



Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF 27,000 ACRE-FEET OF WATER
TO AREAS WITHIN THE WESTLANDS WATER DISTRICT
UNDER CALIFORNIA DEPARTMENT OF WATER RESOURCES'
PERMIT 16482 (APPLICATION 17512)**

Notice is hereby given that on May 25, 2005

Department of Water Resources
c/o Nancy Quan, Chief
Bay-Delta Program Development
P.O. Box 942836
Sacramento, CA 94236-0001

filed with the State Water Resources Control Board (State Water Board), a Petition for Temporary Change under Water Code section 1725, et seq. If approved, portions of the Westlands Water District (WWD), the majority of which is served solely by the U.S. Bureau of Reclamation's Central Valley Project (CVP), would be temporarily added to the authorized place of use under the Department of Water Resources' (DWR) permitted Application 17512. This temporary change would facilitate the sale of up to 27,000 acre-feet (af) of water from Tulare and Lower Tule River Irrigation Districts (TLTR) to WWD. Temporary changes under Water Code section 1725 may be effective for a period up to one year.

DESCRIPTION OF THE TRANSFER

TLTR have agreed to sell 27,000 af of its Friant-Kern CVP water to WWD, however, WWD does not possess the conveyance capability to receive Friant-Kern water. Kern County Water Agency (KCWA), Arvin-Edison Water Storage District (AEWSD), and Kern-Tulare and Rag Gulch Water Districts (KTRG) have an existing exchange agreement in place and have agreed to act as intermediaries to facilitate this sale.

This existing exchange agreement involves a previous sale in which KTRG purchased 27,000 af of Kern River water and entered into an exchange agreement with KCWA and AEWSD to facilitate the delivery of this water (KTRG does not possess the conveyance capability to receive water from either the Kern River or the SWP). Under this existing exchange agreement, KTRG allowed KCWA to take delivery of the 27,000 af of Kern River water it purchased. KCWA agreed to deliver 27,000 af of its SWP allocation to AEWSD, and AEWSD agreed to allow 27,000 af of its Friant Kern CVP allocation to be delivered to KTRG. (Note: State Water Board approval is not required for any portion of the existing exchange.)

California Environmental Protection Agency

TLTR proposes to utilize the portion of the aforementioned existing exchange involving the delivery of 27,000 af of SWP water to AEWS D to facilitate its sale of water to WWD. TLTR would allow the 27,000 af of Friant Kern CVP water it intends to sell to WWD to be delivered to AEWS D in return for AEWS D allowing the 27,000 af of SWP water to be delivered to WWD. This temporary change petition is required to authorize delivery of SWP water to WWD.

A map showing the locations of WWD, KCWA, AEWS D, KTRG, and TLTR is available for viewing with the copy of this notice posted on the Division of Water Rights' website at www.waterrights.ca.gov, Water Transfers Program.

In the absence of the proposed temporary change, the existing exchange agreement between KCWA, KTRG, and AEWS D would proceed as described above, and TLTR would deliver the 27,000 af of Friant Kern CVP water it intends to sell to WWD to AEWS D for diversion to underground storage.

STATUS OF DWR'S WATER RIGHT

Permit 16482 was issued to DWR on September 26, 1972, and it authorizes DWR to collect up to 1,100,000 af per annum by storage, to be diverted from the Sacramento and San Joaquin watersheds and San Luis Creek between January 1 and December 31. The water may be used for irrigation, domestic, municipal, industrial, salinity control, recreation, fish and wildlife enhancement, and to generate incidental power. The subject 27,000 af of SWP water is either stored in San Luis Reservoir or will be stored under provisions of DWR's permits as amended by State Water Board Decision 1641, conditions set forth in the 1995 Bay-Delta water quality objectives, State Water Board Order WR 98-9, and Biological Opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the Endangered Species Act. Thus, the transfer of up to 27,000 af to WWD should have no affect on any natural streamflow or hydrologic regime. Release rates from San Luis Reservoir may increase due to the proposed transfer.

STATUS OF WWD'S PROJECT

WWD's service area is located primarily east of Interstate 5, between the cities of Mendota and Kettleman City, in Fresno and Kings Counties; being within T13-22S, R12-19E, MDB&M. For contractual purposes WWD has defined its service area as Priority Areas I, II, and III. Priority Area I is WWD's original service area; Priority Area II includes lands from the June 1965 merger of WWD and the Westplains Water Storage District; and Priority Area III is considered as any lands annexed after June 1965.

- Priority Area I lands have the right to apply for and purchase up to 900,000 af of CVP contract water. There are approximately 339,000 acres of land in Area I that are irrigable

and eligible, under federal reclamation law, to receive CVP water. Consequently, Priority Area I lands receive an average application rate of 2.7 af per acre under 100% CVP allocation.

- Priority Area II lands have the right to apply for and purchase up to 250,000 af of CVP contract water. There are approximately 193,000 acres of land that are irrigable and eligible, under federal reclamation law, to receive CVP water. Consequently, Priority Area II lands receive an average application rate of 1.3 af per acre under 100% CVP allocation.
- Priority Area III, consisting of approximately 10,000 acres of irrigable land, but has no entitlement to CVP contract water.

WWD's current CVP allocation is 70% of its contract entitlement. In general, land in WWD has complete tailwater control within each field. WWD's pipeline distribution system and landowners' irrigation systems in WWD have been documented as one of the more efficient systems available in California to minimize the amount of water applied to crops. Additionally, WWD has programs to encourage water conservation and reduce deep percolation.

The areas proposed to receive SWP water under this transfer are within the Priority I and II Areas, as described above. These areas are also shown on a map prepared by DWR and available for viewing with the copy of this notice posted on the Division of Water Rights' website at www.waterrights.ca.gov, Water Transfers Program.

COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Temporary changes involving the transfer of water that was previously stored are exempt from the requirements of the California Environmental Quality Act (CEQA). However, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

STATE WATER RESOURCES CONTROL BOARD'S STATUTORY PROVISIONS

Pursuant to Water Code sections 1725, et seq., the State Water Board is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary changes:

1. Involve only water that would otherwise have been consumptively used or stored by permittee or licensee;
2. Would not injure any legal user of the water; and

3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses.

If the State Water Board cannot satisfy, in a timely manner, the provisions of Water Code section 1725, et. seq., then the State Water Board may deny the petition or schedule and notice a hearing regarding the proposed transfer or exchange of water.

OPPORTUNITY FOR COMMENTS

Pursuant to the requirements outlined above, the State Water Board is seeking information to assist in the evaluation of the proposed temporary change of water rights under the transfer. Any person may file comments concerning the petition for temporary change. The comments must address the required findings numbered 1., 2. and 3., set forth above. The petitioner has the burden of establishing that the proposed temporary change will not injure any legal user of water, or unreasonably affect fish, wildlife, or instream beneficial uses. If the State Water Board determines that the petitioner has established a prima facie case, the burden of proof then shifts to the party that has filed comments (Water Code section 1727). While such a determination has not been made in this case, commentors should provide sufficient information to support claims of injury or affects on fish, wildlife, or other instream uses.

Due to the relative brevity of the temporary transfer process, the Division (if necessary) may request that the petitioner submit additional information during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the Division of Water Rights website at www.waterrights.ca.gov, Water Transfers Program. Potential commentors are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received in the office of the State Water Board's Division of Water Rights, at the address listed below by **2:00 p.m. on July 11, 2005**. Additionally, **the response must be accompanied by proof of service of a separate copy of the materials on the petitioner**, at the address listed below. Interested parties are encouraged to file comments by FAX and to notify the following contact persons by telephone of any materials that will be submitted. However, an original copy of all materials must be received for the State Water Board to consider your concerns.

Division of Water Rights
c/o Greg Wilson
P.O. Box 2000
Sacramento, CA 95812-2000

State Department of Water Resources
c/o Nancy Quan
P.O. Box 942836
Sacramento, CA 94236-0001

FAX: (916) 341-5400

FAX: (916) 653-9628

Please address questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner or transferee should be addressed as follows:

DWR-SWP (petitioner): Nancy Quan (916) 653-9593
FAX: (916) 653-9628

WWD (transferee): Thomas Birmingham (559) 241-6241
FAX: (559) 241-6277

Original signed by

James W. Kassel, Chief
Hearings and Special Projects Section

Dated: June 11, 2005