ATTRA Symposium, June 13, 1991 — Drought of 90-1250

— Calif. Ag. overview - farms, farmworkers, communities, water use

I want to thank Joe Velarde of La Cooperativa, and Julie Rogers and Joe Schiller of ATTRA for inviting me to meet with you today and sincerely regret that my schedule limits the amount of time that I am able to be with you. My first direct contact with the issues of concern to us today occurred in 1977 when a couple of us started an organization now known as the California Action Network. As we wandered around the agricultural valleys of our state talking with activists in places like El Centro, Fresno, Merced, Bakersfield and Madera, a specific name came up over and over again. It wasn't long before we realized that we needed to speak with this person. And so, later that year, we found ourselves in the rather jam-packed office of a fellow by the name of Paul Schuster Taylor. The day we spent together will remain clearly in my memory for the rest of my life.

Paul Taylor gave me a basic education about how water policy and community, or human, policy are inextricably linked. That decisions made about water allocation in the West largely reflect the dominant interests of the social and economic system on which our society is based. And I learned of the existence of what Lloyd Carter has called the Hydraulic Brotherhood, an informal network of landowners, elected officials, quasi-public officials, developers, engineers and agricultural business entrepreneurs who play a major, if not determining role, in the use of water in this state. Lest you think that the Hydraulic Brotherhood speaks with one voice let me recall for you that the 1982 referendum on the issuance of bonds to pay for substantial expansions of the California State Water Project, commonly referred to as the Peripheral Canal, demonstrated that important divisions exist among its members. Nevertheless, there are groups of people whose names are probably not even known to you in this room today who play an extremely influential role in water policy decisions.

My purpose in being here today is discuss "Policies and Power of Water Use and Conservation." A portion of my remarks are based on research reports of CIRS in which the work was largely done by others, most notably Judith Redmond, Leslie Bolin, Gretchen Bradfield and Phyllis Woodbury. The central point I wish to make today is that the discussion of this important question is taking place without the knowledge, consent, or participation of most of the people who are directly affected by these decisions. That is, though the concerns of the environment have been added to roster of considerations to be taken into account in making water policy decisions, the process of the on-going policy discussion, and therefore of its conclusions, is largely excluding most of the directly affected parties. Thus, I will argue, water policy is continuing to made in a patently undemocratic and elitist manner, in my view, to the detriment of California communities.

Now to the issue at hand: "How is water policy formulated?" It seems to me that one of the most influential factors in the determination of current policy has its origins in English common law as carried forward into U.S. common law. It is the notion that private property rights, those rights based on the ownership of

property, shall be exercised in accordance with the principle first in time is first in right, and, of course, the not explicitly stated, but crucial, ammendment added during the settlement of the West, "...except for Native Americans and Mexicans." The sale and transfer of water rights as part of the bundle of rights associated with the ownership of private property forms much of the basis of patterns of water use in the West. It is under this principle that landowners in the Sacramento-San Joaquin Delta are able to claim the right to the use of major portions of Delta water as they see fit. It is under this principle that some Yolo County landowners are able, this year, to pump 38 billions gallons of local groundwater, thereby depleting our groundwater table, including the supply for the City of Davis, and sell it to urban development interests in other parts of our state. It is under this principle that the Imperial Irrigation District remains first in line for the use of Colorado River water from the Boulder Canyon Project. And it is under this principle that the Los Angeles Department of Water and Power stole the waters of the Owens River watershed.

It is widely accepted that agriculture is the largest single water user in California and so much of my discussion today will focus on the policy issues associated with agricultural water use. However, I will return to the question of urban vs. agricultural water use later in in remarks.

Public policy on agriucltural water resource issues has, in my view, largely centered around the degree to which private property interests are either willing or are forced to surrender their authority to a usually vaguely defined larger public interest. For example, landowners in the West were forced to accept limitations on the amount of property that could receive water from federal irrigation projects. And, in return, public monies were invested in huge irrigation projects to encourage settlement and economic development in the arid regions of the West. It was presumed that economic development would benefit the residents of the area. However, by basing this policy on a 19th century notion of small-holders in areas of the West where small holders owned only a small portion of the land, this idealistic policy was doomed. In most federal reclamation projects in California, with some notable exceptions to which I will return later, the great majority of the land was held by a relatively small number of landowners. Most residents of these areas worked as hired farm workers and their interests were formally excluded from consideration in the determination of federal reclamation policy. Moreover, the influence of the private property holders was so great as to actually frustrate proper enforcement of acreage limitations. Whether through leasing or the use of dummy companies, the large landowners successfully frustrated the proper exercise of public policy.

Paul Taylor devoted much of his life to attempting to insure that the acrage limitation provision of federal reclamation law was actually upheld. These efforts to enforce the 160-acre limit were based on the well-established meaning of the 1902 Reclamation Law that the benefits of federal reclamation programs were to be as widely shared as possible. Not only were benefits limited to a quarter-section per owner, but it was also a requirement that the

beneficiaries of this policy actually live on the property. Hence, a system of small-holders was to be enforced that would, in turn, benefit the community at large. As was clearly demonstrated by Walter goldschmidt in his seminal work, a community based upon small holders was a richer, healthier community, by every measure, than a community based on large land holders.

So in 1977 we joined a lawsuit brought by fellow named Ben Yellen and a group of low-income residents of the Imperial Valley against the Imperial Irrigation District, the U.S. Department of Interior and Interior Secretary Andrus arguing that the federal government and IID had <u>never</u> sought to properly enforce the acreage limitation provision. Independently, an organization known as National Land for People was able to show that improper enforcement of reclamation law had excluded those who the law had originally intended to benefit. And the federal courts, for the first time, gave standing to parties who could claim that they had been improperly excluded from the benefits of federal policy. In the subsequent court and legislative battles, a fellow by the name of George Miller helped to craft a "compromise" which did the following: first, it abolished the residency requirment; second, it permitted the creation of land-holding trusts which could hold unlimited amounts of property while, for reclamation purposes, the proportionate share of the benificiaries would be computed for reclamation law purposes; and it raised the acreage limitation to 960 acres. When I met with George Miller it was clear after only a few minutes of discussion that he was a man who had been fooled by some very smart corporate lawyers.

1. who has been excluded under the present terms of discussion? Huron and McFarland
2. Bradley bill
3. institutional bias within the environmental movement
4. is agriculture the enemy?
   - simplistic terms of discussion
   - efficiency of ag vs. urban water use
   - alfalfa and pasture
5. water policy platform
   - lifeline
   - state water plan
   - conservation incentives for small farms
6. politics of cooperation
   - dairy campaign
   - support for communities-freeze, drought relief

West side - ϕ State — 2.5 MAF
75% reduction Federal

Salton Sea - IID — 0.5 MAF

~~Reduction~~ - take it out of production — 1. MAF
Delta

Win-Win solutions