



United States General Accounting Office
Washington, DC 20548

January 23, 2002

The Honorable Doug Ose
House of Representatives

Subject: Land Acquisitions: Agencies Generally Used Similar Standards
and Appraisal Methodologies in CALFED and CVPIA Transactions

Dear Mr. Ose:

Since 1994, over \$63.6 million of CALFED Delta-Bay (CALFED) and Central Valley Project Improvement Act (CVPIA) funds have been used to purchase private lands in California for wetlands mitigation and wildlife enhancement. Using these funds, several federal agencies and nonprofit organizations have acquired about 101,800 acres—94,300 acres in full ownership and 7,500 acres in partial interest or easements that restrict how land may be used.

Concerned about the potential effect that multiple purchasing agencies could have on land prices, you asked us to provide information on the land appraisal processes used in such acquisitions. Specifically, you asked us to determine (1) what appraisal standards and guidance federal and nonfederal entities used in CALFED and CVPIA funded land acquisitions, and (2) if different standards or guidance were used, the rationale for their use and whether their use raised any significant concerns regarding compliance with appraisal standards.

To obtain information on the appraisal standards and guidance being used in these acquisitions and whether any differences in standards or guidance raised significant concerns about the appraisals, we examined the activities of three federal agencies and one of the nonprofit organizations that used such funds to acquire full ownership or easements—the Fish and Wildlife Service and the Bureau of Reclamation, in the Department of the Interior, Natural Resources Conservation Service (NRCS) in the Department of Agriculture and The Nature Conservancy, a nonprofit organization. In addition, to determine if federal agencies and nonprofit organizations were adhering to their respective standards and guidance, we reviewed 6 of 47 transactions completed during fiscal years 1994 to 2001 that fell within the geographic area of your concern—the Central Valley of California (from Fresno to Redding and from San Francisco Bay to Sacramento). We selected these transactions to include one from each

of the agencies and the nonprofit and to cover both CALFED and CVPIA funding sources.

In summary, the three federal agencies and the nonprofit organization we reviewed used the Uniform Appraisal Standards for Federal Land Acquisitions (Uniform Standards) when conducting appraisals for land acquisitions. The Uniform Standards, prepared by the Interagency Land Acquisition Conference, set forth the general principles applicable to the appraisal of property for federal land acquisition. In addition, all the entities developed and used supplemental appraisal guidance, which was generally consistent across the entities.

In conducting their appraisals, the federal agencies and the nonprofit organization used similar methodologies with one exception involving an NRCS easement acquisition. In assessing the value of an easement, the Uniform Standards specify that full consideration should be given to the residual value of the property—that is the value of the rights retained by the owner after the easement restriction is implemented. As a routine practice, NRCS does not consider the land's residual value in making its appraisals. Consistent with this practice, in the case we examined, NRCS appraised the land at \$4,000 an acre and made no reduction for any residual use. In explaining the rationale for this practice, NRCS officials said that the agency's floodplain program is aimed at reducing farmland acreage for which federal flood disaster payments are made by purchasing easements precluding continued farming. Such an easement thereby eliminates any residual value associated with agricultural use of the land. According to NRCS officials, considering the land's residual value associated with any nonagricultural use of the land might reduce the compensation to landowners and discourage interest in the program. In addition, NRCS limits payments to a maximum of \$2,000 per acre and all of NRCS's easement acquisitions are voluntary since NRCS does not have eminent domain authority—that is, the right of the government to condemn the land and take possession from an unwilling seller. Officials at other agencies were concerned about NRCS's practice of not considering the land's residual value because such practice might result in a higher appraisal valuation. However, because the appraiser did not determine the land's residual value in the case we examined, we could not assess the impact of NRCS's practice. The landowner in this case ultimately received the full-appraised value of \$4,000 per acre for the easement; NRCS paid \$2,000 per acre from its own funds and CALFED funds were used to make up the \$2,000 difference.

Background

In California, land acquisitions for enhancing habitat and protecting wildlife are funded through a variety of federal programs including CALFED and the Central Valley Project Improvement Act. CALFED is a joint federal-state partnership with management and regulatory responsibilities in the San Francisco Bay/Sacramento-San Joaquin River Delta, known as the Bay-Delta area. CALFED was established in 1995 to develop a long-term plan for restoring the ecological health of, and improving water management in, the area. Land acquisitions are one of the means used to accomplish this goal. In 1996, the California Bay-Delta Environmental Enhancement and Water Security Act, known as the Bay-Delta Act, authorized the appropriation of federal funds in fiscal years 1998 through 2000 for developing and implementing CALFED's authorized activities.¹ Funds were appropriated to the Bureau of Reclamation, which distributed them to participating entities. The initial authorization and funding for the Bay-Delta Ecosystem expired in the fall of 2000. Reauthorization legislation for CALFED is currently pending in Congress.

The Central Valley Project Improvement Act of 1992 established a federally funded program that, among other things, authorizes restoration activities for wildlife habitats damaged as a result of water projects completed under the Central Valley Project.² CVPIA funds may be used for habitat restoration and enhancement, and for water and land acquisitions from willing sellers. CVPIA projects are financed in part through the Central Valley Project Restoration Fund and in part through donations and payments from the Central Valley Project water and power users.

In total, over \$63.6 million of CALFED/CVPIA funds, sometimes combined with other federal funds, has been used to acquire full ownership or easements for 101,804 acres in Northern California and the Central Valley, as shown in table 1. Enclosure I provides additional information on the project, cost, and type of acquisition by federal agency and nonprofit organization.

¹P.L. 104-208, Division E, title I, (1996); P.L. 104-333, Division I, title XI, (1996).

²P.L. 102-575, title XXXIV of the Reclamation Projects Authorization and Adjustment Act of 1992.

Table 1: Acres Acquired in Northern California and the Central Valley Using CALFED or CVPIA funds

| | CALFED^a | CVPIA |
|-------------------------------|---------------------------|--------------|
| Full ownership acres acquired | 13,513 | 80,764 |
| Easement acres acquired | 2,880 | 4,647 |
| Total purchase price | \$44,556,471 | \$19,060,786 |

^aApproximately \$5,748,500 of CALFED funds have been committed to buy (full ownership or easement) about 2,611 acres, but the transactions have not yet been completed, thus are excluded from the table.

Source: GAO's analysis of data provided by CALFED and federal agencies.

NRCS used a combination of its own and CALFED funds to acquire some easements under its Emergency Watershed Protection (EWP) program, which allows for the purchase of floodplain easements as an emergency measure. Under the floodplain easement option, a landowner voluntarily offers to sell to NRCS a permanent conservation easement that provides the NRCS with the full authority to restore and enhance the floodplain's functions and values. NRCS may purchase EWP easements on any floodplain lands that have been impaired within the last 12 months or that have a history of repeated flooding—that is, flooding at least two times during the past 10 years. Purchases are based upon established priorities.

Appraisals are used to estimate the market value of and serve as the basis for negotiating land acquisitions. Market value is defined in the Uniform Standards as the amount for which a property would be sold by a willing and knowledgeable seller, with no obligation to sell, to a willing and knowledgeable buyer, with no obligation to buy. The appraiser estimates the value of the land based on its "highest and best" use, as if vacant and available for such use. Under the Uniform Standards, in making an appraisal for an easement acquisition, the appropriate compensation is the difference between the value of the whole parcel before the acquisition and the residual value of the remainder after the acquisition. This appraisal method is also referred to as the "before and after" method of valuation. Appraisals can be conducted by qualified federal agency staff or by private appraisal firms, called contract appraisers. A qualified reviewing appraiser must review all appraisals irrespective of whether federal agency staff or contract appraisers completed them.

Appraisal Standards and Guidance Used by Federal Agencies

In conducting appraisals and appraisal reviews for CALFED and CVPIA transactions, federal agencies and the nonprofit organization used the Uniform Standards. These standards, which are compatible with industry standards and practices, establish policies that federal agencies must follow to the greatest extent practicable in acquiring real property. They address all facets of the acquisition including purpose and scope of the appraisal, legal description of the property, current land use, and detailed data analysis that includes the appraiser's determination of highest and best use and method of valuation, such as comparable sales in the area. In addition, the Uniform Standards also describe a format for preparing the written appraisal and the documentation that is needed. In each of the six transactions we reviewed, the written appraisal included detailed information on the parcel of land under consideration and the data used to estimate its value. For example, in one transaction a Bureau of Reclamation appraisal determined that the land value would be higher if the land were used differently. The appraiser concluded that the current use—cattle grazing—did not represent the highest and best use of the land. The appraisal included the appraiser's detailed analysis of current and potential uses, an examination of zoning laws and general use plans, and recent sales in the area showing that the area was in transition from cattle grazing to residential development—a higher economic use.

Moreover, all of the acquisitions we reviewed used comparable sales to determine the land valuation. Comparable sales are defined as recent sales of parcels in the general area of the parcel under consideration that are viewed to be similar. In each case, a detailed description of the sale used for comparison was provided including an overall statement regarding the degree of applicability—whether the sale parcel was inferior, comparable, or superior to the subject parcel. The number of comparable sales analyzed in the six transactions we reviewed ranged from 6 to 26 sales. The price the federal agencies and the nonprofit entity paid in each of the six cases was below the highest comparable sale analyzed.

Agency guidance supplements the Uniform Standards and provides more detailed procedures for conducting appraisals and appraisal reviews. The U. S. Fish and Wildlife Service's manual has two chapters dedicated to the appraisal and the appraisal review. The Bureau of Reclamation's Directives and Standards on Real Estate Appraisals details agency specific procedures and processes and includes multiple appendices describing authorities and the acquisition process. NRCS has a National Wetlands Reserve Program Handbook with sections detailing procedures for wetlands and floodplain easement acquisitions. The Nature Conservancy also developed supplemental guidance for use in conducting appraisals. In

each case, the guidance sections relating to acquisitions were comprehensive and generally consistent with the Uniform Standards. In addition, all entities had developed guidance for selecting contract appraisers that included specific instructions to the contract appraisal firm.

Agencies and Nonprofit Organization Used Similar Appraisal Methodologies with One Exception

The federal agencies and the nonprofit organization generally used the same methodologies for appraisals with one exception involving an easement acquired by NRCS. In assessing the value of an easement, the Uniform Standards specify that consideration should be given to the residual value of rights that the owner retains after the easement restriction has been implemented. The nonprofit organization and the federal agencies, except for NRCS, take into account residual value. For example, a wetlands easement purchased by the Fish and Wildlife Service allowed for occasional recreational use. The price paid for the easement was adjusted for the residual value of the land with recreational use. NRCS, as a routine practice, does not consider the land's residual value in making appraisals and in the NRCS transaction we reviewed, NRCS made no reduction for any residual use.

NRCS officials explained that their floodplain program is aimed at reducing farmland acreage that receives federal disaster payments due to frequent flooding. This reduction is accomplished by purchasing easements that preclude agricultural use of floodplain acreage. In NRCS's view, restricting the appraisal value to the market value of the land's agricultural use and precluding such use eliminates any agriculture-related residual value. Further, NRCS officials stated that their easements severely restrict future activities or uses of the land and the landowner must seek NRCS's approval for almost any activity. Finally, NRCS does not have eminent domain authority making all transactions voluntary and NRCS limits payments from its funds to the lesser of (1) the land's agriculture value based on a market appraisal analysis, (2) the landowner's offer, or (3) a pre-established geographical area rate not to exceed \$2,000 per acre. The geographical area rate, which varies throughout the Central Valley and Northern California, is based on such factors as soil erodability, and crop and production histories.

According to NRCS officials, buying agriculture easements on floodplain acres benefits the federal government in that payments for flood losses on those lands cease. In their view, given that the program already has limits on compensation, further reducing the compensation by considering

residual values other than farming would, in their opinion, discourage farmers from participating in the program.

Officials at other agencies were concerned, however, that the Uniform Standards were not being uniformly followed and that NRCS's practice might result in higher valuations for easements than if nonagricultural residual values were considered. Because residual value was not determined in the NRCS appraisal we examined, we could not assess the impact of NRCS's practice. The landowner, in this case, received the full appraised value of \$4,000 per acre for the easement; NRCS paid \$2,000 per acre from its own funds and CALFED funds were used to pay the remaining \$2,000 per acre.

Observations

In acquiring easements through the CALFED program, NRCS takes a different appraisal approach than the other agencies we examined. Instead of taking residual uses of the land into account in determining the value of the easement, NRCS essentially assumes that the lands only use is agricultural. Under this approach, by purchasing an easement barring future agricultural use of the land there is no residual value to deduct. As a result, the appraised values of the easements may be higher than they would be otherwise.

NRCS makes the case that its approach, nonetheless, makes financial sense. It argues that removing land in floodplains that is subject to repeated disaster payments reduces federal costs in the long run. Considering the non-agricultural residual value could reduce the incentive for farmers to participate in the floodplain program.

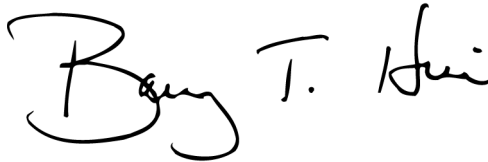
While NRCS's view has a potentially sound conceptual grounding, it has not produced a financial analysis to support its view and other agencies are not convinced that the NRCS approach is financially sound. It may be worthwhile for NRCS to re-examine its approach and perform the financial analyses to support its position.

We provided the Departments of the Interior and Agriculture and The Nature Conservancy with a draft of this letter for their review and comment. All three entities generally agreed with the substance of the letter. Interior and Agriculture officials also provided technical and clarifying comments that we have incorporated as appropriate.

We conducted our review from June 2001 to November 2001 in accordance with generally accepted government auditing standards.

This letter will be available on GAO's home page at <http://www.gao.gov>. Please contact me at (202) 512-3841 or Keith Oleson at (415) 904-2218 if you or your staff has any questions. Other major contributors to this report were Judy Hoover and Ben Atwater.

Sincerely yours,

A handwritten signature in black ink that reads "Barry T. Hill". The signature is written in a cursive style with a large, looped initial "B".

Barry T. Hill
Director, Natural Resources
And Environment

Enclosure

Enclosure I: Information on CALFED and CVPIA Land Acquisitions in California

The following tables present information on CALFED and Central Valley Project Improvement Act (CVPIA) land acquisitions occurring within the Central Valley and Northern California from fiscal year 1994 to fiscal year 2001.

Table 2: CALFED Funded Acquisitions by Purchaser, Funded Amount, and Acreage

| Purchaser and project | Funds^a | Full-ownership acres | Easement acres |
|--|--------------------------|-----------------------------|-----------------------|
| Fish and Wildlife Service | | | |
| Property A ^b | 8,926,000 | 4,760 | |
| Property B | 2,622,500 | 555 | |
| Property C | 491,000 | | 162 |
| Lower San Joaquin River | 1,100,000 | 230 | |
| San Joaquin River | 10,827,000 | 2,030 | |
| Subtotal | 23,966,500 | 7,575 | |
| Nature Conservancy | | | |
| Property D | 5,356,000 | 1,655 | |
| Riparian Project | 573,000 | 105 | |
| Cosumnes River 1 | 3,500,000 | 2,947 | |
| Cosumnes River 2 | 750,000 | 475 | |
| Subtotal | 10,179,000 | 5,182 | |
| Natural Resources Conservation Service | | | |
| Property E | 110,403 | | 57 |
| Property F | 30,300 | | 61 |
| Property G | 100,700 | | 201 |
| Property H | 10,690 | | 22 |
| Property I | 273,540 | | 153 |
| Property J | 222,400 | | 111 |
| Property K | 190,552 | | 203 |
| Property L | 226,314 | | 127 |
| Property M | 102,042 | | 58 |
| Subtotal ^c | 1,366,941 | | 993 |
| Other entities | | | |
| California Department of Fish and Game | 1,915,000 | 453 | 168 |
| U.S. Bureau of Land Management | 2,240,250 | | 1,411 |
| East Stanislaus River Conservation District; Friends of the Tuolumne | 26,250 | | 140 |
| Turlock Irrigation District | 3,322,050 | | 6 |
| Friends of the Tuolumne | 1,540,480 | 303 | |
| Subtotal | 9,044,030 | 756 | 1,725 |
| Total | \$44,556,471 | 13,513 | 2,880 |

Enclosure I: Information on CALFED and CVPIA Land Acquisitions in California

^aIn some instances, additional funds from sources other than CALFED were also used in the transaction.

^bSales data were collected under individual property-owner names, which have been omitted here.

^cIncludes overhead costs of \$100,000 not identified by individual transactions.

Source: GAO's analysis of data provided by CALFED and federal agencies.

Table 3: CVPIA Funded Acquisitions by Purchaser, Funded Amount, and Acreage

| Purchaser and project | Funds ^a | Full-ownership acres | Easement acres |
|---------------------------------------|---------------------|----------------------|----------------|
| U.S. Fish and Wildlife Service | | | |
| Sacramento River | 1,501,796 | 287 | |
| Sacramento River | 162,000 | 122 | |
| San Joaquin River | 176,900 | 35 | |
| Property 1A ^b | 313,000 | 56 | |
| Property 2A | 123,500 | 90 | |
| Property 3A | 385,000 | | 465 |
| Property 4A | 136,952 | | 2 |
| Property 5A | 147,952 | | 6 |
| Property 6A | 249,036 | | 1,629 |
| Property 7A | 154,000 | 10 | |
| Property 8A | 677,250 | | 137 |
| Property 9A | 180,600 | 482 | |
| Property 10A | 1,290,000 | 4,176 | 180 |
| Property 11A | 286,000 | 13,000 | |
| Property 12A | 400,000 | 80 | |
| Property 13A | 1,960,000 | 103 | |
| Property 14A | 76,800 | | 19 |
| Segment7/11 Property | 605,000 | | 49 |
| Subtotal | 8,825,786 | 18,441 | 2,487 |
| Bureau of Reclamation | | | |
| Property 1B | 2,823,000 | 1,227 | |
| Property 2B | 1,719,000 | 60,030 | |
| Property 3B | 3,368,000 | 156 | |
| Property 4B | 1,500,000 | 185 | |
| Property 5B | 525,000 | 725 | |
| Property 6B | 300,000 | | 2,160 |
| Subtotal | 10,235,000 | 62,323 | 2,160 |
| Total | 19,060,786 | 80,764 | 4,647 |
| TOTAL | \$63,617,257 | 94,277 | 7,527 |

^aIn some instances, additional funds from sources other than CVPIA were also used in the transaction.

^bSales data were collected under individual property-owner names, which have been omitted here.

Source: GAO's analysis of data provided by federal agencies.