

1	
2	
3	
4	EIS/EIR HEARING
5	<hr/>
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	TRANSCRIPT OF PROCEEDINGS
16	Sacramento, California
17	<hr/>
18	Monday, August 25, 2003
19	
20	
21	
22	
23	
24	Reported by: CARA POE
25	CSR No. 11973 Job No. 39984

**CERTIFIED COPY**

APPEARANCES

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

Hearing Officers:

Donna Tegelman  
Sammie Cervantes  
Scott Cantrell  
Barbara McDonnell  
Tim Rust

Speakers:

Paul Olmstead  
John Mills

1 10:39 a.m.

2 --oOo--

3 MS. TEGELMAN: Good morning. Welcome to, I guess,  
4 part two of the public hearing on the CALFED's EWA,  
5 Environmental Water Account EIS/EIR, which Ted has briefly  
6 gone through with you.

7 My name is Donna Tegelman, and I'm the regional  
8 resources manager of the Bureau of Reclamation. I'll be  
9 serving as the hearing officer, which means I don't have to  
10 do anything.

11 And we have a court reporter, Cara Poe. She'll be  
12 making a record of any statements that you have today. And  
13 she may ask you to give a little detail and at some point in  
14 time she may have you spell your name, et cetera.

15 As Tim mentioned earlier, there are going to be  
16 three hearings held on this particular EIS/EIR. And this is,  
17 as Sammie said, a requirement of the neighbor process.

18 I'd like to introduce two of the people at the front  
19 here that are with me. They come from the management  
20 agencies and the project agencies. Barbara McDonnell is to  
21 my far left and she is from one of the DWR. And  
22 Scott Cantrell here is with the Department of Fish and Game,  
23 and he is one of the action agencies or management agencies.

24 Today we'll be accepting your written or your verbal  
25 comments on the draft EIS/EIR. This will be a little bit

1 redundant. Sammie has gone through this but if you want to  
2 make comments today, please complete a speaker's card and  
3 give it to Sammie, the lady who was talking earlier.

4 Also, if you have written comments you can indicate  
5 on that form whether or not you have written comments. And  
6 if you prefer not to speak today but prefer to just give the  
7 written comments you may also do that, and we'll get those  
8 stapled to your card to ensure that they are retained.

9 We also have comment sheets and you can give  
10 comments on those sheets and submit them along with any oral  
11 comments that you may have. And those also can go to  
12 Sammie Cervantes.

13 Now, one of the things a lot of people like to do --  
14 and there's a lot going on in the world right now so often  
15 times we don't get things done in the time we'd like to, but  
16 we do have to receive any written comments that you have by  
17 Monday, September 15th.

18 We know everybody is really busy and you can't get  
19 to write until the last minute. That's fine. Please make  
20 sure you meet that particular deadline for us to accept those  
21 comments.

22 I will call speakers to the podium in order which we  
23 received your blue cards. When I call your name, please step  
24 forward. If you would state your name clearly and your  
25 affiliation. And also provide your name, last and first, and

1 to spell it so we ensure that Cara Poe has heard it  
2 correctly.

3 It's important to speak clearly today if possible in  
4 order that we accurately capture your comments, and that's  
5 the beauty of having written comments to make sure we  
6 understood you fully.

7 If I were to call your name and you're not available  
8 or distracted for the moment, we will go to the next speaker,  
9 and I would call you at the end of the list then.

10 Extensive comments should be submitted in writing.  
11 Since we only have two people so far we can probably be  
12 fairly generous, but if some others were to come forward we  
13 would perhaps have to reduce the time so everybody gets a  
14 chance to speak today.

15 I do not believe we have any public officials today,  
16 Sammie. Normally they are put at the front end of the  
17 meeting and that does not seem to be the issue today.

18 My first speaker will be Paul Olmstead.

19 And, Paul, if you'd like to come to the podium and  
20 Sammie will take you the microphone.

21 MR. OLMSTEAD: Thank you.

22 My name is Paul Olmstead, O-l-m-s-t-e-a-d. I'm with  
23 the Sacramento Municipal Utility District and also  
24 representing the CPE. My comments will be brief.

25 I'd like to state for the record that the

1 environmental documentation for the Environmental Water  
2 Account does address the impacts of power. And specifically  
3 they say the EWA agencies must develop a financial plan to  
4 identify the cost incurred from the Environmental Water  
5 Account transactions.

6 We recognize that the environmental documentation  
7 does address the impacts of power, although it does not make  
8 them significant, they are impacts. And that the mitigation  
9 mesmerists, who develop the financial plan to cover the  
10 Environmental Water Accounts, including those impacts to  
11 power costs.

12 We support that. We recognize that you have  
13 addressed our comments and put those protocols in formal  
14 documentation.

15 Thank you very much.

16 But in order to make an informed decision on the  
17 action, we recommend that as part of this mitigation plan  
18 that you intend -- or financial plan, that you intend to  
19 implement.

20 First of all, we see something drafted up to be  
21 included these principals in the final EIR for us to review.  
22 Also assure that the Western Area Power Administration is  
23 brought into the activity as part of this plan too so we can  
24 have a chance to view it before the final EIS/EIR and the  
25 record of decision.

1           As we all know that the cost of power can sometimes  
2 overcome or cost more than the cost of the water itself.  
3 Therefore, sometimes it could be a cost limiting action so if  
4 to assure that these actions do take place -- which the power  
5 of customers do support these actions -- please identify the  
6 amount of money available for the transactions at the start  
7 of the year.

8           We don't want to see these transactions not take  
9 place because there hasn't been an adequate amount of money  
10 set aside to support the environmental water transaction.

11           With that, I think I'll terminate my comments right  
12 now, and I will submit a more detailed comment letter.

13           Thank you very much.

14           MS. TEGELMAN: Thank you, Mr. Olmstead.

15           John Mills.

16           MR. MILLS: Thank you for the opportunity to  
17 comment.

18           My name is John Mills. I'm here representing the  
19 Regional Counsel of Rural Counties. That's an association of  
20 29 of California's 58 counties.

21           We are predominantly the county's upstream of the  
22 Delta with the exception of one member down in other spots.  
23 Some of you who follow water may have heard of him,  
24 Imperial County.

25           In any event, our concerns about the document are

1 numerous. We thank you for having this hearing. I've been  
2 enjoying the document for sometime now, reading the 1,500  
3 pages.

4 Jerry promised us we would have a real sleeper and  
5 we have one. It's a very good document, very comprehensive,  
6 and I congratulate the staff.

7 Before I get into some comments about the  
8 environmental document itself, I wanted to put out I think  
9 there needs to be a recognition that the federal agencies  
10 have a significant role here, and they have participated  
11 under their existing authorities.

12 And that's made clear by the fact that congress  
13 appropriated dollars for the Environmental Water Account.  
14 And congress recognized that there did not need to be a  
15 reauthorization for the CALFED Delta program to do that.  
16 They were able to successfully cut that baby in half and that  
17 money was appropriated for the EWA.

18 The CALFED program as we know has neither been  
19 authorized or the funds appropriate from CALFED rather for  
20 CALFED like activities, which language comes right out of the  
21 appropriations markup.

22 The ROD, the Record of Decision, for the CALFED  
23 program is a very complex document, and obviously one that  
24 will have to be interpreted anytime you have a 30-year  
25 program.



1           You know, what you best start off with is a Polaroid  
2 picture of what it looks like, where you think you are going,  
3 and you have to interpret that as you move along.

4           Those of us who followed CALFED for years remember  
5 one of the touchstones for CALFED was adaptive management.  
6 That means only making a mistake maybe five or six times and  
7 trying something new.

8           I think what we have to recognize is that adaptive  
9 management is predicated on professionals making a judgment  
10 call based on the best available science and information they  
11 have and changing the management strategy as they need to.

12           I think the federal agencies so far -- and I'm  
13 speaking a lot about the federal agencies here because I  
14 think they have a key role in this. Not to downplay the  
15 state agency, Scott, but you're broke.

16           The federal agencies have demonstrated a willingness  
17 and ability to interpret the CALFED ROD definition of the  
18 EWA. I just want to point out that subject and how much  
19 latitude the agencies will have now in the future to  
20 interpret or reinvent the Record of Decision may be examined  
21 by the appropriate funding authorities in the future because  
22 I will, as I said, I appreciate the ability of the agencies  
23 to do that but management, we also don't want them simply  
24 making up new scenarios.

25           So we have seen a dramatic restructuring of the

1 Environmental Water Account, and although today's hearing is  
2 about the Environmental Water Account there are at least five  
3 or six other key elements of the Record of Decision. But if  
4 similarly reinterpreted one way or the other could lead  
5 people to wonder exactly what it is they were doing. So I  
6 think we just need to bear that in mind.

7 I do want to thank the folks who put this together  
8 for their recognition of the role of local government and  
9 also the tribes. Most of the tribes are located in our  
10 counties.

11 We try to have a nice coexistence with those tribes  
12 but we also recognize they have sovereign nation status and  
13 as such, the federal government has a statutory obligation to  
14 deal with them in a different way.

15 We do appreciate the way you've also include local  
16 government in some of your consultation as reflected in the  
17 design and the regulation in the mitigation of potential  
18 impacts in this document.

19 What we are hoping for is we hope that you will  
20 respond in your response in a very straightforward manner to  
21 our written comments, which will come in a great volume  
22 detail later, and will provide all of us with a clear  
23 administrative record of these proceedings. I think that's  
24 very clear.

25 You have had a departure of what people thought was

1 in the ROD. We have had a decisionmaking process that  
2 changed that, modified it, adaptive management, whatever you  
3 want to call it.

4 We need to know exactly how that took place, what  
5 the parameters where, where the bookings are, and what  
6 response to comments comes back in the administrative record.  
7 We don't want to have people confused when that's over with.

8 I want to thank you once again for this opportunity.  
9 I want you to recognize though that local governments do have  
10 a role here. That we regulate groundwater. There are a  
11 number of authorities for that.

12 One is, of course, Balbrum, Beat and Hamine the  
13 supreme court decision here in the United States which gave  
14 counties a regular term authority of groundwater. I know  
15 Jerry's put that in his document and it's reflected in the  
16 county ordinance as recognized.

17 Secondly, the counties are also our land management  
18 agencies. They have land use, planning authority, and lead  
19 agencies. In many cases where the local water districts may  
20 attempt to carry something out or for that matter the groups  
21 working with the water local agencies, they will in fact be  
22 local entitlements and local government. And these counties  
23 are developing water resource elements in the government  
24 plans.

25 If you have seen -- and I heard some of you liaison

1 with the government office planning research -- to look at  
2 the latest copies of the general plan guidelines that were  
3 released. Second draft is out by OPR.

4 Specifically in those documents the significant OPR  
5 has not redone the guidelines since Jerry Brown was governor  
6 so this is a significant change.

7 I think you'll find in there there is a much higher  
8 linkage now between the land management planning, watershed  
9 planning, and water resources planning that is partially in  
10 response to recent legislation in the last few years, but I  
11 think it is also a recognition for those of us who  
12 participate in the number of venues.

13 Scott and I were both on the advisory counsel for  
14 the State Water Plan. I think if you look at what goes in  
15 DWR's planning functions of the State Water Plan, DWR governs  
16 process applying research and CALFED that there has to be an  
17 integration of planning. And that's reflected there.

18 And you should expect counties not to look at this  
19 under a narrow interpretation but rather they would look at  
20 this under their police powers as I'll be glad to answer any  
21 questions you have.

22 Otherwise, we'll probably be submitting the last  
23 minute of the last day, our comments on this document.

24 I thank you again for the opportunity to comment.

25 MS. TEGELMAN: Last chance.

1 I want to thank you for attending today's hearing,  
2 and I want to remind you again that you do have to have your  
3 written comments by Monday. Close of business Monday,  
4 September 15th.

5 So if you can't mail them, you can fax them and that  
6 would also work. So that would be the close of today's  
7 hearing.

8 Thank you.

9 (The hearing concluded at 10:55 a.m.)

10 --oOo--

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: Sept. 29, 2003

Cara Poe  
CARA POE  
CSR No. 11973