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**Date:** 11/30/00 7:09PM  
**Subject:** SCVWD's Redraft of November 20 Draft CVP M&I Shortage Policy

Attached is a redraft of the shortage policy incorporating comments from SCVWD. A final and redline are attached.

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**DRAFT Draft**  
CENTRAL VALLEY PROJECT  
POLICY ON WATER SHORTAGE PROVISIONS IN M&I CONTRACTS

November 30, 2000

There may occur at times a shortage during any year in the quantity of Central Valley Project (CVP) water ~~that can be~~ made available to an M&I contractor by the United States. The cause of the water shortage may be drought, unavoidable causes<sup>1</sup>, or restricted operations resulting from legal obligations, including but not limited to the Endangered Species Act, the Central Valley Project Improvement Act (CVPIA), and the State of California's Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (WQCP).

Project operations are carried out consistent with water right permit terms and conditions (such as those in the State Water Resources Control Board's Decision-1641 and the WQCP), Endangered Species Act biological opinions, and legislative mandates (such as the CVPIA, **which specified increased levels of supply and maximum deficiencies for wildlife refuges and management areas**).~~;~~

M&I contractors are generally not using their entire CVP M&I water entitlement yet. M&I deliveries in 1994 were 336,000 acre-feet and are projected to be approximately 683,000 acre-feet by the year 2022. *[ARE THESE NUMBERS CORRECT? CAN THEY BE UPDATED?]* ~~If~~ **the Applying a** shortage allocation ~~were applied~~ to each M&I contractor's ~~full~~ contract entitlement; **would enable** some M&I contractors ~~could to~~ take a **full water** supply of water ~~equivalent to their full demand~~ in times of severe water shortage. Therefore, the guarantee of 75 percent M&I reliability described in the June 9, 1997 CVPIA Administrative Proposal for Urban Water Supply reliability shall be applied to historical use as defined herein, up to the M&I contractor's contractual entitlement. Historical use will be adjusted for weather ~~normalization~~, growth, ~~and~~ extraordinary water conservation measures, **and supplemental supplies**, as provided below in the "Definition of Terms." ~~Under extraordinary circumstances, historical use will be adjusted for supplemental supplies available to the Contractor.~~

M&I water allocations may differ between divisions of the CVP **north and south of the Delta**. Generally, allocations to divisions **north and south of the Delta** will be the same, unless specific operational constraints occur which do not allow the United States to provide a division **south of the Delta** with the same minimum allocation as other CVP divisions **north of the Delta**.

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<sup>1</sup>Unavoidable causes are causes beyond the control of Reclamation such as pumps failing at Tracy pumping plant or a Court ordered injunction.

Terms and Conditions for M&I Reliability and CVP Water supply allocation:

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**42418.** Shortage allocations of M&I water shall be based on the contractor's historical use of M&I water, adjusted for weather ~~normalization~~, growth, **supplemental supplies**, and extraordinary conservation measures up to the contractor's contractual entitlement. ~~Under extraordinary circumstances, historical use will be adjusted for supplemental supplies available to the Contractor.~~ The terms adjusted for weather, historical use, adjusted for growth, **supplemental supplies**, extraordinary water conservation measures, ~~supplemental supplies available to the Contractor~~, and public health and safety are defined below. This Policy shall be implemented in a manner that does not penalize contractors for ~~implementation of extraordinary conservation measures~~ or for use of supplemental supplies.

~~Shortage allocations of Irrigation water shall be based on the contractor's contractual entitlement.~~

2

**42419.** For an M&I contractor to be eligible for a minimum allocation in time of shortage of 75 percent of historical use, the M&I contractor must have developed and be fully implementing its water conservation plan in accordance with its CVP contract.

~~Reclamation recognizes that as conservation measures are implemented there is a hardening of demand such that flexibility to adjust for shortages in supply is reduced.~~

3

**42420.** This M&I Water Shortage Policy applies only to that portion of the CVP water ~~put to beneficial use historically~~ **used** by the contractor for M&I purposes, ~~plus the contractor's~~ **and/or identified as** projected M&I demand as of September 30, 1994, ~~as shown in the [SPECIFICALLY IDENTIFY DOCUMENT IN WHICH PROJECTIONS WERE MADE AS OF 9/30/94].~~ **Subject to the foregoing, irrigation Irrigation** water transferred and/or converted to M&I use after September 30, 1994 ~~will be subject to~~ **retain its original irrigation water** shortage allocation ~~as irrigation water.~~

4.

**42421.** Before ~~allocations~~ **allocation** of M&I water to a contractor ~~are~~ **is** reduced, allocations of irrigation water shall be reduced to 75% of contract entitlement. ~~See Table 1,~~ **as shown below in Table 1.**

Table 1  
Allocation of Irrigation and M&I Water

Irrigation Water	M&I Water
100%	100%
95%	100%
90%	100%
85%	100%
80%	100%
75%	100%

5

**42422.** When allocations of irrigation water have been reduced to 75 percent of contractual entitlement, if further reductions are necessary, the M&I water ~~allocations~~ **allocation to a M&I contractor** and irrigation water allocations will be reduced the same percentage amount. Reductions of the M&I water allocation to a M&I contractor will begin at 100 percent of M&I demand, up to contractual entitlement,<sup>2</sup> and reductions of irrigation water allocations will begin at 75 percent of **total** contractual entitlement. The M&I allocation to a M&I contractor will be reduced by an equal percentage amount with reductions in irrigation water allocations, until the M&I ~~allocations~~ **allocation to a M&I contractor** reach 75 percent of historical use (adjusted as provided in this Policy), and irrigation allocations reach 50 percent of contractual entitlements. At this point, the M&I allocation will not be further reduced until irrigation allocations reach 25 percent of total contractual entitlements. This is illustrated in Table 2 below.

Table 2  
Shortage Allocation of Irrigation and M&I Water

Irrigation Water	M&I Water
75%	100%
70%	95%
65%	90%
60%	85%
55%	80%
50% - 25%	75%

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<sup>2</sup> M&I Contractors in general are still in a build-up period for their contractual entitlement.

6

~~42423.~~ When allocations of irrigation water reach 25 percent of total contractual entitlements, Reclamation will need to reassess CVP water supply availability and CVP water demand. In the event the Governor of California declares an emergency due to water shortage, M&I water allocations to contractors may, ~~under appropriate circumstances and in consultation with the contractor,~~ be reduced below 75 percent of historical use: ~~Allocations, and allocations~~ of M&I water may vary among contractors, depending on where CVP water can be made available. ~~Under extraordinary circumstances, for M&I purposes.~~ Reclamation may take into consideration the contractor's other available non-CVP water supplies **during an emergency declared by the Governor.**

~~42424-~~

7. Reclamation will apply criteria consistent with those ~~applied at that time by similarly situated~~ **used by the California M&I water supply entities** for determining appropriate public health and safety levels of water use during times of severe drought. **The term public, health and safety shall mean interior residential use, sanitation, and water for fire protection, and shall include sufficient quantities to meet those needs, as well as essential industrial, institutional, and commercial needs required to ensure public health and safety (e.g., hospitals, public services, vital industrial and commercial needs, water conveyance requirements, etc.).**

Each M&I contractor shall ~~provide Reclamation with a copy of its Urban Water Management Plan which includes a drought contingency plan~~ **include in its water conservation plan a shortage allocation policy, including criteria and a plan to allocate available water supplies** to protect public health and safety. **Pursuant to Section 3405 (e) of CVPIA, Reclamation shall develop criteria for evaluation of contractors' shortage allocation policies. Review of contractors' shortage allocation policies will be an element of the periodic Reclamation review of water conservation plans.**

CVP water allocations to Refuges shall be ~~further reduced below 75 percent~~ by Reclamation when necessary to allow allocation of sufficient M&I water to assure that public health and safety will be protected. Water allocated for fish and wildlife activities pursuant to Section 3406(b)(2) of CVPIA shall be ~~further reduced below 600,000 acre-feet~~ in order to allocate sufficient M&I water to assure protection of public health and safety. ~~Nothing in this policy shall require the Secretary to (what policy will determine how the b2 water is reduced to 600taf?)~~

Definitions of Terms used above include:

8

**42425.** The term “historical use” shall mean the water made available to the contractor during the last year unaffected by water shortage allocation to the contractor, adjusted for weather, growth, supplemental supplies, and extraordinary water conservation practices, as defined below. In the alternative, adjustment for weather may be accomplished by use of a common baseline year or years against which weather, conservation, and growth can be measured to determine the contractor’s adjusted historical use. .

9

**42426.** The term “adjusted for growth” shall mean a process whereby Reclamation reviews a contractor’s historical use and documentation provided by the contractor to verify increases demand beyond historical use, including increases in the population and in the industrial, commercial, and other water customers served by the contractor. The demand data and growth data can be measured against the common baseline described above. Any such adjustment for growth would be capped at the contractor’s total contractual entitlements. This will be compared to the needs analysis done by Reclamation and to the water conservation plan. *[The meaning of this sentence is not clear.]*

10

**42427.** The term “extraordinary water conservation measures” shall mean water conservation activities in addition to those minimum required best management practices specified in the contractor’s water conservation plan. The contractor must be implementing its water conservation plan in a manner that is consistent with the then current standard criteria for evaluating such plans. Each proposed extraordinary water conservation measure will be reviewed and evaluated by Reclamation to determine if it qualifies as an extraordinary water conservation measure. Alternatively, the minimum conservation levels relative to the common baseline described above, adjusted for growth, will be compared to current use to determine the quantity of extraordinary conservation that has occurred. The criteria for water conservation plans are continually changing and will be updated to ensure consistency with current state of the art water conservation and management measures. A water conservation measure considered extraordinary in 2001 may be a mandatory best management practice requirement in the year 2010.

11

**42428.** The term “public health and safety” shall be those M&I uses to which water is allocated consistent with criteria established by the State of California, or by the M&I contractor and others similarly situated thereto, as applicable, during times of declared water

~~shortage emergencies.~~ **mean interior residential use, sanitation, and water for fire protection, and shall include sufficient quantities to meet those needs, as well as essential industrial, institutional, and commercial needs required to ensure public health and safety (e.g., hospitals, public services, vital industrial and commercial needs, water conveyance requirements, etc.).**

~~12~~

**42429.** The term “adjusted for weather” shall mean a contractor’s water use adjusted to a dry year demand. Such adjustment is not required if the common baseline method described above is used.

~~13~~

**42430.** The term “~~supplemental supplies available to the contractor~~”**supplies”** means a contractor’s available non-CVP water supplies. To encourage CVP contractors to develop supplemental supplies, Reclamation will count supplemental water supplies used in the contractor’s historical use calculation as if the contractor had used its CVP supply. Use of supplemental supplies can benefit the CVP in all water years.

----- COMPARISON OF FOOTNOTES -----

-FOOTNOTE 1-

Unavoidable causes are causes beyond the control of Reclamation such as pumps failing at Tracy pumping plant or a Court ordered injunction.,

~~-FOOTNOTE 2-~~

~~There are circumstances in every division that may prevent M&I allocations from being equal. For example, hydrology on the American River may be substantially different than the Shasta/Trinity watershed.~~

-FOOTNOTE 3 2-

M&I Contractors in general are still in a build-up period for their contractual entitlement.

----- COMPARISON OF HEADERS -----

-HEADER 1-

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This redlined draft, generated by CompareRite (TM) - The Instant Redliner, shows the differences between -

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Additions appear as Bold text

DRAFT  
CENTRAL VALLEY PROJECT  
POLICY ON WATER SHORTAGE PROVISIONS IN M&I CONTRACTS

November 30, 2000

There may occur at times a shortage during any year in the quantity of Central Valley Project (CVP) water that can be made available to an M&I contractor by the United States. The cause of the water shortage may be drought, unavoidable causes<sup>3</sup>, or restricted operations resulting from legal obligations, including but not limited to the Endangered Species Act, the Central Valley Project Improvement Act (CVPIA), and the State of California's Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (WQCP).

Project operations are carried out consistent with water right permit terms and conditions (such as those in the State Water Resources Control Board's Decision-1641 and the WQCP), Endangered Species Act biological opinions, and legislative mandates (such as the CVPIA).

M&I contractors are generally not using their entire CVP M&I water entitlement yet. M&I deliveries in 1994 were 336,000 acre-feet and are projected to be approximately 683,000 acre-feet by the year 2022. *[ARE THESE NUMBERS CORRECT? CAN THEY BE UPDATED?]* If the shortage allocation were applied to each M&I contractor's full contract entitlement, some M&I contractors could take a supply of water equivalent to their full demand in times of severe water shortage. Therefore, the guarantee of 75 percent M&I reliability described in the June 9, 1997 CVPIA Administrative Proposal for Urban Water Supply reliability shall be applied to historical use as defined herein, up to the M&I contractor's contractual entitlement. Historical use will be adjusted for weather normalization, growth, and extraordinary water conservation measures, as provided below in the "Definition of Terms." Under extraordinary circumstances, historical use will be adjusted for supplemental supplies available to the Contractor.

M&I water allocations may differ between divisions of the CVP. Generally, allocations to divisions will be the same, unless specific operational constraints occur which do not allow the United States to provide a division with the same minimum allocation as other CVP divisions.<sup>4</sup>

Terms and Conditions for M&I Reliability and CVP Water supply allocation:

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<sup>3</sup>Unavoidable causes are causes beyond the control of Reclamation such as pumps failing at Tracy pumping plant or a Court ordered injunction.

<sup>4</sup>There are circumstances in every division that may prevent M&I allocations from being equal. For example, hydrology on the American River may be substantially different than the Shasta/Trinity watershed.

1. Shortage allocations of M&I water shall be based on the contractor's historical use of M&I water, adjusted for weather normalization, growth, and extraordinary conservation measures up to the contractor's contractual entitlement. Under extraordinary circumstances, historical use will be adjusted for supplemental supplies available to the Contractor. The terms adjusted for weather, historical use, adjusted for growth, extraordinary water conservation measures, supplemental supplies available to the Contractor, and public health and safety are defined below. This Policy shall be implemented in a manner that does not penalize contractors for implementation of extraordinary conservation measures or for use of supplemental supplies. Shortage allocations of Irrigation water shall be based on the contractor's contractual entitlement.
2. For an M&I contractor to be eligible for a minimum allocation in time of shortage of 75 percent of historical use, the M&I contractor must have developed and be fully implementing its water conservation plan in accordance with its CVP contract. Reclamation recognizes that as conservation measures are implemented there is a hardening of demand such that flexibility to adjust for shortages in supply is reduced.
3. This M&I Water Shortage Policy applies only to that portion of the CVP water put to beneficial use historically by the contractor for M&I purposes, plus the contractor's projected M&I demand as of September 30, 1994, as shown in *[SPECIFICALLY IDENTIFY DOCUMENT IN WHICH PROJECTIONS WERE MADE AS OF 9/30/94]*. Subject to the foregoing, irrigation water transferred and/or converted to M&I use after September 30, 1994 will be subject to shortage allocation as irrigation water.
4. Before allocations of M&I water to a contractor are reduced, allocations of irrigation water shall be reduced to 75% of contract entitlement. See Table 1, below.

**Table 1**  
Allocation of Irrigation and M&I Water

Irrigation Water	M&I Water
100%	100%
95%	100%
90%	100%
85%	100%
80%	100%
75%	100%

5. When allocations of irrigation water have been reduced to 75 percent of contractual entitlement, if further reductions are necessary, the M&I water allocations and irrigation water allocations will be reduced the same percentage amount. Reductions of the M&I water allocation to a M&I contractor will begin at 100 percent of M&I demand, up to contractual entitlement,<sup>5</sup> and reductions of irrigation water allocations will begin at 75 percent of contractual entitlement. The M&I allocation to a M&I contractor will be reduced by an equal percentage amount with reductions in irrigation water allocations, until the M&I allocations reach 75 percent of historical use (adjusted as provided in this Policy), and irrigation allocations reach 50 percent of contractual entitlements. At this point, the M&I allocation will not be further reduced until irrigation allocations reach 25 percent of total contractual entitlements. This is illustrated in Table 2 below.

**Table 2**  
**Shortage Allocation of Irrigation and M&I Water**

Irrigation Water	M&I Water
75%	100%
70%	95%
65%	90%
60%	85%
55%	80%
50% - 25%	75%

6. When allocations of irrigation water reach 25 percent of total contractual entitlements, Reclamation will need to reassess CVP water supply availability and CVP water demand. In the event the Governor of California declares an emergency due to water shortage, M&I water allocations to contractors may, under appropriate circumstances and in consultation with the contractor, be reduced below 75 percent of historical use. Allocations of M&I water may vary among contractors, depending on where CVP water can be made available. Under extraordinary circumstances, Reclamation may take into consideration the contractor's other available non-CVP water supplies.
7. Reclamation will apply criteria consistent with those applied at that time by similarly situated California M&I water supply entities for determining appropriate public health and safety levels of water use during times of severe drought.

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<sup>5</sup> M&I Contractors in general are still in a build-up period for their contractual entitlement.

Each M&I contractor shall provide Reclamation with a copy of its Urban Water Management Plan which includes a drought contingency plan to protect public health and safety.

CVP water allocations to Refuges shall be further reduced below 75 percent by Reclamation when necessary to allow allocation of sufficient M&I water to assure that public health and safety will be protected. Water allocated for fish and wildlife activities pursuant to Section 3406(b)(2) of CVPIA shall be further reduced below 600,000 acre-feet in order to allocate sufficient M&I water to assure protection of public health and safety. Nothing in this policy shall require the Secretary to *(what policy will determine how the b2 water is reduced to 600taf?)*

Definitions of Terms used above include:

8. The term “historical use” shall mean the water made available to the contractor during the last year unaffected by water shortage allocation to the contractor, adjusted for weather, growth, supplemental supplies, and extraordinary water conservation practices, as defined below. In the alternative, adjustment for weather may be accomplished by use of a common baseline year or years against which weather, conservation, and growth can be measured to determine the contractor’s adjusted historical use. .
9. The term “adjusted for growth” shall mean a process whereby Reclamation reviews a contractor’s historical use and documentation provided by the contractor to verify increases demand beyond historical use, including increases in the population and in the industrial, commercial, and other water customers served by the contractor. The demand data and growth data can be measured against the common baseline described above. Any such adjustment for growth would be capped at the contractor’s total contractual entitlements. This will be compared to the needs analysis done by Reclamation and to the water conservation plan. *[The meaning of this sentence is not clear.]*
10. The term “extraordinary water conservation measures” shall mean water conservation activities in addition to those minimum required best management practices specified in the contractor’s water conservation plan. The contractor must be implementing its water conservation plan in a manner that is consistent with the then current standard criteria for evaluating such plans. Each proposed extraordinary water conservation measure will be reviewed and evaluated by Reclamation to determine if it qualifies as an extraordinary water conservation measure. Alternatively, the minimum conservation levels relative to the common baseline described above, adjusted for growth, will be compared to current use to determine the quantity of extraordinary conservation that has occurred. The criteria for water

conservation plans are continually changing and will be updated to ensure consistency with current state of the art water conservation and management measures. A water conservation measure considered extraordinary in 2001 may be a mandatory best management practice requirement in the year 2010.

11. The term “public health and safety” shall be those M&I uses to which water is allocated consistent with criteria established by the State of California, or by the M&I contractor and others similarly situated thereto, as applicable, during times of declared water shortage emergencies.
12. The term “adjusted for weather” shall mean a contractor’s water use adjusted to a dry year demand. Such adjustment is not required if the common baseline method described above is used.
13. The term “supplemental supplies available to the contractor” means a contractor’s available non-CVP water supplies. To encourage CVP contractors to develop supplemental supplies, Reclamation will count supplemental water supplies used in the contractor’s historical use calculation as if the contractor had used its CVP supply. Use of supplemental supplies can benefit the CVP in all water years.