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February 21, 2014

VIA E-MAIL
and FIRST CLASS MAIL

David Murillo
Regional Director
U.S. Bureau of Reclamation, MP-100
2800 Cottage Way
Sacramento, CA 95825

Re: 2014 Notice of Water Supply Conditions and Availability, Critical Year
Water Supply Reduction – Sacramento River Settlement Contracts

Dear Mr. Murillo:

This letter is written on behalf of the Sacramento River Settlement Contractors (Settlement Contractors) identified on the attached Exhibit 1. Other Settlement Contractors may write separately or join in this letter.

We are in receipt of a letter dated February 15, 2014 from Brian Person, Area Manager, Bureau of Reclamation, and disagree and take issue with the letter's substance and tone. That letter purports to "only allocate 40 percent of the [Sacramento River Settlement] Contract Total" to each of the Settlement Contractors. This "allocation" determination was made by the Bureau of Reclamation based upon a serious misperception of the relationship between Reclamation and the Settlement Contractors, and in a very fundamental way ignores both the substance and the intent of the Sacramento River Settlement Contracts (hereinafter sometimes referred to as "Settlement Contracts" or "Contracts").¹

The only Bureau of Reclamation "allocation decision" provided for in the Settlement Contracts is found in Article 5 of those Contracts. While there is some discretion to be exercised in forecasting, the "allocation" decision is not discretionary; it is mandatory, and entirely based upon objective, quantitative natural inflow criteria. The allocation must be either 100% of supply or 75% of supply. No other provision of the Contracts addresses any discretion on the part of Reclamation to make an alternative "allocation."

Neither Settlement Contract Articles 3(h)(4) nor 3(i) allows Reclamation to allocate supply other than as is provided for in Settlement Contracts Article 5(a). Those provisions address the question of damages arising from "drought" shortages or from "legal obligations." If there is simply not enough water available because of "drought," we understand that Reclamation cannot provide what it does not have. But Reclamation has made no such showing. We are advised that Reclamation is making discretionary operational decisions that, among other things, deliver Sacramento River water for use south of the Delta. Additionally, Article 3(i) only applies, if it applies at all, in the current situation, to "Project Water."

¹ We remind you that the Settlement Contracts are quite different than Section 9(e) Water Service Contracts, and we object to Reclamation treating the Settlement Contractors as if they were Water Service Contractors.

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Reclamation's purported 40% "allocation" cuts beyond "Project Water" and into "Base Supply," making the direct relevance of Article 3(i) dubious, at best.

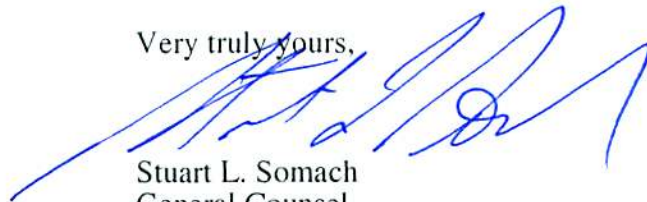
Based upon the foregoing, we believe that Reclamation's initial allocation to the Settlement Contractors, using the February forecast, should be 75%. We understand the extreme drought conditions that exist, but the Settlement Contracts, nonetheless, do not provide for any allocation under 75%. To the extent that Reclamation has concluded that it cannot meet the 75% requirement, there is nothing in the Settlement Contracts that would allow Reclamation to unilaterally decide on a different allocation. Under these circumstances, the appropriate way for Reclamation to proceed is to convene a meeting among the contracting parties (Reclamation and the Settlement Contractors) to discuss means to address the current situation.

In order to address the current situation in an appropriate fashion, including discussion of potential mitigation actions, we need to better understand how Reclamation has arrived at the conclusion that only 40% of our Contract supply could be provided. Our senior water rights, subject to certain limited environmental requirements, have priority over subordinate uses of water. We believe, at a minimum, that no water that otherwise would be available to Settlement Contractors should be delivered below the Delta, including the current and proposed future 1,500 cfs, as long as the Settlement Contractors do not receive at least 75% of supply.

Mr. Murillo, in the end, we all understand that we are in the middle of a difficult situation. The proper way to proceed, however, is through discussion and agreement, not through unilateral edicts by the Bureau of Reclamation. We do not accept the premise in Mr. Person's letter that Reclamation can make any allocation to the Settlement Contractors other than 75% of our Contract supply. To the extent that Reclamation believes that providing 75% of supply is not possible, we are willing to meet with you to receive a cogent explanation of the circumstances that have resulted in Reclamation reaching this conclusion. Once this has occurred we are willing to work with Reclamation to address this situation.

Please do not hesitate to contact us if you have any questions or need any additional information.

Very truly yours,



Stuart L. Somach
General Counsel
Glenn-Colusa Irrigation District
Special Legal Counsel
Conaway Preservation Group, LLC
City of Redding

SLS:sb

Encl.

DOWNEY BRAND

By 

Kevin M. O'Brien

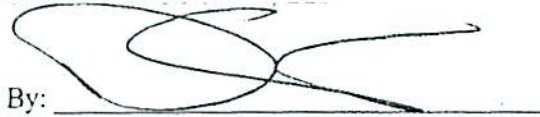
Attorneys for Reclamation District 108, Sutter Mutual Water Company, Natomas Central Mutual Water Company, River Garden Farms Company, Maxwell Irrigation District, Pelger Mutual Water Company, Pleasant Grove-Verona Mutual Water Company, Meridian Farms Water Company, Carter Mutual Water Company, Howald Farms, Inc., Oji Brothers Farms, Inc., Oji Family Partnership, Richter, Henry D., et al., Tisdale Irrigation and Drainage Company, and Windswept Land and Livestock Company

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DUSTIN C. COOPER
General Counsel

Anderson-Cottonwood Irrigation District
Reclamation District 1004
Pacific Realty Associates (aka M & T Chico Ranch)

cc: Michael L. Connor
Pablo Arroyave
Brian Person

EXHIBIT 1

SACRAMENTO RIVER SETTLEMENT CONTRACTORS

ANDERSON-COTTONWOOD IRRIGATION DISTRICT
CARTER MUTUAL WATER COMPANY
CITY OF REDDING
CONAWAY PRESERVATION GROUP, LLC
GLENN-COLUSA IRRIGATION DISTRICT
HOWALD FARMS, INC.
MAXWELL IRRIGATION DISTRICT
MERIDIAN FARMS WATER COMPANY
NATOMAS CENTRAL MUTUAL WATER COMPANY
OJI BROTHERS FARMS, INC.
OJI FAMILY PARTNERSHIP
PACIFIC REALTY ASSOCIATES (aka M & T CHICO RANCH)
PELGER MUTUAL WATER COMPANY
PLEASANT GROVE-VERONA MUTUAL WATER COMPANY
PRINCETON-CODORA-GLENN IRRIGATION DISTRICT
PROVIDENT IRRIGATION DISTRICT
RECLAMATION DISTRICT NO. 1004
RECLAMATION DISTRICT NO. 108
RICHTER, HENRY D., ET AL.
RIVER GARDEN FARMS COMPANY
SUTTER MUTUAL WATER COMPANY
TISDALE IRRIGATION AND DRAINAGE COMPANY
WINDSWEPT LAND AND LIVESTOCK COMPANY