

Water Wrights



Friant Water Authority August 27, 2020

By Don A. Wright

The **Friant Water Authority** held its Thursday, August 27, 2020 board of directors meeting remotely from the Visalia Convention Center. It was a Cisco Webex meeting. Closed session began at 8:30am and open session was scheduled for 10:00am. Closed session had real estate negotiation between **FWA** and the US Bureau of Reclamation for a cost share agreement on some facet of fixing the Friant Kern Canal. The area of concern was about 33 miles of the FKC in the subsidence hampered portion. There was also the old NRDC v. Murillo case where the Natural Resources Defense Council sued the Bureau (David Murillo used to be the Regional Director before Ernest Conant) over salmon flows in the San Joaquin River upstream of the tributary confluences. That two decade lawsuit resulted in the San Joaquin River Restoration Act wherein for the modest price of \$2.5 million dollars per fish 500 salmon would be able to swim from the Pacific Ocean to just below Friant Dam and spawn. There were two more existing cases of litigation, to potential exposures to litigation and two potential initiations of litigation.



I logged on to the meeting early, about 10 till and entered the meeting id and password. I was hanging out but it kicked me off and made me reenter and eventually I was connected to the meeting. Then everything froze and went quiet for about 10-minutes. I was going to exit and sign in again but a voice said things should start up again in about 10-minutes so I fixed something to eat.

Getting Started

Chairman **Chris Tantau** called the meeting to order at 10:30am. The only reportable action from closed session was two black eyes and a bloody nose. Evidently it was a spirited discussion. Tantau welcomed Gravelly Ford Irrigation District to sit in on the proceedings. Director **Cliff Loffler** gave the invocation and asked God to guide the meeting with wisdom, peace and gratitude.

There was a public comment I couldn't hear clearly, the audio was sketchy. I think they sang happy birthday to Tantau. How about that? Happy birthday Chris.

The consent calendar was next which included last month's minutes and paying the bills. The minutes were pulled to reflect an abstention from some vote last month and outside of that everything was honky dory.

Only One Action Item

The sole action item of the day was presented by Water Resource Manager **Ian Buck-Macleod** concerning the Pump Back Project. There needs to be a modified professional services agreement to take advantage of some DWR funding that could run out next year. The PSA involves the engineering firms of Provost & Pritchard, Stantec and CDM. There are so many things happening on the FKC; subsidence forcing repairs, water quality concerns and installing a pump back component to increase conveyance flexibility. The board agreed and happily it didn't increase the cost above current estimates but helps keep the DWR grant in play.

2021 Draft Budget

Next CEO **Jason Phillips** gave a presentation of the fiscal year 2021 draft budget. He spoke about the Airborne Snow Observatory. This program is very popular because it works. Phillips said the hope is the ASO costs will be shared wider by state and federal provisions. The other budget item that garnered the most attention was the increase in special legal counsel costs. Director **Edwin Camp** asked if some of those costs could be shared with others as well. The answer I think I heard was maybe.

Legislation

External Affairs were brought to us by FWA's **Alex Beiringer** and consultant **Mike Villines**. Beiringer said the deadline for bill passage in Pyongyang/Sacramento is August 31st but there are reportedly many more Big Marxist Virus cases in the legislature than generally known. There may be some adjustments to bring folks back later. I hear the funding for SB 559 to help fix the FKC was stripped by amendments made solely by Assemblywoman **Lorena Gonzalez** – the same gal who brought you AB 5 that put independent contractors out of work during the pandemic. The bill is moving on without funding but will allow for a study that could lead to funding. Villines explained a bit of how the sausage is made and what the odds are something could happen this year. Not great.

FWA's **Johnny Amaral** updated the board on federal matters saying to expect a continuing resolution as opposed to a budget. He said the canal fix funding is most likely to occur after the elections and before the swearing in of the next congress. There are a couple of good bills out there; funding for the ASO and some support for federal money. Amaral said this lame duck session of congress is when most of the stuff happens. He recommended reading the information supplied by the Family Farm Alliance. Phillips said there has been a lot of activity on the FKC funding in Sac and DC. He said the legislators representing the Friant area have been introducing a lot of bills and the hard work is now beginning, push the bills through to be signed.

Before the heavy lift of the day – the Middle Reach Capacity Correction Report – Tantau also wished Director **David Brown** a happy birthday today and there was a reporter with the same birthday, I didn't catch the name, happy birthday to them. Phillip's birthday was last week on the day of the Executive Committee. Happy belated to him.

Fixing the Friant Kern Canal

FWA COO **Doug DeFlitch** started by saying he believes the Record of Decision, the approval on the US Bureau of Reclamation side will come through on schedule this October. Attorney **Don Davis** said about a third of the property needed for the land required to complete the repairs has had paperwork for appraisals completed to send to the Bureau for OK so offers can be made. Davis said the

Bureau has a process. Before offers can be made there is a very lengthy list of requirements and reports that must be submitted to the Bureau for just about every contingent and it's taking much longer than expected. Davis said the Bureau has been cooperative and helpful but they have an onerous process. Camp asked him when he thinks this will be completed and Davis said not before next year. Camp asked what Friant can do to help speed this up. Davis said he thinks maybe the Bureau could use some more manpower on this. He also said once the offers are made to the landowners we'll have a better idea of how fast this portion will take place. It depends if there are folks who don't want to sell and if, God forbid, eminent domain would have to be used. Davis and DeFlicht's report gave a look at part of the scheduling items involved.

How Much Will It Cost & How to Pay for It?

Phillips next spoke about the financing. There is a choice of who will be in charge of the construction bidding. If Friant there are certain financing considerations and construction payment options that differ to a good degree from if the Bureau takes that role. He said the immediate goal is not to put out a \$500 million request for bids. Rather the idea is to break it down to affordable phases. The first phase will be to return the canal design capacity, 2,500 cfs. If that's all that happens at least the canal will be working again. (The goal is to increase capacity beyond the original design but that's even more money.)

Phillips said getting WIIN Act money requires more moving parts to be oiled but there could be federal money there. He said the FKC belongs to the Bureau and they want to see the \$500 million project started and completed. Right now the state date is 2021 and the districts downstream from the impacted area need help as soon as possible. The price of \$215 million should cover the costs of Segment



D&E. Segments D&E are the most impacted by subsidence and that area is mostly the part of the canal that runs between Saucelito and Terra Bella IDs. There is a cost share agreement with the Bureau that is being worked on feverishly, but without the oft accompanying delirium one hopes. The Record of Decision has to be approved before any agreement can be signed. Again this is hoped to occur in October.

Phillips said at this time the funding from the GSAs where the impacts are located hasn't been figured in yet. He said that is still being worked on. Some of the funding principles he presented was FWA putting \$50 million upfront. South Friant Kern Canal Districts will provide the balance of non-federal funded construction cash flow. As more funds become available the SFKCD's will be reimbursed at least in part for their contributions up to Zone Two capacity costs. The Bureau has \$75 million to chip in. There may be short term debt incurred through loans by FWA. The cash flow schedule was spread out from what's already been spent as of today to 2024. There's some big amounts, like 2022's \$113.6 million. There are seven SFKCD districts: Arvin Edison WSD, Delano Earlimart ID, Kern Tulare WD, Lower Tule River ID, Saucelito ID, Shafter Wasco ID and South San Joaquin Municipal Utilities District. These districts will have to come up with \$90 million between

them. Phillips said FWA has been working with them and they have been working amongst themselves on allocating costs. A side note; of the \$215 million about \$75 million (estimated) share will come from the feds and be non-reimbursable. In the counter intuitive world of water if something is non-reimbursable that means you don't have to reimburse the feds. If it is reimbursable you have to pay it back to the feds. I don't know why they don't call it grants and loans but they don't. I still get confused on this because to my mind the entities are being reimbursed for their expenses.

Great minds must think alike a little bit because Phillips said it may seem "counter intuitive" for the FWA General fund to contribute \$17 million and end up starting at \$50 million but if I understood, FWA will borrow about \$10 million of the \$17 million while the Bureau's reimbursable (loan) of \$32 million will raise FWA's amount of \$50 million. There was also a two page breakdown of how much each member district will pay from 2021 to 2031. By 2032 all FWA would have to pay back would be reimbursable. Phillips also added the chart showing the SFKCD breakdown was an estimate only and there could be more district added and the final cost share allocation is not agreed upon.

Phillips said the next step is to approve the first \$5 million at next month's meeting and get the work on a loan started. There needs to be a cost share worked out with the Bureau, who isn't fully on board with this. They want to bite off the entire \$500 million right away. And of course the southern boys need to work things out between themselves and Friant. The executive committee was generally favorable, at least there were no red flags according to Phillips.

Tantau asked to what Phillips wants next from FWA's board. Phillips said **Eric Quinley** GM Delano Earlimart ID, **Jeevan Muhar** GM Arvin Edison and **Fergus Morrissey** GM Orange Cove ID have all worked very hard on the SFCKD "Family Plan". Both Quinley and Muhar stressed they are working to find the place they could all live in but they have more work to do. Tantau said that was good to hear as this is one of the lynch pins. Loeffler thanked them for the amount of work and good will the southern districts have shown. Director Brown said OCID is tilted towards the favorable. Director **Rick Borges**, Tulare ID also said this plan looks pretty good but when the time comes he wants more information about the loan payback.

Fresno ID has not been a fan of paying for FKC repairs and someone asked the FID Director George Porter where FID stands on this proposed funding plan. I couldn't hear his response but one of the southerners said if FID doesn't help the fix good luck trying to move water south. Phillips said there needs to be a conveyance fee built in. He gave an example of Madera ID, none of the MID water goes down the FKC. There will most likely need to be different fee amounts depending on participation. Former FWA Chair and Kern Tulare WD Director Kent Stephens asked if everyone can agree the FKC is everyone's responsibility and is a benefit to everyone and quit trying to cut the baby in pieces and put it back together again. He wanted to know why the historical everyone pays their share isn't the first option. Phillips said the GSAs are sitting on the cause and the idea is to get them to pay for the damages, at least in part. In the meantime Friant has to keep the repairs' momentum rolling. Stephens said those not willing to help need to remember if the southern end of the canal falls the entire system will fallow. Stephens suggested every Friant Division contractor put up the money needed to realize Zone Two repairs. If anyone wants more they can pile up their Zone Three funds on top of things. Tantau said to Stephens, respectfully, Friant has tried that approach before and hit a brick wall.

Phillips asked if there was anyone willing to go to \$140 million on FWA's part. Not one person spoke up in favor, most fearing that amount would delay the start of repairs. Phillips said he would support having this run through the Executive Committee once more and the big family plan considered but this will require a massive wave of 218 elections. Quinley said the SFKCDs will have

to go after 218 funding until the GSAs pay up. Tantau said there is reason to hope for more discussions to prove fruitful between now and next month's meeting.

At the conclusion of this topic it was almost 1:00pm and Phillips asked for the rest of the report givers to be brief.

Other Reports

Austin Ewell reported on the San Joaquin Valley Water Blueprint saying there is a convening process called "An Untitled Dialog" with Stanford's Water in the West for a big meeting on the morning on September 2nd, I think he said. BTW, it's called "An Uncommon Dialog."

Phillips said FWA is pushing the Bureau to update the FOG, Friant Operating Guides and give Buck-Macleod your wish list. DeFlitch said the FKC will be dewatered in November. He'll have more information next month on the schedule.

Phillips gave his report saying the retreat from November 16th to 19th and he is hopeful there will be virus tests available. I hope so too. He said there will be an election by then and either four more years or a whole new scramble. So, the strategic plan needs an update either way. He also said Friant pays O&M to San Luis Delta Mendota Water Authority, without a vote. He sits on that Finance Committee and there are some big expenses coming up. And he invited those at the location to eat lunch but they would have to tell FWA's Toni Marie if they are going to attend the retreat before they'll be allowed to eat.

Tantau ended the meeting with a unanimous vote to adjourn at 1:30pm and that was that.

DISCLAIMER OF RESPONSIBILITY; Waterwrights strives to provide it's clients with the most complete, up-to-date, and accurate information available. Nevertheless, Waterwrights does not serve as a guarantor of the accuracy or completeness of the information provided, and specifically disclaims any and all responsibility for information that is not accurate, up-to-date, or complete. Waterwrights' clients therefore rely on the accuracy, completeness and timeliness of information from Waterwrights entirely at their own risk. The opinions expressed in this report are those of the author and do not represent any advertisers or third parties.



ALL RIGHTS RESERVED. Copyright © 2020 by WaterWrights.net/DAW

FRIANT WATER AUTHORITY

854 N. Harvard Ave., Lindsay, CA 93247, Office 559/562-6305 Email: information@friantwater.org www.friantwater.org

The Friant Water Authority is a Joint Powers Agreement with 15 districts to operate and maintain the Friant Division of the Central Valley Water Project. Water from the San Joaquin River is diverted at Friant Dam at Millerton Lake to the Madera/Chowchilla Canal to the north and the Friant/Kern Canal to the south. More than one million acres of mostly family farms and numerous communities get their surface supplies from the Friant Division.

Staff: CEO Jason Phillips, COO Doug DeFlitch, CFO Don Willard, Government Affairs & Communication Alexandra Biering, Water Resource Manager Ian Buck-Macleod, Superintendent Chris Hickernell and Attorney Don Davis.