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November 30, 2000

John Davis
Betty Riley Simpson
US Bureau of Reclamation
2800 Cottage Way – MP 400
Sacramento, Ca. 95825

Re: M&I Shortage Policy – Comments by Contra Costa Water District

Dear Betty and John:

As you know, this office represents Contra Costa Water District (CCWD) in regard to the water service contract renewal negotiations now underway.

Enclosed are CCWD's suggested revisions to the proposed policy document regarding M&I shortage provisions in long-term CVP contracts. We have included a "redline" version showing changes from the draft you distributed on November 20, and a "clean" version. Due to the time pressures, the District had not yet shared this material with representatives of other M&I contractors when it was first transmitted to you via e-mail earlier today. It has now been provided to other contractors' representatives.

The enclosed documents represent CCWD's current thinking about how Reclamation's policy should be stated. We believe it is important that the policy include sufficient flexibility so as to accommodate the different circumstances faced by M&I contractors, and have attempted to reflect that in our suggestions. We also believe that it is important for each contractor to have a clear understanding of the water Reclamation will make available during shortages. Finally, CCWD recognizes that the impacts of shortages are not necessarily uniform throughout the CVP or among any class of contractors, which is another reason for Reclamation to maintain flexibility in the shortage policy.

CCWD listened carefully at the workshop on shortage issues on November 21, and looks forward to the next such session on December 11, and to the development of specific contract language. The District is still working to fully understand the implications of what it has learned from Reclamation about planning for shortages, and it therefore reserves the right to suggest further changes in the enclosed documents.

CCWD also participated in a technical session with Bureau staff on November 29 regarding modeling of CVP operations and the implications for CCWD. While no substantive changes are being suggested at this time in the tables contained in the draft policy document, CCWD is studying the operations data and may suggest revisions. CCWD reserves the right to make such suggestions if further analysis indicates that they are needed, particularly with respect to special circumstances.

If you have any questions about the enclosures, please contact me at (925) 933-7777, or Gary Darling at (925) 688-8165.

Very truly yours,

Robert B. Maddow

Robert B. Maddow

RBM:jhj
Enclosures (2)
cc: Lester Snow
Gary Darling

~~Final~~ Draft

CENTRAL VALLEY PROJECT

POLICY ON ~~M&I~~ WATER SHORTAGE PROVISIONS IN M&I CONTRACTS

November ~~20~~ 30, 2000

There may occur at times a shortage during any year in the quantity of Central Valley Project (CVP) water made available to ~~the~~ an M&I contractor~~s~~ by the United States. The cause of the water shortage may be drought, unavoidable causes[1], or restricted operations resulting from legal obligations, including but not limited to the Endangered Species Act, the Central Valley Project Improvement Act (CVPIA), and the State of California's Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (WQCP).

~~Release requirements or diversion restrictions for environmental purposes are imposed on p~~Project operations ~~through~~ are carried out consistent with water right permit terms and conditions (such as those in the State Water Resources Control Board's Decision 1641 and the ~~Water Quality Control Plan~~), Endangered Species Act biological opinions, and legislative mandates ~~are exemplified by Public Law (P.L.) 102-575~~ (such as the CVPIA, which specified increased levels of supply and maximum deficiencies for wildlife refuges and management areas)~~, and agreements that were generally made as part of the water rights process~~.

M&I contractors are ~~still in a build up period for~~ generally not using their entire CVP M&I water entitlement yet. M&I deliveries in 1994 were 336,000 acre-feet and are projected to be approximately 683,000 acre-feet by the year 2022. *[ARE THESE NUMBERS CORRECT? CAN THEY BE UPDATED?]* ~~In general, M&I contractors are taking about or slightly more than fifty percent of their contractual entitlement.~~ Applying a shortage allocation to ~~their~~ each M&I contractor's contract entitlement would enable some ~~of the~~ M&I contractors to take a full water supply in times of severe water shortage. Therefore, the guarantee of 75 percent ~~for~~ M&I reliability described in the June 9, 1997 CVPIA Administrative Proposal for Urban Water Supply reliability shall be applied to historical use as defined herein, up to the M&I contractor's contractual entitlement. Historical use will be adjusted for weather, growth, ~~and~~ extraordinary water conservation measures, and supplemental supplies, as provided below in the "Definition of Terms."

M&I water allocations may differ between divisions of the CVP north and south of the Delta. Generally, allocations to divisions north and south of the Delta will be the same, unless specific operational constraints occur which do not allow the United States to provide a division south of the Delta with the same minimum allocation as other CVP divisions north of the Delta.

~~In most service areas, the demand for irrigation water exceeds the available CVP water supply. Therefore, irrigation water allocations shall be based on contractual entitlement.~~

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[1]Unavoidable causes are causes beyond the control of Reclamation such as pumps failing at Tracy pumping plant or ~~an~~ a Court ordered injunction.

Terms and Conditions for M&I Reliability and CVP Water supply allocation:

1. Shortage allocations ~~to~~ of M&I water shall be based on the contractor's historical use of M&I water, adjusted for weather, growth, supplemental supplies, and extraordinary conservation measures up to the contractor's contractual entitlement. The terms adjusted for weather, historical use, ~~adjusted for~~ growth, supplemental supplies, and extraordinary water conservation measures, ~~and public health and safety~~ are defined below. ~~Shortage allocation to irrigation water shall be based on the contractor's contractual entitlement.~~ This Policy shall be implemented in a manner that does not penalize contractors for extraordinary conservation or for use of supplemental supplies.

2. For an M&I contractor to be eligible for ~~the M&I reliability~~ a minimum allocation in time of shortage of 75 percent of historical use, the M&I contractor must have developed and be fully implementing its water ~~management~~ conservation plan in accordance with its CVP contract. ~~The M&I contractor will not be eligible for the M&I reliability if it is not implementing its water management plan.~~

3. The~~is~~ M&I Water Shortage Policy applies only to that portion of the CVP water used ~~historically~~ by the contractor for M&I purposes and/or identified as projected M&I demand as of September 30, 1994 in the *[SPECIFICALLY IDENTIFY RECLAMATION'S PROCESS AND THE DOCUMENT IN WHICH PROJECTIONS WERE MADE AS OF 9/30/94]*. Irrigation water transferred and/or converted to M&I use after September 30, 1994 will retain its original irrigation water shortage allocation.

4. Before ~~the~~ allocation ~~to~~ of M&I water to a contractor ~~supply~~ is reduced, ~~the~~ allocations ~~to~~ of irrigation water shall be reduced ~~down~~ to 75% of contract entitlement~~. As~~, as shown below in Table 1.

Table 1
Allocation of Irrigation and M&I Water

Irrigation Water	M&I Water
100%	100%
95%	100%
90%	100%
85%	100%
80%	100%
75%	100%

5. When allocations of irrigation water ~~has~~ have been reduced ~~down~~ to 75 percent of contractual entitlement, ~~and~~ if further reductions are necessary, the M&I water allocation to a M&I contractor and ~~the~~ irrigation water allocations will be reduced the same percentage amount. Reductions of the M&I water allocation to a M&I contractor will begin at 100 percent of M&I demand, up to contractual entitlement,[2] and reductions of irrigation water allocations will begin at 75 percent of total contractual entitlement. The M&I ~~water~~ allocation to a M&I contractor will ~~ratchet down~~ be reduced by an equal percentage amount with reductions in irrigation water allocations, until the M&I ~~water~~ allocation to a M&I contractor reach~~es~~ 75 percent of historical use (adjusted as provided in this Policy), and irrigation ~~water~~ allocations reach~~es~~ 50 percent of ~~its~~ contractual entitlements. At this point, the M&I ~~reliability~~ allocation will ~~apply and M&I water will~~ not be further reduced until irrigation ~~water reaches~~ allocations reach 25 percent of total contractual entitlements. This is illustrated in Table 2 below.

Table 2
Shortage Allocation of Irrigation and M&I Water

Irrigation Water	M&I Water
75%	100%
70%	95%
65%	90%
60%	85%
55%	80%
50% - 25%	75%

6. When allocations of irrigation water reach~~es~~ 25 percent of ~~its~~ total contractual entitlements, Reclamation will need to reassess ~~the~~ CVP water supply availability and CVP water demand. ~~Due to limited water supplies~~ In the event the Governor of California declares an emergency due to water shortage, M&I water allocations to contractors may be reduced below ~~the~~ 75 percent of historical use. ~~which is the M&I reliability level. Beyond this level, Project~~ and allocations of M&I water may vary among contractors, ~~will be~~ dependent~~ing~~ on where CVP water ~~is~~ can be made available for M&I purposes. Reclamation may ~~need to~~ take into consideration the contractor's other available non-CVP water supplies during an emergency declared by the Governor.

7. Reclamation will ~~be consistent with~~ apply ~~the~~ criteria consistent with those used by the ~~State of~~ California water supply entities for determining appropriate public health and

[2] M&I Contractors in general are still in a build-up period for their contractual entitlement.

safety levels of water use during times of severe drought. The term public, health and safety shall mean interior residential use, sanitation, and water for fire protection, and shall include sufficient quantities to meet those needs, as well as essential industrial, institutional, and commercial needs required to ensure public health and safety (*e.g.*, hospitals, public services, vital industrial and commercial needs, water conveyance requirements, *etc.)*.

~~Reclamation will ensure the priority of public health and safety levels as calculated by the contractor in their water management plans pursuant to CVPIA Section 3405(e). Reclamation will require M&I contractors submit a shortage allocation policy and include its public health and safety level. This should be updated every 5 years in the contractor's water conservation management plan.~~

Each M&I contractor shall include in its water conservation plan a shortage allocation policy, including criteria and a plan to allocate available water supplies to protect public health and safety. Pursuant to Section 3405 (e) of CVPIA, Reclamation has developed criteria for evaluation of contractors' shortage allocation policies. Review of contractors' shortage allocation policies will be an element of the periodic Reclamation review of water conservation plans.

CVP water allocations to Refuges ~~would~~ shall be ~~further~~ reduced by Reclamation when necessary to allow allocation of sufficient M&I water to assure that public health and safety ~~allocations to continue~~ will be protected. Water allocated for fish and wildlife activities pursuant to Section 3406(b)(2) of ~~PL 102-575~~ CVPIA ~~will also fall below~~ shall be reduced below 600,000 acre-feet in order to ~~meet~~ allocate sufficient M&I water to assure protection of public health and safety ~~water allocations~~.

Definitions of Terms used above include:

8. The term "~~H~~historical use" shall mean the water ~~deliveries~~ made available to the contractor during the last year ~~in which a 100 percent allocation was offered for M&I use~~unaffected by water shortage allocation to the contractor, ~~. Historic use may be~~ adjusted for weather, growth, supplemental supplies, and extraordinary water conservation ~~practices~~ practices, as defined below. In the alternative, adjustment may be accomplished by use of a common baseline year or years against which weather, conservation, and growth can be measured to determine the contractor's adjusted historical use. ~~Additionally, to encourage contractors to develop alternative water supplies, Reclamation will agree to adjust M&I contractor's historic use quantity if, after adoption of this policy, an M&I contractor can demonstrate it used supplemental water supplies first before using CVP water supplies and such use benefitted the CVP. However, when the allocation for M&I use goes below 75% historic use, Reclamation may need to consider those alternative water supplies during the allocation process.~~

9. The term "~~A~~adjusted for ~~G~~growth" shall mean a process whereby Reclamation reviews a contractor's historical use and ~~the contractors provide~~ documentation provided by the contractor to ~~support any~~ verify increases in demand beyond ~~in their~~ historical use,. ~~Documentation supporting an adjustment for growth would include~~ including increases in the population ~~or industry~~ and in the industrial, commercial, and other water customers served by the contractor. The demand data and growth data can be measured against the common baseline described above. Any such adjustment for growth ~~It~~ would be capped at the ~~level of full~~ contractor's total contractual entitlements. This will be compared to the ~~contractors~~ needs analysis done by Reclamation and to the water ~~management~~ conservation plans. *[The meaning of this sentence is not clear.]*

10. The term "extraordinary water conservation measures" shall mean water conservation activities in addition to those minimum required best management practices specified in the contractor's water conservation plan ~~will be considered extraordinary water conservation measures~~. ~~This begins with the baseline condition that the~~ The contractor ~~is~~ must be implementing its water ~~management~~ conservation plan in a manner that is consistent with the then current standard criteria for evaluating ~~water management~~ such plans. ~~There is no specific metric, since implementation of best management practices is specific to each contractor. The~~ Each proposed extraordinary water conservation measure will be reviewed and evaluated by Reclamation to determine if ~~an action~~ it qualifies as an extraordinary water conservation measure. Alternatively, the minimum conservation levels relative to the common baseline described above, adjusted for growth, will be compared to current use to determine the quantity of extraordinary conservation that has occurred. The criteria for water ~~management~~ conservation plans ~~is dynamic~~ are continually changing and ~~is~~ will be updated ~~every 3 years~~ to ensure consistency with current state of the art ~~for~~ water conservation and management measures. A water conservation measure considered extraordinary in 2001 may be a mandatory best management practice requirement in the year 2010.

11. The term "public health and safety" shall ~~be consistent with the criteria used by the State of California during times of severe droughts or shortages. That term shall~~ mean interior residential use, sanitation, and water for fire protection, and shall include sufficient quantities to meet those needs, as well as essential industrial, institutional, and commercial needs required to ensure public health and safety (*e.g.*, hospitals, public services, vital industrial and commercial needs, water conveyance requirements, *etc.*). . ~~Currently the estimate for that level of use is 50 gallons per capita per day. However, in the future this could change considerably with new technology.~~

12. The term "adjusted for weather" shall mean a contractor's water use adjusted to a dry year demand. Such adjustment is not required if a common dry year baseline method is used.

13. The term "supplemental supplies" means a contractor's available non-CVP water supplies. To encourage CVP contractors to develop supplemental supplies, Reclamation will count supplemental water supplies used in the contractor's historical use calculation as if the contractor had used its CVP supply. Use of supplemental supplies can benefit

the CVP in all water years.

Draft

CENTRAL VALLEY PROJECT
POLICY ON WATER SHORTAGE PROVISIONS IN M&I CONTRACTS

November 30, 2000

There may occur at times a shortage during any year in the quantity of Central Valley Project (CVP) water made available to an M&I contractor by the United States. The cause of the water shortage may be drought, unavoidable causes[1], or restricted operations resulting from legal obligations, including but not limited to the Endangered Species Act, the Central Valley Project Improvement Act (CVPIA), and the State of California's Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (WQCP).

Project operations are carried out consistent with water right permit terms and conditions (such as those in the State Water Resources Control Board's Decision 1641 and the WQCP), Endangered Species Act biological opinions, and legislative mandates (such as the CVPIA, which specified increased levels of supply and maximum deficiencies for wildlife refuges and management areas).

M&I contractors are generally not using their entire CVP M&I water entitlement yet. M&I deliveries in 1994 were 336,000 acre-feet and are projected to be approximately 683,000 acre-feet by the year 2022. *[ARE THESE NUMBERS CORRECT? CAN THEY BE UPDATED?]* Applying a shortage allocation to each M&I contractor's contract entitlement would enable some M&I contractors to take a full water supply in times of severe water shortage. Therefore, the guarantee of 75 percent M&I reliability described in the June 9, 1997 CVPIA Administrative Proposal for Urban Water Supply reliability shall be applied to historical use as defined herein, up to the M&I contractor's contractual entitlement. Historical use will be adjusted for weather, growth, extraordinary water conservation measures, and supplemental supplies, as provided below in the "Definition of Terms."

M&I water allocations may differ between divisions of the CVP north and south of the Delta. Generally, allocations to divisions north and south of the Delta will be the same, unless specific operational constraints occur which do not allow the United States to provide a division south of the Delta with the same minimum allocation as other CVP divisions north of the Delta.

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[1]Unavoidable causes are causes beyond the control of Reclamation such as pumps failing at Tracy pumping plant or a Court ordered injunction.

Terms and Conditions for M&I Reliability and CVP Water supply allocation:

1. Shortage allocations of M&I water shall be based on the contractor's historical use of M&I water, adjusted for weather, growth, supplemental supplies, and extraordinary conservation measures up to the contractor's contractual entitlement. The terms adjusted for weather, historical use, growth, supplemental supplies, and extraordinary water conservation measures are defined below. This Policy shall be implemented in a manner that does not penalize contractors for extraordinary conservation or for use of supplemental supplies.

2. For an M&I contractor to be eligible for a minimum allocation in time of shortage of 75 percent of historical use, the M&I contractor must have developed and be fully implementing its water conservation plan in accordance with its CVP contract.

3. This M&I Water Shortage Policy applies only to that portion of the CVP water used by the contractor for M&I purposes and/or identified as projected M&I demand as of September 30, 1994 in the *[SPECIFICALLY IDENTIFY RECLAMATION'S PROCESS AND THE DOCUMENT IN WHICH PROJECTIONS WERE MADE AS OF 9/30/94]*. Irrigation water transferred and/or converted to M&I use after September 30, 1994 will retain its original irrigation water shortage allocation.

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80%	100%
75%	100%

5. When allocations of irrigation water have been reduced to 75 percent of contractual entitlement, if further reductions are necessary, the M&I water allocation to a M&I contractor and irrigation water allocations will be reduced the same percentage amount. Reductions of the M&I water allocation to a M&I contractor will begin at 100 percent of

M&I demand, up to contractual entitlement,[2] and reductions of irrigation water allocations will begin at 75 percent of total contractual entitlement. The M&I allocation to a M&I contractor will be reduced by an equal percentage amount with reductions in irrigation water allocations, until the M&I allocation to a M&I contractor reach 75 percent of historical use (adjusted as provided in this Policy), and irrigation allocations reach 50 percent of contractual entitlements. At this point, the M&I allocation will not be further reduced until irrigation allocations reach 25 percent of total contractual entitlements. This is illustrated in Table 2 below.

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60%	85%
55%	80%
50% - 25%	75%

6. When allocations of irrigation water reach 25 percent of total contractual entitlements, Reclamation will need to reassess CVP water supply availability and CVP water demand. In the event the Governor of California declares an emergency due to water shortage, M&I water allocations to contractors may be reduced below 75 percent of historical use, and allocations of M&I water may vary among contractors, depending on where CVP water can be made available for M&I purposes. Reclamation may take into consideration the contractor's other available non-CVP water supplies during an emergency declared by the Governor.

7. Reclamation will apply criteria consistent with those used by the California water supply entities for determining appropriate public health and safety levels of water use during times of severe drought. The term public, health and safety shall mean interior residential use, sanitation, and water for fire protection, and shall include sufficient quantities to meet those needs, as well as essential industrial, institutional, and commercial needs required to ensure public health and safety (*e.g.*, hospitals, public services, vital industrial and commercial needs, water conveyance requirements, *etc.)*.

[2] M&I Contractors in general are still in a build-up period for their contractual entitlement.

Each M&I contractor shall include in its water conservation plan a shortage allocation policy, including criteria and a plan to allocate available water supplies to protect public health and safety. Pursuant to Section 3405 (e) of CVPIA, Reclamation has developed criteria for evaluation of contractors' shortage allocation policies. Review of contractors' shortage allocation policies will be an element of the periodic Reclamation review of water conservation plans.

CVP water allocations to Refuges shall be reduced by Reclamation when necessary to allow allocation of sufficient M&I water to assure that public health and safety will be protected. Water allocated for fish and wildlife activities pursuant to Section 3406(b)(2) of CVPIA shall be reduced below 600,000 acre-feet in order to allocate sufficient M&I water to assure protection of public health and safety.

Definitions of Terms used above include:

8. The term "historical use" shall mean the water made available to the contractor during the last year unaffected by water shortage allocation to the contractor, adjusted for weather, growth, supplemental supplies, and extraordinary water conservation practices, as defined below. In the alternative, adjustment may be accomplished by use of a common baseline year or years against which weather, conservation, and growth can be measured to determine the contractor's adjusted historical use. .

9. The term "adjusted for growth" shall mean a process whereby Reclamation reviews a contractor's historical use and documentation provided by the contractor to verify increases in demand beyond historical use, including increases in the population and in the industrial, commercial, and other water customers served by the contractor. The demand data and growth data can be measured against the common baseline described above. Any such adjustment for growth would be capped at the contractor's total contractual entitlements. This will be compared to the needs analysis done by Reclamation and to the water conservation plan. *[The meaning of this sentence is not clear.]*

10. The term "extraordinary water conservation measures" shall mean water conservation activities in addition to those minimum required best management practices specified in the contractor's water conservation plan. The contractor must be implementing its water conservation plan in a manner that is consistent with the then current standard criteria for evaluating such plans. Each proposed extraordinary water conservation measure will be reviewed and evaluated by Reclamation to determine if it qualifies as an extraordinary water conservation measure. Alternatively, the minimum conservation levels relative to the common baseline described above, adjusted for growth, will be compared to current use to determine the quantity of extraordinary conservation that has occurred. The

criteria for water conservation plans are continually changing and will be updated to ensure consistency with current state of the art water conservation and management measures. A water conservation measure considered extraordinary in 2001 may be a mandatory best management practice requirement in the year 2010.

11. The term "public health and safety" shall mean interior residential use, sanitation, and water for fire protection, and shall include sufficient quantities to meet those needs, as well as essential industrial, institutional, and commercial needs required to ensure public health and safety (*e.g.*, hospitals, public services, vital industrial and commercial needs, water conveyance requirements, *etc.)*.

12. The term "adjusted for weather" shall mean a contractor's water use adjusted to a dry year demand. Such adjustment is not required if a common dry year baseline method is used.

13. The term "supplemental supplies" means a contractor's available non-CVP water supplies. To encourage CVP contractors to develop supplemental supplies, Reclamation will count supplemental water supplies used in the contractor's historical use calculation as if the contractor had used its CVP supply. Use of supplemental supplies can benefit the CVP in all water years.