Del Puerto WATER District

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November 30, 2000

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Mr. Lester Snow, Regional Director
Department of the Interior
Bureau of Reclamation
Code: MP-100, Regional Office
2800 Cottage Way, Room E-1604
Sacramento, CA 95825-1898

RE: Proposed M&I Water Shortage Policy

Dear Mr. Snow:

We understand that you are considering finalizing a policy regarding M&I water shortages and are seeking comments on a draft prepared on November 20, 2000 draft and circulated at a workshop held on November 21, 2000. Although there have been a number of draft policies over the years, we understand that this is the first time that such a policy is intended to be finalized.

As you know the Del Puerto Water District's contract for 140,210 acre-feet of CVP water is used almost exclusively for irrigation within the District. About half of the irrigated acreage within the District is planted to permanent crops. The reliability of the District's water supplies to irrigate these plantings is crucial to our survival.

We understand that some M&I Contractors are suggesting that the final policy be modified from that set forth in the November 20th draft in several respects for the primary purpose of providing greater reliability to M&I Contractors. Insofar as the inevitable result of such changes would be to reduce deliveries to agricultural Contractors, we urge you to reject such suggestions.

In fact, we fail to understand how the M&I Shortage Policy as set forth in a November 20th draft and in prior drafts can be justified and enforced in light of Section 9(c) of the 1939 Act (43 USC §485h(c)) which provides in part:

> "No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes."

We acknowledge that some priority should be given for M&I purposes that are needed to protect public health and safety, and that fish and wildlife purposes should also be subject to "human health and safety" requirements as has been provided for by Section 3406(b)(2)(C) of the CVPIA. We also acknowledge that there are a few M&I Contractors which historically have had various M&I priority provisions in their contracts which reasonably could have been entered into with a Secretarial determination that such priorities would not impair the efficiency of the project for irrigation purposes.

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Unfortunately, times have changed since those contracts were entered into. Today, the practical effect of granting any such M&I priority is to reduce the quantity of water available for irrigation purposes in many, if not most, years, as opposed to only occasionally during extreme drought conditions. We believe that new contracts and policies should provide an equal footing between irrigation and M&I uses except to the extent that water is needed to meet M&I public health and safety demands during extreme droughts.

We would point out that M&I Contractors do have alternatives if they wish to achieve greater reliability than is otherwise available from the project. They can consider and pursue water reallocation programs, such as Santa Clara has done with the San Luis Delta-Mendota Water Authority and certain of its members. They can also develop and/or participate in water banking programs, such as Santa Clara and other urban agencies have done with Semitropic Water Storage District. The effect of the November 20th draft policy, made worse if modified as suggested by some M&I Contractors, would be to provide M&I Contractors with more water at the expense of irrigation supplies. We believe that M&I Contractors should share equally in the water losses to the project resulting from on-going regulatory constraints. To do otherwise only accommodates and encourages urban growth with less expensive CVP supplies to the detriment of hard-working farmers and precious agricultural lands.

We would also like to note that the State Water Project has eliminated M&I priorities under the Monterey Amendments. In the same way that these amendments both allowed for transfer of state water supplies from agriculture to M&I and provided that they would be treated equally in times of shortage, so too should federal supplies provided under CVPIA transfer provisions treat the apportionment of shortages between agricultural and M&I users (i.e. equally).

Accordingly, we urge you to reconsider the draft M&I policy and develop a policy which does not impair the irrigation purposes of the Project, except to the extent that supplies are required to meet health and safety needs of our urban areas in times of extreme drought. Furthermore, if you should proceed with a policy similar to that presented in the November 20, 2000 draft, we implore you not shift additional burdens to irrigation as has been suggested by some M&I Contractors. Thank you for the opportunity to comment on this draft policy.

Very truly yours,

William D. Harrison
General Manager

Cc: John Davis
Board of Directors
Ernest Conant
CVPWA
SLDMWA