

**PROTEST AND OBJECTION, AND IN THE ALTERNATIVE
PETITION FOR RECONSIDERATION, OF
FRIANT WATER AUTHORITY AND ITS MEMBER AGENCIES,
RELATED TO THE
TEMPORARY URGENCY CHANGE ORDER**

Friant Water Authority ("Friant") and its member agencies hereby renew their protest and object to, and in the alternative, petition for reconsideration of, the Order Approving A Temporary Urgency Change In License and Permit Terms and Conditions Requiring Compliance With Delta Water Quality Objectives In Response To Drought Conditions (With Modifications Dated February 7, 2014, February 28, 2014, March 18, 2014, April 9, 2014, April 11, 2014, April 18, 2014, and May 2, 2014 (collectively "Orders")), which have been issued in response to a series of Temporary Urgency Change Petitions jointly filed by the California Department of Water Resources ("DWR") and the United States Bureau of Reclamation ("Reclamation").

I. INCORPORATION OF PRIOR PROTEST AND OBJECTION

Friant hereby incorporates in full its prior protests and objections filed on March 2, 2014 and April 28, 2014.

II. SUPPLEMENT AND AMENDMENT TO PROTEST FILED APRIL 28, 2014

A. Summary of Salient Facts

The salient facts are as stated in our protest of April 28, 2014, with the following additions and modifications.

This year, for the first time in the 60+ year history of the Central Valley Project, Reclamation has indicated it will not provide the required amount of substitute water supply to satisfy the demands of the Exchange Contractors, who hold the prior water rights on the San Joaquin River, because: (1) SWRCB and/or NMFS has ordered Reclamation not to deliver water stored behind Shasta Dam consistent with its contractual obligations to the Exchange Contractors, but rather to retain it for future unspecified uses by unknown persons and/or for fisheries purposes, despite the terms of Reclamation's permits and contractual duties, (2) DWR has insisted that half of the water pumped from the Delta be provided to its junior contractors even though the senior water rights of the Exchange Contractors have not yet been satisfied, and (3) Reclamation has knowingly and voluntarily determined to serve water to the wildlife refuges even though the courts have already interpreted Reclamation's water rights permits in the context of the Central Valley Project Improvement Act and determined that the Exchange Contractors have the first priority to water pumped at the Delta.

According to the May 11, 2014 operations report, the Exchange Contractors' demand at the Delta-Mendota Pool is currently 1,629 acre-feet, and Reclamation is currently pumping at the Jones Pumping Plant 1,981 acre-feet. Although the supply available exceeds the current demand, and despite the Exchange Contractors' previously adjudicated seniority, Reclamation determined that it is "...unable...to deliver...substitute water from the DMC" to the Exchange Contractors and has voluntarily and knowingly assigned this water to junior water users. Furthermore, according to the May 11 report, there was over 566,000 acre-feet in the federal share of San Luis Reservoir. As of March 1, there was approximately 350,000 acre-feet of Rescheduled Water in San Luis Reservoir. At this time, there is over 200,000 acre-feet in San Luis Reservoir available for delivery to the Exchange Contractors, but Reclamation is choosing to use that water to serve junior users instead. Reclamation's actions directly violate the prior appropriation doctrine.

As a result of these decisions, Reclamation has determined itself "unable ...to deliver...substitute water from the DMC" to the Exchange Contractors, and Reclamation has decided to use San Joaquin River water to serve the Exchange Contractors, thereby depriving the Friant Division water users of all of their CVP water supply.

According to estimates by California Citrus mutual, the direct result of the usurpation of Friant's senior water rights will be the loss of 50,000 acres of California's citrus, the closing of 8-9 packing houses and associated loss of jobs, and about \$3,000,000,000 in damages, and this is only to the citrus industry.

B. History of These Proceedings

On May 2, 2014, just 4 days after the prior April 28 deadline for filing protests, SWRCB staff issued *another* modification to the Order on the Temporary Urgency Change Petitions. This most recent modified Order approved approves changes to Delta Outflows during May and July, changes to the Western Delta EC requirement, and changes to the Sacramento River flow requirements.

The May 2 Order incorrectly states that it "ensure[s] the protection of prior water rights" and that "modifications to the Order have been made where appropriate." These statements are wrong because: (1) as noted above, the Order allows the usurpation of the Exchange Contractors' rights, which have been adjudicated and held to be senior, by junior water users, (2) California law requires all water users to follow, and the SWRCB to uphold, the law of prior appropriation, and (3) the SWRCB staff have not modified these

orders to require Reclamation and DWR to follow the prior appropriation doctrine. Instead, they have, through these Orders, approved a series of drought operations plans that violate fundamental principles of California water law and the CVP permits as they have been interpreted by the courts.

On May 13, 2014, without any prior discussions with the affected Friant Division contractors, Reclamation issued press releases announcing its update to the drought operations plan and its choice to allocate water to junior water rights holders such as the refuges even though the senior water rights have not been satisfied.

To date, SWRCB staff has not provided any written responses to any of the protests or objections filed in response to the Temporary Urgency Change Petitions, which date back to late January/early February.

III. PROTEST

Friant Water Authority and its member districts protest and object to the State Board's Order for all the reasons set forth in their prior protests and objections.

FRIANT WATER AUTHORITY

_____/s/_____
By: Jennifer T. Buckman
Its: General Counsel

STATEMENT OF SERVICE

Notice of this Protest and Objection, and in the alternative, Petition for Reconsideration, has been served by email upon SWRCB, Reclamation and the Department of Water Resources as follows:

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