



CVP Power Initiative

Section (II).1.e. of the Implementation Plan

Construction Cost Recovery

Scope

Develop a Central Valley Project (CVP) Standing Operating Procedure (SOP) documenting the methodology and procedures for disclosing the construction cost recoverable through 2030¹ and to determine if there are any material weaknesses in meeting the recovery as identified in Public Law 99546 and in the California-Great Basin (CGB) Region's water ratesetting policies (Policies).

Summary

I. Policy and Procedures:

- A. The CGB Region has Irrigation and Municipal and Industrial (M&I) Ratesetting Policies that identify the methods of cost recovery which include a construction cost component.
- B. Under these Policies, water rates are prepared in draft form and available on the Ratesetting website by October 1 each year applicable to the following water year.
- C. The order of repayment for construction costs is identified in the Policies.
- D. The Foreword in the annual water rate books will include cost recovery in the aggregate by year.
- E. Schedule A-2Ba of the water ratebooks will show the prorated construction costs, repayment, ability-to-pay (for irrigation) recoverable by Western Area Power Administration (WAPA) and the unpaid amount recoverable in out years through 2030 (there are separate schedules for irrigation and M&I).

¹ 2030 is the time period identified for recovery. However, the repayment may extend beyond this time period to allow for true-up of cost and its recovery and follow through with any billing of unpaid amounts if necessary.

II. Estimated Deliveries

- A. The Policies allow for flexibility in identifying delivery estimates for the years that have not transpired. Currently for construction, Reclamation uses a 7-year average of historical deliveries to represent out year deliveries through 2030. Where Contractors have not regularly been taking water and the 7-year average is less than 1/7th of the contract maximum, 1/7th of the contract maximum is used. This is necessary because most contractors take more than half of their contract maximum regularly. However, if Reclamation did not have an alternative to the 7-year average for those that do not take much water regularly the 7-year average could be very low or zero which would result in a construction cost rate that is substantially inflated or not able to be calculated.
- B. The process for determining estimated deliveries for prorating construction costs among Contractors and cost recovery has been provided to the Central Valley Project Water Association's Financial Affairs Committee (FAC) for their input and comment. There are bimonthly meetings with the FAC to allow for input regarding ongoing issues. This SOP will provide further basis for discussion on construction cost recovery. Once draft rates are made available on October 1st, Contractors will have a 60-day review period to provide comments.
- C. This SOP can be revised, as necessary, and any changes made to the SOP will be identified in the following years Foreword of the annual water rate books.

III. Cost Recovery Issues

- A. **Contractors with Construction Balances and do not take Water Regularly**
 1. For these contractors, Ratesetting Branch will discuss with the California Great Basin Reclamation Financial Manager and Water Resources Manager to discuss options for cost recovery. Options will be developed in calendar year 2022 and discussed with the Financial Affairs Committee. Implementation of a cost recovery process will begin in calendar year 2023.
- B. **Final CVP Cost Allocation Study²**: As noted previously the approved final cost allocation could have results that would impact cost recovery as follows:
 1. **Ability-to-Pay**: WIIN participants remain eligible to apply for aid-to-irrigation, for eligible obligations. Participation by irrigation contractors in WIIN sections 4007 and 4011 cannot be the cause for aid-to-irrigation. For additional information please see PEC TRMR-122. All aid-to-irrigation for CVP recovery will be recovered from commercial power (WAPA) by 2030 (see I.F. above).

²Certain costs of the Tehama-Colusa Canal and Folsom-South Canal have been deferred. These costs are required to be recovered and a process will be in place to recover the cost in the future. Once this process has been determined and approved it will be incorporated into this SOP.

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2. **Cost Recovery – Increases in Cost³:** If Contractors have Reclamation Act of 1939 section 9(d) elected repayment for construction costs under either the San Joaquin River Restoration Act (SJRRRA) or the Water Infrastructure Improvement for the Nation Act (WIIN) , any additional costs to be recovered will be subject to the following:
- a) Ratesetting will work with the Contracts and Water Rights Branch upon implementation of the final CVP cost allocation study to enter into agreeable water service or 9(d) repayment contracts to cover any remaining amounts. They should all be in place to specifically identify the repayment terms.
 - (1) In the event that the final cost allocation determines that the costs properly assignable to the Contractor are greater than what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one year and not more than ten years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the Contractor and Contracting Officer. In the event that the final cost allocation indicates that the costs properly assignable to the Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such overpayment as an offset against any outstanding or future obligations of the Contractor, with the exception of Restoration Fund charges pursuant to section 3407(d) of Pub. L. 102-575.
 - b) Ratesetting will work with the Contracts and Water Rights Branch upon implementation of the final CVP cost allocation study to enter into agreeable water service or 9(d) repayment contracts to cover any remaining amounts. They should all be in place to specifically identify the repayment terms.
 - c) For contractors that did not enter into 9(d) repayment contracts, under WIIN or San Joaquin River Restoration Act, the 2030 final cost allocation underpayment would be recovered for contractors as a direct bill, if any. The timing of the last payment would follow the same true-up as the accounting true-up that currently is underway. As such, the cost are by fiscal year and 2030 is envisioned to be reviewed in 2031 with final cost provided in November 2031.
 - d) Schedule A-2Ba of the rate books would identify the repayment method chosen through agreement for added construction costs under the SJRRP Act or WIIN Act.

³ Cost recovery for Central Valley Project Improvement Act (CVPIA) activities will be handled under the CVPIA Business Practice Guidelines.

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IV. Summary of Disclosure and Involvement in Processes: There are various levels of disclosure of construction cost recovery and involvement in the levels of disclosure are as follows:

- A. Throughout year: FAC and WAPA will be involved with any concerns along with their resolutions and impacts.
- B. June Through End of August: Internally, Reclamation (FMD, Contracts and Water Rights Division) will discuss any/all concerns and involve WAPA where there could be impacts to commercial power.
- C. June through October 1st: Regional Director's Office would be notified of concerns and any corrective actions
- D. October: Foreword in rate books (first version) prepared to show changes in construction cost recovery.
- E. October and November: FAC and Contractors have time to comment based on draft water rates and Foreword that has been prepared
- F. November: All Contractors are notified of their construction cost(s) balances. This information is available to the public through the water rates schedules A-2Ba.
- G. December: Reclamation to review and update, as necessary, the Foreword and water rates.

Date of Implementation

April 2, 2021