significant differences in the reliance on groundwater between those two types of water uses. (DEIS, p. 6-14.) The FEIS should clarify that urban agencies in the Sacramento Valley may rely on groundwater more heavily.

The DEIS also states that it uses a "conservative assumption" that "M&I water service contractors [would] choose to meet all the unmet PH&S need by temporarily increasing the use of groundwater." (DEIS, p. 6-56.) This assumption is inappropriate for several reasons. 19

As discussed above, multiple M&I contractors in the American River Division have little or no groundwater available to them as alternative supplies. The DEIS's apparent assumption that groundwater would be freely available to meet M&I contractors' unmet PH&S demands therefore is not supportable. (See DEIS, p. 6-57.)

The DEIS's assumption that M&I contractors would only pump additional groundwater to meet PH&S demands also is incorrect. (DEIS, p. 6-62.) To the extent that implementation of the WSP would result in CVP supplies being inadequate in wetter years, at least some M&I contractors probably would pump additional groundwater where it is available in those years as well. The error in the DEIS's assumption about M&I groundwater pumping is demonstrated by its assumption that agricultural contractors would respond to implementation of a full M&I preference under Alternative 3 by pumping more groundwater in many years. (DEIS, p. 6-67.) The DEIS does not explain why it assumes that M&I contractors would pump less often in response to water-supply shortages. 20

The FEIS's groundwater analysis should be expanded to include more than impacts on land subsidence and some water quality issues. (See DEIS, p. 6-58.) The DEIS does not address, for example, potential migration of contaminant plumes that could occur if CVP deliveries to M&I contractors were reduced or were insufficient to meet demands. There are at least two well-known contaminant plumes in the Sacramento metropolitan area – originating from Aerojet property south of the American River and from the former McClellan Air Base north of that river – that could migrate if increased groundwater pumping were to occur in that area as assumed by the DEIS. The FEIS should address the potential migration of these plumes as a result of the WSP's implementation. 21

K. The FEIS Should Correct Issues with the DEIS's Cumulative Impacts Analysis

The DEIS's conclusion that implementation of Bay-Delta Conservation Plan (BDCP) Alternative 4 would not result in any reductions in CVP deliveries to M&I contractors obscures the serious impacts to water supplies from Folsom Reservoir that BDCP projects to occur by 2060 as a result of the continued implementation of Delta water quality requirements with climate change. (DEIS, p. 4-40.) As discussed in the comments on the draft BDCP EIR/EIS by 22

the North State Water Alliance and the American River Water Agencies,[1] these projections are not reliable and, if implemented, would violate numerous contracts and water rights. For example, the City of Folsom and San Juan Water District's supplies under their contracts with Reclamation that reflect their American River water rights from the 1850s would not be available if Folsom Reservoir were to be drained as projected in the BDCP EIR/EIS. The current DEIS may not rely on the draft BDCP EIR/EIS to reliably analyze what water-supply impacts would occur with the combined implementation of Reclamation's draft M&I shortage policy and BDCP. 22

Similarly, the DEIS's statement that implementation of Alternative 2 with cumulative projects such as BDCP and the SWRCB's draft San Joaquin River water quality control plan amendments will not have an adverse cumulative effect "given the plan's limited effect on Delta exports" seems to indicate that Reclamation has limited the scope of its analysis on this point to M&I contractors that receive Delta exports. (DEIS, p. 4-41.) The FEIS should correct this statement because such a limitation would be inappropriate given the numerous M&I contractors located upstream of the Delta. 23

L. Additional Issues That Should be Fixed or Clarified in the FEIS

In addition to the comments in the sections above, a number of additional issues with the DEIS should be fixed or clarified in the FEIS. These additional issues are as follows, in the order in which they appear in the DEIS: 24

- The DEIS is inconsistent as to what years are included in the DEIS's historical use modeling for the American River division. (Compare DEIS, p. 2-7 and p. 4-11.) This inconsistency should be clarified.

- The FEIS should fix the DEIS's incorrect suggestion that the State Water Resources Control Board's (SWRCB) approval is necessary for changes to the use of pre-1914 appropriative water rights. (DEIS, p. 4-4.) The SWRCB's approval is not necessary for changes to such rights. (Water Code § 1706.) 25

- Contrary to its description, Figure 4-2 on the DEIS's page 4-7 depicts Delta Division contractors, rather than Shasta and Trinity River Division contractors. 26

- Figure 4-6 shows M&I contractors in the American River Division, but does not include the City of Folsom. (DEIS, p. 4-12.) The City should be included because it contracts for CVP water-service supplies through a subcontract with SCWA. The CVP water-service contract between Reclamation and SCWA recognizes that the City would obtain water under that contract. (Contract 6-07-20-W1372, pp. 3:20-4:4, 5:4-9, 7:10-13, 15:2-10, Exh. B-2.) Similarly, a 27

[1] These letters are available at http://goo.gl/0uFfXa and http://goo.gl/0djHBE, respectively.

calculated PH&S demand amount for the City has been incorrectly omitted from the contractor data in Appendix A, and the City's PH&S demands do not appear to be included in SCWA's demand amount. (See DEIS, App. A, p. A-1.)

- The total American River Division contract and use numbers included in Figure 4-7 on DEIS page 4-12 do not match the total American River Division contract and use numbers in Appendix A. (See DEIS, App. A, p. A-1.) The FEIS should correct the discrepancy and its analysis should be adjusted accordingly. 28

- The DEIS's description of American River Division contractors' non-CVP supplies on page 4-28 do not match the total of those supplies stated in the DEIS's Appendix A. (See DEIS, App. A, p. A-1.) The FEIS should correct the discrepancy and its analysis adjusted accordingly. 29

- The DEIS states Alternative 2 is modeled to produce higher flows in the lower American River. (DEIS, p. 4-29.) The FEIS should explain why these higher flows are projected to occur, and when flows would increase. 30

- The DEIS incorrectly characterizes what water CVP contractors may transfer under the CVPIA. (See DEIS, p. 6-3.) In particular, the DEIS states that, under Central Valley Project Improvement Act (CVPIA) section 3405, "Transfer will be limited to water that would be consumptively used or irretrievably lost to beneficial use." (DEIS, p. 6-3.) This description of CVPIA section 3405 is incorrect for CVP contractors in the CVP's area of origin. CVPIA section 3405(a)(1)(M) states that the otherwise applicable requirement that a transfer be limited to consumptive use or irretrievable loss under section 3405(a)(1)(I) "shall be deemed" to be met for "[t]ransfers between Central Valley Project contractors within counties, watersheds, or other areas of origin, as those terms are utilized under California law." For transfers among such contractors, section 3405(a)(1)(M) also deems to be met section 3405(a)(1)(A)'s otherwise applicable requirement that a transfer be limited to "the average annual quantity of water under contract actually delivered to the contracting district or agency during the last three years of normal water delivery prior to the date of enactment of this part." The FEIS should contain language that correctly characterizes CVPIA's conditions for transfers of CVP supplies among contractors in the area of origin. 31

- The City of Roseville is operating under its third interim CVP water-service renewal contract, but the contract number stated for the City in Appendix A ends in "IR-1," indicating a first renewal contract. (See DEIS, App. A, p. A-1.) The FEIS should correct this error. 32

- The DEIS's Appendix B contains an error in the reservoir storage level data for Folsom Reservoir. (DEIS, App. B, p. B-15, Table B-3.) It appears that the lines for some of the reservoirs listed in Table B-3 may be transposed. 33

CONCLUSION

Once again, our agencies appreciate Reclamation's efforts to finalize the WSP. Because we understand that Reclamation intends to finalize the WSP by the end of this year, we reiterate our request that Reclamation initiate stakeholder discussions on the selection of the final WSP alternative as soon as reasonably possible. We appreciate your attention to these comments and look forward to further discussions with Reclamation regarding the DEIS and the WSP alternative that Reclamation will select in the FEIS. 34

CITY OF FOLSOM

By: _____
Marcus Yasutake
Environmental &
Water Resources Director

CITY OF ROSEVILLE

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Director, Environmental Utilities

EL DORADO IRRIGATION DISTRICT

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SAN JUAN WATER DISTRICT

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General Manager

Enclosure

8683\M&I Shortage\L031315ajr

October 24, 2012

Michael R. Finnegan, Area Manager
Central California Area Office
7794 Folsom Dam Road
Folsom CA 95630-1799

Dear Mr. Finnegan:

The San Juan Water District and the Cities of Roseville and Folsom appreciate our discussions to clarify Reclamation's position concerning the use of Central Valley Project (CVP) water supplies as a primary or supplemental water supply, and the related use of non-CVP water in determining historic use when calculating shortage allocations of CVP water under Reclamation's draft municipal and industrial (M&I) shortage policy. This discussion derived from concerns expressed to the Central California Area Office (CCAO) by our three agencies and other CVP M&I Contractors based on various drafts of the Reclamation's M&I shortage policy.

The following summarizes our discussions at the August 24, 2012 meeting to clarify (1) Reclamation's recognition that CVP water supplies may be a Contractor's primary water source, and (2) Reclamation's proposed method of determining adjusted historical use under its draft M&I shortage policy. In this letter, the terms "CVP water" or "CVP water supplies" refer to water delivered to a CVP M&I Contractor under its water-service contract with Reclamation and the terms "non-CVP water" or "non-CVP water supplies" refer to all other water supplies, including those delivered under other types of contracts between such a Contractor and Reclamation.

CVP SUPPLEMENTAL WATER SUPPLY

M&I Contractors have expressed concerns to the CCAO regarding the calculation of adjustments to an M&I Contractor's historic use of CVP water to account for the Contractor's use of non-CVP water to satisfy M&I demand within the Contractor's service area. At the CVP M&I Water Shortage Policy Review Stakeholder Workshop #7 on June 4, 2012, Reclamation staff expressed that Reclamation considers CVP water supplies to be "supplemental to non-CVP water supplies" except in the cases where CVP water provides the sole supply to the particular Contractor.

However, to clarify Reclamation's message expressed at the June 4th meeting as described above, Reclamation does not prioritize an M&I Contractor's CVP water and non-CVP water supplies in this manner.

It is worth noting that, in some cases, a M&I Contractor's non-CVP water supplies come from the same physical source as its CVP water supplies. In such cases, the ability of both CVP and non-CVP supplies to provide water to the Contractor will also be limited because of physical, weather or other variables that would impact storage in the federal facilities.

DETERMINATION OF SHORTAGE ALLOCATION/HISTORIC USE OF CVP WATER SUPPLY

Similarly, M&I Contractors expressed concerns to the CCAO regarding the determination of adjusted historic use in calculating shortage allocations of CVP water to those Contractors as result of the June 4, 2012 CVP M&I workshop. The following summarizes our discussions to clarify the determination of CVP water shortage allocations:

NORMAL YEARS

The draft M&I shortage policy bases the initial determination of an M&I Contractor's historic use on the average of the previous 3 years of CVP water deliveries that were unconstrained by the availability of CVP water. Reclamation recognizes that some CVP M&I Contractors have secured supplemental non-CVP water supplies rather than using the full volume allowed in their CVP water supplies. In these cases, the Contractor is responsible for notifying Reclamation when the Contractor uses non-CVP water to satisfy M&I demand within the Contractor's service area. That use of non-CVP water is subject to written documentation from the Contractor that shows the extent to which use of the non-CVP water actually offset and reduced the Contractor's use of CVP water.

Using Figure 1, Example for Normal Years, during the reporting process for normal years, the following would be typical steps that occur:

(a) Reclamation would provide the Contractor with the historic use of CVP water. In the example shown in the figure, this amount would be 3,000 acre-feet (afa).
(b) Contractor responds to Reclamation by documenting the use of non-CVP water (7,000 afa in this example) to offset its CVP water supply.
(c) Reclamation receives response, validates the Contractor's use of non-CVP water, and adjusts the Contractor's historic use of CVP water (to 10,000 afa).

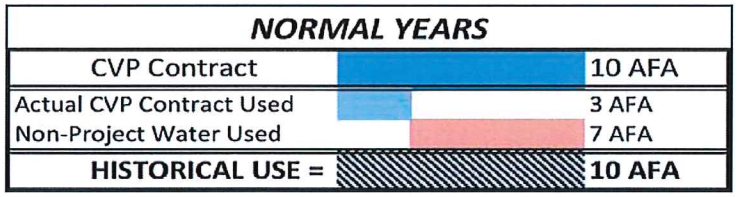

Figure 1, Example for Normal Years

SHORTAGE YEARS

During M&I shortage years, Reclamation determines an M&I Contractor's shortage allocations based on the Contractor's three year adjusted historic use average as determined in the most recent unconstrained years. In the example shown in Figure 2, *Example for 75% Shortage Allocations*, Reclamation would determine the shortage allocation based on the actual amount of CVP water delivered to the Contractor, as adjusted for its average use of non-CVP water in the relevant years. This example is based on the Contractor's average historic use of CVP water of 4 afa and its average non-

CVP historic use of 6 afa. The Contractor's shortage allocation would be based on the full amount of its CVP water as stated in its CVP water contract.

75% YEARS

CVP Contract	10 AFA
Actual CVP Used: Year 1	3 AFA
Actual CVP Used: Year 2	5 AFA
Actual CVP Used: Year 3	4 AFA
Actual Non-CVP: Year 1	7 AFA
Actual Non-CVP: Year 2	5 AFA
Actual Non-CVP: Year 3	6 AFA
NOTE: Contractor must notify USBR of use of Non-CVP Supplies	
AVG. HISTORICAL USE =	**10 AFA**

Avg CVP Historic Use = 4 AFA
75% Allocation = 0.75 * 4 = 3 AFA

Contractor Uses availalble Non-CVP Water Supply to Meet Shortage Year Demands

This Contractor's adjusted historic use of CVP water would be subject to written documentation from the Contractor that shows the extent to which its use of the non-CVP water actually reduced its use of CVP water in the preceding three unconstrained years. A Contractor must show that some portion of the non-CVP water supply was delivered to, or diverted or pumped by, the Contractor prior to the Contractor identifying that supply as the basis for an adjustment of the Contractor's historic use of CVP water for purposes of Reclamation's M&I shortage policy.

Additionally, Reclamation recognizes that certain additional circumstances may require adjustment of the historic use of CVP water, such as growth or extraordinary water conservation measures. Reclamation also recognizes that, in some cases, a Contractor's non-CVP supplies come from the same physical source as their CVP water supplies. If the amount of water available to that source is limited, the ability of that source to provide both CVP and non-CVP water to the Contractor will also be limited by the physical storage constraints, weather, or other related variables.

Reclamation understands that CVP M&I Contractors participating in Reclamation's M&I shortage policy workshops disagree with the method for calculating unmet need (unmet need is calculated as the public health and safety [PH&S] levels less non-CVP water supplies). The M&I Contractors believe that this method creates a disincentive to develop or use non-CVP water supplies because using these alternative supplies would lower a Contractor's historic use of CVP water and potentially reduce the future expected deliveries from the CVP in shortage years.

Sincerely,

CITY OF FOLSOM	CITY OF ROSEVILLE	SAN JUAN WATER DISTRICT
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