



Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF 20,000 ACRE-FEET OF WATER
TO SEVERAL CENTRAL VALLEY WILDLIFE REFUGES
UNDER CALIFORNIA DEPARTMENT OF WATER RESOURCES'
PERMIT 16482 (APPLICATION 17512)**

Notice is hereby given that on April 21, 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, several Central Valley wildlife refuges would be temporarily added to the authorized place of use under the Department of Water Resources' (DWR) Permit 16482 (Application 17512). This temporary change would facilitate the sale of up to 20,000 acre-feet (af) of water from Kern Tulare Water District (Kern) to these wildlife refuges. Temporary changes under Water Code section 1725 may be effective for a period up to one year.

DESCRIPTION OF THE TRANSFER

Kern has agreed to sell 20,000 af of its Friant-Kern Class I and II Central Valley Project (CVP) water to the United States Bureau of Reclamation (USBR) for use within several Central Valley wildlife refuges. The wildlife refuges involved in this sale are the Grasslands Water District, the West Bear National Wildlife Refuge, the Los Banos Wildlife Area, North Grasslands Wildlife Area (including the Salt Slough and China Island Units), the West Bear Creek Unit of the San Luis National Wildlife Refuge, the Mendota Wildlife Area and the Volta Wildlife Area. Maps showing the locations of the wildlife refuges are 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.

Since these wildlife areas may be served from the California Aqueduct and the Delta Mendota Canal, Kern County Water Agency (KCWA), a State Water Project (SWP) contractor, has agreed to act as an intermediary to facilitate this transfer. KCWA would make 20,000 af of its SWP water available for use within the wildlife refuges. In exchange for this water, KCWA would receive 20,000 af of Kern's CVP water (plus 3% for losses). State Water Board approval is not required for this portion of the exchange since portions of KCWA are located within the CVP place of use. Additionally, this sale would not result in a reduction in total deliveries of water to KCWA.

California Environmental Protection Agency

In the absence of the proposed temporary change, the water would be delivered to KCWA for use within its service area or delivery 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 20,000 af of SWP water is either stored in San Luis Reservoir or will be stored under provisions of DWR's permits, conditions set forth in the 1995 Bay-Delta water quality objectives, State Water Resources Control Board Order WR 98-9, and Biological Opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries under the Endangered Species Act. Thus, the transfer of up to 20,000 af of water to the aforementioned wildlife refuges should have no effect on any natural streamflow or hydrologic regime. Release rates from San Luis Reservoir may increase due to the proposed transfer.

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. Involves 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 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 June 20, 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
FAX: (916) 341-5400

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

USBR (transferee): Dan Meier (916) 978-5264
FAX: (916) 978-5290

Original Signed by

James W. Kassel, Chief
Hearings and Special Projects Section

Dated: May 17, 2005