

United States Department of the Interior



June 9, 1997

**U.S. Fish and Wildlife Service
Region 1
911 N.E. 11th Avenue
Portland OR 97232-4181**

**U.S. Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento CA 95825-1898**

Dear Interested Party:

**Subject: Central Valley Project Improvement Act Administrative Proposal on
Urban Water Supply Reliability**

In September 1995, the Department of the Interior (Interior) invited the public to identify concerns they had regarding implementation of the Central Valley Project Improvement Act (CVPIA). To facilitate public input and discussion, representatives of Interior held a series of public meetings between September 1995 and April 1996. During these meetings, 12 major areas of concern were identified, and individuals volunteered to form work teams and discuss the specific issues pertaining to those areas. In April 1996, Interior committed to the preparation of an Administrative Proposal for each of the 12 areas of concern to address the principal issues raised by stakeholders during the public forum and work team meetings.

To that end, Interior circulated the draft Administrative Proposal on Urban Water Supply Reliability on June 14, 1996, for review by interested parties, and received written comments from 7 parties. Enclosed is the final Administrative Proposal on Urban Water Supply Reliability which has been revised to reflect key comments received, as well as previously raised concerns.

We would like to extend our appreciation to all those who participated in our public process to find ways to resolve this and other CVPIA implementation issues. Completion of this and other final proposals will not end the need for stakeholder involvement in the implementation of the CVPIA. We look forward to working with you and other members of the public in the future as we implement the CVPIA.

Copies of this final proposal can be accessed on the Mid Pacific Region's home page at <http://www.mp.usbr.gov> or can be obtained by calling Ms. Alisha Sterud at 916/979-2435 (TDD 916/979-2310).

Sincerely,

Handwritten signature of Roger K. Patterson in black ink.

Roger K. Patterson
Regional Director
U.S. Bureau of Reclamation
Mid-Pacific Region

Handwritten signature of Michael J. Spear in black ink.

Michael J. Spear
Regional Director
U.S. Fish and Wildlife Service
Region 1

Enclosure

INTRODUCTION

In September 1995, the Department of the Interior (Interior) invited the public to identify any concerns they had regarding implementation of the Central Valley Project Improvement Act (CVPIA) (Title XXXIV of Public Law 102-575). To facilitate public input and discussion, representatives of Interior held a series of public meetings between September 1995 and April 1996. During these meetings, 12 major areas of concern were identified,¹ and individuals volunteered to form work teams and discuss the specific issues pertaining to those areas. In April 1996, Interior committed to preparation of "Administrative Proposals" on each of the 12 areas of concern, addressing the principal issues raised by stakeholders during the public forum and work team meetings. To that end, Interior circulated a draft Administrative Proposal on Urban Water Supply Reliability on June 14, 1996, for review by interested parties. Written comments on the draft proposal were received from seven parties. This Administrative Proposal on Urban Water Supply Reliability has been revised to reflect the key comments received on the draft proposal as well as previously raised concerns. Responses to specific comments are provided in the attached appendix.

BACKGROUND

In January 1993, Central Valley Project (CVP) urban contractors met with Reclamation to discuss the impacts of the 4 previous years of drought on urban communities and to relay their concern that urban contractors needed a reliable contract water supply for future drought contingency planning. Additionally, the drought highlighted the different Municipal and Industrial (M&I) contract shortage provisions² that exist among M&I contractors and the potential inequities that could exist when CVP water is allocated using such shortage provisions. The urban contractors also pointed out that one of the purposes of the CVPIA is to achieve a reasonable balance among competing demands for the use of CVP water including M&I needs. As a result of this meeting, Reclamation undertook development of a CVP M&I Water Shortage Policy. The goal of the M&I Water Shortage Policy was to develop a CVP-wide M&I water shortage provision that eventually would be negotiated with all CVP M&I contractors and incorporated into their contracts, provide a minimum level of water supply that, in combination with M&I contractors drought water conservation measures, would sustain urban areas during drought situations, and lastly provide sufficient information to urban contractors for use in development of future drought contingency planning. This proposal is not intended to adversely impact fulfillment of the environmental requirements of the CVPIA.

The Draft M&I Water Shortage Policy was released to all interested parties, organizations, contractors, and agencies for comment on February 17, 1994. This draft interim policy identified three levels of water supply: a regulatory level where the minimum water supply would be the greater of 75 percent of contract entitlement or 85 percent of historic usage; a hydrologic shortage with a minimum level of 75 percent of historic use; and finally, a public health and safety water supply level that would be triggered when CVP water supplies were severely constrained. After reviewing comments, Reclamation adopted the draft as an interim policy on which to base contract amendments, pending completion of ongoing studies associated with the CVP yield and the Programmatic Environmental Impact Statement (PEIS) required under Section 3409 of the CVPIA.

On October 12, 1995, California State Senate Bill 1011 (California Act) was signed into law. The California Act highlighted the concerns of the CVP urban contractors by emphasizing the

critical importance of urban water supply reliability by requiring urban suppliers to prepare a water shortage contingency analysis detailing specific actions they must take during water shortages. It also requires urban water suppliers to accomplish an assessment of the reliability of its water service to its customers.

Actual M&I deliveries in 1994 were approximately 336,000 acre-feet (19 percent) of total CVP water deliveries of approximately 1,759,000 acre-feet. Projected M&I demand in the year 2022 is approximately 683,000 acre-feet, which translates into 18 percent of projected total deliveries of 3,859,000 acre-feet³.

SUMMARY OF ISSUES

The Urban Water Supply Reliability Work Team identified 13 issues.⁴ Interior considered 3 of the 13 issues as key issues which this administrative paper addresses. The three issues are (1) what minimum level of reliability should be provided to urban water contractors, (2) how should other water supplies developed by a contractor be considered/protected in urban shortage allocations, and (3) what should be the reliability of water converted or transferred from irrigation to M&I use? Each of the key issues is discussed below.

DISCUSSION OF ISSUES AND INTERIOR PROPOSALS

What Minimum Level of Reliability Should Be Provided to Urban Water Contractors?

Stakeholder Views. Urban contractors believe that a reliable water supply is needed to sustain the urban economy and support urban populations. Additionally, urban contractors believe that long-term infrastructure and land use planning, as well as manufacturing, commercial, or residential capital investment, cannot be supported by short-term administrative policies affecting the reliability of urban water supplies. The urban contractors support their position by stating that: M&I contractors pay higher rates for CVP water than agricultural contractors; urban areas have more gross regional product than agricultural service areas; agricultural areas have greater ability to tolerate and adjust for water shortages (urban areas can reduce use during water shortages, but the flexibility to reduce water use past a certain point is severely limited); and lastly, urban areas need to know the reliability of CVP supplies in order to determine the investment needed to firm up supplies of water as part of their drought contingency planning process.

Agricultural contractors believe that the CVP already is overly constrained and that the guarantee of any minimum level of reliability to one class of CVP urban contractors will impact agricultural water service users and should require a reallocation of CVP costs. Agricultural contractors believe that urban contractors should firm up their reliability through voluntary water transfers. Agricultural contractors believe the CVPIA gave M&I contractors access to agricultural water and that any additional reliability should be through a willing buyer and seller arrangement. Additionally, agricultural interests argue that "fairness" dictates that giving preference to urban contractors in the delivery of CVP water is not justifiable given the demands⁵ that have already been placed on the CVP water supply by the CVPIA, Endangered Species Act of 1973 (ESA), and Bay-Delta. Furthermore, agricultural interests believe that if a preference is given to urban contractors in water allocations during drought years, then agricultural interests should be compensated. Lastly, if a preference is given to urban

contractors because they are paying a higher cost for the water, then there may be some agricultural contractors with particularly high value crops that may want to pay more for greater water supply reliability from the CVP.

Interior Response. Reclamation's experience from the last drought where M&I contractors submitted numerous requests for hardship and critical needs water because reduced water allocations did not meet their minimum water supply needs demonstrated that urban contractors need a minimum level of water supply reliability. Reclamation, however, believes that scarce water supplies available during below normal type water years require more stringent measures to ensure that available water is prudently and wisely used. The most important measure is that urban contractors who receive this minimum level of reliability must be implementing significant water conservation practices.

Reclamation proposes to simplify and clarify the Draft M&I Water Shortage Policy that was released for comment in February 1994 by reducing the policy from three levels to two. One level will show the minimum level of reliability to be 75 percent of historic use adjusted for growth⁶ and adjusted for quantities of water associated with the implementation of any extraordinary water conservation action and/or practice.⁷ The second level will reflect a public health and safety level. This shortage policy would give urban interests the information they need for water operation planning and yet give Reclamation the flexibility to operate and manage the CVP during times of water shortage.

Once adopted, Reclamation proposes to implement such an M&I Water Shortage Policy in a way that minimizes impacts to agricultural contractors. An analysis will be done to quantify any impacts and explore possible mitigation measures before this policy is finalized. This policy, as modified, will continue to be only an interim policy until ongoing studies associated with the CVP yield and the PEIS required under Section 3409 of the CVPIA are completed. Once such studies and the PEIS are completed, the goal is to modify the M&I Water Shortage Policy again, if necessary, make it available for public review and comment, complete any additional applicable environmental requirements, and ultimately adopt a final policy.

How Should Other Water Supplies Developed by a Contractor Be Considered/Protected in Urban Shortage Allocations?

Stakeholder Views. Some CVP contractors have a number of sources of water supply. Others rely entirely on the CVP for water supply. In making allocations to M&I contractors during shortage years, should Reclamation take into account the availability of these other supplies? Should the reliability of CVP water supply given to a contractor who relies solely on the CVP be greater than the reliability of CVP water supply given to a contractor who has developed other water supplies? Additionally, should the CVP provide a level of reliability to M&I contractors who have other sources of supply when the result would be reduced deliveries to agricultural contractors?

Urban contractors and other interests believe that the availability of other water supplies should not be taken into account by Reclamation in making allocations to M&I contractors. According to urban contractors, additional investments in alternative or supplemental sources of supply were not intended to increase the yield of the CVP, but to minimize current and future shortages within the contractor's service area. Urban contractors believe that even if the shortages are limited to 25 percent of supply, some urban populations will not tolerate the mandatory rationing, conservation, and economic disruption that may be required to achieve a

25-percent reduction in water use. Urban contractors further state that by including available supplies from other sources, Reclamation would substantially diminish the value of existing investments and deter the development of new sources of supply. There would be no incentive for contractors to develop long-term water transfers, water banking programs, or other projects that increase the availability of dry year supplies. Lastly, urban interests contend that all M&I contractors are allocated CVP costs on an equal basis and, therefore, it would be inequitable to create differences in the allocation of benefits. However, urban contractors also recognize that there may be times when water supply conditions are so critical that all sources of supply must be taken into account when making CVP allocations, such as when the CVP cannot deliver a minimum supply to the wildlife refuges or when deliveries to agriculture are so low that maintenance of trees and vines is in jeopardy.

Other urban contractors state that they do not have the financial resources to develop alternative sources of supply, and they need greater protection in shortage situations.

Agricultural contractors are concerned that limited CVP water supplies may be given to an M&I contractor that has the resources and capability of developing its own reliability. They question the wisdom of giving such M&I contractors this benefit at the expense of other CVP contractors.

Interior Response. Reclamation strongly encourages all of its contractors to develop supplemental sources of water supply. It is not Reclamation's intent to penalize any contractor who has a supplemental source of water supply when calculating the minimum level of water supply during water shortages. The decision of whether Reclamation will consider other sources of water supply available to its M&I contractors depends on the overall water year type and CVP system operational constraints. For example, in previous years of critical water availability, Reclamation has asked M&I contractors to identify the minimum amount they need to supplement their other sources of water supply. Under such situations, the water allocation may drop below 75 percent of historic usage to some M&I contractors.

The availability of other water supplies is part of the decisionmaking process. By basing the allocation on 75 percent of "historic use," we partly incorporate the impact of other water supplies. However, Reclamation will need to work with the contractors with diversified water supplies on a contractor-by-contractor basis to ensure that Reclamation's policy does not encourage water use simply to increase the amount calculated as an urban contractor's historic use for purposes of having a larger allocation during critical water years. As part of the historic use calculation for water shortage allocations, Reclamation would be willing to adjust the calculated urban contractor's historic use quantity if an urban contractor could demonstrate that it used its supplemental water supplies first before using CVP water supplies.⁸ The use of supplemental water supplies benefits the CVP during all water year types.

Reclamation recognizes that M&I contractors need a minimum level of reliability and yet that level should not be so high that it becomes a disincentive to M&I contractors to firm up other sources of water supplies. Reclamation is working with CVP contractors south of the Sacramento-San Joaquin Delta on a draft reallocation agreement through which M&I contractors are attempting to firm up supplies in dry years. Additionally, to encourage other M&I contractors to firm up their existing supplies, Reclamation could propose a two-tier level of reliability. The first tier would be given to M&I contractors as a minimum reliability level regardless of other supplies. The second tier would be a higher percentage, but would require an M&I contractor to pay a charge for this additional level of reliability. In essence, the CVP could be the "other source of supply" for some M&I contractors. The two-tier level of reliability

may be explored in future discussions. Such discussions will be open to the public and we will also seek public comments on any two-tier proposal. The Urban Water Supply Reliability Work Team will also be notified of future discussions on this approach and be given an opportunity to participate in future meetings.

What Should Be the Reliability of Water Converted or Transferred from Irrigation to M&I Use?

Stakeholder View. Agricultural interests believe that the water shortage criteria which applies to agricultural water converted to M&I water through contract assignment or water transfers should not change because of such conversion or water transfer. If urban water supply reliability is applied when water is converted or transferred to M&I, other agricultural contractors will be impacted negatively.

Some urban interests generally agree. Other urban contractors believe that the reliability associated with the conversion of water from agriculture to M&I use could be permitted provided that the changes occurred over a specific number of years. Water supply contracts could be renegotiated for increased reliability from such conversions. Additionally, urban interests believe that increased reliability could be earned by water supply contractors with a proven history of efficient conservation.

Interior Response. Interior believes that the draft M&I Water Shortage Policy, once finalized, should apply only to that portion of CVP water used historically for M&I purposes and identified as projected M&I demand as of September 30, 1994. September 1994 was selected because it was the end of the fiscal year in which the draft M&I Water Shortage Policy was released for comment. As such, Reclamation agrees with maintaining the same water shortage criteria as was applicable to the water before the transfer or conversion occurred on all actions after September 30, 1994. However, an urban contractor could request that a permanent conversion from an agricultural shortage to an M&I water reliability shortage be authorized, provided that there are no adverse impacts to agricultural or other urban water supplies.

APPENDIX -- RESPONSE TO COMMENTS

Comment: The Administrative Proposal should make clear that urban water supply reliability issues are a matter of allocating shortages among contractors and should not influence fulfillment of the environmental requirements of the CVPIA.

Response: Urban water supply reliability is a significant issue involving the allocation of water among CVP water service contractors. This proposal is not intended to adversely impact fulfillment of the environmental requirements of the CVPIA.

Comment: We consider the 75-percent allotment of historical use to be the level of absolute minimum reliability assuming a proper determination of 'historical use' is used.

The adjustments to historical use made for growth, as mentioned in this Proposal, can be improved. Currently, the way historical use is calculated does not encourage conservation, reclamation, and acquisition of other supplies (local and otherwise). All of these actions benefit other CVP contractors in normal years and help everyone in dry years. Historical use should be

adjusted for growth, as it is now, but also adjusted up for any reductions in use due to conservation (drought related or otherwise), reclamation, or acquisition of external supplies. This would allow the allocation to increase, not decrease, as a result of these water management actions.

Response: Interior believes that implementation of conservation and reclamation measures should be an integral part of water supply planning by any water agency or contractor. Under the Reclamation proposal, a minimum level of reliability would be provided only to those contractors who have implemented significant water conservation practices. Reclamation has modified the Administrative Proposal to support the concept that historical use should be adjusted for water conservation and/or reclamation provided that an urban customer could demonstrate that such conservation and/or reclamation practices were above and beyond the generally accepted water conservation and/or reclamation standards or practices. It is not Reclamation's intent when calculating historic use of water under this Administrative Proposal to harm any urban customer who has an effective water conservation and/or reclamation program.

Comment: We are concerned that Reclamation plans to set the M&I shortage policy to 75 percent of historic deliveries adjusted for growth because the CVP is now overallocated and adjustments for growth will almost certainly come out of agriculture. Reclamation should also include community provisions in its impact analysis and explore potential mitigation measures before this proposal is implemented. There must be understanding that an analysis will be done to quantify impacts and to explore mitigation measures.

Response: Reclamation recognizes that any policy that provides a minimum level of reliability to M&I contractors may put an additional burden on the agricultural contractors and hence rural communities. Consequently, as stated in the Administrative Proposal, Reclamation is committed to completing an analysis to identify and understand these impacts and to explore potential mitigation measures before any M&I water shortage policy is finalized.

Comment: Some contractors, such as the EBMUD, have existing contracts with a '25 percent preference' for M&I, and it is assumed that the terms and conditions of these existing contracts will continue to be honored until amended or renewed. However, as allocations are reduced, the '25 percent preference' allocation will eventually reach a minimum allocation of 75 percent of 'historic use.' EBMUD has been making contractual payments in anticipation of using the CVP as a supplemental source of supply, but has not yet taken deliveries. It would be reasonable to consider the quantity paid for according to the contract prior to passage of the CVPIA (October 1992) as a suitable starting point for 'historic use' for the purposes of a minimum allocation (recognizing that 'historic use' will build up over time.)

Response: It is Reclamation's intent that a provision reflecting the final M&I water shortage policy will be incorporated in all amended or renewed urban contracts. Reclamation interprets "historic use" as actual water diverted to satisfy demand, not the amount of contract water paid for. However, Reclamation recognizes a legitimate concern raised concerning reliability and allocations of CVP water to urban contractors who have not yet used CVP water. During the 1990-94 water years, Reclamation met with M&I contractors who had little or no historical Project water use and together, Reclamation and the M&I contractor(s), were able to determine an equitable water allocation. Reclamation would envision that this same situation would occur for EBMUD or any other contractor as the situation may arise.

Comment: Reclamation needs to state much more clearly its intent to treat M&I contractors equitably. Except in years of critical water supply availability, similarly situated M&I contractors within the same operational area should be able to expect the same allocation from Reclamation, regardless of what other sources of supply individual contractors may have. There are critical Project water supply conditions when all water users--agricultural, environmental, and urban--should have to justify their need for CVP water, and in this situation, other available supplies are fairly considered. But apart from this rare occurrence, it is not acceptable for Reclamation to propose that "the availability of other water supplies" is part of the decision making process.

Response: As stated in our Administrative Proposal, Interior's motive in developing the M&I Water Shortage Policy was to ensure equity among all urban contractors and to provide a degree of reliability for urban water supply planning. In concept, Reclamation agrees that urban contractors within the same geographic area should receive the same water allocation; however, as stated in our Administrative Proposal, there may come a time when the availability of other water supplies is part of the decisionmaking process.

Comment: We agree that other sources developed by a contractor should be considered in shortage allocation only in times of extreme drought. However, Interior's suggestion of a second tier for contractors with inadequate other supplies is only reasonable during extreme dry year conditions and, in such cases, the contractor should be expected to pay a premium price for such water.

Response: As stated in the Administrative Proposal, Reclamation strongly encourages our contractors to develop supplemental sources of water. However, the concept of the second-tier water was added to solicit discussion and, as stated in the Administrative Proposal, further discussions on the issue of second-tier water may be explored in the future. The public will be notified when and if these discussions take place.

Comment: Under no circumstances, other than a declared emergency or severe drought (of the health-and-safety level), should a contractor get a CVP allotment that is based in whole or in part on the fact that the contractor has acquired water through transfers or obtained other supplies for use in a drought.

Response: It is not Reclamation's intent to penalize contractors that have developed supplemental sources of water; in fact, Reclamation strongly encourages such actions. However, Reclamation proposes to consider other sources of water supply, in conjunction with water year type and CVP operational considerations, on a contractor-by-contractor basis when setting minimum levels of reliability.

Comment: Reclamation's Proposal to set up a two-tier system to improve reliability is viable and should be expanded.

Response: Reclamation proposed the concept of the second-tier water to solicit discussion on the concept. As stated in the Administrative Proposal, future discussions of the second-tier concept may be explored. The public will be notified when and if these discussions take place.

Comment: Clear guidelines should be developed as to how 'historic usage' is calculated and exactly what a 'minimum level of reliability' means.

Response: How historic use will be calculated and what adjustments can be made to historic usage, along with what should be the minimum level of water supply reliability for urban contractors, are fundamental issues that were discussed throughout this administrative process. An explanation of how to calculate historic use will be provided in the final M&I Water Shortage Policy paper. Reclamation will finalize its M&I Water Shortage Policy based on the premises described in this proposal unless modified as a result of impact analyses and the PEIS.

Comment: The first priority for Reclamation policy in this area should be not to penalize contractors who have taken the initiative to invest in alternative sources of supply, nor should Reclamation policy create a disincentive for contractors who are considering the development of alternative supplies. These objectives can be accomplished by providing an assurance that the 'historic use' which forms the basis of the CVP M&I water shortage allocations will not be reduced if other supplies are substituted, i.e., there should be a one-way ratchet on CVP M&I 'historic use' for purposes of shortage allocations.

Response: As stated in the Administrative Proposal, it is Interior's intent neither to penalize contractors who have taken the initiative to invest in alternative sources of supply, nor to create a policy that provides a disincentive for contractors to obtain alternative/supplemental sources of water. However, as stated in this Administrative Proposal and as recognized in the February 1994 draft M&I Water Shortage Policy paper, there may be times when the CVP water made available to some M&I contractors is below the 75 percent of 'historic use' calculation.

Comment: If the proposal for a two-tier level of reliability intends that the first tier equal 75 percent and the second tier equal 75 to 100 percent, then the concept may merit further discussion. For example, the increased pricing in the second tier during drought years could provide a suitable disincentive for contractors to rely on 'hardship' water from the CVP. However, we also recognize that not all M&I water users have the financial ability to develop alternative supplies, particularly during prolonged droughts, and some 'ability-to-pay' analysis for the increased price of 'hardship water' may be appropriate.

Response: The objective of the two-tier level of reliability would be to encourage the development of supplemental sources of supply and to discourage reliance on 'hardship' water from the CVP. Consistent with this approach would be setting the second-tier rate sufficiently high so as to encourage the development of supplemental sources of water. Setting the second-tier rate on an 'ability-to-pay' basis could be counterproductive. Interior believes that the minimum level of supply to urban contractors would be sufficient to ensure that public health and safety is not jeopardized.

Comment: The transfer of a water entitlement should not affect the shortage provision of that water.

Response: This is Reclamation's position in the Administrative Proposal.

Comment: Water transferred or converted to M&I use should retain its original shortage criteria; however, at least two points of clarification are needed. First, CVP water that is given the M&I level of reliability should be defined at that portion of a contract supply shown in the 1993 M&I Rate Books as the build-out amount on the 50-year delivery schedule. The rationale is that capital costs including capital interest are being allocated to the M&I purpose based on those 50-year delivery schedules. A contractor that has been historically paying for an expected build-up of M&I deliveries should also be able to expect that those deliveries will have M&I

reliability. Second, under a permanent transfer or assignment of CVP water from agricultural to M&I purposes, the transferee should be able to request a permanent conversion from agricultural to M&I reliability.

Response: Interior agrees that M&I level of reliability should include a portion of a contract supply attributed to the M&I contractor's demand in future years. As such, Interior has identified in this Administrative Proposal that this urban reliability policy should only apply to M&I that has been historically used and identified as projected demand as of September 30, 1994. Interior believes that any water from a permanent transfer or assignment of CVP water that occurs after September 30, 1994, from agricultural to M&I purposes should retain the agricultural shortage. The transferee or assignee may request that water obtained be eligible for M&I reliability, but any adverse impacts to agricultural water supplies must be fully mitigated by the transferee or the assignee.

Comment: One of the purposes of CVPIA is to achieve a reasonable balance among competing demands of the CVP, including M&I use. The Administrative Proposal should acknowledge that the CVPIA does not directly address urban water supply reliability and that the provisions of the CVPIA are but one of many factors which may affect urban water supply reliability. The scope of the draft Administrative Proposal goes beyond the effect of the CVPIA.

Response: Interior acknowledges that factors other than implementation of the CVPIA have the potential to impact CVP deliveries. Interior is committed, however, to implementing a policy that provides urban water interests with the information required for long-term water supply planning while preserving flexibility for Reclamation to manage and operate the CVP and minimizing adverse impacts on agricultural interests.

Comment: Additional language should be added to the Administrative Proposal which clarifies the role of 'Urban Water Supply Reliability' with respect to the CVPIA environmental and transfer provisions.

Response: Urban water supply reliability is a significant issue involving the allocation of water among CVP water service contractors. If an urban contractor does not meet its water supply needs with the urban minimum level of water supply as stated in this Administrative Proposal, then it would behoove urban contractors to solicit other sources of supply including, but not limited to, water transfers. Interior would not expect an urban contractor to become a transferor during water short years. It was not our intent that this proposal impact fulfillment of the environmental requirements of the CVPIA.

Comment: Of critical importance to this and other Administrative Proposals will be how Reclamation intends to interpret and incorporate 'area of origin' provisions into the implementation of the CVPIA. We strongly encourage that this interpretation includes reference to and satisfies the provisions of the Delta Protection Act (DPA).

Reclamation needs to provide an institutional mechanism for a higher level of reliability for urban contractors in the Delta who are entirely reliant on the Delta, as required under the DPA. Under the Coordinated Operations Agreement, the CVP could work out an arrangement with the State Water Project (SWP) to share responsibility for providing contractors with 'an adequate water supply' as required by the DPA. The SWP recognizes 100 percent reliability for water users in the area of origin. The CVP should also recognize its responsibility under the DPA.

Response: Interior intends to address these concerns in its area of origin paper which will be released after these Administrative Proposals become final. Therefore, we have not addressed the issue of area of origin in this paper.

Comment: Urban, environmental, and landowner needs are no more or less important than the needs of human beings whose communities and livelihoods depend on reliable delivery of CVP water.

Response: Interior recognizes its stewardship responsibilities to the public and is sensitive to the needs of all the parties. It is our intent and hope to develop and implement policies in a manner that reflects the obligations and responsibilities entrusted to the Department of the Interior by the public.

Comment: The discussion of the water supply contingency planning requirements contained in the California Act of October 12, 1995, should be more clearly connected to Reclamation's urban water supply reliability policy.

Response: The redraft of the Administrative Proposal provides a discussion of the contingency planning analysis required by the California Act and Reclamation's role in clarifying the reliability of CVP M&I supplies.

Comment: The watershed of origin priority should have been addressed in the Administrative Proposal.

Response: Interior intends to provide its understanding of California law on area of origin priority in a separate document.

Attachment A

URBAN WATER SUPPLY RELIABILITY ISSUES

In balancing the water supplies of the CVP among competing demands, what minimum level of reliability should be provided to urban water supplies? (Includes rationale; historical practice; existing contracts; existing rules; regulations, statutes, policies, etc.)

What should be the basis of shortage allocations? Historic use? Contract quantity?

Should the cause of shortage (e.g., drought, regulatory) be a factor in urban water supply allocations?

How should other supplies developed by a contractor (e.g., water banking) be considered/protected in urban shortage allocations?

What quantity of water is involved in providing reliable CVP urban water supplies: (a) currently; and (b) in the future?

What should be the reliability of water converted or transferred from irrigation to M&I use?

What is/should be the priority and relationship between CVP urban water supply reliability and other project purposes (1) dedicated 800,000 acre-feet, (2) refuge water supplies (3) water rights settlement/exchange contractor deliveries, and (4) ag service contract deliveries?

Should reliability provided to CVP urban contractors be uniform or vary by region?

What is/should be the priority and relationship between CVP urban water supply reliability and allocations to irrigation or urban water users in areas of origin?

How can/should the Bureau of Reclamation minimize the impacts of providing reliable urban water supplies for current year, water banking, ground water, conjunctive use, or other purposes?

If providing urban water supply reliability results in greater shortages for other project purposes, is some form of compensation or adjustment appropriate?

Are constraints on the use or transfer of water received in shortage years appropriate?

How should an urban water supply reliability policy apply to (1) existing contracts, (2) amended contracts, (3) renewed contracts, (4) new contracts, (5) interim contracts, and (6) interruptible water supply contracts?

- ¹ The 12 areas of concern are the following: conservation, contracting, Anadromous Fish Restoration Plan (AFRP), management of Section 3406(b)(2) water, Restoration Fund, urban reliability, transfers, refuge supply, San Joaquin River, Trinity River, Stanislaus River, and the stakeholder process.
- ² CVP M&I contractual shortage provisions range from those that are silent on the issue of apportionment of CVP water supply between agricultural and M&I contractors to those calling for agricultural contractors to have their water supply reduced by 25 percent of contract supply before any water shortage can be imposed on M&I contractors.
- ³ Actual deliveries and projected demands were obtained from the 1996 CVP Irrigation and M&I ratesetting books. Total deliveries include only those amounts of CVP water made available for M&I and agricultural uses and excludes deliveries of base supplies under Sacramento River settlement contracts, CVP water delivered under the Exchange contracts, and CVP water delivered under Friant Division contracts.
- ⁴ Attachment A contains a list of issues identified by the Urban Water Supply Reliability Team.
- ⁵ Agricultural interests reference Section 3406(b)(2), refuge water supplies and Trinity River flows; ESA requirements on pumping, temperature control, and gate closures; Bay/Delta Accord requirements for increased outflow and restricted pumping; Folsom Reservoir reoperation, new demands on the system by new contracts or contractors that have not exercised their contract to date (Public Law 101-514 contracts, East Bay Municipal Utility District [EBMUD]).
- ⁶ "Adjusted for growth" refers to a process whereby Reclamation reviews historical delivery records for past water usage and allows contractors to provide documentation to support any

increases in the historical record baseline populations/industry. It would be capped at the level of full contractual amounts.

- ⁷ An extraordinary water conservation action or practice is considered to be any conservation action or practice implemented by an urban contractor that is more stringent than required by Reclamation's "Criteria for Evaluating the Adequacy of All Water Conservation Plans" dated September 30, 1996, as amended, supplemented, or replaced.
- ⁸ One urban contractor asked what would be the water allocation to an urban contractor who has not used CVP water in the past but may need to obtain CVP water during a water short year. Reclamation recognizes that this is a legitimate concern and Reclamation has worked in the past with such contractors and will work in the future with such contractors in allocating a water supply.