

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SPEAKERS:

PAGE

| | |
|---|----|
| Ronald Jacobsma, Friant Water Users Authority | 6 |
| Kane Totzke, Kern County Water Agency | 9 |
| Stephen Ottemoeller, Madera Irrigation District | 12 |
| Chris White, Central California Irrigation District | 18 |
| Radney Howell, Columbia Canal Company | 20 |

BUREAU OF RECLAMATION

-oOo-

In Re: The Matter of CalFed's)
Environmental Water Accounts)
Draft - EIS/EIR,)
)
)
)
)

Fresno, California

August 28, 2003

-oOo-

The public hearing was taken in the above-entitled matter under all of the provisions of law pertaining to the taking and use of public hearings, on Thursday, August 28, 2003, commencing at the hour of 7:06 p.m., at the Ramada Inn, 324 East Shaw Avenue, Fresno, California, before Tamara L. McVey, C.S.R., a Certified Shorthand Reporter of the State of California, having offices located at Fresno, California.

-oOo-

1 The following proceedings were had, to wit:

2 -oOo-

3 THE HEARING OFFICER: Hello. Welcome to this
4 evening's public hearing on CalFed's Environmental Water
5 Accounts draft, environmental impact
6 statement/environmental impact report. My name is Bill
7 Loose and I am the area manager for the south central
8 California area office for the Bureau of Reclamation's
9 mid pacific region. I will be serving as the hearing
10 officer and a court reporter will be recording this
11 evening's proceedings.

12 As was mentioned earlier, this is one of three
13 hearings being held in accordance with the requirements
14 of the National Environmental Policy Act. With me
15 tonight is Scott Cantrell with the California Department
16 of Fish and Game, and Jerry Giles with the California
17 Department of Water Resources. This evening we'll be
18 accepting comments on the draft EIS/EIR orally or in
19 writing.

20 To make oral comments you'll need to complete a
21 speaker's card. If you would like to comment orally and
22 have not completed a speaker's card, please see John.
23 For those of you who have already completed a speaker's
24 card, please make sure that you've returned it to John.
25 You can supplement your oral comments with written

1 comments. You'll notice that the speaker card has a
2 place to indicate that you will attach a written comment.
3 If you are using your written comments to speak from,
4 please make sure that you provide them to us before
5 leaving.

6 We have available comments sheets. You can use
7 the comments sheets to capture your comments, and if
8 you'd like, you can submit the comments sheet to
9 supplement your oral comments. Another way you can
10 submit comments is in writing. Written comments can be
11 submitted at this evening's hearing or by mail to either
12 of the addresses indicated on the comment card. Comment
13 cards are available from John as well.

14 Please keep in mind that comments submitted in
15 writing after this evening's hearing must be received by
16 close of business Monday, September 15th, 2003. All oral
17 and written comments received by the close of the comment
18 period will be responded to in the final EIS/EIR.

19 We'll proceed in the following manner: I will
20 call speakers in the order the speakers signed up. When
21 I call your name, please clearly state your name and
22 affiliation. Please spell your first and last name. I'd
23 like to remind you that we do have a court reporter
24 recording comments, so it's important that you speak
25 clearly so your comments will be captured accurately. If

1 I call your name and you are not present, you will be
2 moved to the end of the speaker list. Please keep in
3 mind that extensive comments should be submitted in
4 writing.

5 Again, if you wish to make a statement and have
6 not submitted a speaker card, please see John. With
7 that, we are ready to get started. The first speaker is
8 Ronald D. Jacobsma.

9 MR. JACOBSMA: My name is Ronald D. Jacobsma.
10 Again, I'm the interim general manager with Friant Water
11 Users Authority. We represent 24 upper district on the
12 east side of the southern San Joaquin Valley, a little
13 over a million acres irrigated agriculture and around
14 15,000 supposedly small family farms. We are still
15 working our way through the document so our comments
16 tonight will be really an overview and a summary and kind
17 of a first reaction to the documents that we've had a
18 chance to look at thus far.

19 Two primary areas of concern that we have are:
20 One, is whether the fishery benefits have adequately been
21 identified and scientifically proven and substantiated so
22 that the -- the benefits given the costs of the program
23 are able to be adequately assessed. And I think we'll
24 just leave that at that part right now.

25 More fundamental to our service area, which is

1 consistent with some of our concerns in the map that was
2 presented earlier, is that we are not in the export area
3 or would not consider ourself in the export area. We
4 have our water supply from the San Joaquin river and as
5 such, the impacts to our service area are not directly
6 felt, but we are more concerned with some of the indirect
7 impacts. There's been concerns in our service area in
8 the past that when EWA was purchasing water, that it has
9 a price impact on the market for our districts to
10 purchase water in dry years, particularly in a multiple
11 dry year type of scenario. We're a conjunctive use area
12 so in certain dry years we have available water supplies.
13 But as dry years become cumulative in nature, that supply
14 becomes exhausted and there's additional pressures to
15 seek outside water. And now there's a large purchaser in
16 the water market in Reno, and that can have impacts to
17 our districts even though we're not involved, pressures
18 in selling or purchasing or facilitating EWA transfers.

19 And some of our concerns is that the economic
20 data that's included in the report doesn't address those
21 type of third party impacts. If water prices go from
22 \$100 an acre foot up to \$400 an acre foot as a result of
23 EWA being in the market, particularly in the market at
24 maybe two, three or four times the levels that they've
25 been in the past, that can have a devastating effect to

1 our local economics and our local districts that aren't
2 acknowledged. And aren't acknowledged or addressed in
3 the document. And that is not only to the districts,
4 it's to the farms and the farmworkers and the local
5 economics, you know, which could also cause land
6 fallowing and other types of activities, that if they
7 were involved in the sale of water, would have mitigation
8 associated with them. But because they're outside of
9 that, those mitigation effects aren't necessarily taken
10 into account.

11 And so I guess our comment in that regard is to
12 have additional work done, or at least the issue, address
13 some of the third party impacts, particularly if price
14 elasticity becomes closely associated with the volume of
15 water anticipated to be purchased under -- under the --
16 this new proposal.

17 The final thing I'd just like to comment briefly
18 on today is when CVPIA was passed, it took a great deal
19 of water out of the CVP contracted communities. Over
20 800,000 acre feet of water from CVPIA, and with ESA
21 location, several 100,000 acre feet more. So more than a
22 million acre feet have come out of the service area of
23 the supply, and that has immediately impacted prices.
24 CVPIA was supposed to replace that yield. And in 1995
25 actually a plan was put together, but what we're seeing

1 now is efforts on EWA and we're seeing very little effort
2 on moving towards yield replacement. And that's a
3 continuing concern. Even though that yield replacement
4 doesn't pressures affect Friant, because we're not
5 pressures tied to the delta, it does affect us from a
6 cost perspective in taking that water out has caused our
7 water rates to increase by approximately 20 percent just
8 having that water being removed. And that's an economic
9 impact that if EWA is affecting the ability to replace
10 that water, and that continues to put financial pressures
11 on our districts that isn't necessarily what's been
12 addressed. And with that, I'd like to just conclude
13 those summary comments. We will be providing written
14 comments as well.

15 THE HEARING OFFICER: Thank you. The next
16 speaker is Kane Totzke.

17 MR. TOTZKE: Thank you.. I'm going to preface my
18 comments by saying that I won't be able to make the --
19 these oral comments if I have to turn in my comment list,
20 because I've got a lot of other comments that I'm not
21 prepared to make tonight and I don't want to turn those
22 in. Is that all right?

23 THE HEARING OFFICER: Yes.

24 MR. TOTZKE: Okay. Because I will be reading
25 from these. So my name is Kane Totzke, K-a-n-e,

1 T-o-t-z-k-e, with Kern County Water Agency in
2 Bakersfield. And we will also be submitting a set of
3 written comments, and I just will make four comments
4 tonight.

5 The first one has to do with Endangered Species
6 Act Commitment. The initial CalFed ROD established that
7 the EWA, with the specific commitment that there would be
8 no reductions in CVP and state water project delta
9 exports due to the Endangered Species Act as long as the
10 tiers of water remained available to the EWA as needed.
11 Although the preferred alternative in this current EIR
12 mentioned that the CVP and state water supply commitments
13 will be addressed -- that is, there'll be no loss of
14 water -- there is no mention in this EIR of whether the
15 ESA commitments will be continued. So we're concerned
16 that there should be some language in there to that
17 effect similar to what was in the ROD, that if the EWA is
18 going to continue and have -- provide supply to offset
19 reductions in state's water and federal purchasing, that
20 there should also be similar commitments that ESA will
21 be -- will continue.

22 Second comment is the flexible purchase
23 alternative targets, you know, a larger EWA program than
24 the original ROD. But the flexible alternative is
25 identified -- is the preferred alternative, but the

1 statement needs project makes no mention of the
2 biological needs for significantly larger EWA program.
3 And we appreciate the need for the EIR to evaluate this
4 program, large enough to accommodate the potential
5 changes to EWA during the four to seven years. However,
6 the CalFed science program consistently reports that the
7 Acris fish species are improving, or have improved. And
8 so when you look at the improvement in the fisheries --
9 and yet EWA is asking for more water. And there is no
10 discussion in the draft EIR about the biological needs of
11 the increase. We'd like to see you know, a better
12 discussion of that in there.

13 This, I think, third comment's in reference to
14 ground water. And -- and we think that this section
15 mischaracterizes the amount of transferable water
16 available from a support ground water transfer, because
17 it ignores losses. In our Kern county ground water
18 banking programs, this is assessed at 15 percent for out
19 of county transfers. Which would -- EWA would be
20 considered as such. The EIR -- some acknowledge that
21 there are losses on ground water purchases from Kern
22 county and they should take that into account.

23 And then the last comment I have tonight is,
24 this has to do with the recent decision affecting CVPIA
25 AB2R. This section states that the series of judgments

1 in the recent take -- the so-called Wanger decision,
2 resulted in a change to tier one as described in the
3 CalFed ROD It may reduce the amount of variable assets
4 under the EWA operating principles.

5 Well, our agency really doesn't agree with that
6 interpretation. We think that -- that the CVPIA water
7 was being misused in the beginning. It was being
8 overprescribed to. And that the -- the Wanger decision
9 just brought that -- made that clarified that they were
10 using more than they were supposed to in the first place.
11 And that -- so that the -- their methodology for using
12 that water was wrong to begin with, and that that should
13 acknowledge, rather than the way it's being interpreted
14 in the EIR now, that it was -- that the water was being
15 used correctly, I guess is what I want to say. It -- and
16 that really completes my comments. And we will be
17 submitting written also.

18 THE HEARING OFFICER: Thank you. The next
19 speaker is Stephen Ottemoeller.

20 MR. OTTEMOELLER: My name is Stephen
21 Ottemoeller, Stephen with a p-h. O-t-t-e-m-o-e-l-l-e-r.
22 I'm the general manager of Madera Irrigation District. I
23 will be reading from some draft documents here, so I will
24 not be turning anything in. I'll be summarizing what I
25 have here. We will be submitting written comments by the

1 deadline which will augment, supplement, correct or
2 otherwise deal with what I say here tonight.

3 We have a number of comments and concerns, some
4 have already been identified by prior speakers, but I'm
5 going to go through them anyway.

6 Fundamentally, we've got a real concern about
7 the EWA and what it is and what it does. It involves
8 neither new sources of water, nor new construction to
9 make any new water available. So in effect, the EWA is a
10 de facto reallocation of water to environmental purposes
11 that impacts other water users while providing
12 questionable benefits to the fisheries. The immediate
13 impact that we have noticed, as identified by Ron
14 Jacobsma earlier, is that as soon as the EWA began
15 purchasing large quantities of water at much higher
16 prices than have been paid for water, at least for those
17 volumes of water in the San Joaquin Valley, we noticed an
18 increase in the cost of water that we had to buy on the
19 market during the last couple of years.

20 Our district has a certain amount of good,
21 reliable water, but we do have some lands that require or
22 rely on our ability in drawing below normal years to buy
23 water from other sources, and we've seen this impacted by
24 purchases of EWA water. EWA is financed with public
25 funds. They have incredibly deep pockets; therefore,

1 they can buy the water at prices that farmers can't even
2 afford to -- to touch. It might be said, "Well, that's
3 not water the farmers would buy." But that is water that
4 would otherwise be, or could otherwise be, available at a
5 lower cost if you didn't have such a -- if you didn't
6 have a buyer who was willing to spend as much as -- I
7 know in one day in 2001 EWA spent \$566 an acre foot for
8 10,000 acre feet of water. EWA has demonstrated that
9 it's not constrained by limits.

10 Now, it's been our understanding in the past,
11 although you've indicated tonight that we weren't correct
12 in that understanding, but our thought that 135,000 acre
13 feet was a limit, at least at the tier two. Now we found
14 that it's been termed as a minimum, and EWA is buying a
15 whole lot more than that. By our research on the
16 internet -- we didn't have access to the numbers of
17 provided us tonight for 2003 -- but in 2001 and 2002, EWA
18 purchased 443,000 acre feet from north and south of the
19 delta. That's two-and-a-half times the amount specified
20 by the ROD. So given those facts and the uncertainty
21 that we have now about what the described increases mean,
22 whether those are now going to be new minimums or
23 maximums or what, an increase to the 600,000 acre feet as
24 described in the flexible plan is totally unacceptable
25 and we don't think supportable.

1 It's been mentioned, and we will reiterate, that
2 we don't see the justification for the additional water
3 in terms of necessity for fish, either for recovery or
4 preservation of the fish. The Endangered Species Act
5 consultations have defined what it takes to keep the fish
6 from -- the term escapes me -- to preserve the fish to
7 keep them from going extinct. EWA actions go beyond
8 that. And my understanding from information that I have
9 heard about, and I have not read all of the scientific
10 panel reports, I did read the first one and -- before it
11 got modified, and basically they found they couldn't
12 determine what benefits EWA had had.

13 Looking just to -- as an example, in a
14 presentation that was made by Sheila Green, the last I
15 heard she was a DWR biologist. I'm not sure what her
16 position is now, but anyway, she made a presentation at a
17 recent salmon workshop and identified some reduced
18 mortalities as a result of EWA actions. And the reduced
19 mortality winter runout migrants was .014 percent of the
20 estimated number entering the delta. And in 2001-2002
21 corresponding number was .009 percent of those entering
22 the delta, and .12 percent of those leaving the delta.
23 Similar numbers for 2000-2001. And at the same time, or
24 at the same workshop, the NOAA Fisheries reported a 20
25 percent harvest related mortality to winter run salmon.

1 They're talking about such a small piece of the total
2 picture of the salmon survival, we don't believe that the
3 incredibly large amount of water that you're purchasing
4 and taking off the market reallocating from agricultural
5 uses or even potentially urban uses is justified by the
6 -- the benefits that the fish might achieve. Very
7 significant concerns about the economic impacts. Again,
8 Ron Jacobsma touches on those.

9 A couple of key points. First of all, the
10 economic analysis totally ignored -- or actually
11 intentionally -- they said they weren't even going to
12 evaluate the impacts in Madera and Merced county. It's
13 not clear to me why that's the case, other than that the
14 EIR doesn't even really try to evaluate the kinds of
15 economic impacts we've seen, and that's what makes it
16 unacceptable.

17 The -- just looking at how the EIR talks about
18 what CEQA and NEPA look at from an economic perspective
19 was pretty disturbing. It said that CEQA doesn't
20 evaluate economic effects unless those economic effects
21 change the physical environment. And they go on to say
22 that the economic effects of EWA don't effect the
23 physical environment. I don't know that I -- or I don't
24 agree with that conclusion.

25 Then it says NEPA does not require that economic

1 effects be judged for significance. Therefore, this
2 chapter describes a description of economic effects, but
3 does not attempt to determine significance of economic
4 effects. So basically what the EIR is saying is that the
5 economic impact of EWA actions are basically irrelevant
6 in the decision-making process. And that is totally
7 unacceptable. While the economic impacts from idling
8 land and changing crops appear to be evaluated to some
9 extent, and I'm no economist so I don't know exactly --
10 or I can't comment on how correctly that was done --
11 there's no impact of -- no assessment of the impact to
12 those who rely on the water that is now unavailable
13 because EWA has cornered the market.

14 In fact, it specifically says that it's not
15 going to evaluate those impacts because it doesn't
16 consider those impacts worth quantifying. Again, that's
17 unacceptable in terms of a document that's going to
18 support decisions that have such a significant impact
19 on -- on our farmers and our taxpayers.

20 With respect to impacts on ground water, clearly
21 if there are going to be any purchases from the -- from
22 the San Joaquin Valley, you need to understand it is an
23 overdrafted area. Based on our reading, there's no
24 service water to be purchased from what you call the
25 delta export area, but as Ron described, some of it is

1 just the San Joaquin that has other water supplies. It
2 indicates that they will buy banked water, or in effect
3 our ground water. If we're already overdrafted any
4 purchase of ground water, whether banked or not, are
5 going to further deplete the water resources, the ground
6 water resources in the San Joaquin valley.

7 The EIR also identifies negative impacts to air
8 quality from land fallowing in the San Joaquin Valley.
9 At least so far I'm not a -- I've not seen where the EIR
10 recognizes that the San Joaquin Valley is in a severe
11 non-attainment for air quality, so you're proposing to do
12 actions that you say recognize have impacts on air
13 quality in the San Joaquin Valley? We're already having
14 a significant problem meeting air quality requirements.
15 It's unacceptable from our perspective to impact the
16 health and the lives of thousands or millions of people
17 for the benefit of -- or for the questionable benefit to
18 some fish who are already protected by ESA at levels that
19 are supposed to ensure their survival and recovery absent
20 these additional actions.

21 Again, we will supplement and add to those
22 comments in writing by the 15th.

23 THE HEARING OFFICER: Thank you. The next
24 speaker is Chris White.

25 MR. WHITE: Thank you, Mr. Chairman. Chris

1 White with Central California Irrigation District. We're
2 140,000 approximately acres on the west side of the San
3 Joaquin Valley adjacent to the San Joaquin river. I
4 would like to just shorten my comments and say that we
5 agree with what Ron Jacobsma brought forward on the
6 economics and the water marketing aspect of this, and
7 also what Steve Ottemoeller of Madera Irrigation District
8 said, and their comments. We will also be submitting
9 comments in writing that are very similar to these
10 agencies.

11 But there's two other things I just wanted to
12 point out, or -- or comment on, and one is that the
13 program set up the way it is, it's very difficult to
14 understand how effective the program is relative to what
15 the targets are. There are really no targets. You get
16 into this mindset that if a little bit of water is good,
17 then a whole bunch of water is better, and pretty soon it
18 leads you down the track, and you might as well take all
19 the water and use it for the same objective.

20 The other one is relative to past actions, when
21 they're done. These -- we need to really learn how
22 much -- how many fish were saved. That's on one side,
23 the biological parts of it, what the positive impacts
24 are. But also from the aspect of, if you allowed
25 additional pumping to go on, what was the -- what was the

1 water benefits, through net water gain, if any? See, and
2 that's part of my problem is, see, if you're purchasing
3 water on the south side of the delta, on the other side
4 of the pumps, I don't understand, net-wise, how that
5 yields any more water for the full area. It's not real
6 clear that in my mind that it does.

7 And as an example of that, this year and last
8 year also, if you look at San Luis, relative to the EWA,
9 San Luis reservoir. EWA this year was -- I heard was
10 something around 3- or 400,000 acre feet of purchases for
11 use program. Well, San Luis exceeded its low point this
12 year by about 400,000 acre feet, and that water was not
13 utilized, so... Maybe this type of a program is
14 partially on the right track, but we're certainly not
15 being as effective as we should be in this area. There's
16 no reason for that amount of unused water to be sitting
17 at the San Luis at this time of the year. It should be
18 down to about 100,000, 150,000 acre feet. Instead we're
19 up about half a million, 600,000. And we will also be
20 submitting comments. And we wish to thank you.

21 THE HEARING OFFICER: Thank you. I've called
22 the last -- every speaker. Is there anyone else who
23 would like to comment, please clearly state your name and
24 affiliation and spell your first and last name. We'll
25 need you to complete a speaker's card at the conclusion

1 of your comments.

2 MR. HOWELL: Radney Howell, Columbia Canal
3 Company. I'd just like to concur with what Steve, Chris
4 and Ron have said, and I'll be submitting written
5 comments by the September 15th period.

6 THE HEARING OFFICER: Thank you. Is there
7 anyone else who would like to comment?

8 On behalf of the Bureau of Reclamation, the
9 Department of Water Resources, the UTS Fish and Wildlife
10 Service, NOAA Fisheries and the California Department of
11 Fish and Game, thank you for providing your comments.

12 Again, written comments must be received by the
13 close of business Monday, September 15th, 2003.

14 This will bring a close to this evening's public
15 hearing on CalFed's Environmental Water Agency's
16 Environmental Impact Statement/Environmental Impact
17 Report. Thank you.

18 -oOo-

19 (Whereupon, the public hearing
20 was concluded at 7:33 p.m.)

21 -oOo-

22
23
24
25

1 State of California)
2) ss.
3 County of Fresno)
4

5 I, TAMARA L. MCVEY, a Certified Shorthand
6 Reporter of the State of California, do hereby certify
7 that said public hearing was taken at the time and place
8 mentioned on the first page hereof, to wit:

9 Ramada Inn
10 324 East Shaw Avenue
11 Fresno, California
12 on August 28, 2003.

13 That the said public hearing was taken in
14 shorthand by myself, a Certified Shorthand Reporter, and
15 under my direction transcribed into the foregoing
16 typewritten transcript, and that said transcript is a
17 true record given.

18 In Witness Whereof, I have hereunto set my hand
19 and affixed my signature at my office in Fresno,
20 California, this 17th day of September, 2003.

21
22
23
24 TAMARA L. MCVEY, C.S.R. No. 10519