

If the point of diversion or redirection is being changed, is any person(s) taking water from the stream between the old point of diversion or redirection and the proposed point?

YES (yes/no)

Are there any persons taking water from the stream between the old point of return flow and the new point of return flow? YES (yes/no)

If yes, give name and address, as well as any other person(s) known to you who may be affected by the proposed change. **See Attachment 1.**

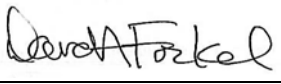
I (we) consulted the California Department of Fish and Game concerning this proposed temporary change. YES (yes/no)

If yes, state the name and phone number of the person contacted and the opinion concerning the potential effects of your proposed temporary urgency change on fish and wildlife and state the measures required for mitigation. **See Attachment 1.**

THIS TEMPORARY URGENCY CHANGE DOES NOT INVOLVE AN INCREASE IN THE AMOUNT OF THE APPROPRIATION OR SEASON OF USE. THIS TEMPORARY URGENCY CHANGE IS REQUESTED FOR A PERIOD OF ONE HUNDRED EIGHTY DAYS OR LESS.

I (we) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief.

Dated December 31, 2008 at Sacramento, California

Signature(s) 

Telephone No. **(925) 932-0151**

(Address) **1600 Olympic Blvd., Suite 350, Walnut Creek, CA 94596**

NOTE: All petitions must be accompanied by the **filing fee**, (see fee schedule at www.waterrights.ca.gov) made payable to the State Water Resources Control Board and an **\$850 fee** made payable to the Department of Fish and Game must accompany this petition. Separate petitions are required for each water right.

Attachment 1
Responses to Petition Form

Overview of Proposed Transfer

Delta Wetlands Properties (Delta Wetlands) proposes a temporary water transfer program, whereby 4,189 acres on Webb Tract in the Sacramento River – San Joaquin River Delta would be fallowed, and up to 7,540 AF of water not applied by Delta Wetlands on the land would be transferred to the Metropolitan Water District of Southern California (MWD). The forborne water would be available for transfer during the period from May through September. The water will be conveyed through the SWP or CVP Pumping Plants on a space-available basis. This petition proposes changes to License 1572 (Webb Tract) only. Proposed changes to License 1405 (Bouldin Island) are described in a separate petition filed contemporaneously with this petition.

Overview of License No. 1572

Delta Wetlands irrigates Webb Tract using water right License 1572 (A002952) issued to Delta Farms Reclamation District No. 2026. License 1572 has a 1922 priority date. Water has been diverted under this license for over 80 years to irrigate a variety of crops. License No. 1572 authorizes the maximum direct diversion of 63.94 cfs (33,352 afa) between March 1 and November 1 for irrigation of 5,115.5 acres on Webb Tract. The sources of water for License 1572 are False River, Fisherman's Cut, Washington Slough, Old River and San Joaquin River. Delta Wetlands is the authorized agent for Delta Farms Reclamation District No. 2026 with respect to this petition.

Nature of the Urgent Need that is the Basis of this Petition

California is facing the most significant water crisis in its history. After experiencing two years of drought and the driest spring in recorded history, storage in California's major reservoirs is low. Lake Oroville, the principal storage reservoir for the SWP, is at 28 percent of capacity, and 44 percent of average storage for this time of year.

With the Sacramento-San Joaquin Delta ecosystem near collapse, court-ordered restrictions on water deliveries from the Delta have reduced supplies from the state's two largest water systems by twenty to thirty percent.

In December 2007, Judge Oliver Wanger restricted pumping to protect the Delta smelt, resulting in a 25 percent reduction in water deliveries. In a November 2008 decision, the California Fish and Game Commission implemented take restrictions for the longfin smelt which also could reduce water delivery pumping. In December 2008, the U.S. Fish and Wildlife Service released a Delta smelt Biological Opinion which could reduce Delta exports by as much as 50 percent. And a Biological Opinion from the National Marine Fisheries Service to protect salmon and steelhead is expected in March. These regulatory actions have and will continue to significantly decrease deliveries to homes, farms, cities and industry by both the State Water Project and the federal Central Valley Project.

TRANS-TEMP-PET (11-00) If your answers require more space than provided, please attach additional pages

Continuing dry conditions and court-ordered restrictions on Delta water exports are limiting water deliveries to farms and urban areas. DWR's early estimate is that it will only be able to deliver 15 percent of requested State Water Project water this year to the Bay Area, San Joaquin Valley, Central Coast and Southern California.

In June 2008, the Governor issued Executive Order S-06-08 declaring a statewide drought, which directed his state agencies and departments to take immediate action to address the serious drought conditions and water delivery reductions that exist in California and directing the facilitation of water transfers.

In light of the dire state of California's water supply, and in the spirit of promoting the goals of EO S-06-08, Delta Wetlands is offering to forebear water use on Webb Tract in order to make water available to MWD. In order for this transfer to be feasible, however, the requested temporary transfer must be approved by the SWRCB no later than February 2009. This date is dictated by the cultural requirements of the farmers who must prepare the land, order seeds, and hire workers and equipment by that date if they are to farm Webb Tract in 2009.

Water Code Section 1435 (c) requires the State Water Resources Control Board (SWRCB) to find that Delta Wetlands has an urgent need to make the proposed temporary urgency change. The SWRCB may find an "urgent need" if circumstances exist to conclude that the temporary urgency change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented, unless the petitioner has not exercised due diligence in pursuing the requested water right changes.

This petition for temporary urgency change meets the requirement for "urgent need" under Water Code section 1435 (b)(1). The proposed temporary urgency change is necessary to provide much needed water supply to Southern California and to help supplement the SWP and CVPs now limited ability to continue to provide its service areas within the state with a continued water supply.

Point of Diversion or Rediversion

Present:

Point of Diversion	Source	Diversion Reference Points	California Coordinate Zone 3 (or as otherwise noted)	Point is within (40 acre subd.)	Project Section	Township	Range	Base & Meridian
One point of diversion (one siphon) between Point A and Point B	Old River	Point A (Old River and San Joaquin River)	N 574,750 E 1,691,450	NW ¼ SE ¼	30	3N	4E	MD
		Point B (False River)	N 571,100 E 1,688,350	SW ¼ NW ¼	31	3N	4E	MD
Two points of diversion (six siphons) between Point B and Point C	False River	Point B (above)						
		Point C (Fisherman's Cut)	N 569,050 E 1,669,950	SW ¼ SE ¼	33	3N	3E	MD
Four points of diversion (eleven siphons) between Point D and Point A	San Joaquin River	Point D (San Joaquin River)	N 578,850 E 1,670,550	NW ¼ NE ¼	28	3N	3E	MD
		Point A (above)						

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Proposed:

Point of Diversion	California Coordinate Zone 3 (or as otherwise noted)	Point is within (40 acre subd.)	Project Section	Township	Range	Base & Meridian
State Water Project Banks Pumping Plant	N 486,035 E 1,695,057	NW ¼ of SE ¼	20	1S	4E	MD
Central Valley Project Jones (Tracy) Pumping Plant	S 76 degrees 39 minutes E, 2674.53 feet from West ¼ Corner of Section 29 T 1 South R 4 East, M D B & M	NE ¼ of SW ¼	29	1S	4E	MD

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Place of Use

Present:

Webb Tract, Contra Costa County

Proposed:

MWD Service Area as described in maps attached to Application 031431 (Application to Appropriate Water on the New River in Southern California) and Application 030661 (Application to Appropriate Water of the Alamo River).

Purpose of Use

Present:

Irrigation

Proposed:

Irrigation, domestic, power generation, municipal, and industrial.

Preservation or Enhancement of Wetlands Habitat, Fish and Wildlife Resources

Open water habitat, riparian woodland and scrub, and freshwater marsh areas, where most sensitive species may nest, would be unaffected by the proposed fallowing program. For species that may forage in the actively farmed areas, some would benefit from the fallowing program (e.g., raptors, such as Swainson's hawks which are unable to hunt in tall corn).

The proposed transfer may provide environmental benefits through increased flows downstream of Delta Wetlands' present point of diversion due to the reduction of in-Delta diversions. The fallowing program will also reduce agricultural drainage into the Delta from Webb Tract. Although the quantity of water proposed for transfer would be a small percentage of the total Delta inflow, the reduction of diversions and consumptive use on Webb Tract will have a positive effect on in-Delta water quality and flow. In addition, the transfer will take place within the constraints set forth in the May 22, 1995, Water Quality Control Plan for the Bay-Delta to protect fish and wildlife.

Consultation with CDFG (Corinne Gray, 707/944-5526) and RWQCB (Anne Hopkinson, 916/464-4825) has been requested.

Other Lawful Water Users

Delta Wetlands proposes to add the SWP Banks Pumping Plant and CVP Tracy Pumping Plant as points of diversion. The proposed transfer will increase the flow between Delta Wetlands' present points of diversion and the South Delta pumping facilities. The Delta water diverters between the present points of diversion and the proposed points of diversion have been identified in other transfers utilizing the South Delta pumping plants.

Delta Wetland proposes a program of crop fallowing and forbearance of diversions on Webb Tract consistent with the DWR "ETAW" methodology for determining conserved water described in the DWR

white paper, "[Introduction to Water Transfers and Crop Idling/Crop Substitution for Sacramento Valley 2009](#)". This paper addresses the concerns of DWR relative to the potential impacts water transfers may have on other legal users and the environment.

If the proposed transfer is approved, the fallowing and forbearance program on Webb Tract will result in a net reduction of consumptive use of at least 7,540 AF during 2009. This forborne water will be new water in Delta channels available for transfer that would not occur in the absence of the fallowing program. Delta Wetlands will not substantially change its cropping patterns and water use on lands not included in the transfer program thereby ensuring that the water saved on the fallowed lands results in a net water savings on its properties.

This conserved water will be made available to convey to MWD "on schedule," that is, on the same schedule that the water would have been consumptively used by the crops fallowed in accordance with the ETAW pattern established by DWR. The water will be conveyed out of the Delta to the MWD service area in accordance with regulatory requirements and available pumping capacity.

Although the quantity of water proposed for transfer would be a small percentage of the total Delta inflow, the reduction of diversions and consumptive use on Webb Tract will have a positive effect on in-Delta water quality and flow.

Because this petition proposes the transfer of water that would be consumptively used on schedule, no legal users will be injured.

Effects Upon Fish, Wildlife, and Other Instream Beneficial Uses

As noted above, habitat, flow, and water quality benefits are expected as a result of the proposed transfer.

As described below unreasonable adverse effects are not expected.

Webb Tract covers approximately 5,450 acres, including 4,189 acres of corn. Approximately 105 acres of open water habitat exists at two ponds located in the northeast quarter of the island. Most of the 106 acres of riparian woodland and scrub and 172 acres of freshwater marsh on Webb Tract surround these ponds.

Webb Tract provides limited suitable habitat for western pond turtles and giant garter snakes; high quality habitat for these species is limited to areas not subject to active agriculture, e.g., riparian and marsh areas with persistent water.

Webb Tract provides suitable habitat for: northern harriers (nesting in densely vegetated wetlands or fallow fields on the island); Swainson's hawk are present on Webb Tract (nesting in riparian woodland); and greater sandhill cranes (foraging habitat present, although Webb Tract is not considered an important greater sandhill crane area by Pogson and Lindstedt). Suitable nesting and wintering habitat for the western burrowing owls is present; however, no burrowing owls were observed during bird surveys. Loggerhead shrikes were observed on Webb Tract through the spring, summer, fall and winter during surveys. The primary loggerhead shrike habitat is on interior levees that contain utility lines or fences. Loggerhead shrikes were observed only in areas with above ground utility lines located near levees on Webb Tract, where they move up and down the levees hunting for prey. Suitable nesting

habitat for tricolored blackbirds, consisting of emergent marsh, willow scrub, riparian woodlands, and Himalayan blackberry brambles; however no nesting tricolored blackbirds were observed on Webb Tract during surveys. Tricolored blackbirds were observed foraging on Webb Tract during fall and winter surveys. Webb Tract also provides suitable nesting and foraging habitat for Cooper's hawk and white-tailed kite. It provides suitable foraging/wintering habitat for ferruginous hawk, bald eagle, American peregrine falcon, short-eared owl, and California black rail. Cooper's hawk, white-tailed kite, and American peregrine falcon were observed on Webb Tract during surveys. Many white-tailed kites were observed during the surveys on Webb Tract.

Open water habitat, riparian woodland and scrub, and freshwater marsh areas, where most of the species noted above may nest, would be unaffected by the proposed fallowing program.

Webb Tract is located in Contra Costa County, California. In 2008, 4,189 acres of corn were planted on Webb Tract. According to the most current (2007) data available from the National Agriculture Statistics Service, 145,900 acres of corn were planted in the five Delta counties (Contra Costa, Sacramento, San Joaquin, Solano, and Yolo counties)

(http://www.nass.usda.gov/Statistics_by_State/California/index.asp). Fallowing Webb Tract would reduce the acreage of corn planted in the region by less than 3 percent. Delta Wetlands is aware of only one other fallowing-transfer request proposed in the Delta, i.e., Bouldin Island, which could result in fallowing 4,295 acres of corn. More than 94% of the land in the region historically used for corn production would be unaffected by anticipated fallowing programs. Given that the vast majority of the land in the region historically used for corn production would be unaffected by anticipated fallowing programs and that the petition requests only a 1-year transfer of the consumptive use portion of the water, no unreasonable effect on fish, wildlife, and other instream beneficial uses would occur.