



March 20, 2013

Barbara Evoy, Deputy Director of Water Rights  
State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812-2000

**RE: Petition for Temporary Urgency Change Under  
Merced Irrigation District's License 11395 (Application 16186)**

Dear Ms. Evoy:

Enclosed is a Petition for Temporary Urgency Change (Petition) involving Instream Flow Dedication and Water Transfer under Merced Irrigation District's (District) License 11395 (Application 16186). Accompanying this Petition are the following:

- 1) Attachment I, *Description of Temporary Urgency Change Petition Request.*
- 2) Attachment II, *Supplement to March 2014 Temporary Urgency Change Petition Request.*
- 3) *Environmental Information Form to Accompany the Petition.*
- 4) Attachment III, *Attachment to Environmental Information Form.*
- 5) Copy of Stipulation and Agreement between the District and the California Department of Fish and Game, executed in 1959.
- 6) Copy of Contract between the Department of Water Resources (DWR) and the District under the Davis-Grunsky Act, executed in 1967.
- 7) Check in the amount of \$850 payable to the California Department of Fish and Wildlife (CDFW).
- 8) Check in the amount of \$3,497 payable to the State Water Resources Control Board (SWRCB).

This Petition is submitted by the District in response to the drought conditions in the Merced River watershed over the last 3 years, which have been compounded by the record breaking dry weather thus far in 2014. Because of the extremely dry conditions, the District is duty-bound to the people it serves to take the extraordinary actions it has this year, including the filing of this Petition, to manage and conserve its limited water resources.

For all of the reasons provided in the Petition and related attachments, the District requests that the Division of Water Rights (Division) consider and act as quickly as

possible in approving the District's requested changes in order to realize the maximum beneficial use of critical storage in Lake McClure. District staff will be immediately available to Division staff in order to respond to questions or provide clarifications.

Very truly,



John Sweigard  
General Manager

cc:

Elizabeth Lee, CVRWQCB (via certified mail)  
Matt Scroggins, CWRWQCB (via certified mail)  
Dean Marston, CA Department of Fish & Wildlife (via certified mail)  
J. Singles, CA Department of Fish & Wildlife  
Maria Rea, National Marine Fisheries Service  
B. Croyle, Department of Water Resources  
Board of Directors, Merced Irrigation District  
T. Berliner, Duane Morris LLP  
MBK Engineers  
Board of Supervisors, County of Mariposa (via certified mail)  
Board of Supervisors, County of Merced (via certified mail)  
Board of Supervisors, County of Fresno (via certified mail)  
Board of Supervisors, County of Kings (via certified mail)  
Board of Supervisors, County of Santa Clara (via certified mail)

Please indicate County where your project is located here:

Merced/Mariposa

MAIL FORM AND ATTACHMENTS TO:
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Tel: (916) 341-5300 Fax: (916) 341-5400
http://www.waterboards.ca.gov/waterrights

PETITION FOR CHANGE INVOLVING WATER TRANSFERS

Separate petitions are required for each water right. Mark all areas that apply to your proposed change(s). Incomplete forms may not be accepted. Location and area information must be provided on maps in accordance with established requirements. (Cal. Code Regs., tit. 23, § 715 et seq.) Provide attachments if necessary.

- Point of Diversion, Point of Rediversion, Place of Use, Purpose of Use, Temporary Urgency, Temporary Change, Long-term Transfer, Instream Flow Dedication

Application 16186 Permit 12825 License 11395 Statement

I (we) hereby petition for change(s) noted above and described as follows:

Point of Diversion or Rediversion - Provide source name and identify points using both Public Land Survey System descriptions to 1/4-1/4 level and California Coordinate System (NAD 83).

Present: See Attachment
Proposed: See Attachment

Place of Use - Identify area using Public Land Survey System descriptions to 1/4-1/4 level; for irrigation, list number of acres irrigated.

Present: See Attachment
Proposed: See Attachment

Purpose of Use

Present: No Change Requested
Proposed: No Change Requested

Instream Flow Dedication - Provide source name and identify points using both Public Land Survey System descriptions to 1/4-1/4 level and California Coordinate System (NAD 83).

Upstream Location: See Attachment
Downstream Location: See Attachment

Table with 12 columns for months (Jan-Dec) and rows for cubic feet per second and gallons per day.

Will the dedicated flow be diverted for consumptive use at a downstream location? Yes No
If yes, provide the source name, location coordinates, and the quantities of flow that will be diverted from the stream.

Proposed New User(s)

Provide the names, addresses, and phone numbers for all proposed new user(s) of the water right.

San Luis Water District
PO Box 2135, Los Banos, CA 93635
(559) 593-3448
Contact: Martin McIntyre
Santa Clara Valley Water District
5750 Almaden Expressway, San Jose, CA 95118
(408) 630-2346
Contact: Cindy Kao

**Amount of Water to be Transferred**

5,000 acre-feet will be transferred. If the basis of right is direct diversion, the average rate of diversion for the maximum 30-day period of use is Not Applicable cubic feet per second or million gallons per day.

**General Information** – Provide the following information, if applicable to your proposed change(s).

Have you attached an analysis which documents that the amount of water to be transferred or exchanged would have been consumptively used or stored in the absence of the proposed temporary change or long-term transfer?  Yes  No

Have you attached an analysis of any changes to streamflow, water quality, timing of diversion or use, return flows, or effects on legal users from the proposed temporary change or long-term transfer?  Yes  No

Have you attached an analysis that shows the proposed temporary change or long-term transfer will not unreasonably affect fish, wildlife, or other instream beneficial uses?  Yes  No

I (we) have access to the proposed point of diversion or control the proposed place of use by virtue of:  
 ownership  lease  verbal agreement  written agreement

If by lease or agreement, state name and address of person(s) from whom access has been obtained.

Not Applicable.

Give name and address of any person(s) taking water from the stream between the present point of diversion or rediversion and the proposed point of diversion or rediversion, as well as any other person(s) known to you who may be affected by the proposed change.

Not Applicable. See Attachment.

**All Right Holders Must Sign Below:** I (we) declare under penalty of perjury that this involves only the amount of water which would have been consumptively used or stored in the absence of the proposed temporary change, and that the above is true and correct to the best of my (our) knowledge and belief.

Dated MARCH 20, 2014 at SACRAMENTO, CA



Right Holder or Authorized Agent Signature  
DARREN B. CORDOVA, MBK ENGINEERS

Right Holder or Authorized Agent Signature

NOTE: All petitions must be accompanied by:  
(1) the form Environmental Information for Petitions, available at:  
[http://www.waterboards.ca.gov/waterrights/publications\\_forms/forms/docs/pet\\_info.pdf](http://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/pet_info.pdf)  
(2) Division of Water Rights fee, per the Water Rights Fee Schedule, available at:  
[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/fees/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/fees/)  
(3) Department of Fish and Wildlife fee of \$850 (Pub. Resources Code, § 10005)

## ATTACHMENT I

### DESCRIPTION OF TEMPORARY URGENCY CHANGE PETITION REQUEST

The Merced Irrigation District (District) is filing a Petition for Temporary Urgency Change (Petition) with the Division of Water Rights (Division) to request: 1) a temporary release of up to 5,000 AF of surface water from New Exchequer Dam for instream dedication to provide a pulse flow for Chinook salmon out-migration during approximately late March and/or April 2014, 2) add the State Water Project's (SWP) Harvey O. Banks Pumping Plant and San Luis Reservoir as additional points of rediversion for the purpose of rediverting the pulse flow, and 3) add the service area of the CVP as an additional place of use under the District's License 11395 (Application 16186). This Petition accompanies coordination with other regulatory agencies to reduce the minimum pool requirement in Lake McClure (New Exchequer Dam) from 115,000 AF to 85,000 AF. This coordination includes requests for concurrence from: 1) the Department of Water Resources (DWR) to temporarily modify the 115,000 AF minimum pool requirement of the Davis-Grunsky Contract between the District and DWR, 2) the California Department of Fish and Wildlife (DFW) to reduce the minimum pool requirement under the Agreement between the District and California Department of Fish and Game, dated October 8, 1959, and 3) the Federal Energy Regulatory Commission (FERC) for temporary relief under the District's FERC license for its Merced River Hydroelectric Power Project minimum pool requirement.

A temporary reduction in the minimum pool requirement would allow the District to release a pulse flow of up to 5,000 AF for the purpose of assisting to trigger the out-migration of juvenile Chinook salmon from the Merced River. The benefits of this pulse flow are further described in Attachment II to this Petition. In addition to the pulse flow benefits to the fishery in the Merced River, the District proposes the pulse flow be rediverted at the SWP's Banks Pumping Plant for use within the San Luis Water District (SLWD) and/or Santa Clara Valley Water District (SCVWD), which are in need of surface water supplies during the current drought conditions. SLWD and/or SCVWD will coordinate with DWR for rediversion of the pulse flow at the SWP's Banks Pumping Plant. The surface water proposed to be made available through releases from Lake McClure (New Exchequer Dam) by Merced for the proposed temporary instream dedication and water transfer would have been held in storage absent the change. Releases from Lake McClure would be increased during the change as compared with the condition absent the change.

### POINT OF DIVERSION OR REDIVERSION

#### POINTS OF DIVERSION

##### ***Present:***

No changes in Merced's present points of diversion are proposed. Merced's authorized points of diversion under License 11395 are listed below:

##### **New Exchequer Dam (Lake McClure)**

North 42°11'03" West 3,089.69 feet from SE corner of Section 13, T4S, R15E, MDB&M, being within NW ¼ of SE ¼ of said Section 13.

**McSwain Dam**

North 80°36'38" West 2,275.01 feet from SE corner of Section 3, T5S, R15E, MDB&M, being within SW ¼ of SE ¼ of said Section 3.

***Proposed:***

No change in the present points of diversion is proposed.

**POINTS OF REDIVERSION**

***Present:***

No changes in Merced's present points of rediversion are proposed. Merced's authorized points of rediversion under License 11395 are listed below:

**McSwain Dam**

North 80°36'38" West 2,275.01 feet from SE corner of Section 3, T5S, R15E, MDB&M, being within SW ¼ of SE ¼ of said Section 3.

**Merced Falls Diversion Dam for Northside Canal**

North 67 °00'00" West 2,760 feet from SE corner of Section 4, T5S, R15E, MDB&M, being within SW ¼ of SE ¼ of said Section 4.

**Crocker-Huffman Diversion Dam for Main Canal, Trout Farm and Salmon Spawning Channel**

South 24 °00'00" East 2,700 feet from NW corner of Section 7, T5S, R15E, MDB&M, being within SW ¼ of NW ¼ of said Section 7.

**Duck Slough**

At a point 100 feet North and 50 feet East of ¼ Cor. Sections 10 and 11, T8S, R14E, within the SW ¼ of the NW ¼ Section 11, T8S, R14E, MDB&M in Merced County.

***Proposed Additional Points of Rediversion:***

No change in the present points of rediversion is proposed. Merced proposes to add the following points of rediversion:

**Banks Pumping Plant via the Clifton Court Forebay**

N 2,126,440 ft., E 6,256,425 ft., California Coordinate System Zone 3, NAD 83, being within the NW ¼ of SE ¼ of Projected Section 20, T1S, R4E, MDB&M. This proposed

additional point of diversion is identified on maps filed with the Division under Application 5630.

**San Luis Reservoir**

N 1,845,103 ft., E 6,393,569 ft., California Coordinate System Zone 3, NAD 83, being within the SW ¼ of SE ¼ of Projected Section 15, T10S, R8E, MDB&M. This proposed additional point of diversion is identified on maps filed with the Division under Application 5630.

**PLACE OF USE**

***Present:***

Irrigation of 131,953 acres within a gross area of 154,394 acres within the boundaries of the Merced Irrigation District and a 55 acre golf course within the service area of Sierra Highlands Water Company.

Domestic use at homesites within the service area of Sierra Highlands Water Company and at homesites and recreational facilities adjacent to Lake McSwain and Lake McClure including McClure Point, McClure Boat Club and Barrett Cove.

Fish culture at Licensee's salmon spawning channel and at a privately operated trout farm.

Recreational use and fish and wildlife enhancement in and around lakes McClure and McSwain.

The present places of use are shown on map entitled "Official Map of the Merced Irrigation District – 1973" and other maps filed with State Water Resources Control Board.

In addition to the place of use authorized in License 11395 as set forth on August 15, 1983, per Water Rights Order 93-2 issued on January 21, 1993, the place of use also includes South Shore Club, an area within the Lake San Pedro Community Services District described as follows:

2,010 acres located within Sections 11, 12, and 13, T3S, R14E and Sections 7 and 18, T3S, R15E, MDB&M, as shown on a map on file with the State Board prepared in accordance with the specifications in Title 23, Cal. Code of Regs., Div. 3, Ch. 2, Art. 7 (commencing with Section 715). Licensee may deliver water for domestic use within this place of use.

Irrigation purposes on 9,418.6 acres within the boundaries of El Nido Irrigation District as shown on map of District filed with the Division of Water Rights for Application 8238. El Nido Irrigation District has been consolidated with the District.

***Proposed:***

No change in the present place of use is proposed. Merced proposes to add the service area of the CVP as an additional place of use in order to facilitate the temporary water transfer to the Districts. The service area of the CVP is shown on Map 214-208 – 12581 on file with the Division under Application 5626.

**GENERAL INFORMATION**

As a result of this proposed temporary instream flow dedication and temporary water transfer, the flow in the Merced River will increase by up to 5,000 AF during the pulse flow period over what would have occurred absent the proposed change. The District is proposing to add the SWP's Banks Pumping Plant and San Luis Reservoir as additional points of rediversion. The proposed quantity of water for instream dedication and transfer will be rediverted at the SWP's existing Banks Pumping Plant and conveyed through existing facilities to SLWD and/or SCVWD. SLWD and/or SCVWD will coordinate with DWR for rediversion of the pulse flow at the SWP's Banks Pumping Plant. The proposed change will result in an increase in the flow between the District's present point of diversion at New Exchequer Dam and the proposed additional points of rediversion at which the proposed releases are rediverted. The proposed releases identified in this Petition are in addition to the District's existing downstream requirements and commitments, which are further described in Attachment II to this Petition. Thus, there will be no adverse downstream effects and there will be no injury to other legal water users, water quality, or return flows; in fact, the increased flows will result in instream benefits downstream of the District's existing points of rediversion during the period of the releases, which are proposed to occur during late March and/or April 2014. These instream benefits are described in detail in Attachment II.

A potential effect to the downstream flow from the release of water by the District arises during the subsequent refill of the proposed transfer quantity, up to 5,000 AF. This refill normally occurs during periods of high runoff and periods of low water demand by downstream water right holders. The District is willing to accept refill criteria to assure no adverse impact occurs. Absent the proposed temporary pulse flow and transfer to the SLWD and/or SCVWD, the same quantity of surface water would have been held in storage pursuant to the District's water right.

Surface water will be made available for the pulse flow and transfer from the District by reservoir release. As necessary, SLWD, SCVWD, and the District will coordinate with DWR and Reclamation for the proposed water transfer to SLWD and/or SCVWD to address any concerns of DWR and Reclamation relative to the potential impacts that water transfers may have on other legal users.

Although there are water users diverting water from the stream between the District's current points of return flow and the points at which SLWD and/or SCVWD would return water to the system, we have responded to the relevant section of the Petition form as "not applicable." The

District would not transfer water such that it would adversely impact water users within the District; and the water proposed for the pulse flow and transfer would not be available to the District without temporary modification to the minimum pool requirement. Therefore, there will be no change in the return flow pattern from water users within the District.

See files of SWRCB for more information regarding other legal water users, which may include the Delta water users, the CVP, and the SWP. DFW and the Central Valley Regional Water Quality Control Board (CVRWQCB) were contacted in order to discuss the proposed temporary water transfer; and no comments were provided at this time. Copies of this petition have been provided to Dean Marston (559-243-4005) of DFW, Elizabeth Lee (916-464-4787) of the CVRWQCB Sacramento Office, and Matt Scroggins (559-445-6042) of the CVRWQCB Fresno Office.

## ATTACHMENT II

### SUPPLEMENT TO MARCH 2014 TEMPORARY URGENCY CHANGE PETITION

#### Background

The Merced Irrigation District (District) is an irrigation district existing under the California Irrigation District law with the goal of providing irrigation services to approximately 2,200 customers within its service area covering approximately 164,000 acres in eastern Merced County at the toe of westerly Sierra Nevada foothills. Approximately 100,000 of those acres are irrigated with surface water provided by the District. The District's primary water source is Lake McClure, formed by the New Exchequer Dam on the Merced River, which has a capacity of approximately 1,024,000 AF at a normal maximum water surface elevation of 867 feet above mean sea level. Immediately downstream of Lake McClure is the McSwain Dam and Reservoir, which has a capacity of approximately 9,700 AF.

The District operates its irrigation facilities, and makes minimum flow releases into the Merced River in accordance with water right licenses issued by the State Water Resources Control Board (SWRCB) as well as its license to operate its Merced River Hydroelectric Power Project issued by the Federal Energy Regulatory Commission (FERC). Because this Petition for Temporary Urgency Change (Petition) relates only to a request for a temporary release of up to 5,000 AF from the District's New Exchequer Dam (Lake McClure) during late March and/or April 2014, the information contained herein will focus on that specific topic. Additional background regarding hydrologic conditions and coordination with regulatory agencies relative to requests for modifications to other requirements are also identified below.

#### Current Hydrologic Conditions

The State of California is in the midst of a record breaking drought. For the San Joaquin River Basin, DWR's Bulletin 120 publication for March 1, 2014, *Water Supply Conditions in California*, identifies that Water Year 2014 is preliminarily classified as a critical year type according to the San Joaquin Valley Water Year Type Index (60-20-20). In addition, Bulletin 120 indicates that the forecasted unimpaired runoff into Lake McClure at a 90% exceedance is 110,000 AF during April through July, as compared with an average of 636,000 AF; and for the entire 2014 Water Year, the forecast at a 90% exceedance is 150,000 AF, as compared with an average of 1,007,000 AF. At a 50% exceedance, the unimpaired runoff forecast during April through July is 210,000 AF, or 33% of average; and the forecast for the 2014 Water Year is currently 270,000 AF, or 27% of average at a 50% exceedance. These values are a decrease from the February 1, 2014 Bulletin 120 forecasts due to the continued dry conditions in February. The District anticipates these forecasts for 2014 will not improve when DWR updates Bulletin 120 in April.

The dismal forecasts identified above are consistent with precipitation levels at New Exchequer Dam which, as of March 18, 2014, was a total of 5.61 inches for the water year, lower than the 1977 precipitation level of 5.87 inches, which is currently the driest water year in recorded history. In addition, water storage levels are extremely low in the District's Lake McClure, where the reservoir is currently at 228,594 AF or 22% of capacity as of March 11, 2014. The drastically low storage levels in Lake McClure are the direct result of the 3-year extended drought that is impacting the entire State of California and specifically the record breaking dry conditions over that time period in the Merced River watershed. Absent significant changes in

hydrology, 2014 is on track to become the driest year in recorded history, surpassing the conditions in 1977.

The District's average annual diversions from the Merced River during the past five years, 2009 through 2013, were approximately 437,000 AF. These diversions are delivered through the District's North Side Canal and Main Canal. The volume of surface water currently held in Lake McClure above the requested reduced minimum pool requirement is approximately 143,900 AF, 33% of the District's average annual diversions. However, not all of this water is available for use by the District's growers.

Based on the current forecasts and available storage in Lake McClure, District staff estimate that 0.6 feet of water per acre may be delivered to its customers during a significantly shortened irrigation season, which will result in a significant hardship for District growers and the community. This initial allocation estimate accounts for the additional water supplies necessary to meet the District's existing obligations and commitments, such as for instream flows, the Cowell Agreement Diversions, the Stevinson Water District, and the Merced National Wildlife Refuge. Since commitments for these purposes are primarily set at a flow rate with little or no adjustment for dry years, most of the available water currently held in storage within Lake McClure will be necessary to meet these purposes. The remaining estimated water available for the District's customers is approximately 62,000 AF. Importantly, it is not enough to sustain the significant acreage of permanent crops within the District. In 2013, there were approximately 35,000 acres of almonds and 8,000 acres planted with 21 varieties of other nut and fruit trees, including vineyards, receiving surface water from the District. The combination of meeting the District's existing obligations and commitments, together with the initial allocation estimate to the District's customers, it is estimated that Lake McClure will reach the proposed reduced minimum pool of 85,000 AF during the month of August.

### **Request for Temporary Urgency Change**

To optimize the beneficial use of water, the District requests the Division approve this Temporary Urgency Change Petition, which includes a temporary instream flow dedication and water transfer. The District proposes to release up to 5,000 AF for instream flow dedication from the District's current point of diversion at New Exchequer Dam to the proposed point of rediversion at the SWP's Banks Pumping Plant. At this proposed point of rediversion, the pulse flow is proposed to be rediverted for use within San Luis Water District and/or Santa Clara Valley Water District.

Concurrently with this Petition, the District is coordinating with the following agencies, under the respective applicable documents, to reduce the minimum pool requirement at Lake McClure from 115,000 AF to 85,000 AF: (a) DWR to temporarily modify the Davis-Grunsky Contract between the District and DWR, (b) Department of Fish and Wildlife (DFW) to modify Provision 4 of the October 8, 1956 Agreement between the District and the Department of Fish and Game, and (c) FERC for temporary relief under the District's FERC license for its Merced River Hydroelectric Power Project minimum pool requirement. In addition, the District is coordinating with other regulatory agencies to obtain concurrence regarding changes to minimum instream flow requirements in the Merced River downstream of Lake McClure.

The District anticipates the proposed temporary instream flow dedication and transfer would provide multiple benefits including:

- A pulse flow of up to 5,000 AF during late March and/or April 2014 that would provide flow and importantly, lower the temperature in the Merced River to trigger Chinook salmon out-migration from the Merced River and downstream through the San Joaquin River to the Delta.
- Benefits to resident rainbow trout populations realized by an extension to the District's irrigation season.
- Provide a supplemental water supply for San Luis Water District and/or Santa Clara Valley Water District during these particularly drier conditions.
- Assist in supporting releases for the District's existing obligations and commitments.
- Provide for continued diversions to meet the water needs of the District's customers.

### **Criteria for Approving Temporary Urgency Change Requests**

Water Code §1435(b) requires that the SWRCB make the following findings before approving of the District's temporary urgency change requests:

1. The permittee or licensee has an urgent need to make the proposed change.
2. The proposed change may be made without injury to any other lawful user of water.
3. The proposed change may be made without unreasonable effect upon fish, wildlife, or other in-stream beneficial uses.
4. The proposed change is in the public interest.

Each of these required findings are discussed briefly below.

#### *1. The permittee or licensee has an urgent need to make the proposed change.*

Water Code §1435(c) provides that an 'urgent need' exists when the SWRCB may, in its judgment, conclude that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented.

The urgency of this Petition lies in the needs of the Merced River fishery. Given the current reservoir levels in Lake McClure, the water temperature of the Merced River at Shaffer Bridge will become unsuitable for rearing and out-migrating juvenile Chinook salmon in the end of March and is potentially fatal in early April. Therefore, it is imperative to provide a pulse flow to trigger out-migration of Chinook salmon to the cooler temperatures of the Delta. Without a temporary urgency change, the required approvals would not be obtained in time to provide a pulse flow at the most advantageous timing for the fishery, which is to be released as soon as possible at the appropriate period determined by DFW. The modeling efforts completed to help determine the most beneficial timing are further described below in this Petition.

In addition, on January 17, 2014 Governor Brown released a Proclamation of State of Emergency due to the drought conditions. Directive 4 of the Proclamation states, "The Department of Water Resources and the State Water Resources Control Board (Water Board)

will expedite the processing of water transfers, as called for in Executive Order B-21-13. Voluntary water transfers from one water right holder to another enables water to flow where it is needed most.” Although the urgency of this Petition is to provide a pulse flow for the Merced River, the water is proposed to be dedicated to instream flow under Water Code §1707 from New Exchequer Dam to the SWP’s Banks Pumping Plant, the District proposes the pulse flow be rediverted at the SWP’s Banks Pumping Plant for use within SLWD and/or SCVWD, which are experiencing water supply shortages due to the drought conditions.

2. The proposed change may be made without injury to any other lawful user of water.

The surface water proposed to be made available by Merced for the proposed temporary instream dedication and water transfer through releases from Lake McClure (New Exchequer Dam) would have been held in storage absent approval of the proposed change. Releases from Lake McClure would be increased during the proposed change as compared with the condition absent the change. The proposed instream dedication and transfer involves refill of the reservoir, which normally occurs during periods of high runoff; and the District is willing to accept refill criteria to assure no adverse impact occurs to downstream water right holders. The proposed releases identified in this Petition are in addition to the District’s existing downstream requirements and commitments. Thus, there will be no adverse downstream effects and there will be no injury to other legal water users, water quality, or return flows; in fact, the increased flows will result in instream benefits downstream of the District’s existing points of rediversion during the period of the releases.

3. The proposed change may be made without unreasonable effect upon fish, wildlife, or other in-stream beneficial uses.

The requested temporary urgency change for instream flow dedication and water transfer will benefit fish and wildlife in the Merced River. The District is currently coordinating with DFW and DWR to assess possible effects of a lower minimum pool requirement on fish and wildlife in the Merced River. The District, together with input from DFW and DWR, completed temperature and flow model simulated runs with the base case and with a lower minimum pool and proposed additional instream flow to assess any impact on both Chinook salmon and resident rainbow trout populations in the Merced River. Figure 1 below shows key Chinook salmon and rainbow trout habitat.

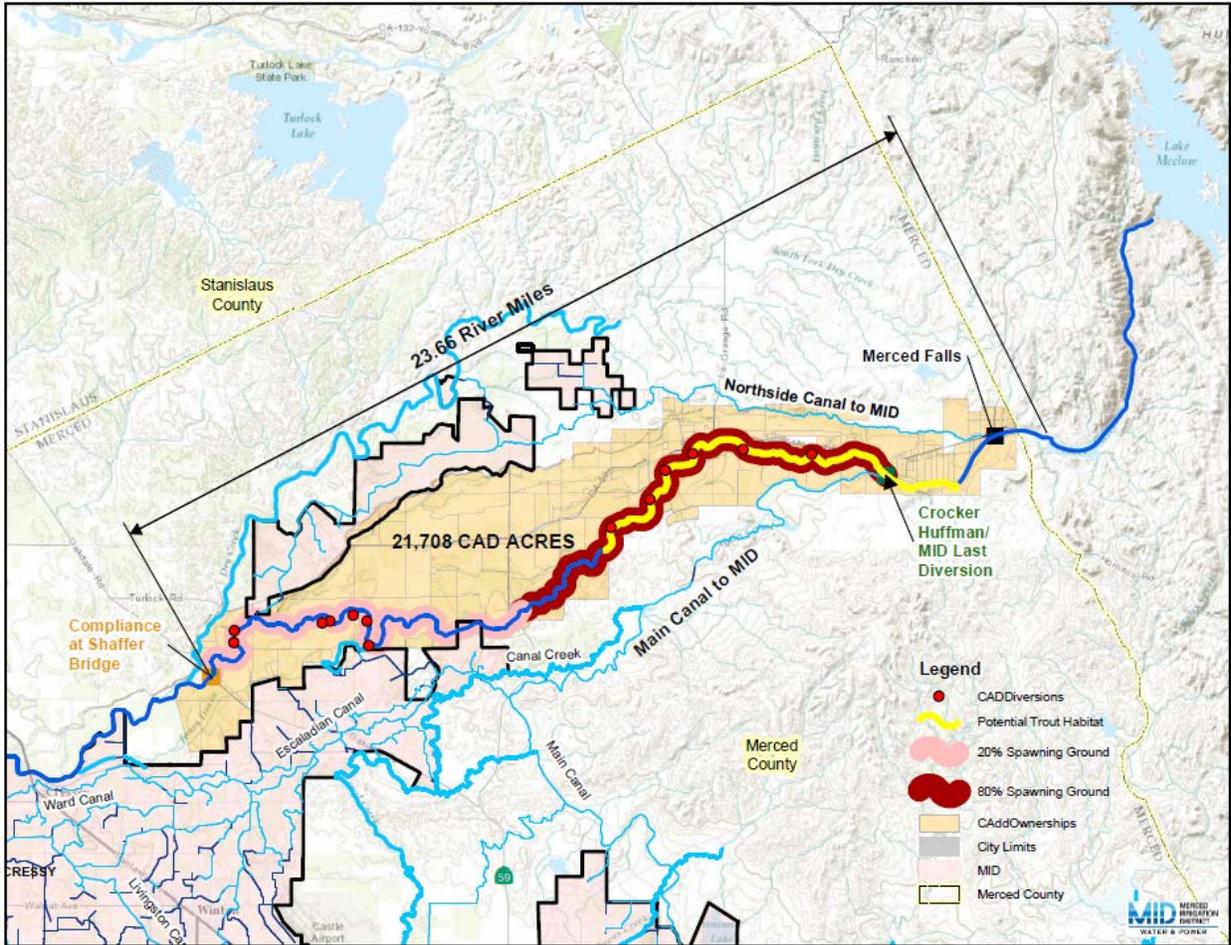


Figure 1. Chinook Salmon and Rainbow Trout Habitat in the Merced River

## Chinook Salmon

Figure 2 below shows that the water temperature of the Merced River at Shaffer Bridge under base flows starts to become unsuitable for rearing and out-migrating juvenile Chinook salmon in the end of March and is potentially fatal in early April. With the reduced minimum pool alone, water temperatures in the Merced River downstream of New Exchequer Dam would not improve. Thus, to benefit fish and wildlife in the Merced River, the District proposes the addition of a pulse flow for release at the timing and direction of DFW. An analysis of the potential benefits of a pulse flow in April is depicted in Figure 2. The pulse flow would lower the water temperature in the Merced River and could trigger Chinook salmon out-migration.

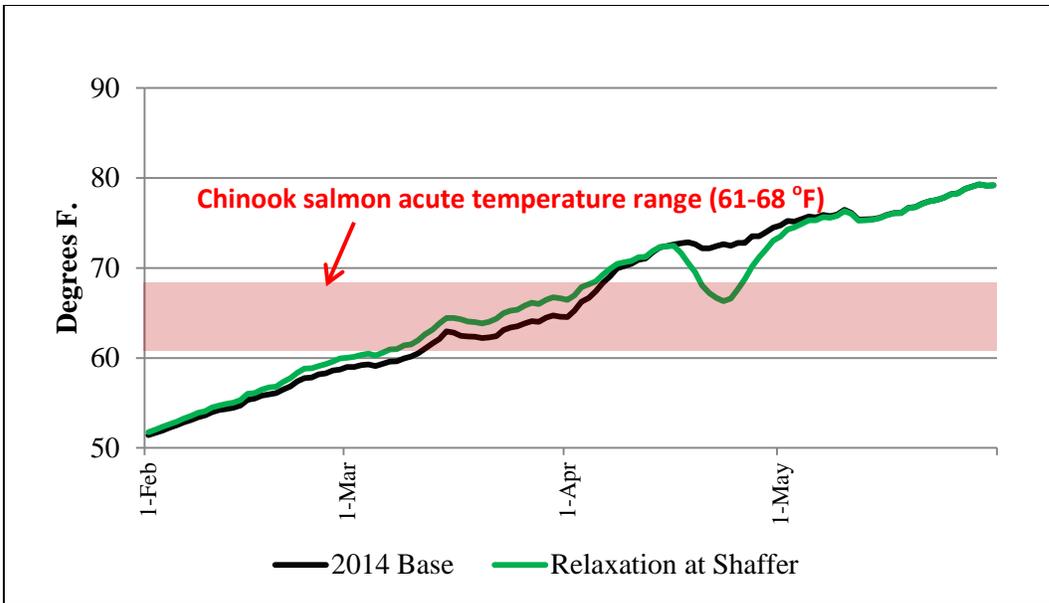


Figure 2. Merced River Water Temperature at Shaffer Bridge under Base Condition and Reduced Minimum Pool Requirement with Proposed Pulse Flow

Figure 3 shows that a similar pulse flow of 4,800 AF made by the District in April 2013 was sufficient to trigger substantial Chinook salmon out-migration.

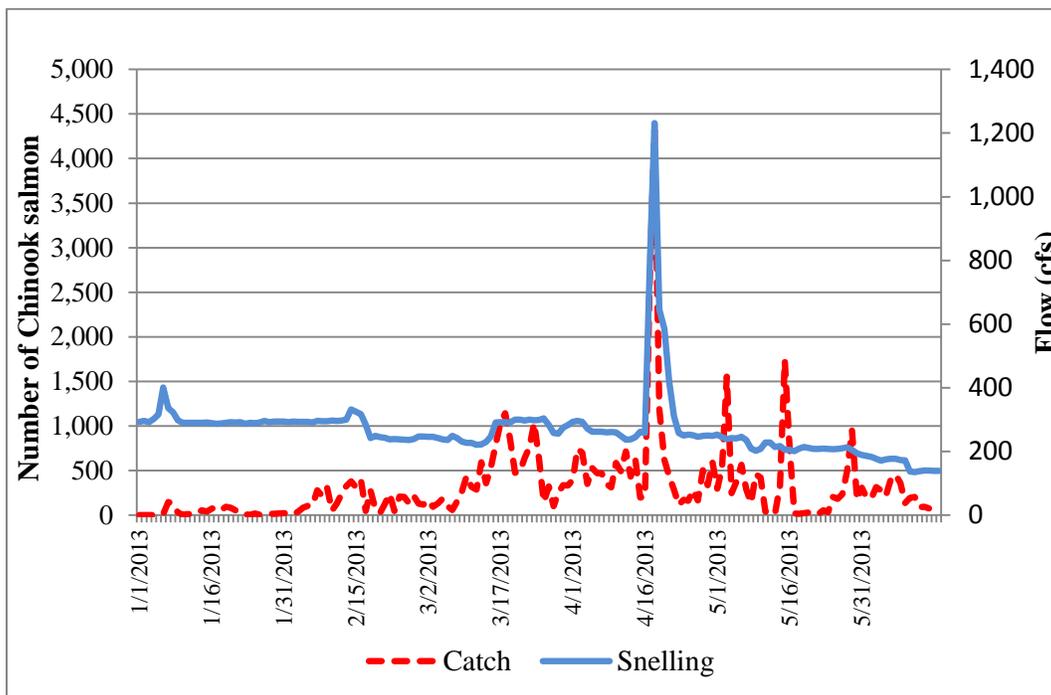


Figure 3. Juvenile Chinook Salmon Out-Migration Triggered by 4,800 AF Pulse in April 2013

As shown by Figure 4, studies during January 2014 have shown that Chinook salmon are out-migrating from the Merced River significantly earlier this year than in 2013. The pulse flow

could be moved earlier to the end of March or early-April to better capitalize on the ambient temperature and accommodate the apparent early salmon out-migration occurring this year.

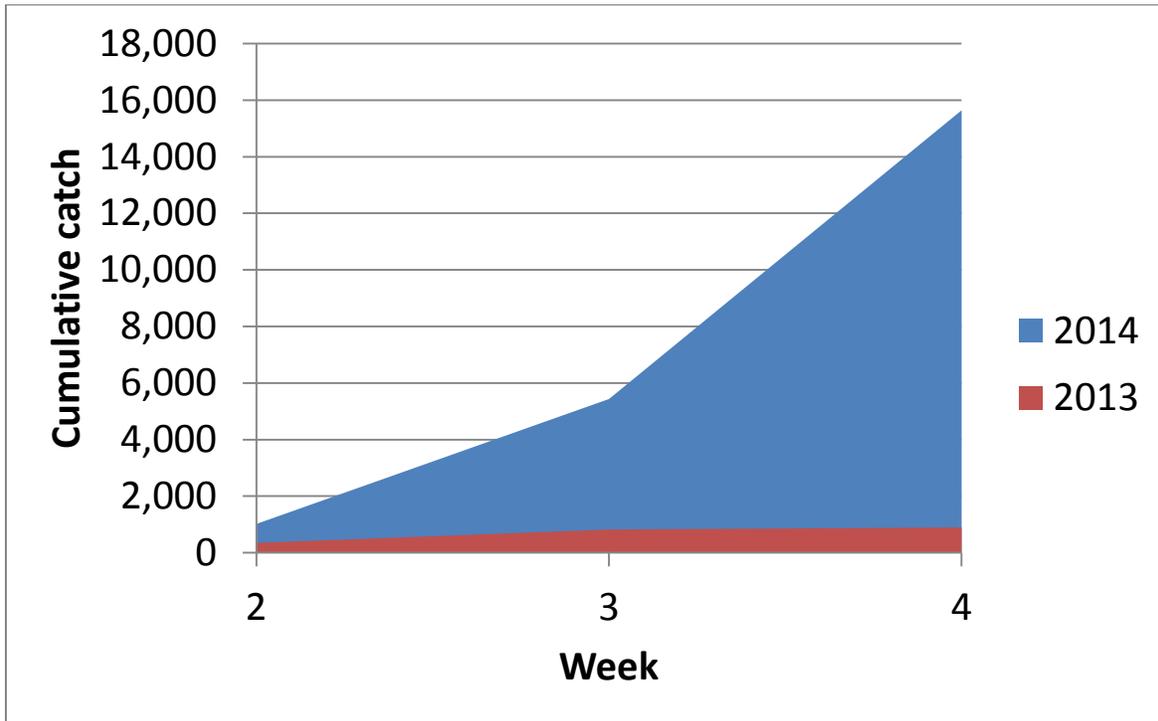
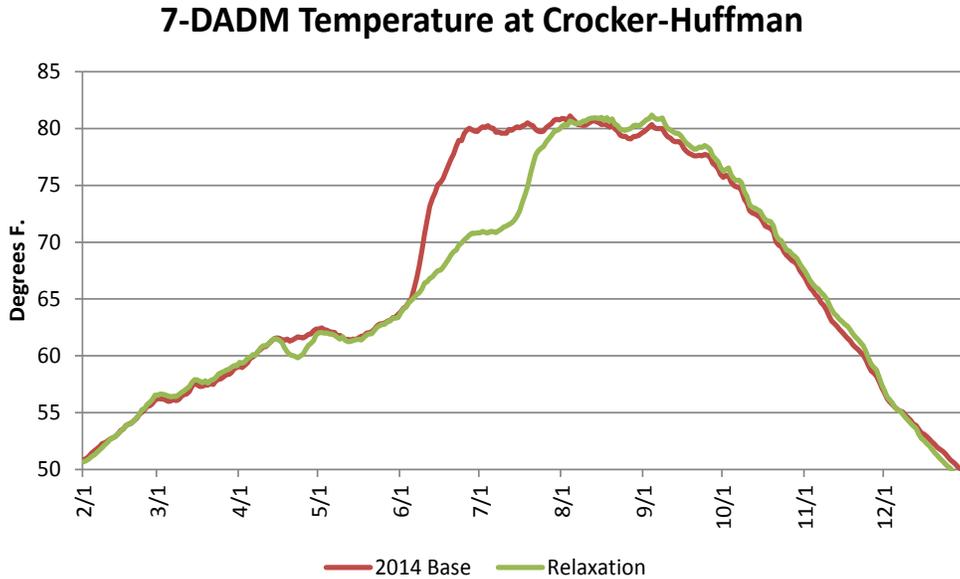


Figure 4. Comparison of Out-Migrating Juvenile Salmon in January 2013 and January 2014

### Rainbow Trout

The District modeled this year’s potential Merced River water temperature conditions in the area inhabited by rainbow trout populations, which mainly extends between Merced Falls and Snelling. Generally, water temperatures through the primary areas are governed by the duration of the District’s irrigation season. Taking into account the requested modification to the minimum pool requirement and proposed pulse flow, the District may be able extend its irrigation season by approximately an additional month. As requested by DFW, the District completed a daily time step to analyze these conditions. The results of this study, depicted in Figure 5, show temperatures at Crocker-Huffman Diversion Dam (a key location where trout are expected to congregate this year). With the extended season, Figure 5 shows that temperatures at Crocker-Huffman Diversion Dam are reduced by up to approximately 7°F when the District makes flow releases to be rediverted during the irrigation season. This temperature reduction during June and July would likely make an appreciable difference for trout habitat. Following the irrigation season, the depth of the pool of water in Lake McClure will govern the water temperature of the Merced River. The reduced minimum pool will result in warmer stream temperatures after the District ends its irrigation season, but for a lesser extent – between approximately 0.1°F and 0.8°F. This analysis shows that extending the District’s irrigation season is vital to the health of this trout population during 2014.



**Figure 5. Temperature in Vital Trout Habitat under Base Condition and Reduced Minimum Pool Requirement with Proposed Pulse Flow**

4. The proposed change is in the public interest.

The proposed temporary urgency change, together with the proposed reduced Lake McClure minimum pool requirements, will assist to lower the temperature in the Merced River to assist Chinook salmon out-migration from the Merced River, provide benefits to resident rainbow trout, assist in supporting releases for the District’s existing obligations and commitments, provide water supply benefits for District customers, and assist in meeting water supply needs within SLWD and/or SCVWD during these drought conditions. Approval of this Petition will result in benefits for the endangered Chinook salmon and provide drought relief where it is desperately needed; and both types of benefits are directed by the Governor’s Proclamation.

**Conclusion**

The District is submitting this Petition for Temporary Urgency Change to address and help mitigate record breaking drought conditions and severe impacts due to the lack of water supplies. The District requests that the Division of Water Rights consider and act as quickly as possible in approving the District’s requested changes in order to provide the greatest benefit to the Merced River fishery and to provide a much needed additional water supply to SLWD and/or SCVWD.

## ENVIRONMENTAL INFORMATION FOR PETITIONS

This form is required for all petitions.

Before the State Water Resources Control Board (State Water Board) can approve a petition, the State Water Board must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared, a determination must be made of who is responsible for its preparation. As the petitioner, you are responsible for all costs associated with the environmental evaluation and preparation of the required CEQA documents. Please answer the following questions to the best of your ability and submit any studies that have been conducted regarding the environmental evaluation of your project. If you need more space to completely answer the questions, please number and attach additional sheets.

### DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE COMPLETED

For a petition for change, provide a description of the proposed changes to your project including, but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated, increase in water diversion and use (up to the amount authorized by the permit), changes in land use, and project operational changes, including changes in how the water will be used. For a petition for extension of time, provide a description of what work has been completed and what remains to be done. Include in your description any of the above elements that will occur during the requested extension period.

See Attachment III

Insert the attachment number here, if applicable:

III

**Coordination with Regional Water Quality Control Board**

For change petitions only, you must request consultation with the Regional Water Quality Control Board regarding the potential effects of your proposed change on water quality and other instream beneficial uses. (Cal. Code Regs., tit. 23, § 794.) In order to determine the appropriate office for consultation, see: [http://www.waterboards.ca.gov/waterboards\\_map.shtml](http://www.waterboards.ca.gov/waterboards_map.shtml). Provide the date you submitted your request for consultation here, then provide the following information.

Date of Request

March 18, 2014

Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?

Yes  No

Will a waste discharge permit be required for the project?

Yes  No

If necessary, provide additional information below:

Not Applicable

Insert the attachment number here, if applicable:

**Local Permits**

For temporary transfers only, you must contact the board of supervisors for the county(ies) both for where you currently store or use water and where you propose to transfer the water. (Wat. Code § 1726.) Provide the date you submitted your request for consultation here.

Date of Contact

March 20, 2014

For change petitions only, you should contact your local planning or public works department and provide the information below.

Person Contacted:  Date of Contact:

Department:  Phone Number:

County Zoning Designation:

Are any county permits required for your project? If yes, indicate type below.  Yes  No

- Grading Permit       Use Permit       Watercourse       Obstruction Permit
- Change of Zoning       General Plan Change       Other (explain below)

If applicable, have you obtained any of the permits listed above? If yes, provide copies.  Yes  No

If necessary, provide additional information below:

Not Applicable

Insert the attachment number here, if applicable:

**Federal and State Permits** Not Applicable.

Check any additional agencies that may require permits or other approvals for your project:

- Regional Water Quality Control Board     Department of Fish and Game
- Dept of Water Resources, Division of Safety of Dams     California Coastal Commission
- State Reclamation Board     U.S. Army Corps of Engineers     U.S. Forest Service
- Bureau of Land Management     Federal Energy Regulatory Commission
- Natural Resources Conservation Service

Have you obtained any of the permits listed above? If yes, provide copies.     Yes     No

For each agency from which a permit is required, provide the following information:

Agency	Permit Type	Person(s) Contacted	Contact Date	Phone Number
Not Applicable				

If necessary, provide additional information below:

Not Applicable

Insert the attachment number here, if applicable:

**Construction or Grading Activity**

Does the project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank or riparian habitat of any stream or lake?     Yes     No

If necessary, provide additional information below:

Not Applicable

Insert the attachment number here, if applicable:

**Archeology**

Has an archeological report been prepared for this project? If yes, provide a copy.  Yes  No

Will another public agency be preparing an archeological report?  Yes  No

Do you know of any archeological or historic sites in the area? If yes, explain below.  Yes  No

If necessary, provide additional information below:

Not Applicable

Insert the attachment number here, if applicable:

**Photographs** See Attachment III.

For all petitions other than time extensions, attach complete sets of color photographs, clearly dated and labeled, showing the vegetation that exists at the following three locations:

- Along the stream channel immediately downstream from each point of diversion
- Along the stream channel immediately upstream from each point of diversion
- At the place where water subject to this water right will be used

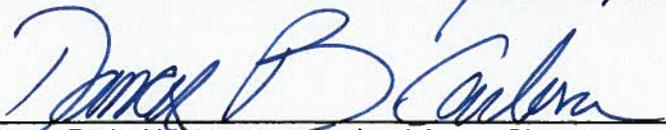
**Maps** See Attachment III.

For all petitions other than time extensions, attach maps labeled in accordance with the regulations showing all applicable features, both present and proposed, including but not limited to: point of diversion, point of redirection, distribution of storage reservoirs, point of discharge of treated wastewater, place of use, and location of instream flow dedication reach. (Cal. Code Regs., tit. 23, §§ 715 et seq., 794.)

Pursuant to California Code of Regulations, title 23, section 794, petitions for change submitted without maps may not be accepted.

**All Water Right Holders Must Sign This Form:**

I (we) hereby certify that the statements I (we) have furnished above and in the attachments are complete to the best of my (our) ability and that the facts, statements, and information presented are true and correct to the best of my (our) knowledge. Dated MARCH 20, 2014 at SACRAMENTO, CA.

  
Water Right Holder or Authorized Agent Signature

DARREN B. CORDOVA, MBK ENGINEERS

\_\_\_\_\_  
Water Right Holder or Authorized Agent Signature

**NOTE:**

- **Petitions for Change** may not be accepted unless you include proof that a copy of the petition was served on the Department of Fish and Game. (Cal. Code Regs., tit. 23, § 794.)
- **Petitions for Temporary Transfer** may not be accepted unless you include proof that a copy of the petition was served on the Department of Fish and Game and the board of supervisors for the county(ies) where you currently store or use water and the county(ies) where you propose to transfer the water. (Wat. Code § 1726.)

## **ATTACHMENT III**

### **ATTACHMENT TO ENVIRONMENTAL INFORMATION FOR MERCED IRRIGATION DISTRICT'S PETITION FOR TEMPORARY URGENCY CHANGE**

#### **Description of Proposed Changes**

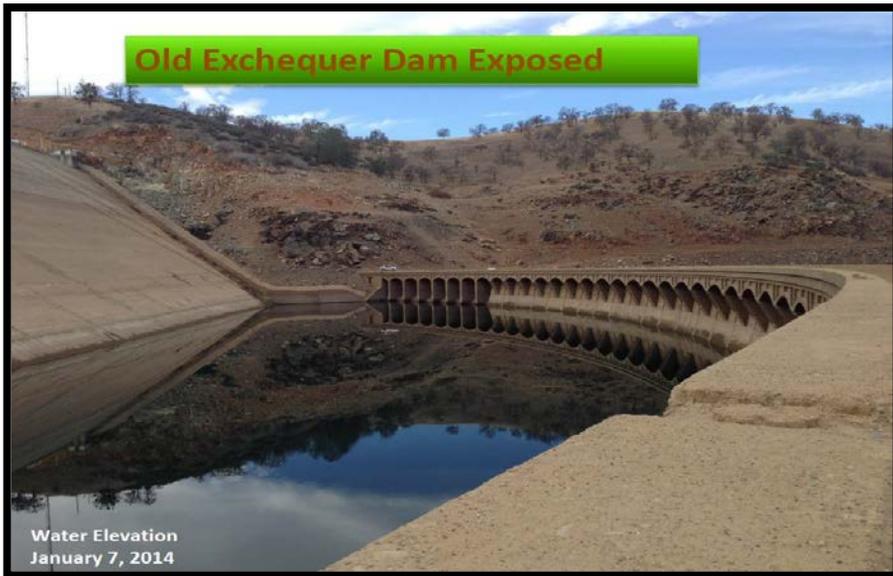
The Merced Irrigation District (District) is filing a Petition for Temporary Urgency Change (Petition) with the Division of Water Rights (Division) to request: 1) a temporary release of up to 5,000 AF of surface water from New Exchequer Dam for instream dedication to provide a pulse flow for Chinook salmon out-migration during approximately late March or April 2014, 2) add the State Water Project's (SWP) Harvey O. Banks Pumping Plant and San Luis Reservoir as additional points of diversion for the purpose of diverting the pulse flow, and 3) add the service area of the Central Valley Project (CVP) as an additional place of use under the District's License 11395 (Application 16186). This Petition accompanies coordination with other regulatory agencies in regard to the proposed change and to request approval to reduce the minimum pool requirement in Lake McClure (New Exchequer Dam) from 115,000 AF to 85,000 AF. The benefits of the proposed pulse flow are described in Attachments I and II to this Petition. In addition to the pulse flow benefits to the fishery in the Merced River, the District proposes the pulse flow be diverted at the SWP's Banks Pumping Plant for use within the San Luis Water District (SLWD) and/or Santa Clara Valley Water District (SCVWD), which are in need of surface water supplies during the current drought conditions. SLWD and/or SCVWD will coordinate with DWR for diversion of the pulse flow at the SWP's existing Banks Pumping Plant. The surface water proposed to be made available by Merced for the proposed temporary instream dedication and water transfer through releases from Lake McClure (New Exchequer Dam) would have been held in storage absent approval of the change. Releases from Lake McClure would be increased during the proposed water transfer as compared with the condition absent the transfer. There is no change to the existing points of diversion or diversion, places of use, or purposes of use; and the proposed temporary change does not involve any construction or other physical changes to the existing District and SWP facilities.

#### **Photographs**

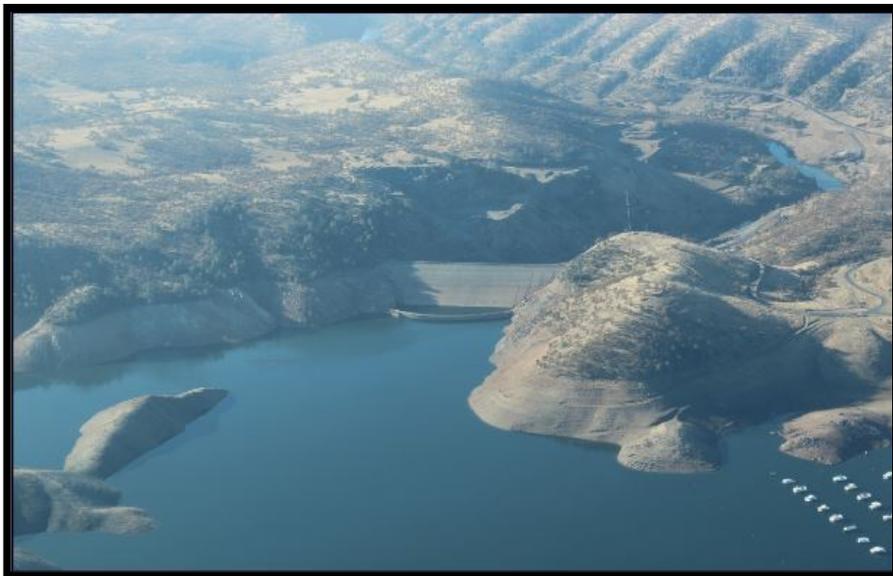
Attached are photographs depicting the current reservoir conditions at Lake McClure. The present points of diversion include existing facilities that are well known and documented with the Division. In addition, the present and proposed places of use are also well known and documented with the Division. Therefore, for these reasons, photographs of these points of diversion and places of use are not included.

## **Maps**

The present points of diversion, points of rediversion, and places of use are shown on maps filed with the Division for License 11395. The proposed additional points of rediversion for the SWP Banks Pumping Plant and San Luis Reservoir are shown on maps filed with the Division for Application 5630. The proposed additional place of use is the service area of the CVP shown on Map 214-208-12581 on file with the Division under Application 5626.



Water surface elevation at Lake McClure below the Old Exchequer Dam



Storage in Lake McClure far below capacity

**Merced ID – Environmental Information for Temporary Urgency  
Change Petition**

*Compiled photos by Angela Bezzone*



Boats and spillway during historic low water levels at Lake McClure



Lake McClure water surface elevation far below spillway

**Merced ID – Environmental Information for Temporary Urgency  
Change Petition**

*Compiled photos by Angela Bezzone*



Merced River at Highway 49 bridge upstream of Lake McClure

Photo Credit: Sierra Sun Times January 21, 2014



Lowered boat dock at Lake McClure

Photo Credit: Merced Sun-Star February 16, 2014

**Merced ID – Environmental Information for Temporary Urgency  
Change Petition**

*Compiled photos by Angela Bezzone*



Paved boat ramp above water at Lake McClure  
Photo Credit: Merced Sun-Star February 16, 2014

**Merced ID – Environmental Information for Temporary Urgency  
Change Petition**

*Compiled photos by Angela Bezzone*

