TITLE 34 OF PUBLIC LAW 102-575

CENTRAL VALLEY PROJECT IMPROVEMENT ACT

CENTRAL VALLEY PROJECT – CALIFORNIA

REVISED INTERIM GUIDELINES:

RESTORATION FUND PAYMENTS AND CHARGES

OCTOBER 1993

United States Department of the Interior
Bureau of Reclamation
Mid-Pacific Region

REVISED INTERIM GUIDELINES:
RESTORATION FUND PAYMENTS AND CHARGES
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ABSTRACT

Objective and Authority

To develop interim guidelines for the calculation, assessment, collection and crediting of payments and charges to be paid by Central Valley Project (Project) water and power beneficiaries as required by subsections 3404(c)(3), 3405(d), 3405(a)(1)(B), and 3406(c)(1), and Section 3407 of Title 34 of Public Law 102-575. The incremental revenues collected as a result of the requirement to pay these payments and charges shall constitute the Project Restoration Fund (hereafter referred to as the **Restoration Fund**) and are to be used by the Secretary of the Interior (Secretary) as required by Title 34.

The Restoration Fund

The Bureau of Reclamation has established the **Restoration Fund** account in which to deposit and record the receipt of monies appropriated by Congress to carry out the programs, projects, plans, and wildlife restoration, improvement and acquisition provisions of Title 34.

Deposits

All incremental revenues collected as a result of the requirement to pay **Pre-Renewal Charges** [subsection 3404(c)(3)], **Tiered Water Rates** [subsection 3405(d)], **Transferred Water Rates** [subsection 3405(a)(1)(B)], **Friant Surcharges** [subsection 3406(c)(1)], **Municipal and Industrial Surcharges** [subsection 3407(d)(2)(A)] (herein collectively referred to as the Non-Discretionary Payments), which are to be assessed and collected annually[1] by Reclamation, and all **Non-Federal Contributions** [subsection 3407(a)], if any, which are received to advance the specific purposes of Title 34, will be deposited into the **Restoration Fund**.

The other principal source of funds -- referred to in the Interim Guidelines as **Restoration Payments** [subsections 3407(c) and (d) (and sometimes referred to as Discretionary Payments)] -- cannot be collected, at least through fiscal year 1997, absent Congressional appropriations. If the total amount appropriated on an annual average basis by Congress following enactment of Title 34 does not equal $50 million (October 1992 price levels), the Secretary shall -- as may be limited by the various provisions of subsection 3407(d) of Title 34 -- automatically impose **Restoration Payments** in each year thereafter sufficient to provide for the annual collection of $50 million (October 1992 price levels). The later action will change the **Restoration Payments** from Discretionary Payments to Non-Discretionary Payments.

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[1] Consistent with Title 34, **Pre-Renewal Charges** will not be assessed and collected until certain conditions are met. See Part C of these Interim Guidelines.

Diagram 1 illustrates the relative relationship of the Discretionary Payments, Non-Discretionary Revenues and Non-Federal Contributions, if any, to the Restoration Fund.

Authority to Use Funds

Restoration Funds to carry out the provisions of Title 34 are made available in two ways:

1. Non-Federal Contributions for a specific purpose are available for expenditure without Congressional action. These funds can only be expended for the expressed purposes of the contributions and, in contrast to the Discretionary Payments and Non-Discretionary Revenues, are not subject to appropriation.

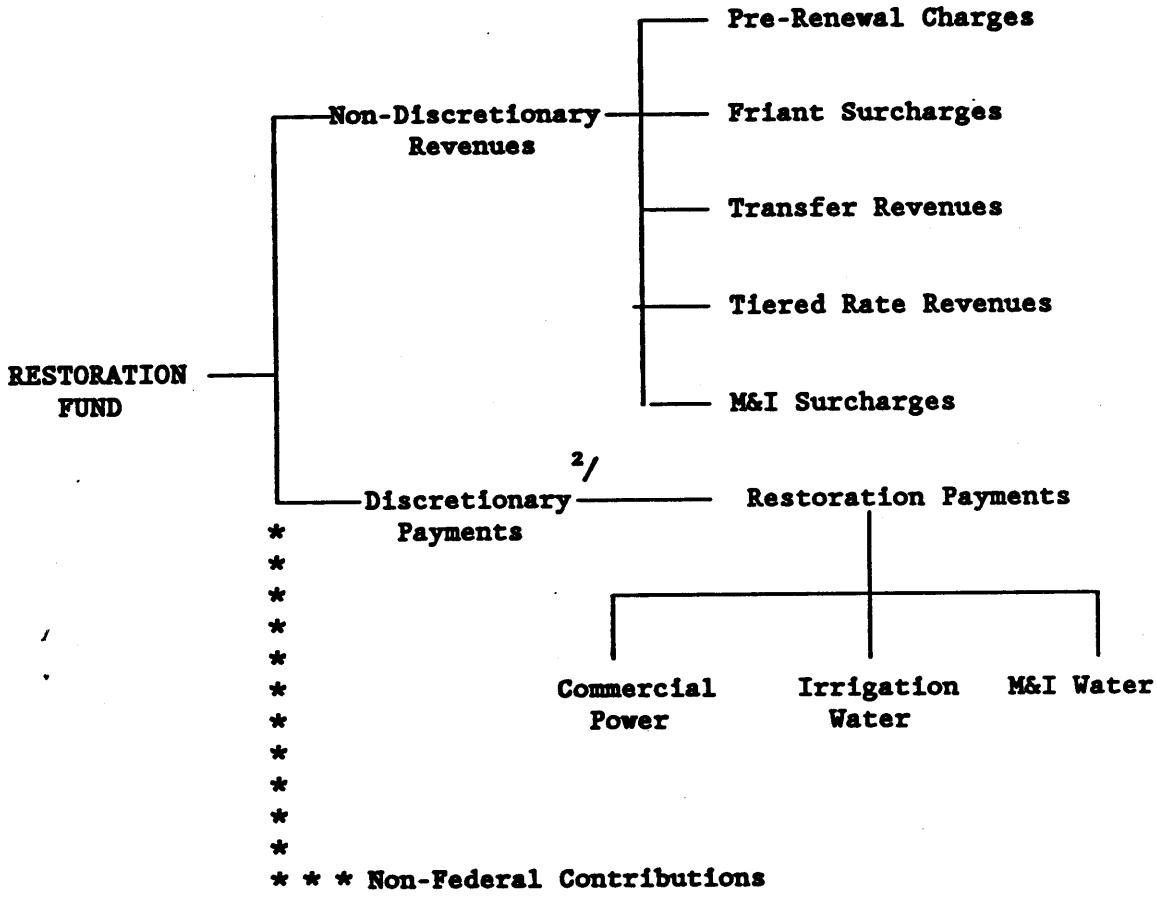
2. All remaining funds (which can vary from $0 to as much as $50 million annually) (October 1992 prices) are made available by Congress through appropriations for use by the Secretary to carry out the provisions of Title 34.

All Non-Discretionary Revenues are automatically received and deposited into the Restoration Fund. However, these receipts cannot be used unless and until appropriated by Congress. At least through fiscal year 1997, the other source of Restoration Funds -- the Discretionary Payments -- are to be assessed and collected in response to, and to the extent required by, Congressional appropriations. Restoration Fund revenues do not need to be collected prior to expenditure by the Secretary, provided there is a reasonable expectation that the funds will be collected as provided in these Interim Guidelines in the subject fiscal year, and the applicable appropriations do not mandate advance collection.

Annually, the Secretary will develop a budget and request the appropriation of funds from the Restoration Fund for Title 34 activities. A portion of those funds will be derived from the projected collection of Non-Discretionary Revenues. Appropriate language will be included in the budget request to raise the remaining amount, if any, through assessment and collection of Discretionary Payments. However, at least through fiscal year 1997, the final amount of Restoration Fund collections and amounts to be made available, if any, from the Restoration Fund each year is the prerogative of the Congress and is to be decided through the appropriation process.

DIAGRAM 1

REVENUES TO BE APPLIED TO THE RESTORATION FUND, CENTRAL VALLEY PROJECT, TITLE 34, PUBLIC LAW 102-575



* * * * = Voluntary

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[2] The Restoration Payments will remain Discretionary Payments at least through fiscal year 1997. If annual appropriations following enactment of Title 34 do not equal $50 million (October 1992 price levels), the Secretary shall impose Restoration Payments each year thereafter sufficient to collect annually $50 million (October 1992 price levels). Under such circumstances, Restoration Payments become Non-Discretionary Payments.

PART A

DEFINITIONS

As used herein, the term:

1. "Act" means the Central Valley Project Improvement Act (CVPIA), Title XXXIV of Public Law 102-575, enacted October 30, 1992.

2. "Project" means the Central Valley Project, California.

3. "Secretary" means the Secretary of the Interior, or his designee.

4. "Project Water" means all water that is developed, diverted, stored or delivered by the Secretary in accordance with the statutes authorizing the Central Valley Project and in accordance with the terms and conditions of water rights acquired for the Central Valley Project pursuant to California law.

5. "Water Contractor" shall mean any entity or individual who is a party to a Water Service Contract, a Repayment Contract or a Water Rights Settlement Contract with the United States for a Project Irrigation and/or Municipal and Industrial Water supply, which may be supplemental to a non-Project water supply, pursuant to Section 9 of the Reclamation Project Act of 1939, as amended and supplemented.

6. "Irrigation Water" means Project Water to be used for agricultural purposes as set forth in the Water Contractor's Water Service, Repayment or Water Right Settlement Contract.

7. "Municipal and Industrial (M&I) Water" means Project Water to be used for other than agricultural purposes as set forth in the Water Contractor's Water Service, Repayment or Water Rights Settlement Contract.

8. "Repayment Contract" means a contract with the United States providing Project Water pursuant to subsections (c)(1) and/or (d) of Section 9 of the Reclamation Project Act of 1939.

9. "Water Service Contract" means a contract with the United States providing Project Water pursuant to subsections (c)(2) and/or (e) of Section 9 of the Reclamation Project Act of 1939, including Water Rights Settlement Contracts which provide for the delivery of supplemental Project Water.

10. "Warren Act Contract" means a contract with the United States providing for the storage and/or conveyance of non-Project Water in and/or through Project facilities pursuant to the Act of February 21, 1911 (Public Law

61-406), as supplemented by Section 305 of Public Law No. 102-250 and subsection 3408(c) of Public Law No. 102-575, between the United States and an entity .

11. "Water Rights Settlement Contract" means a contract with the United States providing a supply of Base Water pursuant to Section 14 of the Reclamation Project Act of 1939 (1939 Act) and probably but not necessarily a supplemental supply of Project Water pursuant to Section 9 of the 1939 Act, as amended and supplemented.

12. "Base Water" means the quantity of non-Project Water made available to a Water Contractor without payment to the United States and without application of the acreage limitation provisions of Federal reclamation law as specified in a Water Rights Settlement Contract with the United States,

13. "Exchange Water" means the Project Water made available during each year to the Exchange Contractors pursuant to the Exchange Contracts without payment to the United States and without application of the acreage limitation provisions of Federal Reclamation law.

14. "Exchange Contract" means a contract with the United States entered into pursuant to Section 14 of the Reclamation Project Act of 1939, as amended and supplemented, providing a supply of Project Water to an Exchange Contractor in lieu of the Exchange Contractor exercising certain rights to the use of other waters.

15. "Exchange Contractors" means the entities or individuals who are parties to an Exchange Contract with the United States for an Exchange Water supply pursuant to Section 14 of the Reclamation Project Act of 1939, as amended and supplemented.

16. "Additional Project Water" means that Project Water made available by the United States to a Water Contractor in a given year which is in excess of the maximum total quantity of Project Water specified in the long-term Water Service, Repayment or Water Rights Settlement Contract with the Water Contractor.

17. "Flood Water" means a temporary Project Water supply made available to a Water Contractor as a result of an unusually large water supply not otherwise storable for Project purposes or infrequent and otherwise unmanageable flood flows of short duration.

18. "Delivered Project Water" means all Project Water scheduled by the Water Contractors or Exchange Contractors for delivery by the United States consistent with the terms of the applicable contract and made available by the United States at the approved point(s) of delivery, less that Project Water which is not diverted but remaining under the physical control of the Project (e.g., in a Project canal).

19. "Section 215 Water" means Flood Water made available to the Water Contractor for agricultural purposes without application of the acreage

limitations and/or the full-cost provisions of Federal reclamation law pursuant to a contract with the United States. [See 43 CFR Section 426.13(a)(3).1]

20. "Cost of Service Water Rate" means the annual charge for Irrigation Water and M&I Water established pursuant to the then applicable Project Water ratesetting policy which will recover all costs assigned to the Irrigation and M&I Water supply functions, respectively, within the established repayment period.

21. "Irrigation Full Cost Rate" means the annual charge described in paragraph (3) of Section 202 of the Reclamation Reform Act of 1982 (RRA), which, as determined by the Secretary, amortizes the expenditures for construction allocable to Project irrigation facilities in service, including all operation and maintenance (O&M) deficits funded, less payments, over such periods as may be required under Federal reclamation law or applicable contract provisions, with interest on both accruing from October 12, 1982, on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to October 12, 1982.

22. "M&I Full Cost Rate" means the annual charge described in paragraph (3) of Section 202 of the RRA, which, as determined by the Secretary, shall amortize the expenditures for construction allocable to M&I facilities in service, including all operation and O&M deficits funded, less payments, over such periods as may be required under Federal reclamation law or applicable contract provisions, with interest on both accruing from the dates such costs were first incurred.

23. "Non-Discretionary Payments" means those payments and charges required by the Act to be assessed and collected by the Secretary independent of the level of Congressional appropriations relative to the Central Valley Project Restoration Fund.

24. "Non-Discretionary Revenues" means those incremental revenues which are accrued as a result of the annual collection of the Non-Discretionary Payments required by the Act and which exceed the amounts that would have been collected in the absence of the requirement to pay the Non-Discretionary Payments.

25. "Discretionary Payments" means those payments and charges required by the Act to be assessed and collected by the Secretary as may be required by Congress through the annual appropriations process.[3]

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[3] "Discretionary Revenues" are the same as "Discretionary Payments" as 100 percent of the Discretionary Payments are to be credited to the Restoration Fund. Accordingly, there is no need to include a definition of "Discretionary Revenues."

26. "Transfer Revenue" means that portion of the Transferred Water Rate as described in Part E of the Interim Guidelines which is in excess of the Water Contractor's Cost of Service Water Rate, if applicable, and is to be credited to the Restoration Fund in the absence of the requirement to pay the Irrigation Full Cost Rate pursuant to the RRA.

27. "Ability to Pay" is that portion of the increased net farm income attributable to the off farm water supply (supplies) after allowances have been made for returns to farm investment and to family labor and management.

PART B

DEPOSITS TO THE RESTORATION FUND

[Subsection 3407(a)]

1. Revenues to be Deposited

The **Restoration Fund** shall serve as the depository in the Treasury of the United States for all revenues received by the Secretary from the following sources:

a. **Pre-Renewal Charges** [subsection 3404(c)(3)] - Described in Part C of these Interim Guidelines

b. **Tiered Water Revenues** [subsection 3405(d)] - Described in Part D of these Interim Guidelines

c. **Transfer Revenues** [subsection 3405(a)(1)(B) - Described in Part E of these Interim Guidelines

d. **Friant Surcharges** [subsection 3406(c)(1)] - Described in Part F of these Interim Guidelines

e. **M&I Surcharges** [subsection 3407(d)(2)(A)] - Described in Part G of these Interim Guidelines

f. **Restoration Payments** [subsection 3407(c) & (d)] - Described in Part H of these Interim Guidelines

g. **Non-Federal Contributions** [subsection 3407(a)] - Described in Part J of these Interim Guidelines

All interest and penalty charges collected for delinquent payment of **Restoration Fund** payments and charges required by this Act shall be deposited to the **Restoration Fund**, but will not be credited to the Water Contractor or Power. All administrative charges collected for past due payment of **Restoration Fund** charges and payments shall be deposited to the Treasury of the United States without credit to the Water Contractor or Power.

2. Contractor Accounts

On behalf of the Secretary, Reclamation shall keep accounts of all payments deposited in the Restoration Fund on behalf of each Water Contractor and of the total payments received from Power. Deposits to the Restoration Fund which are used to pay for the projects, studies or facilities set forth in subsection 3406(b)[4] of the Act shall offset an equal amount of the Water Contractors' or Power's assigned repayment obligations resulting from the implementation of any activities described in the Act.

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[4] Many subsection 3406(b) activities are wholly or partially reimbursable. Costs assigned to the reimbursable functions, including power and water, are to be allocated and recovered consistent with conventional Reclamation law and policy. Construction costs are usually capitalized through the power and water rates. In the event Restoration Funds are used to "upfront finance" subsection 3406(b) activities, the CVPIA requires that all amounts so used be immediately credited to the Water Contractors and Power.

PART C

PRE-RENEWAL CHARGES

[Subsection 3404(c)(3)]

1. Applicability

Beginning on October 1, 1997, or January 1 following the calendar year of completion of the programmatic environmental impact statement (PEIS) required by Section 3409 of the Act, whichever occurs first, all Water Contractors having an existing Water Service, Repayment or Water Rights Settlement Contract which was in effect on October 30, 1992, excepting those Water Contractors specifically exempted as described below, shall be assessed annually a pre-renewal mitigation and restoration payment (hereafter referred to as **Pre-Renewal Charges**) for each acre-foot of Delivered Project Water.

For the purposes of applying the **Pre-Renewal Charges**, Project Water shall include any Project Water provided under a Water Rights Settlement Contract, Additional Project Water, and/or Project Water transferred to a transferee(s) pursuant to an approved transfer. Such assessments shall cease on the effective date of renewal of the Water Service, Repayment or Water Rights Settlement Contract.

Water Contractors shall not be assessed **Pre-Renewal Charges** if one of the following conditions is met:

a. The Water Contractor's existing Water Service, Repayment or Water Rights Settlement Contract was renewed between January 1, 1988, and October 30, 1992, or;

b. If the PEIS is not completed by October 1, 1997, and prior to that date the Water Contractor enters into a binding agreement with the United States to renew the existing Water Service, Repayment or Water Rights Settlement Contract immediately upon completion of the PEIS and all other documentation as may be required by the National Environmental Policy Act.

Pre-Renewal Charges are not applicable to Base Water, Exchange Water, Section 215 Water, Flood Water, or Warren Act Contract water.

2. Rescheduled Water[5]

With the exception of Water Contractors specifically exempt from **Pre-Renewal Charges** as provided above, **Pre-Renewal Charges** will be applicable under certain circumstances to Project Water which is rescheduled from one water year (e.g., water year X) to a later water year (e.g., water year X+1). Because the Act applies **Pre-Renewal Charges** only to Delivered Project Water, rescheduled Project Water which is delivered to a Water Contractor or a transferee pursuant to an approved transfer following the effective date of application of the **Pre-Renewal Charges** shall be assessed **Pre-Renewal Charges** at the rate applicable to the Water Contractor in the year of actual delivery (e.g., year X+1).

3. Banking of Transferred Water

In those instances when transferred Project Water is banked with an intermediary (third) party for the principal purpose of providing a future water supply[6] to the transferee, the water shall be treated as Delivered Project Water upon delivery to the intermediary and not when withdrawn from the bank. The **Pre-Renewal Charges** shall be those in effect in the year of delivery to the intermediary.

4. Payments

The **Pre-Renewal Charge** shall equal one and one-half times the **Restoration Payments** applicable to the Water Contractor for Irrigation and/or M&I Water as described in Part H of these Interim Guidelines.

Pre-Renewal Charges must be paid to the United States by the Water Contractor prior to the effective date of renewal of the Water Contractor's existing Water Service or Repayment Contract.

5. Type of Water Use

For the purpose of applying **Pre-Renewal Charges** to Project Water, the type of Project Water use (Irrigation or M&I) and the resulting rate to be paid shall be consistent with the actual use of such water by the Water Contractor or a transferee(s) pursuant to an approved transfer. In those instances when the Project Water is banked with an intermediary for the principal purpose of providing a future water supply to a transferee, the type of water shall be consistent with the ultimate intended use by the transferee consistent with the applicable transfer agreement.

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[5] All proposals to reschedule Project Water to a later water year must be approved by Reclamation.

[6] The future water supply may be accomplished through a water exchange.

6. Relationship to Other Payments and Surcharges

Pre-Renewal Charges shall be paid by the Water Contractor (the transferor) in addition to any other applicable payments or charges as required by the Act and other applicable provisions of Federal reclamation law (hereafter referred to as reclamation law). Transferees are not responsible for payment to the United States of **Pre-Renewal Charges**.

7. Revenues to be Credited to the Restoration Fund

All **Pre-Renewal Charges** shall be credited to the **Restoration Fund** described in Part B of these Interim Guidelines.

PART D

TIERED WATER RATES

[Subsection 3405(d)]

1. Applicability

New, renewed and amended Water Service, Water Rights Settlement or Repayment Contracts which are executed after October 30, 1992, and which have a term longer than three years are subject to the Tiered Water Rate provisions of the Act. Pursuant to such contracts, Tiered Water Rates shall be applied to all Delivered Project Water, including that provided under a Water Rights Settlement Contract, Additional Project Water and Project Water transferred pursuant to an approved transfer.

Tiered Water Rates shall not be applied to Base Water, Exchange Water, Section 215 Water, Flood Water, Warren Act Contract water; or to Project Water used to produce a crop that the Secretary determines, in writing, provides significant and quantifiable waterfowl habitat in the fields where the water is used and the crops are produced, provided such deliveries are made and used consistent with the terms of a binding agreement to be signed by the Water Contractor, the participating landholder(s), and the United States.

Project Water not subject to Tiered Water Rates shall be paid for at the rate otherwise applicable to such water.

2. Calculation and Application of Tiered Water Rates

Tiered Water Rates shall be computed annually by Reclamation consistent with the following criteria:

a. First Tier: Up to and including the first 80 percent of the Water Contractor's maximum combined contractual Project Water entitlement (including Irrigation, M&I, Class 1, and Class 2 Water, if any; but excluding Base, Exchange, Flood, Section 215, and Warren Act Contract water, if any) shall be paid for by the Water Contractor at the applicable contract water rate(s).

b. Second Tier: Water in excess of 80 percent and up to and including 90 percent of the Water Contractor's maximum combined contractual Project Water entitlement shall be paid for by the Water Contractor at the following applicable rates:

(1) Irrigation Water: a rate equal to the average of the otherwise applicable contract rate for Irrigation Water and the applicable Irrigation Full Cost Rate.

(2) M&I Water: a rate equal to the average of the otherwise applicable contract rate for M&I Water and the applicable M&I Full Cost Rate.

c. Third Tier: Water in excess of 90 percent of the Water Contractor's maximum combined contractual Project Water entitlement, if any, shall be paid for by the Water Contractor at the applicable Full Cost Rate.

Irrigation Full Cost Rates are calculated pursuant to the applicable provisions of the RRA. The Irrigation Full Cost Rates include components to recover applicable operation and maintenance (O&M) costs, accumulated deficits, capital costs, and interest on unpaid capital costs. Irrigation Full Cost Rates are computed to recover O&M costs within the year incurred; accumulated deficits within the authorized repayment period; and capital costs amortized at the applicable RRA interest rate over the remaining repayment period.

M&I Full Cost Rates are calculated pursuant to a similar procedure to that used for computing the Irrigation Full Cost Rates.

Consistent with the above, a Water Contractor shall not be subject to the Second and Third Tier water rates if the cumulative total of all Project Water delivered to the Water Contractor and/or a transferee(s) in a given contract year equals 80 percent or less of the Water Contractor's maximum combined contractual Project Water entitlement.

Pursuant to these Interim Guidelines, all Additional Project Water, if any, but excepting that providing significant and quantifiable waterfowl habitat, shall be charged at the applicable Third Tier rate.

3. Rescheduled Water[7]

Tiered Water Rates will be applicable under certain circumstances to that Project Water which is rescheduled for delivery from one water year (e.g., water year X) to a later water year (e.g., water year X+1). Because the Act applies Tiered Water Rates only to Project Water actually delivered, rescheduled Project Water is not subject to Tiered Water Rates unless and until delivered to the Water Contractor or a transferee(s) pursuant to an approved transfer, provided the subject Water Contractor is subject at the time of delivery to Tiered Water Rates consistent with the above Applicability provisions (subsection 1 of Part D).

The applicable Tiered Water Rates shall be those in effect in the year of actual delivery (e.g., water year X+1). However, the Second and Third Tier rates shall be applied only if the amount of rescheduled water delivered in

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[7] All proposals to reschedule the delivery of Project Water to a later water year must be approved by Reclamation.

the later year (e.g., water year X+1) when added to the Project Water otherwise delivered in the later water year exceeds 80 and 90 percent, respectively, of the maximum contractual entitlement applicable in the later water year (e.g, water year X+1).

4. Banking of Transferred Water

In those instances when transferred Project Water is banked with an intermediary (third) party for the principal purpose of providing a future water supply to the transferee, the water shall be regarded as Delivered Project Water when delivered to the intermediary party and not when withdrawn from the bank.

5. Type of Water Use

For the purpose of applying **Tiered Water Rates** to Project Water transferred pursuant to the Act, the type of water use (Irrigation or M&I) and the rate to be paid shall be consistent with the actual use of the water by the Water Contractor or by the transferee. In those instances when the Project Water is banked with an intermediary for the principal purpose of providing a future water supply to a transferee, the type of water shall be consistent with the ultimate intended use by the transferee consistent with the applicable transfer agreement.

6. Determination of Tiered Water Rate Threshold Percentages

Reclamation's water delivery records, which document the monthly and cumulative quantities of Delivered Irrigation and M&I Project Water, shall be used to determine the water deliveries, if any, in excess of 80 and 90 percent of the maximum combined contractual entitlement.

7. Payments Due, Late Payments and Adjustments

Tiered Water Rates shall be paid in accordance with the payment terms included in the Water Contractor's then existing Water Service or Repayment Contract. Similarly, specifics regarding past due payment of **Tiered Water Rates** shall be accomplished in a manner consistent with the terms included in the Water Contractor's then existing Water Service or Repayment Contract.

Transferees are not responsible for payment to the United States of the **Tiered Water Rates** which may be applicable to Project Water transferred into their respective service areas.

8. Relationship to Other Payments and Surcharges

The responsibility of the Water Contractor to pay the applicable Tiered Water Rates as described above shall be in addition to all other payments required by the Act and other applicable provisions of reclamation law.

In the event Project Water is concurrently subject to a Tiered Water Rate, a Full Cost Rate under the RRA and/or a Transferred Water Rate (see Part E of these Interim Guidelines), the Water Contractor shall be required to pay the higher (highest) of the applicable rates. (The application of this procedure is shown in the examples included in Appendix A).

9. Revenues to be Credited to the Restoration Fund

All revenues received over and above what would otherwise have been collected as a result of the application of the Tiered Water Rates (hereinafter referred to as Tiered Rate Revenues) shall be credited to the Restoration Fund as provided in Part B of these Interim Guidelines. In the absence of the requirement to pay the Irrigation Full Cost Rate pursuant to the RRA, Tiered Rate Revenues shall consist of those revenues which exceed the Water Contractor's assigned Cost of Service Rate(s).[8] No Tiered Rate Revenues shall be deposited or credited to the Restoration Fund for water otherwise subject to the Irrigation Full Cost Rate provisions of the RRA.

10. Requests for Waterfowl Habitat Exemption

The Water Contractor is responsible for submitting formal requests and necessary documentation for consideration for an exemption from Tiered Water Rates based upon waterfowl habitat value. (Criteria for waterfowl habitat exemption are to be developed by the United States Fish and Wildlife Service.)

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[8] In the event the Water Contractor is subject to both the Transferred Water Rate and Tiered Water Rate provisions of this Act (but not the Irrigation Full Cost Rate), the total credited amount of Tiered Rate Revenues <u>and</u> Transfer Revenues per acre-foot shall not exceed the absolute difference between the highest rate required to be paid and the Cost of Service Rate.

PART E

TRANSFERRED WATER RATES

[Subsection 3405(a)(1)(B)]

1. Applicability

All Project Water, including Class 1 Water, Class 2 Water, and Project Water provided pursuant to a Water Rights Settlement Contract, which is transferred pursuant to the transfer provisions of the Act from a Water Contractor to an entity (transferee) which was not a Water Contractor on October 30, 1992,[9] and is used by the transferee as:

a. Irrigation Water shall be paid for by the Water Contractor at the Full Cost Rate applicable to the Water Contractor.

b. M&I Water shall be paid for by the Water Contractor at the M&I water rate applicable to the Water Contractor as determined by Reclamation consistent with the then current Project M&I ratesetting policy and applicable reclamation law.

All Exchange Water which is transferred pursuant to the transfer provisions of the Act from an Exchange Contractor to an entity (transferee) which was not a Water Contractor on October 30, 1992, and is used by the transferee as:

a. Irrigation Water shall be paid for by the Exchange Contractor at the Full Cost Rate which would be applicable to the Exchange Contractor if required to pay for Project water consistent with the then current Project irrigation ratesetting policy and applicable reclamation law.

b. M&I Water shall be paid for by the Exchange Contractor at the M&I rate which would be applicable to the Exchange Contractor if required to pay for Project water consistent with the then Project M&I ratesetting policy and applicable reclamation law.

Irrigation and M&I Full Cost Rates applicable to the Exchange Contractors are to be calculated similarly to those computed for Water Contractors. Unlike Water Contractors, there are no surpluses or deficits applicable to the yearly

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[9] Entities which held short-term or interim Water Service Contracts in effect on October 30, 1992, without a right of renewal may be a recipient of transferred Project Water pursuant only to the authority of Section 3405 of the CVPIA. Such entities do not qualify for within-Project ("Contractor to Contractor") transfers following expiration of the Water Service Contract in effect on October 30, 1992.

Project water operations preformed on the behalf of the Exchange Contractors. Accordingly, surpluses or deficits are not reflected in Irrigation or M&I Full Cost Rates applicable to Exchange Contractors.

The **Transferred Water Rates** described above do not include charges for additional Project services, if any, which may be needed to effectuate a transfer from a Water Contractor or an Exchange Contractor to a transferee. Charges for such additional Project services shall be computed based on the specific circumstances of the proposed transfer.

The **Transferred Water Rates** are not applicable to Base Water or Warren Act Contract deliveries. In addition, transfers of Project Water between entities qualifying as Project Water Contractors on October 30, 1992,[10] are not subject to the **Transferred Water Rate** provisions of the Act.

2. Rescheduled Water[11]

Transferred Water Rates are applicable to Project Water which is rescheduled from one water year to a later water year and delivered pursuant to an approved transfer agreement with the United States to a transferee which was not a Water Contractor on October 30, 1992. Because the Act applies **Transferred Water Rates** only to Project Water actually delivered, rescheduled Project Water is not subject to **Transferred Water Rates** until physically delivered to such a transferee. Water which is rescheduled from one water year and delivered in a later water year (e.g., water year X+1) to a transferee shall be subject to the Water Contractor's applicable **Transferred Water Rates** in effect in the year of delivery (e.g., water year X+1).

3. Banking of Transferred Water

In those instances when transferred Project Water is banked with an intermediary (third) party for the principal purpose of providing a future water supply to the transferee, the water shall be regarded as Delivered Project Water upon delivery to the intermediary and not when withdrawn from the Bank.

4. Type of Water Use

For the purpose of administering the **Transferred Water Rate** provisions of the Act, the manner in which Project Water is used (as Irrigation Water or M&I Water) and the resulting rate to be paid shall be consistent with the actual use of such water by the transferee(s). In those instances when Project Water

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[10] See footnote 9.

[11] All proposals to reschedule water to a later water year must be approved by Reclamation.

is banked with an intermediary, the type of water use shall be consistent with the ultimate intended use by the transferee consistent with the applicable transfer agreement.

5. Payments Due, Delinquent Payments and Adjustments

a. Water Contractors. The Water Contractor (the transferor) is responsible for full payment of all applicable **Transferred Water Rates** for Project Water transferred by the Water Contractor pursuant to the transfer provisions of the Act.

Notwithstanding any requirements for the advance payment for Project Water as may be required by the applicable Water Service or Repayment Contract, the total amount of **Transferred Water Rate** payments, if any, owed for Project Water delivered to a transferee(s) or an intermediary is due and payable by the Water Contractor by the end of the month following the month of delivery. Such amounts shall be consistent with the quantities of Project Irrigation and M&I Water shown in Reclamation's water delivery report for the subject month. The water delivery report shall be regarded by the Water Contractor as a bill for all **Transferred Water Rate** payments.

Any adjustments for overpayment or underpayment shall be accomplished through the adjustment of **Transferred Water Rate** payments or other charges due to the United States relative to the subject Water Service or Repayment Contract and payable in the next month.

Past due payment of **Transferred Water Rates** shall be accomplished in a manner consistent with the past due terms included in the Water Contractor's then existing Water Service or Repayment Contract.

b. Exchange Contractors. The Exchange Contractors are responsible for full payment of all **Transferred Water Rates** for Exchange Water transferred pursuant to the transfer provisions of the Act. The total amount of **Transferred Water Rate** payments, if any, owed for water delivered to a transferee(s) or an intermediary is due and payable by the Exchange Contractor by the end of the month following the month of delivery. Such amounts shall be consistent with the quantities of Project Irrigation and M&I Water shown in Reclamation's water delivery report for the subject month. The water delivery report shall be regarded by the Exchange Contractor as a bill for all **Transferred Water Rate** payments.

Any adjustments for overpayment or underpayment shall be accomplished through the adjustment of **Transferred Water Rate** payments due to the United States relative to the subject Exchange Contract and payable in the next month. In the absence of such future payments in the next month, overpayment shall be refunded to the Exchange Contractor.

Specifics regarding past due payment of Transferred Water Rates shall be accomplished in a manner consistent with the terms included in Appendix B herein.

c. Transferees. Transferees are not responsible for payment to the United States of Transferred Water Rates which may be applicable to Project Water transferred into their respective service areas.

6. Relationship to Other Payments and Surcharges

The responsibility of the Water Contractor or Exchange Contractor to pay the applicable Transferred Water Rates as described above shall be in addition to all other payments required by the Act and other applicable provisions of reclamation law.

In the event Project Water is concurrently subject to the Transferred Water Rate provisions of this Act, an Irrigation Full Cost Rate as required by the RRA and/or a Tiered Water Rate (see Part D of these Interim Guidelines), the Water Contractor or Exchange Contractor shall pay the higher (highest) of the applicable rates. (The application of this procedure is shown in the examples included in Appendix A).

7. Revenues to be Credited to the Restoration Fund

In the absence of the requirement to pay the applicable Irrigation Full Cost Rate pursuant to the RRA, all Transferred Water Rate payments in excess of the Water Contractor's Cost of Service Rate (hereafter referred to as Transfer Revenues) shall be calculated and credited by Reclamation to the Restoration Fund.[12]

In the absence of the requirement to pay the applicable Irrigation Full Cost Rate pursuant to the RRA, Transferred Water Rate payments required to be made for the transfer of Exchange Contractor water to an entity which was not a Water Contractor on October 30, 1992, shall be deposited in full to the Restoration Fund.

No Transfer Revenues shall be deposited or credited to the Restoration Fund for Project Water otherwise subject to the Irrigation Full Cost Rate provisions of the RRA as such revenues shall be credited in the normal manner for RRA receipts.

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[12] In the event the Water Contractor is subject to both the Transferred Water Rate and Tiered Water Rate provisions of this Act (but not the Irrigation Full-Cost Rate), the total credited amount of Tiered Rate Revenues and Transfer Revenues per acre-foot shall not exceed the absolute difference between the highest rate required to be paid and the cost-of-service rate.

PART F

FRIANT SURCHARGES

[Subsection 3406(c)(1)]

1. Applicability

Beginning on October 31, 1992, all Water Contractors who receive Project Water from the Friant Division pursuant to a Water Service, Water Rights Settlement or Repayment Contract shall pay to the United States the applicable **Friant Surcharge** for each acre-foot of Delivered Project Water, including Class 1 and Class 2 Water; Flood Water used for M&I purposes; Section 215 Water; Additional Project Water; Project Water provided pursuant to a Water Rights Settlement Contract; and/or Project Water delivered to a transferee(s) pursuant to an approved transfer(s).

The **Friant Surcharges** shall continue until such time as flows of sufficient quantity, quality and timing are provided at or below Gravelly Ford to meet the anadromous fishery needs of the San Joaquin River identified in a plan to be developed by the Secretary and approved by an act of Congress.

Friant Surcharges are not applicable to Warren Act Contract or Base Water deliveries.

2. Rescheduled Water[13]

Friant Surcharges are applicable to Project Water which is released from Friant Division facilities and rescheduled from one water year (e.g., water year X) and delivered in a later water year (e.g., water year X+1). Because the Act applies **Friant Surcharges** only to Project Water actually delivered, rescheduled Project Water which is delivered to a Water Contractor, a transferee or intermediary on behalf of the transferee shall be subject to **Friant Surcharges** applicable to the Water Contractor in the year of actual delivery (e.g., year X+1).

3. Banking of Transferred Water

In those instances when transferred Friant Division Project Water is banked with an intermediary (third) party for the principle purpose of providing a future water supply to the transferee, the water shall be treated as Delivered

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[13] All proposals to reschedule Project Water to a later water year must be approved by Reclamation.

Project Water upon delivery to the intermediary party and not when withdrawn from the Bank. The Friant Surcharges shall be those in effect in the year of delivery to the intermediary.

4. The Friant Surcharges

The Friant Surcharges shall be: (a) $4.00 per acre-foot of Delivered Project Water before or on September 30, 1997; (b) $5.00 per acre-foot of Delivered Project Water after September 30, 1997, and through September 30, 1999; and (c) $7.00 per acre-foot for all Delivered Project Water thereafter.

5. Payments Due, Delinquent Payments, and Adjustments

The Water Contractor is responsible for full payment of all Friant Surcharges for Project Water delivered to the Water Contractor, or a transferee or intermediary pursuant to an approved transfer. The total amount of Friant Surcharges is due and payable by the Water Contractor by the end of the month following the month of delivery. Such amounts shall be consistent with the quantities of Project Water shown in Reclamation's water delivery report for the subject month. The water delivery report shall be regarded by the Water Contractor as a bill for all Friant Surcharge payments.

Any adjustments for overpayment or underpayment shall be accomplished through the adjustment of Friant Surcharges or other charges due to the United States relative to the subject Water Service or Repayment Contract and payable in the next month.

The amount to be paid for past due payment of the Friant Surcharges shall be computed in a manner consistent with the terms included in the Water Contractor's then existing Water Service or Repayment Contract.

Transferees are not responsible for payment to the United States of Friant Surcharges applicable to Project Water transferred to them for their use.

6. Relationship to Other Payments and Surcharges

The responsibility of the Water Contractor to pay Friant Surcharges as described above shall be in addition to all other charges required by this Act and other applicable reclamation law.

7. Revenues to be Credited to the Restoration Fund

All Friant Surcharge Revenues shall be credited to the Restoration Fund described in Part B of these Interim Guidelines.

PART G

M&I SURCHARGES

[Subsection 3407(d)(2)(A)]

1. Applicability

Reclamation shall assess and collect an annual charge, hereafter referred to as the **M&I Surcharge**, for all Project Water which is used for M&I purposes and:

a. Sold by the United States pursuant to a new Water Service, Water Rights Settlement or Repayment Contract to an entity which was not a Water Contractor prior to October 31, 1992,[14] or

b. Transferred by an existing[15] Water Contractor or Exchange Contractor to an entity which was not a Water Contractor prior to October 31, 1992.[14]

The **M&I Surcharge** shall be paid in addition to the **Transferred Water Rates** which may be applicable to Project Water transferred for M&I purposes pursuant to the Act (See Part E of these Interim Guidelines.)

For the purposes of administering the **M&I Surcharge**, Project Water shall include Class 1 and Class 2, Flood, Section 215, Exchange, Project Water provided by a Water Rights Settlement Contract, and/or Additional Project Water, if any.

The **M&I Surcharge** is not applicable to Base Water or Warren Act Contract deliveries.

2. Rescheduled Water[16]

M&I Surcharges are applicable to Project Water which is rescheduled by an existing Water Contractor from one water year (e.g., water year X) to a later water year (e.g., water year X+1) and ultimately delivered to a transferee for

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[14] For the purposes of applying **M&I Surcharges**, entities which held only short-term or interim Water Service Contracts prior to October 31, 1992, without right of renewal, are regarded as not having been a Water Contractor prior to October 31, 1992.

[15] "Existing" shall mean having the status of a Water Contractor or Exchange Contractor on October 30, 1992.

[16] All proposals to reschedule water to a later water year must be approved by Reclamation.

use as M&I water pursuant to an approved transfer agreement. Similarly, any rescheduled Project Water which is provided by the United States pursuant to a new Water Service or Repayment Contract to an entity which was not a Water Contractor prior to October 31, 1992, and used for M&I purposes is subject to M&I Surcharges. The M&I Surcharges shall be applicable in the year of delivery of the rescheduled water. The M&I Surcharges shall be those in effect in the year of actual delivery (e.g., water year X+1).

3. Banking of Transferred Water

In those instances when transferred Project Water is banked with an intermediary (third) party for the principal purpose of providing a future water supply to the transferee, the water shall be regarded as delivered to the transferee upon delivery to the intermediary and not when withdrawn from the Bank. All transferred Project Water which is banked with an intermediary shall be treated as M&I Water if the ultimate intended use by the transferee is for M&I purposes consistent with the applicable transfer agreement.

4. The M&I Surcharge

The M&I Surcharge shall be $25.00 (October 1992 price levels) per acre-foot of Delivered Project Water. The M&I Surcharge shall be adjusted annually by Reclamation solely to reflect fluctuations in costs as projected by the Office of the Management and Budget for use in developing Reclamation's annual budgets (hereafter referred to as OMB escalation factors).

5. Payment Due, Delinquent Payments and Adjustments

Relative to new Water Service, Water Rights Settlement or Repayment Contracts, the M&I Surcharge shall be the repayment responsibility of the Water Contractor. Pursuant to a water transfer, the M&I Surcharge shall be the repayment responsibility of the applicable Water Contractor or Exchange Contractor (the transferor).

Relative to new contracts, the total amount of M&I Surcharges, if any, owed by the Water Contractor for water diverted by the Water Contractor, a transferee(s), or an intermediary party, is due and payable by the end of the month following the month of delivery. Such amounts shall be consistent with the quantities of Project M&I Water shown in Reclamation's water delivery report for the subject month. The water delivery report shall be regarded by the Water Contractor as a bill for all M&I Surcharge payments.

Pursuant to a water transfer, the total amount of M&I Surcharges, if any, owed by the Water Contractor or Exchange Contractor for water diverted by an transferee or an intermediary, is due and payable by the end of the month following the month of delivery. Such amounts shall be consistent with the quantities of Project M&I Water transferred as shown in Reclamation's water

delivery report for the subject month. The water delivery report shall be regarded by the Water Contractor or Exchange Contractor as a bill for the M&I Surcharges.

Any adjustments for overpayment or underpayment shall be accomplished through the adjustment of M&I Surcharges or other charges due to the United States relative to the subject water service or repayment contract and payable in the next month. In the absence of any additional imminent repayment obligations to the United States by the Exchange Contractor, any overpayment shall be refunded to the Exchange Contractor.

The amount to be paid for past due payment of M&I Surcharges by Water Contractors shall be computed in a manner consistent with the terms included in the Water Contractor's then existing Water Service, Water Rights Settlement or Repayment Contract. The amount to be paid for past due payment of M&I Surcharges by Exchange Contractors shall be computed consistent with the provisions of Appendix B as included herein.

Transferees are not responsible for payment to the United States of the M&I Surcharges applicable to Project Water transferred to them.

6. Relationship to Other Payments and Surcharges

The responsibility of the Water Contractor or Exchange Contractor to pay the M&I Surcharge is in addition to all other charges required by this Act and other applicable reclamation law.

7. Revenues to be Credited to the Restoration Fund

All M&I Surcharge revenues shall be credited to the Restoration Fund described in Part B of these Interim Guidelines.

PART H

RESTORATION PAYMENTS

[Subsection 3407(c) & (d)]

1. Applicability

Section 3407 of the Act provides that to the extent required in Congressional acts appropriating funds to partially finance the costs to carry out "programs, projects, plans, and wildlife restoration, improvement and acquisition provisions" of the Act, Reclamation shall:

a. Determine, assess, and collect additional annual mitigation and Restoration payments (hereafter referred to as **Restoration Payments**) on Project Irrigation Water and M&I Water, Additional Project Water, Project Water provided pursuant to a Water Rights Settlement Contract, Flood Water used for M&I purposes, and Section 215 Water, if any, which is sold and delivered to the Water Contractors, and

b. Determine a **Power Restoration Payment Obligation** to be assigned to Power.

The Western Area Power Administration (Western) shall prorate the **Power Restoration Payment Obligation** among various power beneficiaries and shall assess the resulting **Power Restoration Payments**.[17]

Restoration Payments shall not be assessed on Base Water, Exchange Water, other Project Water made available without charge to the recipient as provided by applicable reclamation law, or Warren Act Contract deliveries.

2. Objectives and Constraints

The Total Restoration Payment Obligation to be collected for Project M&I Water, Project Irrigation Water and Power (hereafter referred to collectively as the **Three Functions**) is to be assigned annually consistent with the objectives and constraints set forth below:.

a. All dollar amounts referenced in the Act relative to October 1992 price levels shall be adjusted annually by Reclamation to reflect fluctuations in costs over time. The adjustment shall be accomplished through use of OMB escalation factors.

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[17] Western has advised Reclamation that the procedures by which it will prorate, assess and collect the Power Restoration Payment Obligation will be established following a public process to be held by Western.

b. When the **Total Restoration Payment Obligation** assigned to the **Three Functions** (the **Discretionary Payments**) is combined with all projected **Non-Discretionary Revenues** to be deposited into the **Restoration Fund**, if any, in a given fiscal year, the total of all projected revenues shall approximate the appropriated amount for that fiscal year <u>unless</u>:

(1) The annual average amount appropriated by the Congress prior to fiscal year 1997 is less than the targeted appropriation of $50 million (October 1992 price levels). Under such circumstances yet consistent with all other objectives and constraints presented herein, the Secretary shall impose **Restoration Payments** in fiscal year 1998 and thereafter as may be required to yield in each year total collections equal to $50 million (October 1992 price levels) on a three year rolling average basis.

(2) The Secretary has determined that all mitigation and restoration actions required by Section 3406 of the Act are completed. Thereafter, the amount appropriated each year and the total of all **Restoration Funds** to be collected in each fiscal year thereafter shall be reduced to $35 million (October 1992 price levels). All other objectives and constraints applicable to **Restoration Payments** as detailed herein shall remain in full force and effect following the reduction of that ceiling.

c. The **Total Restoration Payment Obligation** shall not exceed $30 million (October 1992 price levels) based upon a three-year rolling average. Following the determination by the Secretary that all mitigation and restoration actions required by Section 3406 are completed, the $30 million (October 1992 price levels) rolling-average limit shall be reduced to $15 million (October 1992 price levels). All other objectives and constraints applicable to **Restoration Payments** as provided herein shall remain in full force and effect following the reduction of that ceiling.

d. The **Restoration Payments** shall not exceed $6.00 and $12.00 (October 1992 price levels) per acre-foot for Project Irrigation and M&I Water, respectively.

e. Taking into consideration all **Non-Discretionary Revenues** and **Non-Federal Contributions**, if any, the **Total Restoration Payment Obligation** to be assessed and collected in a given fiscal year shall be proportioned "to the greatest degree practicable" among the **Three Functions** in such a way that all revenues collected, as measured

through the ten-year rolling average, reflect the Three Functions' respective allocations for repayment of the Project (hereafter, referred to as the Target Allocation[18]).

f. In the event the historic record demonstrates that the Secretary has unintentionally under-collected or conversely over-collected relative to the target cumulative amounts of total Restoration Funds to have been collected, the Secretary shall make adjustments to the Restoration Payments to correct for such under- or over-collections in the next fiscal year consistent with all the other requirements as included herein.

3. The Assignment of Restoration Payments

To meet the above objectives and constraints, Reclamation shall:

a. Set the Total Restoration Payment Obligation to be collected, including the Power Restoration Payment Obligation, at $30 million (October 1992 price levels) each and every year unless:

(1) The appropriated amount when compared to the most recent projected total of all Non-Discretionary Revenues dictates that a lesser or greater amount than $30 million (October 1992 price levels) of Restoration Payments is needed during the subject fiscal year to meet the amount appropriated.

(2) The three year rolling annual average of the total Restoration Payments based on the two most recent years' actual and the prior fiscal year's most recent Restoration Funds revenue projections indicate that the total Restoration Payments collected during that three-year period shall exceed (or conversely, shall fall short of) the $30 million (October 1992 price levels) average limit. Reclamation shall adjust the $30 million (October 1992 price levels) target as appropriate.

(3) The rolling average limit has been reduced to $15 million (October 1992 price levels) as discussed in subsection 2.c. of Part H of these Interim Guidelines. Pursuant to this situation, subsections 3.a (1) and 3.a (2) of Part H will be appropriately modified.

b. In support of the Target Allocation, Reclamation shall develop and use during each fiscal year the most recent available allocation which will reflect actual project accomplishments for the most

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[18] The respective allocations for repayment of the Project shall be exclusive of any Water Contractor obligations to provide for the repayment of distribution and drainage service constructed for or financed by the United States for the exclusive use of individual Water Contractors.

recent completed water year.[19] The use of a rolling 10-year average allocation based upon aggregating over time the individual annual Project allocations will result in the assessment and collection of **Restoration Fund** revenues -- as may be limited by the other constraints and hydrologic variability -- in amounts expected to be "to the greatest degree practicable" close to the Target Allocation.

c. In recognition of the (a) absolute ceilings relative to the M&I and Irrigation **Restoration Payments**; (b) the requirement to assess and collect **Restoration Payments** from the **Three Functions** as measured over a ten-year rolling average -- "to the greatest degree practicable" -- in accordance with the Target Allocation; and (c) the expectation that the future Project hydrology will require Power to periodically assume responsibility for **Restoration Payment** shortfalls by the Water Contractors, the Water Contractors will be automatically charged each and every fiscal year the maximum permitted **Restoration Payment** per acre-foot [that is, $6.00 (October 1992 price levels) and $12.00 (October 1992 price levels) per acre-foot of Project Irrigation and M&I Water, respectively.] (Hereafter, this policy shall be referred to as the **Maximum Restoration Payment Policy**.) The remaining portion of the **Total Restoration Payment Obligation** shall be assigned to Power.

The **Maximum Restoration Payment Policy** shall remain in full force and effect <u>unless and until</u> the record of historic actual revenues demonstrates that the percentage allocations to either or both of the Irrigation and M&I Water supply functions will exceed their allocable shares relative to the Target Allocation.

d. In the event the **Maximum Restoration Payment Policy** is discontinued relative to the Irrigation and/or M&I water supplies functions, that portion of the **Total Restoration Payment Obligation** to be allocated to the Irrigation and/or M&I water supply functions, whichever or both are determined to be in excess of their allocable shares relative to the then Target Allocation, shall be directly calculated through application of the percentage allocation determined by Secretary to be necessary to bring the function closer to the Target Allocation. (Hereafter this procedure shall be referred to as the **Direct Calculation Method**.) The necessary corrections may be implemented over time as necessary to stabilize the various **Restoration Payments** impacted by the change in procedure.

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[19] Due to the time lag in analyzing actual project accomplishments, the allocation to be used for fiscal year 1998, for example, will in fact reflect actual Project accomplishments for fiscal year 1996. The 10-year rolling allocation for the period fiscal year 1994 thorough fiscal year 2003, for example, will actually represent project accomplishments from fiscal year 1992 through fiscal year 2001. This procedure represents the "closest" allocation possible relative to concurrent (real-time) Project accomplishments.

The portions of the **Total Restoration Payment Obligation** assigned to the Project Irrigation and M&I Water supply functions through application of the **Direct Calculation Method** shall be prorated respectively over all Project Irrigation and M&I Water projected to be sold and delivered during the subject fiscal year, but shall be limited to no more than the applicable **Restoration Payment** limitations. The remaining portions of the **Total Restoration Payment Obligation** which are not assigned to the M&I or Irrigation water supply functions through the **Direct Calculation Method** or the **Maximum Restoration Payment Policy**, as applied consistent with these Interim Guidelines, shall be assigned to Power.

Application of the **Direct Calculation Method** does not preclude reinstatement at a later date of the **Maximum Restoration Payment Policy** as may be appropriate.

A sample calculation illustrating many of the above limits, constraints and procedures applied to a modified 1984 through 1992 hydrology is presented in Appendix C of these Interim Guidelines. Consistent with the example hydrology and various other assumptions explained in Appendix C, the **Maximum Restoration Payment Policy** remained in full force relative to both the Irrigation and M&I Water supply functions throughout the term of the example.

4. Ability to Pay Limitations

a. Applicability. The **Restoration Payment** for Project Irrigation Water may be reduced to reflect a Water Contractor's ability to pay as determined and adjusted by the Secretary at no less than 5-year intervals. Ability to pay limitations on Restoration Payments are not applicable to M&I Water.

b. Determinations. Ability to pay determinations shall be consistent with Reclamation Instructions[20], and following the development of appropriate criteria shall take into account the "benefits" resulting from implementation of this Act.

c. Requests. The Water Contractor must submit to Reclamation a formal request for consideration for a reduction in the **Restoration Payment** due to ability to pay limitations. The costs of performing the required ability to pay studies shall be the responsibility of the requesting Water Contractor.

d. Reassignment of Costs. Any portion of the **Restoration Payments** in excess of a Water Contractor's ability to pay shall be reassigned to the Commercial Power function for repayment in the fiscal year in which the reassignment is made, unless the **Restoration Payment**

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[20] Reclamation Instructions are internal guidance documents which detail various procedures and policies applicable to a range of authorized Reclamation functions.

applicable to the Water Contractors for Irrigation Water in the subject year is less than $6.00 (October 1992 price levels) per acre-foot as determined by the Direct Calculation Method. Under the later circumstance, any amounts in excess of a Water Contractor's documented ability to pay shall be added first to the Restoration Payment applicable to the total remaining Project Irrigation Water supply until the resulting Restoration Payment by the other Water Contractors reaches $6.00 (October 1992 price levels) per acre-foot. Thereafter, any remaining outstanding amounts will be added to the Power Restoration Payment Obligation.

e. Order of Financial Relief. If an ability to pay calculation demonstrates that a Water Contractor has an ability to pay something more than its applicable O&M costs but less than the total of its assigned O&M, capital and Restoration Payment, partial relief shall be designated as first applying to the most recent of the applicable obligations and then to other less senior obligations in descending order of seniority.

5. Variability in Restoration Payments

Consistent with the above (Sections 1 through 4 of Part H), the required Restoration Payments and Total Power Restoration Payment Obligation may vary considerably from fiscal year to fiscal year due to the following:

a. Uncertainty in any fiscal year over the extent to which Congress will appropriate funds from the Restoration Fund. With the exception of the circumstances which mandate the collection of $50 million annually as described in subsection 2.b.(1) of Part H of these Interim Guidelines, Congress can appropriate as little as $0 or as much as $50 million (October 1992 price levels) to be made available from the Restoration Fund in any fiscal year.

b. The magnitude of water transfers, particularly those transfers intended for M&I purposes, to non-Project entities.

c. The projected water supplies upon which the Restoration Payment is applied. For example, in the event of a low water supply, the total of all Restoration Payments to be collected from the Irrigation and M&I Water supply functions will be constrained by the projected water supply and the maximum Restoration Payment limitations applicable to the water supply functions. In order to collect the required amount of Restoration Funds, an additional allocation must be made to Power in excess of that indicated by the Target Allocation.

d. Ability to pay limitations as may be applicable to Water Contractors having an Irrigation Water supply.

e. Changes in Project accomplishments and, thereby, the Target Allocation over time.

6. Rescheduled Water[21]

Restoration Payments are applicable to Project Water which is rescheduled from delivery in one water year (e.g., water year X) to delivery in a later water year (e.g., water year X+1). Because the Act applies Restoration Payments only to Project Water actually delivered, rescheduled water which is delivered to a Water Contractor or a transferee or an intermediary consistent with an approved transfer shall be subject to Restoration Payments in the year of actual delivery (e.g., year X+1).

7. Banking of Transferred Water

In those instances when Project Water is banked with an intermediary party for the principle purpose of providing a future water supply to the transferee, the water shall be treated as Delivered Project Water when delivered to the intermediary party and not when withdrawn from the Bank. The Restoration Payment shall be that in effect in the year of delivery to the intermediary.

8. Type of Water Use

The manner in which Project Water is used (as Irrigation Water or M&I Water) and the resulting Restoration Payment to be paid shall be consistent with the actual use of such water by the Water Contractor or transferee(s). In those instances when Project Water is banked with an intermediary, the type of water shall be consistent with the ultimate intended use by the transferee consistent with the applicable transfer agreement.

9. Payments Due, Delinquent Payments, and Adjustments for Water Contractors

The Water Contractor (the transferor) is responsible for full payment of all Restoration Payments for Project Water delivered to the Water Contractor, or a transferee, or intermediary. The total amount of Restoration Payments owed for water delivered is due and payable by the Water Contractor by the end of the month following the month of delivery. Such amounts shall be consistent with the quantities of Project Irrigation and M&I Water shown in Reclamation's water delivery report for the subject month. The water delivery report shall be regarded by the Water Contractor as a bill for all Restoration Payments.

Any adjustments for overpayment or underpayment shall be accomplished through the adjustment of Restoration Payments or other charges due to the United States relative to the subject Water Service, Water Rights Settlement or Repayment Contract and payable in the next month.

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[21] All proposals to reschedule water to a later year must be approved by Reclamation.

The amount to be paid for past due payment of **Restoration Payments** shall be computed in a manner consistent with the terms included in the Water Contractor's then existing Water Service, Water Rights Settlement or Repayment Contract.

Transferees are not responsible for payment to the United States of **Restoration Payments** applicable to Project Water transferred to them.

10. Relationship to Other Project Water Payments and Surcharges

The responsibility of the Water Contractors to pay their applicable **Restoration Payments** as described above shall be in addition to all other payments required by the Act and other applicable provisions of reclamation law.

11. Payment by Power of Restoration Payments

Western (Western) shall prorate the **Power Restoration Payment Obligation** among the various Project power beneficiaries and shall bill them for the resulting **Restoration Payments**. Provisions regarding delinquency, payments dates, and payment adjustments shall be addressed in an agreement between Western and Reclamation.

12. Revenues to be Credited to the Restoration Fund

All **Restoration Payments** shall be credited to the **Restoration Fund** described in Part B of these Interim Guidelines.

PART I

NOTIFICATION OF AMOUNTS TO BE PAID

1. Reclamation shall include in its annual preliminary water rate publications all applicable payments and charges required by the Act to be paid by the Water Contractors during the forthcoming fiscal year. For the purposes of implementing and maintaining the Restoration Fund, the applicable payments and charges as required by the Act shall be regarded as final for the subject fiscal year. The preliminary water rates are usually made available on or about July 1 of each year.

2. Concurrent with the release of the annual preliminary water rate publications, Reclamation shall notify Western of the Power Restoration Payment Obligation to be directly assigned to Power and the amount, if any, which will be indirectly assigned to Power as a result of the per acre-foot Restoration Payment limits applicable to the Irrigation and M&I Water supply functions. The Power Restoration Payment Obligation and the amount, if any, which will be indirectly assigned to Power as a result of the per Restoration Payment limits applicable to water shall be regarded as final relative to the subject fiscal year. Reclamation will notify Western of any amounts to be paid by Power as a result of ability to pay limitations.

PART J

NON-FEDERAL CONTRIBUTIONS

[Subsection 3407(a)]

1. Monies donated by Non-Federal entities shall be credited to the Restoration Fund to foster one or more specific purposes.

2. Such Non-Federal Contributions shall be expended by the United States only for the purpose(s) specified by the Contributor(s) and shall not be subject to appropriation.

3. The Secretary shall not accept a Non-Federal Contribution for credit to the Restoration Fund prior to the execution of a written agreement between the Contributors and the United States. (Bases of negotiation and other matters concerning the content and execution of the proposed agreement shall be developed and forwarded to Reclamation's Washington Office for review and approval prior to execution of a written agreement.)

PART K

RESTORATION FUND FINANCIAL REPORTS

[Subsection 3407(f)]

1. By September 30, 1994, and annually thereafter, the Secretary shall prepare and submit a detailed financial report to the following five Congressional committees:

    a. Senate Committee on Energy and Natural Resources;

    b. Committee on Appropriations of the Senate;

    c. House Committee on Natural Resources;

    d. House Committee on Merchant Marine and Fisheries; and

    e. Committee on Appropriations of the House of Representatives.

2. The financial report shall detail:

    a. All deposits made to the Restoration Fund during the prior fiscal year including the source(s) of each deposit; Restoration Fund expenditures by authorized activity and responsible entity (entities) during the prior fiscal year; and the beginning and end-of-year balances of the Restoration Fund, and

    b. Upcoming fiscal year's projections of deposits to and expenditures from the Restoration Fund, and the beginning and anticipated end-of-year balances of the Restoration Fund.

3. In addition, said financial report shall reflect all State of California and reimbursable and nonreimbursable Federal expenditures other than those from the Restoration Fund incurred in the subject fiscal year to carry out the provisions of this Title.

APPENDIX A

APPLICATION OF PAYMENTS AND SURCHARGES: EXAMPLE CALCULATIONS

1. Friant Unit Water Contractor X has received approval from Reclamation to transfer 200 acre-feet (AF) of its 10,000 acre-feet (AF) maximum Project contractual entitlement to entity Y, who was never a CVP Water Contractor prior to October 30, 1992. Entity Y proposes to use this water for M&I purposes. The deliveries to Entity Y are scheduled for February, the last month of the Water Contractor's contractual water year. Consistent with Reclamation's monthly water delivery records, Water Contractor X anticipates the use of 9,100 AF of its maximum combined contractual entitlement prior to February.

   Water Contractor X's contractual irrigation water rate is $4.00 per AF. The Water Contractor's Cost of Service Rate and Full Cost Rate for irrigation water are $8.00 and $12.00 per AF, respectively. The Water Contractor's contractual, current, and M&I Full Cost rates are $6.00, $10.00 and $15.00 per AF, respectively.

   a. For purposes of this simplified example and excluding all other payments and surcharges required by the Act or other applicable reclamation law, what water rate must be paid by Water Contractor X for all water scheduled to be transferred?

Analysis and Response:

Impacts of Tiered Water Rates - Reclamation records shows that the contract qualifies as a "new, renewed or amended contract" consistent with the provisions of Part D of the interim guidelines. Accordingly the Water Contractor will encounter the following Tiered Water Rate thresholds:

Max. Contractual Entitlement	10,000 AF
> 90 Percent Threshold	> 9,000 AF
> 80 Percent Threshold	> 8,000 AF

Because the Water Contractor anticipates the use of 9,100 AF of its maximum contractual entitlement prior to the time of the transfer, it is anticipated that the 200 AF of transferred water will exceed the 90 percent threshold. The water is proposed to be used for M&I purposes; therefore, M &I rates are applicable. The Water Contractor will pay the M&I Full Cost Rate of $15.00 per AF.

Impacts of Transferred Water Rate Requirements - Under the Transferred Water Rate provisions, water used for M&I purposes must be paid for at the Water Contractor's current applicable M&I rate, that is at $10.00 per AF.

Payment of the Highest Rate - The Interim Guidelines require the Water Contractor to pay the higher of the Transferred Water Rate or Tiered Water Rate when both are applicable. In this example, the Water Contractor is required to pay $15.00 per AF for all water transferred for M&I purposes pursuant to the subject proposal.

b. What would the rate be if the water were to be used by the transferee for agricultural purposes?

Analysis and Response:

Impacts of Tiered Water Rates - The water is proposed to be used for agricultural purposes; therefore, irrigation water rates are applicable. Consistent with the prior analysis, the Water Contractor anticipates the use of 9,100 AF of its contractual entitlement prior to the time of the transfer. Therefore, it is projected that the 200 AF of transferred water will exceed the 90 percent threshold and thereby be subject to the Irrigation Full Cost Rate of $12.00 per AF.

Impacts of Transferred Water Rate Requirements - Under the Transferred Water Rate provisions, water used for agricultural purposes must be paid for at the Water Contractor's Irrigation Full Cost Rate, that is at $12.00 per AF.

Payment of the Highest Rate - The Interim Guidelines require the Water Contractor to pay the higher of the Transferred or Tiered Water Rate when both are applicable. In this example, the applicable Tiered and Transferred Water Rates are the same. The Water Contractor is required to pay $12.00 per AF for all water transferred for agricultural purposes pursuant to the subject proposal.

c. What other surcharges and payments must Water Contractor X pay relative to the transferred water?

Analysis and Response:

Water Contractor X must pay:

-- the applicable **Friant Surcharge**;

-- the applicable irrigation or **M&I Restoration Payment** dependent upon the transferee's actual water use; and

-- the $25 (October 1992 price levels) **M&I Surcharge**, if the water is used for M&I purposes.

If the transfer were to occur after the date of applicability of the **Pre-Renewal Charges**, **Pre-Renewal Charges** will be applicable <u>if</u> Water Contractor X meets the criteria discussed in Part C of these Interim Guidelines. The **Pre-Renewal Charges** will be equal to 1.5 times the calculated, applicable **Restoration Payment**.

d. Upon receipt of the appropriate water rate and applicable surcharges and payments, how will Reclamation credit the monies received for the transferred water?

Response:

Revenue	CREDITING Amount/AF	Account
<u>Full Cost M&I Rate</u>	$15.00	
Cost of Service Component	<u>10.00</u>	Project Repayment
Difference between Cost of Service and Full Cost	$ <u>5.00</u>	Restoration Fund (Tiered Water Rate <u>or</u> Transfer Revenue)
<u>Payments</u>		
Friant Surcharge	$4 - 7	Restoration Fund
Restoration Payment	Variable	Restoration Fund
Pre-Renewal Charge	Variable[1]	Restoration Fund
M&I Surcharge	$25.00 [2]	Restoration Fund

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[1] The Pre-renewal Charge, if any, is to be equal to 1.5 times the calculated Restoration Payment.

[2] The $25.00 M&I Surcharge reflects October 1992 price levels and is to be adjusted consistent with the provisions of subsection ac. of Part H of the interim Guidelines.

2. It is Fiscal Year 1996, and Tehama-Colusa Water Contractor Y has received approval from Reclamation to transfer a portion of its entitlement to an entity which was not a CVP Water Contractor prior to October 30, 1992, the date of passage of the Act. The transferee proposes to use that water for agricultural purposes. Following completion of all the required acreage limitation forms by the transferee's landholders as required by the RRA, it is determined that the transferred water will be applied to full cost lands. Water Contractor Y has reviewed its most recent monthly water delivery reports from Reclamation and determined that the subject water at the time of transfer will probably account for a portion of its entitlement in excess of 80 percent but no more than 90 percent of Water Contractor Y's maximum contractual entitlement. The Water Contractor's applicable contractual rate is set at the Cost of Service rate. The Cost of Service and Full Cost Rates for irrigation water are $17.00 and $35.00 per A, respectively.

What is the appropriate water rate to be paid by Water Contractor Y for the subject water? What additional charges and payments will Water Contractor Y be required to pay, and how will the various payments and surcharges be credited?

Analysis and Response:

Impacts of Tiered Water Rates - Tehama-Colusa Water Contractor Y's contract was renewed in 1995 and, therefore, is subject to the Tiered Water Rate provisions as discussed in Part D (Tiered Water Rates) of these Interim Guidelines. Accordingly, water used for irrigation purposes in excess of 80 percent but no more than 90 percent of the Water Contractor's maximum combined contractual entitlement must be paid for at a rate equal to the average of the Water Contractor's contractual water rate and the Water Contractor's full cost irrigation water rate. Because the contractual water rate is the Cost-of-Service, the average rate is:

($17.00/AF + $35.00/AF) / 2 = $26.00/AF

Impacts of Transferred Water Rates - Under the Transferred Water Rate provisions of these Interim Guidelines, water used for irrigation purposes must be paid for at the Water Contractor's full cost water rate of $35.00 per AF.

Impacts of Full Cost Provisions of RRA - Independent of these Interim Guidelines, irrigation water which is applied to full cost lands must be paid for at Water Contractor Y's full cost water rate of $35.00 per AF.

Payment of the Highest Rate - The Interim Guidelines require Water Contractor Y to pay the highest of the Transferred, Tiered or Full Cost water rates when all three are applicable. In this instance, the Contractor is required to pay the irrigation Full Cost Rate of $35.00 per AF.

Applicable Surcharges and Payments and Crediting:

In addition to the payment of the full cost irrigation water rate, the Water Contractor will be required to pay the irrigation Restoration Payment. Because Water Contractor Y has renewed its water service contract, Pre-Renewal Charges are not applicable.

Revenue	CREDITING Amount/AF	Credit Account
Full cost Irrigation Rate	$35.00	
Cost of Service	17.00	Project Repayment
Difference between Cost of Service and Full Cost Rates	$18.00	Reclamation Fund
Payments		
Restoration Payment	Variable	Restoration Fund

APPENDIX B

CHARGES FOR DELINQUENCY PAYMENTS APPLICABLE TO EXCHANGE CONTRACTORS

a. The Exchange Contractor shall be subject to interest, administrative and penalty charges on delinquent payments. When a payment is not received by the due date, the Exchange Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the Exchange Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent 90 days or more, the Exchange Contractor shall pay an additional penalty charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further, the Exchange Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

b. The interest charge rate shall be greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest charge rate of 0.5 percent per month prescribed by Section 6 of the Reclamation Project Act of 1939. The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquency period.

c. When a partial payment on a delinquent account is received, the amount received shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

APPENDIX C

RESTORATION PAYMENTS: A 10-YEAR EXAMPLE

Reclamation has analyzed the allocation of Restoration Payments and Restoration Funds for a hypothetical 10 year period, herein labeled the period fiscal year 1994 through fiscal year 2003, relative to the Three Functions -- M&I Water supply, Irrigation Water supply and Power. The example calculation is dependent upon various critical assumptions, including, except for one year, the most recent available Central Valley Project hydrology, a period of unprecedented drought. The analysis is not intended to represent any particular forthcoming period -- it is intended to represent an analysis of one possible scenario.

The principal assumptions are as follows:

1. Projected Hydrology and Water Deliveries:

Year	Total Projected Project Deliveries Irrigation	M&I	Source of Project Deliveries
1994	3,126,000	365,000	Projected 1994 Deliveries
1995	3,486,000	400,000	Total 1984 Deliveries Less 900,000 AF
1996	2,702,000	400,000	Total 1985 Deliveries Less 900,000 AF
1997	3,153,000	400,000	Total 1986 Deliveries Less 900,000 AF
1998	2,532,000	400,000	Total 1987 Deliveries Less 900,000 AF
1999	2,576,000	400,000	Total 1988 Deliveries Less 900,000 AF
2000	2,590,000	400,000	Total 1989 Deliveries Less 900,000 AF
2001 [3]	2,008,000	400,000	Total 1990 Deliveries Less 700,000 AF
2002 [3]	1,239,000	300,000	Total 1991 Deliveries Less 700,000 AF
2003 [3]	1,012,000	300,000	Total 1992 Deliveries Less 700,000 AF

Reclamation is unable at this time to project the total actual reductions in Delivered Project Water to be expected in above-normal, normal or drought years as a result of the requirements of the Act and the Endangered Species

[3] The Project deliveries have been reduced due to an assumed, persistent, long-term drought.

Act (ESA). The above reductions have been assumed for the purposes of the example calculation and are not intended to indicate actual or projected reductions in yields as a result of the requirements of this Act or the ESA.

2. Cost-indexing. All dollar amounts have been adjusted over time based upon an assumed cost index.

3. Friant Surcharges. The annual projected revenues from Friant Surcharges during the period fiscal year 1994 through 2003 are assumed to be reflective of the annual historic average Class 1 and Class 2 water supplies, that is, an annual average delivery of 1.5 million acre-feet. Approximately 5.3 percent of the Friant Surcharge revenues were credited as originating from M&I Water deliveries. The remaining portion is assumed to originate from Irrigation Water deliveries.

4. Projected Revenues Other Than Restoration Payments and Friant Surcharges. Due to the lack of historic observations, Reclamation is unable at this time to make informed and accurate projections of future Restoration Fund revenues resulting from application of Tiered Water Rates, Transferred Water Rates, M&I Surcharges and Pre-Renewal Charges. Accordingly the assumed amounts of Tiered Water Revenues, M&I Surcharges, Transferred Revenues and Pre-Renewal Charges as used and credited to the Irrigation and M&I Water supply functions in the example calculation represent speculative amounts. These amounts are shown below:

Pre-Renewal Charges: Analysis assumes 200,000 AF subject to Pre-Renewal Charges in fiscal years 1998 through 2003. The applicable Pre-Renewal Charge in a particular year is to equal 1.5 times the then Restoration Payment. For example purposes, all of the Pre-Renewal Charges are shown as applicable to Irrigation.

Tiered Water Revenues:

1994	$ 0	1999	$ 300,000
1995	0	2000	300,000
1996	0	2001	0
1997	0	2002	0
1998	100,000	2003	0

Transferred Water Quantities and Associated Per Acre-Foot Revenue:

1994	0 AF	1999	50,000 AF x $35.10/AF [4] 50,000 AF x $45.00/AF [5]
1995	50,000 AF x $30.00/AF	2000	75,000 AF x $36.50/AF 50,000 AF x $46.9714/AF
1996	50,000 AF x $31.20/AF 10,000 AF x $40.00/AF	2001	75,000 AF x $37.96/AF 75,000 AF x $48.67/AF
1997	50,000 AF x $32.45/AF 25,000 AF x $41.60/AF	2002	100,000 AF x $39.48/AF 75,000 AF x $50.61/AF
1998	50,000 AF x $33.75/AF 50,000 AF x $43.26/AF	2003	100,000 AF x $41.06/AF 100,000 AF x $52.64/AF

M&I Surcharge Water Quantities and Associated Per AF Revenue:

1994	0 AF	1999	50,000 AF x $29.96/AF[6]
1995	50,000 AF x $26.68/AF	2000	75,000 AF x $30.95/AF
1996	50,000 AF x $27.53/AF	2001	75,000 AF x $31.97/AF
1997	50,000 AF x $28.40/AF	2002	100,000 AF x $33.02/AF
1998	50,000 AF x $29.30/AF	2003	100,000 AF x $34.11/AF

5. Implementation of the Maximum Restoration Payment Policy. Consistent with the Interim Guidelines, all M&I and Irrigation Water Contractors are to be charged each and every fiscal year the maximum Restoration Payment per AF

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[4] The first quantity shown in each year following fiscal year 1994 is predicated upon Project M&I Water transfers from Exchange Contractors to an entity that was not a Central Valley Project Contractor on October 30, 1992. The Transferred Water Rate is at the Exchange Contractors' computed Cost of Service M&I Rate, estimated at $30 per acre-foot. The $30 rate is escalated at 4 percent per year thereafter.

[5] The second quantity shown for each year following fiscal year 2994 is predicated upon Project Irrigation Water transfers from an Exchange Contractor to an entity that was not a Central Valley Project Contractor on October 30, 1992. The Transferred Water Rate is at the Irrigation Full Cost Rate for the Exchange Contractors, which is estimated at $40 per acre-foot for 1995. The $40 rate has been escalated by 4 percent per year thereafter.

[6] The $25.00 M&I Surcharge (October 1992 price levels) associated with the assumed M&I Water transfers has been escalated by 4 percent per year thereafter.

[that is, $6.00 (October 1992 price levels) and $12.00 (October 1992 price levels) of Project Irrigation and M&I Water, respectively.] The remaining portion of the Total Restoration Payment Obligation has been assigned to Power. The analysis presumes that the Maximum Restoration Payment Policy remains in full force and effect unless and until the record of historic actual revenues demonstrates that the percentage allocations to either or both of the Irrigation and M&I Water supply functions will exceed their allocable shares relative to the Target Allocation.

6. Target Allocation. The Target Allocation reflects the Central Valley Project plant-in-service cost allocation percentages for fiscal year 1991. Said allocation represents the actual historic and projected future project accomplishments.

Findings: Consistent with the above assumptions, the completed analysis shows that approximately 26 percent of the Restoration Fund revenues will be assigned to and collected from Power over the 10-year study period (see Summary Table C-1 herein.) Despite the employment of the Maximum Restoration Payment Policy throughout the subject study period, the total amount of Restoration Payments assigned to Power is significantly in excess of the Target Allocation percentage for Power, that is 18 percent of the Restoration Fund revenues. This result is principally due to the impact of the drought years upon Restoration Payment collections from Irrigation Water beneficiaries. Prior to the reduction of Project Water supply due to persistent, long-term drought, assignment to and collection from Power approximated some 19 percent of the total Restoration Fund payments.

The resulting Restoration Payment obligations calculated on a year by year basis are shown in Tables C-1A through C-1J herein.

TABLE C-1 – SUMMARY
EXAMPLE CALCULATION – RESTORATION FUND PAYMENTS
FISCAL YEAR 1994 – 2003

	Power		Irrigation				M&I				
	Discretionary Payment	% of Total	Non-Discretionary Payments	Discretionary Payment	Total Payments	% of Total	Non-Discretionary Payments	Discretionary Payment	Total Payments	% of Total	Grand Total of Payments
1994	$7,092,800	15.76%	$13,258,000	$19,381,200	$32,639,200	72.53%	$742,000	$4,526,000	$5,268,000	11.71%	$45,000,000
1995	4,579,600	11.21%	5,682,000	22,310,400	27,992,400	68.54%	3,152,000	5,120,000	8,272,000	20.25%	40,844,000
1996	9,885,780	23.33%	6,082,000	17,860,220	23,942,220	56.52%	3,254,500	5,284,000	8,538,500	20.15%	42,366,500
1997	7,124,540	16.13%	6,722,000	21,503,460	28,225,460	63.91%	3,360,500	5,452,000	8,812,500	19.95%	44,162,500
1998	11,736,040	23.39%	11,474,500	17,799,960	29,274,460	58.33%	3,550,000	5,624,000	9,174,000	18.28%	50,184,500
1999	11,805,000	22.81%	11,827,500	18,676,000	30,503,500	58.93%	3,650,500	5,804,000	9,454,500	18.26%	51,763,000
2000	12,058,900	20.83%	14,830,000	19,399,100	34,229,100	59.13%	5,615,250	5,988,000	11,603,250	20.04%	57,891,250
2001 *	16,942,160	28.07%	15,912,750	15,521,840	31,434,590	52.08%	5,801,250	6,180,000	11,981,250	19.85%	60,358,000
2002 *	25,221,170	39.52%	16,130,250	9,874,830	26,005,080	40.75%	7,806,500	4,785,000	12,591,500	19.73%	63,817,750
2003 *	27,890,240	41.69%	17,676,500	8,328,760	26,005,260	38.86%	8,073,500	4,938,000	13,011,500	19.45%	66,907,000
Totals	$134,336,230		$119,595,500	$170,655,770	$290,251,270		$45,006,000	$53,701,000	$98,707,000		$523,294,500
10-yr Average 1994 – 2003	$13,433,623	25.67%			$29,025,127	55.47%			$9,870,700	18.86%	$52,329,450
7-yr Average 1994 – 2000	$9,183,237	19.35%			$29,543,763	62.25%			$8,731,821	18.40%	$47,458,821
Targeted %		18%				62%				20%	

* Reduced Project deliveries due to persistent long-term drought.

TABLE C–1A
Restoration Fund Payments – FY 1994

		Power	Irrigation	M&I	Total
Repayment Factors (Target Allocation Factors)		18%	62%	20%	100%
Projected Revenues:					
Non–Discretionary Revenues:					
Pre–Renewal Charges		$ 0	$ 0	$ 0	$ 0
Tiered Water Revenues		0	0	0	0
Transfer Revenues		0	0	0	0
Friant Surcharges – FY 93		0	7,576,000	424,000	8,000,000
Friant Surcharges – FY 94		0	5,682,000	318,000	6,000,000
M&I Surcharges		0	0	0	0
Total Non–Discretionary		0	13,258,000	742,000	14,000,000
Max Restoration Payment	1/	0	19,381,200	4,526,000	23,907,200
Subtotal		0	32,639,200	5,268,000	$ 37,907,200
Allocated RP Share		8,100,000	27,900,000	9,000,000	$ 45,000,000 2/
RP Revenues in Excess of Allocated Share		0	4,739,200	–3,732,000	1,007,200
RP Adjustment for Over(Under)		–1,007,200	0	0	–1,007,200
TOTAL		$ 7,092,800	$ 32,639,200	$ 5,268,000	$ 45,000,000
% Allocation after Adjustment		15.76%	72.53%	11.71%	100.00%

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'94 Est. Paid Water Deliveries (AF)	3,126,000	365,000	3,491,000
Maximum Rate per AF	$ 6.20	$ 12.40	
Maximum Amount	$ 19,381,200	$ 4,526,000	$ 23,907,200

2/ Maximum Discretionary Revenues	$ 31,000,000
Projected Non–Discretionary Revenues	14,000,000
Total	$ 45,000,000

TABLE C–1B
Restoration Fund Payments – FY 1995

	Power	Irrigation	M&I	Total
Repayment Factors (Target Allocation Factors)	18%	62%	20%	100%
Projected Revenues:				
Non–Discretionary Revenues:				
Pre–Renewal Charges	$ 0	$ 0	$ 0	$ 0
Tiered Water Revenues	0	0	0	0
Transfer Revenues	0	0	1,500,000	1,500,000
Friant Surcharges	0	5,682,000	318,000	6,000,000
M&I Surcharges	0	0	1,334,000	1,334,000
Total Non–Discretionary	0	5,682,000	3,152,000	8,834,000
Max Restoration Payment 1/	0	22,310,400	5,120,000	27,430,400
Subtotal	0	27,992,400	8,272,000	$ 36,264,400
Allocated RP Share	7,351,920	25,323,280	8,168,800	$ 40,844,000 2/
RP Revenues in Excess of Allocated Share	0	2,669,120	103,200	2,772,320
RP Adjustment for Over(Under)	–2,772,320	0	0	–2,772,320
TOTAL	$ 4,579,600	$ 27,992,400	$ 8,272,000	$ 40,844,000
% Allocation after Adjustment	11.21%	68.54%	20.25%	100.00%

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'95 Est. Paid Water Deliveries (AF)	3,486,000	400,000	3,886,000
Maximum Rate per AF	$ 6.40	$ 12.80	
Maximum Amount	$ 22,310,400	$ 5,120,000	$ 27,430,400

2/ Maximum Discretionary Revenues	$ 32,010,000
Projected Non–Discretionary Revenues	8,834,000
Total	$ 40,844,000

TABLE C–1C
Restoration Fund Payments – FY 1996

	Power	Irrigation	M&I	Total
Repayment Factors (Target Allocation Factors)	18%	62%	20%	100%
Projected Revenues:				
Non–Discretionary Revenues:				
Pre–Renewal Charges	$ 0	$ 0	$ 0	$ 0
Tiered Water Revenues	0	0	0	0
Transfer Revenues	0	400,000	1,560,000	1,960,000
Friant Surcharges	0	5,682,000	318,000	6,000,000
M&I Surcharges	0	0	1,376,500	1,376,500
Total Non–Discretionary	0	6,082,000	3,254,500	9,336,500
Max Restoration Payment 1/	0	17,860,220	5,284,000	23,144,220
Subtotal	0	23,942,220	8,538,500	$ 32,480,720
Allocated RP Share	7,625,970	26,267,230	8,473,300	$ 42,366,500 2/
RP Revenues in Excess of Allocated Share	0	–2,325,010	65,200	–2,259,810
RP Adjustment for Over(Under)	2,259,810	0	0	2,259,810
TOTAL	$ 9,885,780	$ 23,942,220	$ 8,538,500	$ 42,366,500
% Allocation after Adjustment	23.33%	56.52%	20.15%	100.00%

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'96 Est. Paid Water Deliveries (AF)	2,702,000	400,000	3,102,000
Maximum Rate per AF	$ 6.61	$ 13.21	
Maximum Amount	$ 17,860,220	$ 5,284,000	$ 23,144,220

2/ Maximum Discretionary Revenues	$ 33,030,000
Projected Non–Discretionary Revenues	9,336,500
Total	$ 42,366,500

TABLE C–1D
Restoration Fund Payments – FY 1997

		Power	Irrigation	M&I	Total
Repayment Factors (Target Allocation Factors)		18%	62%	20%	100%
Projected Revenues:					
Non–Discretionary Revenues:					
Pre–Renewal Charges		$ 0	$ 0	$ 0	$ 0
Tiered Water Revenues		0	0	0	0
Transfer Revenues		0	1,040,000	1,622,500	2,662,500
Friant Surcharges		0	5,682,000	318,000	6,000,000
M&I Surcharges		0	0	1,420,000	1,420,000
Total Non–Discretionary		0	6,722,000	3,360,500	10,082,500
Max Restoration Payment	1/	0	21,503,460	5,452,000	26,955,460
Subtotal		0	28,225,460	8,812,500	$ 37,037,960
Allocated RP Share		7,949,250	27,380,750	8,832,500	$ 44,162,500 2/
RP Revenues in Excess of Allocated Share		0	844,710	–20,000	824,710
RP Adjustment for Over(Under)		–824,710	0	0	–824,710
TOTAL		$ 7,124,540	$ 28,225,460	$ 8,812,500	$ 44,162,500
% Allocation after Adjustment		16.13%	63.91%	19.95%	100.00%

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'97 Est. Paid Water Deliveries (AF)	3,153,000	400,000	3,553,000
Maximum Rate per AF	$ 6.82	$ 13.63	
Maximum Amount	$ 21,503,460	$ 5,452,000	$ 26,955,460

2/ Maximum Discretionary Revenues	$ 34,080,000
Projected Non–Discretionary Revenues	10,082,500
Total	$ 44,162,500

TABLE C–1E
Restoration Fund Payments – FY 1998

	Power	Irrigation	M&I	Total
Repayment Factors (Target Allocation Factors)	18%	62%	20%	100%
Projected Revenues:				
Non–Discretionary Revenues:				
Pre–Renewal Charges	$ 0	$ 2,109,000	$ 0	$ 2,109,000
Tiered Water Revenues	0	100,000	0	100,000
Transfer Revenues	0	2,163,000	1,687,500	3,850,500
Friant Surcharges	0	7,102,500	397,500	7,500,000
M&I Surcharges	0	0	1,465,000	1,465,000
Total Non–Discretionary	0	11,474,500	3,550,000	15,024,500
Max Restoration Payment 1/	0	17,799,960	5,624,000	23,423,960
Subtotal	0	29,274,460	9,174,000	$ 38,448,460
Allocated RP Share	9,033,210	31,114,390	10,036,900	$ 50,184,500 2/
RP Revenues in Excess of Allocated Share	0	–1,839,930	–862,900	–2,702,830
RP Adjustment for Over(Under)	2,702,830	0	0	2,702,830
TOTAL	$ 11,736,040	$ 29,274,460	$ 9,174,000	$ 50,184,500
% Allocation after Adjustment	23.39%	58.33%	18.28%	100.00%

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'98 Est. Paid Water Deliveries (AF)	2,532,000	400,000	2,932,000
Maximum Rate per AF	$ 7.03	$ 14.06	
Maximum Amount	$ 17,799,960	$ 5,624,000	$ 23,423,960

2/ Maximum Discretionary Revenues	$ 35,160,000
Projected Non–Discretionary Revenues	15,024,500
Total	$ 50,184,500

TABLE C–1F
Restoration Fund Payments – FY 1999

		Power	Irrigation	M&I	Total
Repayment Factors (Target Allocation Factors)		18%	62%	20%	100%
Projected Revenues:					
Non–Discretionary Revenues:					
Pre–Renewal Charges		$ 0	$ 2,175,000	$ 0	$ 2,175,000
Tiered Water Revenues		0	300,000	0	300,000
Transfer Revenues		0	2,250,000	1,755,000	4,005,000
Friant Surcharges		0	7,102,500	397,500	7,500,000
M&I Surcharges		0	0	1,498,000	1,498,000
Total Non–Discretionary		0	11,827,500	3,650,500	15,478,000
Max Restoration Payment	1/	0	18,676,000	5,804,000	24,480,000
Subtotal		0	30,503,500	9,454,500	$ 39,958,000
Allocated RP Share		9,317,340	32,093,060	10,352,600	$ 51,763,000 2/
RP Revenues in Excess of Allocated Share		0	–1,589,560	–898,100	–2,487,660
RP Adjustment for Over(Under)		2,487,660	0	0	2,487,660
TOTAL		$ 11,805,000	$ 30,503,500	$ 9,454,500	$ 51,763,000
% Allocation after Adjustment		22.81%	58.93%	18.26%	100.00%

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'99 Est. Paid Water Deliveries (AF)	2,576,000	400,000	2,976,000
Maximum Rate per AF	$ 7.25	$ 14.51	
Maximum Amount	$ 18,676,000	$ 5,804,000	$ 24,480,000

2/ Maximum Discretionary Revenues	$ 36,285,000
Projected Non–Discretionary Revenues	15,478,000
Total	$ 51,763,000

TABLE C–1G
Restoration Fund Payments – FY 2000

		Power	Irrigation	M&I	Total	
Repayment Factors (Target Allocation Factors)		18%	62%	20%	100%	
Projected Revenues:						
Non–Discretionary Revenues:						
Pre–Renewal Charges		$ 0	$ 2,247,000	$ 0	$ 2,247,000	
Tiered Water Revenues		0	300,000	0	300,000	
Transfer Revenues		0	2,339,500	2,737,500	5,077,000	
Friant Surcharges		0	9,943,500	556,500	10,500,000	
M&I Surcharges		0	0	2,321,250	2,321,250	
Total Non–Discretionary		0	14,830,000	5,615,250	20,445,250	
Max Restoration Payment	1/	0	19,399,100	5,988,000	25,387,100	
Subtotal		0	34,229,100	11,603,250	$ 45,832,350	
Allocated RP Share		10,420,425	35,892,575	11,578,250	$ 57,891,250	2/
RP Revenues in Excess of Allocated Share		0	–1,663,475	25,000	–1,638,475	
RP Adjustment for Over(Under)		1,638,475	0	0	1,638,475	
TOTAL		$ 12,058,900	$ 34,229,100	$ 11,603,250	$ 57,891,250	
% Allocation after Adjustment		20.83%	59.13%	20.04%	100.00%	

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'00 Est. Paid Water Deliveries (AF)	2,590,000	400,000	2,990,000
Maximum Rate per AF	$ 7.49	$ 14.97	
Maximum Amount	$ 19,399,100	$ 5,988,000	$ 25,387,100

2/ Maximum Discretionary Revenues	$ 37,446,000
Projected Non–Discretionary Revenues	20,445,250
Total	$ 57,891,250

TABLE C–1H
Restoration Fund Payments – FY 2001

		Power	Irrigation	M&I	Total
Repayment Factors (Target Allocation Factors)		18%	62%	20%	100%
Projected Revenues:					
Non–Discretionary Revenues:					
Pre–Renewal Charges		$ 0	$ 2,319,000	$ 0	$ 2,319,000
Tiered Water Revenues		0	0	0	0
Transfer Revenues		0	3,650,250	2,847,000	6,497,250
Friant Surcharges		0	9,943,500	556,500	10,500,000
M&I Surcharges		0	0	2,397,750	2,397,750
Total Non–Discretionary		0	15,912,750	5,801,250	21,714,000
Max Restoration Payment	1/	0	15,521,840	6,180,000	21,701,840
Subtotal		0	31,434,590	11,981,250	$ 43,415,840
Allocated RP Share		10,864,440	37,421,960	12,071,600	$ 60,358,000 2/
RP Revenues in Excess of Allocated Share		0	–5,987,370	–90,350	–6,077,720
RP Adjustment for Over(Under)		6,077,720	0	0	6,077,720
TOTAL		$ 16,942,160	$ 31,434,590	$ 11,981,250	$ 60,358,000
% Allocation after Adjustment		28.07%	52.08%	19.85%	100.00%

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'01 Est. Paid Water Deliveries (AF)	2,008,000	400,000	2,408,000
Maximum Rate per AF	$ 7.73	$ 15.45	
Maximum Amount	$ 15,521,840	$ 6,180,000	$ 21,701,840

2/ Maximum Discretionary Revenues	$ 38,644,000
Projected Non–Discretionary Revenues	21,714,000
Total	$ 60,358,000

TABLE C–11
Restoration Fund Payments – FY 2002

		Power	Irrigation	M&I	Total	
Repayment Factors (Target Allocation Factors)		18%	62%	20%	100%	
Projected Revenues:						
Non–Discretionary Revenues:						
Pre–Renewal Charges		$ 0	$ 2,391,000	$ 0	$ 2,391,000	
Tiered Water Revenues		0	0	0	0	
Transfer Revenues		0	3,795,750	3,948,000	7,743,750	
Friant Surcharges		0	9,943,500	556,500	10,500,000	
M&I Surcharges		0	0	3,302,000	3,302,000	
Total Non–Discretionary		0	16,130,250	7,806,500	23,936,750	
Max Restoration Payment	1/	0	9,874,830	4,785,000	14,659,830	
Subtotal		0	26,005,080	12,591,500	$ 38,596,580	
Allocated RP Share		11,487,195	39,567,005	12,763,550	$ 63,817,750	2/
RP Revenues in Excess of Allocated Share		0	–13,561,925	–172,050	–13,733,975	
RP Adjustment for Over(Under)		13,733,975	0	0	13,733,975	
TOTAL		$ 25,221,170	$ 26,005,080	$ 12,591,500	$ 63,817,750	
% Allocation after Adjustment		39.52%	40.75%	19.73%	100.00%	

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'02 Est. Paid Water Deliveries (AF)	1,239,000	300,000	1,539,000
Maximum Rate per AF	$ 7.97	$ 15.95	
Maximum Amount	$ 9,874,830	$ 4,785,000	$ 14,659,830

2/ Maximum Discretionary Revenues	$ 39,881,000
Projected Non–Discretionary Revenues	23,936,750
Total	$ 63,817,750

TABLE C–1J
Restoration Fund Payments – FY 2003

		Power	Irrigation	M&I	Total	
Repayment Factors (Target Allocation Factors)		18%	62%	20%	100%	
Projected Revenues:						
Non–Discretionary Revenues:						
Pre–Renewal Charges		$ 0	$ 2,469,000	$ 0	$ 2,469,000	
Tiered Water Revenues		0	0	0	0	
Transfer Revenues		0	5,264,000	4,106,000	9,370,000	
Friant Surcharges		0	9,943,500	556,500	10,500,000	
M&I Surcharges		0	0	3,411,000	3,411,000	
Total Non–Discretionary		0	17,676,500	8,073,500	25,750,000	
Max Restoration Payment	1/	0	8,328,760	4,938,000	13,266,760	
Subtotal		0	26,005,260	13,011,500	$ 39,016,760	
Allocated RP Share		12,043,260	41,482,340	13,381,400	$ 66,907,000	2/
RP Revenues in Excess of Allocated Share		0	–15,477,080	–369,900	–15,846,980	
RP Adjustment for Over(Under)		15,846,980	0	0	15,846,980	
TOTAL		$ 27,890,240	$ 26,005,260	$ 13,011,500	$ 66,907,000	
% Allocation after Adjustment		41.69%	38.86%	19.45%	100.00%	

RP = Restoration Payment

1/ Maximum Restoration Payment:	Irrigation	M&I	Total
'03 Est. Paid Water Deliveries (AF)	1,012,000	300,000	1,312,000
Maximum Rate per AF	$ 8.23	$ 16.46	
Maximum Amount	$ 8,328,760	$ 4,938,000	$ 13,266,760

2/ Maximum Discretionary Revenues	$ 41,157,000
Projected Non–Discretionary Revenues	25,750,000
Total	$ 66,907,000