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JANET K. GOLDSMITH

November 30, 2001

VIA FACSIMILE AND E-MAIL

Alisha Sterud, MP-400
United States Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento, California 95825

Re: Comments on Draft Municipal and Industrial (M&I) Water Shortage Policy

Dear Ms. Sterud:

These comments are submitted on behalf of San Benito County Water District ("the District") to the Draft Municipal and Industrial (M&I) Water Shortage Policy, Central Valley Project (CVP), California, the notice of availability for which was published in the Federal Register on October 30, 2001 [Volume 66, Number 210] (Draft Policy).

The District has been a CVP contractor since April 7, 1977. The District's CVP service area is located in northwestern San Benito County, just south of rapidly urbanizing southern Santa Clara County.

From its execution, the District's water supply contract (No. 8-07-20-W0130) has expressly provided for the delivery of water for M&I use as well as for irrigation use. Water is currently being used for M&I purposes within the District, and there is anticipated to be additional demand for M&I water deliveries in the future. However, the most substantial current use of the District's CVP supply is for irrigation, a pattern of use that is anticipated to continue at least for decades to come. Because of environmental constraints on the operation of the CVP, the District has already experienced frequent shortages in the CVP supplies delivered under its contract.

The District has two primary concerns about the proposed M&I shortage policy: First, the date proposed for establishing the maximum potential usage that could qualify for application of the M&I shortage preference is 1994, more than six years ago. There was no general publication or notice at that time that the date would be used to limit the reliability of M&I water deliveries. There appears to be no fair and logical reason for establishing this date as the "cutoff" date. If the purpose of the policy is to provide enhanced reliability to M&I supplies, it should do so for *all* M&I uses that are legal under existing and renewal CVP contracts, not just those predicted at an arbitrary date six years in the past.

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The District was not asked in 1994 to quantify its "ultimate" M&I demand, and the District's contract for CVP deliveries expressly provides a right to convert its irrigation water to M&I purposes upon notification to the United States[1]. The proposed policy would violate this contractual entitlement, and should not be adopted. The plain fact is that water devoted to M&I purposes in the future will need just as much reliability as the limited "M&I water" to which the proposed policy would apply. If enhanced M&I reliability is desired, a public process should be initiated that includes *all* CVP contractors and interested public to evaluate and quantify the future M&I needs that should be addressed in an M&I shortage policy.

In addition to the lack of notice and public input concerning the development and extent of coverage of an M&I shortage policy, the proposed policy lacks any consideration of alternatives or analysis of environmental impact. Implementation of the policy is bound to influence the course of residential development in California, and will also have impacts on the viability of agriculture within the CVP service area. Nevertheless, no analysis of the proposed policy under NEPA has been conducted. The District has only recently become aware that a cursory, unpublished evaluation of the impact of the proposed policy on agricultural water supplies was prepared for the Bureau of Reclamation in 1997. This report, "Urban Reliability Policy Impact Analysis," prepared by Bookman-Edmiston Engineering, estimates that the *additional* reduction in agricultural supplies to the San Felipe Division "out-of-basin" users[2] would range up to 47.6% in years when the policy is implemented.

The agricultural community served by the District is already stressed by loss of irrigation water supplies due to environmental restrictions in the operation of the CVP; an additional loss of up to half its remaining water would have economic, social and environmental impacts that simply have not been disclosed or analyzed. NEPA requires the analysis and disclosure of the environmental impacts of the proposed policy. The proposed policy should be rejected on that basis. Additional analysis and public discussion of the impacts of the policy must be conducted.

The absence of public discussion and analysis has also resulted in virtually no exploration of alternatives that could maximize the effectiveness of an M&I shortage policy for all M&I deliveries while minimizing and mitigating the policy's impact on agricultural communities.

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1 / Article 3(c) of the contract requires the United States to make available to the District 8,250 acre feet per year for M&I uses, and contains the following proviso:

> Provided, however, That at any time or times after the Contractor's requirement for M&I water exceeds 3,250 acre-feet per year, any or all of the Project water to be furnished for agricultural use, as specified in subdivision (b), may be converted and shall be added to said 8,250 acre-feet and shall become the minimum quantity the Contractor shall pay for as M&I water each year thereafter during the term of this contract. (emphasis added.)

2 / The "basin" referred to is the Central Valley Basin; virtually all of the District's agricultural uses are, therefore, "out-of-basin."

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The District urges that the proposed policy be withdrawn, and a truly public, fully noticed process be initiated for developing a shortage policy that optimizes the use of the available CVP supply for all purposes.

Sincerely,

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