



JON D. RUBIN

October 28, 2002

**VIA FEDERAL EXPRESS**

Mr. Paul Marshall  
California Department of Water Resources  
Bay-Delta Office  
1416 Ninth Street, P.O. Box 942836  
Sacramento, CA 94236-0001

Mr. Dan Meier  
United States Bureau of Reclamation  
2800 Cottage Way  
MP-700  
Sacramento, CA 95825

Re: South Delta Improvements Program Environmental Impact Report--  
Environmental Impact Statement

Dear Mr. Marshall and Mr. Meier:

This letter is submitted on behalf of Westlands Water District (Westlands) and responds to the notice of preparation (NOP) and notice of intent (NOI) for the South Delta Improvements Program (SDIP) environmental impact report/environmental impact statement (EIR/EIS), issued on September 11 and September 30, 2002, respectively. The NOP and NOI explain that, as part of the CALFED Bay-Delta Program (CALFED Program), the California Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation or Bureau) are proposing the SDIP to increase the maximum allowable diversion capacity at the State Water Project's (SWP) Clifton Court Forebay, to provide an adequate water supply for South Delta Water Agency (SDWA) and to improve conditions for San Joaquin River Salmon in the southern portion of the Sacramento-San Joaquin Rivers Delta (Delta) in portions of San Joaquin and Contra Costa counties.

Westlands is a California water district with a contractual right to receive up to 1,150,000 acre-feet of Central Valley Project (CVP) water from Reclamation. Westlands provides water for municipal and industrial uses and for the irrigation of approximately 600,000 acres on the west side of the San Joaquin Valley in Fresno and Kings Counties. Water provided by Reclamation to Westlands is appropriated from the Delta pursuant to State Water Resources Control Board, Water Right Decisions 893, 990, and 1020. These decisions provide that the right to the beneficial use of water for irrigation purposes shall be appurtenant to the land on which that water is applied and the right to the beneficial use of water for irrigation purposes shall, consistent with the terms of the decisions, continue in perpetuity. When feasible, Westlands supplements its CVP water supply through water transfers. In some circumstances, the transfer is accomplished by use of SWP facilities. Accordingly, Westlands has a vital interest in the SDIP and the related EIR/EIS.

ATTORNEYS AT LAW

400 CAPITOL MALL, 27<sup>TH</sup> FLOOR SACRAMENTO, CALIFORNIA 95814-4416 TELEPHONE (916) 321-4500 FAX (916) 321-4555

Mr. Paul Marshall, California Department of Water Resources  
Mr. Dan Meier, United States Bureau of Reclamation  
October 28, 2002  
Page 2

Westlands has been actively participating in the CALFED Program and supports its expressed objective to resolve Bay-Delta problems equitably. The Record of Decision for the CALFED Program (ROD) explains that its task is fourfold:

- 1) restore the ecological health of a fragile and depleted Bay-Delta estuary;
- 2) improve the water supply reliability for the State's farms and growing cities that draw water from the Delta and its tributaries, including 7 million acres of the world's most productive farmland;
- 3) protect the drinking water quality of the 22 million Californians who rely on the Delta for their supplies; and
- 4) protect the Delta levees that ensure its integrity as a conveyance and ecosystem.

To date, however, the CALFED Program has focused principally on restoration of the Bay-Delta estuary. The SDIP represents an important step that should balance and fulfill important commitments of the CALFED Program. Indeed, successful implementation of the SDIP will restore confidence in the Program. For these reasons, Westlands recognizes that the SDIP is an integral part of the CALFED Program, and thus, supports its elements and projected results. Westlands presents the following two principal concerns with the hope that the EIR/EIS is legally adequate and supported by a majority if not all of the stakeholders.

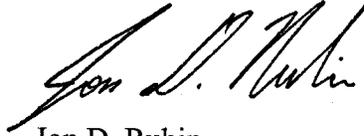
First, in order to achieve the needed balance and honor the commitments in the ROD, the SDIP must increase capacity at the SWP's Clifton Court Forebay. Specifically, operating criteria must be developed to maximize benefits to SWP and CVP south of delta users, including Westlands. And while the increase capacity may also be dedicated for other uses, (i.e., CALFED Program's environmental water account), that dedication should not be made at the expense of water users. To do so would frustrate the needed balance the SDIP offers and undermine the commitments in the ROD.

Second, Westlands is concerned with the possible scope of analysis contained in the EIR/EIS. The draft Environmental Impact Report/Environmental Impact Statement for the Interim South Delta Program did not adequately consider impacts to CVP contractors. This same mistake cannot be made again in the EIR/EIS. As noted above, the landowners and water users within the service area of Westlands are dependent on water diverted from the Bay-Delta. Change in the quantity of water it receives has potentially significant impacts. For this reason, the EIS/EIR must analyze for each alternative the relative effect on the economic and environmental condition (i.e., groundwater impacts) of CVP contractors, including Westlands.

Mr. Paul Marshall, California Department of Water Resources  
Mr. Dan Meier, United States Bureau of Reclamation  
October 28, 2002  
Page 3

Thank you for your consideration,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation



Jon D. Rubin  
Attorneys for Westlands Water District

cc: Thomas W. Birmingham  
James Snow

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