LA01

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VIA EMAIL AND U.S. MAIL
(TRUST@USBR.GOV)

Mr. Tim Rust
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Dear Mr. Rust:

Together our agencies supply water to hundreds of thousands of people in the American River region. For many years, we have worked with the Bureau of Reclamation on the Central Valley Project Municipal and Industrial Water Shortage Policy (WSP), including attending a series of Reclamation workshops and providing comments on previous drafts of the WSP and Reclamation's 2005 Environmental Assessment for the WSP (2005 EA). We agree with Reclamation that a final WSP will add clarity and certainty to the availability of our region's CVP supplies during shortages in the future. We appreciate and support Reclamation's efforts to finalize the WSP. 1

The WSP Draft Environmental Impact Statement (DEIS) provides an extensive analysis of the WSP's impacts, but some parts of the DEIS require clarification or additional analysis before Reclamation adopts the Final Environmental Impact Statement (FEIS). Our agencies look forward to continuing to work with Reclamation to develop a FEIS and the final WSP.

Reclamation has not selected a preferred alternative for the final WSP. Because Reclamation's selection of an alternative should involve policy discussions with our agencies and other M&I contractors, our agencies' comments on the DEIS are not the proper forum to discuss selection of the final WSP alternative. Therefore, we request that, prior to issuing the FEIS, Reclamation initiate stakeholder discussions focused on which alternative should be selected.

We look forward to working with Reclamation to develop an FEIS and the final WSP.

COMMENTS ON THE DEIS

A. The FEIS Should Contain Modeling Results Showing Projected CVP Deliveries Under the Five Alternatives

The DEIS and its appendices do not contain modeling results showing projected CVP deliveries to individual municipal and industrial (M&I) contractors under the five alternatives. The closest materials in the documents are charts in the appendices showing modeled contract allocations under the alternatives. (See DEIS, App. B, beginning at pp. B-13.) However, these charts show only contract allocations broken up by North of Delta vs. South of Delta and CVP contract type.

One of our primary interests in the DEIS is to understand how the five alternatives would affect projected CVP deliveries to our agencies. The DEIS does not contain this information. Reclamation's analysis would be greatly improved if the FEIS were to include and analyze these modeling results. The lack of contractor-specific delivery information also makes it very difficult to assess the impact of each alternative as a potential policy option for the final WSP.

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B. The FEIS Must Account for the Physical Unavailability of CVP and Non-CVP Water Supplies When Folsom Reservoir Falls to Very Low Storage Levels

The winter of 2013-2014 demonstrated that, under conditions when a WSP's rules about supplies to meet public health and safety (PH&S) needs would become relevant, the physical availability of water may be a key consideration. For example, it is possible that, in such conditions, the physical capacity to divert water through Folsom Reservoir's M&I intake could be reduced or non-existent. That intake would become dry if the reservoir's water level were to decline to about 320 feet above mean sea level (msl), which would be when there is about 100,000 acre-feet (AF) of water stored there. Several of our agencies would begin to have serious water-supply problems at reservoir storage volumes well above 100,000 AF. During the extremely dry winter of 2013-2014, the amount of water stored in the reservoir reached a low of 162,617 acre-feet in storage with a surface elevation of 357 feet msl on February 6, 2014. Based on this real-world experience, the physical availability of any water from Folsom Reservoir is a serious concern in PH&S conditions. The DEIS, however, does not appear to consider the physical availability of water as a possible constraint for either CVP or non-CVP supplies.

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Several of our agencies rely on direct diversions of CVP and non-CVP water supplies from Folsom Reservoir's shared municipal intake as a primary water supply source. The DEIS's hydrologic modeling shows that Folsom Reservoir would fall to very low storage levels in some years, which would impair the shared municipal intake's capacity to divert any source of water. (DEIS, App. B, pp. B-43, B-56, B-69.) However, given that the DEIS concludes PH&S needs will be met in all years in the American River Division, the DEIS appears to assume CVP deliveries would continue to be available from Folsom Reservoir in these years. For example, the DEIS's modeling appendix indicates that the lowest M&I allocation north of the Delta would

be 50% of adjusted historical use under the No Action Alternative. (DEIS, App. B, p. B-13, Figure B-4.) The FEIS, however, must account for the fact that physical inaccessibility of water would become a constraint in PH&S conditions and discuss the potential impacts to CVP contractors, including those that divert water directly from Folsom Reservoir. This is particularly crucial for any consideration of Alternative 2, which would impose more shortages on M&I contractors than the Alternative 1/No Action Alternative. 3

The DEIS also does not appear to account for the potential physical unavailability of non-CVP deliveries in very dry years because the DEIS assumes such supplies would be available when the WSP's PH&S rules would apply. The DEIS appears to assume that non-CVP supplies for all sources, like settlement-contract supplies that must physically be diverted from Folsom Reservoir through the shared municipal intake, will be fully available in very dry years. (See DEIS, pp. 4-23, 4-28, 4-33, 4-36, 4-38 (concluding American River PH&S needs met in nearly all years).) As discussed further in Section E below, it is unclear on what basis the DEIS makes that assumption and further explanation in the FEIS is required. 4

The DEIS states that, in order to provide higher levels of M&I deliveries in PH&S conditions under Alternative 5, Reclamation must reoperate some project facilities. (DEIS, pp. ES-11, 2-3, 2-16, 2-19.) However, the DEIS's Appendix B indicates that there is little, if any, difference between project operations under Alternative 1, the No Action Alternative, and Alternative 5. (DEIS, App. B, pp. B-29 to B-30.) In other words, the DEIS does not indicate what reoperation might occur and what its impacts might be. The lack of any predicted operational effect suggests that the DEIS does not clearly account for what would occur when project facilities such as Folsom Reservoir experience very dry conditions. This issue should be clarified in the FEIS. 5

C. The FEIS Must Clarify Several Aspects of the WSP's Historical Use Calculations and Assumptions

The DEIS describes Reclamation's current approach to adjusting an M&I contractor's historical use in unconstrained years for the contractor's use of non-CVP water as part of its description of the Alternative 1/No Action Alternative as follows: 6

> ***Adjusted for Non-CVP Water.*** An adjustment to the contractor's historical use quantity to account for water sources other than the CVP supplies used to satisfy M&I demand within the contractor's service area, subject to written documentation from the contractor that shows the extent to which use of the non-CVP water actually reduced the contractor's use of CVP water in other years. A contractor must show that the non-CVP water used in other years reduced the use of CVP water in these years. (DEIS, p. 2-7.)

The description cited above and the rest of the DEIS do not clearly explain how Reclamation would actually conduct the adjustment process. This description also becomes unclear when read with other portions of the DEIS. The DEIS states that Reclamation will only

make an adjustment to an M&I contractor's historical use if the contractor "shows the extent to which use of the non-CVP water actually reduced the contractor's use of CVP water in other years." (DEIS, p. 2-7 (emphasis added).) The DEIS later states that such an adjustment "would be based on documentation showing the extent to which use of the non-CVP water actually reduced the contractor's use of CVP water in the unconstrained historical years." (DEIS, p. 2-13 (emphasis added).) These descriptions of the policy are inconsistent. If the first statement of the policy is the correct one, it is not clear how a M&I contractor could document that its use of non-CVP water in one year reduced its use of CVP water in other years or why such a calculation would necessarily make any difference to the CVP's total supplies. For example, if a CVP contractor diverting water from Folsom Reservoir were to reduce its demand on the CVP by using non-CVP water in one year and then the reservoir were to spill in the subsequent winter, the contractor's use of the non-CVP water in the first year would make more water available to the CVP in that year, but would make no difference in the second year. Therefore, the FEIS should clarify and use examples to further describe how adjustments for use of non-CVP water would work. 6

The FEIS should also clarify how historical use adjustments differ under DEIS Alternatives 4 and 5. During shortages, DEIS Alternatives 1, 4 and 5 would base CVP allocations on an M&I contractor's historical use. (DEIS, pp. 2-6, 2-15, 2-18.) The DEIS acknowledges that there are differences between Alternative 4 and Alternative 5 in terms of how historical use adjustments would be made. (DEIS, pp. 2-16, 2-18.) However, because the DEIS assumes that, in Alternative 1/No Action Alternative, all M&I contractors would use their full contract amounts under 2030 conditions (DEIS, pp. ES-20 to ES-21, 2-20), it is not possible to tell from the DEIS how the different alternatives' varying historical use adjustments could affect deliveries prior to 2030. Therefore, the FEIS should clarify how implementing the different historical use adjustments under Alternatives 4 and 5 would affect deliveries to M&I contractors. 7

D. The DEIS Should Not Characterize the American River Division's CVP Supplies as Secondary or Supplemental

Under Alternatives 1, 4 and 5, when an M&I contractor's CVP allocation falls below certain thresholds, the CVP can make additional water available to meet the contractor's unmet PH&S needs. An M&I contractor's PH&S needs would be calculated using a formula that accounts for population, industrial, commercial and institutional demands. (DEIS, p. 2-8.) The DEIS states that, before the CVP will contribute additional water to meet PH&S demands, an M&I contractor must use its reduced CVP allocation and all available non-CVP supplies, such as alternative surface water or groundwater pumping. The DEIS states that contractors' CVP supplies are secondary or supplemental. (DEIS, pp. 2-8, 4-8 fn. 6.) 8

We disagree with the DEIS's characterization of CVP supplies as secondary or supplemental for M&I contractors in the American River Division. The American River and particularly Folsom Reservoir are the primary water sources for our region. Reclamation exercises essentially complete control over the reservoir's management. There is no other water source that can be the primary source for our region. This is particularly true for the areas within

the Cities of Folsom and Roseville, San Juan Water District, and Sacramento Municipal Utility District's Rancho Seco property that cannot be served economically with pumped groundwater. The DEIS's statements that all CVP supplies must be treated as secondary or supplemental by contractors therefore do not reflect the reality of water supplies in our region. In particular, this characterization must be corrected in relation to Alternative 2, which would reduce CVP M&I allocations relative to current conditions. 8

Folsom, Roseville and San Juan previously confirmed with Reclamation the understanding that CVP water-service contract supplies can be primary supplies. In 2012, Folsom, Roseville and San Juan discussed this topic with Reclamation. During these discussions, Reclamation confirmed that it does not consider CVP water-service contract supplies to be a secondary or supplemental source of water. The agencies confirmed this discussion in an October 24, 2012 letter to Mike Finnegan, who then was Reclamation's Central California Area Manager. A copy of that letter is enclosed. The FEIS therefore should correct its mischaracterization of CVP water-service contract supplies as secondary or supplemental and adjust Reclamation's environmental analysis accordingly.

E. The FEIS's PH&S Demands Analysis Must Account for the Unavailability of Non-CVP Supplies in Critical Years

For the American River Division, the DEIS states that all M&I contractors in the division will be able to meet their PH&S needs in critical years by using reduced CVP allocations and non-CVP supplies. (DEIS, pp. 4-21 to 4-23, 4-36 to 4-37.) The DEIS appears to assume that, in critically dry years, all M&I contractors will have access to the full amount of their non-CVP supplies, including groundwater, and that all of those supplies will be available throughout the contractor's service area. 9

As noted above, given the known constraints on the physical availability of surface water from Folsom Reservoir, it is unclear why the DEIS assumes that non-CVP supplies would be fully available in critically dry years and further explanation in the FEIS is required. Moreover, groundwater is not equally available throughout the service areas of all American River Division contractors. For example: (1) the City of Roseville can pump groundwater from the western portion of its service area to a portion of the rest of its service area, but not all of it; (2) San Juan Water District can rely on some of its retail suppliers using groundwater, but groundwater cannot be used throughout the District's service area; and (3) the City of Folsom has little ability to serve groundwater in much of its existing service area. Reclamation therefore should reexamine the DEIS's assumptions regarding the wide availability of groundwater within the American River Division. A re-examination of these assumptions is especially needed relative to Alternative 2, which would reduce CVP M&I allocations relative to current conditions. 10

Finally, the FEIS must clarify if an M&I contractor may request additional supplies to meet PH&S demands when the full extent of its non-CVP supplies are not available. If so, the process for making that request, and how Reclamation must respond to the request, should be detailed in the FEIS. 11

F. The FEIS Must Clarify Reclamation's Approach to Unmet PH&S Demands and Supplies

The DEIS's description of PH&S demands and supplies is different than the treatment of PH&S demands and supplies in the 2005 EA. The DEIS's Alternative 1, the No Action Alternative, describes Reclamation's existing practice as implementation of the 2001 draft WSP, as modified by the 2005 EA. (DEIS, p. 2-4.) 12

There are, however, at least two differences between the 2005 EA and the policy described in Alternative 1. First, the 2005 EA quantifies a contractor's PH&S need based on a different formula than is used in the DEIS's Alternative 1. (Compare the 2005 EA, pp. 3-8, 4-1, with DEIS, p. 2-8). Second, unlike the 2005 EA, the DEIS indicates that no M&I contractor would have any defined minimum CVP supply. The 2005 EA quantifies an M&I contractor's "public health & safety quantity" that is treated essentially as a minimum level of CVP supply. (2005 EA, p. 3-8 to 3-10, 3-16, 3-18.) The 2005 EA states the following PH&S amounts for our agencies:

- Roseville's PH&S quantity was 24,000 AF (2005 EA, p. 4-21);
- San Juan Water District's PH&S quantity was 18,150 AF (2005 EA, p. 4-22);
- El Dorado Irrigation District's PH&S quantity was 5,663 AF (2005 EA, p. 4-20);
- Placer County Water Agency PH&S quantity was 26,250 AF (2005 EA, p. 4-24);
- Sacramento County Water Agency's PH&S quantity, including the demands of the City of Folsom, was 39,000 AF (2005 EA, p. 4-23); and
- Sacramento Municipal Utility District's PH&S quantity was 22,500 (2005 EA, p. 4-25). 13

In contrast, the DEIS's Alternative 1 states that Reclamation will only "attempt" to meet a contractor's unmet PH&S need after the contractor uses its non-CVP supplies. (DEIS, pp. 2-5, 2-8 ("M&I water service contractors are expected to first use their non-CVP supplies to meet their PHS demands").)

The FEIS should clarify whether Reclamation will adopt the 2005 EA's handling of PH&S demands and supplies or the DEIS's approach. If Reclamation adopts the DEIS's approach, then the FEIS must also evaluate the impacts to M&I contractors and their communities of implementing Reclamation's change from the 2005 EA's calculation of PH&S supplies.

G. The FEIS Must Analyze the Impact of Unmet PH&S Demands in Light of the Potential Non-Availability of CVP and Non-CVP Water Supplies

Under Alternatives 1 and 4, the CVP would only contribute additional water for PH&S demands to the extent those demands do not exceed 75% of the contractor's adjusted historical use. (DEIS, pp. 2-6, 2-15.) Under Alternative 5, the percentage would be 95%. (DEIS, p. 2-16.) 14

As discussed above, the DEIS appears not to account for the limited physical availability of non-CVP supplies. Therefore there is the potential that some M&I contractors' PH&S demands will not be met under the WSP. If the availability of CVP and non-CVP supplies were to be so low that PH&S demands would not be met, it would likely result in the loss of significant amounts of landscaping, damage to community amenities like parks, numerous business closures, impairment of power generation and electrical grid management, and possible population migration away from the affected communities. The FEIS should analyze the resulting potential impacts to socioeconomics, recreation and visual resources for M&I contractors. This analysis is particularly necessary for Alternative 2, which would reduce CVP M&I allocations relative to current conditions.

Finally, although the DEIS and WSP do not state that outdoor commercial irrigation is excluded from the calculation of PH&S needs, it appears that the PH&S calculations in Appendix A for several American River Division contractors have excluded outdoor commercial irrigation. The FEIS should clarify this point so its analysis can treat all M&I contractors' outdoor commercial irrigation demands consistently in PH&S conditions. The FEIS also should evaluate the socioeconomic and visual impacts of not delivering CVP water to meet those demands. 15

H. The FEIS Should Not Include EBMUD in the Analysis of Supplies and Demands of, and Impacts to, the American River Division

Because East Bay Municipal Utility District's (EBMUD) CVP contract is grouped with the American River Division, the DEIS treats EBMUD as part of the division for environmental analysis purposes. However, EBMUD has a separate water system on the Mokelumne River that is the primary water supply for its service area. CVP supplies are only available to EBMUD under its CVP contract when storage in EBMUD's own reservoirs is projected to be below 500,000 AF. (2005 EA, p. 4-26.) Other American River Division contractors – such as the Cities of Folsom and Roseville and San Juan Water District – are primarily dependent on American River water supplies and do not have access to sufficient other water supplies to meet their demands. EBMUD's Mokelumne River supplies clearly are not available throughout the American River Division. 16

The DEIS's discussion of the water supplies available to the American River Division contractors, their levels of demand and the extent to which their PH&S needs can be met is skewed because that discussion includes the supplies and demands of EBMUD. (See DEIS, pp.

4-11 to 4-13.) The incorrect impression given by this discussion appears throughout the DEIS where the DEIS states, without qualification, that PH&S demands will be met throughout the American River Division. (See DEIS, p. 4-23.) Therefore, the FEIS's discussion of American River Division supplies and demands should be revised from the DEIS to separate EBMUD's supplies and demands from the supplies and demands of M&I contractors that are located adjacent to or near the American River. This revision is particularly necessary for Alternative 2, which would reduce CVP M&I allocations relative to current conditions. 16

I. The FEIS Should Clarify that Alternative 1, the No Action Alternative, Is Based in Part on Unsupported Assumptions in the 2005 EA, and, Therefore, Reclamation Cannot Implement Alternative 1

The DEIS states that Reclamation is deciding which of the five alternatives to implement. (DEIS, p. 1-12.) Alternative 1, the No Action Alternative, would continue use the 2001 Draft M&I WSP, as amended by the 2005 EA. As the DEIS admits, however, the 2005 EA made unsupported assumptions about how the WSP would apply to M&I contractors within the American River Division:

> The alternatives analysis in the EA was based on several assumptions. One assumption was that the American River Division M&I water service contractors would not participate in the M&I WSP because water supplies under drought conditions would be provided under a separate agreement between water users of the American River water supply, called the Water Forum Agreement. [. . .] Following publication of the Final EA in 2005, Reclamation received additional comments from several CVP water service contractors. The contractors indicated that the Water Forum Agreement was not being implemented as described in environmental document; therefore, the American River Division assumptions in the EA were no longer valid.
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> (DEIS, p. 1-7.)

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The FEIS therefore should correct the description of Alternative 1, state that Reclamation will not implement Alternative 1 and revise its analysis of the DEIS's action alternatives accordingly.

J. The FEIS Should Address Issues with the DEIS's Groundwater Analysis

Several issues with the DEIS's groundwater analysis should be corrected in the FEIS. These corrections are particularly necessary for the DEIS's analysis of Alternative 2, which would result in reduced CVP M&I deliveries relative to current conditions. 18

The DEIS states that groundwater accounts for less than 30 percent of the annual supply for agricultural and urban purposes in the Sacramento Valley. This statement obscures