

**DRAFT - April 25, 2008**

# California Bay-Delta Program

## Environmental Water Account Program Plan Year 9

(State FY 2008-09; Federal FY 2009)

**Implementing Agencies:**

Department of Water Resources  
Department of Fish and Game  
United States Bureau of Reclamation  
United States Fish and Wildlife Service  
United States National Marine Fisheries Service

**June 15, 2008**



# Introduction

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This Environmental Water Account (EWA) Program Plan Year 9 identifies the CALFED Program activities that are scheduled to be completed during the upcoming State and Federal Fiscal Year (FY), State FY 2008-09 (July 1, 2008 to June 30, 2009) and Federal FY 2009 (October 1, 2008 to September 30, 2009). The Plan also describes progress made to date on the previous year's program plan.

The EWA Program Plan Year 9 is written assuming that the EWA Agencies will extend the EWA an additional four years through 2011 (September 30, 2010 for federal agencies unless re-authorized). The Agencies have prepared a Supplemental EIR/EIS to analyze the effects of extending the EWA but have not made a decision to approve the time extension. Therefore, although this Plan describes EWA activities for Year 9, the EWA Agencies have not yet decided whether to extend the EWA.

## EWA 2000-2008

From 2000 through 2004, EWA's "fish actions" focused on protecting at-risk native Delta dependent fish species (especially delta smelt, winter-run and spring-run Chinook salmon, and steelhead). Beginning 2005 through 2007, more emphasis was placed on protecting delta smelt due to their rapid population decline.

EWA's operation in winter and spring of 2008 is different from previous years due to 2007 federal court decisions. In 2007, federal court Judge Wanger issued a decision on the USFWS delta smelt biological opinion for the operations of the CVP and SWP. His decision held that the delta smelt biological opinion was inadequate and in December 2007 he issued an Interim Remedial Order pending adoption of a new biological opinion. The Interim Remedial Order mandates USFWS to issue a new delta smelt biological opinion by September 2008 and also orders USBR and DWR to take CVP/SWP operational actions during the winter and spring that benefit delta smelt. These CVP/SWP operational actions are similar to EWA actions taken in the prior year. The USFWS new biological opinion will prescribe CVP/SWP operational actions that would be required to protect delta smelt and its habitat. In 2008 and beyond, EWA has no commitment to fully compensate for the water costs of these operational actions.

## Anticipated 2009 Operations

In 2009, EWA's operations would likely change in response to the expected new biological opinions from USFWS and NMFS for CVP/ SWP operations and the declining availability of public funding to acquire water assets. EWA, if continued, would probably be a "limited" EWA that has fewer assets and would focus on using those assets to support primarily the Vernalis Adaptive Management Plan (VAMP) and related actions such as the post-VAMP shoulder. Other EWA supported actions may include longfin smelt protection, river temperature enhancement, and instream flow augmentation. The California Fish and Game Commission recently identified longfin smelt as a candidate fish species for listing under the California Endangered Species Act. For 2009, EWA assets may include the following:

- Department of Water Resources (DWR) purchase of Component 1 Water under the Lower Yuba River Accord, which is 60,000 acre-feet (af) of water released

annually from the Yuba River to the Delta through 2015 with a possible extension through 2025. The 60,000 af is expected to be reduced by carriage water costs in most years, estimated at 20 percent.

- Operational assets (Average 82,000 af/year during 2001-2006, ranging from 0 af to 150,000 af, depending on hydrology):
  - 50 percent share of SWP export pumping of (b)(2) water and ERP water from upstream releases.
  - Share in the use of SWP pumping capacity in excess of the SWP's needs to meet contractor requirements with the CVP on an equal basis, as needed (such use may be under Joint Point of Diversion provisions in the Project Agencies water right permits).
  - Any water acquired through export/inflow ratio flexibility.
  - 500 cubic-feet per second (cfs) increase in authorized Banks Pumping Plant capacity in July through September (from 6,680 to 7,180 cfs). The United States Army Corps of Engineer's authorization to use the 500 cfs terminates in September 2008, although DWR intends to apply for an extension.
  - The ability to store EWA water in project reservoirs upstream of the Delta and in San Luis Reservoir with a lower priority than project water. The EWA would share this storage priority with water acquired for Level 4 refuge needs.

In 2009 and beyond, the SWP will no longer depend on EWA water purchases to offset "fish actions" at the Banks Pumping Plant except for VAMP and related actions. For the CVP, EWA water purchases may be used to offset "fish actions" at Jones Pumping Plant associated with post-Vamp actions, protection of longfin smelt, and other actions as applicable. Reclamation expects to purchase water and power for EWA, subject to the availability of federal funds. Presently, Reclamation's authority to implement EWA is through September 30, 2010 (Calfed Bay-Delta Authorization Act [P.L. 108-361]).

If the Agencies approve extension of the EWA, it will probably be a limited EWA Program, operating according to California's water year, October 1 to September 30 of the following year. For 2009, that will be October 1, 2008 through September 30, 2009.

# Priorities

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In water year 2009, EWA would operate on a significantly reduced monetary budget that would include state funds, if available, and federal funds, which depend on annual Congressional appropriations. The EWA Agencies plan to manage a mixture of purchased water (fixed assets) and operational flexibility (variable assets). EWA assets would be purchased from willing sellers, depending on funds available, or created using operational flexibility. The latter depends on the year's hydrology and the pumping capacity that becomes available to EWA in the Delta.

# Progress Report

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Because the EWA operates in accordance with California's water year (October 1 - September 30), accomplishments for water year 2008 will not be known until fall 2008. Therefore, EWA's progress report for water year 2007 is provided below.

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## Water and Power Acquisitions

In WY 2007, the EWA obtained water from direct purchases with willing sellers (275 TAF) and from operational assets (213 TAF). This water was used to replace project supplies lost (approximately 500 TAF) during pumping curtailments for at-risk fish (primarily delta smelt and spring-run Chinook salmon), thus preserving water supply reliability. EWA's operational assets were obtained by "backing up" (i.e., reducing water releases from upstream reservoirs) CVP/SWP project water concurrently with the fish actions occurring at CVP's Jones Pumping Plant and the SWP Banks Pumping Plant. The "backed up" water, which is approximately equivalent to the water cost associated with fish protective actions, becomes a EWA asset, according to the EWA Operating Principles Agreement (2000) and EWA Operational Protocols (2006).

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## Environmental Documentation

During water year 2007, the EWA agencies prepared a draft Supplemental Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to the Final EWA EIS/EIR (2004) for the proposed 4-year (2008-2011) extension of the existing Stage-1 EWA program. The draft Supplemental EIS/EIR was circulated for a 45-day public review period that ended on December 10, 2007. A Final Supplemental EIS/EIR was provided to the public in April 2008. Completion of the Final Supplemental EIS/EIR Record of Decision/ Notice of Determination is expected in Summer 2008.

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## Tier 3 Reserve

Since WY 2001 (EWA's first year of operation), the EWA Agencies have not needed to implement Tier 3. However, with delta smelt apparently at record-low abundance and the uncertainty of sufficient EWA assets; the EWA agencies identified an expert panel that would be engaged in an assessment of fish status relative to project operations in the event Tier 3 assets are needed for delta smelt.

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## Oversight and Coordination

The EWA Agencies, via the EWA Team, continued their coordination through the Water Operations Management Team (WOMT) to maximize opportunities to obtain and use EWA assets for fish protection, while helping to ensure water supply reliability for CVP and SWP water users south of the Delta in WY 2007.

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# Activities

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Presented below is a listing of the major EWA activities anticipated for water year 2009 (October 1, 2008 to September 30, 2009). Activities are grouped into the general categories of water and power acquisitions, environmental documentation, Tier 3 reserves, and oversight and coordination. It should be noted that adequate funds are essential in order to carry out the scheduled activities completely.

## Water and Power Acquisitions

**Activity:** Continue providing protection to at-risk native fish species of the Bay-Delta through beneficial changes in SWP/CVP operations.

**Deliverables:** VAMP and related actions, water releases for instream flow augmentation and temperature control, and other actions as applicable.

**Public Involvement/Outreach:** An update of CVP/SWP operations (including EWA) is presented at the monthly meetings of the CALFED Operations Group (CALFED OPS). This group consists of agency (state and federal) and stakeholder (CVP/SWP contractors and environmental interests groups) representatives. At CALFED OPS meetings, CVP/SWP water operations, fish monitoring studies and results, and related policy and technical issues are open for discussion by all participants. CALFED OPS provides a public forum for disclosing EWA activities.

Every week, stakeholders interested in CVP/SWP operations have an opportunity for involvement in the Data Assessment Team (DAT), which evaluates and discusses current fish monitoring results, project operations, and operational changes that may be required to meet Delta fishery, water quality, and flow standards in accordance with the State Water Resources Control Board's (SWRCB) Decision-1641 and the BOs concerning CVP/SWP operations. The DAT is a technical staff-level meeting while the WOMT is an agency management level meeting. The DAT consists of fish biologists and stakeholders.

In addition, the Operations and Fish Forum (OFF), which reports to the CALFED OPS Group, is another way for stakeholders to provide input on CVP/SWP operations, including EWA. OFF participants include stakeholders and CALFED agency representatives who develop consensus recommendations on operations of the Bay-Delta facilities to protect water quality and fish, and maintain water supply reliability.

**Deliverables:** Management Agencies' recommendations to Project Agencies regarding VAMP and related actions, and other actions beneficial to fish, as needed, through one of the above forums on operations of the CVP and SWP.

**Funding:** In water year 2009, it is anticipated that limited State funds will be available. The President's Budget for 2009 contains \$7 million for EWA, subject to congressional approval and federal appropriations.

**Schedule:** Actions to protect at-risk native Delta fish are expected to be implemented December – June with an emphasis on the VAMP in April-May.

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**Activity:** Single-year water purchases from willing sellers – The EWA's strategy may continue to include short-term purchases from willing sellers, although the volume of water acquired in this manner will be small.

**Deliverables:** Replacement water for CVP/SWP users. Uncertain, depending on availability of funds.

**Linkage with Other Programs:** The EWA Agencies seek to coordinate water acquisitions with other water acquisition programs, such as the state's Dry Year Purchase Program and the federal's CVPIA Level 4 water purchases for state and federal wildlife refuges in the Central Valley. Also, the EWA Project Agencies work closely together to coordinate water transfers in the state, discussing the establishment of water transfer principles and fine-tuning the water acquisition and transfer process.

**Public Involvement/Outreach:** In all water purchases for the EWA, water districts' representatives (and in some cases environmental interests groups) are involved with contract negotiations. For some water purchase agreements, willing sellers petition the State Water Resources Control Board (SWRCB) to obtain approval of a proposed water sale and transfer. Public review of the petition is required prior to the SWRCB's approval.

**Tribal Interests:** Groundwater extraction via groundwater substitution actions near Indian Trust Assets (ITAs) has the potential to lower groundwater levels beneath the ITAs, thereby impacting tribal water rights and water supplies. The EWA has required monitoring of groundwater levels and an action plan should groundwater levels be impacted for groundwater substitution occurring away from Indian Trust lands. To date, the lowering of groundwater levels beneath ITAs resulting from groundwater extraction activities on adjacent lands for the EWA has not been evident. In the event an impact on tribal water supplies/rights is identified, consultation between the affected federally recognized tribal governments and the EWA agencies will be initiated. This may be expanded to include the Bureau of Indian Affairs, the Office of the Solicitor and the Office of the American Indian Trust.

**Environmental Justice:** To date, EWA agencies have acquired water from willing sellers through groundwater substitution, as well as from stored reservoir water and through extraction of stored groundwater. In water 2009 and beyond, EWA may acquire water made available by willing sellers through crop idling; an action that could potentially affect farm laborers and other individuals associated with farming activities (including farm supply companies, custom operators and other related businesses). The agribusiness industry employs wage earners of all income levels and ethnic backgrounds. The key question regarding environmental justice is: If minority and low-income individuals were affected, how could an off-setting action be directed to those minority and low-income individuals?

**Funding:** Same as above.

**Schedule:** The EWA Project Agencies start negotiating water purchase contracts in late fall; most contracts are signed by late spring of the following year.

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**Activity:** Multi-Year Purchases from willing sellers – Multi-year purchases could provide some important advantages to the EWA, including increased certainty of the availability of assets and reduced unit cost. An example multi-year purchase expected to be completed in late spring 2008, is a three-year (2008-2010) agreement with Santa Clara Valley Water District that would provide up to 50 TAF of water per year to EWA, depending on annual hydrology.

**Deliverables:** Replacement water for CVP/SWP users. Uncertain, depending on availability of funds.

**Linkage with Other Programs:** Same as above.

**Public Involvement/Outreach:** Same as above.

**Tribal Interests:** Same as above.

**Environmental Justice:** Same as above.

**Funding:** Same as above.

**Schedule:** Similar to Single-year water purchases, but may take longer if SWRCB approval is required.

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**Potential Problems:** Funding may be limited and is uncertain.

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### Environmental Documentation

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**Activity:** Prepare environmental compliance documents - 2009 acquisitions from sources not identified in the Supplemental EIS/EIR (see Progress Report above) may require supplemental CEQA and/or NEPA compliance.

**Deliverables:** Environmental compliance documents, as needed.

**Public Involvement/Outreach:** Upon release of the draft environmental documents, the public would have at least 30 days to review and comment. Public comments received would be incorporated into final documents.

**Tribal Interests:** Same as above.

**Environmental Justice:** Same as above.

**Funding:** Federal FY 2009 funds, if appropriated, and state funds, if available, would pay for environmental document preparation.

**Schedule:** Completed as necessary.

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### Tier 3 Reserve

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**Activity:** Ensure assets for Tier 3; limited due to lack of funds.

**Deliverables:** If pumping curtailments are necessary to avoid jeopardy, the curtailments will be met without making up the lost water to the SWP and CVP.

**Funding:** None.

**Schedule:** Initiated if required under a continued EWA.

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**Potential Problems:** Relevance of Tier 3 in light of federal court decisions on biological opinions and possibly SWP and CVP export limitations in subsequent biological opinions.

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### Oversight and Coordination

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**Activity:** Continue Participation in the Planning of California Bay-Delta Program Storage and Conveyance Programs – The EWA, or a future program, could obtain long-term water assets to help assure fishery protection and water supply reliability by obtaining conveyance capacity and storage rights in new or expanded reservoirs, as envisioned in the ROD. Several projects have been proposed, including the expansion of existing Los Vaqueros, Shasta, and Folsom reservoirs; the Delta Wetlands Project; the Sites Reservoir; and the Westlake Farms Multi-Benefit Reservoir.

**Deliverables:** None required.

**Linkage with Other CALFED Programs:** CALFED Storage and Conveyance Programs

**Funding:** Costs for EWA Agencies' staff participation in the planning of CALFED Storage and Conveyance Programs are included in the amounts requested under "Water and Power Acquisitions," as noted above.

**Schedule:** EWA Team members participate on an as needed basis.

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**Activity:** EWA Science - The EWA agencies, in collaboration with the CALFED Science Program (including the Interagency Ecological Program) continue to pursue the collection, synthesis and application of scientific information relevant to the biological needs and population dynamics of the anadromous and Delta fish species and to pursue the factors affecting the health and function of the Bay-Delta ecosystem. Methods of estimating abundance and distribution have been improved. Decision making processes have been adapted based on new information. Increased involvement of the academic community and other scientists is expected to increase through the Science Program PSP and the Ecosystem Restoration Program Monitoring PSP, providing expertise that was lacking at the start of EWA in 2001. Workshops, seminars and other scientific discussions will continue to contribute to improved scientific understanding and more effective EWA management.

Periodically, the CALFED Science Program with assistance by the EWA Agencies, sponsors EWA technical reviews. These reviews are instrumental in improving the management and operation of the EWA. Scientific knowledge is continually being gained and influences the decisions of groups, such as the Environmental Water Account Team (EWAT) and the Data Assessment Team (DAT), on fish actions and EWA assets management. As more reliable information is obtained on the effects of exports and upstream actions taken for fish benefits, the operation and management of EWA are adjusted to optimize the effectiveness of the program. In WY 2009, the CALFED Science Program will not be sponsoring a EWA technical review.

**Deliverables:** Workshops, seminars, and other EWA science related materials, as needed.

**Public Involvement/Outreach:** The public is invited to attend technical workshops and seminars on EWA related issues such as Chinook salmon and delta smelt monitoring and population studies.

**Funding:** Same as for Water and Power Acquisitions.

**Schedule:** Ongoing. Workshops and seminars scheduled as needed.

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**EWA Beyond 2009:** The Bureau of Reclamation, USFWS, and NMFS have received Congressional authorization to participate in the EWA at least through September 30, 2010, per the Calfed Bay-Delta Authorization Act (PL-108-361). However, for these Federal agencies to continue participation in the EWA beyond 2010, additional authorization will be required.

## Funding (Preliminary, subject to change)

<b>Environmental Water Account</b> <sup>1</sup> (\$ in millions)	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Grand Total
State <sup>2</sup>	\$56.30	\$24.75	\$30.30	\$23.30 <sup>6</sup>	\$32.30	\$9.02 <sup>7</sup>	\$8.95	\$65.82	0	\$250.74 <sup>8</sup>
Federal <sup>3</sup>	\$0.10	\$13.00	\$2.54	\$2.10	\$1.20	\$5.20 <sup>9</sup>	\$8.0	\$7.0	\$7.0	\$46.14
<b>Actual Total Expenditures<sup>4</sup></b>	<b>\$56.4</b>	<b>\$37.75</b>	<b>\$32.84</b>	<b>\$25.40</b>	<b>\$33.50</b>	<b>\$14.22</b>	<b>\$16.95</b>	<b>\$72.82</b>	<b>\$7.0</b>	<b>\$296.88</b>
<b>Projected Needs Estimate<sup>5</sup></b>	\$50.0	\$50.0	\$50.0	\$50.0	\$61.8	\$35.2	\$36.2	\$47.2	\$43.2	\$423.60
<b>Original ROD Estimate (Aug, 2000)<sup>6</sup></b>	\$50.0	\$50.0	\$50.0	\$50.0						\$200.0

### NOTES:

- Funding for Years 1 - 7 reflect actual State, Federal and Local obligations, commitments, encumbrances and expenditures updated to reflect actual fund amounts for each task. State funds for Years 7 & 8 reflect the Governor's Budget May Revision. Federal funds are the Year 8 enacted and President's FY 2009 proposed budget.
- The State budget includes funding for the California Bay-Delta Authority (Authority), Department of Water Resources (DWR), Department of Fish and Game (DFG), and the Resources Agency (RA).
- The Federal budget is funding for the U.S. Bureau of Reclamation (Reclamation).
- The Actual Total Expenditures are the actual annual costs incurred by the EWA Agencies to implement the program and meet its CALFED objectives to help protect at-risk native fish of the Bay-Delta and to help maintain water supply reliability for SWP and CVP water users.
- The Projected Needs Estimate includes \$25.5 million in Year 5 for a bankroll fund. The Projected Needs Estimates are based on funding targets from the 10-year finance plan (December 2004).
- Original ROD Estimate represents the original Stage 1 (Years 1-7) funding estimates from the Record of Decision (Aug 2000). The ROD included estimates for water acquisitions for the first 4 years only. Cost estimates were not included in the ROD for staff, power, or Tier III water.
- Unspent funds in Year 4 became the baseline State budget for EWA in Year 6.
- Excludes \$9.02 million to avoid double counting in total.
- Fiscal Year 2006 federal appropriations for EWA totaled \$8.2 million; however, the full amount was not required in 2006 due to wet hydrologic conditions. Of this total, \$3 million was re-aligned to help fund development of the proposed Bay-Delta Conservation Plan.

# Funding by Task (Preliminary, subject to change)

<b>Environmental Water Account</b> <sup>1</sup> (\$ in millions)	<b>Yr 1</b>	<b>Yr 2</b>	<b>Yr 3</b>	<b>Yr 4</b>	<b>Yr 5</b>	<b>Yr 6</b>	<b>Yr 7</b>	<b>Yr 8</b>	<b>Yr 9</b>	<b>Grand Total</b>
1) Water & Power Acquisitions	\$54.8	\$31.2	\$31.39	\$20.60	\$32.52	\$13.82 <sup>5</sup>	\$16.09	\$72.72	\$6.90	\$280.04 <sup>6</sup>
2) Tier 3 Water <sup>7</sup>		\$6.25		\$3.20						\$0
3) Environmental Documentation	\$1.60	\$0.30	\$1.45	\$1.60	\$1.00	\$0.40	\$0.86	\$0.10	\$0.10	\$7.41
4) CBDA Oversight and Coordination	\$0.40	\$0.50	\$0.30	\$0.20	\$0.20	\$0.03	\$0.03	\$0.03	\$0.03	\$1.72
<b>Actual Total Expenditures</b> <sup>2</sup>	<b>\$56.8</b>	<b>\$38.25</b>	<b>\$33.14</b>	<b>\$25.60</b>	<b>\$33.70</b>	<b>\$14.25</b> <sup>5</sup>	<b>\$16.98</b>	<b>\$72.85</b>	<b>\$7.03</b>	<b>\$289.17</b> <sup>6</sup>
<b>Projected Needs Estimate</b> <sup>3</sup>	\$50.0	\$50.0	\$50.0	\$50.0	\$61.8	\$35.2	\$36.2	\$47.2	\$43.2	\$423.60
<b>Original ROD Estimate (Aug, 2000)</b> <sup>4</sup>	\$50.0	\$50.0	\$50.0	\$50.0						\$200.0

**NOTES:**

1. Funding for Years 1 - 7 reflect actual State, Federal and Local obligations, commitments, encumbrances and expenditures updated to reflect actual fund amounts for each task. State funds for Years 6 & 7 reflect the Governor's Budget May Revision. Federal funds are the Year 8 enacted and President's FY 2009 proposed budget.
2. The Actual Total Expenditures are the actual annual costs incurred by the EWA Agencies to implement the program and meet its CALFED objectives to help protect at-risk native fish of the Bay-Delta and to help maintain water supply reliability for SWP and CVP water users.
3. The Projected Needs Estimate includes \$25.5 million in Year 5 for a bankroll fund. The Projected Needs Estimates are based on funding targets from the 10-year finance plan (December 2004).
4. Original ROD Estimate represents the original Stage 1 (Years 1-7) funding estimates from the Record of Decision (Aug 2000). The ROD included estimates for water acquisitions for the first 4 years only. Cost estimates were not included in the ROD for staff, power, or Tier III water.
5. \$9.02 million of the \$13.82 million (\$14.25 million in Actual Total Expenditures) comes from Year 4.
6. Excludes \$9.02 million to avoid double counting in total
7. Tier 3 funds were available only through 2007.