or “loaned” to meet CVPIA supplies.

### **Bay/Delta Program**

There are mixed messages that are not addressed when the BDAC Water Use Efficiency Work Group recommends marketing to fill the “mismatch” in the State’s water demand, yet your marketing program says it will not create new buyers. The BDAC work group further goes on to excuse entities from implementing Best Management Practices if the actions “aren’t cost effective.” By using DWR as a central broker with prices set by a central purchasers’ committee there is monopolistic control of water prices. The natural market controls of price reflecting supply and demand are lost. By eliminating competitive bidding, you eliminate the “cost effective” trigger for conservation and implementing BMPs.

## CVPIA

The final program whose interaction is predictable and therefore should be factored into your EIR more concretely is the CVPIA. Clear targets have been established for water contributions to the Bay/Delta fix. The strategy has been clearly defined. A sample projection of flow changes within Northern Sacramento Valley should be presented in a thoughtful simulation as part of your analysis for cumulative impacts. Without this there is essentially no attempt at evaluating negative impacts. Even a program EIR cannot justify this omission.

### Conclusions

Since the Department of Water Resources is blazing new water development policy, it falls to them to provide the kind of scientific scrutiny and public participation that is beyond the realistic expectation of any water district's 3030 plan. The project is being presented with the superficial impression of a study however the operable intent is to establish a Statewide policy of water redistribution. The lack of a study protocol, piecemeal approaches, and no public hearings on a policy which in essence threatens Area of Origin Protections is inappropriate. There is no provision for centralized public access to cumulative transactions and impacts which diminishes the value of any information gained.

We recommend that a program using only stored surface water combined with conservation in water short areas be implemented. No Groundwater substitution contracts for riparian waters or surface waters should be implemented until the mentioned shortfalls of this CEQA document can be addressed, and public hearings are held.

It is of extreme concern to us that the State is proceeding with water marketing that prematurely exploits groundwater by circumventing the protections of a true CEQA study. Building actions based on program EIRs supported by program EIRs, disregarding recommendations of State contracted studies, and limiting public input is dangerous.

### **COMMENTS ON APPENDIX B EXISTING CONDITIONS IN BUTTE COUNTY.**

#### Corrections and Omissions

- Butte County's water balance is a reflection of the spreading of nearly 700,000 AF of pre-1914 surface water diversions over ag lands, along with river diversions. Without that water, groundwater levels would gradually be declining.
- Subsidence has been a recognized vulnerability in the Chico area and surrounding county area by both the USGS Survey and the Chico General Plan prepared by Michael Brandman Associates, Soils, Geology, and Seismicity.

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- Economic availability of water given the profit margins of area crops must be calculated and included in your casual commentary about water volumes from Bulletin 118-6. Calculations should include assigned costs of subsidence, quality degradation, increased energy consumption for those not participating in GWEL contracts.
- Groundwater quality issues exist which may be exacerbated by the kind of massive shift to groundwater pumping probable or at least permissible with the SWPP. Specifically nitrates from septic densities, cleaning fluid plumes, arsenic, perched saline water.
- DWR monitoring in the Cherokee area was undertaken a month into the water transfer pumping project of 1994. Even though effects on groundwater are reflected at the start of pumping projects when stored water is first extracted, the water levels rebounded 2 feet when only 6 transfer wells were take off line. That is significant considering the shutoff was implemented 4 weeks late. Starting levels for surrounding wells should have been taken to give an initial baseline for this monitoring technique to be valid. The statement that water rebounded 40 ft when the pumping project well was turned off merely reflects cone of depression drawdowns.
- The mitigation offered by DWR on energy costs reflected only pennies on the dollar for injured parties' damages. There was no monitoring to investigate the influence of replacing over 16,000 AF of surface water with groundwater pumping just South of Durham. The town of Durham had to ration water when quickly dropping water levels caused contaminants to show up in one town supply well. This required a new well and chlorinating facilities.
- There are over 14,000 domestic wells in Butte County serving homeowners who do not have the resources to have well work done and thus the risk to health could be significant if people are forced to forego household water until they can afford the work or until the water comes back.
- Butte County's main economy is based on agriculture. Therefore summer safe yield is critical. Standards which are based on the return of water levels within the water year (December 31) provide no operable protection for the beneficial use of overlying land.
- In Butte County, land prices and their earning ability have always been significantly influenced by the availability of water. Actions which change those conditions will possibly meet the criteria of a "taking".

Sincerely,



Linda Cole,  
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