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NCPA Files Complaint Against Bureau of Reclamation Agency Seeks to Recover Millions in Overcharges on Behalf of Ratepayers

(Sacramento, Calif.) – The Northern California Power Agency (NCPA) and the cities of Redding, Roseville, and Santa Clara have filed a complaint in the United States Court of Federal Claims in Washington, D.C. seeking recovery of more than \$45 million in overcharges imposed by the Bureau of Reclamation for the Restoration Fund established by the Central Valley Project Improvement Act (CVPIA).

The CVPIA created the Restoration Fund to address the environmental impacts of the Central Valley Project, and called for funding to be provided from four sources: contributions from water and power customers of the Central Valley Project, and state and federal funding.

The law states that payments from the water and power beneficiaries “shall, to the greatest degree practicable, be assessed in the same proportion” as their Central Valley Project allocation. The Bureau has ignored the funding instructions in the statute, and has billed and collected from power users a vastly disproportionate share of the overall collections for the Restoration Fund.

NCPA is committed to paying its share for mitigation and restoration of environmental impacts of the Central Valley Project. The Bureau, however, is not following the proportional funding formula prescribed by Congress in the statute. For over a decade, NCPA has worked with Congress and with the Bureau directly to try to find a remedy to this growing problem. Today, overcharges to NCPA and the three cities have reached approximately \$200,000 a week.

“As a public, not-for-profit entity, we have a fiduciary responsibility to our members and their ratepayers to ensure that they are not overpaying their share as prescribed by Congress,” said Jim Pope, General Manager of the Northern California Power Agency.

The CVPIA also established that the Bureau would publish five year budgets for the Restoration Fund, and would provide an annual accounting to Congress regarding the use of the funds. The Agency has not fully complied with the spirit and letter of the transparency and reporting requirements, and it is unclear as to what progress has been made toward completing the projects and achieving the goals established in the Act.

NCPA is not alone in its criticism of the way the CVPIA has been implemented. In a 2008 report, entitled *Listen to the River: An Independent Review of the CVPIA Fisheries Program*, commissioned by the Bureau itself, an expert review panel concluded, “We recommend that the

agencies take a fresh and comprehensive look at their CVPIA authorities and their manner of implementation,” adding, “such a reform is consistent with our recommendation that the agencies rethink the conceptual foundation and framework for the program and overhaul program organization and management.”

“This complaint filed with the Court of Federal Claims by NCPA and the three cities will allow for a careful, legal deliberation regarding the Bureau’s administration of this program, and whether the Bureau’s funding of the CVPIA Restoration Fund does or does not comport with the statute as prescribed by Congress,” added Pope. “We strongly believe that it does not.”

The Northern California Power Agency (NCPA) was founded on the principle of environmental stewardship, and is a recognized national leader in the areas of energy efficiency, renewable generation, and carbon reduction. NCPA has a long tradition of investment in conservation projects, and supports the mitigation and restoration goals of the Central Valley Project Improvement Act.