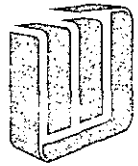


MAR 10 1992



MWD

EXECUTIVE SECRETARY
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Baron E. Wolf

REVISED
8-11

February 28, 1992

To: Board of Directors (Water Problems Committee--Action)
From: General Manager
Subject: Support in Principle for Central Valley Project Reform
Legislation

Report

At their special meetings on February 28, 1992, the Executive Committee and Special Committee on Legislation revised the recommendation in the General Manager's letter of February 25, 1992, on the above subject to read as shown below.


Recommendation

WATER PROBLEMS COMMITTEE FOR ACTION.

That the Board:

1. Support efforts of the State of California to transfer the Central Valley Project (CVP) to the State of California;
2. Authorize the General Manager to support provisions of CVP reform legislation that promote: water transfers; fish and wildlife improvements, including water for the environment; water management reforms, including water metering and changes in water pricing; appropriate federal actions to pursue needed facilities; and other provisions consistent with Metropolitan's objectives to increase the quantity, quality, and reliability of Metropolitan's water resources; and
3. Encourage all parties to continue negotiations with all members of the State Legislature, the United States Congress, the Governor of California, and other interests who

have been and are making efforts to resolve water issues in California, recognizing the need for balance among environmental, agricultural, and urban uses of the State's water supplies.


for Carl Boronkay

(February 20, 1992)

Chairman's Mark - CVP Reform Legislation

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Central Valley Project
3 Improvement Act."

4 SEC. 2. PURPOSES.

5 The purposes of this Act shall be:

6 (a) to protect, restore, and enhance fish, wildlife, and
7 associated habitats in the Central Valley and Trinity River basin
8 of California;

9 (b) to address impacts of the Central Valley Project on
10 fish, wildlife and associated habitats;

11 (c) to improve the operational flexibility of the Central
12 Valley Project;

13 (d) to increase water-related benefits provided by the
14 Central Valley Project to the State of California through
15 expanded use of voluntary water transfers and improved water
16 conservation;

17 (e) to study transfer of the Central Valley Project to non-
18 Federal interests; and for other purposes.

19 SEC. 3. DEFINITIONS.

20 As used in this Act,

21 (a) the term "anadromous fish" means those stocks of salmon
22 (including steelhead), striped bass, sturgeon, and American shad
23 that ascend the Sacramento, San Joaquin and Trinity rivers and
24 their tributaries and the Sacramento-San Joaquin Delta to
25 reproduce after maturing in San Francisco Bay or the Pacific
26 Ocean;

27 (b) the terms "artificial propagation" and "artificial
28 production" mean spawning, incubating, hatching, and rearing fish
29 in a hatchery or other facility constructed for fish production;

30 (c) the term "Central Valley Habitat Joint Venture" means
31 the association of Federal and State agencies and private parties
32 established for the purpose of developing and implementing the
33 North American Waterfowl Management Plan as it pertains to the
34 Central Valley of California;

35 (d) the terms "Central Valley Project" or "project" mean
36 all Federal reclamation projects located within or diverting
37 water from or to the watershed of the Sacramento and San Joaquin
38 rivers and their tributaries as authorized by the Act of August
39 26, 1937 (50 Stat. 850) and all Acts amendatory or supplemental
40 thereto, including but not limited to the Act of October 17, 1940
41 (54 Stat. 1198, 1199), Act of December 22, 1944 (58 Stat. 887),
42 Act of October 14, 1949 (63 Stat. 852), Act of September 26,
43 1950 (64 Stat. 1036), Act of August 27, 1954 (68 Stat. 879), Act
44 of August 12, 1955 (69 Stat. 719), Act of June 3, 1960 (74 Stat.
45 156), Act of October 23, 1962 (76 Stat. 1173), Act of September
46 2, 1965 (79 Stat. 615), Act of August 19, 1967 (81 Stat. 167),
47 Act of August 27, 1967 (81 Stat. 173), Act of September 28, 1976
48 (90 Stat. 1324) and Act of October 27, 1986 (100 Stat. 3050);

1 (e) the term "Central Valley Project service area" means
2 that area of the Central Valley and San Francisco Bay Area where
3 water service has been expressly authorized pursuant to the
4 various feasibility studies and consequent congressional
5 authorizations for the Central Valley Project;

6 (f) the term "Central Valley Project water" means all water
7 that is diverted, stored, or delivered by the Bureau of
8 Reclamation pursuant to water rights acquired pursuant to
9 California law, including water made available under the so-
10 called "exchange contracts" and Sacramento River settlement
11 contracts;

12 (g) the term "Fish and Wildlife Advisory Committee" means
13 the Central Valley Project Fish and Wildlife Advisory Committee
14 established in Section 11 of this Act;

15 (h) the term "full cost" has the meaning given such term in
16 paragraph (3) of section 202 of the Reclamation Reform Act of
17 1982;

18 (i) the term "natural production" means fish produced to
19 adulthood without direct human intervention in the spawning,
20 rearing, or migration processes;

21 (j) the term "Reclamation laws" means the Act of June 17,
22 1902 (82 Stat. 388) and all Acts amendatory thereof or
23 supplemental thereto;

24 (k) the term "Refuge Water Supply Report" means the report
25 issued by the Mid-Pacific Region of the Bureau of Reclamation of
26 the U.S. Department of the Interior entitled Report on Refuge
27 Water Supply Investigations, Central Valley Hydrologic Basin,
28 California (March 1989);

29 (l) the terms "repayment contract" and "water service
30 contract" have the same meaning as provided in sections 9(d) and
31 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195)
32 as amended;

33 (m) the terms "Restoration Fund" and "Fund" mean the Central
34 Valley Project Restoration Fund established by this Act; and,

35 (f) the term "Secretary" means the Secretary of the
36 Interior.

37 **SEC. 4. LIMITATION ON CONTRACTING.**

38 (a) NEW CONTRACTS--Except as provided in subsection (b) of
39 this section, the Secretary shall not enter into any new short-
40 term, temporary, or long-term contracts or agreements for water
41 supply from the Central Valley Project for any purpose other than
42 fish and wildlife before:

43 (1) the provisions of subsections 6(b)-(e) of this Act
44 are met;

45 (2) the California State Water Resources Control Board
46 concludes its current review of San Francisco
47 Bay/Sacramento-San Joaquin Delta Estuary water quality
48 standards and determines the means of implementing such
49 standards, including any obligations of the Central Valley
50 Project, if any, and the Administrator of the Environmental
51 Projection Agency shall have approved such standards
52 pursuant to existing authorities; and,

1 (3) at least one hundred and twenty days shall have
2 passed after the Secretary provides a report to the
3 Committee on Energy and Natural Resources of the Senate and
4 the Committee on Interior and Insular Affairs of the House
5 of Representatives explaining the obligations, if any, of
6 the Central Valley Project system, including its component
7 facilities and contracts, with regard to achieving San
8 Francisco Bay/Sacramento-San Joaquin Delta Estuary water
9 quality standards as finally established and approved by
10 relevant State and Federal authorities, and the impact of
11 such obligations on Central Valley Project operations,
12 supplies, and commitments.

13 (b) EXCEPTION TO LIMIT ON NEW CONTRACTS -- In recognition
14 of water shortages facing urban areas of California, and
15 subsection (a) of this section notwithstanding, the Secretary is
16 authorized to make available 100,000 acre-feet of Central Valley
17 Project water for sale through water service contracts not to
18 exceed twenty years in length to any California water district,
19 agency, member district or agency, municipality, or publicly
20 regulated water utility, without discrimination among them, for
21 municipal and industrial purposes, except that no water shall be
22 made available under this subsection until the State of
23 California has entered into a binding agreement with the
24 Secretary concerning the cost allocations set forth in section 6
25 of this Act. In carrying out this subsection, the Secretary
26 shall:

27 (1) provide public notice of the availability of such
28 water and be available to receive offers for such water for
29 a period not to exceed one week in duration beginning not
30 less than sixty days after enactment of this Act;

31 (2) make all such offers public immediately upon
32 completion of the period for submission of bids established
33 under paragraph (1) of this subsection;

34 (3) take such measures as are necessary to ensure that
35 prospective agency purchasers do not engage in anti-
36 competitive behavior;

37 (4) accept the offers of the water agency or agencies
38 offering the greatest monetary payments per acre-foot of
39 water made available by the Secretary, except that:

40 (A) such payment must be greater than \$100 per
41 acre-foot of contractual commitment annually and, in
42 addition, cover all Federal costs associated with the
43 proposed sale and delivery;

44 (B) delivery under the contract must be feasible
45 using existing facilities; and

46 (C) the proposed use of the water must be
47 consistent with State law.

48 All revenues collected by the Secretary from the contract or
49 contracts authorized by this subsection, other than actual
50 operation and maintenance costs, shall be covered into the
51 Restoration Fund.

52 (c) RENEWAL OF EXISTING LONG-TERM CONTRACTS -- The

1 Secretary may renew any existing long-term repayment or water
2 service contract for the delivery of water from the Central
3 Valley Project for a period not exceeding 20 years, except that
4 the Secretary shall first analyze the direct, indirect, and
5 cumulative impacts of such proposed contract pursuant to the
6 Federal environmental laws and comply with applicable State
7 environmental laws.

8 (d) ENVIRONMENTAL REVIEW OF PROPOSED CONTRACT RENEWALS --
9 Not later than three years after the date of enactment of this
10 Act, the Secretary shall prepare a programmatic environmental
11 impact statement analyzing the direct, indirect, and cumulative
12 impacts of the potential renewal of all existing Central Valley
13 Project water contracts, including impacts within the Sacramento,
14 San Joaquin, and Trinity river basins, and the San Francisco
15 Bay/Sacramento-San Joaquin river Delta Estuary.

16 SEC. 5. WATER TRANSFERS, IMPROVED WATER MANAGEMENT AND
17 CONSERVATION.

18 (a) VOLUNTARY WATER TRANSFERS PERMITTED UNDER STATE LAW --
19 All Central Valley Project water service or repayment contracts
20 for agricultural, municipal, or industrial purposes that are
21 entered into, renewed, or amended under any provision of Federal
22 Reclamation law after the date of enactment of this Act, shall
23 provide that all water subject to the contract may be transferred
24 by contractors or water users pursuant to applicable State law to
25 any other California water user or water agency, State agency, or
26 private non-profit organization for project purposes or any
27 purpose recognized as beneficial under applicable State law.
28 Except as provided herein or as required by applicable State law,
29 the terms of such transfers shall be set by mutual agreement
30 between the transferee and the transferor. The contract shall
31 also provide that:

32 (1) no transfers shall be made in excess of the
33 average annual quantity of water under contract actually
34 delivered to the contracting district or agency between 1985
35 and 1989;

36 (2) all water under the contract which is transferred
37 to any district or agency which is not a Central Valley
38 Project contractor at the time of enactment of this Act
39 shall, if used for irrigation purposes, be repaid at the
40 greater of the full-cost or cost of service rates, or, if
41 the water is used for municipal and industrial purposes, at
42 the greater of the cost of service or municipal and
43 industrial rates;

44 (3) 25 percent of the annual net proceeds resulting
45 from any transfer to any district or agency which is outside
46 the Central Valley Project service area shall be deposited
47 in the Restoration Fund, or that 25 percent of the water
48 subject to the transfer shall be retained by the Secretary
49 for implementation of the fish and wildlife restoration,
50 protection, or enhancement measures identified in section 6
51 of this Act. As used in this paragraph, the term "net
52 proceeds" means the difference between the price paid by the

1 contractor to the Secretary for the water subject to the
2 transfer and the price paid by the transferee to the
3 transferor for the water subject to the transfer. The
4 Secretary is authorized to enter into an agreement with the
5 State of California to provide up to one-half of all
6 revenues collected under this paragraph to the State to be
7 used by local governmental entities in the Central Valley
8 Project service area to address adverse social and economic
9 consequences, if any, resulting from water transfers
10 authorized by this subsection;

11 (b) METERING OF WATER USE REQUIRED -- All Central Valley
12 Project water service or repayment contracts for agricultural,
13 municipal, or industrial purposes that are entered into, renewed,
14 or amended under any provision of Federal Reclamation law after
15 the date of enactment of this Act, shall provide that the
16 contracting district or agency shall ensure that all existing
17 groundwater pumps and surface water delivery systems within its
18 boundaries are equipped with volumetric water meters within five
19 years of the date of contract execution, amendment, or renewal,
20 and that any new groundwater pumps and surface water delivery
21 systems installed within its boundaries on or after the date of
22 contract renewal is so equipped. The contracting district or
23 agency shall inform the Secretary and the State of California
24 annually as to the volume of groundwater pumped and surface water
25 delivered within its boundaries;

26 (c) STATE AND FEDERAL WATER QUALITY STANDARDS -- All
27 Central Valley Project water service or repayment contracts for
28 agricultural, municipal, or industrial purposes that are entered
29 into, renewed, or amended under any provision of Federal
30 Reclamation law after the date of enactment of this Act, shall
31 provide that the contracting district or agency shall be
32 responsible for compliance with all applicable State and Federal
33 water quality standards applicable to surface and subsurface
34 agricultural drainage discharges generated within its boundaries;

35 (d) WATER PRICING REFORM -- All Central Valley Project
36 water service or repayment contracts for agricultural, municipal,
37 or industrial purposes that are entered into, renewed, or amended
38 under any provision of Federal Reclamation law after the date of
39 enactment of this Act, shall provide that all project water
40 subject to contract shall be made available to districts,
41 agencies, and other contracting entities pursuant to a system of
42 tiered water pricing. Such a system shall specify rates for each
43 district, agency or entity based on an inverted block rate
44 structure with the following provisions:

45 (1) the first rate tier shall apply to a quantity of
46 water up to 60 percent of the contract total and shall be
47 not less than the applicable contract rate;

48 (2) the second rate tier shall apply to that quantity
49 of water over 60 percent and under 80 percent of the
50 contract total at a level halfway between the rates
51 established under paragraphs (1) and (3) of this subsection;

52 (3) the third rate tier shall apply to that quantity of

1 water over 80 percent of the contract total and shall not be
2 less than full cost;

3 (4) rates shall be adjusted annually for inflation;
4 and,

5 (5) the Secretary shall charge contractors only for
6 water actually delivered.

7 (e) WATER CONSERVATION STANDARDS AND FINANCIAL ASSISTANCE--

8 All Central Valley Project water service or repayment contracts
9 for agricultural, municipal, or industrial purposes that are
10 entered into, renewed, or amended under any provision of Federal
11 Reclamation law after the date of enactment of this Act, shall
12 provide that, in addition to the duties and authorities contained
13 in section 210 of the Reclamation Reform Act of 1982, and in
14 furtherance of the purposes and provisions of that section, the
15 Secretary shall establish and administer an office on Central
16 Valley Project water conservation best management practices that
17 shall, in consultation with the Secretary of Agriculture, the
18 California Department of Water Resources, California academic
19 institutions, and Central Valley Project water users, develop
20 criteria for evaluating the adequacy of all water conservation
21 plans developed by project contractors, including those plans
22 required by section 210 of the Reclamation Reform Act of 1982.

23 (1) Criteria developed pursuant to this subsection
24 shall be established within six months following enactment
25 of this Act and shall be reviewed periodically thereafter,
26 but no less than every three years, with the purpose of
27 promoting the highest level of water use efficiency
28 achievable by project contractors. The criteria shall
29 include, but not be limited to the agricultural water
30 suppliers efficient water management practices developed
31 under California Assembly Bill 3616 (1990) or alternatives
32 to the following practices which will provide equivalent net
33 water use reductions or other conservation-related benefits:

34 (A) metering of water to all customers;

35 (B) elimination of declining block rate schedules
36 from any system of water delivery or
37 drainage/wastewater treatment charges;

38 (C) establishment of water rates and charges that
39 yield not more than 25 percent of water service
40 revenues from fixed charges unrelated to customer's
41 metered water use;

42 (D) a program of leak detection and repair that
43 provides for the inspection of all conveyance and
44 distribution mains, and performance of repairs, at
45 intervals of three years or less.

46 (2) The Secretary, through the office established
47 under this subsection, shall review and evaluate within 18
48 months following enactment of this Act all existing
49 conservation plans submitted by project contractors to
50 determine whether they meet the conservation and efficiency
51 criteria established pursuant to this subsection.

52 (3) In developing the water conservation best

1 management practice criteria required by this subsection,
2 the Secretary shall take into account and grant substantial
3 deference to the recommendations for action proposed in the
4 Final Report of the San Joaquin Valley Drainage Program,
5 entitled A Management Plan for Agricultural Subsurface
6 Drainage and Related Problems on the Westside San Joaquin
7 Valley (September 1990).

8 (4) The Secretary is authorized to pay 70 percent of
9 the costs incurred by Central Valley Project irrigation
10 contractors for the purpose of implementing the water
11 conservation projects or measures required under this
12 subsection. Such assistance shall be made available by
13 adjustment of water prices. Such assistance is subject to
14 the following conditions:

15 (A) the water conservation project or measures
16 must be implemented fully by December 31, 1996; and

17 (B) the water conservation projects or measures
18 shall be contained in a water conservation plan
19 approved by the Secretary pursuant to this subsection.

20 (f) INCREASED REVENUES APPLIED TO REIMBURSABLE COSTS --
21 Except as otherwise provided in this section, all revenues
22 received by the Secretary under paragraph (a)(3) of this section,
23 and all increased revenues received by the Secretary as a result
24 of the increased water prices established under subsection (d) of
25 this section shall be covered to the Restoration Fund and, to the
26 extent that such funds are actually expended, credited toward the
27 reimbursable fish, wildlife, and habitat restoration costs
28 established under section 6 of this Act.

29 **SEC. 6. FISH, WILDLIFE AND HABITAT RESTORATION.**

30 (a) GENERAL AUTHORITY -- In furtherance of and in addition
31 to the purposes and provisions of the Act of August 26, 1937 (50
32 Stat. 844, 850) and all other acts supplemental thereto or
33 amendatory thereof, the Secretary is authorized and directed to
34 operate the Central Valley Project to protect, restore and
35 enhance fish, wildlife, and associated habitats, and to provide
36 equitable treatment for fish, wildlife, and related habitats with
37 the other primary purposes for which the project is authorized to
38 be operated.

39 (b) FISH AND WILDLIFE RESTORATION ACTIVITIES -- The
40 Secretary, in consultation with the Central Valley Project Fish
41 and Wildlife Advisory Committee established under section 11 of
42 this Act (hereafter "Fish and Wildlife Advisory Committee"), is
43 authorized and directed to:

44 (1) develop and implement a program which strives to
45 ensure that, by the year 2002, natural production of
46 anadromous fish in Central Valley rivers and streams will be
47 sustained, on a long-term basis, at levels not less than
48 twice the average levels attained during the period of 1981-
49 1990.

50 (A) This program shall give first priority to
51 measures which protect and restore natural channel and
52 riparian habitat values through direct and indirect

1 habitat restoration actions, modifications to Central
2 Valley Project operations, and implementation of the
3 measures mandated by this subsection.

4 (B) As needed to achieve the goals of the
5 program, the Secretary is authorized to modify Central
6 Valley Project operations to provide from project
7 facilities flows of suitable quality, quantity, and
8 timing to protect all life stages of anadromous fish,
9 except that water used to provide such flows shall be
10 provided from the quantity of water dedicated to fish,
11 wildlife, and habitat restoration purposes under
12 paragraph (2) of this subsection or from other sources
13 which do not conflict with fulfillment of the
14 Secretary's contractual obligations to provide water
15 for irrigation or municipal and industrial purposes.

16 (C) With respect to mitigation, restoration, or
17 enhancement of upper San Joaquin River fish, wildlife,
18 and habitat, the Secretary is directed to participate
19 in the San Joaquin River Management Program under
20 development by the State of California. In support of
21 the objectives of the San Joaquin river Management
22 Program and the Stanislaus and Calaveras Basin
23 Environmental Impact Statement, and in furtherance of
24 the purposes of this Act, the Secretary, in
25 consultation with the Fish and Wildlife Advisory
26 Committee and affected counties and interests, shall
27 evaluate in-basin needs in the Stanislaus River basin,
28 and shall investigate alternative storage, release, and
29 delivery regimes for satisfying both in-basin and out-
30 of-basin needs. Alternatives to be investigated shall
31 include, but shall not be limited to, conjunctive use
32 operations, conservation strategies, exchange
33 arrangements, and the use of base and channel
34 maintenance flows to assist in efforts to restore fish
35 and wildlife populations and riparian habitat values in
36 the San Joaquin River.

37 (D) Costs associated with this paragraph shall be
38 reimbursable pursuant to existing statutory and
39 regulatory procedures;

40 (2) upon enactment of this Act, assign to 1.5 million
41 acre-feet of project yield the primary purpose of
42 implementing the fish, wildlife, and habitat restoration
43 purposes and measures authorized by this Act, except that
44 such quantity of water shall be in addition to the water
45 required to implement paragraphs b(6) and b(9), and
46 subparagraph b(16)(A) of this section. If requested by the
47 State of California within one year after enactment of this
48 Act, the Secretary shall place such water under contract,
49 not to exceed 20 years in length, with the State of
50 California. The contract shall provide that such water
51 shall be managed by the State in consultation with the
52 Secretary and the Fish and Wildlife Advisory Committee for

1 the primary purpose of implementing the fish, wildlife, and
2 habitat restoration purposes and measures of this Act. The
3 contract shall provide for termination by the Secretary if,
4 in the Secretary's determination, water under the contract
5 is not managed for such purposes and measures. In the event
6 that the State of California does not enter into a contract
7 under this paragraph, the Secretary shall manage such water
8 in consultation with the Fish and Wildlife Advisory
9 Committee. The Secretary may temporarily reduce fish,
10 wildlife, and habitat water supplies provided under this
11 subsection, including the water required to implement
12 paragraphs b(6) and b(9), and subparagraph b(16)(A) of this
13 section, because of weather or hydrologic conditions only
14 when reductions are imposed on deliveries of Central Valley
15 Project water, and only by the same percentage as the
16 smallest percentage by which the Secretary reduces
17 deliveries;

18 (3) develop and implement a program to mitigate fully
19 for fishery impacts associated with operations of the Tracy
20 Pumping Plant. Such program shall include, but is not
21 limited to improvement or replacement of the fish screens
22 and fish recovery facilities and practices associated with
23 the Tracy Pumping Plant. Costs associated with this
24 paragraph shall be reimbursable pursuant to existing
25 statutory and regulatory procedures;

26 (4) develop and implement a program to mitigate fully
27 for fishery impacts resulting from operations of the Contra
28 Costa Canal Pumping Plant No. 1. Such program shall provide
29 for construction and operation of fish screening and
30 recovery facilities, and for modified practices and
31 operations. Costs associated with this paragraph shall be
32 reimbursable pursuant to existing statutory and regulatory
33 procedures;

34 (5) install and operate a structural temperature
35 control device at Shasta Dam to control water temperatures
36 in the Upper Sacramento River in order to protect all life
37 stages of anadromous fish in the Upper Sacramento River from
38 Keswick Dam to Red Bluff Diversion Dam. Costs associated
39 with planning and construction of the structural temperature
40 control device shall be reimbursable pursuant to existing
41 statutory and regulatory procedures;

42 (6) meet flow standards and objectives and diversion
43 limits set forth in all existing State regulatory and
44 judicial decisions which apply to Central Valley Project
45 facilities;

46 (7) investigate the feasibility of using short pulses
47 of increased water flows to increase the survival of
48 migrating juvenile anadromous fish in the Sacramento-San
49 Joaquin Delta and Central Valley rivers and streams. Costs
50 associated with implementation of this subparagraph shall be
51 reimbursable pursuant to existing statutory and regulatory
52 procedures;

1 (8) develop and implement a program which will
2 eliminate, to the extent possible, losses of anadromous fish
3 due to flow fluctuations caused by the operation of any
4 Central Valley Project storage facility. The program shall
5 be patterned after the agreement between the California
6 Department of Water Resources and the California Department
7 of Fish and Game with respect to the operation of the
8 California State Water Project Oroville Dam complex;

9 (9) provide through the Trinity River Division, for
10 water years 1992 through 1996, an instream release of water
11 to the Trinity River for the purposes of fishery
12 restoration, propagation, and maintenance of not less than
13 340,000 acre-feet per year, and,

14 (A) by September 30, 1996, the Secretary, with
15 the full participation of the Hoopa Valley Tribe, shall
16 complete the Trinity River Flow Evaluation Study
17 currently being conducted by the U.S. Fish and Wildlife
18 Service under the mandate of the Secretarial Decision
19 of January 14, 1981, in a manner which insures the
20 development of recommendations, based on the best
21 available scientific data, regarding permanent instream
22 fishery flow requirements and Trinity River Division
23 operating criteria and procedures for the restoration
24 and maintenance of the Trinity River fishery; and

25 (B) not later than December 31, 1996, the
26 Secretary shall forward the recommendations of the
27 Trinity River Flow Evaluation Study, referred to in
28 subparagraph (A) of this paragraph, to the Committee on
29 Energy and Natural Resources and the Select Committee
30 on Indian Affairs of the Senate and the Committee on
31 Interior and Insular Affairs of the House of
32 Representatives. If the Secretary and the Hoopa Valley
33 Tribe concur in these recommendations, any increase to
34 the minimum Trinity River instream fishery releases
35 established under this paragraph and the operating
36 criteria and procedures referred to in subparagraph (A)
37 shall be implemented accordingly. If the Hoopa Valley
38 Tribe and the Secretary do not concur, the minimum
39 Trinity River instream fishery releases established
40 under this paragraph shall remain in effect unless
41 increased by an Act of Congress, appropriate judicial
42 decree, or agreement between the Secretary and the
43 Hoopa Valley Tribe. Costs associated with
44 implementation of this paragraph shall be reimbursable
45 as operation and maintenance expenditures pursuant to
46 existing statutory and regulatory procedures;

47 (10) develop and implement measures to correct fish
48 passage problems for adult and juvenile anadromous fish at
49 the Red Bluff Diversion Dam. Costs associated with
50 implementation of this paragraph shall be reimbursable
51 pursuant to existing statutory and regulatory procedures;

52 (11) rehabilitate and expand the Coleman National Fish

1 Hatchery by implementing the U.S. Fish and Wildlife
2 Service's Coleman National Fish Hatchery Development Plan,
3 and modify the Keswick Dam Fish Trap to provide for its
4 efficient operation at all project flow release levels. The
5 operation of Coleman National Fish Hatchery shall be
6 coordinated with all other mitigation hatcheries in
7 California. Costs associated with implementation of this
8 paragraph shall be reimbursable pursuant to existing
9 statutory and regulatory procedures;

10 (12) develop and implement a program to restore the
11 natural channel and habitat values of Clear Creek, construct
12 new fish passage facilities at the McCormick-Saeltzer Dam,
13 and provide flows in Clear Creek to provide optimum
14 spawning, incubation, rearing and outmigration conditions
15 for all races of salmon and steelhead trout. Flows shall be
16 provided by the Secretary from Whiskeytown Dam as determined
17 by instream flow studies conducted jointly by the California
18 Department of Fish and Game and U.S. Fish and Wildlife
19 Service. Costs associated with providing the flows required
20 by this paragraph shall be reimbursable pursuant to existing
21 statutory and regulatory procedures. Costs associated with
22 channel restoration and passage improvements required by
23 this paragraph shall be allocated 50 percent to the United
24 States as a non-reimbursable expenditure and 50 percent to
25 the State of California;

26 (13) develop and implement a program for the purpose of
27 restoring and replenishing, as needed, spawning gravels lost
28 due to the construction and operation of Central Valley
29 Project dams, bank protection programs, and other actions
30 that have reduced the availability of spawning gravels in
31 the rivers impounded by Central Valley Project facilities.
32 37.5 percent of the costs associated with implementation of
33 this paragraph shall be reimbursable expenditures, 37.5
34 percent shall be considered a non-reimbursable Federal
35 expenditure, and 25 percent shall be paid by the State of
36 California;

37 (14) develop and implement a program which provides, as
38 appropriate, for closure of the Delta Cross Channel and
39 Georgiana Slough during times when significant numbers of
40 striped bass eggs, larvae, and juveniles approach the
41 Sacramento River intake to the Delta Cross Channel or
42 Georgiana Slough. Costs associated with implementation of
43 this paragraph shall be reimbursable pursuant to existing
44 statutory and regulatory procedures;

45 (15) construct, in cooperation with the State of
46 California, a barrier at the head of Old River to be
47 operated on a seasonal basis to increase the survival of
48 young outmigrating salmon that are diverted from the San
49 Joaquin River to Central Valley Project and State Water
50 Project pumping plants. The cost of constructing, operating
51 and maintaining the barrier shall be shared equally by the
52 State of California and the United States. The United

1 States share of costs associated with implementation of this
2 paragraph shall be reimbursable pursuant to existing
3 statutory and regulatory procedures;

4 (16) in support of the objectives of the Central Valley
5 Habitat Joint Venture, deliver firm water supplies of
6 suitable quality to maintain and improve wetland habitat on
7 units of the National Wildlife Refuge System in the Central
8 Valley of California, the Gray Lodge, Los Banos, Volta,
9 North Grasslands, and Mendota state wildlife management
10 areas, and the Grasslands Resource Conservation District in
11 the Central Valley of California;

12 (A) Upon enactment of this Act, the quantity and
13 delivery schedules of water for each refuge shall be in
14 accordance with Level 2 of the "Dependable Water Supply
15 Needs" table for that refuge as set forth in the Refuge
16 Water Supply Report or two-thirds of the water supply
17 needed for full habitat development for those refuges
18 identified in the San Joaquin Basin Action
19 Plan/Kesterson Mitigation Action Plan Report prepared
20 by the Bureau of Reclamation. Such water shall be
21 delivered until the water supply provided for in
22 subparagraph (B) of this paragraph is provided;

23 (B) Not later than ten years after enactment of
24 this Act, the quantity and delivery schedules of water
25 for each refuge shall be in accordance with Level 4 of
26 the "Dependable Water Supply Needs" table for that
27 refuge as set forth in the Refuge Water Supply Report
28 or the full water supply needed for full habitat
29 development for those refuges identified in the San
30 Joaquin Basin Action Plan/Kesterson Mitigation Action
31 Plan Report prepared by the Bureau of Reclamation. 37.5
32 percent of the costs associated with implementation of
33 this paragraph shall be reimbursable, 37.5 percent shall
34 be considered a non-reimbursable Federal expenditure,
35 and 25 percent shall be paid by the State of
36 California;

37 (C) The Secretary is authorized to construct such
38 water conveyance facilities and wells as are necessary
39 to implement this paragraph. The increment of water
40 required to fulfill subparagraph (B) of this paragraph
41 shall be acquired by the Secretary through voluntary
42 water conservation, conjunctive use, purchase, lease,
43 donations, or similar activities, or a combination of
44 such activities which do not require involuntary
45 reallocation of project yield. The priority or
46 priorities applicable to such incremental water
47 deliveries for the purpose of shortage allocation shall
48 be the priority or priorities which applied to the
49 water in question prior to its transfer to the purpose
50 of providing such increment;

51 (17) establish a comprehensive assessment program to
52 monitor fish and wildlife resources in the Central Valley

1 and to assess the biological results of actions implemented
2 pursuant to this section. 37.5 percent of the costs
3 associated with implementation of this paragraph shall be
4 reimbursable, 37.5 percent shall be considered a non-
5 reimbursable Federal expenditure, and 25 percent shall be
6 paid by the State of California;

7 (18) develop and implement a plan to resolve fishery
8 passage problems at the Anderson-Cottonwood Irrigation
9 District Diversion Dam. Costs associated with
10 implementation of this paragraph shall be allocated 50
11 percent to the United States as a non-reimbursable
12 expenditure and 50 percent to the State of California;

13 (19) if requested by the State of California, assist in
14 developing and implementing management measures to restore
15 the striped bass fishery of the Bay-Delta estuary. Costs
16 associated with implementation of this paragraph shall be
17 allocated 50 percent to the United States as a reimbursable
18 expenditure and 50 percent to the State of California; and

19 (20) evaluate and revise, as appropriate, existing
20 operational criteria in order to maintain minimum carryover
21 storage at Sacramento and Trinity river reservoirs
22 sufficient to protect and restore the anadromous fish of the
23 Sacramento and Trinity rivers in accordance with the
24 mandates and requirements of this subsection.

25 If the Secretary and the State of California determine that long-
26 term natural fishery productivity in the Sacramento River,
27 American River, and San Joaquin River resulting from
28 implementation of this section is better than conditions that
29 existed in the absence of Central Valley Project facilities, any
30 enhancement provided shall become credits to offset reimbursable
31 costs associated with implementation of this section.

32 (c) ADDITIONAL HABITAT RESTORATION ACTIONS -- Not later than
33 five years after enactment of this Act, the Fish and Wildlife
34 Advisory Committee shall investigate and provide recommendations
35 to the Committee on Energy and Natural Resources of the Senate
36 and the Committee on Interior and Insular Affairs of the House on
37 the following subjects:

38 (1) alternative means of improving the reliability and
39 quality of water supplies currently available to privately
40 owned wetlands in the Central Valley and the need, if any,
41 for additional supplies;

42 (2) water supply and delivery requirements necessary
43 to permit full habitat development for water dependent
44 wildlife on 120,000 acres supplemental to the acreage
45 referenced in paragraph (b)(16) of this section and feasible
46 means of meeting that water supply requirement;

47 (3) measures to maintain suitable temperatures for
48 anadromous fish survival in the Sacramento and San Joaquin
49 rivers and their tributaries, and the Sacramento-San Joaquin
50 Delta by controlling or relocating the discharge of
51 irrigation return flows and sewage effluent, and restoring
52 riparian forests;

1 (4) opportunities for additional hatchery production
2 to mitigate the impacts of water development on Central
3 Valley fisheries where no other feasible means of mitigation
4 is available;

5 (5) measures to eliminate losses of juvenile
6 anadromous fish resulting from unscreened or inadequately
7 screened diversions on the Sacramento and San Joaquin
8 rivers, their tributaries, and in the Sacramento-San Joaquin
9 Delta, including measures such as construction of screens on
10 unscreened diversions, rehabilitation of existing screens,
11 replacement of existing non-functioning screens, and
12 relocation of diversions to less fishery-sensitive areas;

13 (6) measures to eliminate barriers to upstream
14 migration of adult salmonids in the Central Valley,
15 including removal programs or programs for the construction
16 of new fish ladders; and

17 (7) construction of temperature control structures on
18 Trinity, Lewiston, and Whiskeytown dams to conserve cold
19 water for fishery protection.

20 (d) REPORT ON PROJECT FISHERY IMPACTS -- The Secretary, in
21 consultation with the Secretary of Commerce, the State of
22 California, appropriate Indian tribes, and other appropriate
23 public and private entities, shall investigate and report on all
24 effects of the Central Valley Project on anadromous fish
25 populations and the fisheries, communities, tribes, businesses
26 and other interests and entities that have now or in the past had
27 significant economic, social or cultural association with those
28 fishery resources. The Secretary shall provide such report to
29 the Committee on Energy and Natural Resources of the Senate and
30 the Committee on Interior and Insular Affairs of the House of
31 Representatives not later than one year after the date of
32 enactment of this Act.

33 (e) ECOSYSTEM AND WATER SYSTEM OPERATIONS MODELS -- The
34 Secretary, in cooperation with the State of California and in
35 consultation with the Fish and Wildlife Advisory Committee, and
36 other relevant interests and experts, shall develop readily
37 usable and broadly available models and supporting data to
38 evaluate the ecologic and hydrologic effects of existing and
39 alternative operations of public and private water facilities and
40 systems in the Sacramento, San Joaquin, and Trinity river
41 watersheds. The primary purpose of this effort shall be to
42 support the Secretary's efforts in fulfilling the requirements of
43 this Act through improved scientific understanding concerning,
44 but not limited to, the following:

45 (1) a comprehensive water budget of surface and
46 groundwater supplies, considering all sources of inflow and
47 outflow available over extended periods;

48 (2) water quality;

49 (3) surface-ground and stream-wetland interactions;

50 (4) measures needed to restore anadromous fisheries to
51 optimum and sustainable levels in accordance with the
52 restored carrying capacities of Central Valley rivers,

1 streams, and riparian habitats;

2 (5) development and use of base flows and channel
3 maintenance flows to protect and restore natural channel and
4 riparian habitat values;

5 (6) implementation of operational regimes at State and
6 Federal facilities to increase springtime flow releases,
7 retain additional floodwaters, and assist in restoring both
8 upriver and downriver riparian habitats;

9 (7) measures designed to reach sustainable harvest
10 levels of resident and anadromous fish, including
11 development and use of systems of tradeable harvest rights;

12 (8) opportunities to protect and restore wetland and
13 upland habitats throughout the Central Valley;

14 (9) use of alternative water diversion methods and
15 facilities, including isolated facilities, for exports from
16 the Sacramento-San Joaquin Delta; and

17 (10) measures to enhance the firm yield of existing
18 Central Valley Project facilities, including improved
19 management and operations, conjunctive use opportunities,
20 development of offstream storage, levee setbacks, and
21 riparian restoration.

22 In implementing this subsection, all studies and investigations
23 shall take into account and be fully consistent with the fish,
24 wildlife, and habitat protection and restoration measures
25 required by this Act or by any other state or federal law,
26 statute, or regulation. One half of the costs associated with
27 implementation of this subsection shall be borne by the United
28 States as a non-reimbursable cost, the other half shall be borne
29 by the State of California.

30 **SEC. 7. COST FOR DELIVERY OF PROJECT WATER USED TO PRODUCE CROPS**
31 **OF CERTAIN COMMODITIES.**

32 (a) FULL COST CHARGE FOR CERTAIN PROJECT WATER USED TO GROW
33 COMMODITY CROPS IN SURPLUS -- Commencing in the water year
34 following the year in which this Act is enacted, the Secretary
35 shall charge full cost for the delivery of Central Valley Project
36 water, other than water delivered under a water rights or
37 exchange contract, used in the production of any crop of an
38 agricultural commodity for which an acreage reduction program is
39 in effect under the provisions of the Agricultural Act of 1949,
40 unless the Secretary of Agriculture determines before December 1
41 for the following 12-month period, and notifies the Committees on
42 Agriculture, Nutrition, and Forestry and Energy and Natural
43 Resources of the Senate and the Committees on Agriculture and
44 Interior and Insular Affairs of the House of Representatives that
45 the domestic stocks of the program commodity are inadequate to
46 provide for a reserve that can reasonably be expected to meet a
47 shortage caused by foreseeable disruptions in the supply of the
48 commodity. The Secretary shall not apply the charge required by
49 this subsection to any contracting district or agency in any year
50 in which that agency or district contributes to the State of
51 California a sum equal to 75 percent of that portion of the
52 charge which represents the difference between the contract rate

1 and full cost rate; Provided, That the State of California must
2 commit all such contributions to fulfilling the State's cost-
3 sharing responsibilities under section 6 of this Act or, if such
4 contributions exceed the State's cost-sharing obligations, to
5 projects that operate to support and supplement the Secretary's
6 efforts to implement the fish, wildlife, and habitat restoration
7 activities for which the Secretary is responsible. All such sums
8 expended by the State of California under this section shall be
9 credited toward the State's cost-sharing responsibilities under
10 section 6 of this Act.

11 (b) WATER SHORTAGES ALLOCATED TO CERTAIN PROJECT WATER USED
12 TO GROW COMMODITY CROPS IN SURPLUS -- Commencing in the water
13 year following the year in which this Act is enacted, when
14 hydrologic or weather conditions, such as drought, are deemed by
15 the Secretary to necessitate reductions in contract deliveries of
16 Central Valley Project water, the Secretary shall allocate
17 reductions first to contracting districts or agencies by amounts
18 which equal the amount of Central Valley Project water, other
19 than water delivered under a water rights or exchange contract,
20 used in the district or agency in the preceding water year to
21 produce crops of an agricultural commodity for which an acreage
22 reduction program is in effect under the provisions of the
23 Agricultural Act of 1949.

24 **SEC. 8. RESTORATION FUND.**

25 (a) RESTORATION FUND ESTABLISHED -- There is hereby
26 established in the Treasury of the United States the "Central
27 Valley Project Restoration Fund" (hereafter "Restoration Fund")
28 which shall be available for deposit of donations from any source
29 and revenues provided under this Act. The Secretary shall use
30 funds deposited in the Central Valley Project Restoration Fund to
31 implement the fish, wildlife, and habitat restoration measures
32 identified in section 6 of this Act.

33 (b) MAXIMUM SURCHARGE ON WATER AND POWER SALES -- The
34 Secretary shall impose an annual operations and maintenance
35 charge on all sales of project power and water sufficient to
36 generate \$30,000,000 (October 1991 price levels) to be deposited
37 in the Restoration Fund. The charge shall be added to the costs
38 of Central Valley Project water and power sales in a manner that
39 results in rate increases of equal proportion as measured against
40 total revenues received annually from each sector.

41 (c) FUNDING TO NON-FEDERAL ENTITIES -- If the Secretary
42 determines that the State of California or an agency thereof, or
43 other non-profit entity concerned with restoration, protection,
44 or enhancement of fish, wildlife, habitat, or environmental
45 values is best able to implement an action authorized by this Act
46 in an efficient, timely, and cost effective manner, the Secretary
47 is authorized to provide funding to such entity to implement the
48 identified action. In addition, the Secretary is authorized to
49 use the Restoration Fund to provide grants or reimbursements to
50 not-for-profit entities for activities that will help to:

51 (1) protect or restore the Central Valley's biological
52 diversity, including its rare species, plant and animal

1 communities, and large-scale natural ecosystems:

2 (2) support or supplement the Secretary's efforts to
3 implement the fish and wildlife restoration activities for
4 which the Secretary is responsible under section 6 of this
5 Act;

6 (3) improve and protect habitat conditions for
7 anadromous fish or waterfowl in the Central Valley; or

8 (4) achieve appropriate farmland conversion and
9 related land-use modifications in support of subparagraphs
10 (1) through (3) of this paragraph.

11 (d) In addition to the general purposes for which funds may
12 be provided under subsection (c), such funds may also be used
13 for:

14 (1) preserve design or site planning to ensure that
15 sites are selected for funding which are well-designed to
16 maintain the long-term viability of the significant species
17 and communities found at the site;

18 (2) completion of land protection projects designed to
19 protect biological diversity;

20 (3) acquisition of land, water rights or other partial
21 interests from willing sellers only, or arranging management
22 agreements, registry and other techniques to protect
23 significant sites; or

24 (4) creation of stewardship endowments.

25 (e) LIMITATION OF EXPENDITURES -- The Secretary shall not
26 expend any funds on construction of capital facilities authorized
27 under section 6 of this Act as to which the State of California
28 is required to contribute a share of total costs until the State
29 of California has agreed to meet such cost sharing requirement.

30 SEC. 9. ADDITIONAL AUTHORITIES.

31 (a) REGULATIONS AND AGREEMENTS AUTHORIZED -- The Secretary
32 is authorized and directed to promulgate such regulations and
33 enter into such agreements as may be necessary to implement the
34 purposes and provisions of this Act.

35 (b) USE OF ELECTRICAL ENERGY -- Electrical energy used to
36 operate and maintain facilities developed for fish and wildlife
37 purposes pursuant to this Act, including that used for
38 groundwater development, shall be deemed as Central Valley
39 Project power and shall be repaid by the user in accordance with
40 Reclamation law and at a price not higher than the lowest price
41 paid by or charged to Central Valley Project contractors.

42 (c) ACQUISITION OF ADDITIONAL WATER SUPPLY -- In order to
43 carry out the purposes and provisions of this Act, the Secretary
44 is authorized to obtain water supplies from any source available
45 to the Secretary, including, but not limited to direct purchase
46 of water, acquisition of land and associated ground and surface
47 water rights, water made available from conjunctive use projects,
48 and implementation of on-farm water conservation practices where
49 water conserved thereby will be made available to the Secretary.

50 (d) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF
51 WATER -- The Secretary is authorized to enter into contracts
52 pursuant to Reclamation law and this Act with any Federal agency,

1 California water user or water agency, State agency, or private
2 non-profit organization for the exchange, impoundment, storage,
3 carriage, and delivery of Central Valley Project and non-project
4 water for domestic, municipal, industrial, fish and wildlife, and
5 any other beneficial purpose.

6 (e) USE OF PROJECT FOR WATER BANKING -- The Secretary, in
7 consultation with the State of California, is authorized to enter
8 into agreements to allow project contracting entities to use
9 project facilities, where such facilities are not otherwise
10 committed or required to fulfill project purposes or other
11 Federal obligations, for supplying carry-over storage of
12 irrigation and other water for drought protection, multiple-
13 benefit credit-storage operations, and other purposes. The use
14 of such water shall be consistent with and subject to applicable
15 State laws.

16 (f) LIMITATION ON CONSTRUCTION -- This Act does not and
17 shall not be interpreted to authorize construction of water
18 storage facilities.

19 (g) APPLICATION OF RECLAMATION REFORM ACT -- Contract
20 modifications required solely to implement the provisions of
21 this Act shall not subject project contractors, including
22 exchange and water rights contractors, to the provisions of the
23 Reclamation Reform Act of 1982 (96 Stat. 1263).

24 (h) ANNUAL REPORTS TO CONGRESS -- Not later than October 1
25 of the first full fiscal year after enactment of this Act, and
26 annually thereafter, the Secretary shall submit a detailed report
27 to the Committee on Energy and Natural Resources of the Senate
28 and Committee on Interior and Insular Affairs of the House of
29 Representatives. Such report shall describe all significant
30 actions taken by the Secretary pursuant to this Act and progress
31 toward achievement of the purposes and provisions of this Act.
32 Such report shall include recommendations for authorizing
33 legislation or other measures, if any, needed to implement the
34 purposes and provisions of this Act.

35 (i) RECLAMATION LAW -- This Act shall amend and supplement
36 the Act of June 17, 1902, and Acts supplementary thereto and
37 amendatory thereof.

38 **SEC. 10. CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY**
39 **COMMITTEE.**

40 (a) ESTABLISHMENT -- There is hereby established the
41 "Central Valley Project Fish and Wildlife Advisory Committee,"
42 hereafter referred to as the "Fish and Wildlife Advisory
43 Committee."

44 (b) DUTIES -- The Fish and Wildlife Advisory Committee
45 shall make recommendations to the Secretary with respect to the
46 fish, wildlife, and environmental restoration actions identified
47 in section 6. Such recommendations shall be advisory in nature
48 and shall not be binding on the Secretary, however, the Secretary
49 shall give substantial deference to such recommendations in
50 carrying out responsibilities under this Act. Should the
51 Secretary not implement any recommendations made by the Fish and
52 Wildlife Advisory Committee, the Secretary shall notify the

1 Committee in writing and explain the reasons for rejecting the
2 recommendation.

3 (c) APPOINTMENT AND MEMBERSHIP -- The Fish and Wildlife
4 Advisory Committee shall be comprised of the Secretary and the
5 Governor of California, or their designees, and 18 additional
6 members appointed by the Secretary in consultation with the
7 Governor to represent, in equal numbers, the California
8 environmental and conservation interests, agricultural water
9 users, and urban water users.

10 (d) TERMS -- The term of a member of the Fish and Wildlife
11 Advisory Committee shall be five years, provided that three
12 members each from the environmental and conservation interests,
13 agricultural water users, and urban water users shall be
14 appointed for an initial term of three years. Any vacancy on the
15 Committee shall be filled in the same manner as the original
16 appointment.

17 (e) CHAIRMANSHIP AND VOTING -- The Fish and Wildlife
18 Advisory Committee shall be co-chaired by the Secretary and the
19 Governor of California, or their designees. The Committee shall
20 meet at the call of the co-chairs or upon the request of a
21 majority of its members. The Committee shall operate with the
22 objective of achieving consensus, but may provide recommendations
23 based on a majority vote.

24 (f) ADMINISTRATION -- The Secretary, in cooperation with
25 the State of California, shall provide the Fish and Wildlife
26 Advisory Committee with necessary administrative and technical
27 support service, including information relevant to the functions
28 of the Committee. The Committee shall determine its organization
29 and prescribe the practices and procedures for carrying out its
30 functions, and may establish committees or working groups of
31 technical representatives of Committee members to advise the
32 Committee on specific matters.

33 (g) EXPENSES -- While away from their homes or regular
34 places of business in the performance of service for the Fish and
35 Wildlife Advisory Committee, members and their technical
36 representatives shall be allowed travel expenses, including a
37 per-diem allowance in lieu of subsistence, in the same manner as
38 persons employed intermittently in government service are allowed
39 travel expenses under section 5703 of title 5, United States
40 Code. Any Committee member or technical representative who is an
41 employee of an agency or governmental unit of the United States
42 or State of California and is eligible for travel expenses from
43 that agency or unit for performing services for the Committee
44 shall not be eligible for travel expenses under this subsection.

45 (h) GOVERNMENT EMPLOYEES -- Members of the Fish and
46 Wildlife Advisory Committee and technical representatives who are
47 full-time officers or employees of the United States or the State
48 of California shall receive no additional pay, allowances, or
49 benefits by reason of their service on the Committee.

50 (i) FEDERAL ADVISORY COMMITTEE ACT -- Except as provided in
51 this section, the terms and provisions of the Federal Advisory
52 Committee Act, Pub. L. 92-463, as amended, (5 U.S.C. App. 2),

1 shall apply to the Fish and Wildlife Advisory Committee.

2 (j) TERMINATION--The Fish and Wildlife Advisory Committee
3 shall cease to exist on December 31, 2010.

4 SEC. 11. CENTRAL VALLEY PROJECT TRANSFER ADVISORY COMMITTEE.

5 (a) ESTABLISHMENT--There is hereby established the "Central
6 Valley Project Transfer Advisory Committee," hereafter referred
7 to as the "Transfer Advisory Committee."

8 (b) MEMBERSHIP--The Transfer Advisory Committee shall be
9 comprised of 16 individuals, appointed as follows:

10 (1) 8 appointed by the Governor of California, one to
11 represent each of the following organizations and interests:

12 (A) California Resources Agency;

13 (B) California State Water Resources Control

14 Board;

15 (C) Central Valley Project agricultural water
16 contractors;

17 (D) Central Valley Project municipal and
18 industrial water contractors;

19 (E) Central Valley Project power contractors;

20 (F) environmental organizations;

21 (G) waterfowl conservation organizations; and

22 (H) fishery conservation organizations.

23 (2) 1 appointed by the President Pro Tempore of the
24 California State Senate;

25 (3) 1 appointed by the Speaker of the California State
26 Assembly;

27 (4) 2 appointed by the Secretary of the United States
28 Department of the Interior to represent individually the
29 United States Fish and Wildlife Service and Bureau of
30 Reclamation;

31 (5) the Inspector General of the Department of the
32 Interior or his or her designee;

33 (6) the Administrator of the Environmental Protection
34 Agency or his or her designee;

35 (7) the Comptroller General of the United States or
36 his or her designee; and,

37 (8) 1 appointed by the Hoopa Valley Tribe.

38 (c) DUTIES--The Transfer Advisory Committee shall prepare a
39 report to Congress and the President on all issues associated
40 with transfer of all Central Valley Project facilities and
41 assets, assuming, first, that the transfer would be to the State
42 of California, assuming, second that the transfer would be to
43 Central Valley Project contractors, and assuming, third, that the
44 transfer would be to a Commission with the members appointed by
45 the Governor of California and the Secretary that would jointly
46 operate the California State Water Project and the Central Valley
47 Project. The Transfer Advisory Committee shall provide
48 recommendations on which of these transfer options best serves
49 the interests of the United States and the State of California,
50 and on legislative and administrative measures required to
51 execute such transfer which would ensure that:

52 (1) the fish and wildlife protection and restoration

1 goals of this Act are achieved;

2 (2) the reserved fishing and water rights of affected
3 Indian tribes are preserved, and the ability of the United
4 States to meet its trust obligations with respect to such
5 tribal assets is maintained;

6 (3) the Secretary's contractual obligations and rights
7 associated with the Central Valley Project are fulfilled;

8 (4) the operations of the Central Valley Project and
9 the California State Water Project are integrated to the
10 maximum extent practicable; and

11 (5) Federal expenditures associated with the Central
12 Valley Project are minimized.

13 (d) CHAIRMANSHIP AND VOTING--The Transfer Advisory
14 Committee shall be co-chaired by the Inspector General of the
15 U.S. Department of the Interior and any individual selected by
16 the Governor of California from among the Transfer Advisory
17 Committee members appointed by the Governor of California
18 pursuant to paragraph (a)(1) of this section. The Committee shall
19 operate with the objective of achieving consensus, but may
20 provide recommendations based on a majority vote.

21 (d) FEDERAL ADVISORY COMMITTEE ACT--Except as provided
22 herein, the terms and provisions of the Federal Advisory
23 Committee Act, Pub. L. 92-463, as amended, (5 U.S.C. App. 2),
24 shall apply to the Advisory Committee.

25 (e) ADMINISTRATION -- The Secretary, in cooperation with
26 the State of California, shall provide the Transfer Advisory
27 Committee with necessary administrative and technical support
28 service, including information relevant to the functions of the
29 Committee. The Committee shall determine its organization and
30 prescribe the practices and procedures for carrying out its
31 functions, and may establish committees or working groups of
32 technical representatives of Committee members to advise the
33 Committee on specific matters.

34 (f) EXPENSES -- While away from their homes or regular
35 places of business in the performance of service for the Transfer
36 Advisory Committee, members and their technical representatives
37 shall be allowed travel expenses, including a per-diem allowance
38 in lieu of subsistence, in the same manner as persons employed
39 intermittently in government service are allowed travel expenses
40 under section 5703 of title 5, United States Code. Any Committee
41 member or technical representative who is an employee of an
42 agency or governmental unit of the United States or State of
43 California and is eligible for travel expenses from that agency
44 or unit for performing services for the Committee shall not be
45 eligible for travel expenses under this subsection.

46 (g) GOVERNMENT EMPLOYEES -- Members of the Transfer
47 Advisory Committee and technical representatives who are full-
48 time officers or employees of the United States or the State of
49 California shall receive no additional pay, allowances, or
50 benefits by reason of their service on the Committee.

51 (h) REGULAR MEETINGS REQUIRED--The Transfer Advisory
52 Committee shall meet at the call of the co-chairs and, in any

1 event, not less than once every three months following enactment
2 of this Act.

3 (i) DEADLINE FOR SUBMISSION OF REPORT--The Transfer
4 Advisory Committee shall submit the report as required by
5 subsection (c) of this section not later than December 31, 1993.
6 The report shall be submitted to the President of the United
7 States, the Committee on Energy and Natural Resources of the
8 Senate, the Committee on Appropriations of the Senate, the
9 Committee on Interior and Insular Affairs of the House of
10 Representatives, and the Committee on Appropriations of the House
11 of Representatives.

12 (j) TERMINATION--The Transfer Advisory Committee shall
13 terminate 90 days after submission of such report.

14 **SEC. 12. SAN FRANCISCO BAY AND DELTA WETLAND RESTORATION PROGRAM.**

15 (a) PROGRAM AUTHORIZED--The Secretary, in cooperation with
16 the Secretary of the Army, and in consultation with the State of
17 California, San Francisco Bay area port authorities, fishery and
18 waterfowl conservation interests, and the Fish and Wildlife
19 Advisory Committee shall investigate and, if feasible, develop
20 and implement a program using dredged material to restore,
21 protect, and expand San Francisco Bay and Delta wetlands for the
22 purposes of recruitment and survival of waterfowl, fish, and
23 other wetland dependent species, flood control, water quality
24 improvement, and sedimentation control.

25 (b) SPECIFIC CONSIDERATIONS--The program developed under
26 this section shall consider a broad range of upland disposal and
27 give emphasis to restoration, protection, and expansion of
28 wetlands supporting abundant and diverse wetland ecosystems,
29 including, but not limited to:

- 30 (1) high primary productivity and functioning food
- 31 chains;
- 32 (2) seasonal values for waterfowl breeding, nesting,
- 33 staging, and wintering;
- 34 (3) habitat values for migrating anadromous fish; and
- 35 (4) protection from predation and disease.

36 (c) QUALITY OF DREDGE MATERIALS--The program developed
37 under this section shall ensure that dredge materials used for
38 wetland restoration, protection, or expansion shall be of
39 appropriate quality for such purposes.

40 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

41 There are authorized to be appropriated such sums as may be
42 necessary to carry out the provisions of this Act. Funds
43 appropriated under this section shall remain available until
44 expended.

45
46 //

Section-by-Section Description

Chairman's Mark - CVP Reform Legislation
(February 20, 1992)

- Section 1. Short Title.
- Section 2. Purposes.
- Section 3. Definitions.
- Section 4. Limitation on Contracting.

Subsection (a) puts a bar on new (not renewed) CVP contracts until the fish, wildlife, and habitat restoration goals of section 6 are achieved, the new Bay/Delta standards are completed, and a report is submitted to Congress.

Subsection (b) creates an exception to subsection (a)'s bar on new contracts, permitting the Secretary to enter into a 20-year contract to sell 100,000 af/y to California M&I users. A new provision makes this sale contingent on the State of California agreeing to the cost-sharing provisions of section 6. All revenues from the sale go to the Restoration Fund set up under section 8.

Subsection (c) applies to renewal of existing CVP contracts. The subsection permits renewals for up to twenty years so long as the contract is preceded by a comprehensive EIS.

Subsection (d) directs the Secretary to prepare a comprehensive EIS on all proposed CVP contract renewals.

Section 5. Water Transfers, Improved Water Management and Conservation.

This section applies to new and renewed CVP contracts. It does not apply to existing contracts.

Subsection (a) authorizes voluntary water transfers out of the "project area" subject to California law. There is no restriction on the amount of profit that might be made on a transfer, but, if a grower or a district does choose to transfer water out of the project, that entity will have to repay the Secretary for the water at a non-subsidized rate. A 25 percent surcharge applies to transfers to any district or agency which is outside the project service area. In other words, transfers within the project area would not be subject to the surcharge. Money paid under the surcharge would go to the Restoration Fund (with expenditures therefrom credited toward reimbursable costs), and water paid under the surcharge would be used to implement section 6. This subsection authorizes the Secretary to enter

into an agreement with the State of California to make up to one-half of the surcharge revenues available to the State to address adverse social and economic consequences in the Central Valley resulting from water transfers.

Subsection (b) requires project contractors to meter and report on ground and surface water use within their districts.

Subsection (c) requires project contractors to take responsibility for meeting State and Federal water quality standards applicable to their agricultural drainage.

Subsection (d) requires the Secretary to sell water from the project under an inverse block pricing structure. The first 60 percent of water under contract would be sold at the "contract rate." The next 20 percent would be sold at a rate halfway between the contract rate and the full-cost rate. The last 20 percent would be priced at full-cost. The Secretary could charge only for water actually delivered, thereby eliminating the take-or-pay character of present contracts. Water prices would be subject to adjustment for inflation.

Subsection (e) requires the Secretary, in consultation with the State and water contractors to develop water conservation best management practices applicable to project water users. The Secretary is authorized to pay up to 70 percent of the costs of implementing an approved water conservation program.

Subsection (f) provides that increased revenues received by the Secretary from the water transfer surcharge and the revised water pricing formula will be credited toward project water and power users' reimbursable cost obligations arising under this bill.

Section 6. Fish, Wildlife, and Habitat Restoration.

Subsection (a) authorizes the Secretary to operate the CVP for fish and wildlife purposes and to provide equitable treatment for fish and wildlife alongside other project purposes.

Subsection (b) directs the Secretary, in consultation with the Fish and Wildlife Advisory Committee established under section 11 of the bill, to perform a series of specific actions tailored to restore fish, wildlife and their habitats:

Paragraph b(1) requires a program with the goal of doubling natural production of Central Valley anadromous fish. The Secretary is authorized to operate the project as needed to help implement the program, but limits the amount of project water which can be committed to the program. This program would not apply to the upper San Joaquin River where, instead, the

Secretary would be required to participate in the State of California's on-going San Joaquin River restoration program.

Paragraph b(2) requires the Secretary to use no more than 1.5 million acre-feet to implement the fishery restoration program, and provides for dry-year shortages of that water on the same basis which applies to the CVP's water-right contractors. The Secretary is directed to offer the State of California the opportunity to enter into a 20-year contract to manage the fish and wildlife water.

Paragraph b(3) provides for mitigation for the fishery impacts of the Tracy pumps.

Paragraph b(4) provides for mitigation for the fishery impacts of the Contra Costa pumps.

Paragraph b(5) authorizes construction and operation of the Shasta temperature control device.

Paragraph b(6) requires the Secretary to comply with existing State-mandated flow criteria.

Paragraphs b(7) and (8) require the Secretary to investigate and employ modified flow patterns to aid fish spawning and migration.

Paragraph b(9) sets flow criteria for the Trinity River.

Paragraph b(10) requires the Secretary to correct fish passage problems at Red Bluff diversion dam.

Paragraph b(11) provides for rehabilitation and operation of Coleman fish hatchery.

Paragraph b(12) provides for restoration of Clear Creek.

Paragraph b(13) provides for replenishment of spawning gravels.

Paragraph b(14) provides for closure of the Delta cross channel and Georgiana Slough.

Paragraph b(15) provides for construction of a barrier at the head of Old River.

Paragraph b(16) provides for delivery of refuge water supplies. Level II supplies are mandated upon passage of the bill, level IV supplies are mandated within 10 years.

Paragraph b(17) provides for a monitoring program designed to measure the effects of the restoration efforts.

Paragraph b(18) provides for resolution of the fish passage problem at the Anderson-Cottonwood Irrigation District diversion dam.

Paragraph b(19) authorizes the Secretary to assist the State of California in managing striped bass harvest.

Subsection (c) establishes a list of activities to be performed by the Central Valley Project Fish and Wildlife Advisory Committee established in section 11 of the bill.

Subsection (d) requires the Secretary to prepare a report assessing the effects of the CVP on fisheries and associated interests.

Subsection (e) directs the Secretary, in cooperation with others, to develop comprehensive modeling tools to evaluate the hydrologic and ecologic effects of alternative Central Valley water operations.

Section 7. Cost for Delivery of Project Water Used to Produce Crops of Certain Commodities.

Subsection (a) would require the Secretary to charge full cost for project water, other than water delivered under a water rights or exchange contract, used to produce commodity program crops which are in surplus, except where the contractor provides a contribution to the State of California to be used by the State to meet its cost-sharing obligations under the bill.

Subsection (b) requires the Secretary to allocate project shortages first to contractors in amounts which reflect their prior year's use of water, other than water delivered under a water rights or exchange contract, to produce commodity program crops which are in surplus.

Section 8. Restoration Fund.

Subsection (a) establishes a fund in the Treasury known as the Central Valley Project Restoration Fund.

Subsection (b) directs the Secretary to impose a maximum annual charge of \$30 million on CVP water and power sales to meet costs associated with implementation of the bill.

Subsections (c) and (d) authorize the Secretary to use funds from the Restoration fund to provide grants or other funding to non-Federal entities to carry out the fish and wildlife restoration activities under the bill or to support and supplement the Secretary's activities, improve habitat conditions for fish, and support farmland conversion projects which aid implementation of the bill's fish and wildlife restoration goals.

Subsection (e) would bar the Secretary from funding capital projects with respect to which the State of California is assigned a cost-share until the State agrees to meet its cost-sharing requirements.

Section 9. Additional Authorities.

Subsection (a) authorizes the Secretary to enact regulations and enter into such agreements as are required to implement the bill.

Subsection (b) authorizes the Secretary to provide project power for fish and wildlife purposes.

Subsection (c) authorizes the Secretary to acquire water to implement the bill through means such as direct purchase, acquisition of land and water rights, conjunctive use programs, or implementation of on-farm water conservation programs.

Subsection (d) authorizes storage and conveyance of project and non-project water in CVP facilities.

Subsection (e) authorizes use of CVP facilities for water banking operations, subject to State law.

Subsection (f) states that the bill does not authorize construction of water storage facilities.

Subsection (g) provides that contract modification required solely to implement the bill do not trigger application of the Reclamation Reform Act.

Subsection (h) provides for annual reports on implementation of the bill.

Subsection (i) provides that the bill is to be considered part of Federal Reclamation law.

Section 10. Central Valley Project Fish and Wildlife Advisory Committee.

This section establishes an advisory committee to assist the Secretary with implementation of the bill, and defines membership in a way meant to mirror the current 3-way (agriculture, urban, and environmental interests) negotiating process in California.

Section 11. Central Valley Project Transfer Advisory Committee.

This section establishes an advisory committee to study the issues associated with transfer of the CVP to the State of

California, project beneficiaries, or a joint Federal-State commission.

Section 12. San Francisco Bay and Delta Wetland Restoration Program.

This section directs the Secretary, in consultation with others, to investigate and develop a program to use dredged material to restore, protect, and expand San Francisco Bay and Sacramento-San Joaquin Delta wetlands.

Section 13. Authorization of Appropriations.

This section authorizes appropriations to implement the Act.