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State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 70,000 ACRE-FEET OF WATER
TO THE WESTLANDS WATER DISTRICT
UNDER THE DEPARTMENT OF WATER RESOURCES'
PERMIT 16479 (APPLICATION 14443)**

Notice is hereby given that on July 23, 2007

Department of Water Resources
c/o Nancy Quan, Chief
Bay-Delta Hearings and Program Development
P.O. Box 942836
Sacramento, CA 94236-0001

filed with the State Water Resources Control Board (State Water Board), a Petition for Temporary Change under Water Code section 1725, et seq. If approved, portions of the Westlands Water District (WWD), the majority of which is served solely by the U.S. Bureau of Reclamation's Central Valley Project (CVP), would be temporarily added to the authorized place of use under the Department of Water Resources' (DWR) permitted Application 14443. This temporary change would facilitate the recovery by WWD of previously-banked groundwater. Temporary changes under Water Code section 1725 may be effective for a period up to one year.

DESCRIPTION OF THE TRANSFER

State Water Project (SWP) water is stored in Lake Oroville under the provision of Permit 16479 (Application 14443) and held for use in the service areas of SWP contractors including the Kern County Water Agency (KCWA). The water proposed for transfer pursuant to this petition consists of previously-banked groundwater to be exchanged for SWP water intended for delivery to KCWA. WWD has previously banked groundwater within the Semitropic Water Storage District (SWSD). WWD has reached agreement with KCWA to facilitate the recovery of 50,000 af of groundwater from the Kern Water Bank (KWB) and 20,000 af of groundwater from the SWSD. KCWA will forego 70,000 af of its SWP water in exchange for the recovery and delivery of 50,000 af of water from the KWB and 20,000 af of water from the SWSD. WWD will receive the 70,000 af of KCWA's SWP water. This petition was filed to temporarily add the portions of WWD intended for delivery of the 70,000 af of SWP water to the place of use of Permit 16479.

In the absence of the proposed temporary change KCWA would receive the 70,000 af of SWP water for use within its service area.

California Environmental Protection Agency

PROPOSED TEMPORARY CHANGE

The proposed temporary change would temporarily add the service area of WWD to Permit 16479. Additional information regarding WWD is provided below.

PETITIONER'S WATER RIGHTS

Permit 16479 was issued to DWR on September 26, 1972, and it authorizes DWR to divert to storage up to 3,542,100 af of water between September 1 and July 31 of each year in Lake Oroville. The authorized source under Permit 16479 is the Feather River. The water may be used for irrigation, domestic, municipal, industrial, salinity control, recreation, fish and wildlife enhancement. The subject 70,000 af of SWP water is stored in Lake Oroville. Absent the transfer, the subject 70,000 af of SWP water would be delivered to KCWA from Lake Oroville for use within its service area. Thus, the proposed temporary change should have no effect on any natural streamflow or hydrologic regime.

STATUS OF WWD'S PROJECT

WWD's service area is located primarily east of Interstate 5, between the cities of Mendota and Kettleman City, in Fresno and Kings Counties; being within T13-22S, R12-19E, MDB&M. For contractual purposes WWD has defined its service area as Priority Areas I, II, and III. Priority Area I is WWD's original service area; Priority Area II includes lands from the June 1965 merger of WWD and the Westplains Water Storage District; and Priority Area III is considered as any lands annexed after June 1965.

- Priority Area I lands have the right to apply for and purchase up to 695,488 af of CVP contract water. There are approximately 271,057 acres of land in Area I that are irrigable and eligible, under federal reclamation law, to receive CVP water. Consequently, Priority Area I lands receive an average application rate of 2.57 af per acre under 100% CVP allocation.
- Owners of Priority Area II lands have the right to apply for and purchase up to 501,460 af of CVP contract water (including reassignment water). There are approximately 194,449 acres of land that are irrigable and eligible, under federal reclamation law, to receive CVP water. Consequently, Priority Area II lands receive an average application rate of 2.57 af per acre under 100% CVP allocation.
- Priority Area III, consists of approximately 10,000 acres of irrigable land, but has no entitlement to CVP contract water.

This year CVP allocations are at 50% resulting in a significant unmet demand within WWD. The water proposed for transfer will be delivered only to Priority I & II lands as described above. The total amount of water delivered to WWD's Priority I & II areas this year (including its CVP contract water, other water transfers, and the subject water transfer) is 758,140 af, resulting in an application rate with the proposed transfer of 1.63 af per acre.

In general, land in WWD has complete tailwater control within each field. WWD's pipeline distribution system and landowners' irrigation systems in WWD have been documented as one of the more efficient systems available in California to minimize the amount of water applied to crops. In addition, WWD has established aggressive programs to encourage water conservation and reduce deep percolation. The areas proposed to receive SWP water under this transfer consist of the Priority I and II Areas, as described above. The general locations of WWD, KCWA, KWB, and SWSD are shown on a map submitted by DWR and available for viewing with the copy of this notice posted on the Division of Water Rights' website at www.waterrights.ca.gov, Water Transfers Program.

COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Temporary changes involving the transfer of water that was previously stored are exempt from the requirements of the California Environmental Quality Act (CEQA). However, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

STATE WATER RESOURCES CONTROL BOARD'S STATUTORY PROVISIONS

Pursuant to Water Code sections 1725, et seq., the State Water Board is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary changes:

1. Involve only water that would otherwise have been consumptively used, stored, or conserved pursuant to Water Code section 1011, by permittee;
2. Would not injure any legal user of the water; and
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses.
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, commentors should provide sufficient information to support claims of injury or effects on fish, wildlife, or other instream uses.

Due to the relative brevity of the temporary transfer process, the Division (if necessary) may request that the petitioner submit additional information during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the Division of Water Rights' website at www.waterrights.ca.gov, Water Transfer Program, Notices of Transfers and Temporary Urgency Actions. Potential commentors are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received in the office of the State Water Board's Division of Water Rights, at the first address listed on the following page by **2:00 p.m. on September 13, 2007**. Additionally, a copy of the comments must be filed with DWR. **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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