



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

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 UP TO 5,000 ACRE-FEET OF WATER UNDER MERCED IRRIGATION DISTRICT'S LICENSE 2685 (APPLICATION 1224)

Dated: April 2, 2007

Notice is hereby given that on March 27, 2007

Merced Irrigation District
c/o Marc Van Camp
MBK Engineers
2450 Alhambra Blvd., 2nd Floor
Sacramento, CA 95817

petitioned the State Water Resources Control Board's (State Water Board) Division of Water Rights (Division) for a temporary change pursuant to Water Code sections 1725 through 1732. The petition requests a temporary change to facilitate the transfer of up to 5,000 acre-feet (af) of water under License 2685 (Application 1224) to supply a new organization known as the Merced County Sphere of Influence Water Users Association (SOI Water Users), which are all located within Merced County. The proposed change will include the addition of 39,066 acres within a gross area of 71,130 acres for irrigation. Temporary changes under Water Code section 1725 may be effective for a period of up to one year.

PETITIONER'S WATER RIGHTS

Original Water Rights under License 2685:

License 2685 was issued to Merced Irrigation District (District) on August 11, 1944, pursuant to Application 1224. License 2685 allows the direct diversion of 1,500 cubic feet per second (cfs) of water from the Merced River from about March 1 through about October 31 of each year. License 2685 also allows the diversion from the Merced River to storage of 266,400 acre-feet of water per annum (afa) from about October 1 of each year to about July 1 of the succeeding year.

The point of diversion is at the New Exchequer Dam on Lake McClure. There are also two points of rediversion downstream of New Exchequer Dam – Merced Falls Diversion Dam for the North Side Canal and Crocker-Huffman Diversion Dam for the Main Canal. Water rediverted through the North Side Canal and the Main Canal is used for irrigation and domestic purposes on 164,395 gross acres within the boundaries of the District.

Modified Water Rights under License 2685:

License 2685 was modified from its original conditions to also allow the direct diversion of 5,000 afa of water from the Merced River at a rate not to exceed 7 cfs from November 1 of each year to February 29 of the following year for municipal use in the Mariposa Town Planning Area. Storage under License 2685 is reduced in the amount of water diverted to the Mariposa Town Planning Area of up to 1,667 afa. Combined maximum direct diversion and storage under

California Environmental Protection Agency



License 2685 cannot exceed 345,440 afa. The point of diversion for the water delivered to the Mariposa Town Planning Area is located approximately 40 miles upstream of New Exchequer Dam.

License 2685 was also later modified to include an additional point of rediversion and place of use when the District consolidated with the El Nido Irrigation District. The new point of rediversion downstream of New Exchequer Dam is on Duck Slough. Water rediverted through Duck Slough is used for irrigation purposes on 9,418.6 acres within the boundaries of El Nido Irrigation District.

DESCRIPTION OF THE TRANSFER

The District is petitioning to add places of use to License 2685 in order to supply previously stored surface water to agricultural lands located near the boundaries of the District's authorized place of use. These lands are known as the District's Sphere of Influence Lands (SOI Lands), which are all located within Merced County. The majority of the SOI Lands receive surface water from the District during years when the District's Board of Directors determines water is available under its pre-1914 claims, provided that adequate natural flow is available from the Merced River. During months when surface water is not available under the District's pre-1914 claims for delivery to SOI Lands, the individual landowners meet their demands through alternate supplies, such as groundwater. Within the past five years, the surface water deliveries to the SOI Lands were curtailed as early as July 1. Approval of this petition would provide continued surface water supplies for SOI Lands up to the proposed temporary transfer quantity of 5,000 af.

AVAILABILITY OF WATER FOR TRANSFER

Prior to the date at which the District's Board of Directors determines that surface water is not available under its pre-1914 claims for delivery to SOI Lands, the District will evaluate the hydrologic conditions to assess whether the previously stored water will be made available to the SOI Lands by releases from storage or by groundwater exchange pumping. Releases from storage involve the delivery of water to SOI Lands and refill of the reservoir, which normally occurs during periods of high runoff. The release of stored water would be increased as compared with the condition absent the proposed temporary transfer. The District is willing to accept refill criteria to assure no impact occurs to downstream water right holders.

Groundwater exchange pumping is the delivery of water pumped from the District's groundwater wells into their adjacent conveyance facilities and exchange of a like amount of surface water for delivery to SOI Lands, up to 5,000 af. The release of stored water from the reservoir would be the same as compared with the condition absent the proposed temporary transfer. The District's groundwater wells proposed for use in this temporary transfer are located throughout its service area and have been previously approved during other water transfers completed by the District to ensure that the pumping does not affect the surface water system. This conjunctive use operation would allow the District to pump groundwater at a lower pumping head as compared with the groundwater wells utilized by the majority of the SOI landowners.

COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Temporary changes in water right permits and licenses to enable a temporary transfer of water pursuant to with Water Code section 1725, et seq. are exempt from the requirements of the

California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.). However, in acting upon petitions for temporary changes involving a temporary transfer of water, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

On March 20, 2007, the District adopted Resolution No. 2007-11, which determined that this project is an existing facility and categorically exempt from CEQA under Title 14, California Code of Regulations section 15301, Class 1.

SWRCB'S STATUTORY PROVISIONS

Pursuant to Water Code sections 1725 through 1732, the State Water Board is authorized to issue temporary change orders, to allow the transfer or exchange of water or water rights after completing an evaluation sufficient to determine that the proposed temporary change(s):

1. Involve a water that would otherwise have been consumptively used or stored by permittee or licensee or was conserved pursuant to Water Code section 1011;
2. Would not injure any other legal user of the water; and,
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses; and

If the State Water Board cannot satisfy, in a timely manner, the provisions of Water Code section 1725 through 1732, 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 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 website at <http://www.waterrights.ca.gov/application/tempurgnotices.htm>. 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 **3:00 p.m. on May 2, 2007**. Additionally, **the response must be accompanied by proof of service of a separate copy of the materials on the petitioner**. The petitioner's and the Division's street and mailing

addresses are 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 Kate Gaffney
P.O. Box 2000
Sacramento, CA 95812-2000
Fax: (916) 341-5400

Merced Irrigation District
c/o Marc Van Camp
MBK Engineers
2450 Alhambra Blvd., 2nd Floor
Sacramento, CA 95817-1125
Fax: (916) 456-0253

Please direct questions about this notice to Kate Gaffney at (916) 341-5360. Questions regarding the petitioner or transferee should be addressed to Marc Van Camp at (916) 456-4400.

ORIGINAL SIGNED BY:

Steven Herrera, Chief
Water Rights Permitting Section

Dated: April 2, 2007