UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

January 8, 1999

Mr. Alan R. Candlish
Bureau of Reclamation
2800 Cottage Way
Attn: MP-120
Sacramento, CA. 95825

Dear Mr. Candlish:

The Environmental Protection Agency (EPA) has reviewed the Notice of Intent for **Long-term Contract Renewal, Central Valley Project, California.** Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. We have also addressed the proposed water need methodologies which will be used in association with the contract renewals.

The Bureau of Reclamation (Bureau) proposes to prepare environmental documents for the purpose of renewing existing long-term and interim water supply contracts for the Central Valley Project (CVP) in California. Specific quantities of water to be in the renewal contracts will be subject to a needs assessment. At this time, the Bureau is proceeding as if the project impacts would require preparation of an EIS. Section 3404© of the Central Valley Project Improvement Act (CVPIA) authorizes renewal of existing long-term water service contracts for 25 years after appropriate environmental review including the completion of a Programmatic Environmental Impact Statement (PEIS) on the CVP required under Section 3409. The final PEIS is scheduled for release in June 1999. The additional environmental document(s) for contract renewal will tier off of the final PEIS. The long-term contract renewal environmental document(s) will be prepared on a regional basis. The specific regions will be determined following scoping. Furthermore, individual service areas may be combined together in one document if they have related issues.

Over the last 10 years, EPA has worked with the Bureau and other resource agencies on issues which should be addressed when considering long-term water supply contract renewals for the CVP. In fact, between February 1989 (EPA Referral of Friant Unit Contract Renewals to Council on Environmental Quality (CEQ)) and passage of CVPIA in October 1992, EPA and the Bureau worked extensively on defining the issues, scope, and alternatives for a proposed EIS on the Friant Water Service Contract Renewals (Friant EIS). The following materials are incorporated by reference: EPA Comments on Environmental Review Process for CVP Contract renewals, March 1992; Friant Contract Renewal EIS EPA/BOR Agreements, 1992; EPA Comments on Friant Contract Renewal EIS Scoping Report, May 1991; and EPA Scoping Comments, Friant Contract Renewal EIS, January 1991. Copies are enclosed.

While we acknowledge the remarkable shifts in policy, management, and planning for water resources in California which have occurred, we believe that many of the issues and agreements made with the Bureau in 1992 are still relevant to the current contract renewal effort. Key points are highlighted below.

We have long supported tiering contract renewals from a programmatic system-wide analysis of CVP operations and hydrologic effects, and, with some reservations, believe that the Programmatic CVPIA EIS (CVPIA PEIS) serves this function well. However, considering the many regional and localized concerns which are not covered in the CVPIA PEIS, we suggest that an EIS should be assumed the appropriate level of analysis for contract renewals unless a close screening of issues and potential impacts, conducted with ample public participation, supports a different conclusion. We note that the programmatic EIS for the CVPIA did not address or evaluate water quantity, water quality, or specific terms and conditions for contract renewals.

The Scoping Notice states that the long-term contract renewal environmental document(s) will be prepared on a regional basis and tiered to the final CVPIA PEIS. The CVPIA PEIS evaluated options for operational criteria, water management (for instance, pricing and transfers), and ecosystem restoration priorities for the CVP. The contract renewal EISs should clearly link proposed contract renewal actions with the management direction established by the CVPIA PEIS Record of Decision and to currently planned or reasonably foreseeable rulemaking and regulations.

Alternatives should examine ways in which renewed contracts can provide adequate supply reliability for contractors and flexibility to implement all CVPIA provisions. There must also be flexibility to accommodate future shifts in water policy which may affect the CVP. We urge the Bureau to structure the renewed contracts to fully reflect the redirection of the CVP, pursuant to CVPIA, to provide ecosystem restoration and a reliable water supply. EPA firmly believes that long-term water supply contract renewals should focus on determination of available supplies and bringing contract commitments into alignment with these supplies. The water needs analyses which support contract renewals should evaluate <u>both</u> the supply and demand side of water management in the contract areas. Reclamation should work with contractors to consider all available tools for enhancing water management flexibility and reliability. These tools could include water transfers, conservation, pricing, irrigation efficiencies, operational flexibilities, market-based incentives, water acquisition, conjunctive use, voluntary temporary or permanent land fallowing, and wastewater reclamation and recycling. Information on the needs methodologies and results of the assessments should be incorporated into the contract renewal environmental impact documents.

Our detailed comments (attached) discuss a number of issues which we believe must be addressed in contract renewals. Among the most important is resolving the gap between CVP supplies and current levels of CVP contract commitments. The CVPIA PEIS documents that under all implementation alternatives the amount of water which Reclamation could reliably deliver in average long-term and dry period conditions is less than the total contract quantities.

We appreciate the opportunity to review this NOI. Please send four copies of the Draft environmental impact statement to this office at the same time it is officially filed with our HQ Office of Federal Activities. If you have any questions, please call me at (415) 744-1566, or contact David J. Farrel, Chief, Federal Activities Office at 415-744-1584.

Sincerely,

Deanna Wieman, Deputy Director
Cross Media Division

Enclosures: Detailed comments
EPA Comments on CVPIA Draft PEIS, April 1998
EPA Comments on Environmental Review Process for CVP Contract Renewals, March 1992
Friant Contract Renewal EIS EPA/BOR Agreements, 1992
EPA Comments on Friant Contract Renewal EIS Scoping Report, May 1991
EPA Scoping Comments, Friant Contract Renewal EIS, January 1991

MI003182
Filename: cvprenew.wpd

cc: Jim White, Department of Fish and Game
Nanette Engelbrite, Western Area Power Administration
Wayne White, US Fish and Wildlife Service
Victoria Whitney, State Water Resources Control Board
Mary Nichols, California Resources Agency
Gary Stern, National Marine Fisheries Service
US Corps of Engineers, San Francisco & Sacramento
Pat Port, Department of the Interior
Lester Snow, CALFED
Wendy Pulling, NRDC
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DETAILED COMMENTS

Water Needs Assessment

EPA has concerns with both the assumptions and methods of the water needs analysis. The Bureau's "needs analysis" described at the Water Demands Workshop appeared to have the following steps: 1) calculating contractors' historical beneficial use of water; 2) projecting future beneficial use (for the 25 year contract horizon); 3) examining comprehensively the water sources available to the contractor; and 4) determining the quantity of CVP water to be entered in a renewal contract, using this supply/demand information. We urge the Bureau to clearly describe the assumptions underlying use of this methodology to project future beneficial use and to explain how this calculation will help determine contract quantity.

We are concerned that plant evapo-transpiration data used to compute crop water use (such as Bulletin 113) is open to dispute. Thus, the Bureau should take care in developing its historical documentation of beneficial use as well as any future projections. In addition to technical questions regarding water use, long-term projection (25 years) of future use by existing contractors is subject to many unforeseeable factors (technology, economics, potential water transfers, etc). This is especially true for agricultural use. For the purpose of establishing a determination of future beneficial use, we would strongly recommend a different approach. We suggest considering a less technically detailed "certification" of expected future beneficial use, backed up by terms in the contract that monitor compliance and continued beneficial use.

Step 3, examining comprehensively the water sources available to the contractor, is very important. In fact it appears to draw on information required in the Contractor's water conservation plans. Several potential sources such as water exchanges, transfers, and groundwater; may be difficult to document and/or project. The EIS should clearly document how this step is done, disclose assumptions made regarding groundwater use, transfers, and exchanges and discuss limitations in information which could affect conclusions regarding water supplies available to water contractors.

In regards to Step 4, we urge the Bureau to clearly state how it intends to use the water needs analysis in determining contract quantities. EPA does not regard the purpose of contract renewals as using CVP contract supplies to "fill a gap" between calculated needs and available supplies. Instead, we believe the Bureau has a number of tools to help improve water management and supply reliability and to help ensure a sustainable water balance between supply and demand. Available tools include water transfers, conservation, pricing, irrigation efficiencies, operational flexibilities, market-based incentives, water acquisition, conjunctive use, voluntary temporary or permanent land fallowing, and wastewater reclamation and recycling. We urge the Bureau to use these tools to improve water management and supply reliability and to

factor the use of these tools into its evaluation of contract quantities. In this step, one might incorporate assurances that water would not go to waste, go to environmentally harmful areas, and would support water quality objectives. We suggest that short-term integrated demand/supply management be the first focus with long-term integrated demand/supply management as a goal.

In conclusion, we suggest the Bureau document historical beneficial use of CVP water; certify expected future beneficial use; help users plan and implement supply reliability measures through other programs; and equitably allocate supplies expected to be available from the existing CVP.

Shortages

EPA is concerned with contract quantities which consistently exceed available water supply, thus creating "shortages". Contract supply commitments should be tailored to reflect supplies reasonably expected to be available under varying conditions (e.g., wet versus dry years). We fear that retaining contract quantities which exceed available supplies gives the impression of unreliable commitments and may imply a "need" to develop additional supplies. Often development of "new supplies" is only reallocation of scarce water from environmental in-stream beneficial uses to consumptive uses.

EPA advocates an approach which is focused on efficient use and management of existing scarce water supplies. The quantity of allocated water in the contracts should be based on existing, developed project supplies and not on contractors' needs, demands, or anticipated additional supplies. We strongly urge the Bureau to avoid contract quantity commitments exceeding expected supplies and to avoid allocating shortages relative to inflated supply commitments.

From the contractors' perspective, there may be times when shortages are unavoidable and will need to be addressed. As stated above, EPA advocates the use of multiple tools by the Bureau to help contractors plan and manage for supply reliability, including during shortage periods.

Environmental Needs

The needs assessment must include full consideration of environmental needs. EPA believes that it is inappropriate for the renewal contracts to account for

environmental restrictions solely through the use of a "shortage provision." A shortage provision is an appropriate mechanism for providing flexibility in the event of future unanticipated environmental or other impositions on CVP water use. However, it should not be used to implement existing environmental obligations under the CWA or ESA. These existing obligations should be evaluated in the needs analysis and factored into the assessment of water quantities available for contracts.

Documentation of Beneficial Use

Beneficial use must be clearly defined. For instance, the needs assessment should state the dates between which the beneficial use measurement was taken, rationale for this measurement period, how beneficial use will be interpreted, and whether and how differences in seasons and type of water use will be considered.

Groundwater and water reuse is also of concern. CVP water replenishes groundwater in certain areas through a number of "paths," such as canal seepage, over-irrigation, and spreading of high flow (flood) waters. This use should be documented. We request the Bureau disclose whether this use is being counted as historical beneficial use, and if it would be counted in a contractor's future water "need." We note that there are areas, such as the San Joaquin, where this casual "conjunctive use" of surface/groundwater has not stabilized groundwater levels or acted as a beneficial use. In fact, irrigation may contribute to severe water quality problems.

The CVPIA PEIS states that the right to reuse seepage and return flows has been covered in all alternatives and would not need to be revisited in subsequent NEPA documents (Ch VI-8). EPA questions whether any real impact analysis associated with reuse has been done. There is the question of actually documenting water balance within a basin, including amounts of seepage and return flows, and amounts of on-farm and downstream reuse. We note that this detailed information appears not to be available in many cases and that this issue has been raised in CALFED, as well. Changes in on-farm and within-district efficiency may well affect other uses within a basin by altering the quantity, timing, and quality of water available. On another page (VI-10) the CVPIA PEIS admits that implementation of water conservation measures was not handled at a site specific level, and suggests possibly including this topic in the contract renewal EISs. This is an analysis which is best done at a site and case-specific level. We urge the Bureau to follow-up on the suggestion in the CVPIA PEIS to evaluate implementation of reuse and water conservation measures and their potential effect on quantity, timing, and quality of water available.

Reservation of Rights

EPA understands that there have been ongoing discussions about a "right to

renew", and/or about the meaning of and continued applicability of language in the "1956 Act." EPA's view of the 1956 Act was presented in full at the time of the CEQ referral in 1989. See Letter from Gerald Yamada to Chairman A. Alan Hill dated April 13, 1989. EPA believes the 1956 Act discussion of renewals was largely superseded by the explicit provisions in the CVPIA addressing contract renewals. See CVPIA Section 3404. Under the CVPIA, after the first 25 year contract, additional renewals or extensions are clearly at the Secretary's discretion. While recognizing the legitimate desire of all parties to reserve possible legal arguments, EPA believes it would be inappropriate for the Bureau to grant a right to renew or other legal advantage to contractors in the renewal contract greater than they are entitled to receive under the explicit language of the CVPIA.

Water Supply and Demand

We strongly believe the Bureau should utilize tools such as pricing, conservation, conjunctive use, and monitoring and accounting to help improve supply reliability and ensure a more balance between water supply and demand.

Pricing

It has been demonstrated over the last decade that variable pricing of water can significantly influence water demand and supply. Pricing which accurately reflects the economic and environmental costs of water increases the ability to ensure scarce supplies are used efficiently. The contract renewal EISs should include an in-depth discussion of pricing and how it will be utilized by the Bureau and within water districts. We urge the Bureau to reevaluate the tiered pricing structure which is based upon contract quantities. Although there are price incentives to avoid excessive water use at the high end, these price incentives are rarely triggered in some areas due to the infrequent use or inability to provide these large contract qualities.

The EISs should also fully evaluate the Ability-to-pay policy and the Bureau's ability to ensure project repayment. We urge the Bureau not to utilize the ability to pay subsidy, especially given the need to repay project costs.

Conservation

Conservation can play a critical role in managing water demand and supply. We note that the Reclamation Reform Act states the Secretary of the Interior shall use all legal existing authorities to encourage conservation and that CVPIA Section 3045 encourages use of variable pricing and conservation. We urge the Bureau to consider conservation as a project goal and to describe ways to encourage conservation. The

EISs should include a discussion of National Energy Policy Act requirements, how conservation affects water markets, demonstration of compliance with water conservation plans, reclamation methods and efforts, and improved irrigation technologies. Consistency with CALFED goals should be clearly demonstrated. Water use efficiency is a major component of the CALFED Program, thus close coordination with CALFED will be necessary to ensure consistency, where appropriate, in methodologies for computing efficiencies and benefits, and to ensure complementary objectives. We advocate use of conservation performance requirements in the contracts and strong assurances that certain levels of conservation will be attained.

As promised in the Reclamation Water Conservation Criteria -- 1999, prospective renewal contractors should be required to have an adequate water management plan in place and to have demonstrated good progress in implementing that plan. Contract terms should make clear that future CVP supplies are conditioned on continuing conservation efforts, including, in the context of the conservation plans, shortage management. In particular, EPA advocates full implementation of the documentation and coordinated planning of use of supplies available to the contractor, including ground water; and the water measurement elements. We also urge incorporation of a shortage management element. Conservation and shortage management issues will vary from area to area.

Per CVPIA, water measurement devices are required for contract renewal [3405(b)]. We understand this requirement can be addressed in an approved, adequate conservation plan. We also note that there is a lot of debate regarding the sort of measurement or metering requirements which are appropriate. The EIS should describe the debate and clearly state which measurement devices or metering requirements are considered by the Bureau to be appropriate for contract renewals.

Groundwater

Groundwater is a critical element in water supply and demand. Not only is it an alternative source to surface water supply, if used prudently, groundwater can provide significant flexibility in meeting demand at different times and from a number of different water sources. The EIS should fully document groundwater sources - how, when, and by whom groundwater is used. Identify information gaps and where there are no direct groundwater measurements. The EIS should document the historical and anticipated (in alternatives) relationship between CVP surface supplies and groundwater. There should also be documentation of long-term groundwater trends within basins. We note that portions of the Sacramento, around urbanizing areas, are over drafted, and that major areas in the San Joaquin and Tulare basins are seriously over drafted. EPA is concerned with potential tradeoffs between surface water and groundwater use. We urge the Bureau to carefully evaluate the long-term implications of providing CVP

surface water to avoid groundwater overdraft.

EPA supports the creation of groundwater management basins and institutional mechanisms to collect information, manage, and monitor groundwater use throughout California. The scoping materials from the Bureau suggest that one of the renewal-related actions under consideration is "conversion to conjunctive use." If the Bureau may propose "conversion to conjunctive use" in some areas, which we consider a promising concept, then the EIS should address the need for measurement and management of the combined resources of surface and groundwater supplies to stabilize supplies over the long term. Note that the appropriate management unit might not be the contracting district, unless the district is quite large (e.g.,Westlands).

The conjunctive use issues flagged in the scoping materials lead us to suspect that developing an effective conjunctive use program and offering this as an implementable contract option could take longer than the contract renewal time frame. Perhaps the Bureau should consider making "managed conjunctive use" a separate program. For the purpose of the contract renewals, sufficient information should be disclosed about the objectives, requirements, and suitable locations for conjunctive use so that it can be included as an option within the contracts.

Monitoring and Accounting

Effective and sustainable management of CVP water supplies depends on an accurate knowledge of water supply availability and water use. This knowledge can only be obtained through monitoring and accounting of water supply and demand. We urge the Bureau to make a firm commitment to timely and accurate monitoring and accounting. This commitment should include dedicated funding for this effort.

NEPA Issues

EIS versus EA

The Bureau should clearly describe the criteria for determining whether an EA or EIS is the appropriate level of NEPA analysis. These criteria should consider cumulative effects, how the Service areas or Districts are bundled, whether the potential impacts are bounded by existing environmental or programmatic analyses, and whether prior environmental analyses have provided information at a sufficient level of detail to

meaningfully assess alternatives, impacts, and mitigation measures. We recommend the Bureau clearly state which contract renewals will be considered for EIS level analysis. EPA believes an EIS should be presumed the correct level for analysis of the long-term contract renewals, especially for areas with known or suspected irrigation caused water quality problems, groundwater overdraft, and incomplete information on ecosystem needs. An EIS level of evaluation is especially appropriate given the complex and controversial issues surrounding the needs assessment, reallocation of water to all CVP purposes, and management of California's scarce water supply in the context of high demand. Clearly describe whether unit wide evaluations will be made and whether there will be contract by contract evaluations.

Purpose and Need

It is EPA's view that the central federal action is water service contract renewals and that the purpose of this action should be to set out terms- through these contracts- through which existing CVP supplies will be distributed for beneficial use in the future. The project purpose should also embrace managing CVP supplies, by both the Bureau and contractors, in ways which will improve supply reliability and promote ecosystem protection and water quality. The concept of distribution should include allocation through contracts to specific parties and contract terms permitting exchanges and transfers in order to ensure the contracts allow use of the water for all beneficial uses recognized in State law. For example, distribution should consider avoidance of areas, such as selenium-loaded areas, where the use would likely result in environmental harm or waste of the water. Supply reliability can be addressed in part by the quantities made available, scheduling and rescheduling flexibility, wheeling options, conservation practices, and other management strategies. We note that reliability of stated contract supplies would be undermined by a significant discrepancy between the contract quantity and supplies which the Bureau can reasonably expect to make available. Good management of the resource should be assured through terms requiring conservation planning, implementation, and monitoring.

In summary, the purpose and need statement should reflect the intent to use renewal of existing contracts to provide contractors with assurance of reliable, long-term water supply; support the Bureau's environmental protection and restoration responsibilities pursuant to CVPIA and other applicable laws; promote water conservation; support appropriate water transfers; and to promote balanced, sustainable use of ground and surface water supplies.

In 1992 EPA and the Bureau had extensive discussions regarding the purpose and need for the proposed Friant contract renewal EIS (Friant Contract Renewal EIS EPA/BOR Agreements, February 1992). We believe many of the issues discussed are still applicable and incorporate these discussions by reference.

Baseline

The selection of the No Action alternative is a critical step in the environmental analysis since it provides the baseline for comparison with other action alternatives. It is EPA's position that the "no action" alternative is not a no impact baseline. EPA believes strongly that to interpret the "no action" alternative as having "no impacts" is inconsistent with NEPA regulations. Continuation of the existing management situation would constitute a discretionary commitment of resources that is, effectively, an action affecting the environment. The alternatives analysis of the EIS should portray the environmental consequences of every alternative...." in comparative form, thus sharply defining the issues and providing a clear basis for choice among options for the decisionmaker and the public." (40 CFR Part 1502.14).

The EIS should document existing conditions; explain the changes which have occurred (e.g., pre-project and past impacts); and describe the ecosystem restoration objectives of the CVPIA and CALFED. Furthermore, the EIS should adequately document cumulative impacts, including past, present and reasonably foreseeable actions. Past cumulative effects greatly influenced the "existing conditions" which should be documented in the EIS and represent deficiencies (adverse impacts) which may be perpetuated under the action and no action alternatives. Furthermore, we do not believe it is sufficient to establish compliance with certain environmental protection laws (such as the Endangered Species Act and Clean Water Act), where the status quo may reflect unacceptable conditions and trends resulting from on-going activities, including water diversions. Nor will "current conditions" provide adequate guidelines for gauging desired levels of environmental restoration and enhancement. Information in the EIS should assist in establishing the possible deficiencies in current conditions and defining restoration and enhancement goals (EPA Scoping Comments, Friant Contract Renewal EIS, January 1991). In addition, it is our position that mitigation measures (defined in 40 CFR 1508.20) should be addressed for adverse effects of alternatives measured relative to current conditions, rather than relative to the expected future conditions under "no action" (Friant Contract Renewal EIS EPA/BOR Agreements, February 1992).

Consistent with the CVPIA PEIS, the contract renewal action and EIS should also be premised on the supplies which may be available in the future given the existing storage and conveyance system. This configuration should be retained in all alternatives. EPA does not consider adding onto or changing the configuration of this storage and conveyance system as within the scope of the contract renewal action.

Alternatives

Geographic Scope

Given the potential divergent supply options, we urge the Bureau to carefully consider the geographic scope for the environmental analysis. We recommend development of criteria to help determine the appropriate scale for analysis. For example, if conversion to conjunctive use is considered, the analysis might require a basin-wide view versus a district-wide view. Regardless of the water supply option, the EIS should evaluate the potential environmental impacts wherever they may occur. If significant adverse impacts are documented, the EIS should consider ways of mitigating these impacts.

Development of Alternatives

The CVPIA PEIS did not describe or evaluate specific contract alternatives or strategies. Thus, we believe it is critical that the EIS on contract renewals fulfill this need by evaluating different contract strategies and alternatives. We urge the Bureau to develop alternative contract terms and conditions which provide strong incentives for water conservation, tiered pricing, conservation goals and performance requirements, water transfers, reopener clauses, flexibility, restoration goals, project repayment, and monitoring. We also recommend consideration of elements common to all alternatives.

All reasonable alternatives should be considered including those which may be beyond the Bureau's current statutory authorities or those contrary to the initial priorities for the CVP established by Congress in 1937. For example, the Bureau should consider alternatives which provide water for other CVP purposes such as fisheries. We advocate evaluation of an alternative which provides a set dedicated yield with a mechanism to provide flexibility to adapt to changes in water supply and demand. Variations could include tiered contract quantities or guaranteed lifeline amounts. Again, we urge an approach which focuses on demand management and effective, efficient use of existing supplies.

Cumulative Impacts

Full disclosure of indirect and cumulative impacts is of specific concern. NEPA requires evaluation of indirect and cumulative effects which are caused by the action (40 CFR 1508.8(b) and 1508.7). Indirect effects may include growth-inducing effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." (40 CFR 1508.9(b)). CEQ regulations also state that the EIS should include the "means to mitigate adverse environmental effects." (40 CFR 1502.16(h)). This provision applies to indirect effects as well as direct effects. Changes in water quality or downstream effects which may be indirectly caused by Contract terms and conditions,

constitute indirect effects and should be evaluated in the EISs. These indirect effects and appropriate mitigation measures for adverse impacts should be fully disclosed in the EISs.

We recommend the long-term contract renewal EISs include a full evaluation of cumulative impacts at different landscape scales, e. g. Unit-wide, District-wide. The EISs should also include a summary of the CVP-wide cumulative impact analysis provided by the CVPIA PEIS.

Fish and Wildlife Issues

We recognize the significant progress made through the CVPIA in addressing region-wide past adverse cumulative impacts to fish and wildlife from historical operations of the CVP. However, the CVPIA and its PEIS has not addressed all local or district specific impacts. For example, fish and wildlife issues within the Upper San Joaquin River (i.e., Friant Unit) were not adequately addressed in the CVPIA. Thus additional evaluation may be appropriate when considering direct, indirect, and cumulative impacts to fish and wildlife in the context of specific contract renewals. The contract renewal EISs should evaluate the ability to restore or enhance fish and wildlife habitat and wetlands which have been affected by water diversions and by changes in flows, timing, and water quality as a result of CVP water supplies. This evaluation should "follow the impacts" and examine the impacts that may extend beyond the contract boundary.

EPA advocates evaluating Endangered Species Act and Clean Water Act compliance, requirements, and possible reallocation of water for environmental compliance as part of the contract renewal process. To do otherwise, may result in lost opportunities and the inability to reallocate water for environmental requirements without extensive "takings" litigation. The evaluation of environmental requirements should consider flows, temperature needs, seasonality, and other water quality components and factors of critical importance to threatened and endangered species.

Water Quality Issues

We suggest the Bureau consider the water quality standards discussions and agreements made in 1992 in regards to the Friant Contract Renewal EIS (Friant Contract Renewal EIS EPA/BOR Agreements, February 1992) which are incorporated by reference. EPA continues to believe that water requirements to meet water quality standards and protect beneficial uses established by either the EPA or the State of California (State), pursuant to the federal Clean Water Act, must be satisfied before calculating water available for contract renewals. Due to the need to meet water quality standards, we wish to highlight the need for flexibility in the contracts' terms to ensure

adaptability to potential changes in water policy and water quality standards.

General Water Quality Comments

1. Potential impacts to surface and ground water quality should be fully evaluated in the contract renewal EISs. The evaluation should include discussions on drainage and return flow quality; the role of agricultural chemicals (e.g., pesticides, fertilizers); management of discharges; and the impacts of water quality on crops, aquatic resources, and wildlife.

2. The EISs should discuss the proposed contract renewals compliance with State and local water quality management plans and State-adopted, EPA-approved water quality standards. EPA recommends that the project be fully coordinated with the appropriate Regional Water Quality Control Board to ensure protection of water quality and maintenance of beneficial uses.

3. Evaluate the potential of proposed contract renewals to cause adverse aquatic impacts such as increased siltation and turbidity in surface water sources; changes in water quality and quantity; changes in dissolved oxygen, and temperature; and habitat deterioration. Include a discussion on in-stream flow impacts of water diversions and return flows.

4. Identify sensitive aquatic sites such as wetlands which are currently present. Outline past and potential beneficial uses of these areas, and disclose potential impacts from the proposed project.

5. Discuss specific monitoring programs that are in place or will be implemented to determine potential impacts on surface and drinking water quality and beneficial uses. Evaluate whether maintenance and protection of water quality can be guaranteed.

General Comments

Environmental Justice

In keeping with Executive Order 12898, **Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (EO 12898), the EIS should describe the measures taken by the Bureau to: 1) fully analyze the environmental effects of the proposed Federal action on minority communities, e.g. Indian Tribes, and low-income populations, and 2) present opportunities for affected communities to provide input into the NEPA process. The intent and requirements of EO 12898 are clearly illustrated in the President's February 11, 1994 Memorandum for the Heads of all Departments and Agencies.

Comments on Water Demands Workshop Handouts

These comments are based upon a review of only the Handouts. The commentator was unable to attend the Workshop. Thus, we recognize the comments below may have been addressed during the Workshop and verbal presentations.

1. Demands overhead chart. The development of estimates for future use should include estimates for environmental needs. In addition, future use estimates must consider the potential effects of different pricing structures, efficiency measures and methodologies (e.g., improved irrigation methods, cropping patterns), land retirement, groundwater management (e.g., conjunctive use), water reclamation and recycling, and water transfers.

2. Why? overhead chart. Beneficial use should be clearly described, including the period used to measure beneficial use and criteria for determining what is beneficial use.

3. Process overhead chart. In addition to the principles to be considered, the process should consider modernization (e.g., improved agricultural practices), beneficial uses beyond historical agricultural use (e.g., fish and wildlife, water quality), and conservation. We urge the Bureau to take an approach which encourages a trend towards low water use, high value crops.

4. Residential Demand overhead chart. The description of residential demand should describe the underlying assumptions regarding type of appliances, water efficiency requirements, and type of landscaping. For instance, the requirements of the National Energy Policy Act should be described and fully integrated into the determination of residential demand.

5. Non-Residential Demand overhead chart. We urge the Bureau to consider a method of determining non-residential demand which is not based upon the historical amount of water used. Given the requirements of the National Energy Policy Act and significant advances in non-residential water use conservation, we believe a method based upon historical water use may result in an unrealistically high estimate of demand. As for residential demand, the underlying assumptions regarding appliances, water efficiency, and landscaping should be clearly described.

6. 1a. Interior Demand overhead chart. The Bureau should describe the assumptions used to determine gpcd. Conservation and requirements of the National Energy Policy Act should be fully integrated into the determination of interior demand.

7. 1b. Landscape Demand overhead chart. Assumptions regarding the type of

landscaping and irrigation methods should be provided. Again, the National Energy Policy Act and conservation requirements should be integrated into the demand calculations.

8. 3a. Unaccounted for beneficial uses overhead chart. Other beneficial uses which must be considered include environmental and in-stream beneficial uses. For instance, non-residential water use could supply incidental beneficial uses, e.g. settling ponds, discharges to wetlands.

Miscellaneous Comments

1. If references to previous documents are used, the DEIS should provide a summary of critical issues, assumptions, and decisions complete enough to stand alone without depending upon continued referencing of the other documents.

Summary Paragraph for HQ OFA

NOI on Long-term Contract Renewal, Central Valley Project, California

EPA stated that an EIS should be assumed the appropriate level of analysis for contract renewals, especially considering the many regional and localized concerns which were not covered in the CVPIA PEIS; e.g. water quantity, water quality, or specific terms and conditions for contract renewals. The EISs should clearly link proposed actions with the management direction established by the CVPIA PEIS ROD and to currently planned or reasonably foreseeable rulemaking and regulations. Alternatives should examine ways in which renewed contracts can provide adequate supply reliability for contractors, flexibility to implement CVPIA provisions, and flexibility to accommodate future shifts in water policy. We urged the Bureau to structure the renewed contracts to fully reflect the redirection of the CVP, pursuant to CVPIA, to provide ecosystem restoration and a reliable water supply. EPA firmly believes that long-term water supply contract renewals should focus on determination of available reliable supplies and bringing contract commitments into alignment with these supplies.

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Wayne - These are old addresses. Please check them against your most recent mail list and return this list with the corrections on it. Thanks.

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Wayne - I have sent these bcs out already via Lotus Notes.