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

**Oversight Field Hearing on
*Water Abundance: Opportunities and Challenges in California***

***Hotel Mission De Oro
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Chairman Bentz 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 holding this timely and important field hearing and for the opportunity to appear before the subcommittee today. The title of this hearing couldn't be more apt. Year after year, regulatory decisions and legislative inaction in California are forcing us towards water scarcity over water abundance. This was again demonstrated recently when, after a devastating years-long drought, we had two wet winters that caused flooding in many parts of the San Joaquin Valley. This wet cycle should have ensured water abundance for our farms and communities regardless of what the next years bring us. But instead, many south of the Delta water users will only receive 50% of their supplies this year and we know one dry year will result in worse cuts for many. The inability to capitalize on our wet years to carry us through inevitable dry years, as our systems were designed, is a result of overly conservative and ineffective restrictions and regulations, along with decades of resistance to building new storage and other infrastructure in our state.

I look forward to the discussion about how to reverse this trend.

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.

What is at Stake

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 – like a reliable water supply - are factors we can control. Yet for reasons I can’t fully fathom, many elected officials and policy makers choose to stand in the way.

We must continue to focus on 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 across parts of the world, extreme climate events like the Western U.S. drought, and other global stressors.

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, our 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 worked. But over the past few decades, due to decisions to prevent the ability of the system to function as designed, our world-class water system is now failing us.

Decades of Decisions that Reduce Abundance

Over the past 30 years, unelected and largely unaccountable State and federal regulatory agencies have taken a flawed approach to implementing existing environmental laws. The result is ever increasing 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.

The hydrology in the Central Valley of California has always experienced extended periods of both very wet years and severe drought years. For most of the past century, the state and federal water projects, the State Water Project (SWP) and CVP respectively, were operated in a sensible and responsible manner that would ensure 100% deliveries of contracted supplies even through extended drought periods. 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 that is not the case anymore. The same projects that could deliver 100% supplies every year, can no longer do that even in years with plenty of rain and snow, meaning that the average has become severe cuts to water supply the cities and farms depend on.

Starting in the early 1990's, the interpretation of state and federal laws, regulations, lawsuits, and decisions by unelected officials, began to force change to how water is managed in California, and not for the better. 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". The result is broken system that is not working for people or species and, as discussed further below, is causing cascading impacts to San Joaquin Valley communities.

Even in years with incredible hydrology, like those we have been blessed with over the last two years, a lack of new or expanded water storage facilities results in excess water released to the ocean, often causing floods and wreaking havoc on our communities, bridges and roads on its way. Making matters worse, a significant portion of the water that we do store in reservoirs in wet years is forced to be released to comply with operating requirements not specifically required by law. Had we collectively taken the bold steps to capture more of this water whether in new facilities, expanded facilities, or in aquifers underground, and had legislatures not allowed the release of so much water after being captured, not only would we be experiencing less flood damage, but we would prevent damaging water delivery reductions in future dry years.

These decisions have been taking water away from farms and communities in increasing quantities yet have made no discernable change to help the decline in species populations. Regulatory actions over the last 30 years have also impacted native species and migratory birds dependent on the Pacific Flyway and important habitat provided by agriculture. But these decisions continue to be undertaken, in many instances, because unelected officials at regulatory agencies are delegated the responsibility for being the final decisionmakers on one of the most significant public policy issue we face in the state of California: how to best allocate the state's limited water resources.

Pending Biological Opinion: An Additional Step in the Wrong Direction

The 2019 Biological Opinion (BiOp) for Long-term Operation of the CVP and SWP was the first time in the last three decades that a regulatory change would have improved the reliability of CVP and SWP water deliveries. Career scientists at federal agencies made a good faith effort to revise restrictions that are not working, and develop options that would increase flexibility in operations, broaden the suite of solutions needed for species recovery, and still comply with ESA protection.

Unfortunately, the 2019 BiOp was litigated by the State of California and environmental groups, and instead of defending the work that was done, one of the first acts of the current federal administration in 2021 was to scrap the work done and start over by reinitiating consultation with fisheries agencies and openly admitting to reconciling operations with California Endangered Species Act requirements. We are concerned that the new BiOp will continue the trend of the past several decades and take an overly conservative approach to ESA compliance and further reduce

the ability of the CVP and SWP to deliver contract water. A preliminary review of the new BiOp and new proposed constraints on the long-term operation of the CVP and SWP validate our concerns. Specifically, we anticipate that the new plan will not only maintain old restrictions that we know can be removed or relaxed, but it will further restrict the ability of Reclamation to use storage in Shasta Reservoir, the largest reservoir in the CVP and a critical facility needed to meet contract deliveries. These requirements will cost the CVP about 400 TAF on average per year – cuts that will again fall on agricultural water users and disadvantaged communities.

Root Causes of California's Water Challenges

Many of the worst impacts to water supply reliability are the result of an almost dogmatic approach to implementing the Endangered Species Act and other regulations that is focused on increasing flows and using Reclamation projects in California and other Western states by the federal government to “mitigate” the impacts of a changing climate and declining species rather than wholistically addressing species needs.

By using the ESA as the regulatory “hammer” focused on addressing a single species and targeted acutely on water releases from federal projects, regulators continually fail to address many of the underlying needs for species viability and recovery. Time after time we see the institution of requirements that pit the demand of one listed species against another, fail to address many of the known constraints to species recovery such as habitat restoration, and focus on a singular or small set of factors (such as temperature) that is not necessarily a good indicator of species survival. This type of failed species management will continue to severely limit flexibility in water management and produce plans that are bound to fail species.

Additionally, the current approach to implementing the ESA creates an unending loop of restrictions and uncertainty that makes investing time and money in solutions that would mitigate impacts difficult for water districts and the farmers and communities they serve. In many instances, policy seems to have the intended purpose of ensuring federal programs can continue indefinitely rather than make progress that allow relaxation of restrictions – an issue that is reinforced and perpetuated by the fact that species are virtually never delisted.

Lacking infrastructure is another root cause of our water challenges in California. The insufficient storage in California has been discussed for many years and was reinforced in recent years when millions of acre-feet of water that could have been stored to provide drought resilience was lost to the ocean. Additionally, restoration of conveyance capacity and development of new conveyance is needed to enable increased groundwater storage and efficient movement of water to where it is needed.

Impacts of Reduced Deliveries

Decisions made by policy makers and federal agency staff have major real-world impacts, both direct and indirect.

First and foremost, the perpetual man-made drought that the San Joaquin Valley faces reduce the affordability of water and comes at a cost to society overall. Increasingly, reduced water availability is causing disruptions in drinking water supplies with the impacts disproportionately falling to communities that are the least able to afford replacement supplies and increasing costs for those

that can pay to mitigate lost supply. There is also significant expense to complying with the increased regulatory burden and engaging in the never-ending cycle of shifting policies and regulations.

The costs of reduced water delivery do not stop with those communities directly impacted, however. Food and fiber produced in the San Joaquin Valley and enabled by a reliable water supply feed the world. Simply put, bad water policy reduces the reliability of irrigation supplies or increases water prices is driving some farms to cease operation, weakening the ability of the U.S. to produce affordable fresh fruits, nuts and vegetables for itself, and impacting thousands of jobs and billions of dollars in economic activity.

Reductions in surface water delivery also have ripple effects for water management in the San Joaquin valley. For example, 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, the first major fix of the Middle Reach of the Friant-Kern canal was finalized this year, and future repairs to this and other reaches of the Canal are being planned, but time is still of the essence as recent hydrologic conditions offer significant opportunities to replenish groundwater supplies and allow us to prepare for future water supply challenges.

Opportunities to Correct Course

Regulatory Solutions

It is important to note that no new major environmental laws specific to California water have been enacted by Congress in over 30 years. The last major law passed by Congress that reduced water delivery capability and received any public debate at all was the Central Valley Project Improvement Act (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 restricted by federal and state agencies and their unelected government officials who continually add new regulatory requirements and reduce the ability of our vast water management system to deliver water.

If the pattern of using environmental regulations to continually reduce or eliminate the ability to deliver water contracted through the CVP and SWP to people and farms in California, we will never really be able to declare the drought over, even if we get another good winter next year, or even a series of wet years.

The time has come to have additional congressional oversight, direction, and accountability in how the water system in California is regulated. Taking the approach of conserving our way to sustainability will most certainly create a zero-sum game of moving water from agriculture to other demands, and within the next decade result in the largest reduction of productive farmland this country has seen in more than a generation.

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 it once was or what people expect it to be.

Current laws guiding water decisions, enacted decades ago, have been interpreted to almost unilaterally allow for an unrestricted amount of water to be reallocated from current beneficial uses to a continued, frivolous attempt to turn the trajectory of a small subset of endangered species. I have to believe that this is not what any past or even the current congress intended. It is way past time for those elected to represent the people of the state to provide fresh direction that is clear on how to interpret environmental regulations and who the final decision-makers should be on these multi-generational choices on how to prioritize our water resources, and provide the tools needed to be successful. Water managers need to be provided with 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.

Several specific changes would greatly improve the regulatory landscape for water users. First, it is imperative that agencies improve transparency and accountability in developing and implementing regulations, including adhering Section 4004 of the WIIN act as it continues work on the BiOp that is currently under review. Requiring the use of adaptive management with accountability is another strategy that would help ensure regulations are actually achieving their purpose, maximizing species benefits while minimizing impacts to water operations and other activities. Indeed, collaborative decision-making and adaptive management based on documented science and objective criteria have served as the basis for success in many basins where effective recovery programs are improving species populations and enable water development and operations. This approach needs to be taken in California.

Legislative changes including Endangered Species Act reforms to clarify area of frequent implementation disagreements and other issues, along passage of the FISH Act to address perpetuation of single species management decisions, are also important to begin to change the punitive regulatory posture many federal agencies currently take.

Lastly, finding workable solutions to all pending regulatory actions and ensuring that all of the various regulatory regimes impacting Delta operations are aligned and not additive to each other is critical to ensure water users don't continue to face "death by a thousand cuts." This includes the pending revisions to the 2019 BiOps, Agreements to Support Healthy Rivers and Landscapes in California, and continuation of the San Joaquin River Restoration Program.

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.

Infrastructure Solutions

Combined with the regulatory certainty created by the actions discussed above, investments to improve and develop new infrastructure are also essential to restore water abundance in California. A major component of this effort requires restoring conveyance capacity of the Friant-Kern and Delta-Mendota Canals and the California Aqueduct that have been impacted by subsidence. Restoration of these foundational pieces of infrastructure will ensure that water can be efficiently moved across the region, and combined with increased groundwater storage, will increase opportunities to capture floodwater when available for use during dry years. New conveyance facilities are also needed, including potentially new conveyance systems in the San Joaquin Valley and extending the Folsom South Canal, both of which could allow more water to be delivered in wet years making water users less reliant on existing water sources in times of drought.

Additional surface and groundwater storage must also remain a major priority. Completing expansion of San Luis and Los Vaqueros Reservoirs, development of Del Puerto and Sites Reservoirs and other new storage projects, and improved use of technology to maximize storage behind existing dams would all improve the water supply situation in California. There are also opportunities for increased groundwater storage facilities, regulating and small surface storage facilities, and other similar facilities that would expand overall storage capacity for the State. Friant also supports continued evaluation of raising Shasta Dam as a means to ensure viability of fisheries reliant on cold water, while protecting irrigation supplies.

Additionally, our conventional method of monitoring snowpack is in great need of improvement, and funding at a Federal level is significantly lacking as it's mostly been left to local entities and the State. Friant is supportive of legislation to authorize the coordinated collection, management, and dissemination of precise and accurate surveying and mapping of snowpack that will benefit local water agencies, and State and Federal water operators.

Development of needed infrastructure and monitoring will improve water security for the Valley by increasing supplies, diversifying available water sources, and implementing the Sustainable Groundwater Management Act in a fashion that is sustainable to irrigated agriculture.

To be clear, without regulatory reform to stop the uncontrolled, unending taking of California's water supplies in pursuit of the proven failed approach to recover endangered species, there is no amount of new infrastructure, recycling, efficiency, or any other form of water supply development that can bring us to a place of abundance. Without this reform, the only plausible outcome will be a level of farmland retirement in the next decade we have not seen in our lifetimes.

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 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 will be the start of moving toward some normalcy for CVP and other Western water project 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.