

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**WR ORDER 2006-0014-DWR**

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**IN THE MATTER OF PERMIT 19400 (APPLICATION 25727)  
PETITION FOR TEMPORARY CHANGE  
INVOLVING THE TRANSFER OF UP TO 1,679 ACRE-FEET OF WATER  
FROM THE NATOMAS CENTRAL MUTUAL WATER COMPANY  
TO THE SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT**

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ORDER AUTHORIZING TEMPORARY CHANGE IN PLACE OF USE,  
AND PURPOSE OF USE  
BY THE CHIEF OF THE DIVISION OF WATER RIGHTS:

**1.0 SUBSTANCE OF PETITION**

On March 20, 2006,

Natomas Central Mutual Water Company  
c/o Daniel Peterson, P.E., General Manager  
2601 West Elkhorn Boulevard  
Rio Linda, CA 95673

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, the Sacramento Regional County Sanitation District's (SRCSD) Lower Northwest Interceptor (LNWI), a sanitary sewer pipeline, would be temporarily added to the authorized place of use under Natomas Central Mutual Water Company's (NCMWC) Permit 19400 (Application 25727). The proposed temporary change would facilitate the transfer of up to 1,679 acre-feet (af) of water for testing and flushing of the LNWI between October 31, 2006 and April 1, 2007.

**1.1 Description of the Transfer.** SRCSD operates the Sacramento Regional Wastewater Treatment Plant (SRWTP) located in Elk Grove, CA and provides sanitary sewer service to a large portion of the greater metropolitan Sacramento area. SRCSD is expanding its sanitary sewer service area to provide service to portions of northern Sacramento County (including the Natomas area) and West Sacramento, requiring construction of the LNWI. The LNWI is an approximately 20-mile long, 5- to 10-foot diameter, sanitary sewer pipeline which extends from Natomas south through West Sacramento and then trends east across the Sacramento River, terminating at the SRWTP. SRCSD anticipates completion of construction of the LNWI project in October of 2006. Further information regarding the LNWI project is available for viewing online at [www.lowernorthwest.com](http://www.lowernorthwest.com).

Upon completion of construction of the LNWI, testing of the pipeline as well as normal pipeline operations will require testing and flushing flows delivered at its intake. The LNWI's intake is located within Reclamation District 1000's (RD1000) East Drainage Canal, just northwest of the Interstate 5 and Interstate 80 interchange in northern Sacramento County and within NCMWC's service area. NCMWC holds several water rights with the State Water Board and water supply contracts with the United States Bureau of Reclamation (USBR) which authorize it to divert water from the Sacramento River for agricultural and

municipal and industrial purposes within its service area. NCMWC proposes to provide the testing and flushing flows for the LNWI under both its USBR water supply contract and its water rights.

NCMWC proposes to deliver up to 1,679 af of water under Permit 19400 to the SRCSD for industrial use (testing and flushing) within the LNWI between October 31, 2006 and April 1, 2007. Water would be pumped from RD1000's East Drainage Canal into the LNWI and used for testing and flushing throughout the length of the pipeline. Once used to test or flush the LNWI, the transfer water would be treated at the SRWTP and discharged to the Sacramento River as a small portion of the SRWTP's effluent. Table 1, below, shows the monthly amounts, monthly average diversion rate in cubic feet per second (cfs), and maximum 24-hour average diversion rate in cfs for each month during the proposed transfer period.

**Table 1**

Year	Month	Amount (af)	Average Rate (cfs)	Maximum Rate (cfs)
2006	November	264	4.4	27.9
2006	December	1,001	16.8	83.6
2007	January	138	2.3	23.2
2007	February	138	2.3	23.2
2007	March	138	2.3	23.2

Legend: Amount = monthly volume of water  
 Average Rate = monthly average diversion rate  
 Maximum Rate = maximum 24-hour average diversion rate

**1.2 Place of Use and Purpose of Use Under the Proposed Transfer.** The LNWI pipeline would be added to the place of use under Permit 19400. A map showing the location of the LNWI is available for viewing on the Division's website at [www.waterrights.ca.gov/application/tempurgnotices.htm](http://www.waterrights.ca.gov/application/tempurgnotices.htm).

**1.3 Water Conservation.** Under normal operations, NCMWC uses water diverted under Permit 19400 for winter crop decomposition (typically rice decomposition). Approximately 50 to 60 percent of the acreage within NCMWC's service area is inundated during November and December of each year for decomposition (this process is referred to as reflooding). During the reflooding period, NCMWC employs a closed irrigation system, and under normal operations water used for reflooding is not allowed to return to the Sacramento River. NCMWC's petition states that the demand for applied water for rice decomposition is 1.4 af per acre over November and December. NCMWC's petition included information regarding the number of acres requiring reflooding since 1999. This information is also contained on NCMWC's "Progress Report by Permittee" forms for Permit 19400. As of the date of this order, NCMWC has filed these forms through 2002.

Subsequent to the close of the petition comment period, NCMWC submitted slightly revised information regarding its historical reflooding acreage. Based on this information, the average acreage requiring reflooding under Permit 19400, since 1999, has been 7029 acres. The amount of acreage requiring reflooding in 2006 is estimated to be between 4277 and 5600 acres. Based on this information, the difference between the maximum amount of acreage requiring reflooding in 2006 and the recent average amount of acreage requiring reflooding is 1429 acres. Accordingly, (based on an applied water demand of 1.4 acre-feet per acre) NCMWC's reduction in reflooding acreage in 2006 will result in a water conservation of approximately 2000 acre-feet. A portion of this reduced water demand will be used to supply the LNWI with 1,679 af of water pursuant to the proposed temporary change.

**1.4 Other Agency Consultation.** Prior to submitting the subject petition for temporary change, NCMWC contacted Central Valley Regional Water Quality Control Board (Central Valley Board) staff and the Department of Fish and Game to solicit their comments regarding the proposed temporary change. DFG indicated via email that it did not protest the proposed transfer. Central Valley Regional Board staff indicated via telephone that they did not oppose the proposed transfer.

## **2.0 BACKGROUND**

**2.1 Substance of NCMWC's Permit.** Permit 19400 was issued to NCMWC on February 17, 1985, and it authorizes NCMWC to directly divert up to 168 cfs from October 1 through April 1 of each year for irrigation use within the entire NCMWC's service area, and municipal and industrial use within Sacramento Metropolitan Airport and its Special Planning Area only. Permit 19400 authorizes direct diversion from four permanent points on the Sacramento River, two permanent points on the Natomas Cross Canal, and four variable points located on various drains within NCMWC's service area operated by RD1000. The maximum annual amount of water authorized for diversion under Permit 19400 is 10,000 af. A map showing the locations of the authorized points of diversion and the location of the authorized place of use under Permit 19400 is available for viewing on the Division's website at [www.waterrights.ca.gov/application/tempurgnotices.htm](http://www.waterrights.ca.gov/application/tempurgnotices.htm).

In addition to Permit 19400, NCMWC holds five other water rights with points of diversion, purposes of use, and places of use similar to those of Permit 19400. However these water rights typically authorize the diversion of water between March and October. NCMWC's additional water rights are not part of the subject petition for temporary change.

## **3.0 PUBLIC NOTICE AND COMMENT ON THE PROPOSED TRANSFER**

Public notice of the petition for temporary change (dated April 27, 2006) was provided via regular mail to interested parties and by publication in the Sacramento Bee on April 30, 2006. Timely comments regarding the proposed temporary change were submitted by USBR. USBR's comments and the State Water Board's response are summarized below.

### **3.1 Comments of the United States Bureau of Reclamation**

Comment: USBR comments that the water supply contract held by NCMWC authorizes diversion of water under NCMWC's water rights (also referred to as 'base supply') and for a supplemental supply of Central Valley Project water (also referred to as 'project water') between April and October of each year. USBR notes that NCMWC's water rights during the contract season (April through October) do not authorize diversion of water for the LNWI project and are not included in this petition. USBR states that since NCMWC's contract is for both base supply and project water, it can not amend the contract to supply water for the LNWI unless NCMWC receives approval from the State Water Board amending NCMWC's additional water rights. USBR concludes that it would not object to the inclusion of language in this order stating that the approval of this petition should not be construed to authorize a change in the place and purpose of use for NCMWC's additional water rights.

USBR notes that NCMWC submitted a schedule of diversion to USBR that indicates that the LNWI will require flows from November 2006 through December 2009. USBR comments that the schedule covers a three-year period instead of the period of time (November 2006 through March 2007) indicated in the public notice for the subject transfer.

USBR comments that the notice of petition states that NCMWC's will reduce its water demand by approximately 3,879 af as a result of a reduction in the amount of acreage that will require winter flooding for rice decomposition. USBR states that Water Code section 1725 authorizes the transfer of only the amount of water that would have been consumptively used or stored in the absence of the transfer. USBR states that the public notice for the petition does not contain enough information to determine if "the irrigation for

rice decomposition would have occurred this year regardless of the transfer.” USBR states that further information is necessary to determine whether and how the proposed transfer is consistent with Water Code section 1725. USBR requests that this order include terms and conditions requiring NCMWC to submit further information as necessary to confirm that the amount of water specified in Permit 19400 would have been consumptively used or stored in the absence of the proposed temporary transfer.

State Water Board Response: This order specifically states that the changes to the place of use and purpose of use authorized herein apply to Permit 19400 and are effective from October 31, 2006 through April 1, 2007. This order does not authorize diversion of water for use within the LNWI pipeline under NCMWC’s additional licenses. USBR’s request to add additional terms and conditions restating that this order does not authorize diversion under NCMWC’s additional water rights is unnecessary. Additionally, representatives of NCMWC have indicated to Division of Water Rights staff that the LNWI project will require water for testing and flushing purposes beyond April 1, 2007. NCMWC has indicated that it intends to file additional future petitions to cover diversion of water for the LNWI project beyond April 1, 2007. The State Water Board will review these future petitions based upon the information and hydrologic circumstances available at the time of their submission.

Water Code section 1725 provides that the amount of water available for transfer is that amount which would have been consumptively used or stored in the absence of the transfer. Water Code section 1726 (e) requires that the State Water Board determine if the water proposed for transfer would have been consumptively used or stored pursuant to the petitioner’s permit or license absent the transfer or conserved pursuant to Water Code section 1011. Accordingly, water conserved pursuant to Water Code section 1011 may be transferred pursuant to a petition for temporary change. As stated in section 1.3 of this order, NCMWC submitted information indicating that a reduction in acreage required for crop decomposition will result in a minimum reduction in water demand of approximately 2,000 af. Accordingly, water is available for the proposed transfer of water to the LNWI. This order requires NCMWC to file completed “Progress Report by Permittee” forms for the years 2003, 2004, and 2005 prior to initiating this transfer. This order also limits the amount of water diverted pursuant to Permit 19400 for all uses (including the proposed transfer) between October 31, 2006 and April 1, 2007 to a total of 10,000 af.

#### **4.0 REQUIRED FINDINGS OF FACT**

##### **Availability of Water for Transfer**

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, § 1725 and § 1726.) NCMWC submitted information indicating that a maximum of approximately 5,600 acres will require water for crop decomposition in 2006. NCMWC also stated that between 1999 and 2005 it applied water to an average of approximately 7,029 acres for crop decomposition. Based on this information, the reduction in acreage required for crop decomposition will result in a reduction in water demand of approximately 2,000 af. This order requires NCMWC to file completed “Progress Report by Permittee” forms for the years 2003, 2004, and 2005 prior to initiating this transfer and to report conservation efforts taken in 2006 to make water available for this transfer.

In light of the above, I find in accordance with Water Code section 1726(e) that the water proposed for transfer pursuant to this order will be conserved pursuant to Water Code section 1011.

##### **No Injury to Other Legal Users of Water**

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of

diversion or use, consumptive use of the water, or reduction in return flows. (Wat. Code, § 1727, subd. (b)(1).) This order limits the amount of water diverted under Permit 19400 for all uses (including the proposed transfer) to 10,000 af. Water diverted pursuant to this order will be used for testing and flushing of the LNWI pipeline and then treated at the SRWTP and released to the Sacramento River as effluent. Potential impacts to the quantity of flow in the Sacramento River due to diversion of water pursuant to this order are limited to the river reach located between NCMWC's diversion point and the SRWTP outfall. The maximum 24-hour average diversion rate for water transferred pursuant to this order is 83.6 cfs. Given the typical range of flow in the Sacramento River in November and December (approximately 5,000 – 15,000 cfs), this diversion rate represents less than two percent of the total flow in the Sacramento River. This negligible reduction in flow should not adversely impact parties with rights to divert water from the reach of the Sacramento River located between NCMWC's diversion point and the SRWTP outfall.

In light of the above, I find in accordance with Water Code section 1727(b)(1) that the proposed transfer will not injure any legal user of the water.

### **No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses**

Water Code section 1729 exempts temporary changes involving the transfer of water from the requirements of the California Environmental Quality Act (CEQA). (Public Resources Code section 21000, et seq.) However, the State Water Board may approve a temporary change due to a transfer of water only if it determines that the proposed temporary change would not unreasonably affect fish, wildlife or other instream beneficial uses. (Wat. Code, § 1727, subd. (b)(2).)

As stated above, the proposed temporary change will result in an insignificant reduction in flow in the Sacramento River between NCMWC's diversion point and the SRWTP outfall. Additionally, DFG has indicated that it does not oppose the proposed temporary change.

In light of the above, I find in accordance with Water Code section 1727(b)(2) that the proposed transfer will have no unreasonable effects on fish, wildlife or other instream beneficial uses.

## **5.0 STATE WATER RESOURCES CONTROL BOARD DELEGATION OF AUTHORITY**

On May 16, 2002, the State Water Board adopted Resolution 2002-0106, granting the authority to act on petitions for temporary change to the Chief of the Division of Water Rights, except where the State Water Board conducts a hearing to accept additional evidence. The State Water Board did not conduct a hearing on the petition subject to this order, and this order is adopted pursuant to the delegation of authority in Resolution 2002-0106.

## **6.0 CONCLUSIONS**

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727; and therefore I find as follows:

I conclude that, based on the available evidence:

1. The proposed temporary change will not injure any legal user of the water.
2. The proposed temporary change will not unreasonably affect fish, wildlife, or other instream beneficial uses.
3. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.

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## ORDER

**NOW, THEREFORE, IT IS ORDERED** that the petition filed for temporary change in the place of use and purpose of use under Natomas Central Mutual Water Company's (NCMWC) Permit 19400 (Application 25727) to facilitate the transfer of up to 1,679 af of water is approved subject to the provisions of this order.

All existing terms and conditions of Permit 19400 remain in effect, except as temporarily amended by the following provisions:

1. The transfer/exchange of water is limited to the period from October 31, 2006 to April 1, 2007.
2. By October 1, 2006, NCMWC shall file with the Division of Water Rights, its completed "Progress Report by Permittee" forms for Permit 19400 for the years 2003, 2004, and 2005.
3. The place of use of Permit 19400 is temporarily changed as follows:

The authorized place of use is expanded to include the Lower Northwest Interceptor (LNWI) sanitary sewer pipeline as shown on the map on file with the State Water Board under Application 25727.
4. Industrial uses (testing and flushing) are temporarily added as purposes of use under Permit 19400.
5. The total amount of water diverted pursuant to Permit 19400 between October 31, 2006 and April 1, 2007 for this transfer and all other uses authorized pursuant to Permit 19400 shall not exceed 10,000 af. The maximum daily average diversion rate for water diverted for use within the LNWI is 83.6 cubic feet per second.
6. By June 1, 2007, NCMWC shall provide to the Chief of the Division of Water Rights a report describing the diversion and use of the water transferred pursuant to this Order, as well as the conservation measure or measures utilized to make water available for transfer. The report shall include the following information:
  - a. The daily average rate of diversion of water for use within the LNWI;
  - b. The 30-day average rate of diversion and monthly volume of water diverted for use within the LNWI;
  - c. The daily average rate of diversion for use pursuant to existing authorized uses under Permit 19400;
  - d. The 30-day average rate of diversion and monthly volume of water diverted for use pursuant to existing authorized uses under Permit 19400; and
  - e. The total acres upon which water for crop decomposition was applied pursuant to Permit 19400.
7. By May 1, 2007, NCMWC shall file with the Division of Water Rights, its completed "Progress Report by Permittee" form for Permit 19400 for the year 2006, including a description of the conservation measures used to make water available for this transfer. The completed "Progress Report by Permittee" shall include total amount of acres upon which water for decomposition was applied pursuant to Permit 19400 and an estimate of the amount of water saved due to the reduction in the acreage.
8. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change Order, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board

in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in this Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.

9. This Order does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this temporary transfer, the permittee shall obtain authorization for an incidental take prior to commencing transfer of water. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this order.
10. I reserve jurisdiction to supervise the transfer, exchange and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

*ORIGINAL SIGNED BY*

*Victoria A. Whitney, Chief  
Division of Water Rights*

Dated: September 1, 2006