September 15, 2003

Ms. Delores Brown
Chief, Mitigation and Restoration Branch
Department of Water Resources
3251 S Street
Sacramento CA 95816

Re: Comments of Yuba County Water Agency on the July 2003 Environmental Water Account Draft EIR/EIS

Dear Ms. Brown:

Yuba County Water Agency ("YCWA") appreciates the opportunity to provide these comments on the July 2003 draft EIR/EIS for the Environmental Water Account ("EWA"). YCWA has completed three separate water transfers to the EWA, and has transferred water to other purchasers throughout California over the past 15 years. YCWA supports the expressions in State law (e.g., Water Code sections 109 and 475) favoring voluntary water transfers. Revenues from water transfers have been a vital source of funding to enable YCWA to pay the local cost-share for flood control restoration and flood control enhancement, and to provide water supply, water quality and environmental benefits within Yuba County.

It has been well-documented that water transfers from the Sacramento Valley (including from YCWA) have provided significant economic benefits to the rest of the State during drought conditions. (For example, see a report prepared by the Rand Corporation for DWR, entitled *A Retrospective on California's 1991 Emergency Drought Water Bank*, March 1992.) CALFED agencies have been among the beneficiaries of these water transfers. Yet, CALFED agencies have been pursuing a regulatory taking of water from YCWA in the State Water Resources Control Board's Decision 1644 proceedings. If Revised Decision 1644 is not significantly modified, then YCWA would no longer be a source of transfer water in dry years. YCWA hopes that CALFED agencies will pursue a collaborative process with YCWA to reach an agreement on a balanced approach to water supply and fishery enhancement issues affecting the lower Yuba River.

DWR's *California Water Plan Update* (Bulletin 160-98, November 1998) predicts that, by the year 2020, demands will exceed supplies in California by 2.4 million acre-feet in normal rainfall years, and by 6.2 million acre-feet in drought years. It seems readily apparent that water transfers from the Sacramento Valley could play only a relatively small role in meeting California's future water supply needs. It would be useful for policymakers if the CALFED program provided a realistic analysis quantifying the likely sources of water to meet California's future water supply needs, including the need to develop new storage supplies.

Although not explicitly stated in the document, the draft EIR/EIS focuses on more than one year of operation of the EWA. Therefore, these comments assume that this environmental document covers both temporary transfers and long-term water transfers to the EWA, as defined in Water Code sections 1728 and 1735, respectively.

These comments are in two parts: (1) general comments on the approach of, and correctness of assumptions contained in, the draft EIR/EIS in assessing the environmental impacts of the project; and (2) specific comments regarding statements or information contained in the environmental document that are incorrect.

GENERAL COMMENTS

1. The draft EIR/EIS does not contain any significant information or any analysis on the effect that groundwater pumping might have on surface water bodies. Rather, this potential effect is merely assumed, and an extensive number of measures are included to attempt to have each seller avoid this potential effect. YCWA believes this approach is incorrect. First, reasonable analysis of this potential effects of groundwater pumping on surface water supplies should be undertaken. YCWA believes that, if even a limited analysis of this effect were to be done, it would result in findings that (in most if not all cases) pumping of wells would <u>not</u> have a significant impact on the flow in surface streams.

2. The draft EIR/EIS describes a potential impact on the flow of streams that would affect SWP and CVP supplies <u>as an environmental impact,</u> when in fact it is not. The

EWA was established to allow for actions to mitigate the potential impact of the SWP and CVP export facilities on fish, without negatively impacting SWP and CVP deliveries. The EWA water purchases are administered by DWR and USBR. Any potential reduction in stream flow to the Delta from groundwater pumping related to a transfer to the EWA would be an issue of transfer efficiency, and potentially affect the net price of the water purchased. YCWA believes that by couching this issue as an "environmental impact" rather than as a project efficiency issue, the draft EIR/EIS misrepresents the effects of groundwater substitution transfers. This is further evidenced by the use of the DWR "Transfer White Papers" as the basis for avoidance measures. These papers and associated map relate only to potential impacts to major streams that flow to the Delta, and do not address minor creeks. Therefore, the only effect that is addressed by these avoidance measures is the effect on SWP and CVP water supplies, which are speculative without the inclusion of any analysis.

3. The air quality section of the environmental document uses a standard of zero increase in pollutants to assess the significance of the effects of using diesel motors for pumping groundwater. This standard for determining the level of significance is contrary to the requirements of the air quality management districts (AQMDs) in the Central Valley. Each of the AQMDs has established thresholds of significant for ozone precursors and particulates that would allow for the use of diesels for some of the pumping. In addition, the preparers used an unreasonable and unlikely set of assumptions for the pollutant loads of diesel pumps, even though there is information available to suggest that these assumptions are overly conservative and would not represent the potential for a significant impact on air quality. The preparers should do a County by County analysis using the best available information to determine a threshold for diesel motor use, and should incorporate the AQMD standards for thresholds of significance.

4. Although the environmental document was prepared for a project time period of more than one year, and refers to long-term transfers (i.e., for more than one year), the approach to the aspects of surface water transfers only relates to temporary (i.e., one-

year) transfers. In particular, the discussion of reservoir refill impacts and the avoidance measures are focused on single-year transfers, and would be impracticable to apply to long-term transfers. The preparers should examine and discuss how long-term transfers may be accomplished.

5. In the cumulative effects section of the environmental document, it is stated that other transfer projects (e.g., transfers to buyers other than EWA) would likely be carried out by implementing measures to avoid negative impacts at would be similar to those prescribed in the draft EIR/EIS. This is incorrect. There are many approaches to examining, avoiding and mitigating the potential impacts of a transfer. Also, other projects may take a more direct approach that analyzes the potential for impacts, rather than assuming that would occur. The preparers should remove these statements.

6. Although YCWA provided some information for the preparation of the draft EIR/EIS, and provided some input on the document, the process for preparation of the document did not generally involve the participation of potential water transferors from the Sacramento Valley. The draft EIR/EIS examines two main aspects of the EWA, namely, the actions to be taken and the projects that would produce water for sale to the EWA. Resource agencies, including DWR and USBR, were fully-involved in the preparation of the environmental document. The owners and operators of projects that would provide transfer water to the EWA were not involved. The sellers should be more fully involved in the environmental document preparation, and in the land and implementation of the accounting and mitigation measures called for in the environmental document.

7. In prior water transfers to EWA, YCWA has provided assurance of the delivery of transfer water from groundwater substitution by measuring the transfer water at the Marysville Gage. The draft EIR/EIS makes no mention of this, and instead represents that adverse effects could occur on the Yuba River due to groundwater pumping. Any impact to the Yuba River from groundwater pumping would impact YCWA water supplies, not the environment or downstream users.

8. The groundwater mitigation measures section of the draft EIR/EIS are an extensive listing of rules and processes for the review of the sellers' project, project effects, monitoring plans, mitigation plans and even describes a need to have "*assurances that adequate financial resources are available to cover reasonably anticipated mitigation needs,*" while describing the purported need for a collaborative process. This section, in effect, proposes oversight of the sellers' project. The EWA should establish a truly collaborative process in which the unique aspects of individual projects can be dealt with in an informed and positive manner.

SPECIFIC COMMENTS

1. On page 2-45, second paragraph, fourth line "EWA agencies would try to maintain relatively constant flow on the Yuba River." "EWA" should be "YCWA."

2. Section 4.2.3.1.2 does not properly characterize reservoir refill, and does not reflect the terms that have been used for refill in previous YCWA-EWA transfers. Is it the intention to unilaterally change these terms?

3. Table 5-48 on page 5-70 is incorrect. Under current conditions YCWA would not transfer 100 TAF of water if the end of September storage in New Bullards Bar Reservoir were as low as 614 TAF. The typical without-transfer end of September storage for New Bullards Bar Reservoir is 705 TAF. In order to calculate the median monthly storage under baseline conditions, past transfers (1989, 1990, 1991, 1992, 1997, 2001 and 2002) would have to be added back in.

4. Page 6-80, third paragraph, ninth line "Yuba River Operating Program" should be "Yuba River Development Project"

5. Page 6-81, first paragraph first line is misleading. The entire transfer for both the north and south Yuba basins was 65,000 acre-ft. Pumping in the north was only 47,500 acre-ft.

6. The numbers in Table 6-14 are incorrect. There is double counting for the 2001 EWA and the 2001 Dry Year program.

7. As stated in the general comments above, the well review criteria only includes wells within a specific distance of major and minor surface stream tributary to the Delta. These measures are thus clearly only targeted for impacts to the SWP and CVP, as these entities provide for all downstream in-basin diversions below the Yuba River. These criteria should not be described as needed for avoidance of environmental impacts, only for impact to the SWP and CVP water supplies.

8. Page 6-153 discusses the Sacramento Valley Water Management Agreement ("SVWMA") as one of the programs that would have groundwater pumping, and could have a cumulative effect with the EWA. Paragraph six states "It is assumed that each program will institute groundwater mitigation measures similar to those stipulated in the EWA Program." This reference should not be included. As the environmental document states over and over, there are many ways to implement a project and avoid significant impacts. The approach that is taken for the EWA is the one selected by the SWP and CVP, and is not appropriate for the SVWMA.

9. Figure 14-9 on page 14-25 is incorrect, as it uses the median figures described as incorrect in item 10 above.

10. Page 16-19 discusses potential effect on power costs from a shifting of generation on the Yuba River, and describes these effects as potentially significant. The section then refers to Section 16.3.9, which describes mitigation of power costs only to the SWP and CVP. If the impact is created from a contractual obligation of the EWA, and is not an

impact that must be mitigated for all effected parties, than it should not be included in the EIR/EIS.

11. Page 17-19, Section 17.2.5.1.2 describes a potentially significant effect of New Bullards Bar Reservoir level fluctuations on cultural resources. It also states that Reclamation would "require inventory and evaluation of unsurveyed areas if levels are lowered to below historical low levels." The mitigation measure states that the transferring agency will conduct an inventory in this condition and implement mitigation measures. YCWA does not agree. The EWA Project Agencies or Reclamation should be responsible for this action.

Again, YCWA appreciates the opportunity to provide these comments.

Sincerely,

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Curt Aikens, General Manager