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Testimony Before the United States House of Representatives
Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries

Legislative Field Hearing
H.R. 215 Working to Advance Tangible and Effective Reforms for California Act
H.R. 872 Federally Integrated Species Health Act
Tulare, California

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Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee:

My name is Jason Phillips, and I am the Chief Executive Officer of the Friant Water Authority in California's San Joaquin Valley. The Friant Water Authority (Authority or Friant) is a public agency formed under California law in part to operate and maintain the Friant-Kern Canal, a component of the Central Valley Project (CVP) owned by the Bureau of Reclamation (Reclamation). In addition to that responsibility, the Authority also advocates on behalf of the Friant Division and eastside communities for sound public policy on water management and operations.

Thank you for the opportunity to appear before the subcommittee today. From my perspective, working on a daily basis with the over 15,000 family farms and growers in the Friant Division, the simple reality is that operating a farm and growing food for our nation continues to be more and more difficult every year. While there are many contributing factors that add to the complexity of feeding America, the sad truth is that some of these factors we can control, yet for reasons I can't fully fathom, decision makers choose not to do so.

First, I want to underscore the critical importance of maintaining our country's food security and locally sourced foods. The multiple-year drought we have faced here in California and in many parts of the West – coupled with other domestic and global developments– has already affected the availability and price of food for many Americans. Rising food prices and global hunger are linked to the war in Ukraine, extreme climate events like the Western U.S. drought, and other global stressors.

The Western U.S., including the Central Valley of California, is a critical part of what has long been a proud national agricultural powerhouse, where our country consistently has run an agricultural trade surplus. But in 2019, for the first time in more than 50 years, the U.S. agriculture system ran an agricultural trade deficit, importing more than it exported. The USDA forecasts the U.S. will again run a deficit in 2023 for the third time since 2019. This growing deficit is driven primarily by our dependence on imported Mexican fruits and vegetables. Increased reliance on foreign food has never been a policy our Nation has intentionally embraced in the past, but as water availability continues to shrink in the Central Valley, more and more food historically produced here will need to come from somewhere else or not be available at all.

Managing water for multiple benefits has long been a top goal for water managers across the West. For many years, a primary purpose of Bureau of Reclamation projects was to capture mountain snowmelt, store it, and distribute it during the long, dry summer months of the West, primarily to irrigated lands that produced food and fiber. Generations ago, these leaders had the wisdom and vision to plan, design and construct a water delivery system meant to level out the variability in California's hydrology by capturing and storing water in the wet years for use in the dry years. And for many years, this system has worked. But over the past few decades, due to decisions to prevent the ability of the system to function combined with the inability to take necessary action to improve it, the water system is now failing us.

Take this year for example: due to a lack of new or expanded water storage facilities, the incredible hydrology we have been blessed with will simply waste away downstream, causing floods and wreaking havoc on our communities, bridges and roads while flowing to the ocean. Instead, had we collectively taken the bold steps to capture more of this water whether in new facilities, expanded facilities, and in aquifers underground, not only would we be experiencing less flood damage, but we would be able to store water for future use.

Unfortunately, this is not a one-year malaise. Instead, the situation we find ourselves in has been caused by over 30 years of decisions by state and federal agencies that are not based on any new laws or definitive science. These decisions have been taking water away from farms and communities in increasing quantities yet have done nothing to help change the decline in environmental conditions. But these decisions continue to be undertaken, in many instances, because unelected agency staff continue to be delegated the responsibility for being the final decisionmakers on probably the most significant public policy issue we face in the state of California: how to best manage the state's limited water resources. And to add insult to injury, despite all of the water that has been reallocated for the benefit of the environment, many of our listed species are worse off now than ever, and native species and migratory birds dependent on the Pacific Flyway are struggling to survive as water is diverted away from refuges and important habitat provided by agriculture.

California currently uses more water every year than is sustainably available. Bold, common-sense action is needed now to avoid a crisis. The current patchwork of laws enacted to solve this problem and avoid a crisis are not working. Without additional action by Congress, failure is guaranteed and California's environment and economy will never be what is was or what people want it to be.

Current laws guiding water decisions, enacted decades ago, have been interpreted to almost unilaterally optimize water for just a small subset of the environment, not for all beneficial uses. It is way past time for those elected to represent the people of the state to provide fresh direction, direction that is clear on how to interpret environmental regulations, clear on who the final decision-makers should be on these multi-generational decisions on how to prioritize our water resources; and provide the tools needed to be successful. Water managers need to be provided the laws and resources necessary to plan for the future so that when the next big water year is upon us, we can capture and store for later the water that is currently causing such damage to our communities.

Additionally, as a member of the board for the Water Blueprint for the San Joaquin Valley, a regional collaboration focused on water solutions, we must work together toward identifying and implementing real progress on projects for the vibrant communities that make up California's Central Valley. And we will need your help to ensure that these communities can enjoy reliable, clean drinking water and realize the full benefit of some of the most productive agricultural land in the world.

With this backdrop, we stand prepared to work with the Subcommittee and the federal and state administrations to put common sense back into the equation regarding effective management of our water resources. I believe Friant is particularly well positioned to provide technical, policy, and legal input to decisionmakers at all levels of government.

Background on the Friant Division

The 152-mile-long Friant-Kern Canal and the 36-mile-long Madera Canal, together with Friant Dam and Millerton Lake on the San Joaquin River, form the Friant Division of the Central Valley Project. On average, the canals deliver 1.2 million acre-feet of irrigation water annually to more than 15,000 farms on over one million acres of the most productive farmland in the world. Friant Division deliveries also are vital to meeting the domestic water needs of many small communities in the San Joaquin Valley, as well as larger metropolitan areas, including the City of Fresno – California's fifth-largest city.

The Friant Division was designed and is operated as a conjunctive use project to convey surface water for direct beneficial uses, such as irrigation and municipal supplies, and to recharge groundwater basins in the southern San Joaquin Valley. The ability to move significant water through the Friant Division's canals in wetter years to store in groundwater recharge basins is critically important for the project to work as intended, and these operations sustain the primary source of drinking water for nearly all cities, towns, and rural communities on the Valley's East side.

Over the past 30 years, unelected State and federal agency staff have been increasingly imposing stringent environmental requirements on our water projects that have redirected water away from the Valley in an attempt to aid a subset of fish populations dependent on the Sacramento-San Joaquin River Delta (Delta) that are struggling. As these requirements reduce the ability to export water through the Delta as the projects were designed, many San Joaquin Valley water users have increasingly relied heavily on groundwater supplies to maintain economic viability for their

communities. The increased reliance on groundwater overdraft has exacerbated impacts to drinking water systems and land subsidence, causing damage to the Friant-Kern Canal, Delta-Mendota Canal, and California Aqueduct and compromised their ability to deliver water in the San Joaquin Valley and Southern California. The southern third of the Friant-Kern Canal has lost 60% of its capacity, which translates to 100,000 – 300,000 acre-feet of water per year that doesn't flow to farms and communities.

Additionally, by reducing the canal's ability to deliver water to aquifers in the south Valley, the conveyance constriction will also worsen existing water supply and water quality problems in the more than 55 rural and disadvantaged communities within the Friant Division service area, all of which are almost entirely reliant on groundwater wells for their water supplies.

Thankfully, we at Friant are currently in the midst of repairing the Middle Reach of the Friant-Kern canal and future repairs to other reaches of the Canal are being planned, but time is still of the essence as current hydrologic conditions offer significant opportunities to replenish groundwater supplies and allow us to prepare for future water supply challenges.

California's Water Management Challenges

The 2023 water year is off to a tremendous start. This year is shaping up to be one of those years that will be so significantly wet that reservoirs will be full, groundwater recharge will be plentiful, and water will move around the state as the system was designed.

But for most of the past century, we also have experienced "average" water years in which the state and federal water projects, the State Water Project (SWP) and CVP respectively, were operated in a sensible and responsible manner. Even following the passage of the federal and state Endangered Species Acts (ESA) and the Central Valley Project Improvement Act (CVPIA), communities and industries who rely on the SWP and CVP could expect a water supply allocation sufficient to ensure safe drinking water and irrigation needs. But we now worry most about these "average" years, when decisions about conveying and storing water result in the difference between having enough water to supply the cities and farms that depend on it, or not.

Starting in the early 1990's, the interpretation of state and federal laws, regulations, lawsuits, and decisions, both by elected and unelected officials, began to change how water is managed in California, and not for the better. And as each year has passed, these changes have only gotten worse. This is not hyperbole and is the reason why you often hear the term or see billboards or social media posts deriding the "man-made drought". And to make matters worse, the single species, flow-only approach to recovering struggling fish populations promised to benefit from these actions is not working. The result is a system that is broken.

In five of the past eight years the Bureau of Reclamation has taken Friant Division water stored in Millerton Lake (the primary water supply for the east side of the San Joaquin Valley) and delivered it down the San Joaquin River to meet the needs of the San Joaquin River Exchange Contractors, who would otherwise receive Sacramento River water through the Delta-Mendota Canal. This is the result of the failure of state and federal water operators to be able to convey water in average years.

This has occurred even in what previously would have been considered "normal" water supply years, such as 2019.

Many water users in California blame increased "regulations" that have resulted in more environmental restrictions requiring that less water be delivered to our farms and communities. But no new major environmental laws have been enacted by Congress in over 30 years. The truth is that the last major law passed by Congress that reduced water delivery capability and received any public debate at all was the CVPIA. Enactment of the CVPIA was a major change in the way the CVP was operated, and although it caused significant impacts at a tremendous cost, at least it was a public process that included a lot of thought, debate, negotiation, and ultimately approval by the Congress.

Today, the operations of the CVP and SWP are controlled by federal and state agencies and their unelected government employees who continually add new regulatory requirements and reduce the ability of our vast water management system to actually deliver water, chipping away at water supplies for people and farms in California. But these requirements and reduced water deliveries are failing with no accountability and providing little or no benefit to the very species they are intended to protect. And the biggest losers are Californians – all Californians.

The bipartisan Water Infrastructure Investments for the Nation Act (WIIN Act) signed by President Obama in 2016 and the 2019 Biological Opinions for SWP/CVP operations contained provisions and actions that should have helped our average water years translate into water supply stability for millions of Californians. Unfortunately, those key provisions in the WIIN Act have expired and the 2019 Biological Opinions are in the midst of litigation.

As long as the pattern of using environmental regulations to reduce or eliminate water deliveries from the CVP and SWP to people and farms in California over the past 30 years continues, we will never really be able to declare the drought over, even if we get another good winter next year.

The time has come to build on the success of the WIIN Act and to have additional congressional direction in the management and operation of the water system in California.

H.R. 215 - "Working to Advance Tangible and Effective Reforms for California Act"

Friant Water Authority supports H.R. 215, the "Working to Advance Tangible and Effective Reforms (WATER) for California Act (the Act)." We believe that, if enacted, the WATER for California Act would provide some of the "common-sense" solutions to our state's water management challenges and we thank Rep. Valadao and the cosponsors for their leadership and vision in introducing the legislation.

Title I of the Act would provide congressional direction in the operation of the CVP and would not conflict with the Preferred Alternative Final Environmental Impact Statement (EIS) on the reinitiation of consultation on the Coordinated Long-Term Operation of the CVP and State Water Project (SWP) dated December 2019, or the Biological Opinions of the Fish and Wildlife Service and NOAA under the Endangered Species Act (ESA) dated October 21, 2019. Congressional direction

provided in Title I, if enacted, would allow flexibility for voluntary changes to CVP operations, cut costs, protect native species, limit unnecessary reconsultation under the ESA, and help to improve water supply reliability. This will improve water supply reliability to CVP agricultural, municipal, and industrial contractors, water service or repayment contractors, water rights settlement contractors, exchange contractors, refuge contractors, and SWP contractors. Title I would also extend Section 4004 of the Water Infrastructure Improvements for the Nation (WIIN) Act for an additional ten years.

Title II of the Act would require the Secretary of the Interior to make every reasonable effort to operate the CVP in a manner that maximizes water deliveries to contractors in the Sacramento River Watershed in certain water year types, with flexibility given to any changes in operations voluntarily agreed to, approved and implemented by CVP contractors. Title II would also protect water supplies to refuge, municipal and industrial, and other contractors, including settlement contractors, exchange contractors, and Friant contractors.

Title III would modify federal laws to allow for federal financial participation in a project to enlarge Shasta Dam and Reservoir on the Sacramento River. Title III also directs the Commissioner of the Bureau of Reclamation to issue a water deficit report to Congress to identify projected shortages in water supplies in the State of California supplied by the CVP and SWP and recommend infrastructure projects or other actions to reduce or eliminate projected water supply shortages or fulfill water allocations to all water contractors in the CVP and SWP. Title III would extend Section 4007 of the WIIN Act and authorize federal funding for a project to enlarge Shasta Dam and Reservoir on the Sacramento River. We need to look at all opportunities to build new water storage facilities in our Valley to take advantage of years like this to capture and protect our water supplies into the future.

Finally, Title IV would require the Secretary of the Interior to complete the refuge water supply program under the CVPIA and give priority to funding that completion through various federal funding sources identified in the Act. Title IV requires the fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406 of the Central Valley Project Improvement Act be deemed complete by the Secretary on or before September 30, 2025. We understand some of our Central Valley stakeholders may be impacted by this Title in the Act, and we stand ready to work with those entities to find common ground in bringing California's water system back to efficiently and effectively meeting the water supply needs of the state's cities, farms, refuges, and the environment.

H.R. 872 - "Federally Integrated Species Health Act" or the "FISH Act"

Friant Water Authority also supports the intent of H.R. 872, the "Federally Integrated Species Health Act" or the "FISH Act." The FISH Act requires the transfer of all functions vested in the Secretary of Commerce or the National Marine Fisheries Service (NMFS) with respect to anadromous species and catadromous species under the ESA to the Secretary of the Interior. Friant believes the history of having two federal agencies under two federal Departments protecting two vastly different and sometimes competing categories of species under the ESA has been a disaster. Single species management has allowed for vast sections of the once-majestic Pacific Flyway and its wildlife

refuges, where millions of migratory birds, reptiles, fish and other non-protected species once flourished, to be dried up for the sake of flushing water to the ocean in the name of protected species protection.

This must stop, and the FISH Act would be a step in the right direction, placing all federal ESA species management in one agency under one federal Department. By placing NMFS' ESA functions into the Fish and Wildlife Service, ESA activities would need to be coordinated in a more comprehensive manner, including analyzing impacts to all species – those protected under the ESA and those that are not. The negative impacts of taking water away from one (or more) species to benefit another would need to be evaluated much more thoroughly and a more holistic approach developed to ensure a vibrant ecosystem remains intact.

Conclusion

I again thank the Subcommittee for traveling to the Valley to hold this critical hearing and for the opportunity to testify. The rigid and severely constrained management of the CVP over the last 30 years is not working for our communities or the environment, and the calls for an ever increasing amount of water being diverted from cities and farms to provide additional flows out of the Delta need to be reversed. We saw examples once again this year when, despite virtually no observed Delta Smelt and massive outflows to the ocean that by all measures precluded their presence, water management policies dictated constrained pumping in the Delta for species protection purposes rather than filling our dwindling reservoirs.

Ultimately, we were lucky to have additional storms come through the state, but this was not a given when these decisions were made, and we can't allow luck to be our water management strategy. Instead, we need to be asking how we can bring balance back to our system and increase available water for all needs in all years. I hope that this hearing and the bills before the Subcommittee will be the start of moving toward some normalcy for CVP operations. I look forward to continuing working with the Subcommittee and the many stakeholders in the Valley on these issues and would be happy to answer any questions.

Sincerely,

Jason Phillips
Chief Executive Officer