



Linda S. Adams  
Secretary for  
Environmental Protection

# State Water Resources Control Board



Arnold Schwarzenegger  
Governor

**Division of Water Rights**  
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P.O. Box 2000 ♦ Sacramento, California 95812-2000  
Fax: 916.341.5400 ♦ [www.waterboards.ca.gov/waterrights.ca.gov](http://www.waterboards.ca.gov/waterrights.ca.gov)

## **NOTICE OF PETITION FOR TEMPORARY CHANGE INVOLVING THE TRANSFER OF UP TO 15,000 ACRE-FEET OF WATER FROM THE MERCED IRRIGATION DISTRICT TO FOUR STATE WATER CONTRACTOR AGENCIES UNDER LICENSE 11395 (APPLICATION 16186)**

Notice is hereby given that on May 3, 2010,

Merced Irrigation District  
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. Pursuant to the petition, Merced Irrigation District (MID) seeks to transfer up to 15,000 acre-feet (af) of water to four 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**

MID proposes to transfer up to 15,000 af of stored water under License 11395 (Application 16186) to the Dudley Ridge Water District, the Kern County Water Agency, the Oak Flat Water District, and the Tulare Lake Basin Water Storage District (hereinafter collectively referred to as the Agencies). Water will be released from Lake McClure to the Merced River thence the San Joaquin River to be diverted at the Banks Pumping Plant for delivery to the Agencies. The maximum transfer releases from Lake McClure are scheduled to be about 2,000 cubic feet per second (cfs) above the amount of water rediverted for use within MID's places of use. The water is scheduled to be released over a short period in August, 2010<sup>1</sup>, and will coincide with an instream flow study to support relicensing of MID's Merced River Hydroelectric Project. The final release schedule will be coordinated with the U.S. Fish and Wildlife Service and the Department of Fish and Game. The petition states that MID is willing to accept refill criteria to ensure that no injury to other legal users of water results from the transfer. A copy of MID'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/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/).

<sup>1</sup> The petition requests a transfer period of July 1 to September 30, however, the proposed maximum transfer release of about 2,000 cfs is scheduled to occur over a three-day period in August, 2010.

*California Environmental Protection Agency*

In the absence of the proposed change, the 15,000 af of water would remain in storage within Lake McClure.

### **PROPOSED TEMPORARY CHANGE**

The proposed transfer would temporarily add the SWP's Banks Pumping Plant as a point of rediversion to License 11395. The service area of the SWP would also be temporarily added to the place of use under License 11395. The Banks Pumping Plant and SWP 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. Municipal, industrial, salinity control, fish and wildlife enhancement, and water quality control would be temporarily added as purposes of use under License 11395.

### **PETITIONER'S WATER RIGHTS**

License 11395 (Application 16186) authorizes the diversion to storage of up to 605,000 af of water from the Merced River between October 1 and July 1. The points of diversion for License 11395 are located at the New Exchequer Dam and the McSwain Dam. The points of rediversion for License 11395 are located at the McSwain Dam, the Merced Falls Diversion Dam, the Crocker-Huffman Diversion Dam, and at Duck Slough. The water is used for irrigation, domestic, recreational, fish culture, and wildlife enhancement purposes within the authorized places of use identified by the "Official map of MID-1973" and additional maps on file with the State Water Board.

### **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 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 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/](http://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 July 26, 2010**. Additionally, a copy of the comments must be filed with MID. **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

Merced Irrigation District  
c/o Marc Van Camp  
MBK Engineers  
1771 Tribute Road, Suite A  
Sacramento, CA 95815  
FAX: (916) 456-0253

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

*Original signed by*

Leslie F. Grober, Manager  
Hearings and Special Programs Section

Dated: June 22, 2010