



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 TO CHANGE THE PLACE OF USE AND DELETE EXISTING PERMIT TERMS

**PERMIT 11356 (APPLICATION 12178)**  
**STREAM SYSTEM: TUCALOTA CREEK**

**PETITION FILED: JUNE 20, 2003**  
**COUNTY: SAN DIEGO**

Notice is hereby given that Fallbrook Public Utilities District (FPUD) filed a petition to increase the place of use and delete existing permit terms for Permit 11356. The State Water Resources Control Board (State Water Board) will determine whether an order approving the change should be issued for permitted Application 12178, and if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the project and also describes the procedure and time frame for submittal of protest(s) against the petition. This notice and a copy of the petition as filed may be viewed at the Division of Water Rights' (Division) website at [www.waterrights.ca.gov](http://www.waterrights.ca.gov). Any correspondence directed to the FPUD should be mailed to:

Fallbrook Public Utilities District  
c/o Martha H. Lennihan  
Lennihan Law, a Professional Corporation  
2311 Capitol Avenue  
Sacramento, CA 95816

**Description of Project:** Since 1973, Metropolitan Water District (MWD) has owned and operated the Lake Skinner facility, which has a storage capacity of 43,800 acre-feet. The State Water Board approved the change to a new water source, new point of diversion, new storage site, and amended the FPUD permit On November 20, 2001. Permit 11356 authorizes FPUD to collect Tocalota Creek flows to storage in Lake Skinner. Permit 11356 is summarized below.

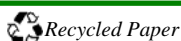
Prior to November 2001, Lake Skinner was constructed to hold only imported water that MWD brought in for delivery to users of the San Diego County Water Agency (SDCWA) and FPUD. FPUD is now authorized and has agreements to utilize the MWD facilities for onstream storage and delivery. MWD remains the primary owner and operator of the reservoir and under Permit 11356, Tocalota Creek flows are collected to storage and commingled with MWD's imported waters held at Lake Skinner.

### Summary of PERMIT 11356 (Application 12178):

County: San Diego.

Source: Tocalota Creek tributary to Santa Gertrudis Creek thence Murrieta Creek thence

***California Environmental Protection Agency***



Santa Margarita River to the Pacific Ocean.

Point of

Diversion: Located within the SW¼ of SE¼ of section 3, T7S, R4W, SBB&M.

Amount: 10,000 acre-feet by storage.

Season: November 1 to June 1 of the succeeding year.

Purpose: Domestic, municipal, and irrigation.

Place of Use: Irrigation is authorized for a net 27,988 acres, domestic and municipal use within FPUD boundaries as shown on map dated August 14, 2000 on file with the State Water Board.

**Petition Summary:** FPUD filed a petition seeking to increase the place of use under Permit 11356 from that shown on a map filed with the State Water Board on February 2, 2003. The new service area will be those users of SDCWA that are comprised of FPUD, 15 cities, 14 unincorporated areas, Camp Pendleton Military Reservation, and 17 water agencies. The proposed change would increase FPUD's boundaries to basically the western half of San Diego County that includes irrigation of a new net of 226,665 acres out of a gross 920,472 acres.

FPUD's basis for the petition is that the water availability of the Tocalota Creek watershed was found to be flashy in nature. FPUD also does not have the demand within the current service area nor the internal storage capacity to collect the full permitted amount within the authorized season of collection. In order to avoid displacing MWD's imported waters held in Lake Skinner with Tocalota Creek water collected to storage under Permit 11356, FPUD proposes water exchange with MWD to expand FPUD's service area to encompass the SDCWA users within San Diego County.

The FPUD's exchange water is the natural flow of the Tocalota Creek collected to storage and held in Lake Skinner for 30 or more days under Permit 11356 in addition to the MWD imported waters. Existing facilities and distribution systems will be used and no new construction is proposed for the water exchange.

FPUD also petitioned to amend Permit 11356 by deletion of the following permit term:

Term 13 *Permittee shall release water into the Santa Margarita River downstream from the point of diversion in such amount and at such a rate as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of the surface flow under prior rights to the extent water would be available for such diversions from the flow unregulated by permittee's works, and sufficient to maintain percolation of water from the stream channel as such percolation would occur from flow unregulated by permittee's works, in order that operation of the project shall not reduce natural recharge of ground waters from the Santa Margarita River.*

FPUD proposes that Term 13 to be written in conformance with the FPUD's Mitigated Negative Declaration for the Lake Skinner Project. FPRUD is proposed the following:

Term 13 (Amended)

*“For the protection of downstream percolation and prior rights holders, this permit does not authorize diversions of:*

- (1) – the initial 40 acre-feet per month of the natural inflow of Lake Skinner.*
- (2) – when natural inflows is greater than 40 acre-feet per month, the percentage of such inflow which is equal to  $109.3 \times e^{-0.02318Q}$ , where  $Q$  is the monthly inflow*

*Natural inflow in excess of the foregoing amount may be diverted pursuant to this amount where consistent with other terms of this permit”.*

In addition, FPUD petitioned to amend Permit 11356 by the deletion of the following permit terms because they are not applicable to the existing MWD facilities:

- Term 14 *The State Water Resources Board reserves jurisdiction over this permit to reconsider the development schedule if Congressional authorization and initial funding for the project is not obtained by December 31, 1985, or if obtained by said date, the Secretary of the Interior, or other federal official, subsequently determine that the project is not economically justified or environmentally acceptable. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.*
- Term 15 *Permittee shall consult with the Division of Water Rights and Department of Water Resources and develop and implement a water conservation program. The Water Conservation Plan, date March 1981, prepared for the Fallbrook Public Utility District by the San Diego County Water Authority, shall constitute minimum actions to be included in the permittee’s program for the place of use outside of Camp Pendleton. Camp Pendleton’s current water management plan should be included in the conservation program for the place of use within the military reservation. A progress report on the development for the place of use shall be submitted to the State Water Resources Control Board within 6 months of this order. The program shall be presented to the Board for approval with one year of the date of this order or such time as may, for good cause shown, be allowed by the Board.*
- Term 16 *Permittee shall install and maintain an outlet pipe of adequate capacity in its dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which no authorized for appropriation is released.*
- Term 17 *In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the reservoir of all structures, trees and other vegetation which would interfere with the use of the reservoir for storage and recreational purposes.*
- Term 18 *In order to prevent degradation of the quality of the water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with waste discharge*

*requirements imposed by the California Regional Water Quality Control Board, San Diego Region, or the State Water Resources Control Board..*

*Failure of permittee to comply with this term will subject the permit to revocation, after opportunity of hearing.*

### **Environmental Information**

According to the California Environmental Quality Act (CEQA) and its guidelines, FPUD is the lead agency and is responsible for preparation of appropriate environmental documents for the project and for determining whether or not the project will cause a significant effect on the environment. FPUD environmental documents for the Petition to Change are covered by:

- 1) Lake Skinner Project Mitigated Negative Declaration and Environmental Initial Study; State Clearinghouse Number 1999061086; Notice of Declaration filed June 22, 1999.
- 2) Addendum to Lake Skinner Project Mitigated Negative Declaration and Initial Study; State Clearinghouse Number 1999061086; Notice of Determination filed June 5, 2003.
- 3) Lake Skinner Water Exchange Notice of Exemption filed June 5, 2003; State Clearinghouse Number 1999061086.

If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to the lead agency immediately with a copy to Steven Herrera; State Water Board, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA

### **PROTEST SUBMITTAL INFORMATION**

#### **Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the petition, and the factual basis for those objections. For example, if the objection is based on injury to existing water rights, the protest must describe the specific injury to the existing water right that would result from

approval of the changes proposed by the petition. In addition, the party claiming injury to prior water rights must provide specific information that describes the basis of the existing right, the date the use began, the quantity of water use, the purpose of use, and the place of use. Protests based on environmental impacts, public interest, legality, or jurisdictional issues must be accompanied by a statement of facts supporting the basis of the protest. If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest. **The Division will not accept protests that are directed against the underlying water right, rather than the change proposed by the petition.**

### **Procedure for Submitting Protests**

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/) or upon request from the Division of Water Rights. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the engineer listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the petitioner and should include a description of any measures that could be taken to resolve the protest.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be **received by the Division by 3:00 p.m. of January 17, 2006 (30<sup>th</sup> day after the date of this notice)**. Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
  2. Faxed to the Division at (916) 341-5400
  3. E-mailed to the Division staff listed below under the heading "Contact Person"
  4. Hand-delivered to the Division office located at 1001 "I" Street, 14<sup>th</sup> Floor, Sacramento, CA
- If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. The State Water Board will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

### **Resolution of Protests**

The petitioners will have 30 days to respond to a protest once it is accepted by the Division of Water Rights. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

### **CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Whalen Toy by phone at (916) 341-5408 or by electronic mail at [wtoy@waterboards.ca.gov](mailto:wtoy@waterboards.ca.gov). Information and protest forms are also available at the Division's website: [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/).

Date of Notice: **December 16, 2005**

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