

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

**IN THE MATTER OF LICENSE 2685 (APPLICATION 1224)
OF THE MERCED IRRIGATION DISTRICT**

**PETITION FOR TEMPORARY CHANGE
IN PLACE OF USE INVOLVING THE TRANSFER
OF UP TO 25,000 ACRE-FEET OF WATER**

SOURCE: Merced River

COUNTIES: Madera, Mariposa, and Merced

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITION

On March 11, 2026, the Merced Irrigation District (MID or Licensee) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) a Petition for Temporary Change pursuant to Water Code section 1725 et seq. Pursuant to the petition, MID proposes to transfer up to 25,000 acre-feet (af) of water from date of approval through October 31, 2026 to the following areas: Merced's Sphere of Influence Lands (SOI Lands), Le Grand-Athlone Water District, Lone Tree Mutual Water Company, East Side Water District, Amsterdam Water District, Sandy Mush Mutual Water Company, Chowchilla Water District, and other parcels along MID's distribution system, (collectively referred to in this Order as "Transferees"). Temporary changes under Water Code section 1725 may be effective for a period of up to one year.

1.1 Description of the Transfer

MID proposes to transfer up to 25,000 af of stored water under its water right License 2685 (Application 1224) to irrigate land that is currently not included as a place of use under the license. MID is petitioning to increase the place of use covered by License 2685 to supply previously stored surface water for use on Transferees' land. Most of the SOI Lands have historically received surface water from MID during years that MID's Board of Directors determines water is available under MID's pre-1914

appropriative right claims, provided that adequate natural flow is available from the Merced River. During months when surface water is not available under MID's pre-1914 appropriative right claims for delivery to the SOI Lands, the individual landowners meet their demands through alternate supplies, such as groundwater. The landowners in the nearby water districts would also meet demands through alternate supplies.

The Sustainable Groundwater Management Act (SGMA) directs the Department of Water Resources (DWR) to develop groundwater basin priorities and identify groundwater basins and subbasins in conditions of critical overdraft. The proposed additional place of use overlies the Merced, Chowchilla, and Turlock Subbasins. The Merced and Chowchilla Subbasins have been identified as critically overdrafted for the purposes of SGMA implementation. The Turlock Subbasin has been designated as high priority. MID estimates that, as of June 21, 2026, natural flow from the Merced River per MID's pre-1914 appropriative right claims will not be available for the SOI Lands for the remainder of the year. This order will enable transferees to reduce pumping critically overdrafted groundwater by offsetting it with the use of transferred surface water.

In 2016, MID petitioned to deliver surface water to the SOI Lands as well as provide surface water supplies to the portions of Le Grand-Athlone Water District, Lone Tree Mutual Water Company, East Side Water District, San Luis Canal Company, and Chowchilla Water District located in Merced County. In 2017, MID petitioned to deliver surface water to the same agencies as in the 2016 transfer, except for the San Luis Canal Company. In 2018, MID petitioned to deliver surface water to the same agencies as in the 2017 transfer with the addition of the Red Top Area. In 2019, MID petitioned to deliver surface water to the same agencies as in the 2018 transfer with the addition of Turner Island Water District. In 2023, MID petitioned to deliver surface water to the same agencies as in the 2019 transfer. In 2024, MID petitioned to deliver surface water to the same agencies as in the 2023 transfer except Red Top Area, with the additions of Amsterdam Water District, Sandy Mush Mutual Water Company, and other parcels along MID's distribution system. In 2025, MID petitioned to deliver surface water to the same agencies as in the 2024 transfer except for Turner Island Water District. In the current petition, MID has petitioned to deliver surface water to the same agencies as in the 2025 transfer. In summary, over the past ten years, MID has petitioned and received approval from the Division for a temporary water transfer to the SOI Lands and the same agencies as in the current petition, with some slight variations.

MID has stated that in the absence of the proposed temporary change, the 25,000 af of water would remain in storage within Lake McClure pursuant to MID's License 2685.

1.2 Reservoir Reoperation

The transfer involves water currently stored in Lake McClure. Refill criteria developed in coordination with DWR and the U.S. Bureau of Reclamation (Reclamation) are required to ensure that future refill of the reservoir space made available in Lake McClure from this transfer does not adversely impact the State Water Project (SWP) or the Central

Valley Project (CVP). Pursuant to the criteria, any refill occurring during balanced conditions in the Sacramento-San Joaquin Delta Estuary¹ (Delta) is subject to repayment of water to DWR and Reclamation according to a schedule agreed to by MID, DWR, and Reclamation.

This transfer involves releases of water previously stored in Lake McClure for rediversion through the Northside Canal and the Main Canal, upstream of the Crocker-Huffman Diversion Dam. Therefore, natural flow in the Merced River downstream of the Crocker-Huffman Diversion Dam will not be impacted by the proposed transfer and will be identical to what it would have been absent the proposed transfer. MID will manage releases from Lake McClure and Crocker-Huffman Diversion Dam in compliance with its water rights, downstream release obligations, and other regulatory requirements.

2.0 BACKGROUND

2.1 Substance of MID's License

Water Right License 2685

License 2685 was issued to MID on August 11, 1944, pursuant to Application 1224, which has a priority date of March 26, 1919. License 2685 allows the direct diversion of 1,500 cubic feet per second (cfs) of water from the Merced River from about March 1 through about October 31 of each year for municipal, domestic, and irrigation purposes and throughout the remainder of the year for domestic purposes. License 2685 also allows the diversion from the Merced River to storage of 266,400 af per annum (afa) in Lake McClure from about October 1 of each year to about July 1 of the succeeding year.

The point of diversion for License 2685 is at the New Exchequer Dam on Lake McClure. There are also two points of rediversion downstream of New Exchequer Dam – Merced Falls Diversion Dam for the Northside Canal and Crocker-Huffman Diversion Dam for the Main Canal. Water rediverted through the Northside Canal and the Main Canal is used for irrigation and domestic purposes on 164,395 gross acres within the boundaries of MID, and municipal purposes on 1,900 acres within the Mariposa Town Planning Area (MTPA).

¹ The Delta is considered to be in balanced conditions when the SWP and CVP agree that releases from the upstream reservoirs, plus unregulated flow, approximately equal water supply needed to meet Sacramento Valley in-basin uses and Project exports. During balanced conditions in the Delta when water must be withdrawn from storage to meet Sacramento Valley and Delta Requirements, 75 percent of the responsibility to withdraw from storage is borne by the CVP and 25 percent by the SWP.

Effective February 16, 1995, License 2685 was modified to allow the direct diversion of 5,000 afa of water from the Merced River at a rate not to exceed 7 cfs from November 1 of each year to February 29 of the following year for municipal use in the MTPA. The point of diversion for the water delivered to the MTPA is located approximately 40 miles upstream of New Exchequer Dam on Merced River. Consequently, the storage amount under License 2685 is reduced by the amount of water diverted to the MTPA, up to a maximum of 1,667 afa. Combined maximum direct diversion and storage under License 2685 cannot exceed 345,440 afa.

License 2685 was further amended on June 20, 2003 to include an additional point of rediversion and modify the place of use resulting from MID's consolidation with the El Nido Irrigation District. The new point of rediversion is located approximately 24 miles downstream of New Exchequer Dam on Duck Slough. Water rediverted through Duck Slough is used for irrigation purposes on 9,418.6 acres within the boundaries of El Nido Irrigation District.

2.2 Proposed Temporary Changes

In order to facilitate the temporary water transfer to the participating Transferees, the service areas of SOI Lands, Le Grand-Athlone Water District, Lone Tree Mutual Water Company, East Side Water District, Amsterdam Water District, Sandy Mush Mutual Water Company, Chowchilla Water District, and other parcels along the Merced distribution system would be temporarily added to the place of use of License 2685. The location of these agencies is shown on the map submitted with the petition titled "Merced Irrigation District Map to Accompany Petition for Temporary Transfer under License 2685 (Application 1224) Proposed Addition to Place of Use", dated March 10, 2026.

2.3 Water Available for Transfer

MID proposes to deliver previously stored surface water to the Transferees. The quantity of surface water to be delivered by MID to the Transferees will be made available by releases of up to 25,000 af from water currently stored in Lake McClure. This transfer will involve delivering of water to the Transferees and refilling the reservoir, which normally occurs during periods of high runoff. Under the proposed transfer, releases of stored water would increase compared to conditions without the proposed transfer.

3.0 PUBLIC NOTICE AND COMMENTS ON THE PROPOSED TEMPORARY CHANGE

On March 20, 2026, public notice of the petition for temporary change was provided by posting on the Division's website and via the State Water Board's electronic subscription mailing list. Timely comments regarding the proposed temporary change were submitted by Reclamation and the California Department of Fish and Wildlife (CDFW). These comments and the State Water Board's responses are briefly summarized below.

3.1 Reclamation Comments

Reclamation provided comments during the public notice period on April 10, 2026. On April 15, 2026, Reclamation provided a corrected letter. Reclamation stated that a refill agreement is necessary to ensure that the proposed temporary change does not adversely impact the CVP water rights and operations. Reclamation requested that MID enter into a reservoir refill agreement with Reclamation and DWR containing conditions, criteria, and procedures to ensure that CVP operations and water rights are not adversely impacted by future refills following the release of transfer water. The agreement must protect CVP and SWP water rights and operations from injury regarding Reclamation's ability to meet all applicable water quality standards cited in water right Permits 16597, 20245, and 16600 (Applications 14858A, 14858B, and 19304) for New Melones Reservoir pertaining to the San Joaquin River and the Delta. The agreement will also protect Reclamation's water right Permits 11315, 11316, 11967, 11969, 11971, 11973, 12364, 12721, 12722, 12723, 12727, 12860, and 15149 (Applications 13370, 13371, 5628, 15374, 15375, 16767, 17374, 5626, 9363, 9364, 9368, 15764, and 21542) and operations for the Jones Pumping Plant, including Reclamation's ability to meet San Joaquin River flow and Old and Middle River flow requirements of State Water Board Decision 1641 and the Biological Opinions issued by the U.S. Fish and Wildlife Service and National Marine Fisheries Service for the long-term operations of the CVP and SWP.

State Water Board Response:

As stated in Section 1.2 of this Order, refill criteria are needed to ensure that the refill of Lake McClure resulting from the proposed temporary change does not adversely impact operations and water rights of the CVP. The transfer is conditioned that MID is subject to a refill criteria agreement with DWR and Reclamation ensuring that future refills of any storage space in Lake McClure created by the transfer will not reduce the amount of water that DWR, Reclamation, or other water users, could divert under their water rights. This Order requires MID to comply with the refill criteria.

3.2 CDFW Comments

As part of the Division's streamlined noticing process, CDFW provided comments to MID prior to petition submittal. CDFW stated that a refill agreement should be required for the transfer and refill criteria should be included with the petition. In addition, CDFW reiterated its recommendation that MID file a petition for long-term transfer to cover future transfers of this type as opposed to filing temporary transfers which are exempt from California Environmental Quality Act (CEQA) environmental analysis.

CDFW also submitted one question during the public notice period on April 10, 2026 regarding MID's estimate for end of September storage for Lake McClure.

MID Response:

MID incorporated updates to the petition to address CDFW's comments during the petition preparation. Specifically, MID incorporated a draft refill agreement in the petition submittal. See Section 3.1 State Water Board Response regarding the requirement of a refill agreement. Regarding the long-term transfer, MID indicated it has put considerable effort into the petition and supporting material since it began coordinating with CDFW on a draft long-term transfer in 2021. MID plans to make additional progress on the long-term transfer petition later this year and will coordinate with the Division and CDFW when the draft transfer petition is ready.

In response to CDFW's April 10, 2026 question, MID indicated that estimated end of October storage for Lake McClure is 525,000 af.

4.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Water Code section 1729 exempts petitions for temporary changes involving a transfer of water from the requirements of CEQA. The State Water Board will issue a Notice of Exemption for this project following the issuance of this Order.

5.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY CHANGES

Pursuant to Water Code section 1725, “a permittee or licensee may temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would involve only the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses.” (Wat. Code, §1725 and 1725.5.)

The State Water Board shall approve a temporary change involving the transfer of water under Water Code section 1725 et seq., if it determines that a preponderance of the evidence shows both of the following:

- a. The proposed change would not injure any legal user of water, during any potential hydrologic condition that the State Water Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of water or return flows.
- b. The proposed change would not unreasonably affect fish, wildlife, or other instream beneficial uses.

(Wat. Code, § 1728, subd. (b).)

In addition, the proposed change must involve only the amount of water that would have been consumptively used or stored in the absence of the temporary change. (*Id.*, § 1726, subd. (e).)

Temporary changes pursuant to Water Code section 1725 may be effective for a period of up to one year from the date of approval. (Wat. Code, § 1725.5.) “The one-year period does not include any time required for monitoring, reporting, or mitigation before or after the temporary change is carried out.” (*Ibid.*)

The State Water Board also has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) The State Water Board considers the evaluation of public trust resources as part of its evaluation of impacts to fish, wildlife, or other instream beneficial uses under Water Code section 1728, subdivision (b)(2).

6.0 REQUIRED FINDINGS OF FACT

6.1 Availability of Water for Transfer

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, § 1725, 1725.5, 1726.) Water Code section 1725.5 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.” The water proposed for transfer is currently stored in Lake McClure pursuant to the terms of License 2685. As of April 21, 2026, Lake McClure held 845,192 af of water in storage, which is 82% of the reservoir’s capacity and 145% of the historical average for this date. The petition states that in the absence of the proposed change, the 25,000 af of water proposed for transfer would remain in storage in Lake McClure. Under License 2685, MID can both directly divert and collect water to storage. MID would not provide water by direct diversion under License 2685 to the Transferees.

Considering the above, I find in accordance with Water Code section 1726, subdivision (e) that the proposed transfer involves only an amount of water that would have been stored in the absence of the proposed temporary change.

6.2 No Injury to Other Legal Users of the Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat. Code § 1728, subd. (b)(1).)

This Order requires MID to comply with refill criteria to ensure that future refill of the reservoir space made available in Lake McClure from this transfer does not adversely impact the SWP or CVP. MID has indicated it has sufficient supply to continue the same surface water deliveries to its existing customers with or without the proposed temporary water transfer. In addition, MID is required to release water to meet other existing downstream commitments and requirements below the inlet to its Main Canal; this approval does not change MID’s obligations. Therefore, there will be no downstream change of the streamflow, water quality, timing of diversion, return flows, effects on legal users of water, or change in the purposes of use authorized by

License 2685 during the period of the proposed temporary transfer.

Considering the above, I find in accordance with Water Code section 1728, subdivision (b)(1) that the proposed temporary transfer will not injure any legal user of the water.

6.3 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses

Water Code section 1729 exempts temporary changes involving transfer of water from the requirements of CEQA (Pub. Resources Code, § 21000, et seq.). However, the State Water Board may approve a temporary change due to a transfer of water only if it determines that the proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses. (Wat. Code, § 1728, subd. (b)(2).)

The overall impact of this transfer will be a temporary increase in flows in a portion of the Merced River, which will correspondingly decrease storage in Lake McClure by the same volume of water. In general, reservoir storage release transfers would result in incremental increase in instream flows between MID's point of diversion and the location where the water is removed from the stream system. The increase in flows is not anticipated to harm instream resources, provided that the transfer water does not cause instream temperatures to rise to harmful levels or result in other impacts such as creating false fish attraction flows in streams not suitable for fish rearing. Since the transfer would occur in the canals upstream of Crocker-Huffman Diversion Dam, there would be no concern of false fish attraction flows or significant change in instream temperatures in the Merced River. The transfer will deplete reservoir storage; thus it is appropriate to consider if the transfer would preclude MID from fully meeting its required instream flows such as the minimum instream flows pursuant to License 2685 and the Federal Energy Regulatory Commission (FERC) License for the Merced River Hydroelectric Project (FERC Project No. 2179). MID is required to meet these commitments with or without the transfer.

Lake McClure is currently at 82% capacity with storage of 845,192 af (as of April 21, 2026) which is well above the minimum pool of 115,000 af. The storage in Lake McClure at the end of the transfer, October 31, 2026, is projected to be approximately 525,000 af with the proposed transfer. In light of this supplemental information, and in context of the transfer of 25,000 af consisting of a small portion of the overall current storage in Lake McClure, there appears to be no evidence indicating that minimum pool levels will not be maintained during the period of the transfer.

Considering the above, I find in accordance with Water Code section 1728, subdivision (b)(2) that the proposed transfer will not unreasonably affect fish, wildlife, or other instream beneficial uses.

7.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in Section 4.4.2 of Resolution 2012-0029 and the Deputy Director for Water Rights redelegation of authority dated April 20, 2023.

8.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1728; and therefore, I find as follows:

1. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will not injure any legal user of the water.
3. The proposed temporary change will not unreasonably affect fish, wildlife, or other instream beneficial uses.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change in the place of use under License 2685 (Application 1224) of Merced Irrigation District (MID or Licensee) for the transfer of 25,000 af of water to the Transferees is approved.

All existing terms and conditions of License 2685 remain in effect, except as temporarily amended by the following provisions:

1. The transfer is limited to the period commencing on date of Order issuance through October 31, 2026.
2. Only water previously stored in Lake McClure may be transferred. Water shall not be provided to the Transferees by direct diversion.
3. The place of use under License 2685 is temporarily expanded to include the service areas of Merced's Sphere of Influence Lands, Le Grand-Athlone Water District, Lone Tree Mutual Water Company, East Side Water District, Amsterdam Water District, Sandy Mush Mutual Water Company, Chowchilla Water District, and other parcels along the Merced distribution system (as shown on the map submitted with the petition, titled "Merced Irrigation District Map to Accompany Petition for Temporary Transfer under License 2685 (Application 1224) Proposed Addition to

Place of Use”, dated March 10, 2026).

4. During the period of the transfer, MID shall comply with applicable terms and conditions imposed by other regulatory agencies. This Order shall not be construed as authorizing the violation of any agreement entered into by MID.
5. Water may not be transferred through existing canals and facilities until MID has executed a refill criteria agreement for the 2026 water transfer with the Department of Water Resources and the U.S. Bureau of Reclamation (DWR and Reclamation). The refill criteria shall govern the conditions under which refill of the water released pursuant to this Order occurs, including the conditions under which refill impacts may accrue and how MID shall rectify any impacts. Within 15 days of the date of execution of the agreement, Licensee shall submit a copy of the refill agreement to the Deputy Director for Water Rights.

At the conclusion of refilling water in Lake McClure for the water released pursuant to this Order, if a refill impact has occurred, MID shall release the amount of water identified in the refill criteria to DWR and Reclamation in a manner and on a schedule agreed upon by MID, DWR, and Reclamation. Any release required pursuant to this condition shall be conducted in a manner that does not injure any legal user of water and does not unreasonably affect fish, wildlife, or other instream beneficial uses.

6. Within 90 days of completion of the transfer, the Licensee shall submit a report describing the transfer authorized by this Order to the Deputy Director for Water Rights and the Assistant Division Manager of Water Management, Division of Operations and Maintenance, DWR. The report shall include average daily release rates and corresponding volume of water released from Lake McClure as a result of this transfer (reported on a daily basis).
7. By April 1, 2027, Licensee shall provide a report describing its refill of the transferred amount of water pursuant to this Order to the Deputy Director for Water Rights and the Assistant Division Manager of Water Management, Division of Operations and Maintenance, DWR. For periods of refill or refill impacts, including any releases made by the Licensee to address a refill impact, the report shall include the daily values of refills (or releases for refill impacts) for these periods. The report shall be referred to as the “2026 water transfer” and be included in the Licensee’s 2027 annual report as an attachment. If reservoir refill or releases for refill impacts are not complete by April 1, 2027, subsequent reports shall be attached to Licensee’s subsequent annual reports and be submitted by April 1 of each year until completion of refill. This report shall include a discussion of any measures and/or methods taken to ensure that releases made to satisfy and be consistent with the refill criteria pursuant to Condition 5 were conducted in a manner that did not injure any legal user of water and did not unreasonably affect fish, wildlife, or other instream beneficial uses.

8. MID shall comply with the instream flow requirements of License 2685 at all times while transferring water pursuant to this Order.
9. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change Order, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Board in accordance with law and in the interest of public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water. The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in the Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.
10. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a “take” will result from any act authorized under this temporary transfer, the Licensee shall obtain authorization for any incidental take prior to commencing transfer of water. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.
11. The State Water Board reserves jurisdiction to supervise the transfer, exchange and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Juliet Christian-Smith, Deputy Director
Division of Water Rights*

Dated: May 04, 2026