KRONICK
MOSKOVITZ
TIEDEMANN
& GIRARD
A PROFESSIONAL CORPORATION

JANET K. GOLDSMITH

BUREAU OF RECLAMATION
OFFICIAL FILE COPY
RECEIVED
JAN 12 2001
RM 1/12 400

January 10, 2001

VIA FACSIMILE AND MAIL

Ms Betty Riley Simpson
U.S. Bureau of Reclamation
2800 Cottage Way, MP-152
Sacramento, CA 95825

Re: Comments of San Benito County Water District and Placer County Water Agency on Draft M&I Shortage Policy

Dear Ms. Riley Simpson:

This letter comments on the draft shortage policy for municipal and industrial water use on behalf of Placer County Water Agency and San Benito County Water Agency. The service areas of both of these contractors are situated in the path of intense pressure for urban development and probable conversion of CVP water use from irrigation to M&I use. It is unacceptable to these contractors to limit the reliability of supplies for M&I uses based on an arbitrary date.

The imposition of the arbitrary date, 1994, is not required by statute or regulation and was poorly noticed, after the fact, to the affected contractors. When discussions of "M&I reliability" under the "Garamendi process" evolved into, essentially, rule making for all contractors, contractors were then told by Bureau representatives that changing the 1994 "cut-off" date for conversion of irrigation uses to M&I uses would not be further considered.

The water service agreements of San Benito County Water District and Placer County Water Agency contain no provision for limiting the treatment, in water shortage situations, of irrigation water and M&I water deliveries on the basis of the year in which M&I uses commenced. Rather, it was expected by these contractors that conversion to M&I purposes would and could occur as needed. Given the current water supply limitations of the CVP, the proposed policy eliminates any effective conversion of irrigation uses to M&I uses.

The result of the proposed policy is that certain contractors will enjoy a greater reliability for municipal uses than others, based solely on the date on which M&I uses

Classification WTR 400
Project
Code 1000415
29367

ATTORNEYS AT LAW
400 CAPITOL MALL, 27TH FLOOR SACRAMENTO, CALIFORNIA 95814-4416 TELEPHONE (916) 321-4500 FAX (916) 321-4555

commenced and developed, a date that is entirely arbitrary. Placer County Water Agency and San Benito County Water District have considered the availability of CVP water an important part of their ability to meet new urban uses. They therefore urge that any M&I shortage policy provide for future conversion of irrigation water service to M&I water service on a practicable basis. At the very least the policy should more clearly describe what is meant by "mitigation" for such conversion. Existing and future municipal providers should be treated equally.

There has been no alternatives analysis concerning other possible shortage policies. It is unknown how other potential policies, including the ones contained in San Benito County Water District's and Placer County Water Agency's contract, would affect the reliability of water for CVP irrigation uses, the course of urban development, the environment, or any other factor. This analysis should be done before any shortage policy is adopted. The COPIER PIES merely assumed that some variation of the policy would be adopted.

The proposed policy should not be adopted until such an analysis is completed, and until further consideration is given to the fairness of treating M&I contractors unequally.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

Janet K. Goldsmith

JKG/mm

cc: John Gregg
David Breninger
Einar Maisch

KRONICK
MOSKOVITZ
TIEDEMANN
& GIRARD
400 CAPITOL MALL,
27TH FLOOR
SACRAMENTO, CA
95814-4417
TEL: (916) 321-4500
FAX: (916) 321-4555