

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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HEARING TO REVIEW THE UNITED STATES BUREAU OF RECLAMATION
WATER RIGHT PERMITS 11308 (APPLICATIONS 11331 AND 11332)
TO DETERMINE WHETHER ANY MODIFICATIONS IN PERMIT TERMS AND
CONDITIONS ARE NECESSARY TO PROTECT PUBLIC TRUST VALUES
AND DOWNSTREAM WATER RIGHTS ON THE SANTA YNEZ RIVER BELOW
BRADBURY DAM (CACHUMA RESERVOIR) AND TO CONSIDER
CHANGE PETITIONS FOR WATER RIGHT PERMITS 11308 AND 11310

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PHASE I
MONDAY, NOVEMBER 6, 2000

9:00 A.M.

PAUL BONDERSON BUILDING

901 P STREET

SACRAMENTO, CALIFORNIA

Reported by:

ESTHER F. WIATRE
CSR NO. 1564

CAPITOL REPORTERS (916) 923-5447

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APPEARANCES

BOARD MEMBERS:

JOHN BROWN, COHEARING OFFICER
PETER SILVA, COHEARING OFFICER

STAFF MEMBERS:

KATHERINE MROWKA
MIKE MEINZ

COUNSEL:

DANA DIFFERDING

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REPRESENTATIVES

DEPARTMENT OF THE INTERIOR/BUREAU OF RECLAMATION:

OFFICE OF THE SOLICITOR
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and
PAETER E. GARCIA, ESQ.

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CITY OF LOMPOC:

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BY: DONALD B. MOONEY, ESQ.

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SANTA YNEZ RIVER CONSERVATION DISTRICT:

LAW OFFICES OF YOUNG WOOLDRIDGE
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BY: ERNEST A. CONANT, ESQ.

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REPRESENTATIVES (CONT.)

CITY OF SOLVANG:

BAKER, MANOCK & JENSEN
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Fresno, California 93704
BY: DAVID E. HOLLAND, ESQ.

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SACRAMENTO, CALIFORNIA

NOVEMBER 6, 2000, 9:00 A.M.

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COHEARING OFFICER BROWN: Good morning. This is the time and place for Phase I of the Cachuma hearing. During this phase of the hearing the State Water Resources Control Board with receive evidence to determine whether to approve petitions for change and place of use and purpose of use for Permits 11308 and 11310 of the U.S. Bureau of Reclamation.

Reclamations has filed petitions to consolidate the place of use to include an additional 17,506 acres in the vicinity of Santa Barbara and Lake Cachuma and has separately petitioned to add 130 acres of the Dos Pueblos Golf Links Project. Reclamation also seeks to add purchase of use to its permits in order for both permits to have essentially the same purpose of use.

Can you hear me in the back of the room all right? Are the speakers working okay?

(Discussion held off the record.)

C.O. BROWN: We will also receive evidence on the question whether the State Water Resources Control Board should take any action due to Reclamation's noncompliance with order 95-5.

Phase II of this hearing will include consideration of whether any modifications in Reclamation permits 11308 and

1 11310 are necessary to protect public trust values and
2 downstream water rights in the Santa Ynez River, the Cachuma
3 Reservoir. Phase II has not yet been scheduled. Please do
4 not submit Phase II testimony in Phase I of this hearing.

5 This hearing is being held in accordance with the
6 Notice of Hearing dated September 25th, 2000. I am John
7 Brown, a member of State Water Resources Control Board.
8 Fellow Board Member Pete Silva is the Cohearing Officer for
9 this hearing. I will be assisted today by staff members
10 Dana Differding, staff counsel; Mike Meinz, environmental
11 specialist; and Kathy Mrowka, staff engineer.

12 The purpose of this hearing is to afford the
13 petitioners, protestants and interested parties an
14 opportunity to present relevant oral testimony and other
15 evidence that will assist the Board in making determinations
16 on the following key issues:

17 Number one, would approval of the petitions for change
18 and place and purpose of use result in any changes in
19 Cachuma Project operations and flows in the Santa Ynez River
20 compared to the operations and flows that would exist if
21 water from the project were delivered only to areas within
22 the current place of use?

23 Two, has Reclamation complied with Order 94-5? If not
24 what action, if any, should the State Water Resources
25 Control Board take. The Board may adopt an order on the

1 petitions at the conclusion of Phase I or in the future at
2 the conclusion of Phase II, depending on the evidence and
3 testimony it hears today.

4 After the Board adopts an order on the petitions any
5 person who believes the order is in error has 30 days within
6 which to submit a petition for reconsideration by the
7 Board.

8 Our order of proceeding in this hearing will be to
9 first take appearances. Then receive oral policy statements
10 from those who wish to present only a policy statement. The
11 Board will also accept written policy statements. A policy
12 statement is a nonevidentiary statement. It is subject to
13 the limitations listed in the hearing notice. Presenters of
14 policy statements should fill out a speaker card and give it
15 to our staff.

16 After the policy statements I will hear opening
17 statement by the protestants and interested parties who do
18 not plan to present a case in chief. Next, I will receive
19 testimony from the petitioner and its witnesses followed by
20 cross-examination by the protestants, other interested
21 parties, Board staff, Mr. Silva and myself.

22 Following the petitioner's testimony and related
23 cross-examination, other interested parties may present
24 testimony and be cross-examined. Each case in chief may be
25 followed by direct evidence and cross-examination. After

1 all cases in chief are completed I will give the parties an
2 opportunity to present rebuttal. After any rebuttal has
3 been presented the parties may make closing statements.

4 I encourage everyone to be efficient in presenting
5 their cases. Except where I approve of variations, I will
6 follow the procedures set forth in the Board's regulations
7 and in the attachments to the hearing notice titled,
8 "Information Concerning Appearances at Water Rights
9 Hearing." We will use a timer to enforce the time limits,
10 but we will stop the timer during interruptions and
11 procedural points.

12 The time limits are: policy statements, five minutes;
13 opening statements, 20 minutes; direct testimony, 20 minutes
14 per witness, not to exceed two hours for all witnesses
15 presented by a party; cross-examining, one hour per witness
16 or panel of witnesses; closing statements, ten minutes.
17 Time limits may be extended at my discretion upon a showing
18 of good cause demonstrated and an offer of proof. Unless I
19 announce otherwise, I will schedule each day of the hearing
20 to begin at 9:00 a.m. and conclude at 4:30 p.m. with an hour
21 for lunch and two 12-minute breaks during the day.

22 After the policy statements and opening statements for
23 those parties not presenting a case in chief, I will call
24 the parties in the following order to make their cases in
25 chief:

1 One, the Bureau of Reclamation; two, Cachuma
2 Conservation Release Board; three, City of Solvang.

3 Now I would like to invite the appearances by the
4 parties. Will those making appearances, please state your
5 name, address and whom you represent so the Court Reporter
6 can enter this information into the record.

7 First we will go with the Bureau of Reclamation.

8 MS. ALLEN: Kaylee Allen and Edmund Gee on behalf of
9 the U.S. Department of the Interior, Bureau of Reclamation.
10 Our address is 2800 Cottage Way, Room E-1712, Sacramento,
11 California, 95825.

12 C.O. BROWN: Thank you, Ms. Allen, and welcome.

13 Cachuma Conservation Release Board.

14 MR. KIDMAN: Good morning, Mr. Brown. My name is Art
15 Kidman. I am representing Cachuma Conservation Release
16 Board. I have with me Paeter Garcia who's helped us prepare
17 the case.

18 MR. WILKINSON: Mr. Brown, I am Greg Wilkinson of Best,
19 Best & Krieger representing the Santa Ynez River Water
20 Conservation District, Improvement District #1. We have
21 also filed a notice of intent to appear. However, the
22 witnesses that CCRB, the Cachuma Conservation Release
23 Board, will be putting on are the same witnesses that ID #1
24 will be calling, we will be putting our cases on jointly.
25 I will be at counsel table, however, when the witnesses will

1 be testifying along with Mr. Kidman.

2 C.O. BROWN: Thank you.

3 MR. WILKINSON: With me today is my partner Michelle
4 Ouellette, O-u-e-l-l-e-t-t-e.

5 C.O. BROWN: Spell that again.

6 MR. WILKINSON: O-u-e-l-l-e-t-t-e.

7 C.O. BROWN: Welcome, Michelle, Mr. Kidman, Mr.
8 Garcia.

9 City of Solvang.

10 MR. HOLLAND: My name is Dave Holland. I am with the
11 firm of Baker, Manock & Jensen. We are here on behalf of
12 the City of Solvang.

13 C.O. BROWN: Welcome, Mr. Holland.

14 City of Lompoc.

15 MS. DUNN: Mr. Brown, I am Sandra Dunn with Somach,
16 Simmons & Dunn. We are representing the City of Lompoc, and
17 with me is Mr. Don Mooney.

18 C.O. BROWN: Welcome, Mr. Mooney, Ms. Dunn.

19 The Santa Ynez River Water Conservation District,
20 Irrigation District No. 1.

21 MR. WILKINSON: That's me. The Santa Ynez River Water
22 Conservation -- this is going to be a problem throughout
23 both Phase I and Phase II. There are two districts,
24 Mr. Brown. One is called the parent district, colloquial
25 term. That is the Santa Ynez River Water Conservation

1 District. That is Mr. Conant. I am sure he is going to
2 make his appearance.

3 I represent an entity within the parent district which
4 is the Santa Ynez River Water Conservation District,
5 Improvement District No. 1. And it may be helpful to refer
6 to the Improvement District as the Improvement District and
7 the other as the parent district. We have that kind of
8 relationship.

9 C.O. BROWN: Well, we will get it figured out.

10 Mr. Conant.

11 MR. CONANT: Yes, Mr. Brown. Earnest Conant with the
12 Young Wooldridge Law Firm representing Santa Ynez River
13 Water Conservation District. My address is 1800 30th
14 Street, Fourth Floor, Bakersfield, California.

15 We will probably not be participating actively in these
16 proceedings in Phase I, except for a policy statement.

17 C.O. BROWN: Welcome, Mr. Conant.

18 The Department of Water Resources.

19 California Sportfishing Protection Alliance.

20 Is there anyone else that I have missed who wishes to
21 make an appearance?

22 At this time I will ask Ms. Dana Differding to cover
23 two procedural items and to introduce staff exhibits.

24 Ms. Differding.

25 MS. DIFFERDING: Actually I have only one procedural

1 item and that was to let you all know that Esther Wiatre
2 will be the Court Reporter, and if you would like a
3 transcript of these hearings you should make separate
4 arrangements with Esther.

5 That said I would like to offer into evidence the staff
6 exhibits by reference. These are listed in the hearing
7 notice, Page 8. But I am not now offering two of those
8 exhibits listed because they don't exist yet. Items 6 and 7
9 are the draft and final EIR for the Cachuma Project that are
10 being prepared for Phase II of this hearing. I would like
11 to offer into evidence items 1 through 5 and 7 through 11.
12 We will provide a list of that to the Court Reporter, so I
13 won't read them through right now unless anyone would like
14 me to.

15 C.O. BROWN: All right. Staff Exhibits 1 through 5
16 and 7 through 11 have been offered into evidence.

17 Are there any objections?

18 MS. MROWKA: Mr. Brown, I don't believe 7 is.

19 C.O. BROWN: Eight?

20 MS. DIFFERDING: Did I get that wrong?

21 MS. MROWKA: No, you had it right.

22 MS. DIFFERDING: One through 5 and 8 through 11.

23 C.O. BROWN: One through 5 and 8 through 11.

24 Are there any objections?

25 Seeing none, they are so accepted into evidence.

1 I will now administer the oath to those who will be
2 giving testimony.

3 (Oath administered by C.O. Brown.)

4 C.O. BROWN: Policy statements and opening statements.
5 At this time we will hear policy statements or opening
6 statements for those parties not presenting a case in
7 chief. Those wishing to give a policy statement or an
8 opening statement not presenting a case in chief, will you
9 please stand one at a time -- all of you stand and one at a
10 time give me your name.

11 MR. MOONEY: Donald Mooney on behalf of Lompoc.

12 C.O. BROWN: Mr. Mooney.

13 MR. FAIRLY: I am Harold Fairly on behalf of the
14 Cachuma Conservation Release Board and the City of Santa
15 Barbara.

16 MR. PIACCIUOLO: I am John Piacciuolo. I will spell
17 that, P-i-a-c-c-i-u-o-l-o.

18 I am giving a policy statement on behalf of the Santa
19 Ynez River Water Conservation District; that is the parent
20 district.

21 C.O. BROWN: Thank you, gentlemen.

22 Mr. Mooney, you're first up.

23 MR. MOONEY: Good morning, Mr. Brown, Mr. Silva and
24 Board staff.

25 This is an opening statement on behalf of the City of

1 Lompoc. The City was the original participant in these
2 proceedings when the Bureau of Reclamation first sought to
3 appropriate water from the Santa Ynez River for the Cachuma
4 Project. Lompoc's concern then as well as now was that the
5 operation of the Cachuma Project would have an impact on the
6 the groundwater basin and Lompoc's water rights.

7 In an effort to protect its downstream water rights
8 Lompoc has participated in the State Board's proceedings
9 regarding Water Rights Order 73-37, 89-18 and 94-5. Each of
10 these proceedings was for the purpose of developing an
11 operating regime for the Cachuma Project that protected
12 downstream water rights as required in State Board Decision
13 886. The City of Lompoc's purpose and goal in this
14 proceeding, as in previous proceedings on the Cachuma
15 Project, is to protect the quantity and quality of its
16 downstream water rights.

17 When this process was initiated many years ago,
18 Lompoc's primary concern regarding the Cachuma Project was
19 the potential impact to groundwater recharge and resulting
20 reductions in groundwater levels in the Lompoc region. In
21 the last several years Lompoc, through its consulting
22 groundwater hydrologist Timothy Durbin and Dr. Jeffrey
23 Lebkoff, have conducted an extensive investigation of the
24 current and past operations of the Cachuma Project and the
25 project's relationship to the groundwater basin in Lompoc.

1 These consultants have prepared a detailed groundwater
2 model that demonstrates that the impact of the Cachuma
3 Project on the groundwater basin in the Lompoc Plain and on
4 Lompoc's groundwater wells. Lompoc has spent in excess of
5 \$1.5 million for this investigation and modeling.

6 At the request of the State Board staff Lompoc provided
7 a copy of the model in an effort to resolve these issues
8 between the downstream water right holders and the Member
9 Units, and Lompoc has shared the results of the groundwater
10 modeling with the Bureau of Reclamation and the Cachuma
11 Member Units as well the CCRB.

12 As will be discussed in significant detail in Phase II
13 of this hearing, through Mr. Durbin's and Dr. Lebkoff
14 investigation and modeling Lompoc has determined that under
15 the current operating scenario for the project the Lompoc
16 Plain is not in overdraft, but the Cachuma Project has
17 resulted in adverse impact to the groundwater quality of the
18 groundwater basin.

19 The adverse impact to groundwater quality results from
20 an increase in the total dissolved solids in the water that
21 recharges the groundwater basin. The result is that Lompoc
22 has additional water treatment costs to remove the excess
23 total dissolved solids. Lompoc's modeling has concluded
24 that under the current operating regime that includes the
25 required downstream water right releases using the upper

1 curve as described in Order 89-18 and the commingling of
2 water imported by the Central Coast Water Authority,
3 groundwater quality in the eastern portion of Lompoc
4 groundwater basin will return to no-project condition within
5 the foreseeable future.

6 However, any change in the downstream release program
7 under Order 89-18 including a shift from the upper curve to
8 the lower curve or change in the commingling of the CCWA's
9 imported water will result in an adverse water quality
10 impact noted above continuing for a number of years or
11 indefinitely.

12 Thus, Lompoc's primary goal in both phases of this
13 hearing is to ensure that the current operating regime for
14 the project is not altered and in that context to ensure
15 that Lompoc's groundwater rights continue to be protected.
16 Therefore, Lompoc's concerns regarding the Bureau's
17 Consolidated Petition for Change in the Place of Use and
18 Purpose of Use can be satisfied if Lompoc is provided
19 enforceable assurances in a permit condition that the
20 current operations will not be modified.

21 To that end, we have developed a proposed permit
22 condition that is available if the Board would like. To
23 this end Lompoc does not intend to put a case in chief on in
24 Phase I of the hearing. As we have read the Notice of
25 Hearing, it is our understanding that the issues in Phase I

1 were intended to be very narrow. Lompoc does intend to
2 participate in Phase I through cross-examination and
3 rebuttal testimony, if necessary. Lompoc, however, reserves
4 the right to present evidence in Phase II on all issues in
5 Phase II, including key issue six regarding whether approval
6 of the change petitions will operate to the injury of any
7 legal user of the water.

8 Lompoc does have several concerns regarding the Member
9 Units and the Bureau of Reclamation testimony on the change
10 petitions. In evaluating the changes to the operation of
11 the Cachuma Project the Member Units' analysis relied
12 entirely upon the existing uses of water as compared to the
13 permitted uses. The analysis, in essence, assumed that the
14 petition has already been granted. Thus, the analysis
15 assumes an inappropriate baseline for evaluating any impacts
16 to the operation of the Cachuma Project. Neither the Member
17 Units nor the Bureau presented any evidence to demonstrate
18 how the project would have been operated under permitted
19 conditions and whether such operations would change by the
20 expanded place of use and purpose of use of the water
21 involved.

22 Prior to making any determination as to the potential
23 impacts to project operations, the State Board needs to
24 evaluate how the project would have and should have been
25 operated under the permitted uses.

1 Thank you.

2 C.O. BROWN: Thank you, Mr. Mooney.

3 Mr. Fairly.

4 MR. FAIRLY: Mr. Chairman, Members of the Board, good
5 morning. It is a pleasure to be here with you this morning
6 to begin these hearings.

7 I have a text which has been provided to you earlier,
8 and I will not attempt to read from my entire text, hoping
9 that you and your Board will have done so, and I will make
10 my remarks as brief as I can, inasmuch as the people who
11 follow me will be going in much greater depth than I. I am
12 a layperson, not an expert in water issues. I have,
13 however, spent the last ten years of my career after
14 teaching at two universities and community college and being
15 involved in water for the past ten years, in fact, serving
16 as chair on the Regional Water Quality Control Board, have
17 at least a good layperson's understanding of water and water
18 quality and water supplies.

19 I do have some text here to share with you this
20 morning, if you will bear with me. I will take about four,
21 five minutes at the most. I do have for you, I would like
22 to leave with the staff, an interesting report, I think,
23 coming from the County of Santa Barbara particularly as it
24 relates to population, land use and housing, employment,
25 transportation and air and water quality. I found it to be

1 a presentation made by the County to the City of Santa
2 Barbara recently as one of the more informative documents
3 that I have seen, and particularly as it relates to growth
4 and population and the need and demand for water in our area
5 over the next decade. I will provide this to someone in the
6 staff.

7 Additionally, I had the good fortune while waiting to
8 prepare for these hearings at the airport, this article,
9 this magazine called Civilization has a very thorough
10 article on water, "The Globe's Most Precious Resource, The
11 World's Most Pressing Problem." I will leave it for you. I
12 was stunned by the information that I saw in this, and I
13 think it would be the most interesting reading, informative
14 reading, for those of you in this field. Some of the
15 authors are Kofi Annan, the Secretary General of the United
16 Nations; Madeline Albright, United States Secretary of
17 State; the chairman for the World Commission on Dams; Center
18 for Science and Environment; chairman for World Commission
19 on Water for the 21st Century; and the former president of
20 the Philippines. It is a very informative and interesting
21 article on water as it relates worldwide, and does relate
22 also to the issues that we are talking about today. I will
23 give that to your Board.

24 I am here to speak to you on a very serious need for
25 water from the Cachuma Project. The serious need is felt in

1 all the cities and water districts in the southern half of
2 Santa Barbara County, particularly so in the city of Santa
3 Barbara and all of the Santa Ynez River Valley as well.

4 Santa Barbara County is 3,789 square miles in size with
5 a population of approximately 408,000. There are
6 approximately 207,000 people living within the areas served
7 by the Cachuma Project, and the Cachuma Project has been a
8 principal water supply for Santa Barbara since it was
9 constructed in the 1950s. It supplies about 65 percent of
10 the water used in our area served.

11 Santa Barbara County is the 18th largest in the state,
12 is the 17th fastest growing in the state and the estimated
13 population is to be 468,160 by the year 2010. That is an
14 enormous growth rate that we anticipate in Santa Barbara
15 County.

16 Briefly, I would like to cover a few areas with you.
17 Cachuma service areas has put the water from the Cachuma
18 Project in use in the 1960s, and it has not been enough.
19 Santa Barbara has found other water supplies to use, has
20 committed to water conservation, has invested in the State
21 Water Project, has developed water recycling through its
22 water front and its recreation regions. It's even
23 installed and permitted a water desalination plant.

24 We recognize there are concerns about wildlife all
25 through the 1990s and to the present. We have addressed

1 those concerns. Santa Barbara has provided money, biology
2 consultants and the organization to develop and organize a
3 plan for fish and wildlife. Many of those here with me
4 today will tell you of the successes to develop reasonable
5 programs for wildlife. They will also tell you the
6 effective efforts to reach settlement with those who've
7 protested against us. There is a valuable and much needed
8 resource. We have tried to address everyone's concerns. It
9 is our most important water supply.

10 As I say, you have the full text of my report, and I
11 will not try to repeat that for you. I have on a lighter
12 side of things, I ran across a picture that was in the
13 Saturday, February 24th, 1990 article of the Santa Barbara
14 News Press, just to lighten things up a bit here. We have a
15 drought officer standing in front of the mission. Most
16 people who have not traveled throughout Santa Barbara only
17 know that there is a mission in Santa Barbara. That is
18 about all they know about it.

19 Drought Officer Mike Morales stops at the
20 Santa Barbara Mission, just checking to see
21 no overuse of the holy water. From now on,
22 only one finger in the pot, not three. We
23 have to cut back on the blessing ourselves
24 going in and out of the church. Overuse
25 could subject the church to severe penalties

1 and to closing. The first time in 200 years.

2 The second offense and we shoot it out with

3 the priest on here. (Reading.)

4 We take water very serious in Santa Barbara, but at the
5 expense of some there was some humor put forward, and I felt
6 that it was worth at some time to put a human touch on all
7 of this that we have.

8 I appreciate very much the opportunity to address
9 you. I certainly know that those who will follow will give
10 you more technical data and information that will be useful
11 in helping you make your decision. That decision that your
12 Board will make is absolutely essential to the water supply
13 for Santa Barbara County.

14 Thank you very much.

15 C.O. BROWN: Thank you, Mr. Fairly.

16 MS. DIFFERDING: Mr. Brown, if I may, I would like to
17 address these reports and articles Mr. Fairly has given to
18 us this morning.

19 I am not sure, Mr. Fairly, if he intended to introduce
20 these as exhibits because exhibits were due on October 23rd
21 and should have been served on all the other parties. I
22 don't think -- unless you're to serve this on the other
23 parties and make some sort of showing why we ought to admit
24 them late, then I am not sure we can accept these as
25 exhibits today.

1 MR. FAIRLY: I'd be happy to take them back and share
2 with any of you that care or in your leisure. And I think
3 you will find them quite interesting and very informative at
4 some point down the line even though they are not to be part
5 of the exhibits for today.

6 MS. DIFFERDING: Thank you.

7 C.O. BROWN: Thank you, Mr. Fairly.

8 MR. FAIRLY: Of course, the magazine is available to
9 all of you. It is October-November 2000 issue.

10 C.O. BROWN: John -- you are going to have to help me
11 with this.

12 MR. PIACCIUOLO: Piacciuolo, Mr. Brown.

13 Good morning. My name is John Piacciuolo, and I am
14 president of Santa Ynez River Conservation District. That
15 is the parent district. The district was formed in 1939 for
16 the purpose of protecting the water supply and water rights
17 within the district. The district encompasses 180,000
18 acres in the Santa Ynez River watershed, generally
19 downstream of Bradbury Dam.

20 Consistent with its purpose, the district has adopted
21 legal and policy positions that seek to protect water users
22 within the watershed. As you are aware, the United States
23 Bureau of Reclamation's permit to appropriate Santa Ynez
24 River water require the release of certain quantities for
25 the benefit of downstream vested rights and to provide

1 sufficient flow to maintain percolation of water from the
2 stream channel into groundwater basins as would have
3 occurred from the unregulated flow.

4 Over the years the district has participated in various
5 proceedings and attempted to develop procedures in
6 coordination with the Bureau and the Cachuma Project Member
7 Units to achieve these purposes, including being a party to
8 the 1949 so-called Live Stream Agreement and participating
9 in the proceeding which led to adoption of the Water Rights
10 Decisions 73-37 and 89-18.

11 This hearing has been a long time in coming. We
12 appreciate the efforts of this Board and its staff to get
13 this hearing underway and completed. We have been
14 cooperating insofar as possible with the Bureau of
15 Reclamation and Cachuma Project Member Units and with the
16 various agencies and municipalities within our boundaries to
17 ensure that all relevant information in accurate forms
18 presented in these proceedings. We will not be proceeding
19 -- participating in the first phase of these proceedings
20 dealing principally with the proposed change petitions for
21 the Bureau's permits, as we have entered into a stipulation
22 with the Bureau and its Member Units.

23 The conditions of that stipulation were met resulting
24 in withdrawal of our protest. In withdrawing our protest we
25 did not prejudice the positions of any constituent agencies

1 or individuals within our boundaries.

2 It is noted that different agencies within our
3 boundaries have different positions on the proposed change
4 petitions. We will be participating in Phase II of these
5 proceedings. The district is an activity participant in
6 reviewing the relevant studies and reports that have been or
7 prior to the commencement of Phase II will be submitted in
8 furtherance of the requirements of your Order 94-5.
9 Hopefully, any differences between the Bureau and its
10 Member Units and downstream interests can be resolved prior
11 to the commencement of Phase II.

12 Again, we look forward to participating in these
13 proceedings, in particular Phase II, and encourage you and
14 your staff to diligently pursue Santa Ynez River issues to a
15 conclusion.

16 Thank you very much.

17 C.O. BROWN: Thank you, Mr. Piacciuolo.

18 We will now go to the cases in chief, the Bureau of
19 Reclamation.

20 Ms. Allen, you are up.

21 MS. ALLEN: Good morning. I just have a housekeeping
22 issue before I get started. We had two errors to our
23 exhibit list. I want to clarify those for the record.

24 Exhibit DOI 1F is listed as Santa Ynez River Vegetation
25 Monitoring Study. In fact, it is the final Lower Santa Ynez

1 River Fish Management Plan, and copies of this plan were
2 sent to the Board and made available to the parties.

3 The second error is on DOI 2E, which reads "July," and
4 it actually should be "June."

5 My name is Kaylee Allen, and along with cocounsel
6 Edmund Gee, I am here on behalf of United States Department
7 of the Interior, Bureau of Reclamation. We would like to
8 thank the Board for this opportunity to present evidence on
9 our petition for change and place of use and purpose of use
10 on Water Rights Permits 11308 and 11310 and to present
11 evidence on Reclamation's compliance with Water Rights Order
12 94-5.

13 Reclamation holds Water Rights Permits 11308 and 11310.
14 These permits pertain to the Cachuma Project which is
15 located near the City of Santa Barbara on the Santa Ynez
16 River. During its case in chief, Reclamation will present
17 two issues for Phase I of this hearing. The first issue is
18 whether approval of the petitions for change and purpose and
19 place of use result in any changes in Cachuma Project
20 operations and flows in the Santa Ynez River below Bradbury
21 Dam compared to operations and flows that would exist if
22 water from the project were delivered to areas only within
23 the current place of use.

24 The answer to this issue is no. Reclamation's case
25 will clearly demonstrate that approval of the petitions for

1 change and place and purpose of use will not result in any
2 change in Cachuma Project operations nor in flows in the
3 Santa Ynez River downstream of Bradbury Dam.

4 The second issue presented in the hearing notice is
5 whether Reclamation has complied with Water Right Order
6 94-5. The answer to this question is yes. Reclamation's
7 case will demonstrate that Reclamation has complied or made
8 a good faith effort at compliance with each condition set
9 forth in Water Right Order 94-5.

10 On the issue of the petitions for change and place and
11 purpose of use Reclamation will present a panel to
12 demonstrate that operations of the Cachuma Project will not
13 change as a result of the Board approving Reclamation's
14 petitions. The panel will show that Reclamation's contract
15 allows for delivery of an agreed upon safe yield to be
16 delivered to the Cachuma Member Units each year. The Member
17 Units are the City of Santa Barbara, Goleta Water District,
18 Montecito Water District, Carpinteria Valley Water District
19 and Santa Ynez River Water Conservation District Improvement
20 District No. 1, all of whom are members of the Santa Barbara
21 County Water Agency.

22 And these Member Units hold subcontracts under the
23 agency's master contract with Reclamation for water service
24 under the Cachuma Project. The contractual amount will not
25 change if these petitions are approved.

1 The City of Solvang and the City of Lompoc and others
2 filed protest to Reclamation's change petitions claiming
3 that approval of the petitions could result in impacts to
4 the flows downstream of the dam. All protests, except the
5 City of Lompoc's, were withdrawn or dismissed when the
6 protestants failed to provide information regarding the
7 alleged impact to the Board.

8 Reclamation's panel will show there will be no impacts
9 to the downstream flows because downstream water rights and
10 fish flows are met before Reclamation satisfies the
11 contractual obligations to Member Units. Additionally, the
12 panel will show that the change petitions are really
13 administrative actions by Reclamation to keep the place of
14 use consistent with the Member Units' boundaries.

15 Reclamation's panel will consist of Michael Jackson,
16 who is Deputy Area Manager of the South Central California
17 area office, who is presented as an expert to testify on the
18 background operations and contractual obligations of the
19 Cachuma Project.

20 Gale Heffler-Scott, the regional water rights officer
21 for the Mid-Pacific region at the time the hearing was
22 noticed, will testify as to the history, purpose and affect
23 of the petitions for change and place and purpose of use.
24 We will not qualify Ms. Heffler as an expert witness.

25 Michael Sebhat is a consultant with Reclamation who

1 manages the Mid-Pacific region's Geographic Information
2 System, or GIS, Service Center. Mr. Sebhat is presented as
3 an expert witness and has provided written testimony on the
4 development and creation of maps presented as exhibits by
5 Reclamation.

6 The last member of this panel is Antonio Buelna. He is
7 the chief of operations. Mr. Buelna is presented as an
8 expert on Cachuma Project operations as part of this panel.
9 Finally, Michael Jackson will testify on the issue of
10 Reclamation's compliance with Water Rights Order 94-5.

11 The evidence presented will demonstrate that the
12 Board's approval of Reclamation's change petitions will not
13 result in changes to operations of the project or flows in
14 the Santa Ynez River. Moreover, Reclamation's evidence will
15 show that no enforcement action against Reclamation is
16 necessary or appropriate in regard to Reclamation's
17 compliance Water Rights order 94-5.

18 Thank you.

19 If it please the Board, we'll address the change of
20 petition issue first and then go to the compliance issue.

21 C.O. BROWN: Fine.

22 MS. DIFFERDING: May I interject here just as a quick
23 reminder to the parties. First of all, the witnesses should
24 have submitted their written testimony in advance so you
25 shouldn't read your testimony into the record. You should

1 confine yourself to giving a short summary of the important
2 points in your direct testimony.

3 And also, will the representatives of the parties help
4 us remember that the witnesses should all identify the
5 written testimony as their own and affirm that it is true
6 and correct before they begin to summarize their testimony.

7 ---oOo---

8 DIRECT EXAMINATION OF BUREAU OF RECLAMATION

9 BY MS. ALLEN

10 MS. ALLEN: First member of the panel will be Michael
11 Jackson.

12 Mr. Jackson, could you state your name and spell it for
13 the record.

14 MR. JACKSON: Michael Paul Jackson. M-i-c-h-a-e-l
15 P-a-u-l J-a-c-k-s-o-n.

16 MS. ALLEN: Did you prepare written testimony for this
17 hearing?

18 MR. JACKSON: Yes, I did.

19 MS. ALLEN: Is DOI 1A a true and correct copy of the
20 testimony that you prepared for this hearing?

21 MR. JACKSON: Yes, it is.

22 MS. ALLEN: Mr. Jackson, could you please state your
23 place of business.

24 MR. JACKSON: I work for the United States Bureau of
25 Reclamation in Fresno, California, otherwise known as the

1 South Central California area office.

2 MS. ALLEN: Thank you.

3 What is your job title?

4 MR. JACKSON: I am the Deputy Area Manager for the
5 South Central California area office.

6 MS. ALLEN: Are all Reclamation matters pertaining to
7 Cachuma Project first handled by your area office?

8 MR. JACKSON: That is correct.

9 MS. ALLEN: When was the Cachuma Project authorized and
10 constructed?

11 MR. JACKSON: Project was authorized in 1948, and it
12 was constructed between 1950 and 1956.

13 MS. ALLEN: Are you familiar with the facilities that
14 make up the Cachuma Project?

15 MR. JACKSON: Yes, I am.

16 MS. ALLEN: Could you briefly describe those
17 facilities?

18 MR. JACKSON: Sure. If I may, I would like to use the
19 easel and maps we have up here describing the facilities.

20 C.O. BROWN: Go ahead.

21 MR. JACKSON: Mr. Brown, you and Mr. Silva and Ms.
22 Differding, as well as the Board staff, might have smaller
23 maps, I think, as well.

24 Bradbury Dam is an impoundment for Cachuma Lake located
25 here on the Santa Ynez River. The lake originally had a

1 capacity of about 205,000 acre-feet, but as is
2 characteristic of this region, sedimentation has reduced the
3 capacity to about 190,000 acre-feet.

4 The Santa Ynez River flows generally from east to west
5 to the Pacific Ocean. It is about 40 to 50 miles in reach,
6 depending on if you are walking, driving, boating or
7 flying. The river passes through Improvement District No.
8 1, the city of Solvang and Buellton about ten miles
9 downstream of the dam. Further on down the road is the city
10 of Lompoc about another 15 miles and then about another 10
11 to 15 miles to the Pacific Ocean.

12 The parent district is also on the downstream side of
13 the dam off of the Santa Ynez River, as is Improvement
14 District No. 1.

15 Coming off the Lake Cachuma is Tecolote Tunnel. It is
16 a six-mile tunnel that services the South Coast portion of
17 the Cachuma Project, services the Goleta Water District,
18 City of Santa Barbara, Montecito Water District and
19 Carpinteria Valley Water District. There are four other
20 reservoirs that assist in providing continuous flow through
21 the South Coast conduit. That would be Glen Anne Reservoir,
22 which has a capacity of about 470 acre-feet, Laurel
23 Reservoir has a capacity of 470 acre-feet, Ortega Reservoir
24 has a capacity of about 60 acre-feet, and Carpinteria
25 Reservoir has a capacity of about 40 acre-feet. The smaller

1 reservoirs total about 1,200 acre-feet.

2 The Goleta Water District has a contract -- our master
3 contract with them is based on a percentage sharing amongst
4 the Member Units. Goleta Water District gets about 36
5 percent of that supply. Santa Barbara gets 32 percent of
6 that supply, and the remaining three districts, Improvement
7 District No. 1, Montecito and Carpinteria range between 10
8 and 11 percent, to make up the total of 100 percent of the
9 contract supply of about 25,700 acre-feet on average.

10 MS. MROWKA: Excuse me, Mr. Jackson. I believe that
11 the exhibit that you are using for this testimony is
12 Reclamation's Exhibit 3B.

13 MR. JACKSON: Thank you. I believe that is correct,
14 Exhibit 3B.

15 MS. ALLEN: Mr. Jackson, are you familiar with Exhibit
16 DOI 1C which is the master service water contract between
17 the United States and Santa Barbara County Water Agency?

18 MR. JACKSON: From a layman's perspective, yes, I am.

19 MS. ALLEN: And is there anything else you can tell us
20 about the contract besides what you just briefly discussed?

21 MR. JACKSON: I have highlighted most of the points.
22 The contract calls for an annual supply of roughly 25,714
23 acre-feet I think it is, and the percentages are shared
24 amongst the Member Units. It is a 25-year contract. That's
25 about it.

1 MS. ALLEN: Do you recognize Exhibit DOI 1D?

2 MR. JACKSON: Can you remind me what that exhibit is?

3 Yes, I do.

4 MS. ALLEN: Could you describe Exhibit 1D?

5 MR. JACKSON: 1D covers the historical operation data

6 from the annual progress reports and investigations and

7 measurements, beginning with the first deliveries from the

8 project which were in 1958 and it continues on through

9 1998.

10 MS. ALLEN: Mr. Jackson, do you expect that the deliveries

11 would change as a result of State Board approving

12 Reclamation's change petitions?

13 MR. JACKSON: No, I do not. The data that I have

14 reviewed shows that there is a greater demand in the current

15 use than the supply from the Cachuma Project can currently

16 provide.

17 MS. ALLEN: Are you familiar with the operations of

18 Cachuma Project?

19 MR. JACKSON: Yes, I am.

20 MS. ALLEN: Could you briefly describe the operations?

21 MR. JACKSON: The operations of the Cachuma Project,

22 going back up to the Exhibit 1D, again, Reclamation must

23 first satisfy downstream water rights users, which in large

24 part would be for the parent district. We also have an

25 endangered species listed on the Santa Ynez River, the

1 Southern California steelhead trout. *Onchorchynus mykiss* I
2 think is the biologic term for that. It was listed in April
3 of 1997. We have entered into consultation with the
4 National Marine Fishery Service. We finally received a
5 final biological opinion from them in September of this
6 year, and that calls for various things: releases, flows,
7 monitoring and other protocols that will be gotten into in
8 more depth in Phase II.

9 MS. ALLEN: Does Reclamation currently release flows
10 for fish?

11 MR. JACKSON: Yes, we do.

12 MS. ALLEN: How is that conducted?

13 MR. JACKSON: That would be conducted through
14 informing the National Marine Fishery Service and consulting
15 with the Technical Advisory Committee for the Santa Ynez
16 River Project on beneficial releases for fishery; and,
17 generally, those are relatively minor in quantity.

18 MS. ALLEN: Do you expect the project operations would
19 change as a result of the State Board's approving
20 Reclamation's petitions?

21 MR. JACKSON: No, I do not.

22 MS. ALLEN: What is your basis for that conclusion?

23 MR. JACKSON: The basis is, again, that Reclamation
24 must first satisfy wildlife and the required Endangered
25 Species Act releases before we make any releases to our

1 contractors, the Member Units.

2 MS. ALLEN: Would you expect flow in the Santa Ynez
3 River below Bradbury Dam to change as a result of the Board
4 approving these change petitions?

5 MR. JACKSON: No, I would not.

6 MS. ALLEN: What is your basis for that conclusion?

7 MR. JACKSON: Again, the water rights' needs must be
8 met prior to Reclamation providing any water to the Member
9 Units. As far as I know, those have not changed
10 downstream.

11 MS. ALLEN: Would you expect there would be any impact
12 to downstream water users as a result of the Board approving
13 these change petitions?

14 MR. JACKSON: No, I would not.

15 MS. ALLEN: What is your basis for that conclusion?

16 MR. JACKSON: Again, the Reclamation must comply with
17 the water rights' needs downstream. As far as I know,
18 nothing has changed with the exception of the National
19 Marine Fishery listing of endangered steelhead.

20 MS. ALLEN: Thank you, Mr. Jackson.

21 The next witness for Reclamation will be Antonio
22 Buelna.

23 Mr. Buelna, can you please state your name and spell it
24 for the record.

25 MR. BUELNA: Antonio Buelna, A-n-t-o-n-i-o B-u-e-l-n-a.

1 MS. ALLEN: Could you please state your place of
2 business.

3 MR. BUELNA: I work for the Bureau of Reclamation out
4 of the Fresno office.

5 MS. ALLEN: What is your job title?

6 MR. BUELNA: I am chief of operation for the Cachuma
7 Project.

8 MS. ALLEN: Do you recognize Exhibit DOI 4?

9 MR. BUELNA: Yes.

10 MS. ALLEN: Could you please describe DOI 4?

11 MR. BUELNA: It is a statement of my qualifications.

12 MS. ALLEN: Mr. Buelna, did you just hear Mr. Jackson
13 testify that approval of the change petitions will not
14 result in operational changes to the project?

15 MR. BUELNA: Yes.

16 MS. ALLEN: Would you concur with his statement?

17 MR. BUELNA: Yes.

18 MR. MOONEY: Mr. Brown, If I may.

19 C.O. BROWN: Mr. Mooney.

20 MR. MOONEY: I don't believe this witness has submitted
21 any written testimony.

22 MS. ALLEN: He did not submit written testimony, but we
23 are presenting him as part of the panel, and we just wanted
24 to qualify him as an expert on operations.

25 C.O. BROWN: Mr. Mooney.

1 MR. MOONEY: I guess the requirements are the testimony
2 should have been presented. If that was all he was going to
3 testify to, what he did, I guess that would be fine. But
4 just confirming what Mr. Jackson said goes beyond that. It
5 is just what had been testified to. I think I would object
6 to that.

7 C.O. BROWN: Ms. Allen, where are you headed with
8 this?

9 MS. ALLEN: I was just going to confirm two of the
10 statements that Mr. Jackson made about operations, and then
11 we can offer him for cross-examination.

12 C.O. BROWN: I will permit that. Go ahead.

13 MS. ALLEN: Mr. Buelna, did you hear Mr. Jackson
14 testify that approval of the change petitions would not
15 result in operational changes to the project?

16 MR. BUELNA: Yes.

17 MS. ALLEN: Would you concur with this statement?

18 MR. BUELNA: Yes.

19 MS. ALLEN: Your basis for concurrence?

20 MR. BUELNA: The basis is that the petition for change
21 in place and purpose of use, if approved, will not change
22 the quantity of deliveries to the Member Units nor would it
23 change the project operations.

24 MS. ALLEN: Mr. Buelna, did you hear Mr. Jackson
25 testify that approval of change petitions will not result in

1 changes to the Santa Ynez River flows downstream of Bradbury
2 Dam?

3 MR. BUELNA: Yes.

4 MS. ALLEN: Would you concur with that statement?

5 MR. BUELNA: Yes.

6 MS. ALLEN: What is the basis for your conclusion?

7 MR. BUELNA: Again, downstream releases occur before
8 Reclamation deliveries to the Member Units. Downstream
9 releases are not affected by contract delivery obligations.

10 MS. ALLEN: Thank you, Mr. Buelna.

11 The next member of Reclamation's panel is Ms. Gale
12 Heffler-Scott.

13 Could you please state your name and spell it for the
14 record.

15 MS. HEFFLER-SCOTT: Yes. My name is Gale
16 Heffler-Scott. G-a-l-e H-e-f-f-l-e-r-S-c-o-t-t.

17 MS. ALLEN: Ms. Heffler-Scott, did you prepare written
18 testimony for this hearing?

19 MS. HEFFLER-SCOTT: Yes, I did.

20 MS. ALLEN: Is Exhibit DOI 2 a true and correct copy of
21 testimony you prepared?

22 MS. HEFFLER-SCOTT: Yes, it is.

23 MS. ALLEN: Would you please identify any corrections
24 you might have to your written testimony.

25 MS. HEFFLER-SCOTT: Yes, I will.

1 On Page 1 at Line 25, we should change "February" to
2 "May."

3 On Page 5 at Line 26, we should change "Permit 113108"
4 to "Permit 11308."

5 On Page 6 at Line 5, we should change "February" to
6 "May."

7 On Page 8 at Line 27, we should delete the word "and"
8 between contracts and were. Should read "the contracts were
9 subsequently renewed."

10 On Page 10 at Line 10, we should change "Map No.
11 B-1-1P-21 to "Map No. B-1P-21."

12 On Page 11 at Line 28, the word "changed" should be
13 "changes."

14 On Page 12 at Line 12, should change "July" to "June."

15 On Page 15 at Line 22, the acreage of "17736" should be
16 changed to "17636."

17 And on Page 16 at Line 23, "Permit 113308" should be
18 changed to "11308."

19 MS. ALLEN: Thank you.

20 Could you please state your place of business.

21 MS. HEFFLER-SCOTT: Yes, the Bureau of Reclamation
22 Mid-Pacific Region, Sacramento.

23 MS. ALLEN: What is your job title?

24 MS. HEFFLER-SCOTT: I am currently the Mid-Pacific
25 Region's Project Manager for the Water Transfer Program.

1 Until -- prior to this I was the Regional Water Rights
2 Officer for the Bureau of Reclamation, and I am still
3 currently acting as the Regional Water Rights Officer for
4 the Bureau of Reclamation until my position has been
5 filled.

6 MS. ALLEN: Thank you.

7 Could you briefly describe your duties as the Regional
8 Water Rights Officer?

9 MS. HEFFLER-SCOTT: Yes. As Regional Water Rights
10 Officer I oversee the administration of Reclamation's water
11 rights programs for the operation of federal projects within
12 the Mid-Pacific region. I have worked with the Bureau of
13 Reclamation since 1975, and I have over 20 years of
14 experience in water rights and water right program
15 activities associated with Reclamation's operation of its
16 federal projects.

17 MS. ALLEN: Thank you.

18 Are you familiar with State Board Staff Exhibits 1 and
19 2, which are the water permits 11308 and 11310 for operation
20 of the Cachuma Project?

21 MS. HEFFLER-SCOTT: Yes, I am.

22 MS. ALLEN: Would you please describe the permits?

23 MS. HEFFLER-SCOTT: Permit 11308 authorizes the
24 appropriation of 100 cubic feet per second from the Santa
25 Ynez River by direct diversion from January 1 to December 31

1 and 275,000 acre-feet per annum by storage to be collected
2 between about October 1 of each year and about June 30th of
3 the following year.

4 The purposes of uses authorized under Permit 11308 are
5 for irrigation, domestic, salinity control, incidental
6 recreational purposes and stock watering. Permit 11310
7 authorizes the appropriation of 50 cubic feet per second
8 from Santa Ynez River by direct diversion from January 1
9 through December 31 and 275,000 acre-feet per annum by
10 storage to be collected from about October 1 of each year to
11 June 30th of the following year.

12 The purposes of use authorized under Permit 11310 are
13 municipal and industrial and incidental recreations
14 purposes. The total amount of water appropriated by storage
15 for all purposes under both of these permits does not exceed
16 275,000 acre-feet per annum.

17 Place of use for Permit 11308 and 11310 is within the
18 boundaries of Goleta Water District, the City of Santa
19 Barbara, the Montecito Water District, the Summerland Water
20 District, the Carpinteria Water District and the Santa Ynez
21 River Water District, within a gross area of 175,000 acre.
22 These are designated on Map No. B1P-21, Sheets 1 and 2.
23 They are on file with the State Board and have been
24 identified as State Board Exhibits 1 and 2.

25 I might note that the Summerland County Water District

1 that is shown on those maps was annexed into the Montecito
2 Water District in 1996.

3 The place of use for irrigation under Permit 11308 is
4 to irrigate 61,000 net acres within the gross area of
5 175,000 acres along the South Coastal area of Santa Barbara
6 County. The use of water for recreational purposes is at
7 the Cachuma Reservoir site. In addition to its primary
8 uses, Permits 11308 and 11310 also provide that water from
9 the Cachuma Reservoir released into the Santa Ynez River and
10 from the Tecolote Tunnel may be used for groundwater
11 recharge in areas along the coastal plain's place of use
12 boundary as shown on Map No. B1P-21, Sheets 1 and 2 on file
13 with the Board.

14 MS. ALLEN: Who holds Permits 11308 and 11310?

15 MS. HEFFLER-SCOTT: Bureau of Reclamation.

16 MS. ALLEN: When did the Reclamation first seek these
17 permits?

18 MS. HEFFLER-SCOTT: Reclamation filed the Water Right
19 Applications 11331 and 11332 in support of the federally
20 authorized Cachuma Project on March 25th, 1946. On February
21 28, 1958, the former State Water Rights Board adopted
22 Decision 886, approving Applications 11331 and 11332 in
23 issuance of Permits 11308 and 11310.

24 MS. ALLEN: Thank you.

25 Are you familiar with Exhibits DOI 2B and 2C, which are

1 the petitions for change in place and purpose of use that
2 Reclamation filed on its permits?

3 MS. HEFFLER-SCOTT: Yes, I am.

4 MS. ALLEN: When were these petitions filed?

5 MS. HEFFLER-SCOTT: DOI Exhibit 2B is a petition that
6 was originally filed by Reclamation with the State Water
7 Resources Control Board in 1983 for permission to expand the
8 permitted place of use for Permits 11308 and 11310 and to
9 increase the gross area of use from 175,000 acres to 296,696
10 acres within the net irrigated area remaining at the
11 permitted 61,000 acres.

12 The petition also requested to have municipal and
13 industrial added as a purpose of use under Permit 11308 and
14 to add irrigation of the 61,000 net acres, domestic and
15 salinity control as purpose of use under Permit 11310. This
16 petition's been amended several times since it was
17 originally filed in '83 to further modify the request of
18 changes.

19 And DOI Exhibit 2C is a separate petition which
20 Reclamation filed with the State Board in May of 1999. It
21 was to modify place of use boundary to include an additional
22 130 acres of land that had been annexed into the Goleta
23 Water District in association with the Dos Pueblos Golf
24 Links Project.

25 MS. ALLEN: Could you briefly describe the petitions?

1 MS. HEFFLER-SCOTT: Yes. The petitions will modify the
2 place of use boundaries for Permits 11308 and 11310 to
3 coincide with the water service area boundaries of the five
4 Cachuma Project Member Units and will also consolidate the
5 seven purposes of use for these permits to allow water
6 under both permits to be used essentially for the same
7 purposes within the project.

8 The combined proposed action will modify the gross
9 place of use for the Cachuma Project by an additional 17,636
10 acres. Included in the 17,636 acres is 130 acres within the
11 Goleta Water District designated for the golf links
12 project. The golf links project encompasses a total of
13 about 208 acres. It is located three miles west of Goleta.
14 That is shown on our exhibit, DOI Exhibit 3E. Of the 208
15 acres that encompasses, the golf course, the project site,
16 78 acres were included within the original place of use
17 under the 1983 petition remains under the 1999 petition.

18 MS. ALLEN: Thank you.

19 Were any protests filed on these petitions?

20 MS. HEFFLER-SCOTT: Yes, there was. On May 22, 1997,
21 the Board issued a notice of revised petition to change the
22 place of use and purpose of use for Permit 11308 and Permit
23 11310. There were six protests received, including a
24 protest by the City of Solvang. Five of the protests were
25 canceled. State Board accepted the protest by the City of

1 Lompoc.

2 In response to the June 1999 notice of the golf links
3 petition, three protests were severed by the Board. Two of
4 the protests were dismissed by the Board, and the protest by
5 the City of Lompoc was partially accepted by the Board.

6 MS. ALLEN: Thank you.

7 Does Reclamation believe this action to change the
8 place of use is necessary?

9 MS. HEFFLER-SCOTT: Yes, we do.

10 MS. ALLEN: Could you please explain why?

11 MS. HEFFLER-SCOTT: Yes. It is important for
12 administration purposes that the Cachuma Project place of
13 use and Member Units respective service areas are
14 consistent. The authorized place of use for water developed
15 by the project under the permits has only been to service
16 areas of the Member Units, but changes through legal actions
17 of legal changes to the service area boundaries have been
18 approved at the local level which have occurred since these
19 permits were issued. And these changes, along with other
20 issues which involve commingling of project and nonproject
21 waters by the Member Units within the integrated water
22 supply system has resulted in the need for us to modify the
23 place of use for these permits and to also coincide the
24 service area with the districts' boundaries.

25 MS. ALLEN: Thank you.

1 Go ahead.

2 MS. HEFFLER-SCOTT: Modifying the Cachuma place of use
3 to coincide with the service areas of the Member Units will
4 not increase the demands on Cachuma Project. This was
5 testified to by Mr. Jackson. The amount of project yield
6 available to the Member Units only represents a portion of
7 what their overall demand is. They contracted for the full
8 yield of Cachuma Project for over 40 years, and they
9 represent the demands for the full yield from the existing
10 place of use boundaries for the Cachuma Project.

11 MS. ALLEN: Does Reclamation have any discretionary
12 role in local decisions resulting in modification of the
13 contractors service boundaries?

14 MS. HEFFLER-SCOTT: No, we do not. The changes to
15 district boundaries is an administrative action on the part
16 of the Bureau of Reclamation pursuant to the terms of the
17 contract it has with the master agency. Reclamation
18 involvement in these actions is for the purposes of
19 protecting the viability of the federal project to ensure
20 repayment of the federal investments. And our principal
21 interest in the annexation of lands within the district
22 service area boundaries is primarily from an irrigation
23 perspective and specifically related to the land
24 classification eligibility position to federal law.

25 The changes to the district service area boundaries,

1 which are approved at a local planning level, require
2 modification to the federal water rights permits place of
3 use boundary. Reclamation is obligated by virtue of the
4 terms of its water service contract to pursue these changes,
5 as may be necessary to coincide the water rights place of
6 use with the district service area boundaries.

7 MS. ALLEN: Thank you.

8 Does Reclamation believe that this action to change the
9 purpose of use is necessary?

10 MS. HEFFLER-SCOTT: Yes, we do.

11 MS. ALLEN: Could you please explain why.

12 MS. HEFFLER-SCOTT: Under the consolidated place of use
13 petition, which is the 1983 petition, Reclamation is
14 requesting that we consolidate the seven purposes of use
15 under both of the permits. It was the accepted practice at
16 the time of the State Water Resources Control Board -- at
17 the time we filed the Cachuma Project permits to request
18 separate actions for different consumptive use purposes for
19 irrigation, municipal and industrial purposes.

20 The water is diverted and stored at a single project
21 facility and delivered to integrated distribution systems
22 for use within the gross service area. This is the case
23 with the Cachuma Project. It is not practical to try to
24 match up a particular beneficial use to a particular
25 specific permit.

1 For these reasons Reclamation is requesting that its
2 seven purposes of use under these permits be consolidated so
3 that the water under both permits could be used for the same
4 purposes. Reclamation is also seeking to have municipal and
5 industrial use added as a purpose of use under Permit 11308,
6 and irrigation, domestic, salinity control and stock water
7 use considered as a purpose of use under Permit 11310.

8 MS. ALLEN: Thank you.

9 The final member of this panel is Mr. Michael Sebhat.

10 Mr. Sebhat, could you please state your name and spell
11 it for the record.

12 MR. SEBHAT: Yes. My name is Michael Sebhat.
13 M-i-c-h-a-e-l S-e-b-h-a-t.

14 MS. ALLEN: Could you please state your place of
15 business.

16 MR. SEBHAT: I work at th U.S. Bureau of Reclamation
17 regional office, Sacramento, California.

18 MS. ALLEN: What is your job title?

19 MR. SEBHAT: I'm the Mid-Pacific GIS Service Center
20 Manager.

21 MS. ALLEN: Did you prepare written testimony for this
22 hearing?

23 MR. SEBHAT: Yes, I did.

24 MS. ALLEN: Is Exhibit DOI 3 a true and correct copy of
25 your written testimony?

1 MR. SEBHAT: Yes, it is.

2 MS. ALLEN: Thank you very much.

3 I will now move on to the issue of Reclamation's
4 compliance with Order 94-5.

5 Mr. Jackson, are you familiar with Water Right Order
6 94-5?

7 MR. JACKSON: Yes, I am.

8 MS. ALLEN: Are you familiar with the conditions three
9 and four of that water right order?

10 MR JACKSON: Yes, I am.

11 MS. ALLEN: What do these conditions require?

12 MR. JACKSON: They require various things, for
13 Reclamation to provide various reports, bench monitoring
14 reports and an EIR.

15 MS. ALLEN: Has Reclamation complied with these
16 conditions?

17 MR. JACKSON: Yes, we have. We have made very good
18 faith efforts to get all of the conditions completed and
19 complied with.

20 MS. ALLEN: Thank you.

21 What does Condition 3A of Water Right Order 94-5
22 require?

23 MR. JACKSON: Condition 3A calls for the combined
24 EIS/EIR for contract renewal to be submitted to the State
25 Board.

1 MS. ALLEN: How does Reclamation comply with Condition
2 3A?

3 MR. JACKSON: We submitted it to the State Board on
4 December 12th, 1995.

5 MS. ALLEN: What does Condition 3B require?

6 MR. JACKSON: Condition 3B requires Reclamation to
7 submit reports or data compilation which results from the
8 MOU's.

9 MS. ALLEN: How does Reclamation comply with the
10 Condition 3B?

11 MR. JACKSON: Reclamation complies with this condition
12 by submitting compilation reports to the State Board on
13 September 10th, 1996. In addition to that, synthesizes the
14 report and summarizes the information that was collected
15 from 1993 through 1996 on fishery resources and conditions
16 on the river was submitted to the State Board.

17 Also, the final lower Santa Ynez River Fish Management
18 Plan has been prepared and submitted.

19 MS. ALLEN: Thank you.

20 What does Condition 3C require?

21 MR. JACKSON: Condition 3C requires Reclamation to
22 submit a report on riparian vegetation and monitoring.

23 MS. ALLEN: How did Reclamation comply with 3C?

24 MR. JACKSON: Reclamation submitted the Santa Ynez
25 River Vegetation Monitoring Study to the State Board and

1 that was acknowledged.

2 MS. ALLEN: What does Condition 3D require?

3 MR. JACKSON: Condition 3D requires Reclamation to
4 submit information developed and conclusions reached, if
5 any, during the negotiations between the Member Units and
6 the City of Lompoc.

7 MS. ALLEN: How did Reclamation comply with 3D?

8 MR. JACKSON: Reclamation has no direct knowledge of
9 any information developed or conclusions reached during
10 discussions between the Cachuma Member Units and the City of
11 Lompoc as Reclamation is not part of those discussions, and
12 we would defer to those parties to shed some light on the
13 progress made.

14 MS. ALLEN: What does Condition 3E require?

15 MR. JACKSON: Condition 3E requires Reclamation to
16 submit a study report or compilation of other existing
17 materials which describe the impacts or lack thereof of the
18 Cachuma Project on downstream diverters as compared to
19 conditions that would have existed in the absence of a
20 Cachuma Project.

21 MS. ALLEN: How did Reclamation comply with Condition
22 3E?

23 MR. JACKSON: Reclamation complied with Condition 3E of
24 the order by submitting annual progress reports as required
25 under Condition 6 of Permit 11308 and 11310. Those reports

1 have been submitted since 1958 through 1998.

2 In addition to the annual progress reports Reclamation
3 participated in a water quality study. An oversight
4 committee was formed by the Member Units, the parent
5 district and the City of Lompoc. Although consensus could
6 not be reached, the study did result in an alternative
7 effort being initiated between the Member Units and the City
8 of Lompoc to discuss resolution of longstanding issues.

9 Further, the draft Environmental Impact Report,
10 required by the State Board in Condition 4 of Order 94-5,
11 will address water quality elements that will determine if
12 there is any evidence that the operation of the Cachuma
13 Project has resulted in ongoing water quality degradation.

14 MS. ALLEN: What does Condition 3F require?

15 MR. JACKSON: That would require additional reports or
16 studies pursuant to that condition, and to date the State
17 Board has not ordered any additional studies or reports to
18 our knowledge.

19 MS. ALLEN: How does Reclamation -- excuse me, what
20 does Condition 4 of Water Right Order 94-5 require?

21 MR. JACKSON: Condition 4 requires that Reclamation
22 prepare a draft EIR in connection with the State Board's
23 consideration of modification to Reclamation's permits in
24 order to protect downstream water rights and public trust
25 resources affected by the project.

1 MS. ALLEN: How does Reclamation comply with this
2 condition?

3 MR. JACKSON: Reclamation has made a good faith effort
4 to comply with this condition. Some of the efforts that
5 have gone on with this has been through the Fish Management
6 Plan and getting the parties interested in fishery resources
7 downstream and trying to reach agreement on the scientific
8 information that affects the fishery resources. Complicated
9 factors in getting the EIR done in a timely manner as
10 directed by the Board included the listing by the National
11 Marine Fishery Service of the southern steelhead, Southern
12 California steelhead trout which was listed in 1997, several
13 years after the Board had given its order in 1994.

14 Reclamation has sought additional information from
15 parties on groundwater conditions, and in April of 2000, Mr.
16 Mooney provided Reclamation with a groundwater quality
17 model.

18 MS. ALLEN: Thank you very much.

19 That concludes our case in chief. We open up our
20 witnesses to cross-examination.

21 C.O. BROWN: We will cross them as a panel, Ms. Allen.

22 Mr. Kidman.

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1 CROSS-EXAMINATION OF BUREAU OF RECLAMATION
2 BY CACHUMA CONSERVATION RELEASE BOARD AND
3 IMPROVEMENT DISTRICT #1
4 BY MR. KIDMAN

5 MR. KIDMAN: I just have one question, and I don't know
6 if it goes to Mr. Jackson or Ms. Scott. But I wonder if you
7 could lay out the timeline a little bit when the project was
8 approved, when the changes in Member Unit boundary occurred,
9 when the petition was made and, I guess there is a couple
10 petitions, let's set those, and then when we went through
11 the notice of the petitions on the change relative to
12 today's hearing.

13 C.O. BROWN: Does that conclude your cross-examination?

14 MR. KIDMAN: That is all I had for this panel. I am so
15 easy today.

16 C.O. BROWN: That will be sufficient. We thank you.

17 Mr. Holland.

18 MR. KIDMAN: We need an answer to the question.

19 C.O. BROWN: Would you go up to the microphone and we
20 will try this again.

21 MR. KIDMAN: To Mr. Jackson or Ms. Heffler-Scott, as
22 either of you are able, just go through the timeline. The
23 project was originally built about when?

24 MR. JACKSON: The project was originally constructed
25 between 1950 and 1956. It was authorized circa 1948.

1 MR. KIDMAN: The water right permits were originally
2 issued with the original place of use?

3 MS. HEFFLER-SCOTT: I think the original -- let me get
4 the date here. The applications for the permits were filed
5 by the Bureau of Reclamation on March 25th, 1946, and those
6 applications were permitted by the State Water Resources
7 Control Board predecessor on February 28, 1958.

8 MR. KIDMAN: And then the petition to change the
9 designated or authorized place of use was originally
10 submitted when?

11 MS. HEFFLER-SCOTT: The initial petition filed by the
12 Reclamation to modify the place of use for the Cachuma
13 Project boundaries was originally filed in 1983.

14 MR. KIDMAN: And so the changes in the Member Unit
15 boundaries that led to that petition occurred before then?

16 MS. HEFFLER-SCOTT: That's correct.

17 MR. KIDMAN: Then there was the golf course petition
18 that came much later?

19 MS. HEFFLER-SCOTT: Yes. That petition was filed by
20 Reclamation in 1999. That was at the specific request of
21 the Goleta Water District who, I think, the golf links
22 project lies within their boundaries.

23 MR. KIDMAN: When did the notice of the petitions go
24 out and roughly when were the protests received?

25 MS. HEFFLER-SCOTT: I can't -- the notices for the 1983

1 petition as it was modified in 1995 was made by the Board on
2 May 22nd, 1997. The petition for the golf links that was
3 filed by Reclamation, the notice on that I believe was filed
4 on the Board by June 15th of 1999.

5 MR. KIDMAN: Those notices came from the State Board
6 itself?

7 MS. HEFFLER-SCOTT: Correct.

8 MR. KIDMAN: That is all the questions I have.

9 C.O. BROWN: Thank you, Mr. Kidman.

10 Mr. Holland.

11 MR. HOLLAND: We have no questions.

12 C.O. BROWN: Mr. Mooney or Ms. Dunn.

13 ----oOo----

14 CROSS-EXAMINATION OF BUREAU OF RECLAMATION

15 BY CITY OF LOMPOC

16 BY MR. MOONEY

17 MR. MOONEY: Mr. Jackson, in your testimony you
18 described, I believe, as operational yield. Did you mean
19 operation yield; is that correct?

20 MR. JACKSON: That is in my testimony.

21 MR. MOONEY: What is the operation yield?

22 MR. JACKSON: 25,714 acre-feet, I think, is the current
23 number on that.

24 MR. MOONEY: Is part of the operation yield based on
25 capacity of the reservoir?

1 MR. JACKSON: Yes.

2 MR. MOONEY: Is that the figure 25,714 based on the
3 capacity of 190,000 acre-feet?

4 MR. JACKSON: The capacity portion as would -- yes.

5 MR. MOONEY: Is it true that the capacity of the
6 reservoir is actually less than 190,000?

7 MR. JACKSON: I have seen no official reports
8 indicating that the capacity is less than 190,000. It
9 originally had a capacity of 205,000 as I testified to, but
10 the siltation in the region has reduced that capacity to
11 about 190,000 acre-feet as I understand it.

12 MR. MOONEY: Have you had -- in your preparation for
13 this hearing did you have the opportunity to review the
14 written testimony of Kate Rees?

15 MR. JACKSON: I did scan it, yes.

16 MR. MOONEY: Let me read one sentence on Page 4 of her
17 testimony. It states:

18 Another capacity survey recently completed in
19 September 2000 showed that the capacity of
20 Lake Cachuma has been further reduced to
21 188,032 acre-feet storage due to siltation
22 since 1989. (Reading.)

23 Were you aware of that?

24 MR. JACKSON: I do recall that in her testimony. I
25 have personally not reviewed the study that indicated that,

1 but I have no reason to doubt, question, Ms. Rees'
2 testimony.

3 MR. MOONEY: Would the reduction in capacity have a
4 corresponding reduction in the operational yield of the
5 project?

6 MR. JACKSON: Intuitively I would say there is that
7 connection. I believe our master contract speaks to an
8 average annual yield of about 25,700 acre-feet and not a
9 specific contract maximum of 25,700 acre-feet.

10 MR. MOONEY: The contract was for a period of 25
11 years?

12 MR. JACKSON: That's correct. I believe that is
13 beginning 1995.

14 MR. MOONEY: Does the contract provide for adjustments
15 of the operational yield based upon additional siltation in
16 the reservoir?

17 MR. JACKSON: It may, but I don't recall.

18 MR. MOONEY: The life of the -- based upon your
19 experience of that, the capacity from 1958 to 1989 when it
20 was reduced by 15,000 and now it's been reduced by an
21 additional 2,000 acre-feet to 188,000, would you expect that
22 over the next 20 years or so, the remaining years of this
23 contract, that the capacity of the reservoir would continue
24 to decrease?

25 MR. JACKSON: I would leave the answer to that question

1 to the geologic expert or sedimentation expert.

2 MR. MOONEY: Is there somebody on the panel that can
3 address that?

4 If it does reduce -- if the siltation capacity of the
5 reservoir -- if the capacity of the reservoir does continue
6 to reduce, would you expect that the operational yield would
7 correspondingly reduce?

8 MR. JACKSON: Intuitively, I would say yes to that
9 question.

10 MR. MOONEY: Now, in -- I guess these questions are
11 thrown out to Mr. Jackson or Ms. Heffler-Scott.

12 In looking at the analysis that was done for the place
13 of use that determined there would be no additional impact,
14 was your analysis based upon on the existing uses of the
15 water?

16 MS. HEFFLER-SCOTT: Would you repeat the question?

17 MR. MOONEY: When you did your analysis you came to
18 conclusions about the changing the place of use or expanding
19 the place of use would not affect the project operation for
20 downstream releases.

21 Was your analysis in terms of demand in terms of
22 whatever you used in your analysis, did you look at how the
23 quantity of water that is currently being used or delivered
24 from the Cachuma Project and the locations that it is being
25 delivered to?

1 MS. HEFFLER-SCOTT: Well, as far as the locations are,
2 we looked at what the district boundaries, service area
3 boundaries, are for the Cachuma Member Units. So, that was
4 what determined what the expanded place of use should
5 encompass since there had been actions of the local planning
6 level that had approved modifications of those boundaries.
7 We had to meet to modify the water rights to coincide with
8 the planning decisions that had been made at a local level
9 for modification to the service area boundaries.

10 As far as the purposes of use goes, the purposes of
11 use were based on what were currently authorized under the
12 Cachuma Project permits for the purposes of use for that
13 that area.

14 MR. MOONEY: Let me go at this in a different way.
15 When you did your analysis, did you make any effort to
16 determine how the project would be operated if it was -- if
17 it had been and was operated consistent with the terms of
18 the permits?

19 MR. JACKSON: I would say yes to that question,
20 speaking for myself, that I focused on the information
21 provided by the Member Units via Kate Rees' testimony, and
22 revealing that data indicated that there was a greater
23 demand for the authorized place of use than there was supply
24 provided from the Cachuma Project. Her data indicates that
25 Cachuma Project supplies were supplemental with groundwater

1 and any local reservoir system or any other supplies that
2 they may have.

3 MR. MOONEY: In doing this did you look at the amount
4 of water that was -- whether or not the -- let me rephrase
5 this.

6 In terms of the application or Permit 11308, did you
7 make any determination on whether or not the water that was
8 being diverted for beneficial uses, stored and then
9 delivered for beneficial uses, was, in fact, being used for
10 the purposes of use identified in that permit?

11 MR. JACKSON: I cannot say that I looked at whether it
12 was irrigation or M&I or for salinity purposes, Mr. Mooney.

13 MR. MOONEY: Do you know how the project would have
14 been operated or how much water or how the project would
15 have been operated had it been limited to, the water being
16 used under Permit 11038 would have been used if it had been
17 used specifically for the purpose identified in that
18 permit?

19 MR. JACKSON: My look at the data indicates that the
20 project would not have been operated any differently
21 whatsoever under your hypothetical.

22 MR. MOONEY: Do you know how much water has been used
23 for irrigation?

24 MR. JACKSON: I do, but I can't quite recall.

25 MR. MOONEY: Does the Bureau of Reclamation fill out

1 annual reports on its water rights application or permits?

2 MR. JACKSON: Yes.

3 MR. MOONEY: On those annual reports, progress reports
4 for Permit 11308, do you identify the amount of water that
5 was applied to irrigation?

6 MS. HEFFLER-SCOTT: When we fill out progress reports
7 for the Cachuma Project operations, we fill them out as a
8 combined report for both permits because it is a project
9 that is operated under the use of both permits. So in
10 those permits and reports that are filed we do state the
11 amounts of water that was delivered for irrigation purposes
12 as well as the amounts of water that was delivered for other
13 purposes authorized under the permits.

14 MR. MOONEY: Is it a -- do you break that total down
15 for irrigation and M&I use?

16 MS. HEFFLER-SCOTT: Yes, we do.

17 MR. MOONEY: For either Mr. Jackson or Ms.
18 Heffler-Scott.

19 Are you folks aware of the Bureau of Reclamation's land
20 classifications for irrigation water?

21 MS. HEFFLER-SCOTT: I am somewhat familiar with it, but
22 I am not an expert on the subject by any means.

23 MR. MOONEY: Mr. Jackson.

24 MR. JACKSON: That would follow for me as well. I
25 believe there is six land classes I have been exposed to it,

1 but I'm by no stretch of the imagination an expert on it.

2 MR. MOONEY: Do you know if all of the land that
3 currently receives irrigation water from the Cachuma Project
4 has been deemed irrigable by the Bureau of Reclamation?

5 MR. JACKSON: I believe it has, but I can't say
6 definitively.

7 MR. MOONEY: When was the most recent land
8 classification for the Cachuma Project?

9 MR. JACKSON: I don't know.

10 MR. MOONEY: Are you aware of any land within the
11 Goleta Water District that receives irrigation water that
12 does not meet the or has not been classified as irrigable
13 under Reclamation law?

14 MR. JACKSON: I am not familiar with it, Mr. Mooney.

15 MR. MOONEY: How about within the Improvement District
16 No. 1?

17 MR. JACKSON: No, sir. No, I am not familiar.

18 MR. MOONEY: Referring to DOI Exhibit 1D, Mr. Jackson,
19 it has a bunch of figures and calculations there. Was there
20 any effort in that exhibit to break down or is that -- did
21 you break it down based upon the individual permit or is
22 that just a collective analysis of both permits?

23 MR. JACKSON: I believe that is a collective analysis
24 of both permits.

25 MR. MOONEY: Did you submit any testimony or any

1 exhibits that break down the uses by permits?

2 MR. JACKSON: I can look through my exhibits quickly
3 to double-check that, Mr. Mooney, if you would give me a
4 moment.

5 MR. MOONEY: Ms. Heffler-Scott, are you aware of that?

6 MS. HEFFLER-SCOTT: I am not aware that we did.

7 MR. JACKSON: No, we did not, Mr. Mooney.

8 MR. MOONEY: Mr. Jackson, you stated that the
9 operations would not change because you first have to
10 satisfy the water rights releases and fish releases; is that
11 correct?

12 MR. JACKSON: That's correct.

13 MR. MOONEY: Do you know if there is a dispute as to
14 what the downstream water releases should be? Is there any
15 dispute?

16 MR. JACKSON: I understand there has been discussions
17 between the City of Lompoc and the Member Units, if that is
18 the dispute you are referring to.

19 MR. MOONEY: The Bureau has been a participant in some
20 of those discussions or some of that process that has
21 happened?

22 MR. JACKSON: I have not participated in those
23 discussions.

24 MR. MOONEY: Ms. Heffler-Scott, you stated that one of
25 the reasons for changing the place of use is to make it

1 consistent with the service areas of the contracting agency.
2 Is that true for every -- is every Bureau, contract not just
3 for the Cachuma Project but for other projects, are they
4 always consistent with the place of use or the service area
5 of the contracting agency?

6 MS. HEFFLER-SCOTT: Well, I am not familiar with all of
7 the contracts Reclamation has, but I think it is pretty much
8 a standard practice of Reclamation, that it identifies under
9 the terms of its contract in most instances, the general
10 language that make reference that the area where the water
11 can be served is the legally defined boundaries of the
12 districts that receive the water.

13 MR. MOONEY: Are you aware of any contracts that the
14 Bureau has where the place of use is not consistent with the
15 service area of the agency, contracting agency?

16 MS. HEFFLER-SCOTT: Not that I am aware of, no.

17 MR. MOONEY: Are you familiar with the contract for the
18 El Dorado Irrigation District?

19 MS. HEFFLER-SCOTT: No, I am not.

20 MR. GEE: Member Brown.

21 C.O. BROWN: Mr. Gee.

22 MR. GEE: If Mr. Mooney can make a showing of relevance
23 to these questions to this proceeding.

24 C.O. BROWN: Mr. Mooney.

25 MR. MOONEY: Well, just questioning her on her

1 statements that that is one of the purposes of the -- I
2 think her statement that essentially that is the Bureau's
3 policy that all of the contracts should be consistent with
4 place of use, and I am just exploring that, whether or not
5 that is the case in all -- whether or not they have
6 knowledge if that is the case in other Bureau contracts.

7 C.O. BROWN: Mr. Gee.

8 MR. GEE: I believe she answered that question. That
9 question was put to Ms. Heffler-Scott. She answered that
10 question. The answer was it is standard policy for the
11 Bureau.

12 MR. MOONEY: I was simply asking about some other
13 examples, if she was aware of any exceptions or where there
14 was not that policy.

15 C.O. BROWN: I will permit the question.

16 Go ahead.

17 MS. HEFFLER-SCOTT: The question was?

18 MR. MOONEY: Do you know if the El Dorado Irrigation
19 District -- you said you weren't familiar with El Dorado
20 Irrigation District.

21 Are you familiar with any -- you already answered
22 that. How about Sacramento County, do you know if their --
23 are you familiar with their contract with the Bureau?

24 MS. HEFFLER-SCOTT: I am not. I don't work in the
25 contracting area for the Bureau of Reclamation, so I am not

1 familiar with the exact language. I just know generally,
2 general knowledge, of how the terminology is normally used,
3 but I don't know, do not know about specific-type
4 contracts.

5 MR. MOONEY: In fact, you don't know if that, in fact,
6 is the case for a Bureauwide policy?

7 MS. HEFFLER-SCOTT: You would have to look at each
8 individual contract because there could be instances where
9 there is specific language in certain contracts that might
10 relate to a specify service area. You'd have to go by the
11 contract.

12 C.O. BROWN: How much more time, Mr. Mooney?

13 MR. MOONEY: Probably about five minutes, ten minutes.

14 C.O. BROWN: We will take a 12-minute break now.

15 (Break taken.)

16 C.O. BROWN: We will continue.

17 Mr. Mooney.

18 MR. MOONEY: Mr. Jackson, you stated in your testimony
19 that the operations would not change as a result of approval
20 of the change petitions.

21 Is that correct?

22 MR. JACKSON: That's correct.

23 MR. MOONEY: Did you go through any technical analysis
24 prior to making that conclusion?

25 MR. JACKSON: My technical analysis was limited to

1 conferring with my staff as well as reviewing the data
2 provided in Kate Rees' testimony.

3 MR. MOONEY: Did you or anybody at the Bureau do any
4 modeling prior to making that conclusion?

5 MR. JACKSON: Not to my knowledge.

6 MR. MOONEY: Ms. Heffler-Scott, I guess I would ask the
7 same question of you, at least the first question, because
8 you had the same conclusion that the approval of change
9 petitions would not change the operation of the project.

10 Did you conduct or go through any technical analysis
11 prior to making that conclusion?

12 MS. HEFFLER-SCOTT: No, no technical analysis with
13 respect to that. But the facts that the demands within the
14 Member Unit boundaries are in excess of what the yield of
15 the Cachuma Project is able to provide. Whether or not this
16 change petition is approved or isn't approved, there is not
17 going to be any change in the way we operate the project or
18 in the quantity of water that is delivered out of the
19 project.

20 MR. MOONEY: Is it true that the project is currently
21 operated in a manner that is consistent with the change
22 petitions having already been approved?

23 MS. HEFFLER-SCOTT: I don't know that I can answer
24 that.

25 MR. MOONEY: Mr. Jackson.

1 MR. JACKSON: To the best of my knowledge, the project
2 is being operated in accordance with its current permits.
3 Water is commingled with other nonproject water, that can
4 assist in -- my understanding is that can assist in
5 providing water outside the current place of use. That is
6 the limit of my knowledge on that.

7 MR. MOONEY: So it is your understanding that currently
8 no project water is being used in areas outside the
9 permitted place of use?

10 MR. JACKSON: I would need to differ to the Member
11 Units to answer that question definitively since the Cachuma
12 operations and the maintenance board is primarily
13 responsible for operations at the district level.

14 MR. MOONEY: Then also is it your understanding that
15 water being delivered under Permit 11308 is limited solely
16 to the irrigation or to the purposes of use identified in
17 that permit?

18 MR. JACKSON: Differ to Ms. Heffler to answer that.

19 MS. HEFFLER-SCOTT: We deliver water out of the Cachuma
20 Project for irrigation purposes as well as municipal and
21 industrial purposes because it is an integrated facility.
22 We cannot practically show where water under a specific
23 permit is going to be used within the service area of this
24 project. Also, the water supplies for the Member Units is
25 commingled. The project supplies commingled nonproject

1 water, and once it gets commingled in an integrated system,
2 there is no way for us to follow each molecule of water to
3 see exactly where it is going and what it is being used
4 for.

5 MR. MOONEY: I guess I will ask my question again in
6 terms of the application or the Bureau's current practices.
7 It appears that it does not -- does not it appear that they
8 are, the Bureau operates the project in a manner that is
9 consistent with the change petitions having already been
10 approved?

11 MR. JACKSON: Can you restate your question again,
12 please?

13 MR. MOONEY: From Ms. Heffler's response it appears
14 that the current operations of the project are, in fact,
15 consistent with the change petitions, with what you're
16 asking for to be approved in the change petitions; is that
17 correct?

18 MR. JACKSON: That would be my understanding and,
19 again, we would rely on the Member Units, the specific
20 districts, to definitively assist in answering your
21 question.

22 MR. MOONEY: Does the Bureau -- from the Member Units
23 does the Bureau require any proof or information that the
24 water which the Member Units are using is used consistent
25 with the terms of Bureau's permits?

1 MS. HEFFLER-SCOTT: The water that is being used by the
2 Member Units is being used consistent with the terms and
3 conditions of the water service contracts. The water
4 service contracts allows them to serve project water within
5 the intended place of use for the Cachuma Project as
6 originally approved, and that is within those boundaries of
7 the Goleta and other Member Unit water district. And as
8 those boundaries have changed over time through planning
9 actions, then it could be --

10 It stands to reason that the service area of the
11 project should have changed over time also because we are
12 delivering water specifically for use within those
13 boundaries. Water is commingled with project and nonproject
14 water. You cannot identify exactly where each molecule of
15 water goes, whether it is project or nonproject. We have
16 enough area within the gross service area to be more than
17 able to use the water within the existing place of use. The
18 demands for the Units is in excess of what the current
19 project supply is. So, we have sufficient area within our
20 existing place of use to more than use the amount of water
21 that Member Units are now contracting for.

22 MR. MOONEY: I guess, then, the response is that as
23 long as they use the water in the intended place of use
24 versus the permitted place of use that is okay with
25 Reclamation?

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CROSS-EXAMINATION OF BUREAU OF RECLAMATION

BY STAFF

MS. MROWKA: When Mr. Mooney gave his opening statement, he referred to a permit term that he has drafted up to address his protest concerns.

Has Mr. Mooney shared that with you at all?

MS. HEFFLER-SCOTT: Not that I am aware of, no.

MS. MROWKA: Would the Bureau of Reclamation have any concerns regarding a permit term such as Mr. Mooney suggests which would in essence ensure that the project is operated consistent with current operation procedures?

MS. HEFFLER-SCOTT: I don't know that I can answer that. I think it would be something that Reclamation would have to take under consideration. We would have to take it under advisement with our counsel.

MS. MROWKA: In the testimony you've indicated that Reclamation has changed the project yield downward at one point in time from 32,000 acre-feet to roughly 25,000 acre-feet at this time as a result of siltation in this facility.

Can you describe for me what factors Reclamation takes into consideration when it modifies project yield?

MR. JACKSON: Some of the factors -- this was not intended to be an exhaustive list -- but would be -- siltation would be one, and downstream needs or requirements

1 such as for the water rights or any changes in biological
2 opinions. Water that we under a yield condition that we
3 make available would be water that has a high degree of
4 certainty of being delivered in any given year. Currently
5 as you mentioned and as I testified to, it is about 25,700
6 acre-feet.

7 MS. MROWKA: Do you anticipate any modifications in
8 project yield as a result of any of the petitions to
9 actions, support?

10 MR. JACKSON: No, I do not.

11 MS. MROWKA: Just now when you said what factors you
12 used to calculate project yield, you mentioned biological
13 opinion.

14 Is Reclamation doing any revisitation of project yield
15 at this time?

16 MR. JACKSON: No, we are not.

17 MS. MROWKA: Will approval of the petitions reduce in
18 any way the accrual to storage in Lake Cachuma?

19 MR. JACKSON: No, it will not. If I understand you,
20 will it increase storage?

21 MS. MROWKA: Will it in any -- if we approve these
22 petitions, will there be any change in your accrual to
23 storage in the reservoir?

24 MR. JACKSON: No.

25 MS. MROWKA: Do you anticipate that approval of the

1 petitions would reduce spills from the reservoir in any
2 fashion?

3 MR. JACKSON: No. As we testified to earlier, there is
4 more demand in the current permitted place of use than there
5 is supply.

6 MS. MROWKA: Help me through this one for a moment,
7 please. During the majority of the year is your project
8 operated pursuant to the downstream requirements for fish
9 and downstream prior rights?

10 MR. JACKSON: It is always operated for fishery
11 requirements and water right requirements downstream.

12 MS. MROWKA: How large is the window in time when there
13 is uncontrolled spill from this facility?

14 MR. JACKSON: I would defer to our operations chief, if
15 I may, Tony Buelna to answer your question.

16 MR. BUELNA: That varies with hydrology. So if we have
17 a wet year, anything above maybe 150,000 acre-feet of
18 runoff, then the spill starts February, March, probably goes
19 all the way into June.

20 MS. MROWKA: And as I understand the testimony, you
21 don't believe any additional water, project water, would be
22 utilized if the petitions are approved. And I am just
23 clarifying then, will there be any change whatsoever in your
24 uncontrolled release-types?

25 MR. BUELNA: No.

1 MS. MROWKA: Thank you.

2 C.O. BROWN: Mr. Meinz.

3 MR. MEINZ: I don't have any.

4 C.O. BROWN: Ms. Differding.

5 Mr. Silva, any questions?

6 Did anyone come in from the Department of Water

7 Resources?

8 Or the California Sportfishing Protection Alliance?

9 That concludes cross.

10 Ms. Allen, do you have redirect?

11 MS. ALLEN: Just a few questions.

12 ---oOo---

13 REDIRECT EXAMINATION OF BUREAU OF RECLAMATION

14 BY MS. ALLEN

15 MS. ALLEN: Mr. Jackson, the Member Units contracts

16 specify that Reclamation shall make available an average of

17 25,700 acre-feet per year; is that correct?

18 MR. JACKSON: That's correct.

19 MS. ALLEN: If there are operational constraints such

20 as increased siltation, the water made available under the

21 contract may be reduced; is that correct?

22 MR. JACKSON: That's correct. Reclamation and Member

23 Units would have a discussion. We would not do that

24 unilaterally.

25 MS. ALLEN: Thank you.

1 MS. HEFFLER-SCOTT: Yes, it is.

2 MR. KIDMAN: The place of use is the same in both
3 permits?

4 MS. HEFFLER-SCOTT: Yes, it is.

5 MR. KIDMAN: Mr. Jackson, there is one dam, the
6 Bradbury?

7 MR. JACKSON: That would be correct.

8 MR. KIDMAN: And one lake, Cachuma?

9 MR. JACKSON: That would be correct.

10 MR. KIDMAN: And one Tecolote Tunnel?

11 MR. JACKSON: That would be correct.

12 MR. KIDMAN: And there is not two conduits going
13 through that tunnel?

14 MR. JACKSON: No, there are not.

15 MR. KIDMAN: Both of these permits are using the same
16 facility and serving the same area; is that correct?

17 MR. JACKSON: That's correct.

18 MR. KIDMAN: There is a difference in the permitted
19 uses between the permits; is that right, Ms. Scott?

20 MS. HEFFLER-SCOTT: Yes, there is.

21 MR. KIDMAN: The changes that Reclamation is requesting
22 in the permits is to make them identical?

23 MS. HEFFLER-SCOTT: Yes. So that both permits that are
24 used for the delivery of water out of Cachuma Project and
25 for storage water at Lake Cachuma are being used for the

1 same purposes.

2 MR. KIDMAN: We are talking about the same dam, the
3 same lake, the same water, the same tunnel, the same conduit
4 that serves the same area but for two different places or --
5 purposes of use?

6 MS. HEFFLER-SCOTT: Yes.

7 MR. KIDMAN: And you're trying to make those do the
8 same.

9 Do you have any idea why there were two permits issued
10 in the first place?

11 MS. HEFFLER-SCOTT: I believe that at the time that
12 these applications were filed back in 1946, I think it was,
13 it was somewhat the practice that different consumptive uses
14 would be covered by separate applications. So you would
15 have one application that would have been filed for
16 municipal and industrial purposes and one application filed
17 for irrigation purposes.

18 If these applications were made today to the State
19 Board, we would not file the separate applications. We
20 would file the same purposes of use under all applications
21 being filed for a single project, such as Cachuma.

22 MR. KIDMAN: It is not -- in your experience and under
23 the circumstances here we are dealing with the same water,
24 same place and all of that, there can't be a violation of
25 one permit because you're using the water for use that is

1 permitted under the other permit, right?

2 MS. HEFFLER-SCOTT: It is an integrated operation, so
3 technically I would say yes.

4 MR. KIDMAN: That is all the questions I have.

5 C.O. BROWN: Mr. Holland.

6 Mr. Mooney.

7 MR. MOONEY: No questions.

8 C.O. BROWN: Mr. Conant.

9 MR. CONANT: No questions.

10 C.O. BROWN: Mr. Wilkinson.

11 MR. WILKINSON: No questions.

12 C.O. BROWN: Staff.

13 Mr. Silva.

14 That concludes your direct, Ms. Allen. Would you like
15 to offer exhibits at this time?

16 MS. ALLEN: Yes.

17 I would like to offer Exhibits DOI 1 through 1F, DOI 2
18 through 2H, DOI 3 through 3E, and DOI 4 to be admitted into
19 evidence. And I'd also like to ask the Board to take
20 official notice of protests that were filed to the change of
21 petitions as a result of May 22, 1997 notice and the Board
22 responses thereto.

23 MS. DIFFERDING: Which notice?

24 MS. ALLEN: The May 22nd, 1997.

25 C.O. BROWN: I am going to ask you to give me those

1 exhibits again, slowly this time.

2 MS. ALLEN: DOI 1 through 1F, DOI 2 through 2H, DOI 3
3 through 3E, and DOI 4.

4 C.O. BROWN: All right. Exhibit 1 through 1F, 2
5 through 2H, 3 through 3E and Exhibit 4 have been offered
6 into evidence.

7 Are there any objections?

8 Seeing no objections, they are so accepted.

9 MS. ALLEN: Thank you.

10 I would also like to ask about the request for official
11 notice, if the Board take notice of those protests filed on
12 the June petitions. They should be in the Board files.

13 C.O. BROWN: Do you have any comment on that?

14 MS. DIFFERDING: No, I don't. I do think that as
15 public records the Board can take official notice of it.

16 Do any parties have objection to that?

17 C.O. BROWN: Are there any objections to the official
18 notice?

19 All right.

20 MS. ALLEN: Thank you.

21 Mr. Kidman, you are up.

22 (Discussion held off record.)

23 C.O. BROWN: Back on the record.

24 Go ahead.

25 MR. KIDMAN: Thank you, Mr. Brown and Mr. Silva.

1 I am Art Kidman. I am legal counsel for Cachuma
2 Conservation Release Board, CCRB as we call it. It is a
3 local government agency formed under the Joint Powers Agency
4 provisions of the California Government Code. The members
5 of the CCRB are the City of Santa Barbara, Goleta Water
6 District, Montecito Water District, Carpinteria Valley Water
7 District, and those four in addition to the Santa Ynez River
8 Water Conservation District Improvement District No. 1
9 comprise the Member Units.

10 Mr. Wilkinson is sitting at the table with the
11 witnesses, and we, both the CCRB and Improvement District
12 No. 1, have submitted notice of intent to appear,
13 designating these witnesses, and we are planning to present
14 this panel jointly.

15 Before I go further, I would like to introduce in the
16 audience just for your -- so you are aware of the interest
17 that people have in this -- the president of the CCRB, Jan
18 Abel is here. You have heard earlier from Mr. Rusty Fairly
19 who is a member of the board at CCRB, representing the City
20 of Santa Barbara where he is a city councilman. Both Ms.
21 Abel and Mr. Fairly are elected officials, and they have
22 joined us here today all the way from Santa Barbara.

23 In addition to that I have one of the more interesting
24 jobs in the world, trying to be legal counsel for this
25 group, and we do have also in the audience from the City

1 Attorney's office, Mr. Bob Pike. From the Goleta Water
2 District, their legal counsel, Russell Ruiz; and legal
3 counsel for both the Montecito Water District and
4 Carpinteria Water District, Chip Wullbrandt. So, I don't
5 have to go very far to look for other opinions as we try to
6 deal with these issues.

7 The reason why there is a CCRB and an Improvement
8 District No. 1 separately, even though we are here together,
9 presenting together, is that, as you have said earlier, the
10 Improvement District is located within the Santa Ynez River
11 Valley, and there are some differences of opinion between
12 the Santa Ynez River Valley and the South Coast of Santa
13 Barbara County where the CCRB is located. And so while we
14 are in agreement on many, many things, that hatchet has
15 never been completely buried and we are hoping that some day
16 soon that will no longer be the case. Today we are
17 together.

18 There is a sort of a bewildering array of local
19 agencies that are involved in water issues in Santa Barbara
20 County. I would -- we will be asking to introduce into
21 evidence Exhibit No. 80, which is the written testimony of
22 Mr. Chuck Evans, and that includes a glossary, if you will,
23 for a program so you can tell the players, and I would
24 commend that just to you to look at and in case there is
25 some confusion about who all the players are.

1 The reason why there are so many different
2 institutional arrangements here in Santa Barbara County is
3 that when -- there is a characteristic that Santa Barbara
4 County water people have and that is when they are
5 confronted with a particular problem or set of problems,
6 they roll up their sleeves and establish the formal or
7 informal joint committees or working groups that they need
8 to tackle the problems and try to work through the problem
9 on a collaborative and consensus basis. And then when they
10 get things all worked out, the institution goes away. That
11 has happened in the case of one organization, CPA, and it
12 promises to happen in the case of my client, CCRB. So I
13 guess someday I will be able to retire or be out of work,
14 one or the other. Again, looking forward to that day when
15 the lion and the lamb lay down together and South Coast and
16 Santa Ynez Valley live together in peace and harmony.

17 The CCRB, the Member Units, may I say, will be
18 presenting this panel of witnesses. First person that is
19 going to be called is Kate Rees. She will speak to key
20 issue number one in the notice of hearing; that is, would
21 approval of the petitions for change and purpose and place
22 of use result in any changes in Cachuma Project operations
23 and flows in the Santa Ynez River compared to operations
24 that would exist if the project's water were delivered only
25 to the areas within the original or current place of use.

1 Ms. Rees will present a report on her study showing
2 that the entire yield of Cachuma Project is and has for
3 decades been fully utilized, that water demands within the
4 permitted place of use far exceeds the project yield and,
5 therefore, that confirmation of the permitted place of use
6 to the real boundaries of the Member Units while not and
7 cannot increase the diversion of Santa Ynez River water
8 through the project or change the flows that are required in
9 the Santa Ynez River under the Board's permits, decisions
10 and orders.

11 We will then present other witnesses with respect to
12 the key issue number two, which is, has Reclamation complied
13 with Order WR 94-5. By contract Reclamation and Member
14 Units are required to work with each other on these
15 compliance issues. And when the Cachuma permits go to
16 license by the term, the Cachuma water rights will vest in
17 the Cachuma River units. And in addition to that some of
18 the conditions of Order WR 94-5 are addressed specifically
19 to the Member Units.

20 We are going to first present in regard to compliance
21 with WR 94-5 the testimony of Mr. Chuck Evans. He will be
22 speaking to a number of issues relative to WR 94-5,
23 including giving us a little more information, background,
24 on the various institutions that are involved, and he is
25 also going to describe the tremendous cost and the

1 tremendous expense that these local government agencies have
2 incurred in order to comply with the requirements of WR
3 94-5. In addition, he is going to address specifically
4 Paragraph 3D of Order WR 94-5, which is directed to or
5 requests information developed and conclusions reached, if
6 any, during the negotiations among the Cachuma Member Units
7 and the City of Lompoc according to the processes described
8 in Finding 15 of that order.

9 Mr. Evans is going to present his own testimony that
10 has been submitted in writing by Mr. Steve Mack, who is
11 unavailable to be here today because of a family health
12 emergency that has kept him there. But Mr. Evans will be
13 able to testify of his own knowledge to the materials that
14 are presented there.

15 Now, I do have a declaration, which I will make an
16 offer of proof for and later request that it be also
17 admitted into evidence, recognizing that the rules that were
18 set out have not been complied with as to this particular
19 exhibit. And that is a declaration of Steve Mack which says
20 that the testimony that he submitted in writing is true and
21 correct of his knowledge. Also explains the reason why he
22 is unable to be here today and provides his opinion that Mr.
23 Evans attended all the same meetings that Mr. Mack did and
24 is able to present the testimony of Mr. Mack as though it
25 were his own.

1 Just for bookkeeping sake, I would like to designate
2 that proffered declaration as Member Units Exhibit No. 50A.
3 Member Unit Exhibit 50 is Mr. Mack's written testimony. So
4 50A would be a declaration that it is true.

5 Again, we will be presenting the testimony of Mr. Chuck
6 Evans to make available for cross-examination the testimony
7 of Mr. Mack.

8 Following Mr. Evans, then we will present testimony
9 from Jean Baldrige. Let me digress for a second. I
10 mentioned that we will be presenting Kate Rees. Her
11 testimony will be presented as an expert witness to support
12 the report that is her testimony. The other witnesses all
13 will be presented as not experts, as percipient witnesses,
14 though some of them are experts of easily qualified and have
15 qualified before the Board in the past to be experts. Today
16 their testimony is being presented solely for the purpose
17 of describing the process for compliance with Order WR
18 94-5.

19 In that case Ms. Jean Baldrige will be presenting
20 testimony that relates to Paragraph 3D of the Order WR 94-5,
21 which requires the reports or data complication resulting
22 from the MOU's, including any extensions thereof as
23 identified in 1011. That relates to the fishery MOU's that
24 were ongoing beginning in 1993 and have continued to this
25 day. Ms. Baldrige has been involved in the Fishery MOU

1 process, understanding there have been fishery issues since
2 1993, and will also testify to the extensive efforts that
3 have gone into the product that have resulted from the Santa
4 Ynez River Fishery Program and the extensions thereof.

5 The main piece of evidence there, but not the only one,
6 is the Fish Management Plan for the Lower Santa Ynez
7 River. And while it is impressive in and of itself, the
8 Fish Management Plan alone does not do justice to the
9 tremendous effort that the Member Units and others, many
10 others, in fact, have put into grappling with the difficult
11 issues presented in Paragraph 3D of WR 94-5. There is also
12 Member Units who rolled up their sleeves and established
13 appropriate institutional and funding mechanisms and tackled
14 the job assigned by the State Water Resources Control
15 Board.

16 Following Ms. Baldrige, we will have evidence
17 presented by Mr. Bill Mills. His testimony will relate to
18 the efforts to comply with the Paragraph 3E of Order WR
19 94-5, which requires a study report or compilation of other
20 existing materials which clearly describe the impacts or
21 lack thereof of the Cachuma Project on downstream diverters
22 as compared to the conditions which would have existed in
23 the absence of the Cachuma Project.

24 Mr. Mills will testify as to yet another ongoing
25 program and yet another group that was formed specifically

1 for the purpose to develop and refine the scientific
2 knowledge concerning the effects of the Cachuma Project
3 operations on the flow regime of the Santa Ynez River
4 downstream of Bradbury Dam. Here the Santa Ynez River
5 Hydrology Committee has carefully developed the Santa Ynez
6 River Hydrology Model through several iterations, and Mr.
7 Mills will be presenting a manual that has been prepared.
8 Again, his testimony is not expert. He will not be
9 testifying as to the results or the contents of the model,
10 only as to the process and efforts that went in to
11 developing that model.

12 So we will not be in any of these instances,
13 particularly with respect to Ms. Baldrige and respect to
14 Mr. Mills, spilling over into Phase II where we have the
15 fishery issue, and the downstream water right issue
16 specifically will be keyed up in Phase II. Today only is
17 the process leading to compliance with the requirements of
18 Order WR 94-5.

19 We have prepared as exhibits, in addition to those that
20 are exhibits that are associated with the testimony that
21 will be coming from these witnesses, we have prepared a
22 compilation of the Board's own decisions and orders relevant
23 to water rights and operating conditions at Cachuma
24 Project. And I know that we have had a batch of documents
25 that have been admitted into evidence by staff exhibits by

1 use result in any change to Cachuma Project operations and
2 flows compared to operations and flows in the absence."

3 Ms. Rees, there are two exhibits that are identified as
4 Member Units Exhibits 2 and 3. Are you familiar with those
5 exhibits?

6 MS. REES: I am.

7 MR. KIDMAN: Can you tell us what Exhibit No. 2 is?

8 MS. REES: Exhibit No. 2 is my written testimony that
9 was submitted.

10 MR. KIDMAN: And No. 3?

11 MS. REES: No. 3 is my statement of expert
12 qualifications.

13 MR. KIDMAN: I would ask if you could briefly summarize
14 your statement of qualifications, please.

15 MS. REES: Yes. I am the project coordinator for the
16 Cachuma Conservation Release Board and the Santa Ynez River
17 Water Conservation District, which includes Improvement
18 District No. 1. These three agencies, as you know by now,
19 represent the five Cachuma Project Member Units.

20 I hold a Master's degree in hydrology from UCLA and
21 have completed three years of Ph.D. research in groundwater
22 hydrology at U.C. Santa Barbara. I have been thoroughly
23 involved in Cachuma Project water rights issues and fishery
24 studies on the Santa Ynez River since 1993, and have
25 participated in all studies and work under Water Rights

1 Order 94-5 that have been carried out by the Cachuma Project
2 Member Units.

3 I have also been the principal staff person responsible
4 for the change in purpose and place of use petition,
5 currently pending, and have personally conducted all of the
6 research, the data compilation, and the analyses involving
7 the place of use issues.

8 The statements I will make today are based on
9 information that I have personal knowledge for or on
10 information provided to me by experts among the Member Unit
11 staff that I believe to be true.

12 MR. KIDMAN: Thank you.

13 Just to go back then to Member Units Exhibit No. 3
14 which is your statement of qualifications, is that all true
15 and correct to the best of your knowledge?

16 MS. REES: Yes, it is.

17 MR. KIDMAN: Then the same question with respect to the
18 Member Units Exhibit Number 2 which has been submitted as
19 your written testimony. Is that all true and correct and
20 your testimony?

21 MS. REES: Yes, it is.

22 MR. KIDMAN: Thank you.

23 Now I wonder if you would briefly explain the
24 methodology that you used to prepare the study that
25 comprises the report which is your written testimony.

1 MS. REES: Certainly. Can I still say good morning?

2 Thank you, Mr. Brown and Mr. Silva for the opportunity
3 to present the oral testimony here on behalf of Cachuma
4 Member Units.

5 Key issue number one asked if changing the authorized
6 place of use boundary will result in any changes to the
7 Cachuma Project operations or to flows in the Santa Ynez
8 River compared to operations and flows that would exist if
9 water from the project were delivered only to the area
10 within the existing place of use. And the Member Units'
11 position and my opinion is that answer is, no, it will not
12 be.

13 My testimony today will focus on the change in place of
14 use. With regard to the requested change in purpose of use,
15 I concur with Reclamation's position as stated by Ms.
16 Heffler-Scott in that Reclamation operates the Cachuma
17 Project as an integrated water project. And the change in
18 purpose of use is merely to consolidate the two Cachuma
19 Project permits so purposes are consistent and uniform with
20 one another. No new purposes of use are being requested.
21 This is an administrative conforming or consolidation action
22 that will not result in any changes to Cachuma Project
23 operations or flows in the Santa Ynez River.

24 I would like to expand on the points raised earlier by
25 Reclamation in their testimony that support modification of

1 the place of use boundary so that it coincides with the
2 Member Units water service area boundary. First of all, the
3 Member Units have water delivery systems that commingle all
4 of their water supplies so it is not possible to separate
5 out Cachuma Project water.

6 Secondly, the volume of water, and this is probably the
7 most important point I would like to make today, the volume
8 of water that can be developed from the Cachuma Project is a
9 finite, fixed amount that has been fully used within the
10 existing place of use for many years. So, approval of the
11 petition will not result in any increase in water diversions
12 from water diverted by the Cachuma Project.

13 Lastly, Cachuma Project water cannot meet the demand
14 even within the existing place of use current. So a
15 boundary change would not result in increasing demand on the
16 project. Because of these reasons, approval of the
17 petitions will not result in any changes to project
18 operations or to flows in the river.

19 I would like to just briefly elaborate a little bit on
20 each of these points. First, the issue of commingling of
21 water supplies. The original water right permits for the
22 Cachuma Project which were issued in 1958 established the
23 authorized place of use boundary to be the Member Units
24 water service area boundary. So, it is -- in those permits
25 it was intended, and I believe still is intended, that the

1 place of use for Cachuma Project water application has
2 always been within the water service area of the Member
3 Units. Due to legal annexations over time, the existing
4 place of use no longer accurately represents the boundaries
5 of the water service area. So that that water service area
6 is not greater than the existing place of use by a total of
7 17,636 acres. This is a combined total from the two
8 petitions that are pending.

9 The Cachuma Project can only provide about 65 percent
10 of the total water supply for the Member Units. So
11 nonproject water has to be relied upon to meet the total
12 demand. The petitions to change the place of use were
13 required by the State Water Board only because the Member
14 Units have integrated systems in which all their water
15 supplies are commingled.

16 The Cachuma Project was constructed as a regional
17 project for the entire area. And I'll just go to the
18 exhibit a little bit. As Mr. Jackson pointed out, with Lake
19 Cachuma being here and the reservoir, the system comes from
20 the South Coast, anyway, comes through Tecolote Tunnel, and
21 it comes into the South Coast conduit, which is one conduit
22 that runs the length of the entire South Coast all the way
23 to Carpinteria.

24 It is not a separate distribution system for each
25 Member Unit; it is all one integrated project. Water has

1 also been delivered to the Improvement District No. 1. This
2 is all one project that has been operated as a whole rather
3 than in pieces. It is not possible to or even practical to
4 segregate Cachuma Project water from their other sources and
5 direct application of that water exclusively to the
6 consumers within the existing area. Nor do we feel it would
7 be reasonable to have to construct separate delivery systems
8 to do so. This would be extremely expensive, highly
9 disruptive. It would have to go through private property to
10 have a separate conduit just to have Cachuma water being
11 delivered only within the existing place of use, and to
12 possibly even result in quite a lot of environmental damage
13 particularly in areas in the foothills or other areas where
14 there may be endangered or threatened species that could be
15 possibly impacted.

16 The Member Units have had distribution systems in place
17 for their own districts before the Cachuma Project was
18 constructed, and as land was added to their water service
19 areas those existing systems simply were extended to serve
20 those lands.

21 The second point that I wanted to bring up is that full
22 Cachuma entitlement is a fixed amount that has been
23 beneficially used for many years. It is important to
24 recognize that this is the case. This fixed amount is under
25 the terms of the Member Units master water service

1 contract. It is a finite amount that has been fully and
2 beneficially used for well more than 25 years, and it will
3 continue to be fully used.

4 Prior to 1992 the Member Units met annually each year
5 to determine the amount of water that they would order from
6 the Cachuma Project. This was normally their full
7 contracted entitlement. Since the construction of Bradbury
8 Dam and Cachuma Reservoir, the capacity of the reservoir
9 has been reduced substantially due to siltation by more than
10 15,000 acre-feet. Although the Member Units by contract are
11 entitled to total available supply in the reservoir,
12 operational yield or full entitlement is now recognized by
13 Reclamation and the Member Units to be about 25,700
14 acre-feet per year, which is considerably lower than that
15 originally contracted yield of 32,000 acre-feet a year.

16 During the drought period, which was severe for us in
17 Santa Barbara between about 1989 and 1992, the Member Units
18 continued to take their full available supply even though
19 the supply had been reduced somewhat in order to prolong the
20 amount that was actually in the reservoir. We had very
21 little water during that time, so there was obviously a
22 reduction in demand at that time.

23 The full entitlement of 25,714 acre-feet per year was
24 resumed in 1992 and the Member Units have ordered that
25 amount and taken that amount plus surplus water that has

1 been available each year since that time. The Cachuma
2 Project's full entitlement has been used consistently by the
3 Member Units. This can be confirmed by historical
4 operational data from Reclamation's annual projects'
5 reports. Even accounting for several years where demands
6 were substantially reduced, if you look at a long-term
7 average annual usage of Cachuma Project water use from 1970
8 through 1999, that average indicated -- shown to be 27,574
9 acre-feet a year.

10 I have an exhibit I would like to put up so that you
11 can kind of look at that while I am talking.

12 MS. MROWKA: Mr. Brown, can we ask her to please
13 identify which exhibit number she is referring to.

14 MR. KIDMAN: Mr. Brown, this is Table 1 which is part
15 of Exhibit 2. It is a true and correct --

16 Is that a true and correct copy of what is in your
17 testimony?

18 MS. REES: Yes, it is. It is Table 1 that appears in
19 my written testimony and is blown up here so we can have a
20 closer look.

21 C.O. BROWN: Thank you.

22 MS. REES: Between 1970 and 1999, which is a long
23 period of time, 29 years, it is evident by the amount of
24 average use that Cachuma Project has been fully and
25 beneficially used for a very long time.

1 Because the water supply has been fully used for so
2 many years, adding more territory to the permitted place of
3 use will not generate an increase in yield from the project.
4 We are already using the full yield. Also, there will not
5 be any effect to the amount of water in storage. That is
6 also confined and constrained by a finite amount of water.

7 Lastly, the frequency of spills would not change by
8 changing its place of use. Incorporating the added area
9 into the permitted place of use merely results in the same
10 amount of Cachuma water being applied to a larger area.

11 The last point I would like to highlight is that demand
12 within the existing place of use exceeds Cachuma Project
13 yield. Not only has Cachuma Project been fully utilized all
14 this time, but demand within the area, within the existing
15 place of use area, has exceeded Cachuma Project yield for
16 many years. As mentioned earlier, the Cachuma Project only
17 provides about 65 percent of total water supply of the
18 Member Units and other nonproject water sources, such as
19 groundwater and other surface water sources, must be relied
20 upon to meet deficiencies within the existing place of use
21 area as well as to meet demand in the added area.

22 To more quantitatively substantiate the demand within
23 the existing place of use is truly greater than the Cachuma
24 Project entitlement, I worked with staff from each of the
25 Cachuma Project Member Units to tabulate actual water use

1 from individual water service records for representative
2 demand year. So we took individual accounts, added up the
3 usage for every single one of those accounts, totaled all of
4 those for each Member Unit to derive a grand total for a
5 representative demand year. That is presented in the next
6 table, which I would like to ask to be put up. This is
7 always from Exhibit No. 3 -- excuse me, Exhibit No. 2,
8 identified as Table No. 4, and this is just a duplicate, a
9 replication of that table in my written testimony.

10 To determine -- my purpose was to try to determine the
11 amount of water being used within the existing place of
12 use. So, first, the demand in area outside the place of use
13 was calculated by the individual accounts and added up. All
14 of the Member Units, of course, keep records for their total
15 demand for the entire service area, but we need to, in order
16 to break down the subsets, we had to go to individual
17 records. This amount was then subtracted from the total
18 demand within the aggregate Member Unit area in order to
19 derive the amount of water use within the existing place of
20 use area.

21 We found that the total demand in the entire aggregate
22 place of use area was 40,656 acre-feet. The total demand in
23 the area outside the place of use was 7,427 acre-feet.
24 Subtracting this amount from the total derived, we got
25 30,229 acre-feet of water as the amount for this particular

1 representative demand year being used within the existing
2 place of use. The Cachuma Project operational yield, as we
3 mentioned, is 25,714. So it was apparent in this year
4 certainly that more than 7,500 acre-feet of water was needed
5 just within the existing place of use in order to meet
6 demand there.

7 Although this calculation was carried out for a single
8 representative demand year only, by way of illustration, I
9 also worked with Member Units staff in examining and
10 evaluating several other years to get a sense of was this
11 true all the time. And obviously demand fluctuates from
12 year to year, so the numbers are going to change from year
13 to year. What I did find after reviewing all the water
14 account data was that if I carried out the same precise kind
15 of time-consuming calculation for virtually any other year,
16 it would yield similar results in that the total Cachuma
17 Project yield is not sufficient to meet demand within the
18 existing place of use.

19 So, in short, increasing the area within the authorized
20 place of use would not increase the demand on the Cachuma
21 Project because it is already being fully used. In
22 addition, Cachuma Project water is one of the least
23 expensive water supplies for the Member Units, and they have
24 to pay for that water whether they use it or not. So it
25 will always be used.

1 In summary, the Member Units contract for the maximum
2 amount of legal entitlement of water from the Cachuma
3 Project and no additional or greater water would be made
4 available as a result of changing the authorized place of
5 use. Because the project is fully used and beneficially
6 used by the Member Units within the existing place of use,
7 changing the boundaries to coincide with the Member Unit
8 water service area boundary will not increase diversions
9 from the Santa Ynez River or cause an increase in the demand
10 from the Cachuma Project. Consequently, there will be no
11 effect on Cachuma Project operations. As mentioned earlier
12 by Reclamation, the Cachuma Project master contracts
13 subordinates itself to Water Rights Order 89-18 and 94-5.
14 So the supply of Cachuma Project water available for the
15 Member Units is the net amount after calculating and
16 reserving as credits in the lake the amount of water that is
17 required to be released downstream to protect public trust
18 resources and also downstream interests.

19 It is my opinion that approval of the change petitions
20 is the appropriate administrative method to confirm the
21 permitted place of use to the water service area of the
22 Member Units and that this action will not result in any
23 changes to the Cachuma Project operations or flows in the
24 Santa Ynez River compared to operations or flows that would
25 have existed if project water were delivered only to an area

1 within the existing place of use. So I, therefore, request
2 from the State Water Resources Control Board that these
3 change petitions be approved.

4 Thank you.

5 MR. KIDMAN: Let me ask just one question. Evidently,
6 there is a deficiency within the current permitted place of
7 use and a deficiency obviously then for the territory that
8 is outside the place of use.

9 Where do the Member Units get the other water?

10 MS. REES: Each of the Member Units has available to
11 them other sources of water supply. This is made up of
12 either groundwater supplies or other surface water
13 supplies. In addition, the Santa Barbara County is now
14 connected to the State Water Project and State Water Project
15 water is also available to the Cachuma Member Units. Any
16 additional water that is needed for demand the Member Units
17 must rely on these other sources of water in order to meet
18 total demand.

19 Again, the only reason that growth can occur is because
20 of availability of these other sources of water. They are,
21 however, all commingled into one integrated system, and you
22 can't separate the molecules necessarily so that some
23 molecules go to one place and others to a different place.

24 MR. KIDMAN: The Cachuma Project come first among all
25 these different sources of supply or were there existing

1 projects or sources supporting development even before
2 Cachuma Project?

3 MS. REES: There were other sources of water available
4 before the Cachuma Project was constructed. For example,
5 the City of Santa Barbara has served water to their water
6 service area since the 1910s and 1920s. Their primary
7 additional service water supply is Gibraltar Reservoir and
8 another tunnel through the mountains to apply water. There
9 is also groundwater available and has been available long
10 before the Cachuma Project was available.

11 Montecito Water District has surface water from Juncal
12 Dam and Jameson Reservoir. They too have groundwater
13 resources as do Carpinteria Valley Water District, Goleta
14 Water District and Improvement District No. 1.

15 In examining land use maps starting as far as back as
16 1938, much of this land, a large percentage of it, was
17 developed from groundwater sources or other surface water
18 sources and the Cachuma Project did not cause development of
19 this land, it simply became an additional water source upon
20 which to rely.

21 MR. KIDMAN: Thank you, Ms. Rees.

22 I wonder, do we want to start on another witness?

23 C.O. BROWN: We will take our lunch break now and meet
24 back here in one hour.

25 MR. KIDMAN: Mr. Brown, just one thing. I have

1 available copies of what we have identified as Exhibit 50A
2 for other legal counsel to take a look at to see if they
3 have objections.

4 C.O. BROWN: If you look at those, Ms. Differding. We
5 will meet back here in one hour.

6 We stand adjourned until that time.

7 (Luncheon break taken.)

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1 AFTERNOON SESSION

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3 C.O. BROWN: We will come back to order.

4 Mr. Kidman.

5 MR. KIDMAN: Mr. Brown, Mr. Silva.

6 Before the lunch break we had just concluded with
7 direct on Kate Rees, and we will make her available for
8 cross-examination at the conclusion of the panel. Our next
9 witnesses all will be addressing the key issue number two:
10 "Has Reclamation complied with Order WR 94-6?"

11 Before we broke for lunch, I made available to all
12 legal counsel a copy of what we've marked for identification
13 Member Unit 50A which is a declaration of Steve Mack, a
14 witness whose written testimony was submitted to the Board
15 on a timely basis, but who for unforeseen and unavoidable
16 reasons is unable to be here today. We would like to offer
17 Exhibit 50A into evidence along with all of the other
18 exhibits at the end of the testimony. I just want to make
19 available an opportunity if there is any objection.

20 C.O. BROWN: Thank you, Mr. Kidman.

21 We will talk about Exhibit 50A now to see if there is
22 any objections to it being offered into evidence.

23 It looks like there is none, so we can do so.

24 MR. KIDMAN: Thank you.

25 Chuck Evans is our next witness.

1 Chuck, could you state your full name and your
2 occupation for the record.

3 MR. EVANS: My name is Charles Evans, also known as
4 Chuck Evans. I am the consultant manager for Cachuma
5 Conservation Release Board. I have served as CCRB manager
6 for the past 24 years. Also concurrently I have been the
7 general manager for Montecito Water District for the past 22
8 years until I retired last December. I also served
9 previously as the vice chair of the Regional Water Quality
10 Control Board.

11 MR. KIDMAN: Thank you.

12 I wanted to then ask you, Mr. Evans, if you have
13 reviewed Exhibit 50, Member Units Exhibit 50, which is the
14 written testimony of Steve Mack?

15 MR. EVANS: Yes, I have.

16 MR. KIDMAN: Are you familiar with all the events of
17 your own knowledge that are described in the testimony of
18 Mr. Steve Mack?

19 MR. EVANS: Yes.

20 MR. KIDMAN: Are you able to adopt and swear to that
21 testimony as being true and correct to the best of your
22 knowledge?

23 MR. EVANS: Yes, I am.

24 MR. KIDMAN: Exhibits, Member Unit Exhibits 51 through
25 75 are associated with, identified and referred to in the

1 testimony of Steve Mack. Are you familiar with all of those
2 exhibits?

3 MR. EVANS: Yes, I am.

4 MR. KIDMAN: Have you examined them and found them to be
5 true copies of the documents they purport to represent?

6 MR. EVANS: Yes.

7 MR. KIDMAN: Exhibit 80 is your written testimony; is
8 that correct?

9 MR. EVANS: Yes, it is.

10 MR. KIDMAN: Is that testimony all true and correct of
11 your own knowledge, to the best of your knowledge?

12 MR. EVANS: Yes, it is.

13 MR. KIDMAN: Exhibits 81 through 85 are associated
14 with your testimony and referred to in your written
15 testimony, and are all of those documents true and correct
16 copies of the originals they purport to represent?

17 MR. EVANS: Yes, they are.

18 MR. KIDMAN: Finally, then, Exhibit 100, Member Unit
19 Exhibit 100 through 115 is a compilation of prior orders and
20 decisions of the State Water Resources Control Board with
21 respect to the Cachuma Project. Have you examined those
22 documents and are they true and correct copies of the
23 original that they purport to represent?

24 MR. EVANS: Yes, I have examined them and, yes, they
25 are true and correct.

1 MR. KIDMAN: Mr. Evans, are you familiar with Order WR
2 94-5?

3 MR. EVANS: Yes, I am.

4 MR. KIDMAN: The requirements of Paragraph 3D of 94-5?

5 MR. EVANS: Yes.

6 MR. KIDMAN: That paragraph requires Reclamation and
7 with Member Units to provide information developed and
8 conclusions reached, if any, during the negotiations among
9 the Cachuma Member Units and the City of Lompoc according to
10 the process described in Finding 15 of that order.

11 Could you provide your summary of the processes that
12 have gone on in connection with the negotiations between the
13 Cachuma Member Units and the City of Lompoc, please.

14 MR. EVANS: Yes.

15 We would like to start out, Mr. Brown, Mr. Silva, and
16 we talk -- I am sure you've heard a good bit about the
17 number of different agencies that are involved in the
18 Cachuma Project, and I would just like to comment about
19 that. I would like to refer to Reclamation 1D, the map.

20 First, the Cachuma Member Units are along the South
21 Coast; here Goleta, Santa Barbara, Montecito and Carpinteria
22 and the Improvement District No. 1 is shown in purple.

23 CCRB, the Cachuma Conservation Release Board, is these four
24 South Coast Member Units, and they, of course, together with
25 ID #1 -- ID #1 is different, shaded from the parent

1 district, it is the fifth Member Unit of the Cachuma
2 Project. And we've already talked about the parent
3 district. The parent district is the district that
4 encompasses all of the Santa Ynez River Valley from just
5 below the dam to the ocean, and, of course, it consists of
6 quite a large area. It does include ID #1, the area in
7 purple.

8 I would like to point out that in 1993 the Cachuma
9 Project Authority, CPA, 1993, was formed to renew the
10 contract with the Bureau of Reclamation, the Cachuma Project
11 contract. So that consisted, the CPA consisted of the four
12 South Coast Member Units, the CCRB Member Units and ID #1.
13 That entity then, the Cachuma Project Authority, was merged
14 into the Cachuma Operation and Maintenance Board, COMB, in
15 1996. COMB is responsible, Cachuma Operation and
16 Maintenance Board, is responsible for the facilities of the
17 project, the Cachuma Project, other than the dam itself,
18 the Tecolote Tunnel and then the pipeline that carries water
19 all the way down through the South Coast Member Units down
20 into Carpinteria. So just a very brief comment about the
21 agencies involved.

22 MS. ALLEN: If I could just --

23 C.O. BROWN: Yes, Ms. Allen.

24 MS. ALLEN: If I could just clarify for the record that
25 Mr. Evans was referring to DOI 3B.

1 MR. EVANS: Thank you.

2 C.O. BROWN: Thank you, Ms. Allen.

3 MR. EVANS: I would like to comment about the processes
4 that have been occurring and, of course, that specifically
5 respond to Section 3D of the State Board order. And as part
6 of that I would like to talk for just a moment about the
7 commitment that has -- that the Member Units, the Cachuma
8 Project Member Units, have engaged in, commitments both
9 financially and as well as effort. The costs, if I could
10 particularly comment about that, in complying with State
11 Board Order 94-5, the Cachuma Member Units have spent \$4.5
12 million. This includes costs for the EIRs, modeling costs,
13 fisheries evaluations and management plans, the vegetation
14 study, the work plan manager; and I would also like to
15 comment that the projected costs of fisheries restoration
16 projects over the next several years are projected to cost
17 \$3.2 million, just to give you an indication of what these
18 costs are.

19 I understand that the Board deals with CalFed, and
20 these are perhaps pretty small numbers compared with those
21 that you normally deal with. It is a small project, 25,700
22 acre-feet of yield, and these, of course, are pretty big
23 numbers to the five Cachuma Member Units.

24 There have been three processes that have occurred over
25 the past several years, and I would like to comment briefly

1 about those. In 1993 there was an agreement to negotiate,
2 and this was between the CPA, the Cachuma Project Authority,
3 and the City of Lompoc, an agreement to negotiate to address
4 Lompoc's water quantity and quality concerns that they had
5 at that time regarding the Cachuma Project impacts, if any,
6 on their groundwater supply and salinity in the Lompoc
7 Plain. The goal at that time was to develop a consensus
8 regarding how to analyze the water resources of the Lompoc
9 Plain and then to develop models to be used in the
10 management of those water resources.

11 During those negotiations, Lompoc presented its claim
12 that the Cachuma Project had degraded the quality of
13 groundwater pumped by Lompoc by some 40 milligrams per
14 liter, based on the modeling studies of Durbin-Lebkoff, its
15 consultants.

16 There were some water management solutions that were
17 discussed and considered at that time. The Cachuma Project
18 Member Units offered to temporarily exchange State Project
19 water for Cachuma below narrows account water. This is
20 water that builds in the lake and its delivered then to the
21 below narrows area, which is the Lompoc Plain area. And,
22 of course, there is above narrows account that would be from
23 the area, essentially from the dam to the narrows. This
24 would be for exchanging that on a temporary basis until the
25 technical issues regarding water quality impacts, if any,

1 were resolved.

2 Lompoc also offered pumping the poor quality water from
3 the shallow aquifers of the Lompoc Plain and discharging
4 that to the ocean.

5 There were a total of 17 meetings held between the CPA
6 and Lompoc. There were technical meetings and there were
7 policy meetings. So it did involve -- policy meetings were
8 elected officials, and the technical committees were, of
9 course, the managers of the various districts and also
10 technicians, consultants hired by the various parties.

11 In August 1995, Lompoc City Council held a workshop and
12 Tim Durbin, their consultant, presented the model results,
13 that there was no overdraft in the Lompoc basin. There was
14 no impact of Cachuma on groundwater levels of the Lompoc
15 basin. He did also conclude that Cachuma had impacted the
16 Lompoc basin groundwater quality and had caused increased
17 treatment costs.

18 At that time or shortly thereafter, Lompoc announced a
19 claim against Reclamation for alleged water quality impacts
20 caused by Cachuma. Then this October 1995 Lompoc withdrew
21 from that negotiation process.

22 There was agreement, though, that the models -- there
23 should continue to be discussions on the models, that that
24 process had started and it should proceed, perhaps this time
25 with a little more technical emphasis, and so the work plan

1 manager process was created. And it essentially was to try
2 to reach a common agreement on the technical issues
3 involved, to see if that information couldn't be provided to
4 the policy makers so policy decisions could be reached.
5 That was in June of 1996.

6 The work plan manager process was created and a
7 steering committee was established and a consultant was
8 hired. There were a number of meetings of that committee
9 and several progress reports, of course, to the steering
10 committee. But in June 1999, the parties concluded that the
11 study just was not completable, that the consensus that the
12 study approach, the technical evaluation and methodology
13 used by the consultant could not satisfactorily answer
14 questions about the impacts of the Cachuma Project, and so
15 they terminated the work plan manager process at that time.
16 In particular, there was no consensus on the use of the
17 Durbin surface water model that had been prepared.

18 The parties did concur that the process had provided a
19 forum for the parties, for all of us, to become more fully
20 informed, and it had -- and that the process had refined
21 some of the questions that needed to be resolved. And as a
22 matter of fact then that process and the work that was done
23 at that time became the basis for the water quality
24 modeling, the groundwater analysis that is being included in
25 the current EIR, will be included in the current EIR that is

1 being prepared to satisfy WR 94-5.

2 Then the third process occurred. It was the current,
3 actually the current Santa Ynez River negotiations. It
4 started in 1999 when CCRB and ID #1 invited Lompoc and the
5 parent district, Santa Ynez River Water Conservation
6 District, to participate in discussions that could lead to a
7 cooperative program of water quality improvement for the
8 Lompoc groundwater basin. Lompoc and the Santa Ynez parent
9 district agreed to participate. Some of the proposals that
10 were put forth as possibilities, Member Units offered to at
11 this time to permanently exchange State Project water for
12 below narrows account water. Lompoc proposed initially for
13 compensation for increased treatment costs. This was their
14 concern.

15 The parties first met in June 1999 with their two
16 elected officials from each of the four parties. This is,
17 of course, CCRB, ID #1, the parent Santa Ynez district and
18 the City of Lompoc. The managers also attended these
19 meetings and provided staff assistance. One interesting
20 feature was that they specified in starting this process
21 that no attorney would be present, and so we proceeded with
22 that.

23 Twelve meetings have been held since that time, and now
24 two more are scheduled for in the near future. The goal of
25 this committee, the ad hoc committee for the Lompoc

1 negotiations, was to attempt to reach an agreement whereby
2 these four parties could go into this water rights hearing
3 in a mutually supportive manner. And interestingly, all of
4 the representatives to this ad hoc committee have signed a
5 recent letter that they believe they are close to reaching
6 an agreement. The next meeting of this ad hoc committee is
7 scheduled for November 20th. I personally am hopeful and
8 optimistic that an agreement can be reached prior to Phase
9 II of these water rights hearings. All the parties have
10 worked in good faith to try to reach an agreement, and I
11 feel confident that we can reach an agreement. I think this
12 does then answer, provide documentation regarding the
13 discussions with Lompoc in compliance with Section 3D of
14 Board Order 94-5.

15 MR. KIDMAN: Thank you, Mr. Evans.

16 A couple of specific questions. When was the last time
17 that the Member Units met face-to-face with the City of
18 Lompoc in these negotiations that you described?

19 MR. EVANS: Last Wednesday.

20 MR. KIDMAN: Wednesday of last week?

21 MR. EVANS: Yes.

22 MR. KIDMAN: This morning Mr. Mooney presented policy
23 statements to the effect that his client, Lompoc, has now
24 concluded that if the project is -- if the Cachuma Project
25 is operated according to the current operating regime under

1 the permits and orders of the State Water Resources Control
2 Board and if the current practice of blending State Water
3 Project water with native Santa Ynez River water in Lake
4 Cachuma is continued, that there is a conclusion or belief
5 that the impacts of the Cachuma Project will be reduced to
6 no impact or that the prior, the preproject, condition will
7 be replicated.

8 My question is: In the processes that you have been
9 talking about do you concur that there has been progress
10 toward that kind of resolution?

11 MR. EVANS: Yes. There has definitely been progress
12 towards that.

13 MR. KIDMAN: We were also informed in Mr. Mooney's
14 presentation that if appropriate terms and conditions were
15 put into the operations permit that continued the existing
16 regime, that Lompoc would withdraw its protest to the change
17 of place of use.

18 Have you seen any written presentation of what such a
19 term and condition would look like?

20 MR. EVANS: I have not.

21 MR. KIDMAN: Is it your belief based on your experience
22 through all of these processes since 1993 that the Member
23 Units would consider such a proposal and see if it had merit
24 for the Member Units?

25 MR. EVANS: Yes, certainly consider it. It sounds very

1 promising.

2 MR. KIDMAN: Thank you.

3 I don't have anything further for Mr. Evans, and we
4 would present him for cross-examination at the conclusion of
5 the panel.

6 Our next witness is -- change the batting order today.
7 Make sure that I'm okay here -- Jean Baldrige. Jean is
8 being presented as a nonexpert, percipient witness although
9 she has extensive knowledge about fish issues that is an
10 issue for Phase II of the hearings and will not be
11 approached today. Today the purpose of her testimony is to
12 describe to the Board the extensive efforts that have --
13 that the Member Units and others, many others, in fact, have
14 engaged in to try to comply with the orders of this Board.
15 So her testimony is presented in response to key issue
16 number two: Has Reclamation complied with Order WR 94-5?

17 Ms. Baldrige, would you please state your full name and
18 occupation.

19 MS. BALDRIDGE: My name is Jean Ellen Baldrige, that
20 is B-a-l-d-r-i-d-g-e. I am a fisheries consultant.

21 MR. KIDMAN: Thank you.

22 Are you familiar with Member Unit Exhibit 10?

23 MS. BALDRIDGE: Yes, I am.

24 MR. KIDMAN: Will you identify that?

25 MS. BALDRIDGE: That is my written testimony.

1 MR. KIDMAN: Is that testimony true and correct of your
2 own knowledge to the best of your own knowledge and belief?

3 MS. BALDRIDGE: Yes, it is.

4 MR. KIDMAN: Member Unit Exhibits 11 through 15 and
5 Member Unit Exhibits 20 through 35 are all associated with
6 your written testimony and referred to in your written
7 testimony. Are you familiar with those documents?

8 MS. BALDRIDGE: Yes, I am.

9 MR. KIDMAN: Have you had an opportunity to review all
10 of those documents?

11 MS. BALDRIDGE: I had an opportunity to examine them.
12 And they seem to be what they purport to be.

13 MR. KIDMAN: Thank you.

14 Would you care to advise the Board concerning the
15 efforts of the Member Units to comply with 3B of Order WR
16 94-5 which requires the reports or data compilations
17 resulting from the MOUs, including any extensions thereof as
18 identified in Findings 10 and 11 of Order 94-5?

19 MS. BALDRIDGE: Be happy to.

20 I am here to talk about 3B, and I have been -- we've
21 been very busy complying with 3B as you can tell from the
22 exhibits here. And I did spend a lot of the money that
23 Chuck was talking about earlier in our process. We are
24 looking forward to spending some more money implementing the
25 process as we move forward.

1 I have been very pleased, both personally and
2 professionally, to have the goal that I have in this Santa
3 Ynez River Technical Advisory Committee. I started working
4 in the Santa Ynez in 1990. In fact, we had hearings here in
5 this room, and there were a lot of perspectives that were
6 given during those hearings. They were public trust issues.
7 One thing all the parties agreed was we had very little
8 information to make the kind of decision we were trying to
9 make at that time.

10 Now, 1990 was in the middle of a drought. So as we
11 left those hearings, there wasn't a lot that happened for
12 three years. But in 1993 the rains came and so did the
13 fish. And in that we got going on the MOU that was
14 established to take a look at the fisheries resources there
15 and to collect some information that could be used later in
16 the hearings. So we had a number of parties that came
17 together. And the original idea was really to collect
18 information that could be shared as we went forward with
19 this process.

20 The MOU is put in place in 1993. That is when we began
21 our studies. We had annual MOU's and the signatories to the
22 MOU were the Bureau who had a special role in the process;
23 the Fish and Wildlife Service; the California Department of
24 Fish and Game who had a special role in the Technical
25 Advisory Committee; and then we had the Cachuma Member Unit,

1 the parent district, the Santa Ynez Conservation District
2 as we called them; and Santa Barbara County, their flood
3 control and water agency was involved as well as the city of
4 Lompoc.

5 We had a two-tiered process which operated under the
6 MOU. And the first group was called the Consensus
7 Committee. And they provided policy direction, looked for
8 funding and provided approval of the products, and they had
9 a very specified membership. You had to have committed by
10 signing the MOU to be a member of the Consensus Committee.

11 The Technical Advisory Committee really focused on
12 technical aspects, and we were chaired by the Department of
13 Fish and Game. The Bureau chaired the Consensus Committee.
14 We had very open membership. All you had to commit to be a
15 member of the TAC was to come to one of our meetings and
16 engage in any way in our process. And our role really was
17 to provide and implement the monitoring program and the
18 resource investigations that we had.

19 We had a number of participants that came to give of
20 their talent and time in the TAC process which included a
21 number of other federal agencies: the National Fishery
22 Service, the Forest Service who has property in the upper
23 part of the basin. The MFCS was instrumental as we were
24 moving to work with local landowners on various issues. We
25 had California Trout, the Urbin Creeks Council, as well as

1 the Environmental Defense Center, local Santa Barbara County
2 Fish and Game commissioners and landowners. It was really a
3 process that worked very well on the ground.

4 The TAC was led by the biosubcommittee, which was a
5 group of three biologists. It was chaired by the Department
6 of Fish and Game. Chuck Hanson served as representative for
7 ID #1 and I served as the representative of CCRB starting in
8 1993. The biosubcommittee led the TAC. We designed and
9 conducted resource investigations for the first couple of
10 years. In '94 we found there was more work to do than we
11 could all do so we hired ourselves a project biologist. And
12 he has performed with staff technicians. The
13 biosubcommittee provides oversight on all the TAC products.
14 We also have a special role in allocating a fishery reserve
15 account, which is water specified in 1993 under the MOU and
16 acknowledged in '94 to conduct studies of different types of
17 investigations and also to make for releases of fish
18 health.

19 As we worked through the process, we included another
20 group which we called the biosubcommittee plus. These were
21 people that were very interested in the ongoing process, and
22 they worked with us on lots of products. They really gave
23 an awful lot of themselves into this process.

24 In 1996 we decided that we really were in this for the
25 long term and we didn't really need annual MOUs anymore. We

1 instituted a five year MOU which helped us get through the
2 year 2000. In that there was a position named as the
3 Project Coordinator. I took the project coordinator role
4 when I assumed the CCRB seat on the biosubcommittee.

5 We also expanded the resource investigations at that
6 time to include some work above the reservoir looking at the
7 upstream, taking a watershed approach. We did a lot more
8 work in the tributaries as well as completing some of the
9 resource investigations on the main stem.

10 We had a number of regular meetings of the TAC and
11 Consensus Committee, and we have included the minutes of
12 those in the exhibits. The CC, the Consensus Committee, we
13 call it, met quarterly. TAC met more frequently. We had
14 about 35 TAC meetings over the course of the years that we
15 were engaged in and 15 Consensus Committee meetings. We
16 started meeting separately and then we joined meetings
17 because the agendas were so similar. It seemed like people
18 really only wanted to sit through the project biologist's
19 report once, not twice. We had many more conferences and
20 phone calls with the biotech committee. Those are outlined
21 in Appendix A of my testimony.

22 The TAC was responsible for a lot of products that as
23 we sit here today, looking at what we have available for
24 information on public trust resources, we have a tremendous
25 amount that has been collected over the last seven years.

1 When we were meeting here before in 1990, we had reports
2 that Chuck Labol [phonetic], the Fish and Game employee, had
3 done in 1944 prior to construction. We had one other study
4 that was done in 1988 by Fish and Wildlife Service on South
5 Salsipuedes Creek. Now we have a lot of information that's
6 been compiled.

7 First, in the synthesis report where we did our work
8 from 1993 to 1996 to organize the information to move
9 forward with the development of Fisheries Management Plan.
10 We've looked at fish passage requirements in the main stem.
11 We've identified passage barriers in the tributaries.
12 We've done habitat evaluations, looking at the relationship
13 of stream flow to fish habitat in the river. We've also
14 conducted public education workshops to help landowners
15 understand more about what the requirements are of steelhead
16 and other endangered species that are found on their
17 property. And we have done a lot to get grant applications
18 to move the program forward. We have been fairly
19 successful with getting grant applications and interesting
20 others in the program in the Santa Ynez.

21 One of the major parts of the work is the fieldwork,
22 and we have done a lot of work in that, looking at fish
23 distribution abundance as well as snorkel surveys where we
24 put a little face mask on and fins and jump in the water
25 with the fish and see where they are hiding; spawning

1 surveys, to look for nests in tributaries and a lot of
2 habitat characterization, looking at how water temperatures
3 warm as you move down through the system and what areas are
4 being used by other sensitive resources like red-legged
5 frogs, western pond turtles, willow flycatchers and, of
6 course, the Scotts Bireo.

7 We began development of the plan --

8 MR. KIDMAN: For identification, the charts that are
9 shown are attached to your testimony?

10 MS. BALDRIDGE: When I made these pretty by adding
11 color to them, and I removed some of the detail associated
12 with them, but they are essentially the same charts.

13 In 1996 we were moving forward with our resource
14 investigations, and I was very pleased to find that parties
15 felt they could not only move forward with the resource
16 investigation, but they can begin to develop a plan that
17 they could all agree to rather than using the information
18 independently.

19 We started out with the development of identifying what
20 types of management alternatives would we embark on in the
21 Santa Ynez River, you know, what is possible. We had a lot
22 of brain-storming sessions with the biosubcommittee and with
23 others who were interested and came up with lots of wild and
24 crazy ideas. But there again in those wild and crazy ideas
25 were some very good ideas. We went down through the process

1 to do some screening and ranking of the alternatives. We
2 had 48 alternatives that passed the feasibility test. And
3 we moved those forward into the development of the plan.

4 As we finished the -- basically, our TAC process was to
5 meet in a smaller group, develop a product, have that
6 product reviewed by the TAC and Consensus Committee at large
7 and then send that out for public review. We were really
8 wanting to be a very open process. As you know, most of the
9 land in the Santa Ynez Valley is owned by private parties.
10 Their cooperation and participation is very important to the
11 success of the overall plan.

12 As we developed the screening and ranking alternatives,
13 one thing that happened in 1997, which Mr. Jackson
14 mentioned, was the listing of the steelhead. So, the stakes
15 were higher than before. We felt it was very important to
16 develop a local plan that would help National Fishery
17 Service understand the issues as they moved forward with
18 their Section 7 consultation with the Bureau.

19 So we moved rapidly into the development of the plan
20 with management alternatives. We had an opportunity to meet
21 with the public on the management alternatives and explain
22 to them what some of our ideas were and get comments back
23 from them. We met in the Valley and in Santa Barbara to
24 explain first what we were up to, and then we met about a
25 month later to take their comments. That process worked

1 very well and we had a lot of good public input.

2 We moved forward through that next phase, which was
3 really to develop an outline for the plan, the actions that
4 we would take, why we thought that was important. We had a
5 number of products that were coming along -- these are
6 listed in green -- that helped us move forward with the
7 development of the plan.

8 Along in November of 1998 we had a draft plan that we
9 circulated and that we found that we had some additional
10 information that we needed to work with on various working
11 groups, so we created the technical work groups on each
12 element of the plan that was important. So we had a working
13 group that was working on the main stem river downstream of
14 the dam. We had a working group that worked on Hilton Creek
15 which is a special tributary right next to Cachuma which had
16 a lot of enhancement and opportunities in it. We also had a
17 working group that worked more generally in the other
18 tributaries which provided extremely important habitat both
19 for reg-legged frogs and steelhead.

20 And our last working group was the working group that
21 worked on management options upstream of the reservoir.
22 These working groups continued to produce their products.
23 They each produced an appendix to the Fish Management Plan.

24 After we had the development of the draft plan we were
25 fortunate in having the plan well enough together that it

1 could be used as a basis for moving forward with the
2 biological assessment under Section 7 consultation. One of
3 our goals was to have good direct input into that process.
4 Since it is a federal process, the TAC process served as
5 sort of the information collection for that, and a lot of
6 the ideas that were embodied in the Fish Management Plan
7 went into Section 7 consultation.

8 MR. KIDMAN: Excuse me, Ms. Baldrige, you are now
9 pointing to the second chart. Why don't we explain how
10 those fit together and how they relate to what is in your
11 testimony.

12 MS. BALDRIDGE: Thank you for asking me that, Mr.
13 Kidman. This chart is in my testimony, and it is a timeline
14 of the activities associated with the development of the
15 Fish Management Plan. And so this chart goes from 1997
16 through '99, and '99 starts over here and goes down through
17 2000.

18 Now I am through '98, and I am in 1999, and we are into
19 the Section 7 consultation and full development of the
20 biological Fisheries Management Plan.

21 The Bureau and NMFS begin in a number of technical
22 meetings. We thought it was very important that we included
23 the results of the consultation within the Fisheries
24 Management Plan. For it to be successful we needed to have
25 the basis of the biological opinion within the plan because

1 if our plans were fairly divergent, we would have a much
2 more difficult time implementing them. So we took the best
3 we could from the information from the process to move the
4 plan forward. As we got here to July we had a draft plan.
5 One of the things we relied upon was the revised project
6 description that came out of the Section 7 process which
7 identified a lot of the actions that the Bureau and NMFS
8 were interested in moving the project forward in compliance
9 with ESA.

10 Based on that we put out some additional drafts. We
11 got our comments from the internal working group, and then
12 we moved forward with that plan into the public comment
13 period. We were trying very hard to get this plan done in
14 time for it to be used in this particular hearing. We had
15 to squish our comment period a little bit, but everyone was
16 very helpful to us in moving through that process, and we
17 got things back.

18 We had -- the final biological opinion came out in
19 September of this year. We used that document to make some
20 final corrections and changes, and one month later we put
21 out the Fisheries Management Plan.

22 Well, the plan is produced; it is a final plan. We've
23 had wonderful involvement from the local community, from the
24 state and federal resource agency and even from the staff
25 here. They've been very helpful in moving that product

1 forward.

2 One thing that was interesting to me about the plan is
3 that it -- parts of it are already being implemented. Even
4 before it was truly done we are already moving forward to
5 implement the most important projects. One of the projects
6 was dedicated about a year ago, the supplemental watering
7 system for Hilton Creek, and that was funded by the Bureau
8 of Reclamation and by the Cachuma Member Units, and that
9 project is ready to deliver water now to Hilton Creek this
10 year.

11 We have also moved forward on a number of demonstration
12 projects, looking at what can be done on erosion control.
13 We got a grant from the Regional Water Quality Control
14 Board, State Board, to move that process forward to look at
15 reduction of nonpoint source sediment problems.

16 So, we continue to seek money for grant applications.
17 We have gotten some money, Prop 12 money, and we are ready
18 to move forward with some of the surcharge options as well
19 as the Hilton Creek barrier road. Passage barrier there we
20 are removing. So it's been a very active group. It's been
21 moving forward right along. We have been able to interest
22 some of our other local agencies, like Caltrans, into fixing
23 some of their bridge crossings and culverts. So we have
24 become a resource for other people within the Valley to turn
25 to, when they have issues relative to fish and wildlife

1 habitat.

2 As Chuck mentioned, the overall expected cost for the
3 plans that we have come up with are about 3.2 million. And
4 we will be continuing to do monitoring under the biological
5 opinion as well as under the work that we do in general to
6 support the Fisheries Management Plan.

7 I have been, as I said, very proud to be a part of this
8 process. I have been very pleased with the evolution that
9 we have been through, basically coming from a group of
10 divergent parties to a real team that works together to
11 solve local issues. We have a good local plan that we are
12 implementing.

13 Thank you.

14 MR. KIDMAN: Thank you.

15 Our next witness is Bill Mills. Bill is being
16 presented, as are the last two, as a nonexpert, percipient
17 witness to talk about facts that he has in his own knowledge
18 and not to deal with any expert opinion relative to the
19 impacts of the Cachuma Project on downstream water rights,
20 which, again, is a matter which is reserved for Phase II of
21 the hearing. Mr. Mills' nonexpert percipient testimony is
22 addressed to key issue number two: Has Reclamation complied
23 with Order WR 94-5?

24 Mr. Mills, would you state your full name and your
25 occupation for the record, please.

1 MR. MILLS: My name is William R. Mills, Jr. I am
2 currently the General Manager of the Orange County Water
3 District. I am representing the Cachuma Conservation
4 Release Board, and I reside at 4151 Siesta Lane in Yorba
5 Linda, California.

6 MR. KIDMAN: Thank you.

7 Mr. Mills, are you familiar with Member Units Exhibit
8 90?

9 MR. MILLS: Yes, I am.

10 MR. KIDMAN: Would you identify that, please.

11 MR. MILLS: Yes. I am familiar with Exhibit 90. That
12 is a true and accurate copy of my testimony.

13 MR. KIDMAN: Thank you.

14 Exhibit 91, would you identify what that is.

15 MR. MILLS: Exhibit 91 is a manual of the Santa Ynez
16 River hydrology system, manual model, and that is also a
17 true and accurate copy of the original. It is dated
18 September 7, 1997.

19 MR. KIDMAN: Mr. Mills, we are presenting your
20 testimony in response to key issue number two and
21 specifically to Paragraph 3E of Order WR 94-5. That
22 provision requires submission of a study report or
23 compilation of other existing materials which clearly
24 describes the impacts or lack thereof of the Cachuma Project
25 on downstream diverters as compared to conditions which

1 would have existed in the absence of the Cachuma Project.

2 MR. KIDMAN: Mr. Mills, would you describe or
3 summarize your testimony relative to the one aspect of the
4 efforts that the Member Units have gone into to comply with
5 Paragraph 3E.

6 MR. MILLS: I would like to first state, Mr. Brown, Mr.
7 Silva, that I have been involved in water resource
8 investigations in Santa Barbara County since the early
9 1970s. And with respect to the issues before the Board
10 today, I was one of the principal negotiators for your Order
11 73-37, and I have also been a member of the Santa Ynez River
12 Hydrology Committee since its inception in 1986.

13 I would like to describe a little bit about the process
14 leading up to Exhibit 91. That manual, it is a manual, that
15 fully describes the hydrology, the mechanics of that
16 particular system. It's a mathematical model. It also
17 contains a great deal of compilations of enormous amounts of
18 data. When I say that. It is a culmination of many, many
19 years of effort on the part of a lot of people. Thousands
20 of man hours have gone into the preparation of that
21 document.

22 The modeling effort began as I indicated in 1986, and
23 it built upon earlier work prepared by the county water
24 agency, a model and data at that point. A committee was
25 formed. That committee became later known as the Santa Ynez

1 River Hydrology Committee. The participants of that
2 committee included the County water agency, Cachuma
3 Conservation Release Board, Stetson Engineers, cities of
4 Santa Barbara and Lompoc, the Bureau of Reclamation, and
5 from time to time we had representatives from specialists
6 within the Department of Water Resources, and I indicated I
7 was also a member of that committee.

8 Initially the meetings were held on a frequent basis, a
9 monthly basis. Later they became less frequent as we made
10 progress. Since 1986 I looked through my records and I
11 found that I attended no less than 48 meetings of the
12 committee over those years.

13 The purpose of that effort was to develop a tool and an
14 accurate database to analyze impacts on downstream water
15 users from the various upstream projects. For example,
16 increased diversions at Cachuma Lake or other reservoirs on
17 the system, enlargement of Cachuma Reservoir and Bradbury
18 Dam itself, looking at conjunctive operations with the
19 groundwater basins on the South Coast, another example, and
20 other studies.

21 The committee's first charge was a difficult one.
22 Their charge was to accurately define the hydrology that
23 occurred in a period beginning in 1917 and ending 76 years
24 later in 1993. They're charged with developing monthly data
25 at each of three reservoirs. That includes runoff,

1 rainfall, evaporation, evapotranspiration; and for each of
2 the three tunnels that were mentioned previously, also the
3 amounts of infiltration into those tunnels over that period
4 of time. Another item of significance was the net inflow
5 values from the watershed between Cachuma and Lompoc
6 Narrows.

7 When we were finally completed, we had an array of data
8 which was very large. For each hydrologic component we had
9 912 monthly values. We were involved in a lot of data.
10 Could only be processed through modern day technology using
11 computers. I would like to point out that the model and
12 manual should be considered as a work in progress. Since
13 Order 94-5, this model has been modified to include
14 provisions to determine water quality impacts on downstream
15 users and also has been modified to look at the fishery
16 impacts downstream of Cachuma.

17 This work is currently being completed by Stetson
18 Engineers as subcontractors to the EIR development. And
19 these modifications and these conclusions will be presented
20 to the Board at a subsequent phase, Phase II of this
21 hearing.

22 It is also my understanding that members of State Board
23 staff have been briefed from time to time on some of the
24 modeling activity here.

25 In my opinion, the model and manual completely

1 satisfies Paragraph 3E of Order 94-5. It can easily be used
2 to identify and quantify impacts of diversions at Cachuma on
3 downstream users. AS I indicated, it is currently being
4 applied to describe those water quality impacts as well as
5 impacts on fisheries, and those results and conclusions will
6 be presented in Phase II of this hearing.

7 That concludes my testimony.

8 MR. KIDMAN: Thank you, Mr. Mills.

9 Mr. Brown, with your permission, I want to go back and
10 ask Mr. Evans one question as applies to testimony that
11 helps to tie the testimony of these last two witnesses
12 together.

13 C.O. BROWN: Proceed.

14 MR. KIDMAN: Mr. Evans, we heard testimony earlier
15 today and you have testified about the work plan manager
16 process and that was a very technical effort to try to come
17 to agreement on science involving flows in the river and
18 other matters; is that right?

19 MR. EVANS: Yes, that is correct.

20 MR. KIDMAN: That process involved examination of
21 models, different models, that had been prepared by various
22 -- for different people?

23 MR. EVANS: Yes.

24 MR. KIDMAN: One of those models was one that had been
25 prepared for the City of Lompoc by Mr. Durbin; is that

1 right?

2 MR. EVANS: That's correct.

3 MR. KIDMAN: Initially, that model was questioned by
4 the Member Units; is that right?

5 MR. EVANS: Yes.

6 MR. KIDMAN: Then the question is that there were
7 portions, however, by the time you got to the end of the
8 work plan manager there were portions of the Durbin model
9 that came to be accepted as authoritative; is that right?
10 And can you tell us what part of the model was accepted
11 broadly?

12 MR. EVANS: Of course, there are two basic portions,
13 the groundwater of the model and the surface water portion
14 of the model. The groundwater portion of the model, the
15 Durbin model, has been acceptable, and I believe it is being
16 used by Stetson Engineers in their analysis for the EIR.

17 The surface water model, however, was not found
18 acceptable by all the members working together on the work
19 plan management process.

20 MR. KIDMAN: For clarification you are saying that the
21 surface water portion of the Durbin-Lebkoff model was not
22 fully agreed to?

23 MR. EVANS: That's right.

24 MR. KIDMAN: So Mr. Mills has also now indicated that
25 the other hand of the model, actually more than two, another

1 model is the same as river hydrology model, and that model
2 is now being subjected to additional work to try to address
3 the issues where you had no agreement on the Durbin-Lebkoff
4 model.

5 Is that a fair statement?

6 MR. EVANS: Yes, it is.

7 MR. KIDMAN: Back to Mr. Mills. On the Santa Ynez
8 River hydrology model, the 1997 manual, that is Exhibit 91,
9 that is not the latest thing on the Santa Ynez River
10 hydrology model; is that right?

11 MR. MILLS: No, it is not the most recent version, but
12 it is the basis of subsequent modifications to include water
13 quality impacts as well as fishery impacts. It is the basic
14 tool that those two components have built into this model.

15 MR. KIDMAN: The work that is now going on is to -- is
16 it a fair statement to say, would it be your statement to
17 say that one of the things that is currently going on is to
18 try to reach a scientifically consensus version of the
19 surface water quality model that had been found by some, at
20 least, to be deficient in the Durbin-Lebkoff model?

21 MR. MILLS: Yes, I would agree with that.

22 MR. KIDMAN: That is all being done as part of the
23 preparation for the EIR?

24 MR. MILLS: Yes, that's being done by Stetson
25 Engineers.

1 MR. KIDMAN: The conclusions are not ready at this
2 time, but we hope to have them for Phase II?

3 MR. MILLS: I hope we do.

4 MR. KIDMAN: Just one more thing. Back to Ms.
5 Baldrige's testimony. We have different flow regimes that
6 are now being mandated, so to speak, and possibly will be
7 mandated by the Board, being mandated presently by the
8 biological opinion on the steelhead trout. So, to just talk
9 about the work that is being done on the model, the Santa
10 Ynez River hydrology model, to address the modifications
11 from the fish flows.

12 MR. MILLS: Well, the model has been modified to give
13 estimates of the amount of flow that would be needed to
14 satisfy downstream fishery needs, target flows, and
15 consequently also the reverse of that is the impact of that
16 on the operations at Cachuma as well. But, again, in this
17 context the requirement still is to meet downstream water
18 rights obligations.

19 MR. KIDMAN: Thank you.

20 Mr. Brown, Mr. Silva, that concludes our presentation
21 of case in chief and Cachuma Conservation Release Board
22 offers this panel to be available for cross-examination.

23 MR. WILKINSON: As does ID #1.

24 C.O. BROWN: We will go into cross-examination.

25 Ms. Allen.

1 MS. ALLEN: I would thank you, but I have no cross.

2 C.O. BROWN: Mr. Holland.

3 MR. HOLLAND: No cross.

4 C.O. BROWN: Mr. Mooney.

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6 CROSS-EXAMINATION OF CACHUMA CONSERVATION RELEASE BOARD AND

7 IMPROVEMENT DISTRICT NO. 1

8 BY CITY OF LOMPOC

9 MR. MOONEY

10 MR. MOONEY: Good afternoon.

11 Mr. Evans, in your testimony, on Page 4 of your written
12 testimony, you mention the offer to deliver state water to
13 the City of Lompoc in an amount equal to the below narrows
14 account for the water held in the Cachuma Project.

15 Are you aware that the voters of the City of Lompoc on
16 at least two occasions have affirmatively rejected accepting
17 state water?

18 MR. EVANS: Yes, I am.

19 MR. MOONEY: Are you also aware of any proposals or
20 physical solutions that the City of Lompoc has offered in
21 the negotiation process?

22 MR. EVANS: They did offer receiving funds, asking for
23 compensation for increased treatment costs. I am not sure I
24 would call that a physical solution, but that was an offer.

25 MR. MOONEY: Is it true that the offer or the offer was

1 for Lompoc to receive approximately \$38,000 a year to cover
2 the additional treatment costs associated with the impact?

3 MR. EVANS: I think it was initially \$30,000 a year and
4 that was later increased to \$58,000 per year.

5 MR. MOONEY: Later offer or over time it would go to
6 58-?

7 MR. EVANS: No, it was just a later offer, corrected
8 offer.

9 MR. MOONEY: Ms. Rees, when you were doing your
10 analysis you stated that you didn't take into consideration
11 any of the issues associated with the change of purpose of
12 use of the water; is that correct?

13 MS. REES: That's correct.

14 MR. MOONEY: Did you -- would it be correct to say that
15 you didn't look at any of the amount -- rephrase that.

16 Did you look at the amount of direct diversions of
17 water under any of the permits?

18 MS. REES: I looked at diversion of water in total. I
19 did not look at the diversion of water under specific
20 purposes under the permits.

21 MR. MOONEY: Did you look at the amount of water that
22 was diverted under permits by direct diversion versus
23 diversion from storage?

24 MS. REES: I am sorry, I guess I don't understand the
25 difference. The water that Cachuma Project receives is

1 diverted from the project.

2 MR. MOONEY: Do you understand the difference between
3 diversion to storage and direct diversion?

4 MS. REES: Apparently no. Could you enlighten me?

5 MR. MOONEY: It is not my job to testify.

6 MS. REES: Sorry. Help me out here, Mr. Mooney.

7 MR. MOONEY: Do you have that chart? Could we put that
8 chart back up, where you have the demand?

9 MS. REES: Average historical demand?

10 MR. MOONEY: Yes, the average. Actually the other one,
11 I am sorry. Table 4.

12 I think you testified that the project or the change
13 petitions would not increase the yield; is that correct?

14 MS. REES: Correct.

15 MR. MOONEY: Let me back up real quick.

16 Do you agree with -- you were here when Mr. Jackson
17 testified; is that correct?

18 MS. REES: Yes, I was.

19 MR. MOONEY: On his cross-examination.

20 Would you agree with Mr. Jackson's characterization, or
21 not his characterization, but his answer that if the project
22 yield is -- if the capacity of the reservoir is reduced,
23 that the project yield would necessarily also be reduced?

24 MS. REES: I can't answer that I agree with that
25 statement. I don't know if the project yield would be

1 reduced with the reduction of capacity.

2 MR. MOONEY: Is capacity of the reservoir one of the
3 factors in determining project yield?

4 MS. REES: Yes, it is.

5 MR. MOONEY: When the project -- when the capacity
6 dropped from 205,000 to 190,000 of acre-feet for storage,
7 was that one of the factors in dropping the operational
8 yield to 25,700 from 32,000?

9 MS. REES: Yes, I believe it was.

10 MR. MOONEY: Would it be reasonable to assume then that
11 over the next five years or ten years that if the capacity
12 of the reservoir continues to decrease due to siltation that
13 the operational yield would also decrease?

14 MS. REES: I don't know the answer to that. I think it
15 would trigger perhaps an evaluation if operation yield might
16 be adjusted. However, it depends on the Bureau of
17 Reclamation and Member Units to determine what they felt or
18 believed to be the operational yield that they could live
19 with in terms of risk and taking certain amount of water per
20 year. I cannot really answer that question.

21 MR. MOONEY: Now back to where I said you stated that
22 the project, that the change wouldn't increase the yield.
23 Isn't it true that it would actually -- what it would do is
24 increase the demand on the existing yield?

25 MS. REES: No, I don't believe it would.

1 MR. MOONEY: If you have with the existing place of
2 use, permitted place of use of the permit, now the petition
3 seeks to include additional areas to that place of use,
4 correct, additional acreage?

5 MS. REES: The petition seeks to change the boundaries
6 of the place of use, authorized place of use, to be
7 coincident with the water service areas.

8 MR. MOONEY: I understand. Would that increase the
9 acreage of the place of use of the project?

10 MS. REES: Yes, it would.

11 MR. MOONEY: Will it increase the acreage of the areas
12 that Cachuma water will be provided?

13 MS. REES: Cachuma water is, because it is part of a
14 commingled system, potentially is already being applied to
15 some of those. So it will not increase the amount of
16 Cachuma Project water that is being applied.

17 MR. MOONEY: Let's go back to, say, existing places of
18 use. Those existing places of use, they use a certain
19 quantity of water?

20 MS. REES: Correct.

21 MR. MOONEY: They have a certain demand for that water,
22 correct?

23 MS. REES: Yes.

24 MR. MOONEY: If you expand that place of use and
25 include areas that are currently not in that place of use,

1 are those -- now is the expanded place of use going to
2 require additional water to meet their demands?

3 MS. REES: Perhaps additional total water, not
4 additional Cachuma Project water.

5 MR. MOONEY: Additional total water?

6 MS. REES: Yes.

7 MR. MOONEY: In your Table 4 I believe it says the
8 additional non-Cachuma Project water needed for existing
9 places of use, 7,515 acre-feet. Have you done the
10 calculation where you have up there the total demand outside
11 the place of use is the 7,427 feet?

12 MS. REES: Right.

13 MR. MOONEY: We have about 15,000 acre-feet a year.
14 Now, is all that 15,000 a year, is that able to be made up
15 by supplemental water?

16 MS. REES: Yes.

17 MR. MOONEY: Is there any years where the Member Units'
18 supplemental water would not be able to meet that demand for
19 an additional 15,000 acre-feet?

20 MS. REES: I think that would depend on weather
21 conditions. For this particular representative demand year,
22 which was a normal year, this was the case. However, under
23 extreme drought, if other water sources, such as
24 groundwater, were depleted, potentially they could not
25 necessarily meet that demand. But nor would there be --

1 sorry, the demand in general would have to be reduced
2 because of drought conditions as happened during the recent
3 drought to Santa Barbara.

4 MR. MOONEY: In the previous drought in Santa Barbara
5 were they able to meet that additional 15,000 acre-feet with
6 supplemental water supplies or non-Cachuma Project?

7 MS. REES: In those years these numbers would have all
8 been reduced across the board. So that 15,000 acre-feet of
9 water does not apply to drought years. All of the water
10 demand in general was reduced substantially, in the later
11 years of the drought by almost 45 percent. Therefore, all
12 water sources, including Cachuma, were grossly reduced.

13 Maybe I could ask for a little help from the panel.

14 MR. EVANS: My comment relative to that, at that time
15 there was not State Water Project available. The pipeline
16 had not been completed. So that supplemental supply was not
17 available at that time.

18 Now, today, the pipeline is in place and so those
19 supplies would be coming to the South Coast and to the Santa
20 Ynez Valley. I would also like to note that the pipeline is
21 perhaps the important thing because there can be State
22 Project water or water purchased from, for example, the
23 state water bank was in place during the last drought.
24 There could have been substantial amount of water purchased
25 separate from the entitlement and delivered into the

1 project. So I think that, yes, we can meet that need in the
2 future.

3 MR. MOONEY: Is the state water -- in a time of drought
4 is state water guaranteed to the South Coast?

5 MR. EVANS: No, it is not guaranteed, but I think the
6 pipeline is the key.

7 MR. MOONEY: There is no guarantee that that supplement
8 water would actually be delivered to the South Coast?

9 MR. EVANS: That's correct.

10 MR. MOONEY: Where I am going with this is that
11 situation where the supplemental water is not available to
12 meet the demands for the areas outside the place of use or
13 the non-Cachuma water to meet the demands within the
14 existing place of use, where does the shortfall come from?

15 MS. REES: If none of that water was available, there
16 would have to simply be pretty massive conservation among
17 the consumers.

18 MR. MOONEY: Would any of that additional water, any of
19 that additional demand come from the Cachuma Project?

20 MS. REES: No, because the Cachuma Project water would
21 be used completely.

22 MR. MOONEY: Be used completely up to 25,714 acre-feet?

23 MS. REES: Occassionally during a drought that
24 particular entitlement when mutually decided by the Member
25 Units is reduced during drought periods. But they would use

1 their full entitlement, whatever that was determined to be.

2 MR. MOONEY: Could that entitlement, in fact, be
3 greater than 25,714 acre-feet per year?

4 MS. REES: Potentially there could be if there is
5 enough water available.

6 MR. MOONEY: If the Cachuma Member Units working with
7 Reclamation decided that we don't have enough supplemental
8 water to meet that additional 15,000 acre-feet, they could
9 request Reclamation deliver to them water in excess of --
10 from the Cachuma Project in excess of 25,714?

11 MS. REES: Yes, they could request that. However, this
12 number was decided based on modeling done on the long-term
13 supply of the Cachuma Project. It is a number that has been
14 agreed upon among the Member Units and Reclamation. It is
15 the amount that has been ordered and taken since 1992, and
16 it's designed so that the Member Units have about a
17 seven-year water supply in the reservoir. And, therefore,
18 when the reservoir drops below a certain level, they would
19 start taking water shortages, not increases.

20 So, it is highly unlikely that under normal conditions
21 they would take more than this amount of water unless there
22 were spill water available, and there is a lot of rain and
23 the reservoir spills occasionally.

24 MR. MOONEY: But the 25,714 is not a number that is set
25 in stone?

1 MS. REES: No. It is an operational yield.

2 MR. MOONEY: Do you know from your review of the
3 records what the greatest amount of water that Member Units
4 have taken from the project in one year?

5 MS. REES: I have to go back and look over some charts,
6 but I believe it was slightly more than 30,000 acre-feet.

7 MR. MOONEY: When you use the term exist -- just for
8 my own clarification. When you use the term "existing place
9 of use," is that the same as using the term "permitted place
10 of use"?

11 MS. REES: Yes. It is the current permitter place of
12 use.

13 MR. MOONEY: In your analysis did you do any, did you
14 conduct any evaluation of what the project's demand, what
15 the demands would be within existing place of use had the
16 Bureau limited its diversions to those existing places of
17 use or the purpose of use to those provisions within the
18 permit for purposes of use identified in the permit?

19 MS. WILKINSON: Do you understand the question?

20 MS. REES: No. I know you asked this earlier of Mr.
21 Jackson, and I came to the same conclusion as far as exactly
22 what you are asking me.

23 MR. MOONEY: When you started your analysis, when you
24 did your analysis, did you look at -- you looked at how the
25 project is operated today; is that correct?

1 MS. REES: Yes. But I also looked at how the project
2 has been operated since these change petitions have been
3 pending which has been since 1983.

4 MR. MOONEY: Did you look how -- did you make any
5 evaluation as to the operation of the project being
6 consistent with the terms of the permits?

7 MR. WILKINSON: I object. I think that is ambiguous.

8 C.O. BROWN: Who objected?

9 MR. WILKINSON: I objected on the basis the question is
10 ambiguous and unintelligible.

11 C.O. BROWN: Restate it, Mr. Mooney.

12 MR. MOONEY: Did you -- in looking at or evaluating it
13 in doing your analysis did you make any analysis or finding
14 as to how the project would have been operated had water not
15 been delivered outside the existing place of use?

16 MS. REES: The Cachuma Project water is commingled with
17 all other water sources of Member Units in one system.
18 Well, individual distribution systems for each Member Unit
19 and one regional system for the Cachuma Project. There is
20 no way to separate Cachuma Project water molecules to
21 determine if they are applied only within the existing
22 permitted place of use versus the area outside.

23 I examined the Cachuma water use in terms of the fact
24 that the Member Units have fully used all of the project
25 yield and the demand within the existing place of use to

1 show that the demand in the existing place of use exceeds
2 the available supply. That is the basis of my study.

3 MR. MOONEY: In your analysis did you make any effort
4 to look at how the project would have been operated if water
5 diverted pursuant to 11308 had been used solely for
6 irrigation water?

7 MS. REES: No, I did not.

8 MR. MOONEY: Mr. Mills, you mentioned the Santa Ynez
9 River model. Isn't it true -- was that model originally
10 developed to deal with the enlargement of the Cachuma
11 Project?

12 MR. MILLS: To deal only with the Cachuma Project?

13 MR. MOONEY: To deal with the application that was
14 submitted for the enlargement of the Cachuma Project?

15 MR. MILLS: I think it had many more purposes. That
16 was one of the purposes.

17 MR. MOONEY: That is one of the original purposes?

18 MR. MILLS: Back in 1986 I don't recall what exactly
19 the purpose was. There were many studies on water resources
20 at that time.

21 MR. MOONEY: I think that is all I have.

22 C.O. BROWN: Thank you, Mr. Mooney.

23 Mr. Conant.

24 MR. CONANT: No questions.

25 C.O. BROWN: Staff.

1 CROSS-EXAMINATION OF CACHUMA CONSERVATION RELEASE BOARD AND
2 IMPROVEMENT DISTRICT NO. 1
3 BY STAFF

4 MS. MROWKA: My first question is for Ms. Baldrige. I
5 understand that the final biological opinion has been issued
6 for this particular project. Concurrent with any action
7 that this Board might take on this change petition, are you
8 expecting any other modifications in downstream flows?

9 MS. BALDRIDGE: With the petitions, no, there would
10 not.

11 MS. MROWKA: Concurrent with time, I mean.

12 MS. BALDRIDGE: The changes that will come is based on
13 biological opinion and also on the Fish Management Plan.
14 Includes additional downstream releases to support spawning
15 and rearing habitat as well as downstream releases to
16 support passage, fish passage. Those are laid out under
17 interoperations plan that is in the biological opinion for
18 the first several years, until we get the surcharge in place
19 where we provide the particular level of rearing habitat.
20 As the surcharges come into place, there would be increased
21 levels of rearing habitat impacted and flowing that would be
22 released.

23 MS. MROWKA: So, the other activity that would occur
24 will, in your opinion, increase downstream flows not
25 decrease?

1 MS. BALDRIDGE: That is correct.

2 MS. MROWKA: There would be no other action occurring
3 concurrent with any other action on the change petition,
4 too, in any way reduce the flows to Lompoc in particular?

5 MS. BALDRIDGE: As far as I know, there would not be
6 relative to anything that would be released in accordance
7 with the biological opinion.

8 MS. MROWKA: Thank you.

9 I have a question for Ms. Rees. It is with respect to
10 your use of the word "demand." You discuss the demand
11 within the existing authorized place of use. Could you
12 explain for me is this demand theoretical demand or the
13 actual demand of current water users?

14 MS. REES: It is the actual demand of current water
15 users. The demand shown on the charts and in the testimony
16 is based on actual water use which is translated into actual
17 demand within that area.

18 MS. MROWKA: Mr. Evans, you presented Mr. Mack's
19 testimony for us today and made yourself available for
20 cross-examination. This is really relevant to Mr. Mack's
21 testimony. In that written testimony there is a statement
22 with respect to the agreement that could not be finished, in
23 the final report that could not be finished, the final
24 report of the work plan manager.

25 I wanted to know why was a study approach technical

1 evaluation methodology unable to satisfactorily answer
2 questions about the impact of the Cachuma Project?

3 MR. EVANS: There were a number -- during the whole
4 process there were a number of just -- of status reports
5 that were presented. And then the final report that was
6 presented by the consultant just putting those together, we
7 had just a great deal of difficulty. The consultant had
8 some personal problems, frankly, at the time, and we just --
9 and, of course, it's already been mentioned about the
10 problem we all considered, several did, that the surface
11 water hydrology portion of the model just did not produce
12 accurate answers. And so, at any rate, we stepped away from
13 the process and just didn't complete it, and decided that it
14 was not worth proceeding and that we needed essentially, I
15 guess, moved into a new process which is now being done in
16 the EIR process.

17 MS. MROWKA: Your timelines for completion of the new
18 process would be what?

19 MR. EVANS: That is really Reclamation. You need to
20 ask Reclamation. That is a Reclamation contract and
21 Reclamation is here and the EIR contractor is here. It's
22 the next several months.

23 MS. MROWKA: I believe it would be you, Mr. Evans, that
24 stated that the water quality has been degraded by 40
25 milligrams per liter at Lompoc as a result of the general

1 operation of the Cachuma Project.

2 Have you ever done any estimates or do you have any
3 statements regarding potential degradation in water quality
4 as a result solely of these change petitions?

5 MR. EVANS: No. Let me just tell you. Let me clarify
6 that that was the contention of Lompoc, that there was an
7 impact of 40 milligrams per liter. That was the Tim Durbin
8 model that indicated that. That was the Lompoc City Council
9 meeting wherein he indicated that there was no problem with
10 quantity, with water levels, but there was a problem with
11 quality. That was Lompoc's testimony.

12 And, of course, we haven't completed a study yet to
13 know what the impact is. I think that 40 milligrams per
14 liter is small. The water, the groundwater basin is 1400
15 milligrams per liter. It is an extremely small amount. I
16 am confident that the change in place of use, which is only
17 a 10 percent increase in area covered, would have no impact
18 upon the quality at all.

19 MS. MROWKA: And that statement is based on, again,
20 what source of information?

21 MR. EVANS: It is my testimony, my judgment, I guess,
22 having been involved in this process for the past 24 years
23 and attended all of these meetings and participating in the
24 process, and that's my judgment.

25 MS. MROWKA: Thank you.

1 That is all I have.

2 C.O. BROWN: Mr. Silva.

3 Redirect.

4 MR. KIDMAN: Thank you.

5 Just a couple of quick things.

6 ---oOo---

7 REDIRECT EXAMINATION OF CACHUMA CONSERVATION RELEASE BOARD

8 AND IMPROVEMENT DISTRICT NO. 1

9 BY MR. KIDMAN

10 MR. KIDMAN: Ms. Rees, Mr. Mooney was asking about all
11 these other sources of water and didn't really have enough
12 water to maybe serve. When you include Cachuma Project
13 water, don't we have enough water to increase the demand
14 greatly in the area outside the current designated place of
15 use? I want to ask this question.

16 Your credentials are as a hydrologist and you have been
17 working in water supply planning for some time?

18 MS. REES: Correct.

19 MR. KIDMAN: Isn't water source redundancy and water
20 source diversity two of the elements you look at to try to
21 come with the water supply reliability?

22 MS. REES: Yes, of course.

23 MR. KIDMAN: The idea there is what, not all the wells
24 are going to dry up at the same time?

25 MS. REES: In any water supply planning the water

1 supply manager or districts take into consideration all
2 sources of water. They make projections over how much water
3 there is going to be available and estimate their usage
4 based on that water supply.

5 MR. KIDMAN: Just to come back to another point that
6 Mr. Mooney was asking about the greatest amount ever taken
7 from your memory is about 30,000 acre-feet a year out of the
8 Cachuma Project alone?

9 MS. REES: Yes.

10 MR. KIDMAN: The total average demand in this case in
11 the current place of use is 33,000, according to the charts?

12 MS. REES: For this particular year, yes.

13 MR. KIDMAN: That was a representative year?

14 MS. REES: Yes.

15 MR. KIDMAN: When the surplus water in the Cachuma
16 Project, I use surplus, some water over and above what the
17 agreed safe yield or operating yield is, is that because of
18 wet conditions?

19 MS. REES: Yes, it is. Generally, if there is very wet
20 conditions and there is enough rainfall to fill the
21 reservoir and allow it to spill, surplus water is declared
22 by the Bureau of Reclamation for use by the Member Units
23 under their contract free of charge. They would obviously
24 use that water if it is available.

25 MR. KIDMAN: Demand usually go up or down when it is

1 wet?

2 MS. REES: It goes down.

3 MR. KIDMAN: Even when there is 30,000 acre-feet
4 available, we still have a possibility that the demand
5 within the place of use will be sufficient to use up that
6 30,000?

7 MS. REES: Yes, it is. If they use spill water one
8 year and they occasionally can carry over part of their
9 entitlement to the next year. That is the first water used
10 the following year. They are always going to use the
11 Cachuma Project yield.

12 MR. KIDMAN: Ms. Baldrige, you mentioned surcharge in
13 response to one of Mr. Mooney's questions. Is surcharge
14 going to increase the yield of this project?

15 MS. BALDRIDGE: Well, surcharge will increase the
16 amount of water in the reservoir. The water would be --
17 surcharge water would be used for fisheries purposes. So
18 whether -- it wouldn't really increase the yield to Member
19 Units, but will increase the amount of water that is
20 available and it will increase the amount of water that goes
21 down the river.

22 MR. KIDMAN: He was also asking questions and in
23 response to staff questions we had the idea that these
24 changes that are required by the biological opinion are
25 going to increase the amount of water going downstream to

1 satisfy water rights, senior water rights downstream. You
2 answered that in the affirmative. So I have a question.

3 If there is more water going downstream, is there more
4 or less water going to the Member Units?

5 MS. BALDRIDGE: If there is more water going
6 downstream, there is the same amount going to Member Units
7 or a little less because the --

8 MR. KIDMAN: Let me make it clear. Without surcharge.

9 MS. BALDRIDGE: Without surcharge, I am sorry.

10 MR. KIDMAN: More water goes downstream --

11 MS. BALDRIDGE: Less would go to the Member Units.

12 MR. KIDMAN: The idea of surcharge is to take care of
13 the fish release requirements, not to increase the amount of
14 water that Member Units can divert?

15 MS. BALDRIDGE: That's correct. The surcharge will not
16 totally cover the fish releases that are contemplated in the
17 biological opinion.

18 MR. KIDMAN: That is about as close as we ought to come
19 on that question to Phase II issues. That is all the
20 questions I have on redirect.

21 C.O. BROWN: Thank you, Mr. Kidman.

22 Recross. Does anyone wish to recross?

23 Seeing no hands, would you like to offer exhibits?

24 MR. KIDMAN: Thank you, Mr. Brown. Would you like me
25 to go through them?

1 C.O. BROWN: Yes, sir.

2 MR. KIDMAN: We would like to offer Member Units
3 Exhibits 2 and 3, 10 through 15, 20 through 35, 50, 50A, 51
4 through 75, 80 through 85, 90, 91, and 100 through 115 to be
5 accepted into evidence.

6 C.O. BROWN: Ms. Mrowka, didn't we already accept
7 Exhibit 50A?

8 MS. MROWKA: I believe we did. I believe it was
9 offered and accepted.

10 C.O. BROWN: We will accept it again if you wish. I
11 think we accepted it before the testimony.

12 MR. KIDMAN: Once is enough for me.

13 C.O. BROWN: Exhibits 2 and 3, 10 through 15, 20
14 through 35, 50, 51 through 75, 80 to 85, 90, 91, 100 through
15 115 have been offered into evidence.

16 Are there any objections?

17 Seeing no objections, they are so accepted.

18 Is there any business to take up before we take our
19 12-minute break this afternoon?

20 Seeing none, we will take a 12-minute break.

21 (Break taken.)

22 C.O. BROWN: Come to order.

23 Mr. Holland, you are up.

24 MR. HOLLAND: Thank you.

25 Good afternoon. I am David Holland. I am here

1 representing the City of Solvang.

2 C.O. BROWN: Ms. Allen.

3 MS. ALLEN: I had a clarifying question regarding
4 procedure. I am wondering how the Board handles allowing a
5 party who filed a protest that was canceled to appear at a
6 hearing regarding the same matter.

7 C.O. BROWN: I am sorry, I didn't understand you. Come
8 forward, then we can hear you at the microphone.

9 MS. ALLEN: I am wondering with regards to the Board's
10 procedure, how the Board allows for parties whose protests
11 were canceled to appear at the hearing on the same matter.

12 C.O. BROWN: Counselor.

13 MS. DIFFERDING: There isn't any requirement in our
14 regulations that a party having filed a protest in order to
15 participate in a hearing so long as an interested person
16 complying with the requirements in the hearing notice and
17 our regulations, then they can appear. Even though the
18 issue has been resolved prior to going to hearing, that
19 person then would have missed out on their opportunity to
20 participate in the hearing, obviously.

21 MS. ALLEN: Thank you.

22 C.O. BROWN: Mr. Holland, you're up.

23 MR. HOLLAND: My name is Dave Holland. I am here on
24 behalf of the City of Solvang. Due to certain events that
25 have occurred throughout the day, our purpose here has

1 changed somewhat, and I will apologize if my remarks are
2 somewhat disorganized as a result of that.

3 At this point in time our purpose is solely to preserve
4 our objections under CEQA. We want to emphasize we are not
5 asking the Board to take any action at this time. But,
6 again, we are here to preserve our objections for the
7 record. For the time being we will rely on the
8 representations of Reclamation and CCRB that there will be
9 no change in project operations as a result of
10 Reclamation's petitions, and we will further examine any
11 effects that these petitions may have on us in connection
12 with Phase II, in these proceedings, which concerns impacts
13 on project operations or downstream users.

14 As part of -- I understand we all want to get home and
15 I will summarize our objections briefly, give you a brief
16 laundry list in the event Mr. Kidman was able to prevent me
17 from introducing Mr. Mooney's letter.

18 The environmental analysis in this case for
19 Reclamation's petitions consist of the initial study and the
20 negative declaration performed by the Cachuma Operations and
21 Management Board. I believe that has been introduced as
22 staff Exhibit 3. Our first objection is that the Cachuma
23 Operations and Management Board was not the proper lead
24 agency for CEQA purposes. It had no discretionary authority
25 nor enforcement authority with respect to Reclamation's

1 permits in that the State Board is the proper lead agency in
2 this matter and that lead agency authority cannot be
3 delegated.

4 Our second objection is that the environmental review
5 should have been done in connection with the Order 94-5
6 process. And that in not doing so results in a piecemealing
7 of the environmental analysis. Specifically --

8 MR. KIDMAN: Mr. Brown.

9 C.O. BROWN: Mr. Kidman.

10 MR. KIDMAN: I am going to, now that we see the
11 direction of this, interpose an objection on the ground that
12 the proper testimony that Mr. Holland is proposing is
13 outside the scope of the two issues that were set for Phase
14 I. I understand what he said about trying to preserve some
15 kind of position relative to CEQA. However, I think that he
16 is not preserving a position. He is trying to breathe life
17 back into one that was dead a long time ago when the State
18 Board staff wrote to the City of Solvang back in August of
19 1998 apprising Solvang and other protestants about the
20 conclusions of the environmental work, in this case the
21 negative declaration that was prepared by the Member Units
22 through the COMB, Cachuma Operations and Maintenance Board,
23 one of our numerous acronyms. They were, that is Solvang
24 and the others, were apprised of the position that was being
25 taken at that time, that the environmental work that was

1 done or certified and they were asked in a August 5, 1998
2 letter from your staff to within 30 days to show if they had
3 any facts as to why their protest should not be dismissed,
4 and there was no response received from Solvang.

5 So on December 7th of -- December 6 of 1998 -- was it
6 '98 or '99? Both of those dates, August 5 and December 6,
7 are in 1999. The protest was dismissed or the word used in
8 the staff letter was cancelled. Well, now Mr. Holland wants
9 to come in and see if he can get another bite of the apple,
10 even though Solvang was given a full opportunity at that
11 time to preserve its CEQA objections. Did not do so. Did
12 not challenge in court within the time limit allotted by law
13 the environmental compliance document that was done.

14 So trying to preserve something that is already gone
15 seems to be disingenuous at a minimum. And there's now been
16 mention of the additional late exhibits that the City of
17 Solvang would like to introduce. I suppose I still want to
18 preserve, if you will, my right to object to the late
19 presentation of those exhibits. But we do interpose the
20 objection that the proposed testimony and the evidence that
21 is now being brought forward is outside the scope of Phase I
22 of this hearing proceeding.

23 If there is another opportunity at all to deal with the
24 issues that Solvang, quote, wants to preserve, it is going
25 to be in connection with whether or not the environmental

1 document, the EIR that is currently under preparation, is
2 adequate and whether it should have covered these issues
3 that Mr. Holland is saying that it should cover. Now is not
4 the time to raise these issues with respect to that negative
5 declaration that was adopted clear back in December of
6 1998.

7 MR. WILKINSON: Mr. Brown, the Improvement District
8 will join in that objection.

9 C.O. BROWN: We have Mr. Mooney standing up first.
10 Mr. Mooney.

11 MR. MOONEY: I just want to clarify for the record as
12 to that litigation and what is still and how that negative
13 declaration was treated. That negative declaration was
14 approved and certified by COMA. I believe that is the
15 agency, by COMB. In doing so they adopted a notice of
16 determination as required by CEQA. The City of Lompoc then
17 sued on the negative declaration within the statutory 30
18 days. Granted, Solvang did not -- was not a party to that
19 lawsuit. It was then determined by COMB, though, that they
20 had actually not ever approved a project. They just
21 approved an environmental document. The issuance of a
22 notice of determination under CEQA is only supposed to be
23 issued once a project has been approved, not -- the
24 certification of the environmental document does not
25 trigger the requirement for NOD, thus triggering a 30-day

1 statute of limitations.

2 As a result of -- when COMB discovered this mistake,
3 they rescinded their notice of determination. The City of
4 Lompoc agreed to dismiss its lawsuit without prejudice. So
5 with regards to the CEQA document or the negative
6 declaration that is a Board staff exhibit, the statute of
7 limitation has not run on that document. As soon as an
8 agency approves a project, I think there is valid concerns
9 that Mr. Holland is raising in regards to who the agency is
10 approving the project, under CEQA the lead agency. As soon
11 as an agency approves a project, then a notice of
12 determination under CEQA will have to be adopted which then
13 runs the 30-day statute of limitations.

14 So the time for challenging that negative declaration
15 has not expired. And there is, I believe, an agreement
16 between the City of Lompoc and COMB to that affect.

17 C.O. BROWN: The question begs, though, Mr. Mooney -- I
18 would like your opinion on this, is this the proper forum to
19 bring that issue up?

20 MR. MOONEY: I believe it is a proper -- to some
21 extent, yes. I think that some of the issues may go outside
22 the scope of here, but I think it is important that the
23 Board understand that the Board should be the lead agency on
24 the CEQA document that is the subject of this Phase I
25 hearing. There is a real concern here in terms that COMB

1 has proceeded with doing the negative declaration and they
2 are not a agency that has any discretional approval over
3 this change petition.

4 C.O. BROWN: Mr. Wilkinson, if you please.

5 MR. WILKINSON: The problem that I see, Mr. Brown, is
6 that what Solvang is raising is essentially a legal issue.
7 What the Board's hearing notice has noticed, a relatively
8 narrow factual issue, one about whether the granting or
9 denial of change petition will make a difference in terms of
10 how the project is operated, whether there is more water
11 available or not. That is what the testimony has gone to.

12 The second issue in the key issues raised in Phase I is
13 the compliance, has the Bureau complied. What Solvang is
14 raising relates to neither of those issues. It is
15 essentially a legal argument, not a factual one. I am not
16 clear at all what kind of testimony is going to be put on
17 with regard to this legal issue. I don't think there is any
18 doubt whatsoever that the proposed offer of testimony and
19 the argument here is beyond the scope of the hearing as it
20 was noticed in your notice of hearing that was issued
21 earlier this year.

22 C.O. BROWN: Thank you.

23 Now Mr. Kidman.

24 MR. KIDMAN: Thank you, Mr. Brown. In this instance I
25 agree with about 90 percent of what Mr. Mooney just had to

1 say. The devil is in the 10 percent where we disagree. He
2 has accurately described much of what has occurred.
3 However, there is nothing in the agreement relative to the
4 dismissal of the Lompoc lawsuit challenging the negative
5 declaration that runs to the benefit of the City of Solvang,
6 not one word.

7 We do not, in fact, have agreement about whether the
8 issue is if the State Water Resources Control Board should
9 be the lead agency. The only issue that was determined was
10 a ambiguity about whether or not a notice of determination
11 was proper at the time that COMB took its action or whether
12 that should wait until after the State Board has a
13 responsible agency also takes action and adopts the negative
14 declaration.

15 If Lompoc has any rights -- excuse me, if Solvang has
16 any rights under that set of circumstances, it doesn't
17 matter what they say today. This evidence should not be
18 admitted. It is not relevant to the issues that were
19 noticed for Phase I of this hearing and should be kept out.
20 And it doesn't prejudice the position of Solvang, if they
21 have any rights, which I just articulated that I don't think
22 they do. If they do, those rights are still alive whether
23 or not they come in here today outside the scope of this
24 hearing and try to rehash the arguments that Lompoc brought
25 up two years ago.

1 C.O. BROWN: Mr. Mooney.

2 MR. MOONEY: I am just going to try to get Mr. Kidman
3 up to 95 percent.

4 Under CEQA, when a notice of determination is issued,
5 any party can bring an action within the 30 days. There is
6 nothing in the agreements that precludes Solvang or
7 precludes the fact that COMB withdraw the notice of
8 determination and that someday in the future will have to
9 file a new determination triggers or restarts that whole
10 CEQA process again in terms of filing an action. I just
11 wanted to clarify that.

12 C.O. BROWN: Thank you, Mr. Mooney.

13 MR. KIDMAN: It got to 92.

14 C.O. BROWN: Mr. Holland, you have a response?

15 MR. HOLLAND: Four things that happened, see what I can
16 do.

17 I obviously adopt Mr. Mooney's argument. I do not
18 believe that there has been a final agency action made that
19 would preclude us from raising the issues. We do believe
20 that all of those issues are germane to Phase I because we
21 are talking about a petition to amend Reclamation's permits
22 and the environmental work that was done in connection with
23 that. However, if the Board is willing to state that these
24 issues do not need to be raised in Phase I for the purpose
25 of preserving our objections and we can raise them in Phase

1 II, we would be fine with that.

2 C.O. BROWN: Does that work with you, Mr. Kidman?

3 MR. KIDMAN: We may have objections in Phase II as
4 well. But right now we are in Phase I.

5 Secondly, there has been a settlement offer from Lompoc
6 to resolve their protest and if that gets resolved I don't
7 think that Solvang has got standing.

8 C.O. BROWN: Would you state your objection again?

9 MR. KIDMAN: The primary objection to taking in evidence
10 that has been proffered, albeit late, preserve that late
11 objection that is a different objection, is that the
12 evidence and the argument relative to the compliance with
13 California Environmental Quality Act through the negative
14 declaration was issued by COMB back in 1998 is outside the
15 scope of the hearing notice for Phase I of this hearing and
16 does not fall within either key issue number one or key
17 issue number two, which is why we are here today.

18 C.O. BROWN: Thank you, Mr. Kidman.

19 MR. WILKINSON: If I could add to that. ID #1 joins in
20 that objection. I would also add that Solvang's protest was
21 dismissed. It is unclear to me to what protest, what issues
22 this proposed testimony goes to. I would add to the
23 objection grounds of relevance or lack of relevance.

24 C.O. BROWN: I support Mr. Kidman's and Mr.
25 Wilkinson's arguments. They are both persuasive. I support

1 their argument. I wish to keep this hearing within the
2 scope as advertised. The evidence is not relevant to this
3 phase of the hearing. However, this does not prejudice
4 Solvang from discussing this issue in another forum,
5 possibly Phase II.

6 Please provide.

7 MS. DIFFERDING: Mr. Brown, if I may just for --

8 C.O. BROWN: You are not changing my ruling, are you?

9 MS. DIFFERDING: No, I am not.

10 Correct me in I am wrong here. I understand your
11 ruling to apply only to that part of Solvang testimony that
12 goes to compliance with CEQA?

13 C.O. BROWN: That's correct.

14 Thank you.

15 On that note, Mr. Holland, if you would proceed.

16 MR. HOLLAND: Like I said, our purpose was to state our
17 CEQA objections, and if we are not going to be permitted to
18 present those objections, then we will sit down.

19 C.O. BROWN: That completes your direct?

20 MR. HOLLAND: That completes, yes.

21 C.O. BROWN: Cross-examination on the direct, then?

22 Seeing no cross.

23 Thank you very much.

24 MR. HOLLAND: Thank you.

25 Do you have any exhibits you would like to offer in

1 evidence at this time?

2 MR. HOLLAND: No, I don't believe that we do.

3 C.O. BROWN: Rebuttal.

4 Can I see a show of hands of those who have rebuttal?

5 Seeing no rebuttal, has all of the evidence been
6 accepted, the exhibits all been accepted into evidence? Are
7 we missing any?

8 MS. DIFFERDING: I have one question, actually. Did
9 the City of Solvang want to introduce those parts of its
10 written testimony that didn't go to CEQA compliance because
11 there were other issues in your written testimony? I would
12 just like it to be clear for the record whether that is an
13 exhibit that we should consider taking into evidence or
14 not.

15 MR. HOLLAND: No. I believe all of this can be taken
16 care of in Phase II.

17 C.O. BROWN: Can I see a show of hands of those who'd
18 like to submit a closing brief?

19 Let's get a date, Counselor, for when that closing
20 brief should be submitted.

21 Mr. Mooney, how much time would you like for a closing
22 brief?

23 MR. MOONEY: Thirty days after the transcript is
24 available.

25 C.O. BROWN: Thirty days after the transcript. Is that

1 all right with everyone else? Does anyone have a different
2 figure?

3 MR. WILKINSON: Mr. Brown, I guess if Mr. Mooney is
4 going to submit a closing brief, we should be given the
5 opportunity to respond to that, given his position as a
6 protestant. If he is going to get 30 days, I guess we ought
7 to have 30 days to reply.

8 C.O. BROWN: No, I think we are going to have
9 simultaneous briefs all due at the same time.

10 MR. WILKINSON: That is fine. We would like to at
11 least have the opportunity to also submit a brief.

12 C.O. BROWN: Okay. All parties will have the
13 opportunity to submit a closing brief. Obviously, includes
14 you and everyone else.

15 Esther, do you have an estimate when the transcript
16 will be ready?

17 THE COURT REPORTER: Within two weeks.

18 C.O. BROWN: So six weeks from now, Counselor, give us
19 a date.

20 MS. DIFFERDING: It would be the 25th. That is not a
21 good day.

22 C.O. BROWN: Would you like to hold it over until after
23 the first of the year?

24 Why don't we do that, hold it over until --

25 MS. DIFFERDING: January 1st.

1 C.O. BROWN: What is the Friday after January 1st?

2 MS. DIFFERDING: January 5th.

3 C.O. BROWN: January 5th at 5:00 p.m., that is on a
4 Friday, briefs are due.

5 Any questions on that issue?

6 The State Water Resources Control Board will take Phase
7 I of Cachuma hearing under submission. All persons who
8 participated in this hearing will be sent a notice of any
9 State Water Board decision on this matter and forthcoming
10 Board meetings during which this matter may be considered.
11 The parties will also be notified of the time and place of
12 Phase II of this hearing.

13 I thank all of you for an expedient hearing and the
14 professional manner in which you helped hold this hearing.

15 We are adjourned.

16 MS. MROWKA: Mr. Brown, Esther just reminded me about
17 the change of address.

18 C.O. BROWN: One more notice. If you would like to
19 have a change in address for what?

20 MS. MROWKA: The new Cal EPA building.

21 C.O. BROWN: The new Cal EPA Building. We are moving,
22 the State Water Resources Control Board staff, executive
23 staff will be moving December 15th. At that time we will
24 have a new address. And what is the new address?

25 MS. MROWKA: It is 1001 I Street.

1 C.O. BROWN: Tell me and I will repeat it.
2 1001 I Street.
3 MS. MROWKA: P.O. Box is unchanged.
4 MR. WILKINSON: Could I suggest, Mr. Brown, that once
5 that move is accomplished that a notice be sent to the
6 parties that are on the mailing list?
7 C.O. BROWN: Excellent suggestion. Staff, would you
8 see that that is accomplished.
9 MS. MROWKA: Yes, sir.
10 C.O. BROWN: Thank you all again.

11 *****(Hearing concluded at 3:15 p.m.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, ESTHER F. WIATRE, certify that I was the official Court Reporter for the proceedings named herein, and that as such reporter, I reported in verbatim shorthand writing those proceedings;

That I thereafter caused my shorthand writing to be reduced to typewriting, and the pages numbered 6 through 178 herein constitute a complete, true and correct record of the proceedings.

IN WITNESS WHEREOF, I have subscribed this certificate at Sacramento, California, on this 17th day of November 2000.

ESTHER F. WIATRE
CSR NO. 1564`