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July 21, 2020

Chris Tantau
Chairman of the Board
Friant Water Authority

Subject: Friant-Kern Canal Subsidence Fix and Funding

Dear Chairman Tantau,

Please include this letter from the Orange Cove Irrigation District (OCID) in the upcoming July 2020 Friant Water Authority Board of Directors Packet.

First, OCID genuinely appreciates the effort and creativity of Friant staff, consultants, and Directors to identify an implementable capacity correction project that is acceptable to Friant Contractors. Not surprisingly the hardest part is proving to be funding.

The current rift among long-term Friant Contractors coupled with the prolonged pandemic is certainly frustrating engaged discussion among Contractors. The lack of open communication and deliberation hinders arriving at an agreeable outcome. It is hoped that this letter encourages broader funding issue dialogue. Next week's funding workshop is critical and ahead of that meeting, OCID provides a few thoughts for consideration for those very important discussions.

The Authority recently released a Request for Interest (RFI) to solicit / gauge interest in Zone 3 investment. The responses indicate a willingness from investors to put up-to $280 million dollars towards the fix, this is seemingly very good news, but OCID believes caution is advised.

Based on responses, the real source(s) of capital are undisclosed. It is certain that money will pass through individual Friant Contractors (Arvin Edison WSD, Kern-Tulare WD, Porterville ID, Saucelito ID and Terra Bella ID) and those Contractors are considered to be the "investors" but the source of funds and an understanding of the business model and expectation of private equity providing those funds, is unknown. In addition to the noted contractors, the Eastern Tule GSA and one private entity, the Renewable Resources Group (RRG) have been identified as investors.

Quite frankly, the OCID Board is uneasy with potential unintended operational consequences that may come from private investor equity. Private investment has not been part of Friant's history, at least not anywhere remotely close to this scope and scale of water supply impact. Changes to operating principals could negatively affect many FKC long-term Friant Contractors. Private money involved could be a game changer for the Friant Division. Eyes need to be wide open!

The level of concern related to private equity investment depends on the amount of Zone 3 funding dollars used **to get the Canal back to its historically used maximum conveyance**

capacity, which we understand is somewhere around 2,500 cubic feet per second. In other words, OCID believes, that to provide maximum durable protection to FKC long term contractors, **$0.00** Zone 3 dollars should go toward reestablishing the capacity to at least 2,500 cfs. If Zone 3 dollars are used to create capacity above this level, or more comfortably, above this level with some buffer (say 3,000 cfs) all the way up to the original design capacity, there is lesser, but still concern.

To illustrate this concern, consider that it has been a long-held position of the Friant Board, that water management actions / programs shall not lead to a net loss of water from the Valley. Private investment will not consider this tenet to be foundational. If a greater return on investment results from transferring water out of the Valley; that would become a new foundational objective – this potential conflict in motivation must not to be discounted or ignored.

It is the view of OCID that funds to recover capacity should come from the following sources, **in order of priority:**

1. **Tule Basin GSA's** - The amount of mitigation funds must be unrelated to the availability of money from all other sources, including the United States, Friant Contractors, and private investment.
2. **Federal Non-Reimbursable Funds** – OCID appreciates the efforts of the Authority and the level of interest and work by the federal government to help the Authority in its mission to maximize capabilities to deliver water made available by the United States. It is not lost on OCID that the leadership of the Authority is instrumental in fostering the spirit of assistance we are seeing from the United States on not only this, but many Friant Division issues.

If and only if these two sources do not provide funds needed to correct the capacity to the historical maximum deliveries (2,500 – 3,000 cfs), should FKC Contractors be asked to pay. If there are insufficient dollars from the combined Tule Basin GSA mitigation funds / federal sources, then and only then should funds be sought from:

3. **Friant Contractors**:
   a. **Downstream Friant Contractors** – *Direct and Indirect Beneficiaries.* As demonstrated in the Feasibility Study and the responses to RFI, the ability to convey water in the FKC by those that have contractual rights or by others who can use their contractual rights, is an investment. The benefits to these contractors are all different depending on their Class 1 and Class 2 contract quantities, as previous analysis has shown. Additionally, maximizing deliveries to all Friant reduces the O&M rate per acre foot. In other words, downstream interests are direct beneficiaries and indirect beneficiaries.

   b. **Upstream Friant Contractors -** *Indirect Beneficiaries.* Previous analysis shows that a restored Canal capacity results in increased average annual FKC water deliveries. By virtue of the mechanics of the Friant O&M Cost Recovery Methodology, there is a benefit to **upstream (and downstream)** FKC contractors due to a reduction on the O&M rate per acre foot.

If and only if the above sources provide sufficient funds to correct the capacity to the historical maximum deliveries (2,500 – 3,000 cfs), should accepting private equity be considered:

4. **Investor Funding** – OCID believes the Authority should not accept equity from private entities, however, we can appreciate there are compelling perspectives for accepting those funds to construct a Canal to original design capacity / utility, particularly under SGMA. Understanding how all contractors feel about this point, not just the

downstream contractors, and not just FKC Contractors and not just FWA Contractors must be a topic of discussion.

General Concern with Private Equity in the Friant Division

There is a long history of Friant Division districts collaborating under a common voice to maximize the water supply benefits to the Eastern San Joaquin Valley and to provide reliable water supply to Friant Division landowners engaged in producing food and fiber for our nation. There are tremendous commonalities among us; the farming commonality and broad regional societal and economic benefits from this engine maintain Friant Division cohesion.

Certainly, land in the Friant Division is enduring and will be here forever (figuratively speaking of course – nothing lasts forever). The water supply, however, is a fluid key ingredient (literally speaking). As they say, "water moves uphill toward money", and the OCID has concerns with investors' maneuvering and profiting on the value of water in and of itself, disregarding its direct utility and benefit to the Valley.

Private investment and the power of significant capital resources has a way of bringing about change; change in leadership, change in regulation, change in law, change in politics and changes in policies that may very well threaten what the Friant Division has built over the last 70 years.

The OCID believes in a fair distribution of funding to repair the Canal, predicated on the above noted sources and principles. OCID appreciates that in the short-term, paying for impacts caused by others is objectionable, but Friant Districts must come together and contribute to the funding solution to minimize or better yet eliminate all together private equity.

OCID urges Friant Contractors to consider the risks and make long-term decisions in Friant water users and the Valley's collective interest.

Sincerely,

Harvey Bailey
Chairman
Orange Cove Irrigation District

David A. Brown
Director
Orange Cove Irrigation District