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Ms. Betty Riley Simpson
U.S. Bureau of Reclamation, Mid-Pacific Region
2800 Cottage Way
Sacramento, CA 95825

Subject: Central Valley Project (CVP) M&I Shortage Policy

Dear Betty:

This letter is written on behalf of the Contra Costa Water District ("CCWD") in response to Reclamation's request for comments on the development of an M&I shortage policy, and on the various issue papers that Reclamation distributed on November 1, 2000 (and posted on the Mid-Pacific region's website) related to M&I shortages.

1) Please provide the responses to which you committed for CCWD's "42 questions/requests for clarifications" submitted last April on the 1997 CVPIA Administrative Proposal on Urban Water Supply Reliability.

2) It is still not clear to us what the United States' position is regarding the process for adopting policies on M&I shortages/urban reliability. We pointed out at the November 1 negotiations that the titles of both the 1994 "Draft Municipal and Industrial Water Shortage Policy" and the 1997 "CVPIA Administrative Proposal on Urban Water Supply Reliability" indicate that neither document has yet been adopted by Reclamation. We additionally pointed out that the Mid-Pacific region's website, which is supposed to contain all of Interior's CVPIA "administrative proposals", contains only the 1996 draft administrative proposal for urban reliability. It does not say that the administrative draft has been revised, let alone adopted as a final administrative proposal. We have never seen any indication of the decision-making process which was followed to complete consideration of (or to approve) either document.

3) As we presented on October 23, any policy on M&I shortages must take into account the unique circumstances of industrial water. Shortages to industry cause far-reaching economic and sociological impacts. The 1991 study "Cost of Industrial Water Shortages" clearly demonstrates that industry cannot withstand cutbacks greater than 5%-10% without causing cutbacks in production and job layoffs. Industries have, since 1991, implemented extensive conservation measures, including recycling water; as a consequence their demand has

significantly hardened and they are no longer able to sustain significant cutbacks for any length of time. For example, in the petroleum industry that CCWD serves, a cutback in production not only negatively impacts the petroleum company itself, the local economy, but also consumers throughout California and across the nation. CCWD has traditionally apportioned cutbacks in water supply differently for industry and commercial customers than residential; we believe that other urban utilities have done so also. Developing a second tier of water with a higher level of reliability is a necessary approach to this issue.

4) Any policy on M&I shortages and urban reliability must be clear and specific, so that a contractor can predict, with reasonable certainty, how the policy will be applied to its particular circumstances. You provided the results of a "gaming exercise" done last August. It shows water allocations south of the Delta for M&I, but not north of the Delta M&I, nor does it indicate how any allocations are made. Also, it only shows the results from a limited time frame (1981-1994). Reclamation must indicate how allocations are made and provide the results from standard long-term studies showing deliveries across a broader range of hydrology. It is frustrating to be more than a year into contract negotiations and still not have modeling results that allow a contractor to see how often it is anticipated that its water supply will be curtailed (i.e., how do (b)2, EWA, OCAP, Trinity, refuge water supply, etc. impact each contractor?).

5) CCWD provided comments in 1997 that pointed out that Reclamation is not acknowledging the 1959 Delta Protection Act. Reclamation's response was "Interior intends to address these concerns in its area of origin paper which will be released after these Administrative Proposals become final." As far as we can determine, this issue has not been addressed. The law is clear in providing that the users of water located within the Delta or in areas adjacent thereto which can be conveniently served therefrom are entitled to an adequate supply of water. CCWD's existing contract, and the renewals thereof to which the District is entitled, provides the appropriate basis for discharge of the obligations of the United States that were created by the Act, including the provision of an adequate water supply. Such a supply can be guaranteed, and the statutory obligations met, if an appropriate shortage provision is included in the District's renewal contract.

6) In the "Comparisons of M&I Shortage Policy and Urban Reliability Policy" table it states: "To encourage Contractors to develop alternative water supplies, Reclamation agreed it could adjust urban contractor's historic [*sic*] use quantity if an urban contractor demonstrates it used supplemental water supplies first before using CVP supplies. Use of supplemental supplies can benefit the CVP during all water year types."

This language should be replaced with: "If a contractor uses other supplies in lieu of CVP supplies such that use benefits the CVP as a whole, such supplies will be counted in historical use as if the contractor had used CVP supplies. In the absence of such an accounting policy, a CVP contractor will be forced to use CVP

supplies in lieu of other supplies to maintain historical use, to the detriment of the CVP."

7) Please clarify what "Current Water Allocation Process" means on the paper titled "M&I Shortage Policy – Central Valley Project". As previously stated, such an allocation table does not apply to Delta users. Furthermore, the allocations should only apply to municipal uses, not industrial, for the reasons stated above. Also, an asterisk needs to be placed after the M&I allocations of 75% and less, signifying that hardship water is required. Allocations of less than 75% fall under public health and safety rules and should only be considered when the Governor has declared a state of emergency.

8) Where did the "Issues" come from in the historic use, public health and safety, extraordinary conservation, and ag to M&I conversion papers? Is this Reclamation's effort to "spot" issues? Also, what does "Administration Position" (as that term is used in each position paper) mean? Is this the official position of Reclamation on these issues?

9) Defining historical use simply as a contractors water use over the past 5-year period only shows the most current 5-year trend. This is arbitrary and does not establish a sound or defensible baseline from which to make allocations unless adjustments for weather, growth, conservation, reclamation and other water supplies are made. Reclamation has indicated that it believes adjustments for other supplies, conservation, reclamation and growth should be made, but has not indicated how they would be made nor to what baseline. Since "other supplies" clearly includes local supplies, it must be explicitly recognized that local supplies would include local rainfall and weather variations so that the historical use would include a weather normalization (which necessarily requires some sort of dry year demand basis). If this is not done, Reclamation could be making an allocation in a drought year based on low, wet year demands. Such a policy would encourage waste in wet years in order to preserve the historical use.

   Furthermore, a 5-year average will confuse and confound any attempt to track conservation levels, including extraordinary conservation, since those measures have a life-span of longer than 5 years. Conservation measures are difficult, if not impossible, to track on a time-scale of less than 10 years, since year-to-year variations in demand caused by weather will overwhelm the difference made by conservation over time frames less than 10 years. A strict 5-year policy without the proper adjustments will result in waste of water and/or in the inappropriate loss of reliability and supply by those contractors who invest in conservation and other supplies, rendering their efforts fruitless.

   Clearly, this portion of the policy needs additional input from and discussion with the contractors. A simple 5-year running average does not work practically for the reasons stated above. However, establishing a dry year baseline, such as the 1987-1990 period for dry year demand when full pre-CVPIA deliveries were available,

and using this baseline as the baseline measure, (adjusted for growth and other supplies), is easily understood and can work on a practical level. From that baseline, estimates can be made of the amount of conservation expected from BMP's and can be compared to the actual 5-year running average to estimate extraordinary conservation and reclamation. This methodology allows case-by-case adjustments, avoids a complex weather normalization process and will work both to the benefit of Reclamation and contractors. CCWD requests further discussion on this subject.

10) Extraordinary conservation and conservation levels need further discussion and definition. Baseline conservation should include measurable factors, but not "soft" quantities that are wholly subject, like "habit changes". Again, this is an issue that should be dealt with like the baseline for historical use.

11) A 90% minimum allocation should be set for M&I contractors for the first year of a potential shortage period (for example, a critically dry year preceded by a non-dry year). The reason for this is that the CVP makes its allocations based on 90% forecasts, which means that every year is initially forecasted as dry. If this automatically results in a forecasted supply of less than 90%, M&I contractors will be forced into drought allocation hearings practically every winter for their municipal and industrial customers, only to reverse such allocations nearly every year in the early spring when water supply levels are better known. Such a situation is unacceptable from a public policy point of view and can be easily remedied through Reclamation's policy.

CCWD appreciates the opportunity to participate in the development of an urban water shortage policy. As you are aware, the M&I Shortage Policy needs to be resolved prior to CCWD entering into a renewed contract with Reclamation. CCWD serves approximately one-half million people living in a county that has a gross product in excess of $25 billion. A predictable and reliable water supply is essential. CCWD is willing to commit whatever staff time is necessary to complete the process. If you have any questions or comments, please feel free to contact me at (925) 688-8165.

Sincerely,

Gary W. Darling, P.E.
Director of Construction

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cc: John Davis, U.S. Bureau of Reclamation