



Westlands Water District

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February 14, 2020

Mr. Wilson Orvis
Deputy Regional (Acting) Director
Business Services, MP-110
Bureau of Reclamation Mid-Pacific Region
2800 Cottage Way
Sacramento, CA 95825

Subject: Request for Written Comments to Draft Business Practice Guidelines (BPG)
for Central Valley Project Improvement Act (CVPIA) Receipts, Program
Accounting, Cost Allocation and Cost Recovery

Dear Mr. Orvis,

Westlands Water District (District) has reviewed the November 21, 2019 Bureau of Reclamation (Reclamation) Draft BPG for CVPIA Receipts, Program Accounting, Cost Allocation and Cost Recovery. The District's comments are noted below.

Appendix C CVPIA Expenditure Cost Recovery Procedure, Page 17 of 18 Process of Identifying and Allocation of Costs and Recovery of Outstanding Obligations, paragraph four reads as follows:

"If there is a significant, outstanding obligation by water: standard, per acre-foot rates will be established for agricultural and M&I water sold and delivered, respectively, to recover the obligation over a set repayment period. Reclamation, as the Federal Agency responsible for implementation of the CVPIA, reserves the administrative discretion to determine what the amount of projected obligations is significant enough to require recovery through water rates."

The District objects to the entirety of this paragraph. Costs recovery through water rates, or any other method, must be circumscribed to meet CVPIA Section 3407 Restoration Fund limitations required in 3407(b)(2) and defined in 3407(d).

Under CVPIA Section 3407 Restoration Fund, up to [3407(b)] \$50,000,000 (in 1992 dollars) is authorized to be appropriated per year on a three-year rolling average to pay for the projects and facilities prescribed in CVPIA Section 3406 Fish, Wildlife, Improved Water Management and Conservation. Water and power contractors can be assessed additional mitigation and restoration (M&R) payments to meet this goal. However, these additional payments are subject to the limitations noted in subsection 3407(d)(2), "payments shall not exceed \$30,000,000 (October 1992 price levels) on a three-year rolling average basis; Provided further, That such additional annual payments shall be allocated so as not to exceed \$6.00 per acre-foot (October 1992 price levels) for agricultural water sold and delivered by the Central Valley Project , and \$12.00 per acre-foot (October 1992 price levels) for municipal and industrial water sold and delivered by the Central Valley Project." (emphasis added). Additional limitations on the amount of the M&R payment made by CVP water and power users must take "into account all funds collected under" 3407(d) "shall, to the greatest degree practicable, be assessed in the same proportion, measured over a ten-year rolling average, as water and power users' respective allocations for the repayment of the CVP." These four limitations need to be included in the BPG in Appendix C. They define the legislated limits of Restoration Fund payments by water and power contractors on per acre-foot, annual and proportional basis.

The District requests that in addition to the Expenditures, Credits and Offsets Report (ECO Report) described in Appendix B of the BPG, a report tracking CVP Restoration Fund receipts by type of receipt be described in the BPG's. Receipts should correspond with those listed in the Draft BPG Appendix A paragraph A.1. Type of Receipt. This report, also issued annually to water and power contractors, should also include details to track compliance with the following CVPIA payment limitations on water and power contractors:

1. Charges of up to \$50,000,000 (in 1992 dollars) total program per year on 3 year rolling average.
2. Additional M&R Restoration Fund payments by water and power contractors shall not exceed \$30,000,000 (in 1992 dollars) per year on 3-year rolling average.
3. Water/Power will be proportionally assessed in the same ratio as repayment of the CVP on a 10-year rolling average.
4. Additional M&R Restoration Fund payments by water will not exceed \$6.00 per acre-foot (October 1992 price levels) for agricultural water and \$12.00 per acre-foot (October 1992 price levels) for municipal and industrial.

In recent CVPIA True-Up discussions between Reclamation and water and power contractors the topic of Reclamation's transparency regarding CVPIA programmatic

planning has occurred. Indeed, the BPG's, on page 2 paragraph 2, discusses outreach with stakeholders for developing activity priorities while identifying cost share obligations. Though the District concurs that transparency is excellent, Reclamation has not consistently been willing to act on water and power user's concerns. For example, not addressed in the BPG's, is the recurring request of water and power contractors for the inclusion of procedures to review budgets to reduce, delay, or forestall reimbursable project spending during dry and critical dry water year(s) when the actual CVP allocation is below the budgeted allocation. The goal of the budget review would be to align CVPIA reimbursable expenditures with reduced Restoration Fund payments by water and power contractors. Water years straddle Reclamation fiscal years' so this is a two fiscal year budget review. The current fiscal year for the March through September period and the following fiscal year for the October through February period.

Reclamation has not produced the authority it has for spending more on CVPIA program activities than what has been covered to the Restoration Fund. If Congress had intended for contractors to pay more than what is outlined in CVPIA Section 3407, then why did it put in ceiling limitations in Section 3407 (d) (2) (A)? Also, by what authority can Reclamation collect these "charges" through water rates? The District can find nothing in rate setting policies or our contract that allows for cost overruns, that cannot be covered by the Restoration Fund, to be collected through CVP irrigation or municipal and industrial water rates. It is the District's position that we have paid our Mitigation and Restoration Assessment and have satisfied our obligation under the law.

Lastly, the District requests confirmation of discussions at the January 6, 2020 Visalia CVPIA True-Up meeting regarding the right to delay reimbursable programs that would place water and power contractors in a deficit position. A process that would review, and where practicable, delay or defer reimbursable projects for the purposes of maintaining these CVPIA projects in credit position should be included in the revised BPG.

The District appreciates and values the opportunity to comment on the Draft BPG and wishes to thank Reclamation for their consideration of our comments on this matter. Please contact undersigned at (559)241-6240 or sfarmer@wwd.ca.gov if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Farmer", written over the printed name.

Stephen Farmer
Supervisor of General Accounting