

Committee on Resources

Subcommittee on Water & Power

Testimony

United States House of Representatives
Committee on Resources
Subcommittee on Water and Power
The Honorable John T. Doolittle, Chairman
Written Testimony of Kole M. Upton, Farmer
Vice President, Chowchilla Water District
Chairman, Friant Water Users Authority
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Fresno, California

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to supplement my field hearing testimony with this written testimony, so that I might further explain how the Central Valley Project Improvement Act ("CVPIA") has impacted my family's farming operation and the water district that serves our community.

Personal History

I am Kole M. Upton. I am a farmer in the Friant Division of the Central Valley Project. I am also Chairman of the Board of Directors of the Friant Water Users Authority (the "FWUA"), a Joint Powers Authority in Central California comprised of 25 member irrigation and water districts along the southern San Joaquin Valley's east side, and Vice President of the Chowchilla Water District. The Chowchilla Water District is located in portions of Madera and Merced counties and is the northernmost of the FWUA members. Other FWUA member districts are located in Madera, Fresno, Tulare and Kern counties. These districts are very diverse and all are contractors for water delivered from the Friant Division of the U.S. Bureau of Reclamation's Central Valley Project ("CVP").

I earned a Bachelor of Science degree in engineering from Stanford University in 1965 and served almost six years in the U.S. Air Force. During that time, I earned a master's degree in management of aerospace operations from the University of Southern California.

I have spent 28 years in farming since 1971, when I ended my service in the Air Force. I began farming with my father, who had been able to lease some additional land outside of the CVP service area. My father began farming his original 40 acres in southern Merced County in 1946. Joining my father in farming was an opportunity that I relished. We have had four generations involved in our family farming operations. Currently, he is still farming with my brother, my two sons and myself in a family partnership. It is our intent to keep the operation within the family. Within the CVP Friant service area, we farm 1,180 acres of which members of the family own various portions. These properties are all within the Chowchilla Water District. We also farm approximately 2,600 acres outside the Friant service area, within the non-federal LeGrand-Athlone Water District, a district which utilizes deep wells and purchases surplus water from the Merced Irrigation District. We grow approximately 1,100 acres of wheat, 1,100 acres of corn, 1,300 acres of

cotton and a total of 600 acres in permanent plantings, almonds and pistachios. As rapidly as money allows, we are trying to convert our row crop operation into a permanent crop operation. Certainly, effects of the Central Valley Project Improvement Act have accelerated this crop conversion.

As is so often the case in the management of western water districts, my involvement in water issues was a family thing. My father was among the founders of the LaBranza Water District in southern Merced County. A few years after I joined the farming operation, I succeeded my father on the LaBranza Board of Directors. After LaBranza merged with the Chowchilla Water District in 1989, I was elected to the Chowchilla Board. I became Chowchilla's director on the FWUA Board in 1992 and have also served as a Central Valley Project Water Association director. For four years, I chaired the California Wheat Commission. I also am a member of the Merced and Madera County Farm Bureaus.

Chowchilla Water District History

The Chowchilla Water District was organized in 1950 out of territory that originally had been part of the Madera Irrigation District. Water deliveries through the Madera Canal began in 1944 under temporary contracts with the Bureau of Reclamation. Chowchilla and Madera signed 40-year contracts with the United States in 1951 for CVP-Friant water. The purpose of entering into this and a subsequent renewal contract was to provide a surface water supply to be conjunctively used with the underlying groundwater supply in order to sustain full agricultural production within the Chowchilla area. Prior to availability of Friant water delivered through the Madera Canal, the only consistent source of water had been groundwater. The Chowchilla River is a seasonal stream and at the time had no reservoir storage facility. The people who made the district part of the Friant Project could see that the area was critically water short and could deplete its groundwater supply in a hurry.

Chowchilla's CVP contract provides a maximum supply of 55,000 acre feet of Class 1 water from the San Joaquin River, delivered through the Friant Division's Madera Canal, and an additional Friant supply of 160,000 acre feet of Class 2 water. The Friant Division's two-class system of water is unique within Reclamation and was specifically conceived to permit the Friant Division to conjunctively use surface water and groundwater and specifically to preserve the underground aquifer. The Class 1 water represents the "firm" supply. Class 2 water develops only after it becomes apparent to the Bureau of Reclamation that all Class 1 contract demands can be met, typically in average and above average water years. When water supplies are ample, Class 2 deliveries permit greater use of surface water and reduce groundwater pumping. The aquifer is recharged through our in-lieu use of surface water and through direct recharge occurring in natural waterways and in our canals. This way we have in place groundwater reserves that can be drawn upon at times when surface supplies are limited or not available. It is an outstanding system, one that has worked well in the Chowchilla Water District and throughout the Friant Division for the past 50 years.

Chowchilla Water District also receives water from the Buchanan Unit of the CVP - Chowchilla River water that is stored in Eastman Lake, a flood control reservoir behind Buchanan Dam. This project yields an average of approximately 24,000 acre-feet per year. Even though the district has vested rights to this historical supply, it is required to pay CVPIA Restoration Fund charges on Buchanan water - a mandate we do not believe to be correct or just.

The Chowchilla Water District includes approximately 80,000 acres in northern Madera County and southern Merced County. My family's farming operation mirrors conditions within the district. Historically, Chowchilla area farming has been devoted predominantly to row crops. However, many farmers are now converting their operations to permanent crops because it is increasingly infeasible to grow annual crops due

to the cost of the CVP water. At the same time, the district has become home to increasing numbers of dairy operations that plant crops such as alfalfa to meet their own needs. These dairy operators, many of whom have relocated from Southern California to escape urbanization pressures, recognize the importance of water.

The groundwater reservoir that sustains agricultural production within the district when surface supplies are inadequate has historically responded well to effects of surface water deliveries. This is dramatically evident in the portion of the district in which my family farms. Our area was among the last along the San Joaquin Valley's east side to gain surface water availability. The canals that deliver water to our farms were not completed until 1980. A few years earlier, during the 1976-77 drought, we lost three wells because of severe groundwater overdraft conditions. However, the combination of surface water availability from the Friant Division coupled with a series of wet years in the early to mid 1980's permitted two of those wells to be recovered. They are still pumping today. Groundwater is a renewable resource. The conjunctive use of surface water and groundwater indeed works very well.

The City of Chowchilla, which is surrounded by the district, also relies on groundwater, as do most of the communities along the San Joaquin Valley's east side. Interior's Reclamation program, as applied to territory within the Friant Division of the CVP, has done a very good job of addressing the overall water supply needs of our farmland and our communities.

Effects of the CVPIA on Personal Farming Operations

The CVPIA and its much higher water costs have prompted our family to continue a steady conversion of our row crop lands to permanent plantings of higher value crops that have the potential for greater returns. With our conversion to permanent crops, we have changed our irrigation systems from flood irrigation to drip systems and micro sprinkler systems. In our row crop operation, we long ago established sumps and return systems because of labor and cost considerations. It is simpler and cheaper to run a 5 horsepower return pump than it is to run a 75 horsepower deep well. In addition, our district does not permit water to be drained off farmland into our canals except under flood conditions, so all farmers within the Chowchilla Water District are reusing their tail water on their farms.

Plantings of tree crops such as almonds or pistachios involve a one time planting cost instead of annual planting costs that are a necessary part of row crops. Our concern, of course, is that so much acreage is being converted from row crops to permanent plantings that markets may become flooded at the expense of commodity prices paid to growers. Still, the potential gross return of \$2,000 to \$3,000 per acre for a crop such as almonds rather than the gross of \$400 to \$500 per acre that can be realized for wheat is extremely important, given the reality of the high water costs we now face. It is a necessity of staying in business. Some of this conversion would have occurred without CVPIA. There is no doubt, however, on our ranches and those of others in the district, the CVPIA has accelerated this change significantly.

On our farm, the actual toll we must pay for water delivered to us has risen more than four-fold over the past several years, to about \$35 per acre foot for water used above the first one and a half acre feet included in the district's standby charge. The assessment has also risen some 50 percent, from about \$18 per acre to \$24 per acre now. These amounts may have been undervalued in the past, but the rapid increase in cost has had a negative effect on our operation and those of our neighbors.

Increases in our water expenses have diminished our ability to invest in other aspects of our family's operation. A good example is equipment. Farm equipment is very expensive. Even though I always purchase

used equipment rather than new, I have been unable to upgrade equipment as I would have liked to have done. Another area in which we have not been able to invest, as would have been preferable, is in applying soil amendments. Sometimes you have to look at what needs to be done and say, "We just can't afford this." That is frustrating to my family and me. We realize that by investing in our lands, we are investing in our future.

The Chowchilla Water District's sources of surface water are insufficient to ensure that a crop's consumptive use requirements can be met. A grower cannot get financing in this area without demonstrating that sufficient deep wells and adequate groundwater are available to sustain crops.

My personal ability to borrow money for operating loans, capital improvements or land financing has not been adversely affected. Lenders, however, now are much more geared than was previously the case toward considering water supply, and in great detail. They want to know what irrigation district the borrower is in, the depth and nature of the groundwater supply, the efficiency of wells, and the gallons per minute that can be pumped. A borrower today must demonstrate a stable water supply or they are not going to be lent any money, on either a long term or short term basis.

Although I have not experienced it because of the location of our property, pressures on farmers to escape economic effects being created by the CVPIA, by selling their land for urban development, are increasing in many areas. These conditions are readily apparent in the Madera Irrigation District, much of which is directly across the San Joaquin River from the rapidly growing Fresno-Clovis metropolitan area. It's a difficult situation. A farmer who is in a position of not being able to make ends meet economically may find a lucrative offer from a developer irresistible. The key in such instances is in working with developers to ensure that there be no net loss of water supply to the area when urbanization does occur. Madera County is interested in putting together a policy that reflects such a position. Otherwise, there is going to be chaos. We need to get a handle on this for the future of the valley.

Effects of the CVPIA on the Environment

The environment surrounding many farms within the Chowchilla Water District, including the environment that farming operations such as ours create, is being changed fairly quickly because of the CVPIA. It is an environmental impact that those who wrote the CVPIA certainly did not anticipate; it is, however, very real.

The change in cropping patterns that I have described, from row crops into permanent crops, means that increasing portions of our ranch in the Chowchilla Water District are not as habitat friendly as they were only a few years ago. This diminished habitat was graphically illustrated during the past winter. Driving through a corn field that we double crop, it was possible on some days to see thousands of cranes, geese, ducks and other birds enjoying the feed that the field provides. A mile down the road, in one of our almond groves, no birds were to be seen. This change from an annual cropping pattern to a permanent cropping pattern suggests that, in dealing with higher water prices caused by the CVPIA, farmers can adjust; animals cannot. It seems to be at cross-purposes to be taking so much money out of the farmer's hands, causing him to destroy something that was environmentally friendly, and then taking the money and sending it, ostensibly for environmental purposes, somewhere else.

Also lessening on-farm habitat are installations of drip and micro-sprinkler irrigation systems within orchards and vineyards. Not only does water no longer stand in rows between plantings (except after storms), sumps and head ditches that are a part of flood irrigation return systems are no longer needed once drip irrigation is installed. Sumps and head ditches provide a surprising amount of habitat for waterfowl and

other wildlife. The CVPIA is hastening the circumstances bringing about the elimination of the sumps, head ditches and the habitat they provide. It would seem to me to be appropriate for a little modification to the CVPIA to be in order so that we can promote and save some of the on-farm habitat that remains.

Effects of the CVPIA on the Chowchilla Water District

Within the Chowchilla Water District as a whole, the average depth to groundwater fell from about 58 feet in the spring of 1971 to approximately 100 feet following the 1976-77 drought, when surface water deliveries were greatly curtailed. During the big El Niño water year in 1982-83, with a full surface water supply and inexpensive water pricing, all district growers made heavy use of surface water. The result, by the spring of 1984, was a return of the district's average water table to its 1971 depth of about 58 feet. The district's depth of groundwater steadily dropped during the six years of drought from 1987-92. Since the spring of 1991, the average depth to water has been 115 feet or greater. One would expect that a marked water table recovery would have accompanied above-average water supply years that have occurred in five of the most recent six years. Such has not been the case. Class 1 water costs to our district are 10 times higher since 1991 and Class 2 water costs are 16 times higher over that same period. As a result, during the current cycle of wet years, growers are foregoing the use of surface water because they can pump more inexpensively from the underground. We are doing everything we can to induce our growers to use surface water, but we've had to let some of our supply go because our growers will not buy it and we simply can not afford to direct recharge it. As a result, even though we have had an abundance of surface water availability in five of the past six years, Chowchilla's average depth to groundwater each spring has remained below 115 feet from the surface. The increases in water costs, most of which are attributable to the CVPIA, are clearly defeating the conjunctive use purpose of the CVP's Friant Project.

The CVPIA has had an impact on Chowchilla Water District operations. For one thing, the district has become less farmer friendly, and not by choice. Our district, like all Friant districts, is very costly to be in now. As the northernmost Friant district, we are nearly surrounded by non-CVP area farmers. I am one of them. I can farm \$60 to \$100 per acre cheaper outside of the Chowchilla Water District than I can within the district.

At the district level, the cost of Class 1 water today is 10 times what it was only a few years ago. Class 2 water costs 16 times more. As a grower, I have no control over what I now must pay for CVP water. Nor do I have any means of controlling the price of the crops I produce. Have you ever heard of any commodity increasing in gross returns to farmers by 12-fold or 16-fold in a seven or eight year period?

Our district has two primary sources of revenue. One is an assessment of approximately \$24 per acre, which is more than the county tax on most property. The district also has a standby charge. For the past several years, the standby charge has been \$52.50 per acre, and is levied on top of the assessment. The standby charge includes delivery of one and one-half acre-feet of water per acre. Growers can purchase additional water beyond the first one and one-half acre-feet at a price of \$35 per acre-foot, the toll we have to charge to cover all of the CVPIA Restoration Fund surcharges and other contract cost obligations. This year, as an incentive for farmers to use additional water, the district has lowered this toll to \$25 per acre-foot, subsidizing the water toll out of our reserves. We have also been attempting to sell water to other districts when we are unable to use the water or deliver it to our growers, who are unwilling to use it because of cost. We have to try to make our district budget balance.

As noted earlier, the district has increased its assessment to landowners by 50 percent. We have increased the price of the water to growers by four-fold. We have also added a standby charge, essentially compelling

our growers to use one and one-half acre-feet of water per acre. Now, under Proposition 218 (a state constitutional amendment), if the district were to have further need to raise revenues by increasing assessments, it would have to place such a proposal before its constituents for approval by majority vote. Lacking that approval, the only other way to raise necessary revenue would be to sell some of our water, if we could find a buyer, and that is like a farmer selling his seed corn. We should be using that water. Any water that the district must sell out of fiscal necessity is water lost to our groundwater recharge efforts. The district is no longer a "water management" agency. It is a "money management" agency. The best water management decisions are not being made.

The Chowchilla Water District has been approached over the possibility of selling a portion of its water for use outside of the region. If the district were to enter into such a sale, the east side's water supply would be further diminished and groundwater overdraft conditions in our district would be worsened, with little hope of improvement. As discussed earlier, the current pattern of above average water supply years has resulted in little, if any, water table recovery for Chowchilla area because farmers have reacted to the high cost of water by pumping groundwater to meet their crop needs. During a lengthy "wet" period in the 1980s, Chowchilla Water District's depth to groundwater recovered 40 feet.

To date the district has been unable to develop percolation basins or recharge basins like other Friant districts because of cost considerations. However, our distribution system of unlined canals does provide direct groundwater recharge. We are working with urban development interests to build a direct groundwater recharge program utilizing percolation basins and the like. This will provide assurances that there will not be an adverse impact to agricultural water supplies with nearby urban development. This is an important water concept to have in place as we experience the conversion of agricultural land to urban uses. We have also annexed adjacent land on the eastern periphery of our district at the request of landowners that are anxious to receive surface water. This is creating some new demand and has also provided a limited amount of additional recharge benefit to the district. Still, with water costs so substantially reducing demands for surface water deliveries, primarily as a result of CVPIA pricing policies, the impacts on the district's groundwater management are overwhelmingly negative.

Most ominous to the district's water supply balance is the water we simply did not buy. Like all Class 2 contractors in the Friant Division, we have the option of paying just some of the cost and letting the Class 2 water go down the river. As a result of such economic decisions, we are foregoing use of Class 2 water in wet years that we should be using for direct groundwater recharge or for selling to farmers to use in lieu of pumping. The effect, again largely a result of CVPIA-imposed costs, is that water is lost to the water short east side of the southern San Joaquin Valley.

As discouraging as these conditions may be, I am convinced that the Chowchilla Water District will survive financially. We are encouraged that we have not seen a significant increase in delinquent assessments. We have had some problems with landowners refusing to pay bills for water and one case in which landowners have sued the district, contending that the district is of no benefit to them.

All of these and other problems, many of which relate to having to live with and function under the CVPIA, have taken a toll on the Chowchilla Water District Board of Directors. Our board has experienced a large turnover. I have been a member of the Chowchilla board since the merger in 1989, and I am now the senior member of the board. Since I have been on the board, we have had 11 different directors. We did not create these conditions and problems, but our constituents tend to respond to the first level and we are on the firing line. Members of the Subcommittee, you and your colleagues in Congress need to hear what we hear from the people who have been and will continue to be most affected by the CVPIA, the CVP water users. So

much of what we as water users have to contend with as a result of the CVPIA is illogical. If it made sense, that would be one thing, but a lot of the changes occurring as a result of the CVPIA do not make good environmental sense, do not make good economic sense and surely do not make good sense for the east side of the San Joaquin Valley.

I have attached for ease in the Committee's review, a number of graphical representations of the component cost of Chowchilla Water District's water supply as well as the recorded average depth to groundwater for the Chowchilla Water District over approximately the last 20 years.

General Comments on the Effects of the CVPIA

I don't accept the position that those of us in agriculture are some sort of interim placeholders between the time of the native Americans and the ultimate urbanization of this valley. There are other alternatives here. I cannot see paving over all of the best farmland in the world. That doesn't make any sense to me. People are still going to have to eat. We need to look at the future, and the future is in preserving our farmlands and insuring an adequate, affordable water supply. Urban development cannot and should not occur without an adequate, reliable water supply. However, accelerating agriculture's demise by forcing farmers off the land because of unaffordable water is not good public policy.

We have brought these and other concerns about the CVPIA and the changes resulting from its implementation to the attention of the U.S. Bureau of Reclamation. It seems to me that government officials, when they see something that is not functioning as intended, have an obligation to speak out and say, "This isn't working; we need to make some changes." I was distressed to hear one Bureau of Reclamation official, during a discussion of these concerns last fall at the Association of California Water Agencies conference in Long Beach, tell us that the solution is not to change the CVPIA. The solution, this official said, is to impose the CVPIA model on everyone else in California, with such additional elements as imposition of taxes on deep wells and controlling the pumping of groundwater to ensure that groundwater is more expensive than available surface water supplies. That is not the solution. We have something that has worked here for 50 years. We need to promote the success we have found and fix the elements that have not worked. We do not need more government regulation.

We have a Reclamation system here that has worked for a half century. It is the result of an extraordinary public-private understanding that was agreed upon when the Central Valley Project's Friant Division was being designed and constructed. We in the valley promised to change the desert into a garden; that was our job. We agreed to pay for the dams, pay for the canals and pay for the water. We also agreed to comply with Reclamation law. The Friant Division's contractors and water users have done all of that, in the intent as well as the spirit of Reclamation law. We have met our pledge to develop an unparalleled agricultural region rooted in family farming. For its part, the United States promised to always provide a supply of water that we could count upon. The result of this partnership has been the creation of the most productive agricultural regions anywhere; one that annually generates billions of dollars for the nation's economy while helping feed the world.

Yet, after having done our part, here we are in a situation in which the law and administrative activities of the United States are at cross-purposes with the intent and mission of the CVP's Friant Division. One of the primary purposes of the Friant project was to replenish the aquifer along the southern San Joaquin Valley's east side. To do so, Friant's unique two class system of water service contracts and deliveries was devised as the means to fuel and sustain the conjunctive use of surface water and groundwater. The CVPIA has created a barrier to this purpose.

The CVPIA is the law. It is not going to go away. We know and accept that. A few minor changes, however, would make it better environmentally and would help restore the project's intended purpose - the preservation of the southern San Joaquin Valley's groundwater aquifers.

We have a problem here. Our growers and constituents have a problem. We want to do something to solve it. I am very pleased at the Subcommittee's willingness to have a hearing and allow us to focus some needed attention to these problems. We believe we have legitimate, honest problems and concerns that cannot be dismissed. The CVPIA was clearly not perfect in its construction. It is having adverse consequences for the economy and the environment of our valley - some of them intended; some of them unintentional. Again, thank you for coming to Fresno and hearing our concerns.

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