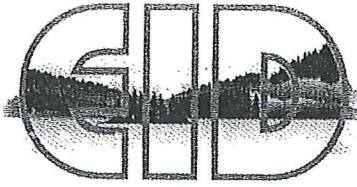


Bill George – *President*  
Division 3

Greg Prada – *Director*  
Division 2

Dale Coco, MD – *Director*  
Division 4



## El Dorado Irrigation District

George Osborne – *Vice President*  
Division 1

**LA13** Alan Day – *Director*  
Division 5

Jim Abercrombie  
*General Manager*

Thomas D. Cumpston  
*General Counsel*

In reply refer to: L2015-014

March 13, 2015

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

**VIA EMAIL (TRUST@USBR.GOV)  
AND U.S. POSTAL SERVICE**

Re: Central Valley Project Municipal and Industrial Water Shortage Policy –  
Comments on Draft Environmental Impact Statement

Dear Mr. Rust:

As you know, El Dorado Irrigation District holds a Municipal and Industrial (M&I) Water Supply Contract for Central Valley Project (CVP) water from the CVP's American River Division. American River Division M&I contractors, including the District, have submitted a joint letter commenting on the Draft Environmental Impact Statement (Draft EIS) Reclamation has prepared for its proposed CVP M&I Water Shortage Policy. The District is writing separately to supplement those joint comments by providing the District's perspective on some of the points raised, and addressing some issues that are specific to the District.

The joint comments noted that in dry years, both CVP and non-CVP supplies in Folsom Reservoir can become physically unavailable to contractors, and that the Draft EIS fails to take these circumstances into account when assessing contractors' public health and safety needs. The joint comments state the their intake is dewatered at 320 feet above mean sea level (msl), and that problems begin well before that point. Although the District has its own Folsom intakes at various elevations, their ability to deliver the District's Folsom Reservoir CVP and non-CVP supplies is even more constrained. When the water level reaches 350 feet msl, the District's available pumps can no longer meet the capacity of its water treatment plant, causing potential shortages during peak demands. When the water level reaches 331 msl, the District has zero pumping capacity. As stated in the joint comments, the Draft EIS overlooks this serious physical constraint.

1



The joint comments also noted that the Draft EIS should not characterize the American River Division's CVP supplies as secondary or supplemental. This is certainly true for the District, given that: 1) about half of our total supplies can only be accessed from Folsom Reservoir; 2) infrastructure constraints sharply limit the extent to which supplies in the eastern portion of our service area can be delivered to the west, particularly during the peak summer months; and 3) it is not physically, technologically, nor economically feasible to lift non-CVP supplies from Folsom Reservoir to serve the eastern, upslope service area, which extends to nearly 4,400 feet in elevation.

2

Therefore, as the joint comments note, the Draft EIS fails to sufficiently account for the unavailability (hydrologically, legally, and physically) of non-CVP supplies in critically dry years, nor for significant infrastructure and topographic constraints that limit the District's capacity to serve any specific supply to any point within its service area. To assess the full extent of the District's "unmet" public health and safety needs in a critical year, this analysis should be amended.

The joint comments note that the Draft EIS assumes that M&I contractors could meet public health and safety needs by increasing the use of groundwater. This assumption is completely unwarranted for the District. Its service area in the Sierra Nevada foothills overlies fractured rock geology; the District has no groundwater supplies, there are no reliable groundwater supplies for municipal and industrial uses, and it will never be feasible to attempt to develop such supplies in the future – especially in the midst of a drought. The District is and necessarily will remain 100% reliant upon surface water supplies in all years.

3

The District disagrees with the methodology and calculations of non-CVP water available to it now and in the future, as summarized in Appendix A of the Draft EIS and relied upon in various parts of the main document. First, as the past year has shown, a more accurate measure of critical-year supplies is to look at the third year of a multi-year drought. By instead defining a critical year as a single dry year, rather than the third year in a multi-year drought, the Draft EIS overstates the District's 2010 non-CVP supplies. Using the proper methodology, Table 5-3 of the District's Urban Water Management Plan (UWMP) shows that 2010 critical-year non-CVP supplies should be 50,080 acre-feet (af), not 57,080 af.

4

The 2030 normal-year non-CVP supply calculation improperly includes 7,500 af of subcontracted CVP water (the P.L. 101-514 "Fazio" water supply). Instead of 107,140 af of non-CVP supply, the correct number (using the District's UWMP) is 99,640 af. The 2030 calculation of dry- and critical-year non-CVP supplies erroneously repeats 2010 numbers. The correct numbers, under the District's UWMP, are 72,080 af for the dry year and 55,580 af for the critical year.

5



Tim Rust  
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L2015-014

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The District appreciates Reclamation's efforts to finalize the CVP M&I Water Shortage Policy, and we support the joint comment letter's request to initiate immediate stakeholder discussions on the selection of a final policy alternative so that the decision can be made before the end of 2015, as planned. With the drought showing no signs of abating, this is critically important work.

6

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas D. Cumpston".

Thomas D. Cumpston  
General Counsel

cc: Jim Abercrombie, EID General Manager  
Dan Corcoran, EID Environmental Manager

March 13, 2015

*Via Electronic Mail Only*

Mr. Tim Rust  
Bureau of Reclamation  
2800 Cottage Way, MP-410  
Sacramento, CA 95825  
[trust@usbr.gov](mailto:trust@usbr.gov)

RE: CVP Municipal & Industrial Water Shortage Policy Draft EIS

Dear Mr. Rust:

This letter is written on behalf of the Glenn-Colusa Irrigation District (GCID) regarding the draft environmental impact statement (DEIS) for the proposed CVP Municipal & Industrial Water Shortage Policy (M&I WSP). GCID has reviewed the DEIS and has unanswered questions and concerns about the potential effect on GCID's water supply.

#### Introduction and Background

GCID is located in the central portion of the Sacramento Valley on the west side of the Sacramento River and is the largest irrigation district in the Sacramento Valley, encompassing approximately 175,000 acres. The service area extends from northeastern Glenn County near Hamilton City to south of Williams in Colusa County. GCID's main facilities within its service area include a 3,000 cfs surface water pumping plant and fish screen structure at Hamilton City, California, a 65-mile main canal, and approximately 900 miles of lateral canals and drains that serve its approximately 175,000 acre service area. GCID also conveys water to three national wildlife refuges in the Sacramento Valley as part of a 50-year agreement between GCID and the U.S. Bureau of Reclamation (Reclamation).

GCID holds both pre- and post-1914 appropriative water rights to divert water from the natural flow of the Sacramento River. GCID also has adjudicated pre-1914 water rights under the Angle Decree, issued in 1930 by the Federal District Court, Northern District of California, to divert water from the natural flow of Stony Creek, a tributary to the Sacramento River. The GCID surface water supply entitlement for the irrigation season is currently addressed in a Sacramento River Settlement Contract (SRSC) originally entered into with Reclamation in 1964, and renewed in 2005 for another 40-year term. (SRSC No. 14-06-200-0855A-R-1 (GCID Settlement Contract).) This contract provides for an agreement between GCID and the United States on the diversion of water from both the Sacramento River and Stony Creek from

April 1 through October 31 of each year. The GCID Settlement Contract provides for a maximum total diversion of 825,000 acre-feet/year, of which 720,000 acre-feet is deemed Base Supply and 105,000 acre-feet is Project Water, as defined under the contract. During designated critical dry years, when forecasted natural inflow to Shasta Reservoir is less than 3.2 million acre-feet, GCID's total contract supply is reduced by 25 percent pursuant to the shortage provisions of the contract, resulting in a minimum quantity of 618,000 acre-feet per irrigation season available for diversion under the contract.

The GCID Settlement Contract does not limit GCID from diverting water for beneficial use during the months of November through March, to the extent authorized under California law. GCID holds a water right permit in the amount of 182,900 acre-feet (up to 1,200 cfs) during the period November 1 to March 31 of each year. In addition, the GCID service area is relatively large and contains a number of small tributaries to the Sacramento River. GCID holds water rights to divert surface water from Hunters Creek, Funks Creek, and Colusa Basin Drain.

#### Comments on DEIS

The DEIS states that the purpose of updating the 2001 Draft M&I WSP is to “provide detailed clear and objective guidelines for the allocation of available CVP water supplies to CVP water service contractors during water shortage conditions.” (DEIS, p. ES-5.) The No Action Alternative provides the baseline for assessing the proposed policy’s environmental effects. (DEIS, p. ES-11.) According to the DEIS, the No Action Alternative represents the continuation of the current 2001 Draft M&I Water Shortage Policy, as modified by an alternative (Alternative 1B) of a 2005 environmental assessment. This existing draft policy is described as currently guiding Reclamation’s allocation of water to agricultural and M&I water service contractors. (DEIS, p. ES-11.)

#### *Components of PHS Demand*

A key element of the current and proposed policies is the provision that “Reclamation will strive to deliver CVP water to M&I water service contractors at not less than their unmet PHS water supply level, provided CVP water is available, if: 1) the Governor declares a emergency drought condition due to water shortage, or 2) Reclamation, in consultation with the contractor, determines that an emergency exists due to water shortage. At that time the PHS level and unmet need would be determined by the contractor and reviewed by Reclamation.” (DEIS, p. 2-8.) The criteria used to estimate the “public health and safety” (PHS) needs are the “amount of water required for consumption, for operation of necessary water and wastewater facilities and *to avoid economic disruption.*” (DEIS, p. ES-13, emphasis added.) These components of PHS demand are further defined by factors set forth in Table 2-4, which identify PHS demand to include industrial uses at 90 percent of projected water demand, and commercial and industrial uses at 80 percent of projected demand. The unmet need is calculated as the difference between a contractor’s PHS demand and its available non-CVP supplies. The DEIS states that Reclamation would not reallocate water

Mr. Tim Rust  
Re: CVP Municipal & Industrial Water Shortage Policy Draft EIS  
March 13, 2015  
Page 3

from agricultural contractors or environmental releases to meet unmet M&I PHS needs. (DEIS, p. 2-8.)

To the extent the components of PHS demand include anything more than a reasonable allowance for domestic use and essential public services, the PHS demand definition is unreasonable and overly broad. PHS should be very limited to the minimum gallons per day per equivalent dwelling unit to address essential domestic and sanitation needs.

1

*Effects on Sacramento River Settlement Contract Supply*

The DEIS states that the proposed M&I WSP does not apply to Sacramento River settlement contractors. However, the DEIS does not explain whether the proposed policy or any alternative has the potential, directly or indirectly, to effect water supply or allocations to senior water rights holders, including Sacramento River settlement contractors. The surface water supply analysis (DEIS, Chapter 4), discusses impacts only in terms of potential surface water supply reductions to water service contract holders. The DEIS should explain how the existing M&I WSP influences overall CVP allocations, and how, and the extent to which, decisions to allocate water for M&I uses, including PHS purposes, could potentially affect Reclamation's decisions to seek reductions in diversions by the Sacramento River settlement contractors. If there is no possibility that the application of the proposed policy, or any alternative, could increase the risk (and amount) of reduced contract diversions by the Sacramento River settlement contractors, the DEIS should say so.

2

Although there is insufficient information in the DEIS for GCID to understand how the proposed policy or various alternatives would affect the reliability of GCID's annual diversion under its senior water right and in accordance with the GCID Settlement Contract, GCID opposes any alternative that has the effect, directly or indirectly, of reducing GCID's ability to divert its entitlement in accordance with the terms of the GCID Settlement Contract.

3

Sincerely,



Kelley M. Taber

cc: Thaddeus Bettner  
KMT:cr

# JAMES IRRIGATION DISTRICT

BOARD OF DIRECTORS  
Riley Chaney, President  
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March 12, 2015

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

**SUBJECT: MUNICIPAL & INDUSTRIAL WATER SHORTAGE POLICY  
DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Dear Mr. Rust:

The James Irrigation District ("District") appreciates the opportunity provide comments to the U.S. Bureau of Reclamation ("Reclamation") on the Central Valley Project ("CVP") Municipal and Industrial Water Shortage Policy ("M&I WSP") Draft Environmental Impact Statement ("Draft EIS") dated November 2014.

The District is a member of the San Luis & Delta-Mendota Water Authority ("SLDMWA") and shares the concerns of the SLDMWA regarding the Draft EIS. The District has also reviewed comments made by the Del Puerto Water District ("Del Puerto WD") and is in agreement with its position. Accordingly, the District joins in all of the comments submitted by the SLDMWA and the Del Puerto WD.

The District concurs with Reclamation that the adoption of the M&I WSP is a major federal action which necessitates the preparation of an EIS. For this reason, it is imperative that the EIS: (1) address the compatibility of the M&I WSP with federal Reclamation law and California water policy; (2) be consistent with its stated purpose and need; (3) contain an appropriate baseline or "no action" alternative; (4) include a reasonable range of alternatives; (5) consider all factors that guide allocation of CVP water; and (6) adequately evaluate all potential impacts of the proposed action and alternatives. The comments provided by the SLDMWA and Del Puerto WD indicate that the Draft EIS fails to properly address these areas and the District requests that Reclamation modify the Draft EIS accordingly.

Proper allocation of CVP water in times of shortage is of critical importance to all CVP contractors and the District recognizes the difficulty in developing the M&I WSP and assessing its complex impacts. Thank you for your consideration of the District's comments.

Sincerely,



*for* John Mallyon, General Manager  
JAMES IRRIGATION DISTRICT



PLACER COUNTY WATER AGENCY  
SINCE 1957

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Einar Maisch, General Manager	<a href="http://WWW.PCWA.NET">WWW.PCWA.NET</a>

March 12, 2015

**VIA EMAIL (trust@usbr.gov) AND U.S. MAIL**

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

**SUBJECT:** Draft Environmental Impact Statement for Central Valley Project  
Municipal and Industrial Water Shortage Policy

Dear Mr. Rust:

Placer County Water Agency (PCWA) appreciates this opportunity to provide these comments on the Draft Environmental Impact Statement (DEIS) for the Central Valley Project Municipal and Industrial Water Shortage Policy (Shortage Policy). PCWA is a signatory, along with other American River municipal and industrial water service contractors, to a comment letter that identifies specific deficiencies with the DEIS. The purpose of this letter is to request that the United States Bureau of Reclamation (Reclamation) clarify that Reclamation does not consider Central Valley Project (CVP) municipal and industrial (M&I) water supplies to be supplemental water supplies and affirm that CVP M&I water supplies are part of the primary water supply relied upon by M&I water service contractors throughout the American River region.

**Background on PCWA**

Established in 1957, PCWA is a public agency encompassing the entire 1,500 square mile boundary of Placer County. Placer County is a large and geographically diverse county encompassing elevations from 100 feet on the Sacramento Valley Floor to over 9,000 feet at the crest of the Sierra Nevada near Lake Tahoe, and its water supplies are a mix of surface water and groundwater supplies. In the past decade, it has been one of the fastest growing areas of the State of California, growing approximately 23% in the last decade to more than 360,000 residents.



PCWA is the primary water resource agency in Placer County, responsible to secure, develop, manage, and protect water rights in Placer County thereby ensuring an adequate water supply for the county and its residents. PCWA holds extensive surface water entitlements within Placer County from its Middle Fork American River Hydroelectric Project. PCWA also holds contracts for water delivery from PG&E's Drum Spaulding Hydroelectric Project and the Reclamation's Central Valley Project (CVP) at Folsom Reservoir. PCWA provides retail and wholesale water service to approximately 250,000 people in western Placer County.

The Shortage Policy Incorrectly Characterizes CVP Supplies as "Supplemental"

PCWA's concern with the Shortage Policy stems from language in both the Shortage Policy and DEIS suggesting that Reclamation considers CVP M&I water supplies to be back-up water supplies, secondary to all other water supplies available to PCWA. For example, Reclamation's Shortage Policy provides that the allocation of M&I water based on a contractors' recent historical use of CVP M&I supplies "is intended to encourage contractors to use non-CVP water first and rely on CVP water as a supplemental supply." (2001 Draft Policy, p.3.) In addition to the language in the 2001 Draft Policy, the DEIS implies that CVP supplies are considered supplemental to other available sources:

CVP supplies are considered secondary or supplemental for the purpose of identifying unmet contractor PHS<sup>1</sup> need. CVP supplies are provided to satisfy PHS demands after the contractor has utilized all other available non-CVP supplies.

(DEIS, p.4-8, fn.6.)

The alternatives contained in the DEIS also suggest CVP supplies are supplemental to other sources of water, explaining that M&I water contractors are required to meet all of their PHS demands with non-CVP supplies. (See e.g. DEIS, §ES.5.1.1, §2.3.5.) This language raises serious concerns for PCWA and other M&I water service contractors who consider their CVP M&I supply as a stable and reliable source of water and not simply as a "supplemental" source when all other supplies have been exhausted.

There is nothing in the authorizing legislation for the CVP nor is there anything in existing Reclamation policy or CVP water service contracts that provides CVP M&I water

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<sup>1</sup> The DEIS defines PHS as minimum public health and safety water supply needs. (DEIS, p. ES-11, Table ES-3.)

supplies are “supplemental” to other sources of water. Accordingly, Reclamation should make clear that the Shortage Policy is not intended to serve as a shift in federal policy and nothing in the Shortage Policy is intended to imply that CVP M&I supplies are “supplemental” water supplies. We specifically request Reclamation revise or delete the referenced language to preclude any misinterpretation on this point; and insert a statement same or similar to the following: “Nothing in this policy or supporting environmental analysis should be interpreted to imply that Reclamation considers CVP contract water supply as supplemental or secondary to contractors’ other sources of supply”.

1

PCWA’s contract with Reclamation was never intended to be a “supplemental” supply. PCWA’s contract is the result of competing water right applications for water from the American River. In State Water Resources Control Board (SWRCB) Decision 893, the SWRCB provided that certain water right applications competing with the application of the United States be denied on condition that Reclamation contract with water users in the American River region in order that the needs of the region be met with CVP water supplies. The provision of CVP M&I water supply to PCWA is currently provided for pursuant to Interim Renewal Contract 14-06-200-5082A-IR2, which is effective through February 29, 2016 pending Reclamation approval of a long-term renewal contract. PCWA considers its contract with Reclamation to be a part of PCWA’s portfolio of water supplies available to meet the long-term needs of its 250,000 customers, and not a “supplemental” supply.

#### The Shortage Policy is Inconsistent with California Water Policy

To the extent the Shortage Policy and the DEIS purposefully identify CVP M&I supplies as “supplemental,” they are inconsistent with existing California water policy. California water policy encourages the diversification of water supplies through conjunctive use, recycling and reclamation, increased storage, and conservation. Any expression of policy by Reclamation that CVP M&I supplies are only supplemental to other available sources is contrary to that policy. In addition, any policy that mandates the use of all non-CVP supplies *first* discourages the development of additional, diverse water supplies. Existing CVP M&I water service contractors would be faced with the real possibility that the development of alternate sources of supply would only *decrease* the reliability of their CVP M&I supply. Thus, in order to protect their CVP M&I water supply, water services contractors are encouraged to avoid developing alternate water supplies and instead continue to rely primarily on CVP M&I supplies. The Shortage

2

Policy must not discourage diversification and development of alternate water supplies and should clearly articulate that CVP M&I supplies are part of a portfolio of water supplies relied upon by M&I water service contractors.

#### The Shortage Policy Lacks Objective Implementation Criteria

Neither the Shortage Policy nor the DEIS contain sufficient information or criteria that explain when the Shortage Policy would be effective. It is unclear, for example, whether the determination to implement the Shortage Policy in any given year is a discretionary action by Reclamation, or whether there is an objective level of water supplies below which the Shortage Policy applies. In particular, neither the Shortage Policy nor the DEIS discloses the criteria or process by which Reclamation would reduce M&I allocations below 75%. Without criteria to explain *when* the Shortage Policy would be implemented, it is difficult to determine the nature and extent of the impacts associated with the Shortage Policy itself. The DEIS must be revised to indicate the circumstances under which the Shortage Policy will be applied and explain how the frequency of the application of the Shortage Policy relates to the impacts of the policy.

3

#### The Shortage Policy is Arbitrary

The implementation of the concept of CVP M&I supplies as “supplemental” supplies was seen in CVP M&I water allocations last year and again this year. Instead of making consistent reductions based upon contract allocations, Reclamation has taken it upon itself to use the Shortage Policy to balance outcomes. So, while an appropriate “shortage policy” might be to reduce all M&I contract allocations to particular percentage of contract amount, Reclamation has taken the additional step of reducing allocations based upon the prior three years *use* of CVP M&I water. Then Reclamation went further yet, proposing additional allocation reductions in severe water shortage conditions based upon whether or not Reclamation deemed that an M&I contractor had *sufficient* non-CVP supplies to meet minimum health and safety needs as determined by Reclamation. Reducing allocations based upon recent use or based upon Reclamation’s concept of sufficient alternative supplies is a wholly arbitrary method of reducing contract allocations, unsupported in law or adopted policy. This idea of balanced “outcomes” inappropriately dismisses contract commitments and only serves to ensure that those that have *used* the most or have *done the least* to develop alternative supplies are given a larger allocation of CVP M&I supply.

4

PCWA looks forward to the opportunity to continue to work with Reclamation to develop an M&I Shortage Policy that recognizes existing contractual and legal commitments, ensures the promises to the American River region are kept, while attempting to maximize the yield of the CVP so that excess water can continue to be provided to other areas of the State.

4

Sincerely,

PLACER COUNTY WATER AGENCY

A handwritten signature in black ink, appearing to read "Einar Maisch". The signature is fluid and cursive, with the first name "Einar" being more prominent than the last name "Maisch".

Einar Maisch  
General Manager

- c. Dan Kelly, Legal Counsel, Placer County Water Agency  
Scott Morris, Legal Counsel, Placer County Water Agency  
Placer County Water Agency Board of Directors