

# United States Department of the Interior



APR 16 1998



**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**

**Subject: Final CVPIA Administrative Proposal on Refuge Water Supplies**

Dear Interested Party:

In September 1995, the Department of the Interior (Interior) invited the public to identify their concerns regarding implementation of the Central Valley Project Improvement Act (CVPIA). To facilitate public input and discussion, Interior representatives 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 Administrative Proposals to address the principal issues raised by stakeholders during the public forum and work team meetings.

To that end, Interior circulated for review by interested parties a draft Administrative Proposal on Refuge Water Supplies on July 12, 1996, and a revised draft on March 20, 1998. Enclosed is the final Administrative Proposal on Refuge Water Supplies which reflects key comments received on the draft proposals as well as previously raised concerns.

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 916/978-5195 or TDD 916/978-5608.

Sincerely,

Handwritten signature of Michael J. Spear.

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

ACTING FOR

Handwritten signature of Roger K. Patterson.

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

Enclosure

## INTRODUCTION

In September 1995, the Department of the Interior (Interior) invited the public to identify their concerns regarding implementation of the Central Valley Project Improvement Act, Title XXXIV of Public Law 102-575 (CVPIA). To facilitate 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 working groups to discuss specific issues pertaining to those areas. In April 1996, Interior committed to the preparation of "Administrative Proposals" to address the principal issues raised by stakeholders during the public forum and working group meetings. To that end, Interior circulated draft Administrative Proposals on Refuge Water Supplies on June 12, 1996, and March 20, 1998, for review by interested parties. Written comments on the draft proposals were received from urban, agricultural, and environmental stakeholders and the general public. This final Administrative Proposal on Refuge Water Supplies has been revised to reflect the key comments on the draft proposals as well as previously raised concerns. Responses to specific comments are provided in the attached appendices.

## BACKGROUND

Section 3406(d) of the Central Valley Project Improvement Act (CVPIA) authorizes and directs the Secretary of the Interior to provide firm water supplies of suitable quality to certain national wildlife refuges in the Central Valley of California, certain State of California wildlife management areas, and the Grassland Resource Conservation District (Grassland) (collectively referred to below as "refuges") in accordance with the 1989 Report on *Refuge Water Supply Investigations (Water Supply Report)* and the 1989 *San Joaquin Basin Action Plan/Kesterson Mitigation Plan (Action Plan)*. The *Water Supply Report* describes the water supply requirements for wetland habitat management for migratory birds of the Pacific Flyway and resident wildlife resources. The *Action Plan* provides for the acquisition and management by appropriate Federal and State agencies of 23,500 acres of private lands within the northern San Joaquin River Basin, and includes baseline information on wetland habitat, water rights, annual water needs, wildlife and public use potential, plus development and operational cost estimates.

These firm water supplies must be provided at the refuge boundaries and are described in terms of two levels -- Level 2 and Level 4 -- in the *Water Supply Report* and as two-third water supplies and full habitat water supplies in the *Action Plan*. Level 2 supplies are defined in the *Water Supply Report* as the historic annual average water deliveries to each refuge prior to enactment of the CVPIA and two-thirds of the water supplies identified for the Action Plan Lands. The Level 2 supply amount totals 404,221 acre-feet and is required to be provided to the refuges upon enactment of the CVPIA. Level 4 water supplies are that incremental addition needed for full habitat development of wetland areas addressed in both the *Water Supply Report* and the *Action Plan*. Level 4 water supplies amount to an additional 163,259 acre-feet above

Level 2 water supplies and must be acquired from willing providers in not less than 10 percent increments per year to ensure that full refuge water supplies are available in the year 2002.

## **SUMMARY OF MAJOR ISSUES**

The Refuge Water Supply Workteam (Workteam) identified five issues of concern to water users regarding the implementation of the Refuge Water Supply Program. Interior, represented by Reclamation and the U.S. Fish and Wildlife Service (Service), has consolidated these five issues to three areas of concern surrounding delivery of refuge water supplies: (a) the impacts to conveyance capacity within the Central Valley Project (CVP) facilities, specifically CVP capacity south of the Delta resulting from delivery of Level 2 water supplies; (b) the development of Best Management Practices/Efficient Use Plans for refuges; and (c) the conditions under which Level 2 water supply shortages are imposed upon refuges. Each of these issues is discussed below.

## **DISCUSSION OF ISSUES AND INTERIOR PROPOSALS**

### **Conveyance Capacity**

*Stakeholder Views.* Section 3406(d) of the CVPIA directs the Secretary of the Interior to provide firm Level 2 water supplies to Central Valley refuges and wildlife habitat areas, and to endeavor to diversify the sources of refuge water supplies in order to minimize possible adverse effects upon CVP contractors. CVP contractors, principally contractors using CVP water for agricultural purposes south of the Delta, have raised concerns about the impacts that delivery of Level 2 water supplies will have on the capacity of CVP pumping and canal facilities to deliver agricultural supplies. They are concerned that, in most years, they will receive reduced CVP water deliveries when delivery of Level 2 supplies is combined with operation and pumping restrictions under the Bay-Delta Accord, Endangered Species Act, and other statutory CVPIA requirements. In an average water year, the contractors believe that agricultural deliveries will be reduced by approximately 8 percent or 150,850 acre-feet. Based on language in Section 3406(d)(5) of the CVPIA which authorizes and directs the Secretary of the Interior to construct or acquire conveyance facilities, conveyance capacity, and wells as are necessary to implement the provisions of the CVPIA, the agricultural contractors suggest that Interior pursue an agreement for conveyance of Level 2 water supplies through the State Water Project (SWP) facilities, to reduce conveyance capacity impacts to agricultural deliveries from CVP facilities.

Private waterfowl interests question the magnitude of the impact to agricultural contractors when deliveries to refuges in the years prior to enactment of the CVPIA are taken into account. They assert that these supplies historically have been pumped and conveyed through CVP facilities without significant impact to other contractors. Other environmental interests are concerned about the

impacts that additional Delta export pumping might have on the measures to protect the resources of the Bay-Delta,<sup>1</sup> should additional capacity be used.

**Discussion.** The potential to use SWP facilities to export Level 2 water supplies from the Delta was first investigated by Reclamation and the Service in 1994. The Workteam formed a subcommittee in 1996 to work with CVP and SWP operations staff to determine if using SWP facilities was feasible. In 1994 and again in 1996, the State representatives stated they were willing to convey refuge water supplies through their facilities as long as excess capacity is available, SWP contractors are not adversely impacted, Delta requirements are met, and the SWP is compensated for use of its facilities. Discussions of a one-to-five year agreement to convey Level 2 water supplies through the SWP facilities on an if-and-when available basis have been initiated to assess concerns of interested stakeholders and to work towards a possible long-term agreement.

In addition, the final Administrative Proposal for Management of Section 3406(b)(2) Water (800,000 acre-feet), Appendix C, Tool Box Measures, which was released on November 20, 1997, discusses the Joint Point of Diversion as a focal point of addressing conveyance constraints downstream of the Tracy Pumping Plant. One of the recognized benefits of the use of the Joint Point of Diversion would be facilitating the delivery of water supplies to refuges south of the Delta in a way that minimizes impacts to agricultural contractors.

**Interior Response:** Section 3406(d)(5) authorizes the acquisition of capacity from non-Federal sources for the conveyance of refuge water supplies. Interior recognizes the multiple demands being placed on the CVP facilities and is committed to working with the State and other stakeholders to develop a conveyance agreement for use of SWP facilities to facilitate delivery of Level 2 refuge water supplies and minimize impacts on contractors, while at the same time protecting the resources of the Delta. However, the quantity of refuge water supplies conveyed in CVP facilities will not decrease during those years or circumstances when capacity of SWP facilities is not available.

### **Best Management Practices/Water Use Efficiency Plans**

**Stakeholder Views.** The CVPIA directs the Secretary of the Interior to provide water supplies to specific Central Valley refuges in accordance with the water supply needs quantified in the *Water Supply Report* and the *Action Plan*. CVP agricultural contractors believe the *Water Supply Report* is flawed and was prepared without adequate participation and input from all sectors of the water contractor community. They assert that if such participation had been provided, the water needs quantified in the *Water Supply Report* may have been different. The agricultural interests also

---

<sup>1</sup> This issue concerns the interpretation of the Bay-Delta Accord baseline which is being addressed by a separate interagency workgroup.

believe that a complete reevaluation of the *Water Supply Report* is necessary to properly update the refuge water supply needs.

**Discussion.** The *Water Supply Report* was the culmination of information collected in the mid-1980's. The intended purpose of the *Water Supply Report*, as stated in the executive summary, was, ". . . to provide information and resource data which, when combined with appropriate information from related investigations . . . will be the basis for selecting recommended plans for water delivery to each of the 15 refuges." Interior recognizes that the additional planning efforts were not completed prior to the enactment of CVPIA; however, it is Interior's position that the *Water Supply Report* analysis of refuge water needs remains adequate for determining refuge water supply needs. Interior, along with the California Department of Fish and Game (CDFG) and the Grassland Resource Conservation District/Grassland Water District (Grassland), also recognizes that resource needs and management tools change over time and believes that the development of wetland "best management practices" is appropriate to ensure refuge water supplies are being used effectively to meet wetland and wildlife resource requirements.

In September 1995, the Service's refuge managers began developing a water management strategy for Federal refuges in the Central Valley. This strategy will provide an ecoregion overview and include efficient use practices under current and optimum water supply conditions. Monitoring and assessment of implementation and resource response will be addressed in the final document. A preliminary draft of the strategy has been completed and is undergoing review in the Service's Portland Regional Office. It will be incorporated into the information collection process discussed below under "Interior Response."

The CDFG developed habitat management standards for their Wildlife Management Areas (WMA) in 1991 with the goal of providing a diversified healthy wetland ecosystem and effective use of available water supplies. Each WMA manager prepares an annual management plan based on the standards by early February. The plans include information on how the WMA is meeting the standards. A Habitat Management Committee, comprised of CDFG wetlands experts, conducts a field review of each WMA in July or August to evaluate the quality and diversity of habitat. The CDFG holds meetings with the public following the field review to discuss any concerns or suggestions regarding the WMA.

Grassland began development of a Best Management Plan/Efficient Use Plan in early 1996, using existing Reclamation criteria. Grassland is using those provisions of the criteria that apply to water conveyance systems they manage as well as to wetland management. Grassland is also cooperating with Interior in the refinement of a wetland management model developed by Colorado State University. The goal is to incorporate Service-developed Geographical Information System data for the Grassland area and to use the model to develop water management scenarios. The Best Management Plan/Efficient Use Plan, along with GIS data and the wetland management model, will help Grassland improve both short- and long-term water delivery efficiency for the best management

of wetland habitat. In addition, Grassland will continue to expand its educational outreach to private landowners about the value of developing BMPs which maximize habitat management potential through efficient use of CVPIA water.

*Interior Response.* The three agencies -- Interior, CDFG, and Grassland -- are each focused on incorporating all existing and new biological data into wetland management in order to maximize their ability to meet the fish and wildlife resource requirements on each wetland area. In recognition of the need for a coordinated approach, the three agencies, with contractual assistance, have initiated the development of an Interagency Coordinated Program (ICP) for optimum water use planning for wetlands of the Central Valley. The ICP will provide a common methodology to water-use planning for all wetland areas receiving water supplies as authorized by the CVPIA. This will include the types of wetlands managed, water supplies available under the CVPIA, expected resource benefits, efficient-use actions and facilities to accomplish goals and objectives, and a plan for public involvement in the planning process. The ICP, begun in March 1997 and scheduled to be completed by May 1998, is being developed through an interactive process working with CVPIA program managers, wetland habitat area managers, and stakeholders. The objective is a logical and reasonable approach to assuring optimum and effective use of wetland water supplies to meet the requirements for wetland resources and the CVPIA. The ICP will provide an update of information as well as a format and outline for preparation of individual refuge water management plans that will serve as guidelines for scheduling refuge water deliveries provided under CVPIA.

Interior intends for the management planning effort that results from the ICP process to assure that water is used to efficiently meet wetland resource needs. Should any water savings be identified for a particular refuge and planning period, the water will be used to meet other wetland/refuge identified needs.

### **Refuge Shortage Provisions**

The CVPIA allows for temporarily reducing Level 2 refuge water supplies whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of CVP water. The provision affords discretion to the Secretary of the Interior and limits the reduction to not more than 25 percent of Level 2 water supplies. Interior issued a policy regarding the shortage provisions for Level 2 water supplies in September 1995 that uses the Shasta Index<sup>2</sup> as a trigger mechanism.

---

<sup>2</sup> The Shasta Index refers to criteria included in water right contracts along the Sacramento River and the San Joaquin River. According to this shortage criterion, when the forecasted inflows to Shasta Lake fall below a defined threshold, a water year is defined as "critical" and water deliveries to these water right contractors may be reduced from 100 percent to 75 percent of contractual entitlement for the Sacramento River entities, to a critical year schedule based on a reduced annual supply of 650,000 acre-feet for the San Joaquin Exchange Contractors.

*Stakeholder Views.* The key issues raised are whether the present "trigger" of hydrologic circumstances is appropriate, and whether the "cap" of 25 percent is appropriate regardless of the language of the statute. Stakeholders posed the following questions: should shortages be (a) the same as for agricultural service contractors, (b) related to the Shasta Index, (c) different for refuges north and south of the Delta, (d) discretionary, (e) greater than 25 percent (mimic agricultural service contractors), or (f) capped at all?

The Workteam had one major discussion on this issue and no major positions were articulated or documented; however, the issue was recognized as one of key importance to all stakeholders. They agreed that discussions should be deferred until Interior proposes a possible approach for consideration.

*Interior Response.* During the course of reviewing this issue and due to the complexity of refuge water supply delivery options, Interior looked at several approaches to finding a reasonable means of addressing concerns raised by stakeholder representatives. Interior looked carefully at the provisions of the CVPIA for further guidance.

Section 3406(d)(4) states,

"The Secretary may temporarily reduce deliveries of the quantity of water dedicated under paragraph (1) of this subsection up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water; *Provided*, That such reductions shall not exceed in percentage terms the reductions imposed on agricultural service contractors."

There are a number of hydrologic circumstances that must be taken into consideration when determining the effect on water deliveries and the imposition of shortages to refuge CVP Level 2 water supplies. These include the estimated amounts of rainfall, snowpack, reservoir inflow and storage, and in-stream flow contributions. Hydrologic circumstances are evaluated by Reclamation during the water forecasting process used to classify the overall water-year type (wet, above normal, below normal, dry, and critical) and when determining CVP water supply availability to all CVP water users including wetland habitat areas.

The Secretary is required by Section 3406(d) to ensure delivery of firm Level 2 water supplies to State and Federal refuges and to Grassland. That supply is to be provided either directly or through long-term contractual agreements and is to be a reliable supply. The Level 2 quantity called for in the CVPIA is 404,221 acre-feet. However, the Secretary has the discretion to temporarily reduce the 404,221 acre-feet by up to 25 percent when reductions due to hydrologic circumstances are imposed on agricultural deliveries of CVP water.

At the present time, approximately 47,000 acre-feet of current Level 2 supplies comes from non-CVP sources. Some of the non-CVP sources of supply for Level 2 water may be reduced by more than 25 percent in years when CVP Level 2 supplies could be reduced by 25 percent or less or may not be available in the future. In those instances when non-CVP supplies are not available or are reduced by more than 25 percent, Interior would make up the supply difference with CVP supplies to ensure that Level 2 water supplies from all sources are not reduced by more than 25 percent. To reduce the impact of making up such shortages, Interior believes that refuges with non-CVP supplies must use those supplies in a manner that protects their long-term availability.

Currently, deliveries of Level 2 water do not total 404,221 acre-feet due to constraints in off-refuge conveyance facilities, district operational limitations, or on-refuge distribution systems which are unable to deliver all the authorized water. Therefore, additional increments of Level 2 water supplies will be added in phases over approximately the next five years as those conveyance and operational constraints are removed. Interior is committed to removing the constraints. Reductions of CVP refuge water deliveries will be based on critically dry water year classifications as determined by Reclamation for allocation of CVP water, subject to the 25 percent cap on refuge water supply reductions for Level 2 water supplies.

By April 1, 1999, Interior (Reclamation) intends to enter into long-term contractual agreements with the three agencies that are authorized to receive Level 2 refuge water supplies (the Service, CDFG, and Grassland). These agreements will incorporate the above water shortage provision policy for Level 2 water supplies, and applicable provisions resulting from the ICP process discussed above.

Whenever reductions are applied to Level 2 refuge water supplies, the remaining Level 2 supplies, including non-CVP sources, will be pooled. Interior and the refuge management entities will collaboratively allocate and schedule the remaining pooled supplies to meet the highest priority refuge needs, provided that no individual refuge will receive more Level 2 water than would have been available at a full Level 2 supply, or be reduced by more than 25 percent.

Although shortages may be imposed on Level 2 water supplies, meeting the fish and wildlife resource objectives of each geographic area in critically dry years continues to be a priority. Interior is committed to using its best efforts to obtain the Level 4 water supply increment from water right holders who possess senior water rights to ensure that reductions due to hydrologic circumstances in Level 4 water supplies are minimized. The Level 4 incremental long-term refuge water supply shortages will be imposed in accordance with the sources from which it is acquired, as provided in the CVPIA.



APPENDIX A -- RESPONSE TO COMMENTS  
ON JULY 12, 1996, DRAFT

Comment: We support the position in the draft Administrative Proposal of using SWP facilities to convey Level 2 refuge water supplies. We also need your assurance that refuge water supply needs will be met with timely deliveries. We suggest that any modeling include year-round volume and monthly increases regarding capacity in State facilities in wet years.

*Response:* Interior is committed to meeting the requirements of the CVPIA for the wetland and habitat areas of the Central Valley. The use of SWP facilities to help convey refuge water is to meet the intent of the CVPIA to minimize possible adverse impacts to CVP contractors.

Comment: We are concerned that the use of State facilities for conveyance of refuge water will result in additional exports from the Delta to the west side of the San Joaquin Valley, thereby degrading the water quality of needed water. Also, additional water may be needed for dilution of salts that enter the San Joaquin River. We propose using the Land Retirement Program to obtain refuge water supplies.

*Response:* The use of SWP facilities to convey Level 2 refuge water supplies will require an agreement between the State of California and the United States as well as necessary permit(s) from the State of California Water Resources Control Board. Such an agreement and subsequent permitting process will require environmental analysis. Full evaluation of any impacts to the San Joaquin River's water quality and quantities will be included in the environmental analysis.

Comment: The impact upon present and future salinity of the San Joaquin River should be a major consideration of the Best Management Practices/Water Use Efficiency Plans. Greater efficiency could result in higher salinity in the San Joaquin River requiring greater amounts of water for dilution from "areas of origin."

*Response:* Interior shares your concerns for the water quality in the San Joaquin River. The Interagency Coordinated Program for Water Management Planning (ICP) will provide a format and guidelines for water management planning for wetland and habitat areas of the Central Valley. One of the considerations that has been recognized and included will be refuge drainage and water quality. However, because refuges contribute only a small portion of the return flows to the San Joaquin River, the larger issue of water quality may best be addressed through the CALFED Bay-Delta Program which will look at the entire watershed to help resolve the issue.

Comment: Deliveries to refuges prior to the CVPIA were possible and had less impact since there were not winter-run chinook salmon and smelt outflow requirements, take limits, et cetera and there was no Bay-Delta obligation beyond D-1485.

*Response:* Interior acknowledges that the conditions that were present prior to enactment of the CVPIA and the Biological Opinions enabled water to be exported to meet most of the demands south of the Delta, although available supplies never reached Level 2 requirements. The intent of an agreement to use SWP facilities to convey Level 2 refuge water supplies is an attempt to minimize any possible adverse impacts to CVP agricultural water service contractors.

Comment: Conveying refuge water in the Delta-Mendota Canal decreases the delivery capacity needed to meet agricultural service contractors' demands or to refill San Luis Reservoir. The CVPIA requires that additional conveyance be obtained from non-Federal facilities. The Administrative Proposal should specifically state that additional conveyance capacity obtained for delivery of refuge supplies will be acquired from non-Federal entities.

*Response:* Interior's solution to reach agreement with the State for use of its facilities to convey Level 2 refuge water supplies is consistent with the requirements of CVPIA. As the incremental refuge Level 4 water supplies are acquired, capacity to convey the water will be included in the individual acquisitions.

Comment: The use of State facilities to deliver refuge water supplies should neither compromise nor put at risk the delivery of that water during varying water-year types or when capacity in SWP facilities is not available.

*Response:* As the final Administrative Proposal makes clear, the provision of Level 2 refuge water supplies is a legal mandate of the CVPIA. The use of State facilities is an attempt to minimize possible adverse impacts on other CVP contractors. When SWP capacity is not available, the quantity of refuge water supplies conveyed in CVP facilities will not decrease.

Comment: We support Interior's efforts to evaluate efficiency of water use on refuges. Any management plan must provide for maximum benefit to wildlife. Any water savings must first be allocated to help meet other fish and wildlife restoration goals of the CVPIA.

*Response:* The final Administrative Proposal addresses all fish, wildlife, and other wetland-dependent resource needs on refuges. It is not known if the water management planning and implementation will result in reduced water needs for refuges. However, if water is conserved, then either less water will need to be acquired to meet the Level 4 incremental supply, or the conserved water will be used to meet other identified wetland/refuge needs.

Comment: It is good that the Fish and Wildlife Service is undertaking a review of its water management practices on refuges; however, it is equally important to continually reassess the perceived needs of the species and the assumptions underlying that analysis as we learn more from scientific endeavor and experience.

*Response:* The final Administrative Proposal indicates that Interior will contract with entities and/or individuals to update information regarding wetlands management on Central Valley refuges -- Federal, State, and private -- and to identify water management practices specific to wetlands as well as those common to all water use. This information will result in an interagency-coordinated approach to wetland water management planning and will provide a format and outline for planning that will be adaptive to changing knowledge and conditions.

Comment: We want Interior to consider the biological needs of waterfowl, fish, and other wetland-dependent species when considering refuge water reductions. The CVPIA provides water to about 50 percent of the wetland habitat in the Central Valley; Interior should consider those wetlands outside the purview of the CVPIA that lack firm water supplies when reviewing shortages to refuges.

*Response:* Interior will continue to place the highest priority on meeting the fish and wildlife resource objectives for refuges in the Central Valley as indicated in the final Administrative Proposal. Interior is currently investigating the water supplies to remaining private wetlands and wetlands restored under the Central Valley Habitat Joint Venture goals and objectives as directed in Section 3406(d)(6)(A) and (B). A report on the findings of this investigation is scheduled to be provided to Congress in 1998.

Comment: The draft Administrative Proposal ignores the express limitation of refuge water supply reductions due to hydrologic circumstances. We feel that agricultural service contractors' reductions are more operational than hydrologic and it is unfair to impose equivalent percentage shortages on refuge water under similar circumstances.

*Response:* The final Administrative Proposal has been modified to explain when deliveries of Level 2 refuge water supplies may be reduced.

Comment: We strongly oppose Interior's draft Administrative Proposal to link refuge water allocations to agricultural service contractors. Biological factors must be the primary emphasis when developing a "trigger" for reduced water allocations to refuges. The CVPIA does not mandate shortages to refuges whenever reductions are imposed on agricultural service contractors. We suggest that Interior develop a profile for the various refuges and then determine their capability to meet their wildlife purposes and objectives during periods of reduced water supplies.

*Response:* Interior is committed to meeting the refuge water supply directives of CVPIA. The final Administrative Proposal has been clarified to explain how Interior interprets hydrologic circumstances that may necessitate reducing refuge Level 2 water supplies.

Comment: The acquisition of water to obtain additional Level 2 supplies by use of the Restoration Fund is inappropriate and would shift funds for other fish and wildlife restoration measures.

*Response:* Interior is committed to meeting the refuge water supply directives of the CVPIA. The final Administrative Proposal has been revised to reflect that in those instances when non-CVP supplies are not available or are reduced by more than 25 percent, Interior would make up the supply difference with CVP supplies to ensure that Level 2 water supplies from all sources are not reduced by more than 25 percent.

APPENDIX B--RESPONSE TO COMMENTS  
MARCH 20, 1998, REVISED DRAFT

Comment: The Administrative Proposal places the entire burden of Level 2 deliveries south of the Delta on one group of CVP water service contractors, despite the availability of CVP water other than water exported at the Delta. Most of the refuges which receive CVP water south of the Delta would have historically received the benefit of flows from the San Joaquin River. However, those CVP contractors that currently use San Joaquin River flows, the Friant Division contractors, have not had to share the CVP obligation to deliver water to those refuges. Through the use of exchanges, the Friant Division could share in such obligations.

*Response:* Interior will continue to look for opportunities to diversify sources of supply for Level 2 water.

Comment: The use of a Joint Point of Diversion as a (b)(2) tool would limit its utility in mitigating the impacts of the reallocation to refuge water.

*Response:* Interior's final Administrative Proposal for implementing Section 3406(b)(2) includes the use of a Joint Point of Diversion to mitigate potential adverse effects, if any, on CVP contractors. Implementation of a Joint Point of Diversion provides increased capacity to export water from the Delta during fall and winter months when excess water exists and when the Bay-Delta standards, Delta Actions pursuant to Section 3406(b)(2), and Endangered Species Act requirements are being met. As a result, the Joint Point of Diversion increases Interior's flexibility in providing both agricultural and refuge supplies.

Comment: The development of the ICP is commendable; however no notices have been received of follow-up meetings to the fall 1997 ICP meeting. It is unclear whether the May 1998 completion date identified in the Administrative Proposal will be met.

*Response:* The Interagency Coordinated Program for Water Management Planning (ICP) Draft Task Force Report will be distributed to interested parties by April 24, 1998, and a follow-up public workshop for interested stakeholders will be noticed for mid-May.

Comment: The Investigation Report analysis was inadequate for determining refuge water supply needs. The determination of needs was subjective regarding both Level 2 and Level 4. Level 2 was purportedly based on average water supplies received by the refuge prior to the study. There were not, in fact, reliable records of actual delivery quantities on which to base such numbers. It was reported that Level 4 water needs amounted to a refuge managers' "wish list" with little or no documentation or critical review as to how or for what purpose the water would be used. That is undoubtedly why additional planning was called for in the Investigation Report. Interior's position regarding the adequacy of the needs analysis is disingenuous and without merit.

*Response:* In the final Administrative Proposal, Interior recognizes that additional planning efforts were not completed prior to the enactment of CVPIA. However, it is Interior's position that the *Water Supply Report* analysis of refuge water needs remains adequate for determining refuge water supply needs. Interior, along with the California Department of Fish and Game and the Grassland Resource Conservation District/Grassland Water District, believes that the development of wetland "best management practices" is appropriate to ensure refuge water supplies are being used effectively to meet wetland and wildlife resource requirements.

**Comment:** Interior compounds its decision about the needs analysis by stating that if it is proved wrong by the implementation of efficient water use measures, it will reallocate the water to other wetland/refuge uses rather than allowing it to go back to the agricultural uses from which it was taken.

*Response:* The final Administrative Proposal addresses all fish, wildlife, and other wetland-dependent resource needs on refuges. It is not known if the water management planning and implementation will result in reduced water needs for refuges. However, if water is conserved, then either less water will need to be acquired to meet the Level 4 incremental supply, or the conserved water will be used to meet other identified wetland/refuge needs.

**Comment:** Interior is applying discretionary provisions of 3406(d)(4) in a manner that most adversely impacts agricultural water service contractors. Agricultural water service contractors take reduction in contract deliveries even in wet years. Limiting reduction to refuges to critically dry years as determined by Reclamation is unreasonable. Maintaining refuge supplies at 100 percent while agricultural water service contractor supplies are reduced causes the allocation shortfall to be worse by at least 5 percent. If the proposed criteria are applied, refuges will not take a shortage until water service contractors have received a reduction of at least 50 percent and probably 75 percent.

*Response:* The final Administrative Proposal clarifies how Interior interprets "hydrologic circumstances" under which reductions to refuge Level 2 water supplies may be imposed. As it considers ways to mitigate any potential adverse effects on CVP contractors, Interior is looking beyond the CVPIA. Notably, the CALFED Bay-Delta Program has been moving quickly towards developing and finalizing a preferred alternative for a broader resolution to the many competing interests in California water. Further, the Toolbox Group discussions related to implementation of Section 3406(b)(2) of the CVPIA have developed a number of ideas for enhancing water supplies in the near term and in the longer term.

**Comment:** It is unclear from the Administrative Proposal how the pooling of available supplies when reductions are applied to Level 2 refuge supplies will be implemented and whether it will have a further negative effect on water supplies. The concept of pooling available supplies to maximize the benefits of limited supplies makes good water management sense, we would object

to any such action which would have the effect of further reducing supplies to water service contractors.

*Response:* Interior is committed to a collaborative process to allocate the "pooled" Level 2 supplies. Pooling of water supplies following imposition of shortages is to assure highest fish and wildlife resource needs on the refuges are maintained. The final disposition scheduling of Level 2 water will be the result of collaboration of the refuge managers and CVP water supply operators.

Comment: The CVPIA's mandate to provide reliable, high quality supplies of CVP water every year to wildlife refuges in the Valley has been a remarkable restoration success story. Because of the CVPIA, these refuges have begun to rebound significantly after years of habitat degradation. Any weakening of Interior's current proposal could greatly jeopardize this progress.

*Response:* Interior shares your concern and is committed to meeting the requirements of the CVPIA for the wetland and habitat areas of the Central Valley.

Comment: The statement in the Administrative Proposal that "one of the recognized benefits of the use of the Joint Point of Diversion would be facilitating the delivery of water supplies to refuges south of the Delta" is inaccurate. Joint Point of Diversion would facilitate the delivery of water to south of Delta agricultural water contractors, not to south of Delta refuges.

*Response:* Interior's final Administrative Proposal for implementing Section 3406(b)(2) includes the use of a Joint Point of Diversion to mitigate potential adverse effects, if any, on CVP contractors. Implementation of a Joint Point of Diversion provides increased capacity to export water from the Delta during fall and winter months when excess water exists and when the Bay-Delta standards, Delta Actions pursuant to Section 3406(b)(2), and Endangered Species Act requirements are being met. As a result, the Joint Point of Diversion increases Interior's flexibility in providing both agricultural and refuge supplies.

Comment: We believe that resource needs and management tools may change over time and that the ICP will be an important means of identifying ways of further enhancing resource benefits using refuge water authorized by the CVPIA.

*Response:* The ICP will result in an interagency-coordinated approach to wetland water management planning and will provide a format and outline for planning that will be adaptive to changing knowledge and conditions.

Comment: In the event that water savings are not needed to meet fish and wildlife needs on the 15 refuges covered by the CVPIA, then Interior should use such water to help meet the habitat needs of the 120,000 acres identified in Section 3406(d)(6) of the CVPIA (Central Valley Habitat Joint Venture lands).

*Response:* The final Administrative Proposal addresses all fish, wildlife, and other wetland-dependent resource needs on refuges. It is not known if the water management planning and implementation will result in reduced water needs for refuges. However, if water is conserved, then either less water will need to be acquired to meet the Level 4 incremental supply, or the conserved water will be used to meet other identified wetland/refuge needs.

Comment: The refuge shortage provisions in the Revised Draft Administrative Proposal represent a reasonable compromise between the current policy, which is tied to the Shasta Index, and the policy proposed by Interior in the July 1996 Draft Administrative Proposal, which linked refuges to shortages experienced by agricultural service contractors.

*Response:* Interior is committed to meeting the refuge water supply directives of CVPIA for the wetland and habitat areas of the Central Valley.

Comment: The cooperative (water service) agreements referred to on page 7 of the Administrative Proposal should be changed to contractual agreements to be consistent with the language of Section 3406(d)(1) of the CVPIA.

*Response:* The final Administrative Proposal reflects Interior's commitment to meeting the refuge water supply directives of the CVPIA. The Secretary will provide firm Level 2 supplies either directly or through contractual agreements with other appropriate parties.

Comment: We urge Interior to develop a schedule for completing as soon as possible but no later than April 2003 the required work associated with refuge conveyance facilities.

*Response:* Interior is committed to removing conveyance and operational constraints as promptly as possible so that additional increments of Level 2 water supplies can be added in phases until the system is capable of delivering the full 404,221 acre-feet of Level 2 water.

Comment: The Final Administrative Proposal should clearly state that Restoration Fund monies will not be used to purchase the CVP water needed to make up the shortage difference between refuges receiving non-CVP water and refuges receiving CVP water.

*Response:* Interior is committed to meeting the refuge water supply directives of the CVPIA. In those instances when non-CVP supplies are not available or are reduced by more than 25 percent, Interior would make up the supply difference with CVP supplies to ensure that Level 2 water supplies from all sources are not reduced by more than 25 percent.

Comment: If refuge water supplies are provided by way of greater ground-water pumping, the amount of salts entering the San Joaquin River or to be disposed of could be substantially increased even though export levels remain the same or are decreased.



*Response:* Interior shares your concerns for the water quality in the San Joaquin River. The ICP will provide a format and guidelines for water management planning for wetland and habitat areas of the Central Valley. One of the considerations that has been recognized and included will be refuge drainage and water quality. However, the larger issue of water quality may best be addressed through the CALFED Bay-Delta Program which will look at the entire watershed to help resolve the issue.

Comment: If refuge water supplies are obtained from east side tributaries, it should be required that deliveries be scheduled to assure that the mean daily salinity of the San Joaquin River during the irrigation season will not be adversely impacted.

*Response:* Interior shares your concerns for the water quality in the San Joaquin River. The ICP will provide a format and guidelines for water management planning for wetland and habitat areas of the Central Valley. One of the considerations that has been recognized and included will be refuge drainage and water quality. However, the larger issue of water quality may best be addressed through the CALFED Bay-Delta Program which will look at the entire watershed to help resolve the issue.

Comment: Exports from the Delta including those for refuges should be limited to water which is truly surplus to the needs within the Delta, the other watersheds in which the water originates, and the areas immediately adjacent which can be conveniently served. Refuges and other needs within the area of origin should be fully met prior to any export. Shortages should be allocated first to the export areas.

*Response:* The final Administrative Proposal addresses all fish, wildlife, and other wetland-dependent resource needs on refuges. Interior is committed to meeting the refuge water supply directives of CVPIA for the wetland and habitat areas of the Central Valley.

Comment: The refuge water supply should be obtained through land retirement on the west side of the San Joaquin Valley to avoid increasing the salt loading in the valley or further degrade the San Joaquin River. The land retirement we envision should be adequately compensated.

*Response:* Interior is pursuing the acquisition of Level 4 water supplies through various means including the land retirement program.

Comment: Many satellite refuges bordering the Sacramento National Wildlife Refuge are short of water and cannot be properly maintained. While the Government has made these waterfowl easement purchases, it has never made any attempt to improve the water supply.

*Response:* Interior is committed to meeting the refuge water supply directives of CVPIA and is currently investigating the water supplies to remaining private wetlands and wetlands restored under the Central Valley Habitat Joint Venture goals and objectives as directed in Section

3406(d)(6)(A) and (B). A report on the findings of this investigation is scheduled to be provided to Congress in 1998.

**Comment:** It has been nearly 10 years since the basic study on refuge supply needs was completed. In the interim, benefits and responses within the Central Valley refuges should have been observed. There should have been information as to the relationship between Central Valley refuges and other parts of the migratory flyway and process. What was observed should be documented, learned from, and expanded upon. There is also likely to be data that indicates that certain assumptions and practices are not beneficial and those should be discontinued.

**Response:** The ICP will result in an interagency-coordinated approach to wetland water management planning and will provide a format and outline for planning that will be adaptive to changing knowledge and conditions.

**Comment:** The Department of the Interior should choose to take a different course than the one referenced here as it begins its effort to develop the necessary legal basis for CVPIA implementation through a formal Rulemaking Process and as it assembles the appropriate scientific evidence for its ecological decision making and program execution.

**Response:** Interior will pursue rulemaking on this section of CVPIA to the extent it is so warranted.

**Comment:** We support the policy decisions outlined in the March 20, 1998, Revised Draft Administrative Proposal and urge Interior to finalize the proposal in its current form.

**Response:** The final Administrative Proposal reflects Interior's commitment to meeting the refuge water supply directives of CVPIA for the wetland and habitat areas of the Central Valley.