

FRIANT WATER AUTHORITY

November 18, 2010

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Mr. Tim Rust
USBR M&I WSP Program Manager
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Re: Draft Municipal and Industrial Water Shortage Policy, Central Valley Project (CVP)

Dear Mr. Rust:

We have reviewed the Draft Municipal and Industrial (M&I) Water Shortage Policy (WSP) sent by electronic mail on October 27, 2010. The Friant Division has historically been exempt from the M&I WSP due to its unique water supply priority under the contracts wherein the "firm" Class 1 water supply (800,000 a.f.) is developed first and M&I contractors are provided this priority water supply under their contracts. The basically unstorable Class 2 supply (1,401,475 a.f.) is used by the Friant contractors for irrigation and groundwater recharge. We understand that the Draft M&I WSP is not intended to pertain to the Friant Division. For the sake of clarity, the WSP should specifically exclude the Friant Division from the WSP.

Please consider the following as an ongoing basis for the Friant Division exclusion for the WSP:

First and foremost, Reclamation has already made the determination that the Friant Division should be specifically excluded from the WSP. On page 2-26 of the August 2008 Biological Assessment on the Continued Long-term Operations of the Central Valley Project and the State Water Project (OCAP BA), Reclamation states:

"The M&I minimum shortage allocation does not apply to contracts for the (1) Friant Division, (2) New Melones interim supply, (3) Hidden and Buchanan Units, (4) Cross Valley contractors, (5) San Joaquin River Exchange settlement contractors, and (6) Sacramento River settlement contractors. Any separate shortage-related contractual provisions will prevail."

Main Office

854 NORTH HARVARD AVENUE
LINDSAY, CA 93247
PHONE: 559-562-6305
FAX: 559-562-3496

Construction and Maintenance Offices

860 SECOND STREET
ORANGE COVE, CA 93646
PHONE: 559-626-4444
FAX: 559-626-4457

Sacramento Office

332 NORWALK
DELANO, CA 93215
PHONE: 661-725-0800
FAX: 661-725-9545

1521 I STREET
SACRAMENTO, CA 95814
PHONE: 916-441-1931
FAX: 916-441-1581

Mr. Tim Rust
November 18, 2010
Page 2

As you know, most of our member districts have contracts for water from the Friant Division. We also represent several Cross Valley contractors, as well as Madera Irrigation District that not only receives water from the Friant Division but also from the Hidden Dam Unit.

Excluding the Friant Division is justified given that various parts of the WSP as drafted do not make sense in the context of operation of the Friant Division or the existing water service contracts and recently negotiated repayment contracts. [See the Friant Division contracts for specific definitions of terms used below.]

For example, on page 2-5, Term and Condition #2 states:

“For an M&I contractor to be eligible for adjustments to their CVP water supply, the contractor’s water service contract must reference M&I water shortage policy.”

Neither the existing Friant Division long-term water service contracts nor the recently negotiated Friant Division repayment contracts reference the M&I WSP.

Another example is found in Term and Condition #4. It states:

“Before allocation of M&I water to a contractor will be reduced, allocation of irrigation water will be reduced below 75 percent of contract entitlement, as shown in Table 1.”

Water supply in the Friant Division is not allocated by irrigation or M&I water. It is allocated on a pro-rata basis, first among those contractors that have Class 1 Water in their contracts, then to those who have Class 2 Water in their contracts. Specific to the Friant Division, the unique Class 1 and Class 2 system creates what is a *de facto* means of providing water supply reliability to those Friant Division contractors that have M&I water in their contracts. The first 800,000 acre-feet of Project Water that develops and is available for delivery to contractors is Class 1 water. All contractors that deliver M&I Water have a supply of Class 1 Water in their contracts or have access to Class 1 water through separate agreements.

Further, Table 1 in Term and Condition #4 shows reductions for M&I contractors begin when the Irrigation Allocation is reduced to 70% of contract entitlement. In terms of total contract entitlement in the Friant Division, Class 1 contractors do not experience a reduction in Class 1 Water until the Water Made Available is 37% of total contract entitlement. Therefore, Table 1 would not make sense if it were to be applied to Friant Division contracts.

We therefore respectfully request that an exclusion be specifically stated in the WSP so there is no ambiguity about applicability. The exclusion could easily be provided by inserting, after the second paragraph on page 1-1 of the draft policy, the following new paragraph, which is just a slight modification of the above excerpt from the OCAP BA:

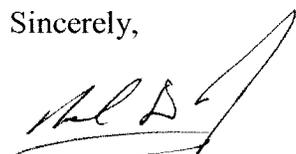
Mr. Tim Rust
November 18, 2010
Page 3

The M&I WSP does not apply to contracts for the (1) Friant Division, (2) New Melones interim supply, (3) Hidden and Buchanan Units, (4) Cross Valley contractors, (5) San Joaquin River Exchange settlement contractors, and (6) Sacramento River settlement contractors. Any separate shortage-related contractual provisions will prevail.

Thank you for your consideration of this request.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. D. Jacobsma', written over a horizontal line.

Ronald D. Jacobsma
General Manager