Appendix D
RESPONSES TO COMMENTS ON DRAFT REPORT

May 2001

This appendix presents Reclamation's responses to public comments received on the CVP Cost Allocation Study Draft Report. The Draft Report was released for public review and comment in January 2001 and the comment period closed on March 26, 2001. During the comment period, Reclamation received comment letters from the groups listed in Table D-1. In addition to soliciting written comments on the Draft Report, Reclamation held eight public meetings during the course of the allocation study to provide the public an opportunity for input and comments.

TABLE D – 1

GROUPS THAT PROVIDED COMMENTS ON THE DRAFT REPORT

GROUP	ABBREVIATION
Northern California Water Association	NCWA
Santa Clara Valley Water District	SCVWD
Central Valley Project Water Association	CVPWA
Sacramento Municipal Utility District	SMUD
Westlands Water District	WWD

This appendix presents copies of comment letters on the Draft Report followed by Reclamation's responses to comments. Responses have been prepared to address comments identified on the letters, as indicated with brackets. Many of the letters expressed similar comments regarding the evaluation of alternatives and selection of the preferred alternative. Where applicable, responses to similar comments are referenced to prior responses.

In addition to a recommendation that Reclamation continue use of the Existing Allocation methodology, the Draft Report recommended that Reclamation begin to identify the data and agency coordination requirements to support a new cost allocation study. Four groups commented on the recommendations regarding a new allocation study, with two in support and two opposed.

NCWA
Northern California Water Association

March 26, 2001

Mr. Mike Finnegan
Manager
Business Resources Center
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825-1898

Dear Mr. Finnegan:

I appreciate the opportunity to comment on the recently released draft Central Valley Project Cost Allocation Study. The Northern California Water Association (NCWA) represents 70 water suppliers and individual farmers who collectively irrigate over 850,000 acres of fertile Northern California farmland, including a number of Central Valley Project Sacramento River Water Rights Settlement Contractors and Water Service Contractors. Several of our members also deliver water to state and federal wildlife refuges and a large portion of this land serves as important seasonal wetlands for migrating waterfowl, shorebirds and other wildlife.

After reviewing the study, NCWA has the following comments:

- The preferred alternative using the existing cost structure understates the flood protection and environmental enhancement provided by the Central Valley Project (CVP).
- Use of the cost allocation figures developed in 1975 inflates the joint costs allocated to power due to the inclusion of high priced nuclear power to the allocation. As a result, flood control benefits are understated in the allocation. NCWA-1
- The single-purpose alternative costs and related benefits that are accrued to the authorized purposes in the 1970 allocation study more accurately represent the allocation between reimbursable and non-reimbursable project purpose CVP costs.
- The benefits-based method should continue to be used as the means of allocating CVP costs. NCWA-2
- The Bureau of Reclamation should consider the benefit and viability of conducting a new cost allocation study that is based upon current single purpose alternative costs and current benefit estimates. NCWA-3

Once again, thank you for this opportunity to comment.

Sincerely,

Todd Manley

Todd Manley
Director of Government Relations

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COMMENT	RESPONSE
NCWA – 1	Reclamation acknowledges that both the 1970 and 1975 joint cost allocation factors may not accurately represent the historical or current benefits provided by multipurpose facilities of the CVP. In Chapter VI of the Draft Report, issues associated with both sets of joint cost allocation factors are addressed in detail under the discussion of Evaluation Criterion 1 – Allocate Joint Costs Based on Project Benefits. A new allocation study would consider all accomplishments and benefits over the life of the project, not just those expected to occur in the future. As stated in the Draft Report, "Only a complete, new allocation study that estimated project benefits, costs of facilities in service, and single-purpose alternatives could produce joint cost factors that would represent current conditions. And, even if one were performed, it would still leave questions as to how to integrate the results with past uses of project facilities and historic allocations used for repayment to date."
NCWA – 2	Reclamation concurs that joint costs of the CVP should continue to be allocated using benefits-based methods, as recommended in the Draft Report. In the evaluation of alternatives, several criteria that reflect the importance of benefits-based joint cost allocation methods were applied. These include: Criterion 1 – Allocate Joint Costs Based on Project Benefits; Criterion 3 – Apply Accepted Cost Allocation Standards; and Criterion 4 – Consistency with Past CVP Cost Allocation Methods.
NCWA – 3	As stated in the Draft Report, a new cost allocation study that considers current project benefits and alternative costs would be needed to establish new joint cost allocation factors. In addition, historical project accomplishments and benefits would have to be taken into account in any new allocation study. Chapter VII of the Draft Report recommends consideration of a new interim cost allocation based on new estimates of project accomplishments – including water supply, flood control, power, and fish and wildlife benefits and costs. Because such a study could be time consuming and potentially costly, the report recommends that Reclamation begin with an appraisal of data requirements and the ability of other agencies, such as the Corps of Engineers and the Fish and Wildlife Service, to participate in such a study. Reclamation notes NCWA's support to begin an evaluation of data requirements and agency coordination needed for the development of a new cost allocation study.

Santa Clara Valley Water District

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AN EQUAL OPPORTUNITY EMPLOYER

March 26, 2001

Mr. Michael Finnegan
Business Resources Manager, Mid-Pacific Region
United States Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825-1898

Dear Mr. Finnegan:

Thank you for the opportunity to comment on the January 2001, *CVP COST ALLOCATION STUDY - DRAFT REPORT.* Our appreciation extends to the process involved in producing this report. You and your staff encouraged an open process and invited contractor participation. Additionally, we recognize the enormous amount of work involved in documenting, correcting, updating, and streamlining the current process.

SCVWD-1

The preferred alternative chosen in the draft report is to continue to use the existing allocation factors. These 1975 factors do not account for the increase of flood control benefits nor do they take into account changes that have been made in project operations to accommodate the escalation of environmental enhancement. The understatement of benefits received by either flood control or environmental enhancement significantly impacts other water and power users.

SCVWD-2

We do not advocate doing a new allocation study at this time. We assume such a study is prohibitively expensive and we must, faced with ever increasing water costs, make every effort to contain costs for our constituents. However, we urge Reclamation to note the understatement of benefits allocated to the both flood control and environmental enhancement, ask that consideration be given to reevaluation of these benefits when a new allocation is undertaken.

SCVWD-3

Finally, we have a specific concern about the cost allocation of the Folsom South Canal. We believe that the basis for deferred costs associated with the canal should be thoroughly reevaluated.

Again, we appreciate your efforts to make the process involved in completing this study open to contractor participation.

If you have questions, please feel free to call.

Sincerely,

Joan Maher

Joan A. Maher
Imported Water Manager

COMMENT	RESPONSE
SCVWD – 1	See Response to NCWA – 1
SCVWD – 2	Reclamation notes SCVWD's preference not to begin development of a new cost allocation study at this time. Only a new allocation study could evaluate project accomplishments and associated monetary benefits.
SCVWD - 3	Public Law 89-161, which authorized the Auburn-Folsom South Unit of the CVP, provided for deferral of the incremental cost of constructing additional capacity in the Folsom South Canal to serve the East Side Division of the CVP in the event that division is authorized. The Draft Report focused on consideration of alternative joint cost allocation methods and never addressed issues related to the determination of construction cost deferral for the Folsom South Canal. Therefore, this comment cannot be addressed within the context of responses to the Draft Report.

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March 26, 2001

Mr. Mike Finnegan
Manager
Business Resources Center
Bureau of Reclamation
2800 Cottage Way
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Subject: Comments on Draft CVP Cost Allocation Study

Dear Mr. Finnegan:

Thank you for the opportunity to comment on the recently released draft Central Valley Project Cost Allocation Study. We would like to commend your staff, in particular Craig Stroh, for the highly professional manner in which they coordinated and worked with the CVP water and power contractors throughout the lengthy study process. We thank you for allowing us to submit our cost reallocation proposal for consideration and to be actively involved in the development of the criteria used to evaluate the merits of each of the three cost reallocation alternatives. The comments that follow express the overall concerns of the Central Valley Project Water Association membership regarding Reclamation's selection of the current CVP cost allocation methodology as the preferred alternative. Some member districts will also be submitting individual comment letters relative to your preferred alternative selection.

In the draft report, the preferred alternative is to continue using the existing cost allocation. We could accept the results of this study if it were modified to correct two significant deficiencies that will be perpetuated in the existing allocation. One deficiency is the understatement of the benefits (and resulting allocated costs) the CVP provides for flood protection. We also believe that the environmental enhancement qualities of water dedicated under CVPIA need to be given ample consideration. While these two issues were not deemed to have fully met evaluation criteria used in the decision making process, we believe these issues are not adequately addressed in the existing cost allocation plan and request your reconsideration.

We support the two additional recommendations made in the draft report regarding the continued usage of a benefits-based allocation method for allocating CVP costs, and future consideration of a new cost allocation study (using a benefits-based approach) should it be determined that the resulting benefits of such a study outweigh the costs. We request that the issues raised by us in the contractor proposed alternative, and reiterated in this letter, be addressed as part of any new cost allocation study, when and if such a study is conducted.

Flood Protection

The contractor proposed alternative used the cost allocation factors developed in Reclamation's 1970 allocation study rather that those developed in the 1975 short-form allocation study (the existing allocation) to allocate joint costs. We believe the 1970 allocation factors are more appropriate than the 1975 factors because they more accurately reflect the single-purpose alternative costs and related benefits accruing to each of the authorized project purposes and thus more accurately portray the allocation of CVP costs between the reimbursable and non-reimbursable project purposes.

CVPWA-1

Of particular concern in the existing allocation (the 1975 short-form) are the single-purpose alternative power costs and flood control benefits. The single-purpose alternative power costs are based on higher-than-normal energy costs associated with nuclear power that do not represent the historical or projected power situation and as such overstate the joint costs that are allocated to power. Conversely, the flood control benefits used in the existing allocation were carried over from the 1970 study, and were not indexed to 1975 price levels. This resulted in an understatement of the flood control benefits in relation to the other benefits used in the existing allocation. As a consequence, costs allocated to flood control are understated. By way of comparison, the existing allocation allocates 21.8 percent of the CVP's joint costs to power (up from 5.9 percent in the 1970 allocation) and allocates 20.5 percent of the CVP's joint costs to flood control (down from 35.5 percent in the 1970 allocation).

Environmental Enhancement

We maintain that the authorized use of CVP water supplies has been expanded to include environmental enhancement as required under provisions of the CVPIA, the Endangered Species Act (ESA), and the Delta Water Quality Control Plan. Accordingly, in the contractor proposed cost allocation, we attempted to reflect this re-operation of the CVP by factoring the 800,000 acre-feet of existing CVP water reallocated to the environment under the CVPIA into the water supply sub-allocation component of the existing allocation.

CVPWA-2

The basis for treatment in the water supply sub-allocation was based on the parameters set forth in the CVPIA. The result was the allocation of all of the costs of the environmental water supply to the water and power users during the period 1993 through 2006—the period when the environmental restoration (mitigation) actions are scheduled for completion. Beginning in 2007 and continuing through 2030, the costs associated with water used for environmental purposes would be split between the water and power users (mitigation) as a reimbursable project cost and to environmental enhancement as a non-reimbursable project cost. When the entire 800,000 acre-feet is available for environmental use, the water and power contractors' share would be 37.5 percent of the costs and the environmental water account share would be 62.5 percent based on a cost sharing formula derived from applicable provisions of the CVPIA.

CVPWA-3

We recognize that there are inherent problems with using either the 1970 or the 1975 cost allocation factors, and that a completely new reallocation study based on current single purpose alternative costs and current benefit estimates would be needed to accurately reflect the appropriate amounts allocated to the reimbursable and non-reimbursable project purposes. We also recognize that such a study would be potentially expensive, time consuming, and controversial and that now is probably not the time to undertake such an effort. However, upon such time when a new cost allocation would be warranted, we believe that the two issues, raised above, namely appropriate allocation of benefits and costs (i.e., the flood control and power issues described above) should be considered in addition to the enhancement qualities of water dedicated under CVPIA.

We look forward to engaging with Reclamation in the future to address these concerns. If you have any questions on the above discussion or recommendation, please contact George Senn of my staff at (916) 448-1638.

Sincerely,

Jason Peltier
Manager

COMMENT	RESPONSE
CVPWA – 1	See Response to NCWA – 1
CVPWA – 2	These issues were considered at length in Chapter VI, Evaluation of Alternatives, in the Draft Report. Under Evaluation Criterion 2 – Adjust Repayment in Response to Changes in Project Operations, the Draft Report addressed the assumption in the Contractors' Proposal that a portion of the 800,000 acre-feet dedicated for environmental uses by section 3406(b)(2) of the CVPIA is considered enhancement. As discussed in the report, the CVPIA does not state that any of the water dedicated by provision 3406(b)(2) is for enhancement. The report notes that the CVPIA included other provisions for the purchase of supplemental water to assure the mitigation, protection, restoration, and enhancement objectives of the act could be accomplished. The report also notes that provisions of the CVPIA from which the repayment formula in the Contractors' Proposal is borrowed do not state that the repayment proportions are based on assumed ratios among environmental mitigation and enhancement. In fact, as noted in the Draft Report, if the CVPIA proportions were fully applied in the Contractors' Proposal, the State of California would be responsible for 37.5 percent of the costs of water dedicated to environmental enhancement, which was not part of the Contractors' Proposal. The report also notes that the year in which environmental enhancement would begin (2007), as assumed in the Contractors' Proposal, is not contained in the CVPIA, but is based on a projection, which according to the Contractors' Proposal, is to be tied to CalFed actions. Although CVPIA actions are coordinated with CalFed, the repayment provisions of the CVPIA, passed in 1992 before CalFed even came into existence, cannot be interpreted as conditional on proposed CalFed actions or their assumed success. Under Evaluation Criterion 5 – Consistency with Laws, Regulations, and Guidance, the Draft Report discusses the significant limitations associated with utilizing the water supply sub-allocation to quantify repayment obligations for environmental water uses. In particular, the water supply sub-allocation is based on actual and estimated future deliveries to project water users, including irrigation, M&I, and wildlife refuges. The use of this sub-allocation approach was selected by Reclamation to conveniently account for shifting uses of water among water users. The Contractors' Proposal utilized the same delivery estimates as the Existing Allocation, but added up to 800,000 acre-feet per year under environmental water use. As discussed in the report, the introduction of an additional 800,000 acre-feet to the existing annual quantities does not reflect a redistribution of water uses. Also, it constitutes the addition of water to total water amounts and thereby violates the original intent of the sub-allocation approach.

COMMENT	RESPONSE
CVPWA – 3	Reclamation notes CVPWA's preference not to begin development of a new cost allocation study at this time.

SMUD
SACRAMENTO MUNICIPAL UTILITY DISTRICT ☐ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

March 16, 2001
ET&C 01-043

Mr. Mike Finnegan
Manager, Business Resources Center
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825-1898

Subject: Comments on Draft CVP Cost Allocation Study (January 2001)

Dear Mr. Finnegan:

As the largest Preference Power Customer, the Sacramento Municipal Utility District (SMUD) appreciates the opportunity to provide comments on the CVP Cost Allocation Study Draft Report (Report), dated January 2001. The Study Overview, Cost-Allocation Alternatives, Summarization of Findings, and the Study Recommendations were all well presented by Reclamation at the public meeting held on February 9, 2001, in Sacramento. As in the previous public meetings, the presentation was well organized, the materials professionally presented, and there were ample opportunities for attendees to orally present their questions and/or concerns.

SMUD recognizes the Bureau of Reclamation's (Reclamation's) efforts undertaken to reach the recommendations made in the Report, and appreciates the fact that Reclamation has been open to a process that allowed both water and power users to gain an in-depth understanding of the cost-allocation methodologies used and considered by Reclamation to allocated specific and multi-purpose costs among the various project purposes.

SMUD understands that in the Report, Reclamation is recommending the continued use of the Existing Allocation method, as opposed to adopting the water and power users' Contractor's Proposal, or alternately the GAO supported Proportional Alternative. SMUD continues to believe that until a full-blown cost allocation study is completed, the adoption of the Contractors' Proposal is the correct choice to follow in the interim for the fair allocation of multi-purpose costs. By proceeding with Reclamation's proposed continued use of the Existing Allocation methodology, Reclamation will only exacerbate further the inaccuracies inherent in the current allocation method.

SMUD's specific comments can be summarized under three major categories: 1) Treatment of Water and Power under like methodologies in future SCRB (Separable Costs, Remaining Benefits) Studies, 2) Fair allocation of multi-purpose project costs, and 3) Determining a date to commence a full SCRB study.

DISTRICT HEADQUARTERS ☐ 6201 S Street, Sacramento CA 95817-1899

Treatment of Water And Power Under Like Methodologies In Future SCRB Studies

SMUD-1

The core components of the SCRB allocation methodology involve the determination of separable costs for each defined purpose, as well as a determination of the single purpose alternative, benefits, justifiable expenditures, and the resulting distribution factors. The ultimate goal of the analysis is the distribution of joint costs remaining after assignment of the separable costs. In the Plant-In-Service Studies that are made by the Reclamation, the separable costs are determined by multiplying the total current costs of each facility by a percentage factors that were, in most cases, determined back in 1970/75. Significant questions arise regarding the current applicability of the factors used and whether or not the water and power contractors are treated equally in how the SCRB analysis is carried out.

Generally, water-supply benefits have not been evaluated as part of the SCRB studies done to date since Reclamation has assumed, in conducting such studies, that such water-supply benefits would exceed the cost of any single-purpose alternative determined. The SCRB methodology requires that the smaller of the estimated benefits attributable to each Project purpose, and the alternate costs of achieving each, represent the amount that can justifiably be spent on each purpose. On the other hand, the SCRB studies that have been completed to date have utilized benefit studies for power, navigation, and fish and wildlife. The practice of not evaluating the water-supply benefits, though possibly administratively less burdensome, creates a process that does not allow for similar study methodologies to be used in carrying out a SCRB analysis on the costs and benefits that accrue to the water and power functions separately.

SMUD-2

Furthermore, because Reclamation has utilized for years the practice of grouping all water-supply functions within one general category of water supply, and then sub-allocating the resulting allocation percentages to M&I, irrigation, and fish and wildlife water supply, the practice has the effect of under allocating multi-purpose costs to the water-supply function as a whole.

SMUD encourages, Reclamation to treat the power and water-supply functions in a similar manner when determining the justifiable expenditures and subsequent distribution factors in future SCRB analyses.

Fair Allocation of Multi-Purpose Costs

The CVP allocation process is a complicated methodology that uses data from various sources that is then rolled up to establish a repayment obligation for the water and power users. Not only do the allocation elements come from various sources, they also have been developed at different times. Many of the components of the present allocation algorithm depend upon factors that were developed in 1970 and 1975.

As reported in the Contractors' Proposal, the last major cost allocation study for the CVP was completed in 1970. A short-form allocation completed in 1975 primarily updated the prior 1970 data for the multipurpose facilities in "Base 1" including the Shasta, Trinity, Folsom, Friant and Delta facilities.

In the 1975 short form allocation, the power plants used to determine the benefits and single-purpose alternatives for the power project purpose were changed from fossil fuel plants to nuclear plants. This produced a 116% increase in the justifiable expenditure factor for power. In addition, the justifiable expenditure factor for water supply was increased by 83% due primarily to the indexing of costs. Meanwhile, the factor for flood control was left essentially unchanged except for the use of a different discount rate. The end result was the shifting of allocation factors as shown in table below:

Comparison of CVP Allocation Percentages - Base I

	Water Supply	Power	F&WL Enh'mnt	Recreation	Flood Control	Navigation	Total
1969-70 Reallocation	54.18	5.63	1.92	0	36.12	2.15	100.00
1975 Reallocation	55.79	21.81	0	0	20.49	1.91	100.00
Difference	1.61	16.18	-1.92	0	-15.63	-0.24	0.00

SMUD-3

Issues Regarding Power Costs

With respect to power, the single-purpose alternative and benefit calculations were made on the basis of entirely new operating criteria, not on the basis of indexing the cost of employing the old criteria. This approach allowed Reclamation to consider not only power generation technologies that were not available in an earlier time, but to also consider environmental, regulatory, sociological, international political, and other factors that influenced the selection and cost of alternatives. In other words, rather than evaluate the type and cost of power alternatives that could have been constructed in the period when the actual CVP facilities were constructed, Reclamation selected nuclear technology – an alternative that was not even a possibility at the time of original construction. The problems associated with such an approach need to be corrected so that the power function is not allocated more costs than is appropriate.

SMUD-4

With the ongoing energy crisis occurring in California and throughout the electric utility industry, Reclamation may now be tempted to assume that the cost and benefit assumptions used in the 1975 "short form" cost allocation study are appropriate. There are several factors that will make such an assumption inaccurate; these are: 1) the cost to construct alternate power plants have not change significantly over the past few years, 2) new power plants operate at a much greater efficiency level as compared to plants built in the 1970s, and 3) the present energy crisis is but an unusual spike on a long-term trend of power-supply costs.

SMUD-5

Issues Regarding Indexing of Costs

Because the CVP was constructed over an extended period of time – from the late 1930's through about 1981 – the allocation process requires that all components of a cost allocation be placed on a common time frame. Reclamation chose to do this by indexing forward to 1975 the costs of the water supply components and certain other aspects of the allocation – although, interestingly, neither power nor flood control was indexed.

Issues Regarding Environmental Costs

The current cost allocation methodology does not adequately reflect the significant and new environmental benefits that have been generated by re-operation of the project and the associated enhancement and mitigation activities that have subsequently ensued. Accordingly, the current allocation does not reflect the noteworthy diminishment of benefits seen by the water and power functions. These shortcomings need to be corrected in the current cost-allocation update.

SMUD-6

The authorized use of CVP water supplies has been expanded to include environmental enhancement as required under provisions of the CVPIA, the Endangered Species Act (ESA), and the Delta Water Quality Control Plan. Accordingly, in the Contractor's Proposal an attempt was made to reflect this re-operation of the CVP by factoring the 800,000 acre-feet of existing CVP water reallocated to the environment under the CVPIA into the water-supply sub-allocation component of the existing allocation method. The basis for treatment in the water-supply sub-allocation was based on the parameters set forth in the CVPIA. The result was the allocation of project capital costs for the 800,000 acre-feet to the water and power users during the period 1993 through 2006—the period when the environmental restoration (mitigation) actions are scheduled for completion. [Beginning in 2007 and continuing through 2030, the costs associated with water used for environmental purposes would be split between the water and power users (mitigation) as a reimbursable project cost (37.5%), and to environmental enhancement as a non-reimbursable project cost (62.5%)].

SMUD-7

We recognize that the performance of a new cost allocation study is an expensive, and a time consuming process; we are also concerned about continued use of the inappropriate cost-allocation factors for determining the repayment responsibilities of the power function. Accordingly, we propose that Reclamation return to the 1970 Separable Costs Remaining Benefits cost allocation factors until such time as a new study is completed. When a new cost allocation is conducted, we believe that the environmental enhancement qualities of water dedicated under CVPIA, in addition to the fair allocation of multi-purpose costs, should be considered as part of all future SCRB studies.

Determining A Date To Commence A Full SCRB Study

SMUD-8

As stated before, we also recognize that carrying out a full SCRB study could be expensive, time consuming and controversial. Given the recent history of Reclamation's attempts to conduct and successfully complete cost-allocation studies, we believe that now is the time for Reclamation to start planning and budgeting for a full SCRB study. SMUD estimates that such a study will take million of dollars and several years to

SMUD-8
(continued)

complete, and therefore it is necessary to plan for and establish a target date as to when to commence and complete such a study. SMUD supports Reclamation's proposal made in the "Recommendations" section of the Report to first make an evaluation to identify what existing data is available for use, what new data would be required, and the level of effort needed to perform the analysis required under a new cost-allocation study. Also, as stated in the Report, SMUD supports Reclamation's recommendation to involve other agencies that would be expected to provide input to a new study, such as the Corps of Engineers.

In summary, SMUD requests that Reclamation make the following changes to the cost-allocation methodology to be used in the interim until a full cost-allocation study can be undertaken, and completed:

1) Return to the use of 1970 data and associated cost-allocation factors with respect to the power function.
2) Adjust the allocation factors for flood control and environmental restoration to reflect the increased benefits that have accrued to these functions, and the associated decrease in benefits to the water and power functions.
3) Index the 1970 data to the present time frame in a consistent manner for all project functions.

Details supporting these requests have been provided in the Contractor's Proposal, which have been previously provided to Reclamation.

Thank you for considering our requests. Your immediate response to the above comments, suggestions and requests would be appreciated.

Sincerely,

Edward J. Roman

Edward J. Roman

Senior Power Contracts Specialist

Cc: Craig Stroh, USBR
Howard Hirahara, Western
Jason Peltier, CVPWA
Matt Foskett, NCPA

COMMENT	RESPONSE
SMUD – 1	The judgment of economists at the time of the last detailed cost allocation studies in 1970 and 1975 was that water supply benefits would exceed the cost of single-purpose alternatives. Since M&I benefits are normally based on alternative costs, the most critical judgment at the time was that irrigation benefits, which are based on farm income, would be greater than the single-purpose alternative cost to provide an irrigation water supply. The SCRB method provides for the use of such simplifying assumptions where appropriate. Given the recent pattern of agricultural returns, this simplifying assumption may not be appropriate for some time periods if a new allocation study were to be undertaken at this time. If a new cost allocation study were undertaken, it would consider all benefits, including irrigation benefits, over the life of the project rather than at a single point in time so that periods of agricultural prosperity would be weighed with periods of diminished returns.
SMUD – 2	The technique of grouping several water use functions together in the water supply purpose then sub-allocating costs in proportion to water deliveries is an accepted cost allocation method that has been used on other projects within Reclamation, particularly for projects in which the relative water supply uses change over time. As described in Chapter II of the Draft Report, this technique was used in the 1970 CVP cost allocation study "so that adjustments for future changes in project accomplishments could be more readily accommodated." The continued use of this technique would be reconsidered in any future cost allocation study along with many other procedural options. It is not necessarily the case that, by itself, the combination of water use functions to the water supply purpose under-allocates costs to that purpose at the expense of power and other project purposes. In fact, if water supply benefits are actually less than the water supply single-purpose alternative cost, then costs may be over-allocated to the water supply purpose, thereby under-allocating costs to other project purposes.
SMUD – 3	Reclamation would consider power benefits at the time that a new cost allocation study is completed. They would be computed over the life of the project and would recognize changing technologies and costs.
SMUD – 4	Evaluation of benefit streams over the life of the project would tend to "average out" any short-term aberrations in power supply costs. The recommendation to continue using the 1975 joint cost allocation factors was based on reasons stated in the Draft Report and not because of the recent shortages in electrical energy or recent changes in fuel prices.

COMMENT	RESPONSE
SMUD – 5	As described in the Draft Report, flood control benefits were not indexed on advice of the Corps of Engineers, the source of the original benefits analysis. Refer to a 1975 letter from the Corps of Engineers, included as Appendix C to the Draft Report, for the rationale to support that recommendation. The 1975 update was undertaken to characterize the benefits at that time. In light of that objective, the single-purpose power alternative was completely reconsidered rather than simply indexing previous estimates.
SMUD – 6	See response to CVPWA – 2.
SMUD – 7	The change recommended by the comment (use of the 1970 joint cost allocation factors) was not an alternative considered separately in the Draft Report. The Contractors' Proposal included the use of 1970 joint cost allocation factors and the creation of the environment as a water use function and was evaluated as a complete alternative in Chapter VI of the Draft Report.
SMUD – 8	Reclamation notes SMUD's support to begin an evaluation of data requirements and agency coordination needed in the development of a new cost allocation study.

Westlands Water District
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March 26, 2001

United States Bureau of Reclamation
Attn: Mike Finnegan
2800 Cottage Way
Sacramento, CA 95814

Subject: Westlands Water District's Comments on the 2001 CVP Cost Allocation Study Draft Report

Dear Mr. Finnegan:

Westlands Water District appreciates the effort undertaken by the United States Bureau of Reclamation in preparing its 2001 CVP Cost Allocation Study Draft Report (Draft Report). In particular, Westlands appreciates the level of attention that was given by Reclamation to alternatives other than its own. However, we do not concur with several of the conclusions reached by Reclamation as presented in the Draft Report. Westlands requests that you reconsider the Contractors' Proposal on these important points.

Environment is an End Use of Water

Throughout the Draft Report, Reclamation claims the environment is not an end use in the same sense that M&I, irrigation and wildlife refuges are end uses. (See pages ES-3, VI-7 and VI-9.) Reclamation's decision to ignore the end use characteristics of water released for the environment is arbitrary. Reclamation fails to consider the degree to which recent laws have reduced the amount of water delivered to CVP contractors.

WWD-1

In the Draft Report, Reclamation states "[e]nvironmental water released from CVP reservoirs for instream environmental benefits could also be used for other beneficial purposes, including irrigation or M&I uses, farther downstream." (Draft Report p. VI-7, emphasis added.) Reclamation, therefore, recognizes that, in some instances, environmental water released from CVP reservoirs for instream environmental benefits is not available for use for other beneficial purposes downstream. In fact, the current policy implementing CVPIA section 3406(b)(2) provides the United States Fish and Wildlife Service with the ability to direct that water released for the benefit of fish and wildlife not be rediverted downstream. Such uses of CVP water for the environment are undoubtedly end uses. Indeed, Reclamation's own analyses indicate that average deliveries to south-of-Delta agricultural service contractors have been significantly reduced as a result of water dedicated to environmental purposes under section 3406(b)(2). For this reason, recently negotiated long-term renewal contracts for these contractors have created two categories of water, base and supplemental supply.

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WWD-2

Further, although Reclamation claims costs may only be allocated to end use functions, the 1970 reallocation adopted an allocation to water supply with sub-allocations to water use functions based on proportionate water deliveries to each function. (See Table II-2, page II-6.) These sub-allocations were not necessarily end use functions. Even if Reclamation does not recognize the environment as an end use, the costs associated with that water may still be allocated to the environment through the water supply sub-allocation process.

WWD-3

CVPIA Added Fish and Wildlife as New Project Purpose

In the Draft Report, Reclamation states that "CVPIA reinforced the obligation of the CVP to protect the environment by re-emphasizing the priority of meeting environmental needs, but did not add the environment as a new project purpose." (Draft Report pages ES-4 and VI-8.) This statement is both incorrect and inconsistent with other sections of the Draft Report. On pages I-4 and II-9, the Draft Report recognizes that CVPIA section 3406(a) specifically amended the 1937 Rivers and Harbors Act to include mitigation, protection and restoration of fish and wildlife among the CVP's project purposes. The initial project authorization in 1937 provided that the CVP "shall be used first, for river regulation, improvement of navigation, and flood control; second, for irrigation, and domestic uses; and third, for power" generation. CVPIA amended the previous authorizations of the CVP to include fish and wildlife protection, restoration and mitigation as project purposes with equal priority to irrigation and domestic uses, and fish and wildlife enhancement as a project purpose equal to power generation.

WWD-4

Reclamation contends that "fish and wildlife considerations ... have long been a responsibility of water projects developed by Reclamation ... as a result of the Fish and Wildlife Coordination Act." (Draft Report pages ES-4 and VI-7.) Fish and wildlife considerations may have long been a responsibility of Reclamation, but it was not until 1992 with the passage of the CVPIA that fish and wildlife protection, restoration and mitigation were directed by Congress to receive equal priority as the other project purposes. The Contractors request for the addition of the environment as an additional water use for cost allocation purposes reflects the significant change in the status of environmental uses of CVP water mandated by the CVPIA.

WWD-5

CVPIA Cost Allocation

In rejecting the Contractors' proposal, Reclamation argues that because "Congress was specific in addressing the allocation of costs of refuge water supplies in the CVPIA, but made no mention of associating costs with the dedication of 800,000 acre-feet of water or of allocation of such costs", those costs are completely reimbursable. (Draft Report pages IV-13 and VI-11.) However, Congress' lack of direction regarding costs associated with CVPIA section 3406(b)(2) does not prevent the inclusion of a portion of such costs as non-reimbursable as proposed by the Contractors. Reclamation's interpretation of the CVPIA in the Draft Report fails to consider that CVPIA section 3406(b)(2) directed a reallocation of existing project resources, while the other

WWD-5 (continued)

provisions of section 3406(b) and (d) directed the Secretary to develop and implement new programs for the CVP. The costs associated with these programs were considered new costs and, therefore, required Congress' direction as to the allocation of those costs.

WWD-6

Restoration is not Mitigation under CVPIA

On page VI-6 of the Draft Report, Reclamation rejects the Contractors' allocation of the costs associated with the environmental water account as partially reimbursable and partially non-reimbursable. Reclamation argues that because CVPIA section 3406(b)(2) does not state that any of the 800,000 acre-feet of water is dedicated for enhancement, the costs associated with that water should not be partially reimbursable. Reclamation states "the dedicated water is primarily for habitat 'restoration' purposes – a term that suggests mitigation not enhancement." (Draft Report p. VI-6.) Reclamation's argument is predicated upon the assumption that the terms restoration and mitigation are used synonymously in the CVPIA. This assumption is erroneous. If Congress had intended the habitat restoration purposes in CVPIA section 3406(b)(2) to be mitigation actions, Congress would have used the term mitigate rather than restore. In CVPIA sections 3406(b)(4) and (5), Congress directed the Secretary to develop and implement programs to mitigate for fishery impacts associated with certain operations of the CVP. By using the terms restoration and mitigation in different sections of the CVPIA, Congress clearly did not intend the terms to be synonymous. Reclamation's supposition that restoration as used in CVPIA section 3406(b)(2) is more akin to mitigation rather than enhancement contradicts Congressional intent.

Further, in describing the purposes of the CVPIA in section 3402, Congress listed (a) protecting, restoring and enhancing fish, wildlife and associated habitats in the Central Valley and Trinity River Basins, and (b) addressing the impacts of the CVP on fish, wildlife and associated habitats, as separate and distinct purposes of the Act. Therefore, it is evident that when Congress used the term "restoration" in CVPIA, it did not intend that restoration activities would be limited to mitigating the impacts of the CVP on fish and wildlife. Since the passage of CVPIA, Reclamation has implemented restoration projects that did not mitigate impacts to fishery resources resulting from the CVP.

WWD-7

Two recent examples are the restoration activities on Butte Creek and Clear Creek. Reclamation has proposed acquiring water rights to restore the Butte Creek fishery. However, damage to the Butte Creek fishery did not result from impacts of the CVP as there are no CVP contractors on Butte Creek. Reclamation has also proposed removing a dam on Clear Creek to improve fish passage. This restoration action will not mitigate any CVP impacts on the Clear Creek fishery as the dam proposed for removal is not a federal facility. If Congress intended Reclamation to only pursue restoration activities to address impacts to fishery resources caused by the CVP, these two restoration projects would violate the CVPIA.

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Consistency with Past Cost Allocation Methods

WWD-8

Within the Draft Report, Reclamation asserts that continuation of the Existing Allocation would not cause abrupt changes in repayment responsibilities and would allow future changes to be made without having to reverse a change implemented at this time. (Draft Report p. VI-9) However, Reclamation's position fails to acknowledge that the existing allocation, when implemented in 1975, caused an abrupt change in repayment responsibilities. In addition, this allocation is now the "baseline", from which other allocation proposals are now being compared. Undoubtedly, any allocation proposal that attempts to fix the problems associated with the Existing Allocation will not be viewed favorably in this context.

WWD-9

Also set forth in Criterion 4 is the goal of selecting a methodology that is not subject to modification -- or reversal -- if the changes to the cost allocation method were reversed. Westlands believes that the Existing Allocation would be more susceptible to future modification requirements than the Contractors' Proposal. The Existing Allocation uses assumptions that have subsequently become invalid, and fails to incorporate subsequently authorized projects. These include the omission of a inflation index for flood control benefits, the use of a nuclear power facility as a proxy for the Power Cost Allocation, and the lack of a Cost Allocation for Salinity Control, which is a project purpose authorized by the CVPIA. Other invalid assumptions that center on Environmental Water Allocations are discussed frequently in other sections of this letter. The Existing Allocation is based on a 1975 Interim Study that only fully recalculated the benefits and costs to Irrigation contractors. Costs and/or benefits to other project uses were not readjusted. Because of this, the Existing 1975 Allocation may be more inconsistent with future changes than the last consistent Cost Allocation that was completed in 1970.

Adjust CVP Capital Repayment in Response to Changes in Project Operations

WWD-10

In accordance with the specific instructions of CVPIA, 800,000 acre-feet of Project yield is dedicated annually to environmental purposes. The Contractors' Proposal simply adjusts the cost allocation within the existing methodology to allocate costs to new water uses. Within the Draft Report, removal of this environmental water supply is referred to as "a somewhat arbitrary amount" and as "an additional water supply." (Draft Report p. IV-13 and VI-10) In fact, this environmental water is neither "somewhat arbitrary" nor "additional water." This environmental water supply allocation is set at an exact amount for each year, which reaches a maximum of 800,000 acre-feet. Moreover, this environmental water does not represent an additional water supply, but represents water taken away from other water users. No new source of water was created by the CVPIA.

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In closing, Westlands requests that Reclamation make changes to the interim cost allocation methodology based on the Contractors' Proposal included in Appendix A of the Draft Report. If Reclamation does not have the authority to make these changes, then Westlands urges Reclamation to take any required actions, including Congressional approval if necessary, to accomplish this action.

We look forward to working with Reclamation to resolve these matters.

Sincerely,

Dave Ciapponi
Assistant General Manager

COMMENT	RESPONSE
WWD – 1	CVP water deliveries and water rights may be affected by various legal mandates. This owes to the conditional nature of water rights generally and to CVP deliveries in particular. However, the fact that water deliveries are subject to change due to changing legal responsibilities is not justification to reallocate project costs. More specifically, the CVPIA does not direct a reallocation of costs on the basis of dedicating 800,000 acre-feet of water for environmental restoration purposes. The extent to which changes in operations affects accomplishments of the CVP should be identified in light of all project purposes and the conditional nature of CVP water rights and not merely be limited to changes in water supplies available for delivery. A new cost allocation study would have to consider all past and current accomplishments of the CVP and do so in the light of the legal points made in this report.
WWD – 2	The water supply sub-allocation distributes repayment responsibilities for costs allocated to the water supply purpose in proportion to actual and estimated future deliveries to project water users, including irrigation, M&I, and wildlife refuges. It is recognized that return flows from these uses can contribute to stream flows, however because the water can be measured upon delivery, it has been identified as an "end use" in the Draft Report. Such end uses of water are the most reliable and direct approach to sub-allocate water supply costs. If end uses are not utilized to sub-allocate water supply costs, the basis for such a sub-allocation would not be clear. For reasons discussed under Evaluation Criterion 2 – Adjust Repayment to Changes in Project Operations, an annual quantity of 800,000 acre-feet is not considered a justifiable basis for an allocation.
WWD – 3	As noted in the Draft Report, the CVPIA reinforced the obligation of the CVP to protect the environment. Other laws enacted prior to passage of the CVPIA, and many outside of CVP authorizations, have also affected the operation of the CVP. The CVPIA modified the priority of previously established authorized purposes of the CVP, but did not provide direction to re-allocate costs based on that reprioritization. This issue is discussed at length in Chapter VI of the Draft Report under Evaluation Criterion 2 – Adjust Repayment to Changes in Project Operations. That section discusses Reclamation's long-standing responsibilities to address environmental considerations in the development and operation of the CVP and describes several legislative actions prior to the CVPIA that established fish and wildlife as an authorized purpose of the project. It also addresses the nature of CVP water right obligations, including requirements to meet in-stream and

COMMENT	RESPONSE
	Delta environmental needs before water would be available for diversion to CVP water users.
WWD – 4	See response to WWD – 3
WWD – 5	Given the attention to detail in the allocation of costs for other provisions of Section 3406, Reclamation considers it significant that no reallocation was mentioned with respect to water dedicated by Section 3406(b)(2).
WWD – 6	As discussed in detail in Chapter VI of the Draft Report under Evaluation Criterion 2 – Adjust Repayment to Changes in Project Operations, the CVPIA does not state that any of the 800,000 acre-feet of water is for enhancement. The dedicated water is primarily for habitat "restoration" purposes – a term that suggests mitigation, not enhancement. The Draft Report also points out that Section 3406(b)(3) requires the implementation of a program to acquire additional water to supplement that dedicated by Section 3406(b)(2). This suggests that the CVPIA did not contemplate that the dedicated water would meet all the environmental goals enumerated in Section 3406(b)(2). Since mitigation, protection, and restoration would precede enhancement, and since the CVPIA anticipated that additional water would be needed to mitigate, protect, and restore fish and wildlife and their habitats, it is unlikely that any portion of the 800,000 acre-feet would be used for enhancement.
WWD – 7	Reclamation recognizes that the fisheries and related wildlife resources associated with Central Valley rivers and streams are interconnected. Because of this interconnectedness, in some cases it is considered more effective, in terms of cost and potential impacts to CVP water deliveries, to focus mitigation and restoration actions on streams that are more accessible by target species than those with CVP facilities that block access to upper watershed areas. The Anadromous Fishery Restoration Program, implemented pursuant to the CVPIA, identified several locations on non-CVP controlled streams where actions to restore fishery resources that have been impacted by the construction and long-term operation of CVP facilities appear possible. As noted in the comment, implementation of some recommended actions has begun.

COMMENT	RESPONSE
WWD – 8	Consistency was one of seven evaluation criteria applied to the alternatives considered in the Draft Report. While it is true that any adjustment in the allocation of costs may affect water rates, Reclamation does not find adequate justification within the Contractors' Proposal to support a reallocation of costs and corresponding change in water rates, at this time. If a new cost allocation study is completed and it demonstrates that changes are needed in the allocation of costs, those changes would be made at that time. Reclamation stands by its conclusion that it is better to continue with the existing methodology than implement changes that could be proven inappropriate if and when a new SCRB or other benefits-based cost allocation is completed.
WWD – 9	The treatment of flood control and power benefits in the 1975 allocation was not invalid at the time, given the then-current recommendation of the Corps of Engineers and the state of the power industry. A new cost allocation would need to quantify benefits over the life of the project, considering past years and future years, rather than at a single point in time. This approach would tend to "average out" the effect of short-term conditions, both favorable and unfavorable, for all project purposes.
WWD – 10	See response to comment CVPWA – 2.