



May 21, 2021

Mr. Ernest Conant, Regional Director
U.S. Bureau of Reclamation
Sacramento Regional Office
2800 Cottage Way
Sacramento, CA 95825-18987

Mr. Michael Jackson, Area Manager
U.S. Bureau of Reclamation
South-Central California Area Office
1243 N Street
Fresno, CA 93721

Re: Current Drought and Central Valley Project Operations/March 25, 2021 and April 22, 2021
letters from Friant Division Contractors / Friant Water Authority

Dear Mr. Conant and Mr. Jackson:

The drought California is currently experiencing threatens the farms and communities across the San Joaquin Valley. The effort by eastside water districts to guard against that threat by assailing the limited water supplies of their fellow farmers and neighboring communities is unreasonable. This is a very difficult year in California. The U.S. Bureau of Reclamation (“Reclamation”) is doing its best to serve all interests and needs of the financially and operationally integrated Central Valley Project (“CVP”) with the very limited water available. The impacts of the current drought extend well beyond the eastside of the San Joaquin Valley. It is unfortunate that, through letters sent to Reclamation on March 25, 2021 and April 22, 2021, the Delano-Earlimart Irrigation District, Exeter Irrigation District, Ivanhoe Irrigation District, Shafter-Wasco Irrigation District, Southern San Joaquin Municipal Utility District, and Stone Corral Irrigation District (“Friant Districts”), as well as the Friant Water Authority have asked Reclamation to take actions or refrain from actions that would severely limit its ability to best manage through this difficult period, and would harm the Friant Districts’ fellow CVP contractors.

The Friant Districts and the Friant Water Authority rely on their interpretations of the terms and conditions of the Friant Division contracts and the supposed obligations imposed thereby. The undersigned will not respond to those interpretations, other than to note that we disagree with them. This letter is instead focused on what the Friant Districts and the Friant Water Authority request from Reclamation based on those interpretations, and the harm that would be caused if Reclamation were to act on those requests.

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The Friant Districts urge Reclamation to treat rescheduled water in San Luis Reservoir as available for allocation to the Exchange Contractors, and also urge Reclamation to refuse to repay the contractors if rescheduled water is taken. That would be very damaging to the numerous CVP contractors who rescheduled the water and are counting on it this year, and will count on using rescheduled water in future years. Rescheduled water is the only reliable water that many westside contractors may have access to in this exceedingly dry year. What few crops have been planted were done so in reliance upon the availability of rescheduled water. Abandoning those crops now would have significant economic and socio-economic impacts. It could also expose the United States to significant liability.

Interestingly, in January 2014, the Friant Water Authority—including 5 of the 6 Friant Districts as members—advocated a position in complete opposition to the position the Friant Districts present this year, explaining to Reclamation:

To cope with the dry conditions last year, and the extremely dry conditions this year, contractors have made deals, at great expense, which freed up other water and allowed them to maintain contract supplies for rescheduling. We are chagrined to learn that Reclamation is considering denying the contractors' requests for rescheduling. This would amount to requiring the contractors to use their water supplies immediately or forfeit them. In a year such as this one, where water is scarce, flexibility is of paramount importance. Denying rescheduling of contract supplies deprives the system of needed flexibility. In 2009, Reclamation considered a similar proposal, but then thought better of it. At that time, the Friant Board adopted a position supporting the contractors.¹

The Friant Districts also ask Reclamation to suspend approval of transfers by the Exchange Contractors, transfers which are vitally important in years such as this when supplies are so scarce. Reclamation's obligations to deliver specified volumes of water under the Exchange Contract are defined by that contract. Those contractual obligations are not diminished or altered by appropriate transfers executed by the Exchange Contractors and authorized by law, which occur as part of the Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority 2014-2038.² The Friant Districts have no legitimate interest in opposing transfers, which do not even affect them. If these transfers were rescinded by Reclamation, it would severely harm the contractors who have relied on Reclamation's approvals and desperately need the water, and it would not serve to increase any supply available to Friant.

The Friant Water Authority likewise advocates for actions that would harm westside CVP contractors. While it professes concern for the desperate lack of CVP supply for south-of-Delta contractors, it nonetheless urges Reclamation not to take action that would help mitigate that harm. It urges that if "a late season allocation is made available, it should not result in additional carryover in San Luis Reservoir." Further, it suggests Reclamation not allow the delivery of transfer water if pumping for 2022 CVP supplies south-of-Delta might be diminished thereby. The Friant Water Authority seeks to stop allocations or

¹ See January 28, 2014 Letter from Friant Water Authority to David Murillo re: 2014 Drought Emergency.

² It is worth noting that when Reclamation and the Exchange Contractors approved the environmental document for the Water Transfer Program in 2013, the Friant Water Authority—including 5 of the 6 Friant Districts—did not object to the transfer of substitute water outside of the Exchange Contractors' service area.

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transfers this year that would mitigate harm to other contractors in order to provide Friant Division contractors with maximum protection against the possibility of impacts to their water supply in a future year.

The positions expressed by the Friant Districts and Friant Water Authority imply that CVP water stored the San Luis Reservoir must be managed to protect the Friant Division; to avoid a call on the Friant Division to meet Reclamation's obligation to the Exchange Contractors. That is not the case; San Luis Reservoir was not authorized as a project to immunize Friant Division contractors from water supply shortages incurred by Reclamation's performance of its contractual obligations to the Exchange Contractors and statutory/contractual obligations to managed wetlands. Although Reclamation has significant discretion with its operations of San Luis Reservoir as part of an integrated project, it cannot ignore that Congress authorized San Luis Reservoir and other facilities of the San Luis Unit "for the principal purpose of furnishing water for the irrigation of ... land in Merced, Fresno, and Kings Counties, California, hereinafter referred to as the Federal San Luis unit service area." Public Law 86-488.

The positions of the Friant Districts and the Friant Water Authority are remarkable given the relative levels of allocations this year. This year Friant Division contractors received a 20% allocation of Class 1 supply. Meanwhile, west side agricultural repayment and water service contractors received an initial 5% allocation, and even that was later pulled back. Yet the Friant Districts and the Friant Water Authority urge Reclamation to take away rescheduled water in San Luis Reservoir, refuse transfers, and make no additional allocation this year to CVP contractors now suffering from a 0% allocation. These positions reflect no sense of Reclamation's obligation to seek balance among the CVP's multiple requirements and purposes, or consideration of the relative impacts being felt by other CVP contractors.

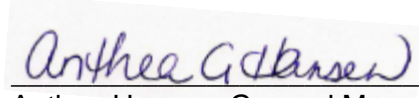
The positions of the Friant Districts and the Friant Water Authority are also disappointing given they seek to reduce supply for CVP contractors who have already borne a disproportionate share of the water and financial cost of meeting regulatory requirements imposed on the integrated CVP. The Friant Division is subject to regulations and obligations to which the entire CVP is subject. Yet, the higher allocations made to Friant Division contractors this year is, in part, a reflection of how CVP resources are currently used to meet legal obligations. Unlike the supply from other divisions of the CVP, the Friant Division supply has not borne any of the burden of meeting Bay-Delta water quality objectives or federal environmental obligations. Reclamation should consider those realities when deciding upon actions this year that would assist south-of-Delta contractors, and what risks to potential future CVP operations are justified.

In closing, Reclamation must dismiss the positions of the Friant Districts and the Friant Water Authority and continue to do the good work Reclamation has been doing this year, striving to operate the CVP in furtherance of all its authorized purposes and finding a reasonable balance among Reclamation's many obligations.

Sincerely,



Federico Barajas, Executive Director
San Luis & Delta-Mendota Water Authority



Anthea Hansen, General Manager
Del Puerto Water District

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Vince Lucchesi, General Manager
Patterson Irrigation District



Robert Pierce, General Manager
West Stanislaus Irrigation District



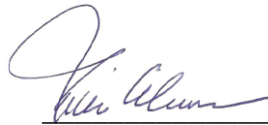
David Weisenberger, General Manager
Banta-Carbona Irrigation District



Jeff Cattaneo, District Manager/Engineer
San Benito County Water District



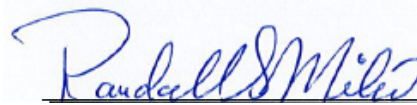
Lon Martin, General Manager
San Luis Water District



Rick Gilmore, General Manager
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Ara Azhderian, General Manager
Panoche Water District and Mercy Springs
Water District



Randall S. Miles, General Manager
Eagle Field Water District



Aaron Baker, Chief Operating Officer – Water
Utility Enterprise
Santa Clara Valley Water District