

Congress of the United States
Washington, DC 20515

October 20, 2008

Dear Friant Farmer:

Despite objections by Chowchilla Water District, Madera and Tulare Irrigation Districts, the San Joaquin River Settlement will likely be passed by Congress in November. Friant negotiators eager for a deal are working closely with radical environmentalists and their allies in Congress to make certain their grossly manipulated plan becomes law.

Let me make one thing perfectly clear -- **this settlement does not end litigation**, despite statements by Friant suggesting this to be a “comprehensive” settlement. Not only can other radical organizations sue to attack farmers on the so called settled issue, this declared “comprehensive” settlement completely fails to address three other lawsuits concerning delta matters. These suits were filed at the behest of Friant’s radical environmental partners which directly impact Friant farmers. At this point, based on current litigation, court precedent, and dry water years, it is not inconceivable to see 800,000 acre-feet of water released from Friant in order to meet the senior water rights of the San Joaquin Exchange Contractors. This would be in addition to the required releases associated with the Settlement. Once again, let me make it clear that in no way does this settlement end litigation. In fact, when this policy is enacted, **I fully expect new lawsuits to be immediately filed seeking more water from Friant.**

Furthermore, this settlement does not provide water “certainty” as suggested by Friant officials. It “mandates” a cold water salmon fishery and commits farmers to a multi-billion dollar restoration project. This commitment exists whether or not the end goal is found to be reasonable or within our ability to accomplish. In fact, experts have made it clear that salmon will not return with 250,000 acre feet of water. For some reason, this fact has been ignored by Friant. Sadly, by the time the truth is accepted, **Congress, the President, and the Courts will have mandated a “salmon or bust” policy.** Water will be flowing and greater losses will be certain.

Moreover, these actions are being taken without regard to our region’s ground water crisis. At this time, there is a 400,000 acre feet over draft of our ground water resources on an annual basis. With the additional 250,000 acre feet loss from the San Joaquin River Settlement, this over draft would rise to 650,000 acre feet. Such an outcome is unsustainable for the long-term viability of our water supply. Continuing down this path could lead to the **fallowing of nearly 300,000 acres of land.** While some farmers will remain in business, others will fail. In my opinion, this does not equal “certainty,” unless Friant is suggesting that certain failure of some farming operations equals water supply certainty for those who remain.

Despite these long running concerns, recent developments have proven they are only the tip of the iceberg. Through the clear direction of Friant officials, farmers have already been made liable for a large financial portion of the Settlement. This liability will come through the extension of the Friant surcharge and new bonds to cover unfunded costs of the Settlement. These costs are far beyond the original scope and intent of the Settlement, yet there still remains **hundreds of millions of dollars of unfunded mandates within the Settlement.**

To solve their funding problem, Friant officials have accepted an empty promise of future funding through the earmark process. This is despite the fact that presidential candidates have pledged to eliminate earmarks. If funding is not made available, farmers will end up picking up the tab for the entire cost of the Settlement. What was portrayed as a \$750 million settlement paid for by the Federal and State governments has turned into a multi-billion dollar boondoggle which may be entirely funded by Friant farmers. Through simple economics, it is not hard to see the cost of water quickly **exceeding \$100 an acre foot.**

With that said, it is important to reflect on Friant officials' statements that "this settlement is our only option and things will only get worse if we return to court." What was promised three years ago was freedom from future litigation, recovered water, and a restoration project funded by the government. This is simply not the case today. **It has turned into an overwhelming risk of future litigation, a loss of 250,000 acre feet of water with no possibility of recovery, and a restoration project largely funded by Friant farmers.** At this point, I would contend that returning to court would be the lesser of two evils. At least by returning to court, we retain the right to fight instead of a strategy of abject capitulation.

Finally, as the author of the legislation authorizing the Temperance Flat feasibility study, and in full recognition of the importance of new water storage in our state, I believe it is important to share with you a word of caution. If the San Joaquin River Settlement is implemented by Congress, Temperance Flat will be in danger of being deemed unfeasible. **Anyone who endorses this irresponsible water giveaway is helping to build the case against Temperance Flat** and will make our job even more difficult as we fight for construction of the new reservoir.

The power to stop this process and hold Friant officials and political leaders accountable rests in your hands. Whatever you do with this power, you must be willing to live with the consequences.

Best regards,

A handwritten signature in blue ink that reads "Devin Nunes". The signature is written in a cursive, flowing style with a large initial "D".

Devin Nunes
Member of Congress