Mr. Andrew Fecko
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

September 29, 2003

Dear Mr. Fecko:

Herewith are my comments for the record on the Draft EIR on Cachuma Water Rights and releases to restore endangered species, which I understand are the subject of a hearing soon scheduled for the SWRCB. I believe the information in my comments is vital to the substance of the hearing and the Draft EIR.

Sincerely,

Arve R. Sjovold

Arve R. Sjovold
186 Sierra Vista Rd.
Santa Barbara, CA 93108

# COMMENTS ON THE DRAFT EIR FOR THE CACHUMA WATER RIGHTS HEARING BEFORE THE SWRCB

**By: Arve R. Sjovold**

**September 26, 2003**

## Introduction:

The Draft EIR is a lengthy document with many detailed appendices which would require more time to review comprehensively than is feasible to do at this time. Accordingly, I have restricted my comments to a few areas where I feel reasonably expert about providing comments. Since a fundamental issue for the EIR analysis is to determine impacts that might arise from different scenarios for water releases to help restore endangered steelhead populations, most of my comments deal with the data presented on supplies and demands of the entities that rely on Cachuma deliveries. These are primarily the water districts and cities on the South Coast of Santa Barbara County and the area served by Santa Ynez River Water Conservation District, Improvement District #1.

My credentials to speak on the issues of supplies and demands stem both from my professional skills and my history of public service in Santa Barbara County. By profession, I am a research scientist skilled in systems analyses and operations research and as public service I count my participation as a commissioner on the Santa Barbara City water commission (1967-1970) and participation on a citizens committee appointed by the county supervisors to advise them on the allocation and pricing policies for the importation of State Water Project (SWP) water (approx. 1975-1980). For the last 36 years I have devoted much personal effort in applying my professional skills to detailed studies of water issues in Santa Barbara County. Most recently, I have been involved as an invited participant in the preparation by DWR of a new EIR for the Monterey Amendments to the SWP contracts as mandated by the Court of Appeals, Third Appellate District, in PCL et al vs. Department of Water Resources (DWR), September 2000. This particular effort is very relevant to the EIR at issue here since the entities relying on Cachuma water also have substantial stakes in SWP water.

## Supply and Demand Data

The EIR presents data in several places on the supplies and demands of the entities most likely to be impacted by any additional water releases from Cachuma for the purpose of restoring the endangered steelhead fishery in the Santa Ynez River. To properly consider this data there are some corrections that should be made to the EIR.

First, we note that the use of the term "entitlement" for SWP water deliveries to the various entities on page 2-9 is no longer the proper term when referring to SWP contractual water. The terms of the settlement agreed to by the parties in the above mentioned litigation have now eliminated the term entitlement in the contracts pursuant

to the Appeals Court finding that the word "entitlement" was very misleading. The Court stated in a footnote on page 30 of the decision that, "Paper water always was an illusion. 'Entitlements' is a misnomer, for the contractors surely cannot be entitled to water nature refuses to provide or the body politic refuses to harvest, store and deliver. Paper water represents the unfulfilled dreams of those who, steeped in the water culture of the 1960's, created the expectation that 4.23 maf of water be delivered by a SWP built to capacity." The contracts clearly provide that the SWP contractors can only rely on the water that the project is able to deliver in any given year. The Court further noted that the project does not have the capability to reliably deliver the so-called "entitlement" amounts. In order to avoid adding to the confusion noted by the Court, the EIR should also refrain from using the word entitlement with regard to SWP contractual deliveries. The import of all this is that the SWP cannot be relied on to deliver the simple "entitlement" amounts listed in the draft. During droughts a more reasonable value for reliable delivery is approximately 40% of the listed "entitlement" amounts.

On the same page, the Draft also comments that the project is estimated to be capable of delivering 77% of the so-called entitlements, on average, to Santa Barbara County contractors. This too is misleading. The study performed by the DWR[1] to arrive at this value assumes that contractors have long term storage means available in order to store excess wet year deliveries to be used during drought periods. Two unmistakable conclusions follow from this simple assumption. First, without such storage the reliable delivery is much lower and depends on the ability of the receiving contractor to deal with year-to-year deliveries during extended droughts. This level is probably on the order of 40% of the "entitlement" values but could be lower in certain circumstances. It is clear though that without significant storage means it cannot really be higher than the 40%. Second, this simple assumption of using a long term average requires that the receiving entities **must** also take the maximum available from the SWP in any given year without respect to need and store it if the notion of average is to mean anything operationally. We do not know of any significant storage means available among the local receiving entities and there is no record of taking more water in a given year than needed as required if we are to assume an average delivery as a reliable delivery. The tables and text in the Draft must be updated to reflect these realities.

The Draft presents in section 4.3 statements of the water supplies for the various entities dependent on Cachuma. To further demonstrate the erroneous assumptions regarding the reliability of SWP deliveries, the tables for each of the entities adopt without analyses quite different values for SWP delivery reliability. Carpinteria Water District assumes 50% of "entitlement," Montecito 76%, Santa Barbara 76%, Goleta 51-60% with a different value for the drought buffer increment, and Santa Ynez 50%. As we have pointed out above none of these can be justified based on studies of the availability of long term storage or a plan to store wet year deliveries. Until each of these entities can produce such studies and plans, a value no greater than 40% should be assumed based on the DWR SWP reliability report.

On the matter of supplies presented in the Draft, the data should be interpreted in

[1] "The State Water Project Delivery Reliability Report, 2002, Final", Department of Water Resources, Bay-Delta Offices

light of the drought period (1987-1992; this period is the one designated by the SWP for purposes of analyzing the project's capabilities.) Because of the severity of the drought in the South Coast of Santa Barbara County, there was a substantial cutback on deliveries while at the same time substantial obligations to fund new sources (SWP and desalting) were taken on. The consequence of that combination was to produce a new paradigm in water supply analysis. The effect of substantial price increases in retail water deliveries combined with the lessons on conservation emanating from the drought have now produced much lower levels of what used to be called "normal demand" that existed before the drought. Whereas, the City of Santa Barbara's Long Term Water Supply Plan approved in 1994 is predicated on a targeted normal demand of 18,000 acre-feet per year, which was the primary justification for the importation of SWP water, it is now around 15,000 acre-feet per year, even with the increased development that has occurred in the intervening 9 years. Much the same is true for the other entities, Montecito Water District, Goleta Water District, and the Carpinteria Water District. Retail prices of water in all these districts are on the order of three times, in real terms, the prices before the drought. It can be readily shown that the price effect alone is responsible for most of the reduction in demand. (Studies performed by the author on the annual series of district demands and prices for the period 1988 through 1994 show that demand is very price elastic at the current schedule of prices prevailing in the South Coast water districts. Elasticity of approximately -.30 is easily demonstrated. Most demand studies in the districts do not account for this effect.)

By contrast, the Santa Ynez River Water Conservation District (SYRWCD), #1, has not altered its prices much at all. It can be fairly said that the price structures within that service district, excluding Solvang (a special case), do not serve to conserve water. The ability of SYRWCD, #1, to attain much higher levels of conservation has not been really tested. Therefore, its projections of demands are not to be relied on if reasonable conservation is to be the policy, as I believe it should be throughout this State.

Since the impacts of the proposed project are derived by analyzing the effects of increased deliveries from Cachuma against the abilities of the Cachuma Contractors to provide for their demands, it is imperative that updated and correct evaluations of demands and supplies be used in the Draft EIR. The present values in the Draft have misinterpreted the results for the SWP presented in DWR's reliability study and are not useful for impact analysis.

We would also like to note that the Draft seems to place more importance on the ability to deliver during periods of extreme drought. Although these are the periods that are uppermost in water planning, it should not necessarily be the focus of impact analyses for this project. It is probably a given that steelhead have always had to deal with drought periods; in deed, the Southern Steelhead is uniquely adapted to the large variations in river runoffs typical throughout the history of this region. Accordingly, the analyses should focus on the ability to nurture large runs and their spawning and rearing success when weather patterns permit. The studies should concentrate on the ordinary years and the better years of extended droughts; the worst year in a drought is probably not as important to the survival of the steelhead if we do the right things when we can.

Arne R. Gjovik