



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 3,520 ACRE-FEET OF WATER
FROM TULE BASIN FARMS
TO EIGHT STATE WATER CONTRACTOR AGENCIES
UNDER LICENSE 2840 (APPLICATION 10030)**

Notice is hereby given that on April 14, 2010

Tule Basin Farms
c/o Marc Van Camp
MBK Engineers
1771 Tribute Road, Suite A
Sacramento, CA 95815

filed with the State Water Resources Control Board (State Water Board) a Petition for Temporary Change under Water Code section 1725, et seq. Tule Basin Farms (TBF) petition requests the transfer of up to 3,520 acre-feet (af) of water to eight State Water Contractor Agencies. Water would be used within the State Water Project (SWP) service area. Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

DESCRIPTION OF THE TRANSFER

TBF proposes to transfer up to 3,520 af of water under License 2840 (Application 10030) to the Antelope Valley-East Kern Water Agency, the Dudley Ridge Water District, the Kern County Water Agency, the Metropolitan Water District of Southern California, the Napa County Flood Control and Water Conservation District, the Oak Flat Water District, the Palmdale Water District, and the San Bernardino Valley Municipal Water District (hereinafter collectively referred to as the Agencies). To facilitate this transfer, TBF will pump additional groundwater and reduce its direct diversion from the West Borrow Pit of the Sutter Bypass by 21 cubic feet per second (cfs). At times when pumping capacity is available in the Delta, the additional flow in the West Borrow Pit of the Sutter Bypass thence the Sacramento River would be available for diversion at the SWP's Banks Pumping Plant or Barker Slough Pumping Plant and delivery to the Agencies. The petition requests that the change be effective from July 1 through September 30, 2010.

TBF's petition states that detailed information relative to historical groundwater pumping, well characteristics, and associated maps has been submitted to the Department of Water Resources and the United States Bureau of Reclamation for review. Additionally the petition states that TBF has developed a monitoring and

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mitigation plan to assure that the proposed transfer does not result in any unreasonable impacts to the local groundwater basin. A copy of TBF's petition is posted with the copy of this notice on the Division of Water Rights' website at:

www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/.

PROPOSED TEMPORARY CHANGE

The proposed transfer would temporarily add the SWP's Banks Pumping Plant and Barker Slough Pumping Plant as points of diversion to License 2840. The service area of the SWP would also be temporarily added to the place of use under License 2840. The SWP points of diversion and service area are identified on Maps 1878-1, 2, 3 & 4 on file with the State Water Board Division of Water Rights under Application 5629. Domestic, municipal and industrial, salinity control, fish and wildlife enhancement, and water quality control would be temporarily added as purposes of use under License 2840.

PETITIONER'S WATER RIGHTS

License 2840 (Application 10030) authorizes the direct diversion of up to 21.05 cfs of water from the West Borrow Pit of Sutter Bypass between April 1 and November 1 of each year for irrigation purposes. The authorized point of diversion for License 2840 is located on the West Borrow Pit of the Sutter Bypass, North 950 feet and West 275 feet from the Southeast corner of Section 5, T14N, R2E, MDB&M. The authorized place of use consists of 842.13 acres within the North Basin Tract.

COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Temporary changes involving the transfer of water pursuant to Water Code section 1725 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;

3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses; and
4. Any increase in groundwater pumping associated with this transfer (i.e., groundwater substitution) is performed in compliance with Water Code sections 1745.10 and 1745.11.

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, commenters 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 of Water Rights (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.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/.

Potential commenters 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 June 14, 2010**. Additionally, a copy of the comments must be filed with TBF. **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.

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Tule Basin Farms
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1771 Tribute Road, Suite A
Sacramento, CA 95815
FAX: (916) 456-0253

Please address questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner should be addressed to Marc Van Camp at (916) 456-4400.

Original signed by

Leslie F. Grober, Manager
Hearings and Special Programs Section

Dated: **May 13, 2010**