

## RESOLUTION No. 2023-03

### A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FRIANT WATER AUTHORITY CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING CEQA FINDINGS OF FACT, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, APPROVING THE GUIDELINES FOR ACCEPTING WATER INTO THE FRIANT-KERN CANAL (GUIDELINES), AND AUTHORIZING THE EXECUTION OF THE COOPERATIVE AGREEMENT FOR THE IMPLEMENTATION OF THE GUIDELINES

#### THE BOARD OF DIRECTORS OF THE FRIANT WATER AUTHORITY RESOLVES AS FOLLOWS:

##### **SECTION 1. Findings.** The Board of Directors finds as follows:

A. The United States Bureau of Reclamation (“Reclamation”) constructed and owns the facilities of the Friant Division of the Central Valley Project (“CVP” or “Project”), including the Friant Dam and the Friant-Kern Canal (“Canal” or “FKC”) which conveys water from Millerton Lake to municipalities and water agencies (collectively, “Contractors”) along the 152-mile length of the Canal that have water delivery contracts with Reclamation for Project water.

B. The Contractors, through their own facilities, provide CVP water to communities and thousands of family farms which irrigate more than one million acres of highly productive and economically vital farmland.

C. Since 1986, the Friant Water Authority (“FWA”) and its predecessors have operated and maintained certain Friant Division facilities, including the FKC, on behalf of the United States, and since 1998 such operations, maintenance and replacement (“OM&R”) obligations have been governed by that certain Agreement to Transfer the Operations, Maintenance and Replacement and Certain Financial and Administrative Activities Related to the Friant-Kern Canal and Associated Works (Contract No. 8-07-20-X0356-X) (“Transfer Agreement”), which FWA and Reclamation renewed effective October 5, 2020 for an additional term of 35 years.

D. Under Article 30(a) of the Transfer Agreement, FWA is required to operate and maintain the FKC “in a manner that preserves the quality of the water at the highest feasible level” as determined by Reclamation.

E. In the recitals and substantive provisions of the Contractors’ water delivery contracts (i.e., the article entitled “Cooperation and Coordination”), Reclamation and the applicable Contractor acknowledge the shared goal to “pursue measures to improve ... water quality ... for all Project purposes,” including through the “implementation of partnerships.”

F. Nevertheless, each water delivery contract also includes a provision that states that “the United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.”

G. As the operations of the Friant Division have evolved, from time-to-time water is introduced into the FKC other than directly from Millerton Lake to the headworks of the FKC (collectively, "Non-Millerton water"). In general, such Non-Millerton water is of a lower quality than that conveyed directly from Millerton Lake.

H. In order to ensure that the quality of water conveyed through the FKC is protected for sustained domestic and agricultural use, FWA and the Contractors have cooperatively developed certain Guidelines for Accepting Water into the Friant-Kern Canal ("Guidelines" or "Project") that define certain water quality thresholds and the required mitigation associated with the introduction of Non-Millerton water into the FKC, as well as establish methodologies, procedures and tools for forecasting, monitoring and managing water quality in the FKC.

I. Under the Guidelines, a public agency interested in participating in the Guidelines activities, including the introduction of Non-Millerton water into the FKC, is required to enter into a cooperative agreement ("Cooperative Agreement") with FWA to implement the Guidelines.

J. Because the proposed Guidelines and Cooperative Agreement require discretionary approvals from FWA (and the participating Contractors) prior environmental review is required.

K. FWA agreed to serve as the lead agency under the California Environmental Quality Act ("CEQA" - Public Resources Code sections 21000 and following) for the environmental review of the Guidelines.

L. FWA retained the consulting firm Environmental Science Associates ("ESA") to assist in the preparation of the environmental documents necessary for approval of the Guidelines under CEQA.

M. An Initial Study (IS) was prepared pursuant to the requirements of CEQA, and the State CEQA Guidelines (Title 14 of the California Code of Regulations, sections 15000 and following). The IS found that the Project could potentially have a significant impact on the environment and therefore required the preparation of an Environmental Impact Report (EIR). A copy of the IS is included as part of the Final EIR.

N. On December 6, 2022, FWA issued a Notice of Preparation ("NOP") that an EIR would be prepared for the Guidelines and filed such NOP with the California State Clearinghouse, which issued the Project State Clearinghouse (SCH) No. 2022120093. The NOP was available for public review from December 6, 2022 through January 9, 2023, and solicited comments regarding the scope and content of the EIR. A copy of the NOP, together with comments received, is part of the Final EIR.

O. On December 13, 2022, a virtual public scoping meeting was held for the EIR.

P. On May 12, 2023, FWA issued a Notice of Completion/Notice of Availability ("NOA") of the Draft EIR. The NOA was published on the California State Clearinghouse website (<https://ceqanet.opr.ca.gov/2022120093/2>), FWA's website (<https://friantwater.org/projects>), and was made available at the Fresno, Kern and Tulare County Clerks offices and published in the Fresno Bee and Bakersfield Californian. Copies of the NOA and the Draft EIR were distributed to the public agencies and other interested parties

as shown on the distribution list included in the Draft EIR and attached to the NOA. Additionally, the Draft EIR was distributed to responsible and interested state agencies through the State Clearinghouse; State Clearinghouse No. 2022120093.

Q. On May 12, 2023, the Draft EIR was made available for public review and comment pursuant to State CEQA Guidelines section 15087. The public review period lasted from May 12, 2023 to June 26, 2023. A virtual public meeting was held on May 30, 2023 to accept comments on the Draft EIR. Copies of the Draft EIR were made available for the public online at FWA's website (<https://friantwater.org/projects>), and hard copies were made available for review at FWA's Lindsay Office (854 N. Harvard Ave.).

R. FWA did not receive any comments on the Draft EIR during this 45-day public comment period.

S. A full copy of the Final EIR was posted on FWA's website on July 21, 2023, at: <https://friantwater.org/projects>.

T. The Board conducted a duly noticed public hearing on the Final EIR on July 27, 2023. All interested parties were given full opportunity to be heard and to present evidence regarding the Final EIR and related actions and approvals.

U. The Final EIR identifies the potential for significant impacts on the environment from implementation of the Project, all of which can be avoided or substantially reduced to less than a significant impact through the EIR mitigation measures; therefore, approval of the Project must include CEQA "Findings" as set forth in the CEQA Findings of Fact attached as Exhibit A.

V. The Project's Mitigation Monitoring and Reporting Program ("MMRP"), as required by CEQA, is attached as Appendix A of the Final EIR.

W. All documents and files which constitute the record of proceedings upon which the certification of the Final EIR and related actions to approve the Guidelines are based are on the file in the office of the Chief Operating Officer of the Friant Water Authority at its office at 854 N Harvard Avenue, Lindsay, California, 93247.

**SECTION 2. Certification of Final EIR.** The Board of Directors certifies the Final EIR as follows:

A. Based on the evidence and oral and written testimony presented at the public hearing including staff reports, and based on all the information contained in FWA's files on the Project (including those of its environmental consultant, ESA), including but not limited to, the Final EIR for the Project (a copy of which is on file at FWA's Lindsay office), the Board certifies in accordance with State CEQA Guidelines section 15090 that:

1. The Final EIR for the Project was prepared in compliance with CEQA and the State CEQA Guidelines.
2. The Final EIR was presented to the Board of Directors and that the Board has reviewed and considered the information contained in the Final EIR prior to approving the Project.

3. The Final EIR adequately describes the Project, its environmental impacts, and reasonable alternatives. Potentially significant impacts have been identified and mitigation measures have been incorporated as set forth in the MMRP that will avoid or reduce impacts to a level which will not cause a significant impact on the environment. Compliance with the MMRP is a requirement of the Cooperative Agreement.
4. The Final EIR reflects the independent judgment and analysis of the Board of Directors of the Friant Water Authority.

**SECTION 3. Adoption of Findings and Mitigation Monitoring and Reporting Program.** The Board of Directors approves, adopts, and imposes the following with respect to the Project:

A. The **Findings** pursuant to State CEQA Guidelines sections 15091 and 15126.6, as set forth in the attached Exhibit A. The Findings describe the mitigation measures and demonstrate that they will effectively mitigate or avoid the potentially significant environmental impacts of the Project.

B. The **Mitigation Monitoring and Reporting Program (MMRP)**, as set forth in Appendix A of the Final EIR. Potentially significant impacts have been identified and mitigation measures have been incorporated into the Project (and any subsequent discretionary projects) through the Cooperative Agreement that will reduce potential impacts to a level which will not cause a significant impact on the environment.

**SECTION 4. Approval of the Guidelines.** The Board of Directors approves the Guidelines described in the Final EIR as the Project to be implemented.

**SECTION 5. Approval of the Cooperative Agreement.** The Board of Directors approves the Cooperative Agreement and directs FWA staff to proceed with all necessary actions to execute and enter into the Cooperative Agreement with the participating Contractors and other public agencies in order to implement the Guidelines.

**SECTION 6. Filing of a Notice of Determination.** The Board of Directors directs FWA staff to cause to be filed with the respective clerks of Fresno, Kern and Tulare Counties and the Office of Planning and Research in Sacramento a Notice of Determination in accordance with CEQA.

**SECTION 7. Effective Date.** This Resolution will take effect upon adoption.

APPROVED AND ADOPTED on July 27, 2023.

  
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Jim Erickson, Chair of the Board of Directors

ATTEST:

  
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Josh Pitigliano, Secretary of the Board


I HEREBY CERTIFY that Resolution No. 2023-03 was duly adopted by the Board of Directors of the Friant Water Authority at a regular meeting held on July 27, 2023, by the following vote:

AESWD, CWD, CofF, DEID, FID, KTWD, LID, LSID, LTRID, MID, OCID, PID, PIXID, SID, SWID,  
AYES: TPWD, TBID, TID

NOES: None.

ABSENT: KDWCD

ABSTAIN: None.



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Josh Pitigliano, Secretary of the Board