



State Water Resources Control Board



Linda S. Adams
*Secretary for
Environmental Protection*

Division of Water Rights
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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 100 ACRE-FEET OF WATER
TO THE UNITED STATES BUREAU OF RECLAMATION
UNDER CALIFORNIA DEPARTMENT OF WATER RESOURCES'
PERMIT 16482 (APPLICATION 17512)**

Notice is hereby given that on September 26, 2008

Department of Water Resources
c/o Nancy Quan, Chief
Program Development and Water Supply and Transfers
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, portions of the U.S. Bureau of Reclamation's (USBR) Central Valley Project (CVP) located south of O'Neill Forebay, would be temporarily added to the authorized place of use under the Department of Water Resources' (DWR) permitted Application 17512. The proposed temporary change would facilitate the transfer of up to 100 acre-feet (af) of water from the Semitropic Water Bank (Semitropic) to the City of Tracy (Tracy). Temporary changes under Water Code section 1725 may be effective for a period up to one year.

DESCRIPTION OF THE TRANSFER

In 2006, Tracy banked approximately 1,000 af of its CVP allocation in Semitropic (due to losses associated with banking, 900 af of the banked water is considered recoverable). The water to be transferred under this petition is part of an exchange to facilitate the return of 100 af of this previously-banked water to Tracy. Semitropic will recover and deliver up to 100 af of Tracy's groundwater storage to Kern County Water Agency (KCWA). DWR will release a like amount of KCWA's State Water Project (SWP) Table A water for delivery to O'Neill Forebay. The SWP water will be delivered to USBR at O'Neill Forebay for use within the CVP service area south of O'Neill Forebay in Fresno and Merced counties. In exchange, USBR will provide 100 af of allocated 2008-09 CVP water to Tracy from the Delta Mendota Canal (DMC). The subject petition for change will authorize the delivery of SWP water to USBR for use within the CVP service area located south of the O'Neill Forebay.

In the absence of the exchange, the 100 af of banked local water would remain in Semitropic, and KCWA's SWP water would be delivered to the KCWA service area under the provisions of KCWA's long-term SWP water supply contract and used within its service area. The 100 af of water pumped by USBR at the Jones Pumping Plant

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would be delivered through the DMC to O'Neill Forebay for use within its service area located south of the O'Neill Forebay.

STATUS OF DWR'S WATER RIGHT

Permit 16482 was issued to DWR on September 26, 1972, and it authorizes DWR to divert to storage up to 1,100,000 af of water between January 1 and December 31 of each year. Authorized sources under Permit 16482 are the Sacramento-San Joaquin Delta Channels, Italian Slough, and San Luis Creek. The water may be used for irrigation, domestic, municipal, industrial, salinity control, recreation, fish and wildlife enhancement, and to generate incidental power. The subject 100 af of SWP water is either stored in San Luis Reservoir or will be stored under provisions of DWR's permits (set forth in State Water Resources Control Board Revised Decision 1641) and Biological Opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the Endangered Species Act. Thus, the transfer of up to 100 af to USBR should have no effect on any natural streamflow or hydrologic regime.

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. Involve 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. 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 other 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 effects on fish, wildlife, or other instream beneficial 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 Transfer Program, Notices of Transfers and Temporary Urgency Actions. 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 first address listed below by **2:00 p.m. on November 17, 2008**. Additionally, a copy of the comments must be filed with DWR. **Comments must include proof of service of a separate copy of the materials to the petitioner.** 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. An original copy of all materials, however, must be received for the State Water Board to consider your comments.

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

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Please address questions about this notice to Greg Wilson at (916) 341-5427.
Questions regarding the petitioner should be addressed as follows:

DWR-SWP (petitioner):	Nancy Quan (916) 653-0190
	FAX: (916) 653-9628

Original signed by Camilla Williams for

Leslie F. Grober, Manager
Hearings and Special Programs Section

Dated: October 15, 2008