

Mr. David Murillo
May 3, 2013
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draft EIS (ADEIS) for the OCAP remand, this year's allocations suggest that Reclamation is continuing to rely on releases from Folsom Reservoir storage as the "first responder" to meet Delta water quality requirements that apply to not just the CVP's reservoirs, but those of the State Water Project as well. (See ADEIS, pp. 5-57 to 5-58.) This choice to maximize Reclamation's operational convenience is not mandated by any law, regulation, policy, contract or water-right term and, in fact, is inconsistent with Term 14 and California's area-of-origin laws. In addition, imposing a disproportionate burden on the CVP and SWP's smallest Sacramento Valley reservoir subjects this region's economy and environment to unacceptable risks.

Reclamation's treatment of the American River Division's M&I contractors is inconsistent with Term 14 in Reclamation's Folsom water-right permits, as well as California's area-of-origin laws. We object to this inconsistency and urge you to correct it. We also urge you to ensure that the CVP M&I water shortage policy that Reclamation is developing is consistent with Term 14.

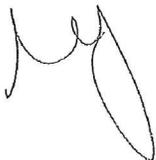
Conclusion

Reclamation's projected operations of Folsom Reservoir this year will create an unacceptable water-supply risk for this region, which is naturally dependent on the American River. Reclamation's CVP M&I allocations for the American River Division are not consistent with the terms of Reclamation's water-right permits for Folsom Dam and Reservoir. We respectfully request a meeting with you as soon as possible to discuss these serious issues. At this meeting, we will seek Reclamation's commitment that it will:

- Manage Folsom Reservoir's storage to ensure that the hundreds of thousands of people we serve will have adequate water supplies if the winter of 2013-2014 were to be dry; and
- Comply with the terms of its water-right permits for Folsom Reservoir by making CVP allocations consistent with those terms' explicit language and the supporting intent stated in Decision 893.

Very truly yours,

CITY OF FOLSOM



By:

Michael Kashiwagi
Interim Director
Environmental & Water Resources

CITY OF ROSEVILLE



By:

Ed Kriz
Interim Environmental Utilities
Director

Mr. David Murillo
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Page 5

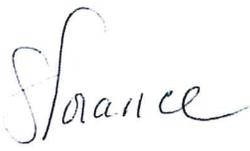
PLACER COUNTY WATER AGENCY

By: 
David Breninger
General Manager

SACRAMENTO MUNICIPAL UTILITY
DISTRICT

By: 
Paul Lau
Assistant General Manager
Power Supply & Grid Operations

SAN JUAN WATER DISTRICT

By: 
Shauna Lorance
General Manager

Enclosures

8683/M&I Shortage Policy/L050313 Term 14

Cc: Pablo Arroyave, Bureau of Reclamation
Tim Rust, Bureau of Reclamation

Enclosure 5
Letter to Mr. Mike Kashiwagi, dated June 7, 2013



United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Region
Central California Area Office
7794 Folsom Dam Road
Folsom, CA 95630-1799

RECEIVED

JUN 10 2013

UTILITIES DEPT.

IN REPLY REFER TO:

CC-400
WTR-4.00

JUN 07 2013

Mr. Mike Kashiwagi
Interim Director of Utilities
City of Folsom
50 Natoma Street
Folsom, California 95630

Subject: Reply to American River Municipal and Industrial (M&I) Contractors Letter Dated May 3, 2013, Regarding Folsom Reservoir Management and Central Valley Project (CVP) Allocations

Dear Mr. Kashiwagi:

On behalf of Mr. David Murillo, Mid-Pacific Regional Director, I am responding to the American River M&I Contractors letter identifying concerns about the planned management of Folsom Reservoir and allocations of CVP water this year. We understand that you are seeking the Bureau of Reclamation's commitment to manage Folsom Reservoir in 2013 in a manner that will ensure adequate water supplies for the 2014 water year if 2014 is a dry year. Additionally, the letter requested that Reclamation comply with Term 14 of our water rights permit for Folsom Reservoir.

Folsom Reservoir is managed for multiple purposes and deliveries for which M&I use are one of Reclamation's several priorities. These purposes include flood control, water supply, power generation, water quality, fish, and wildlife to name a few. With these multiple obligations, Reclamation develops plans, using the tools available, to forecast and meet these obligations under varying hydrologic conditions. It is always Reclamation's intent and practice to operate its facilities and projects in a way that will maximize carryover storage and preserve the quantity and quality of water to meet the needs of its many customers and purposes, within the requirements of applicable rules and regulations.

As explained in our June 1, 2012, response to your March 14, 2012, letter Term 14 of Reclamation's water rights permits for Folsom Dam and Reservoir gave agencies within Placer, Sacramento, and San Joaquin counties a preference to contract with Reclamation for water service from Folsom Reservoir. That preference expired at the end of 1975. San Juan Water District (of which city of Folsom is a subcontractor), Placer County Water Agency, Sacramento Municipal Utility District, and the city of Roseville entered into water service contracts (Contracts) with Reclamation prior to 1975. The extent of the applicability of Term 14 was to

give the described entities only a preference to contract with Reclamation; Term 14 does not obligate Reclamation to grant your agency a preference in deliveries of CVP water and provide more reliability under your water service contract than any other CVP M&I contractor. Furthermore, the Contracts contain a shortage article which states the CVP water furnished under the Contracts will be allocated in accordance with the then-existing CVP M&I Water Shortage Policy.

We understand your concern related to adequate water supply this year and next given the possibility of continued drought conditions. Reclamation maintains its commitment to meet with the American River M&I Contractors periodically to ensure the Contractors have the latest hydrologic and operational information in order to develop a strategy to deliver water that best meets your customer's need. As requested in your letter we invite you to a meeting on Friday, June 14, 2013, at 9:00 a.m. at the Central California Area Office in Folsom, with the Regional Director.

Please contact me at 916-989-7180 or e-mail dlessard@usbr.gov if you have any questions or would like additional information related to the upcoming meeting.

Sincerely,



Drew F. Lessard
Area Manager

Identical Letter Sent To:

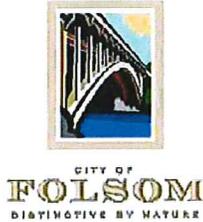
Mr. David A. Breninger
General Manager
Placer County Water Agency
P.O. Box 6570
Auburn, California 95604

Mr. Ed Kriz
Interim Director of Environmental Utilities
City of Roseville
2005 Hilltop Circle
Roseville, California 95747-9704

Ms. Shauna Lorange
General Manager
San Juan Water District
P.O. Box 2157
Granite Bay, California 95746

Mr. John Distasio
General Manager
Sacramento Municipal Utility District
P.O. Box 15830
Sacramento, California 95852-1830

Enclosure 6
Letter to Mr. Tom Howard, dated March 10, 2014



March 10, 2014

Mr. Tom Howard
Executive Director
State Water Resources Control Board
Post Office Box 100
Sacramento, California 95812-0100

VIA E-MAIL
Tom.howard@waterboards.ca.gov

Re: CVP/SWP Temporary Urgency Change – Request for Folsom Reservoir
Operations Plan

Dear Mr. Howard:

The Cities of Folsom and Roseville and San Juan Water District serve approximately 500,000 people in Sacramento and Placer Counties. The American River is our local water source and each of our agencies depends on deliveries from Folsom Reservoir by the Bureau of Reclamation as our primary water supply. Consistent with the SWRCB's March 3, 2014 Modified Announcement for Revised Order on Temporary Urgency Change Petition for the Central Valley Project (CVP) and the State Water Project (SWP), we request that the SWRCB include in the order for Reclamation to issue, by April 15, 2014, an operations plans for Folsom Reservoir and the American River that would describe how Reclamation will ensure that adequate water supplies are available in that reservoir for our agencies and the American River region throughout this water year and into the 2014-2015 water year.

Background on Our Agencies

The primary water supply for our agencies and the approximately 500,000 people we serve is water diverted from Folsom Reservoir through the reservoir's water-supply intake. That intake would be dry if the amount of water stored in the reservoir were to drop below approximately 100,000 acre-feet (AF). Our agencies would begin to have serious water-supply problems at reservoir levels well above 100,000 AF because the intake's efficiency declines significantly as the intake is uncovered and air is drawn into our pipelines. As has been well reported, our intake was at serious risk of being dry as early as March or April before recent storms increased the amount of water stored in Folsom Reservoir. The reservoir reached its low point so far this year on February 6, 2014, when 162,617 AF were stored in the reservoir. As the SWRCB probably is aware, this water level was low enough that the foundations of buildings that had been inundated by the reservoir were exposed.

All of our agencies are located in the area of origin protected from impacts from the CVP's operation. (See Water Code §§ 11128, 11460.) In addition, each of our agencies holds priority rights in the operation of Folsom Reservoir.

Folsom owns portions of the oldest water right in the South Fork of the American River, specifically a right based on an 1851 notice by the Natomas Water Company. That right is the basis for settlement contracts with Reclamation in which the City of Folsom holds rights, specifically Contract No. 14-06-200-5515A and Contract No. 14-06-200-4816A. Under those contracts, Folsom has the right to 27,000 AF a year (AFY) of deliveries from Folsom Reservoir. Those contracts do not authorize dry-year reductions by Reclamation. As authorized by Public Law No. 101-514, Folsom is also a subcontractor under Sacramento County Water Agency's CVP water-service contract.

San Juan Water District owns the oldest water right in the North Fork of the American River, specifically a right initiated by the North Fork Ditch Company in 1853. That right is the basis of a settlement contract with Reclamation that the District holds, namely Contract No. DA-04-167-eng-610. Under that contract, the District holds a right to 33,000 AFY of deliveries from Folsom Reservoir. That contract does not authorize dry-year reductions by Reclamation. The District also holds a 24,200 AFY CVP water-service contract with Reclamation.

Before Reclamation received its water-right permits for Folsom Dam and Reservoir, Roseville filed a water-right application for at least 120,000 AF a year from the American River. The State Water Rights Board (SWRB) considered that application while considering Reclamation's applications for Folsom Dam and Reservoir. In Decision 893, the SWRB decided not to approve Roseville's application, stating:

Permits are being issued to the United States to appropriate enough American River water to adequately supply the applicants naturally dependent on that sources and availability of water to such applicants is reasonably assured by the terms to be contained in the permits to be issued to the United States restricting exportation of water under those permits insofar as exportation interferes [*sic*] with fulfillment of needs within Placer, Sacramento and San Joaquin Counties.

The SWRB inserted Term 14 in Reclamation's Permits Nos. 11315 and 11316 to reflect this intent. (See *State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 674, 814.) Roseville signed its 32,000 AFY CVP water-service contract with Reclamation in 1967. That contract is protected by Term 14. San Juan's CVP water-service contract also is protected by Term 14. Like Roseville, San Juan's predecessor agency also had filed its own pre-CVP water-right application for American River water.

In addition to Roseville's and San Juan's contracts with Reclamation, both agencies also have and use water-supply contracts with Placer County Water Agency (PCWA) for water that PCWA appropriates in its Middle Fork Project. Roseville's PCWA contract is for 30,000 AFY and San Juan's contract is for 25,000 AFY. Crucially, however, both Roseville and San Juan currently can only take delivery of their PCWA supplies through Folsom Reservoir's intake. Similarly, Folsom can only access water under its CVP water-service subcontract through that intake. While Folsom, Roseville and San Juan have contracts to water supplies under diverse sources, all of those supplies are dependent on Reclamation's operation of Folsom Reservoir

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because all or nearly all water from those sources must be delivered through the intake in the reservoir.

NMFS Biological Opinion and Reclamation's Folsom Reservoir Projections

The National Marine Fisheries Service's (NMFS) 2009 biological opinion currently controls Reclamation's operation of Folsom Reservoir to meet streamflows in the lower American River. (A copy of the relevant portions of the biological opinion are attached.) For the American River, that biological opinion incorporates the 2006 Water Forum flow management standard (FMS). (Biological opinion, p. 613.) The FMS and the biological opinion contain an "off-ramp" from the specified flow standards that is triggered when it can be projected that storage in Folsom Reservoir will drop below 200,000 AF at any time during the next 12 months. (Biological opinion, Appendix 2-D, p. 1.) Under these off-ramp criteria, Reclamation has managed releases for lower American River streamflows in consultation with an "American River Group" (ARG) that includes NMFS, the U.S. Fish and Wildlife Service, the California Department of Fish and Wildlife and others.

The off-ramp criteria were triggered in 2013. That off-ramp remains in effect because Reclamation's latest operational projections indicate that Folsom Reservoir's storage very well might decline below 200,000 AF within the next twelve months. Reclamation's February 2014 projection for a 90% exceedance scenario with "minimum regulatory standards" – which we understand to include D-1641 Delta outflow requirements – show the reservoir's storage declining to 174,000 AF in August 2014 and reaching 127,000 AF in September. Reclamation's February 2014 projection for a 90% exceedance scenario with "minimum releases" – which we understand would involve some relief from D-1641's Delta-outflow requirements – show the reservoir's storage declining to a low of 235,000 AF in September 2014. (We have enclosed copies of both projections.) While Reclamation's projections show Folsom Reservoir storage increasing in October and November, our experience has indicated that the reservoir generally continues to decline in those months. Reclamation's projections therefore may underestimate how far the reservoir may decline before next winter. Consistent with the last three winters, Reclamation's operations plan must assume that next winter may be dry.

So far this water year, Reclamation's practice in operating under the biological opinion's off-ramp has been to determine Folsom Reservoir operations in real time through consultations with the ARG. Those consultations, along with the precipitation that our region has received, have allowed Reclamation to operate in real time beginning in December 2013 to avert the water-supply disaster that appeared to be looming in December. In order for our agencies to adequately plan for another potentially dry year next year, however, we request that the SWRCB include in the order for Reclamation to develop and submit a Folsom Reservoir operations plan to you.

Request for Inclusion of Folsom Reservoir Operations Plan in Modified Order

Your March 3 Modified Announcement requests comments on "[a] requirement to maintain a minimum quantity of water in Project reservoirs at the end of September sufficient to meet health and safety needs in the event of continued drought next year." As discussed above, a

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well-defined operations plan for Folsom Reservoir is critical for our agencies, and the American River region as a whole, to plan for providing water to the public during the rest of this year and into next year. We request that the SWRCB insert the following term in its next urgency order concerning CVP and SWP operations:

No later than April 15, 2014, Reclamation will deliver to the Deputy Director Reclamation's plan for operating Folsom Reservoir to meet the needs of water suppliers in the American River region, pursuant to their CVP contracts and water rights, and the lower American River during this water year and, assuming next winter is dry, the 2014-2015 water year. To develop this plan, as soon as possible, Reclamation will consult with water suppliers adjacent to Folsom Reservoir and the lower American River, as well as the Water Forum, concerning: (1) Reclamation's operation of that reservoir this water year; (2) a storage target for September 30, 2014; and (3) operations during the 2014 fall salmon spawning season. Reclamation will continue to consult with affected American River stakeholders throughout this year and will deliver any amendments to its operations plan to the SWRCB promptly upon Reclamation's adoption of those amendments. Reclamation will operate Folsom Reservoir according to its operations plan until at least January 1, 2015. Reclamation will promptly deliver copies of its operations plan that is due April 15, 2014, and any amendments to that plan, to the affected water suppliers and the Water Forum.

Such an operations plan will enable better planning for both water supplies and the lower American River's fish – including steelhead and fall-run Chinook salmon – by providing more definition to the "off-ramp" contained in NMFS's biological opinion.

Conclusion

We appreciate the opportunity to comment on the terms that the SWRCB may include in its revised temporary order for CVP and SWP operations. If you have any questions, please do not hesitate to contact any of us.

Very truly yours,

CITY OF FOLSOM

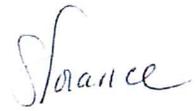
CITY OF ROSEVILLE

SAN JUAN WATER DISTRICT

By: 

Marcus Yasutake
Environmental and
Water Resources Director


By: _____
Ed Kriz
Director, Environmental
Utilities


By: _____
Shauna Lorance
General Manager

Mr. Tom Howard
March 10, 2014
Page 5

Enclosures

8618/American River/L031014rsb SWRCB Order

Cc: Felicia Marcus
Frances Spivy-Weber
Tam Dudoc
Steven Moore
Dorene D'Adamo
Michael Buckman
Tom Gohring

Enclosure 7
Letter to Mr. Tom Howard, dated April 25, 2014



CITY OF
FOLSOM
DISTINCTIVE BY NATURE



April 25, 2014

Mr. Tom Howard
Executive Director
State Water Resources Control Board
Post Office Box 100
Sacramento, California 95812-0100

VIA E-MAIL
Tom.howard@waterboards.ca.gov

Re: CVP/SWP Temporary Urgency Change – Response to San Luis & Delta-Mendota Water Authority Opposition to American River Operations Plan

Dear Mr. Howard:

As the State Water Resources Control Board is aware, this year's severe drought conditions seriously impacted Folsom Reservoir, the reservoir adjacent to our communities that is our primary water supply. The reservoir reached what will hopefully be its low point on February 6, 2014, when there was 162,617 acre-feet of water in storage. That amount was approximately 16% of the reservoir's capacity, with a water level of 357 feet above mean sea level. That was only about 25 feet above the level at which our only water-supply intake in the reservoir would be dry. At that point, the approximately 500,000 people we serve could have their water supplies severely limited. At this level, their water supplies could be restricted to a level that provides only enough water for basic indoor water needs. Based on this experience, in our March 10, 2014 letter to you, we requested that the SWRCB add to the CVP/SWP temporary urgency order a term requiring Reclamation to prepare a Folsom Reservoir operations plan to address the need for more water-supply certainty moving into the 2014-2015 water year. Given the very dry conditions over the last three years, there are no guarantees that next winter will be any wetter than this past winter. As a result, there are no guarantees that the condition of Folsom Reservoir will be better next year than this year. As explained in more detail below, the need for a Folsom Reservoir operations plan that protects our communities' public health and safety is growing ever more pressing because Reclamation currently is planning to enter next water year with the reservoir 80,000 to 90,000 acre-feet lower than it entered this water year.

A Folsom Reservoir Operations Plan Is Urgently Necessary Because Reclamation Plans To Start Next Water Year With Even Less Water In Storage Than It Did This Water Year

Our request for a Folsom Reservoir operations plan that will protect our 500,000 residents' health and safety has only grown more urgent since we sent our March 10 letter. In the draft operations plan that Reclamation shared with the American River Group last week (copy enclosed), Reclamation projects drawing Folsom Reservoir down to an end-of-September

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carryover level of 273,000 acre-feet in a dry 90%-exceedance scenario and 287,000 acre-feet in a normal 50%-exceedance scenario. These are dangerously low storage levels that present a serious risk to our residents' health and safety. For perspective, the reservoir held 361,108 acre-feet in storage on September 30, 2013. In other words, Reclamation's planned operation of the reservoir apparently will drain Folsom Reservoir approximately 80,000 to 90,000 acre-feet lower than the level at which the reservoir began the current water year. Under Reclamation's latest operations plan and if Reclamation had entered this past winter with Folsom Reservoir holding 80,000 to 90,000 acre-feet less than it did, there would have been a distinct possibility that our agencies' water-supply intake could have been dry as early as February or March 2014. If precipitation in late 2014 were to mirror precipitation in late 2013 and early 2014, our water supplies could be at risk as early as February 2015, with water surface elevations dropping below our water-supply intake.

Moreover, it appears that the Real-Time Drought Operations Team (RTDOT) created by the SWRCB's urgency order is not appropriately considering the need to protect our communities' public health and safety. On April 21, 2014, Reclamation implemented a pulse flow, apparently at the request of the "fish agencies," increasing releases to the lower American River from 500 cfs on April 21 to 1,500 cfs later that day with a ramp-down to 800 cfs by the end of the day on April 25. As far as our agencies are aware, the RTDOT's members did not consult with any interested stakeholders concerning either the pulse flow or the apparent plan to maintain American River releases at 800 cfs indefinitely. With Reclamation's operational plan indicating that our communities' water supplies may be put at serious risk given the Folsom Reservoir storage level at which Reclamation plans to enter next water year, the RTDOT's apparent willingness to increase releases from the reservoir without any discussion with our agencies or any other American River stakeholders is extremely troubling. It is particularly troubling because, through the Water Forum, our agencies and many other stakeholders have engaged extensively with Reclamation, the National Marine Fisheries Service and the U.S. Fish and Wildlife Service concerning American River flows and conditions earlier in this drought year. Such consultations are critically important where the RTDOT's members are managing the water supplies that we deliver to meet our communities' basic human needs.

San Luis & Delta-Mendota's Arguments Conflict With Public Policy And Are Legally Incorrect

Notwithstanding the pressing need for a Folsom Reservoir operations plan to protect our communities' public health and safety, in a March 26, 2014 letter, the San Luis & Delta-Mendota Water Authority (SLDMWA) opposed our request for an operations plan for the reservoir. In short, SLDMWA argued that our agencies, as CVP contractors, have no priority to any supply from Folsom Reservoir, whether under the area of origin laws, the water-right terms that the SWRCB's predecessor agency applied to Reclamation's Folsom water-right permits to protect this region or any other source. The implication of SLDMWA's argument is that the SWRCB should take no steps to ensure that the 500,000 people we serve who rely on the reservoir as a local water source will have an adequate water supply if next winter were to be dry.

It is important to remember the disparity in our agencies' contracts with Reclamation and the contracts held by SLDMWA's members. All of our agencies' supplies under settlement

contracts with Reclamation, CVP water-service contracts and subcontracts under CVP water-service contracts total 123,200 acre-feet a year. Roseville and San Juan also hold contracts for supplies from Placer County Water Agency (PCWA) under PCWA's water rights that total 55,000 acre-feet a year. At 100% allocations under all of those contracts, our communities' demands from Folsom Reservoir total 178,200 acre-feet a year. All of those supplies – even those under PCWA contracts – are put at risk if there is a risk of Folsom Reservoir levels declining below our water-supply intake. In contrast, the CVP water-service contract for just one SLDMWA member, namely Westlands Water District, is 1,150,000 acre-feet per year. While CVP deliveries to SLDMWA's members of course have been constrained for some time, and are severely constrained this year, requiring Reclamation to adopt a plan to protect our agencies' relatively small – yet critical – water supplies would appear to have little impact on supplies for SLDMWA's members.

SLDMWA's argument in favor of subjecting our residents' primary water supply for drinking, cooking and bathing to significant risk entering next water year is contrary to public policy. (See, e.g., Water Code §§ 106 (“It is hereby declared to be the established policy of this State that the use of water for domestic purposes is the highest use of water”); 106.3(a) (“It is hereby declared to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes”).) SLDMWA's arguments also contain numerous legal flaws:

1. SLDMWA ignores settlement contracts. As explained in our March 10 letter, Folsom and San Juan hold settlement contracts with Reclamation that reflect their pre-CVP – indeed, pre-1860 – water rights. Those contracts do not allow for dry-year reductions, whatever interpretation is applied to CVP water-service contracts. SLDMWA ignores the existence of the settlement contracts.
2. Congress's authorization of Folsom Reservoir contradicts SLDMWA's argument. Congress authorized the construction of Folsom Dam and Reservoir in 1949's Public Law 81-356 (copy enclosed). That act contains the following direction to the Secretary of the Interior:

Nothing contained in this Act shall be construed by implication or otherwise as an allocation of water and in the studies for the purposes of developing plans for disposal of water as herein authorized *the Secretary of the Interior shall make recommendations for the use of water in accord with State water laws, including but not limited to such laws giving priority to the counties and areas of origin for present and future needs.* (63 Stat. 853 (emphasis added, copy enclosed).)

As explained in our March 10 letter and below, the practical method by which this direction was implemented was Term 14 as adopted by the State Water Rights Board in Decision 893. While SLDMWA has benefitted from the consideration of the specific terms of congressional authorizations of other CVP units (see *Tehama-Colusa Canal Authority v. U.S. Dept. of Interior* (E.D.Cal. 2011) 819

F.Supp.2d 956, 976-978 (discussing act authorizing Tehama-Colusa Canal)), its argument here is contrary to Folsom Dam and Reservoir's authorizing act.

3. SLDMWA ignores binding legal authority concerning the effect of Folsom Reservoir's permit terms. In Decision 893, the State Water Rights Board made it crystal clear what the effect of the decision's Term 14 would be:

Permits are being issued to the United States to appropriate enough American River water *to adequately supply the applicants naturally dependent on that source* and availability of water to such applicants is reasonably assured by *the terms to be contained in the permits to be issued to the United States restricting exportation of water* under those permits insofar as exportation interferes with fulfillment of needs within Placer, Sacramento and San Joaquin Counties. *Other applicants in more remote areas must if necessary seek water from other sources.* (Decision 893, p. 54 (emphasis added).¹)

In its landmark 2006 decision concerning D-1641, the Court of Appeal interpreted Term 14 adopted by Decision 893 (which SLDMWA identifies as Term 11) in response to arguments by SLDMWA's member Santa Clara Valley Water District. (*State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 674, 814.) The Court of Appeal interpreted the above discussion in Decision 893 and stated:

Understandably, Santa Clara does not claim that Santa Clara County is an area *naturally* dependent on water from the American River. Moreover, the language following "United States" refers to a permit condition that, as the decision states, was imposed to protect the "fulfillment of needs within Placer, Sacramento and San Joaquin Counties." Thus, the Water Rights Board was explaining that the availability of water to applicants within Placer, Sacramento, and San Joaquin Counties that were naturally dependent on the American River was "reasonably assured" by *the permit condition that restricted the export of water appropriated under the American River permits until the needs of those counties were fully met.* (*State Water Resources Code Board Cases*, 136 Cal.App.4th, at p. 814 (first emphasis in original, second emphasis added).)

This binding legal interpretation of the key permit term contradicts the entirety of SLDMWA's legal position. While we cited the Court of Appeal's decision in our March 10 letter, SLDMWA ignores it.

4. SLDMWA relies on non-binding dicta from a decision that warns against relying on non-binding dicta. SLDMWA's argument relies largely on the Ninth Circuit

¹As explained in our March 10 letter, Roseville and San Juan's predecessor Fair Oaks Irrigation District were among the "applicants naturally dependent" on the American River at the time of Decision 893.

Court of Appeals' decision in *Tehama-Colusa Canal Authority v. U.S. Dept. of Interior* (9th Cir. 2013) 721 F.3d 1086. The Ninth Circuit held that Water Code section 11460 did not give Tehama-Colusa Canal Authority's (TCCA) members a priority to CVP water-service contract supplies even though they were located in the CVP's area of origin and that those laws could have given TCCA's members priority if they were to file their own water-right applications. (721 F.3d, at p. 1097.)² In doing so, the Ninth Circuit stated that the Court of Appeal's *State Water Resources Control Board* decision was not controlling:

[A]s the district court noted, the decision in *SWRCB Cases* lacks persuasive power because: (1) CVP contracts were not at issue in that proceeding; (2) there was no comprehensive discussion of the CVP project; and (3) the proposed interpretation of [Water Code] § 11460 by [TCCA] and its members would nullify explicit provisions of the renewal contracts. (721 F.3d, at p. 1096.)³

While SLDMWA benefited from the Ninth Circuit's dismissal of certain statements in the Court of Appeal's *State Water Resources Control Board Cases* decision as involving questions not at issue in that decision and therefore non-binding dicta, SLDMWA relies on a discussion of Shasta Reservoir's water-right permit terms by the Ninth Circuit, even though those permit terms were not at issue before the Ninth Circuit because TCCA relied wholly on Water Code section 11460. Moreover, the *State Water Resources Control Board Cases*' holding concerning Term 14 is a binding interpretation of a California water-right permit terms by a California Court of Appeal.

SLDMWA's arguments in opposition to our agencies' request for a Folsom Reservoir operations plan have no merit.

Conclusion

Given the ever more pressing need for a Folsom Reservoir operations plan that protects our communities' water supplies – as well as the water supplies for all of the other communities in the Sacramento region – and the apparent opposition to even that basic level of protection for our supplies, we plan to participate actively in the SWRCB's May 6 workshop concerning

²As discussed in our March 10 letter and above, Roseville and San Juan's predecessor filed exactly the sort of water-right applications that would have had area-of-origin priority under the Ninth Circuit's logic and received the protection of Term 14 as a result.

³In contrast to the situation with the CVP water-service contracts of TCCA's members, Term 14 is incorporated into CVP water-service contracts because they define the key term "Project Water" as water that "is developed, diverted, stored, or delivered by the Secretary . . . in accordance with the terms and conditions of water rights acquired pursuant to California law." Under the Ninth Circuit's logic, because SLDMWA's members receive water under such water-service contracts, they are precluded from disputing the applicability and effect of Term 14. Of course, even leaving aside the definition of "Project Water," Reclamation of course must comply with the terms of its water-right permits.

Mr. Tom Howard
April 25, 2014
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possible changes to the CVP/SWP temporary urgency order. Please do not hesitate to contact any of us if you have any questions.

Very truly yours,

CITY OF FOLSOM

CITY OF ROSEVILLE

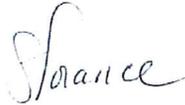
SAN JUAN WATER
DISTRICT

By: 

Marcus Yasutake
Environmental and
Water Resources Director

By: 

Ed Kriz
Director,
Environmental
Utilities

By: 

Shauna Lorance
General Manager

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A Professional Corporation

By: 

Ryan S. Bezerra

Attorneys for the City of Folsom, the City of Roseville
and San Juan Water District

Enclosures

8618/American River/L042514rsb SWRCB Urgency

Cc (w/encl): Hon. Tom McClintock
Hon. Ami Bera
Hon. Ted Gaines
Hon. Darrell Steinberg
Hon. Ken Cooley
Hon. Beth Gaines
Felicia Marcus
Frances Spivy-Weber
Tam Dudoc
Steven Moore
Dorene D'Adamo
Michael Buckman
David Murillo
Drew Lessard
Tom Gohring

Mr. Tom Howard
April 25, 2014
Page 7

Ron Stork
Clyde Macdonald
Dan Nelson

DRAFT April 2014

90%-Runoff Exceedance Outlook - WITH SALINITY BARRIERS

Federal End of the Month Storage/Elevation (TAF/Feet)

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Folsom	512	522	447	359	303	273	259	247	248	261	318	440
Elev.	418	419	410	397	388	382	380	377	377	380	390	409
Monthly River Releases (cfs)												
American	956	954	1920	1958	1474	935	806	863	837	800	800	800

50%-Runoff Exceedance Outlook

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Folsom	531	569	520	440	345	287	308	347	407	506	601	666
Elev.	420	425	419	409	395	385	389	395	404	417	429	436
Monthly River Releases (cfs)												
American	953	1220	1700	2062	2338	1712	892	850	850	850	3000	4000

Persons engaging, etc., in strikes against or advocating overthrow of U. S. Government.

Affidavit.

Penalty.

60 Stat. 810.

Payment of claims.

60 Stat. 843; 62 Stat. 1008.
28 U. S. C., Supp. II, § 2672.
Ante, pp. 62, 106.
60 Stat. 903.
Short title.

may suspend from time to time in whole or in part compliance with this section if he should deem such course to be in the public interest.

SEC. 3. No part of any appropriation contained in this Act, or of the funds made available for expenditure by any corporation included in this Act, shall be used to pay the salary or wages of any person who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided*, That for the purposes hereof an affidavit shall be considered prima facie evidence that the person making the affidavit has not contrary to the provisions of this section engaged in a strike against the Government of the United States, is not a member of an organization of Government employees that asserts the right to strike against the Government of the United States or that such person does not advocate, and is not a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That any person who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence and accepts employment the salary or wages for which are paid from any appropriation or fund contained in this Act shall be guilty of a felony and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penalty clause shall be in addition to, and not in substitution for, any other provisions of existing law.

SEC. 4. The Governor of the Panama Canal and the Chief Engineers, Department of the Army, are authorized to employ services as authorized by section 15 of the Act of August 2, 1946 (5 U. S. C. 55a), in amounts not exceeding \$6,000 for the Panama Canal and not exceeding \$150,000 for the Corps of Engineers, Department of the Army: *Provided*, That the rates for individuals shall not exceed \$100 per diem.

SEC. 5. Appropriations for civil functions of the Department of the Army may be used for the payment of claims under the Act of July 3, 1943, and section 403 of the Federal Tort Claims Act (28 U. S. C. 2672); examination of estimates of appropriations in the field; and for health programs as authorized by law (5 U. S. C. 150).

SEC. 6. This Act may be cited as the "Civil Functions Appropriation Act, 1950".

Approved October 13, 1949.

[CHAPTER 690]

AN ACT

October 14, 1949
[H. R. 165]
[Public Law 366]

To authorize the American River Basin development, California, for irrigation and reclamation, and for other purposes.

American River Basin development, Calif.

Folsom Dam and Reservoir.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Central Valley project, California, authorized by section 2 of the Act of Congress of August 26, 1937 (50 Stat. 850), is hereby reauthorized to include the American River development as hereinafter described, which development is declared to be for the same purposes as described and set forth in the Act of Congress of August 26, 1937 (50 Stat. 850).

SEC. 2. The American River development shall consist of: Folsom

Dam and Reservoir having a storage capacity of approximately one million acre-feet, to be constructed by the Corps of Engineers at such point below the confluence of the North Fork and the South Fork of the American River near the city of Folsom, California, as the Secretary of the Army and the Chief of Engineers after consultation with the Bureau of Reclamation and other appropriate State, Federal, and local agencies may find most advisable; and the following features for the development and use of water, to be constructed, operated, and maintained by the Secretary of the Interior through the Commissioner of Reclamation: A hydroelectric power plant with a generating capacity of approximately one hundred and twenty thousand kilowatts, and necessary hydroelectric afterbay power plants and necessary electric transmission lines to the nearest practical interconnection with the Central Valley project transmission system; a storage dam with a capacity of approximately forty thousand acre-feet to be located on Sly Park Creek, a tributary of the North Fork of Consumas River, with necessary appurtenant works, including a diversion dam on Camp Creek, tunnel, conduit, and canals for the delivery of water to lands in El Dorado County, and incidental works appurtenant thereto. The Secretary of the Interior, through the Bureau of Reclamation, is hereby further authorized and directed to conduct the necessary investigations, surveys, and studies for the purpose of developing plans for disposing of the water and electric power which would be made available by the project, including studies of such supplemental works and equipment as may be required to maintain a firm supply of electric energy, and render reports thereon which would set forth the works required for such disposition, together with findings as to their engineering and financial feasibility, including a study of the water resources and requirements of the entire American River watershed and the areas serviceable therefrom, and particularly of a diversion canal at the highest feasible level extending southerly from Folsom Reservoir as will permit the maximum beneficial use of the water for irrigation of the lands lying under said canal in El Dorado and Sacramento Counties; a diversion canal at the highest feasible level for the purpose of securing the maximum beneficial use of the water in Placer County extending northerly from such reservoir to a point on the Bear River in the vicinity of Sheridan, California, and a conduit or conduits with necessary pumping plants and supplemental works extending from the most feasible diversion point on the Central Valley project, California, to serve lands and municipalities in Contra Costa, Alameda, Santa Clara, San Joaquin, and San Benito Counties.

Nothing contained in this Act shall be construed by implication or otherwise as an allocation of water and in the studies for the purposes of developing plans for disposal of water as herein authorized the Secretary of the Interior shall make recommendations for the use of water in accord with State water laws, including but not limited to such laws giving priority to the counties and areas of origin for present and future needs.

Said studies and the reports thereon shall be submitted to the proper State authorities under the procedure provided for in the Flood Control Act of 1944 (Public Law 534, Seventy-eighth Congress, second session).

Folsom Dam and Reservoir, upon completion of construction by the Corps of Engineers, to the extent where water from said reservoir is ready to be turned either into the power plant or conduits, shall be transferred to the Bureau of Reclamation for operation and maintenance under the supervision of the Secretary of the Interior together with the other features of the American River development herein

Hydroelectric power plant.

Investigations, surveys, etc.

Recommendations of Secretary.

Reports, etc., to States.
53 Stat. 897.
53 U. S. C. §§ 701a-1, 701c, 701f, 701j notes, 703, 709; Supp. II, § 701c note; 16 U. S. C. §§ 460d, 625; 43 U. S. C. § 390.

Transfer to Bureau of Reclamation.

43 U. S. C. § 372 *et seq.*; Supp. II, § 385a *et seq.*

58 Stat. 890.
33 U. S. C. § 709.
Consultation with local interests.

Coordination, etc., of works.

Appropriation authorized.

authorized for construction by the Bureau of Reclamation, all in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). After the transfer as provided herein, the dam shall be operated for flood control in accordance with criteria established by the Secretary of the Army as provided for in section 7 of the Flood Control Act of 1944 (Public Law 534, Seventy-eighth Congress, second session).

SEC. 3. In locating and designing the works authorized for construction by section 2 of this Act the Secretary of the Army and the Chief of Engineers, the Secretary of the Interior and the Commissioner of Reclamation shall give due consideration to the report set forth in Bulletin Numbered 26 of the Division of Water Resources of the Department of Public Works of the State of California, and shall consult the local interests to be affected by the construction and operation of said works, through public hearings or in such other manner as in their discretion may be found best suited to a maximum expression of the views of such local interests.

SEC. 4. The Secretary of the Interior is directed to cause the operation of said works to be coordinated and integrated with the operation of existing and future features of the Central Valley project in such manner as will effectuate the fullest and most economic utilization of the land and water resources of the Central Valley project of California for the widest possible public benefit.

SEC. 5. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as are necessary to carry out the purposes of this Act.

Approved October 14, 1949.

[CHAPTER 691]

AN ACT

October 14, 1949
[H. R. 3191]
[Public Law 557]

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

Federal Employees' Compensation Act Amendments of 1949.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Compensation Act Amendments of 1949".

TITLE I—SUBSTANTIVE AMENDMENTS

WAITING PERIOD MODIFIED

39 Stat. 743.

39 Stat. 743.
5 U. S. C. § 759.
Post, p. 862.
39 Stat. 743.

Use of leave.

Supra.

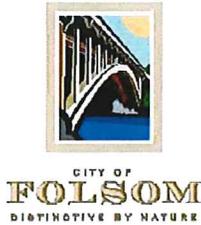
SEC. 101. (a) Section 2 of the Act approved September 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act referred to as the "Federal Employees' Compensation Act"), as amended (5 U. S. C., 1946 edition, sec. 752), is hereby amended to read as follows:

"SEC. 2. That with respect to the first three days of temporary disability the employee shall not be entitled to compensation except as provided in section 9, unless such disability exceeds twenty-one days in duration or is followed by permanent disability."

(b) Section 8 of such Act (5 U. S. C., 1946 edition, section 758), is amended to read as follows:

"SEC. 8. If at the time the disability begins the employee has annual or sick leave to his credit he may use such leave until it is exhausted, in which case his compensation for disability shall not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased."

Enclosure 8
Letter to Mr. Michael Buckman, dated May 13, 2014



May 13, 2014

State Water Resources Control Board
c/o Michael Buckman
P.O. Box 2000
Sacramento, California 95812-2000

VIA E-MAIL
michael.buckman@waterboards.ca.gov

Re: CVP/SWP Temporary Urgency Change – Comments on May 2 Order and Request for Folsom Reservoir Operations Plan

Dear Mr. Buckman:

As discussed in our March 10, 2014 and April 25, 2014 letters to the SWRCB, as well as in our presentation at the SWRCB's May 6, 2014 workshop on the temporary urgency order for Central Valley Project (CVP) and State Water Project (SWP) operations, we are extremely concerned about how Folsom Reservoir will be operated if the drought persists. The 500,000 people and thousands of businesses in our communities depend on the reservoir for their primary water supply. We therefore must take all necessary steps to ensure that there are adequate plans to meet our communities' water-supply needs if the drought does persist. To address this concern, we have requested that the SWRCB modify the temporary urgency order to require the Bureau of Reclamation to submit a Folsom Reservoir and Lower American River operations plan that explains how Reclamation will plan to operate that reservoir to ensure that it can provide water supplies to our agencies if next winter is dry. We repeat that request now and respectfully ask that the SWRCB insert in the temporary urgency order the following term, which we have updated to reflect the time since our initial request:

No later than June 1, 2014, Reclamation will deliver to the Deputy Director Reclamation's plan for operating Folsom Reservoir and the Lower American River, assuming 90% exceedance hydrologic conditions through March 15, 2015. The operations plan must demonstrate how Reclamation will meet the needs of water suppliers in the American River region, pursuant to their CVP contracts and water rights, and the lower American River during this water year and the 2014-2015 water year. To develop this plan, as soon as possible, Reclamation will consult with water suppliers adjacent to Folsom Reservoir and the lower American River, as well as the Water Forum, concerning: (1) Reclamation's operation of that reservoir this water year; (2) a storage target for September 30, 2014; and (3) operations during the 2014 fall salmon spawning season. Reclamation will continue to consult with affected American River stakeholders through at least March 15, 2015 and will deliver any amendments to its operations plan to the SWRCB promptly upon Reclamation's adoption of those amendments. Reclamation will operate Folsom Reservoir according to its operations plan until

Mr. Michael Buckman
May 13, 2014
Page 2

at least March 1, 2015. Reclamation will promptly deliver copies of its operations plan that is due June 1, 2014, and any amendments to that plan, to the affected water suppliers and the Water Forum.

While we have requested that very similar language be inserted into the temporary urgency order in our previous comments, recent developments emphasize the importance of Reclamation preparing an operations plan to address how it will meet municipal and industrial needs in the Sacramento region. During the May 6, 2014 workshop on the temporary urgency order, SWRCB members identified a need for agencies to plan for next year if it were to be dry. We believe that our proposed term would help address that need.

The Most Recent American River Operational Projections Do Not Show How Our Communities Would Be Able To Access Our Primary Water Source

We enclosed, with our March 10 and April 25 letters, what were then Reclamation's most current projections for how it would operate Folsom Reservoir and the Lower American River. Those projections specified the reservoir storage and downstream releases that Reclamation believed it would maintain during the November 2014-January 2015 period. Unfortunately, Reclamation's latest operational projection includes no information about how Reclamation may operate Folsom Reservoir and the Lower American River after September 30. (A copy of that latest projection, dated April 2014, is enclosed.) Our agencies need a more complete projection that extends through the winter that assumes dry conditions will continue. Our proposed addition to the urgency order would address that need.

Projections for streamflows during the November-January period are crucial for operations of the Lower American River and for our agencies' planning. The Lower American River's fall-run Chinook salmon spawn during that period. As the SWRCB is aware, it is at best difficult to change streamflows during that period because reducing streamflows during that period may lead to losses of salmon redds and juvenile salmon from dewatering and stranding. The maintenance of relatively high fall-run spawning streamflows last fall was one of the primary reasons that Folsom Reservoir was drained so low last winter. Last year of course was extremely dry, with Reclamation's March 2013 operational projections showing that, in a 90% exceedance scenario, Folsom Reservoir would be drawn below 200,000 acre-feet in December 2013. (A copy of this projection is enclosed.) This projection could have triggered the terms of NMFS's 2009 biological opinion that allow for Lower American River streamflows where Folsom Reservoir storage is projected to decline below 200,000 acre-feet at any time during the following 12 months. (2009 BiOp, Appendix 2-D, p. 1 (copy enclosed).) During the fall spawning season, however, releases from Folsom Reservoir and to the Lower American River from Nimbus Dam were approximately 1,300 to 1,400 cubic feet per second (cfs) through October, November and December 2013, until December 29, when releases were reduced to approximately 1,100 cfs. Releases then ramped down from that 1,100 cfs to approximately 600 cfs by January 13, 2014.

As the SWRCB is aware, at the May 6 workshop, we presented NASA's photograph of Folsom Reservoir on January 16, 2014, when it held only 170,000 acre-feet. (Our presentation from the workshop is enclosed for your ease of reference.) The reservoir continued to decline

Mr. Michael Buckman
May 13, 2014
Page 3

until February 6, when it held only 163,000 acre-feet and the reservoir's level was only 27 feet above our water-supply intake. Due to the 2013-2014 operations described above, the reservoir declined from approximately 361,000 acre-feet on September 30, 2013 to the 163,000 acre-feet on February 6, 2014. Approximately 175,000 acre-feet of this 198,000 acre-feet decline occurred during the October 2013-December 2013 period, when releases were primarily in the 1,300-1,400 cfs range. Without an operations plan that demonstrates how Reclamation will operate Folsom Reservoir and the Lower American River if conditions remain dry, we are extremely concerned about our ability to serve our communities next year. For example, we believe that our water-supply intake would be dry sometime in the late winter or spring of 2015 if: (1) the drought were to persist; (2) end-of-September storage were to be 304,000 acre-feet as stated in the latest operational projection we have seen, which is enclosed; and (3) October 2014-January 2015 releases from Folsom Reservoir were to be similar to October 2013-January 2014 releases. Of course, given California's usual hydrology, if our intake were to go dry in the late winter or early spring, it might then stay dry until the winter of 2015-2016. That result would be catastrophic for our communities.

It is imperative for both our water supplies and the American River's fisheries that this experience not be repeated in the coming water year. Particularly in light of the current absence of projections for American River operations after September 30, 2014, we respectfully repeat our request that the SWRCB modify the urgency order to include our proposed term, which would require Reclamation to produce an American River operations plan.

Development Of, And Operation To, A Folsom Reservoir And Lower American River Operations Plan Could Address Emerging Conflicts Among The Coordinated Operations Agreement, American River Settlement Contracts, Reclamation's Water-Right Permit Terms And The Area-Of-Origin Laws

Currently, in addition to the absence of projections for how Folsom Reservoir and the Lower American River will be operated after September 30, overall CVP and State Water Project (SWP) operations under the Coordinated Operations Agreement (COA) apparently are impacting Folsom Reservoir's storage and our water supplies. The most recent April 2014 projection of CVP operations shows elevated American River releases with streamflows of 2,000 cfs in June, 1,855 cfs in July and 1,316 cfs in August. Sufficient information for us to understand why American River releases would be so high during the summer, given the depressed state of Folsom Reservoir storage, has not been made available to us. What we understand, however, is that those elevated releases from the reservoir are being driven by the COA because: (1) the SWP's operations upstream of and within the Delta are increasing the amount of water that the CVP must release to address Delta conditions under the COA; and (2) concern for maintaining a cold-water pool in Shasta Reservoir to support winter-run salmon is causing releases from Folsom to be preferred to releases from Shasta, notwithstanding the potentially significant impacts on our primary water source and the American River's fisheries.

It causes us great concern that the basic water supply for our communities is being put at risk because of the interrelated operations of the SWP and the CVP, particularly given that: (A) Folsom and San Juan hold water rights that are senior to the SWP and the CVP; and (B) those rights are reflected in settlement contracts that have no dry-year reduction provisions. In

addition, in issuing the CVP's water-right permits for Folsom Reservoir, the State Water Rights Board sought to protect Roseville and other local communities that had filed priority applications for American River water. In Decision 893 (p. 54), that board stated:

[A]vailability of water to such applicants is reasonably assured by the terms to be contained in the permits to be issued the United States restricting exportation of water under those permits insofar as exportation interferes [*sic*] with fulfillment of needs within Placer, Sacramento and San Joaquin Counties.

Moreover, CVP and SWP operations that would not make water available to meet the needs of our communities would be inconsistent with the area-of-origin laws, which apply to both the CVP and the SWP. Water Code section 11460 states (emphasis added):

In the construction and operation by the department of any project under the provisions of this part a watershed or area wherein water originates . . . shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants of property owners therein.

(See also Water Code § 11128 (§ 11460 applies to the CVP).)

The operations plans for Folsom Reservoir that we are requesting could resolve these problems by demonstrating how Reclamation will operate that reservoir to ensure that the coordinated operation of the CVP and the SWP will not result in serious impacts to – or even the physical inability to access – our water supplies. We agree in large part with the concerns about coordinated CVP and SWP operations stated by Friant Water Authority in its April 28, 2014 protest. The CVP and SWP must not be operated so senior rightholders and water users protected by CVP permit terms and the area-of-origin laws are subjected to the serious risk that they will be unable to access water from the CVP while, through COA, water is being exported under the SWP's junior rights. While we do not agree with Friant that the CVP is not developing project water supplies this year, we agree that operations under the COA must not result in impacts on CVP settlement contractors and other CVP contractors specifically protected by the terms of CVP's water-right permits.

Conclusion

After the experience of this last year, when our communities' primary water source came perilously close to going dry, it is imperative that Reclamation and the other agencies involved in operating Folsom Reservoir demonstrate that they will be able to operate the reservoir to meet the needs of the 500,000 people and thousands of businesses that we serve. We respectfully request that the SWRCB modify the temporary urgency order for CVP and SWP operations to include our proposed term that would require Reclamation to produce an operations plan for the reservoir and the American River.

Mr. Michael Buckman
May 13, 2014
Page 5

Very truly yours,

CITY OF FOLSOM

CITY OF ROSEVILLE

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8618/American River/L051214rsb SWRCB Order

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