



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights
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Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 800 ACRE-FEET OF WATER
TO LLOYD PHELPS AND GARY PHELPS
UNDER ISLAND RECLAMATION DISTRICT 2062'S
LICENSE 2637 (APPLICATION 5155)**

Notice is hereby given that on June 25, 2008

Island Reclamation District 2062
c/o Susan Dell'Osso, President
73 West Stewart Road
Lathrop, CA 95330

filed with the State Water Resources Control Board (State Water Board), a Petition for Temporary Change under Water Code section 1725, et seq. Island Reclamation District 2062's (District) petition requests a temporary change to facilitate the transfer of up to 800 acre-feet (af) of water under License 2637 (Application 5155) to two private Southern Delta farming interests. The proposed temporary change would be effective from the date of approval through November 15, 2008.

BACKGROUND

Lloyd Phelps and Gary Phelps (hereinafter referred to as the Phelps) own approximately 551 acres in Upper Roberts Island (located within the Southern Delta) and irrigate these lands under water right Licenses 7609, 13274, and 13444. Licenses 13274 and 13444 (which serve 389 of the 551 acres) include Standard License Term 91 (Term 91), which requires the curtailment of diversions during periods of time when the Department of Water Resources' State Water Project and the United States Bureau of Reclamation's Central Valley Project are making upstream reservoir releases to meet Delta water quality objectives (typically July, August and September). Term 91 diversion curtailments are currently in effect.

The District holds License 2637 (Application 5155) authorizing the direct diversion of up to 49.24 cubic feet per second (cfs) from the San Joaquin River, Old River, Dredger Cut in Paradise Cut, and Old River (formerly called Salmon Slough) for irrigation of 3939.4 acres on Stewart Tract (just south of Upper Roberts Island). The District has recently irrigated the entire 3939.4 acres within its place of use. This year the District has agreed to reduce its planted acreage by more than 389 acres. The District has submitted the subject petition to facilitate the delivery of up to 800 af of water made available due to the temporary fallowing of the 389 acres served by the Phelps' Licenses 13274 and 13444.

California Environmental Protection Agency

DESCRIPTION OF THE TRANSFER

The District proposes to allow the Phelps to divert up to 800 af of water from the San Joaquin River for use on the 389 acres served by Licenses 13274 and 13444. The proposed temporary change would be effective from the date of approval through November 15, 2008. The maximum rate of diversion by Phelps pursuant to the subject petition would be 4.59 cfs. The District typically irrigates the entire 3939.4 acres within its place of use, however, this year, the District intends to fallow more than 389 acres. The petition states that a portion of its reduced water demand will be used to supply up to 800 af of water to the Phelps.

PROPOSED TEMPORARY CHANGE

The proposed temporary change would temporarily add the points of diversion and place of use under Phelps' Licenses 13274 and 13444 to License 2637. The points of diversion to be temporarily added to License 2637 are located as follows:

North 2,500 feet and East 1,050 feet from the SW Corner of projected Section 16, T1S, R6E, MDB&M, being within the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 16

South 485 feet and East 4,182 feet from N $\frac{1}{4}$ corner of projected Section 17, T1S, R6E, MDB&M, being within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 16, T1S, R6E, MDB&M

The place of use to be temporarily added to License 2637 is located as follows:

157 acres located within projected Section 18

232 acres located within projected Sections 8 and 17

389 acres total, all within T1S, R6E, MDB&M

The above-listed points of diversion and places of use are shown on maps on file under Applications 20957, and 21162, and are also shown on a map posted on the Division of Water Rights' website at www.waterrights.ca.gov, Water Transfer Program, Notices of Transfers and Temporary Urgency Actions.

PETITIONER'S WATER RIGHTS

License 2637 authorizes the District to directly divert up to 49.24 cfs from January 1 through December 31 of each year from eight points of diversion located on the San Joaquin River, Old River, Dredger Cut in Paradise Cut, and Old River (formerly called Salmon Slough). The authorized purpose of use under License 2637 is irrigation of 3939.4 acres within the District, which is located on Stewart Tract.

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, stored, or conserved pursuant to Water Code section 1011, by permittee;
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 COMMENT

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 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 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 August 11, 2008**. Additionally, a copy of the comments must be filed with the District. **Comments must be accompanied by proof of service of a separate copy of the materials on 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

Island Reclamation District 2062
c/o Susan Dell'Osso, President
73 West Stewart Road
Lathrop, CA 95330
FAX: (209) 879-7928

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

Island Reclamation District 2062 (petitioner): Susan Dell'Osso (209) 879-7900
FAX: (209) 879-7928

Gary Phelps and Lloyd Phelps (transferee): John Herrick (209) 956-0150
FAX: (209) 956-0154

Original Signed by

Leslie F. Grober, Manager
Hearings and Special Programs Section

Dated: July 10, 2008