



State Water Resources Control Board



Alan C. Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
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Arnold Schwarzenegger
Governor

NOTICE OF PETITION FOR CHANGE OF POINT OF DIVERSION AND PURPOSE OF USE TO DEDICATE WATER FOR ENHANCEMENT OF FISH AND WILDLIFE RESOURCES (WATER CODE 1707)

BASIS OF RIGHT: Pre-1914 appropriative water right

Notice is hereby given that John Letton (Petitioner) filed a petition pursuant to Water Code section 1707 to change the purpose of use and point of diversion under a pre-1914 water right on May 5, 2004. The petitioner currently diverts water from Indian Creek in Trinity County. The State Water Resources Control Board (SWRCB) will determine whether an order approving the change should be issued and, if so, whether further conditions are needed in the order to protect the environment, the public interest, and downstream water users. This notice provides a description of the existing project and the proposed changes and also describes the procedure and time frame for submittal of protests against the petition. The Division of Water Rights (Division) will not accept protests that are directed against the underlying water right. The Division will consider protests that address the petition to change the purpose of use and point of diversion. This notice may be viewed at the Division of Water Rights' website at www.waterrights.ca.gov. Any correspondence directed to the petitioner should be mailed to:

Mr. John Letton
P.O. Box 1028
Weaverville, CA 96093

Description of Project

The petitioner claims a pre-1914 appropriative right and has provided information regarding the pre-1914 right to the Division. Lawrence and Associates, Inc. asserts that the following diversions are made pursuant to this right:

| | acre-feet (af) per 6 month diversion period | cubic feet per second (cfs) |
|--|---|-----------------------------|
| Uses and Losses | | |
| Applied Water (ET / irrigation efficiency) | 210 | 0.58 |
| Livestock | 0.13 | <0.01 |
| Ditch Infiltration / Evaporation | 317 | 0.87 |
| Pond Infiltration / Evaporation | 185 | 0.51 |
| Other Losses (Gaps in ditch pipes) | 742 | 2.04 |
| | | |
| Total Diversions from Indian Creek | 1454 | 4.0 |

The historical purposes of use are stockwatering and irrigation of 14 acres. The petitioner indicates that water is now also used for domestic purposes. The petitioner seeks to amend the pre-1914 right by dedicating approximately 3.5 cfs, not to exceed 1,350 af of the water under this right to instream beneficial use and to divert the remaining water at a maximum diversion rate of 0.50 cfs from June to November and 1.5 cfs from December through May for irrigation, stockwatering, and domestic use.

Summary of Petition

Per-1914 Water Right Information

County: Trinity
Right Holder: John Letton
Source: Indian Creek
Point of
Diversion: Located within the SW ¼ of SE ¼ of Section 8, T 32N, 9W, MDB&M
Purpose of Use: Irrigation, Stockwatering, and Domestic
Amount and
Season of Diversion*: Stockwatering from May 1 to October 31
Irrigation from May 1 to October 31 of each year

Place of Use: Located within the SW ¼ of Section 5 and NW ¼ of Section 8, T 32N,
R 9W, MDB&M

* As identified in Statement 15481, dated June 30, 2003.

Petition to Change Purpose and Place of Use under a Pre-1914 Water Right

The petitioner seeks to relocate the point of diversion downstream of the original point of diversion, which was at an existing dam. The old dam will be removed. The petitioner also proposes to install a new, screened irrigation pump and delivery system, at the new point of diversion. The petitioner has entered into contract #P0110320 with the Department of Fish and Game (DFG). According to the contract, DFG will provide funding for the installation of the new facilities. The diversion at the replacement pump will operate at a maximum diversion rate of 0.50 cfs from June 1 to November 30 and 1.5 cfs from December 1 through May 31. Division staff notes that the diversion season for an existing appropriative right cannot be expanded. Any order will identify the approved diversion season pursuant to the petition.

Due to the increased efficiency of the pump and delivery system, less water will be diverted for irrigation, than in the past. Conservation measures on the property include installation of drip irrigation, elimination of 1.5 mile long irrigation ditch conveyance and replacement with a sprinkler system. The petitioner requests that the water not diverted for irrigation under the pre-1914 right be allowed to remain in Indian Creek for the enhancement of fish and wildlife resources, pursuant to Water Code section 1707. The amount of water dedicated to instream flow is approximately 3.5 cfs, not to exceed 1,350 af during the irrigation season.

The stream flow will be increased at the following place of use, which is divided into two stream reaches. 1) The upper reach is located between old and new diversion points: CA coordinates North 1,748,322.9, East 476,661.2 to North 1,746,639.8, East 481,848.2. In this reach, the increased stream flow is equal to the total prior diversion rate. 2) The lower reach is located from the new point of diversion to the confluence of Indian Creek with the Trinity River: CA coordinates: North 1,746,639.8, East 481,848.2 to North 1,746,857.2, East 484,075.5. In the lower reach, increased stream flow is equal to the amount of water that has been conserved, as a result of implementing the project.

Environmental Information

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause significant effect on the environment, please send this information to Steven Herrera, SWRCB, 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 SWRCB.

All protests must clearly describe the objections to approval of the petition and the factual basis for those objections. There must be a clear link between the proposed change and the objection to its approval. The Division will not accept protests that are directed against the underlying water right. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the petition were approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit and license issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed change would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the proposed change will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect the proposed change on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed change and how the change will impact public trust values.

All protests should provide a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the petitioner a duplicate copy of the protest.

If sufficient information is not submitted, the SWRCB 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.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division's website at www.waterrights.ca.gov/forms/, or upon request from the Division. 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 individual 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.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the 30th day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following means:

1. Mailed to the 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 staff person listed below under the heading "Contact Person"
4. Hand delivered to the Division office located at 1001 "I" Street, 14th 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 in order for the protest to be accepted. The SWRCB 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 SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the staff person listed below as "Contact Person" to request an extension prior to the end of the protest period.

Resolution of Protests

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

This is a “major” petition for change (the subject diversion is 3 cubic feet per second or more by direct diversion or 200 acre-feet or more per year by storage) as defined by section 1704.4 of the Water Code. Therefore, any protest issues not resolved by the petitioner or by provisions of section 1703.6 of the Water Code will be decided by the Chief, Division of Water Rights, following a hearing.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Megan Sheely by phone at (916) 341-5438 or by electronic mail at msheely@waterboards.ca.gov. Information and protest forms are also available at the Division’s website: www.waterrights.ca.gov/forms/.

Date of Notice: **January , 2005**

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