

TR/GFW

State of California

DEPARTMENT OF WATER RESOURCES

The Resources Agency

FAX COVER SHEET

To <i>Greg Wilson</i>	From <i>Nancy Guan</i>
Organization <i>SWRCB</i>	Organization <i>SWPAO</i>
Location (Building/ Room Number)	Location (Building/ Room Number)
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DWR 4210 (Rev. 01/00)

DEPARTMENT OF WATER RESOURCES

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SACRAMENTO, CA 942360001
(916) 653-5791



February 17, 2009

Ms. Victoria Whitney, Chief
Division of Water Rights
State Water Resources Control Board
Post Office Box 2000
Sacramento, California 95812-2000

Dear Ms. Whitney:

The Department of Water Resources (DWR) has received the Notice of Petition for Temporary Change involving the transfer of up to 12,494 acre-feet from Property Reserve California, Inc. (PRC) to the Contra Costa Water District (CCWD). PRC proposes to transfer water made available through the fallowing of crops on land within the Delta lowlands referred to as Byron Ranch. DWR protests the proposed transfer because of the potential injury to its permitted water rights, but withdraws its protest subject to the inclusion of conditions equivalent to those attached in any order approving the transfer.

DWR strongly supports water transfers, particularly in critically dry years. However, DWR has concerns regarding the proposed PRC transfer. Water transfers can provide critical supplemental supplies for water short areas. However, it is essential that any transfer be limited to the amount of real water made available to assure that the transfer can be implemented without adversely affecting other legal users of water, including DWR, and without unreasonably impacting fish, wildlife, or other instream beneficial uses. To protect other legal users of water, including DWR, the transfer quantity must be limited to the reduction in consumptive use on the specific areas to be fallowed during the transfer period. The impacts of overstatement of water made available due to water transfers in the Delta watershed leads to the direct loss of water to the water users of the State Water Project (SWP) and the federal Central Valley Project (CVP) further reducing a critically short water supply.

PRC, as described in the documents provided to the State Water Resources Control Board (SWRCB), is proposing to fallow approximately 2,000 acres on Byron Tract in the Delta lowlands and transfer 12,494 acre-feet of water to CCWD, or approximately 6.2 acre-feet per acre. The transfer quantity is based on an estimated reduction in diversions rather than a reduction in consumptive use. Approval of the transfer as proposed would result in the transfer of significantly more water than would have been consumed by the normal operations on the Byron Ranch Property. The calculation of transferable water should be based on the reduction in Evapotranspiration of Applied Water (ETAW) rather than a reduction in diversions. Under normal operations any water diverted from Old River, Italian Slough, or Dredger Cut and applied to Byron Ranch property in excess of the crop ETAW discharges back to the Delta channels and

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is available to other legal users of water downstream of the discharge location. Approving the transfer based on an estimated reduction in diversions rather than the reduction in consumptive use will result in a decrease in the quantity of water that would have been available to other legal users of water in the absence of the transfer.

The information provided in the PRC petition does not contain sufficient information to calculate the reduction in ETAW resulting from the fallowing proposal. The petition states that approximately 2,000 acres will be fallowed and 1,000 acres will remain in production, but does not specify which fields or particular crops will be fallowed and which will remain in production. The general crops proposed for fallowing include irrigated, partially irrigated and non-irrigated crops. Fallowing of non-irrigated crops does not create transferable water. In addition, the petition contains no information with which to estimate how much water is typically applied to the partially irrigated crops. Diversion and discharge quantities onto and out of the Byron Ranch property as a whole or by field, which could aid in the analysis of the partially irrigated fields, are not metered or recorded.

DWR staff conducted a land use survey in 2007 which included the Byron Ranch property. There are a number of discrepancies between the PRC land use reported for 2007 and DWR land use survey information including whether the crop was irrigated in 2007. Attachment 1 contains a comparison of the DWR and PRC field classifications for 2007. A number of the fields in the western portion of the Byron Ranch property designated as pasture in the PRC petition are on alkali soils and are listed as native vegetation (non-irrigated) in the DWR land use survey.

The majority of the acreage to be fallowed is located in the Delta lowlands, an area that typically experiences high groundwater levels, and depending on the specific soil types, significant lateral movement of water through the soils. Fallowing areas with high groundwater creates a number of potential problems in determining the amount of real water made available for transfer, including determining what portion of the crop water demand is met with applied water and estimating the continued evaporation losses from the fallowed fields.

Once the transferable water has been calculated and the land fallowed, the idled fields must be maintained free of weed growth to assure that excessive weed growth does not consume the water intended for the transfer. Fallowing acreage in high groundwater areas creates a substantial problem maintaining the fallowed fields free of weeds. In 1991, DWR operated the Drought Water Bank in which a substantial amount of acreage in the Delta was fallowed, including land within the Delta lowlands. The high groundwater and significant lateral movement of water in the Delta lowlands provided vegetation in the fallowed fields with continual access to a water supply supporting

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substantial weed growth. In some areas, weed growth may have equaled production crop evapotranspiration. In many cases, the methods originally proposed for managing excessive weed growth proved inadequate and much more aggressive weed abatement methods were required. The PRC proposal does not contain a weed abatement, monitoring or verification program.

The information contained in the petitions, as posted by SWRCB, is insufficient to calculate the quantity of real water that can be made available for transfer. Unless the transfer quantity is limited to the reduction in ETAW for the specific fallowed acreage on the same pattern the water would have been consumed in the absence of the transfer, the transfer has the potential to impact the SWP. DWR requests that any order approving a transfer as described in the PRC petition include the conditions equivalent to those in Attachment 2.

If you have any questions or need additional information, please contact me at (916) 653-0190, or Maureen Sergent of my staff at (916) 653-9467.

Sincerely,



Nancy Quan, Chief
Program Development and Water Supply and Transfers Branch
State Water Project Analysis Office

Attachments

cc: Terry Erlewine, General Manager
State Water Contractors
1121 L Street, Suite 1050
Sacramento, California 95814-3944

Mr. Greg Gartrell, Assistant General Manager
Water Resources
Contra Costa Water District
Post Office Box H20
Concord, California 94524-2099

Property Reserve California, Inc.
c/o Monique de Barruel, P.E.
West Yost Associates
2020 Research Park Drive, Suite 100
Davis, California 95618

Attachment 1
COMPARISON OF 2007 DWR SURVEYED LAND USE vs PRC (BYRON RANCH) REPORTED 2007 and 2008 LAND USE

PRC Field ID	2007 PRC LAND USE	2007 PRC ACRES	2007 DWR LAND USE	2007 DWR ACRES	2008 PRC LAND USE	2008 PRC ACRES
55	ON MAP NOT ON CROP LIST		Sudan	15.3		
BALDWIN	rye grass	73.0	FIELD NOT IDENTIFIED ON MAP			
B1	new alfalfa	44.8	Alfalfa	43.0	alfalfa	44.8
B2	old alfalfa	62.2	Alfalfa	62.7	alfalfa	62.2
B3	pasture grass mix	52.1	Misc grasses partially irrigated	50.4	grass hay variety	52.1
B4	pasture grass mix	30.5	Alfalfa	26.6	grass hay variety	30.5
B5	giant bermuda	63.5	Misc grain partially irrigated	59.3	grass hay variety	63.5
B6	rye grass	18.0	Misc grasses partially irrigated	18.8	grass hay variety	18.0
B6	--		Farmstead no residence	3.6	--	
C1	pasture grass mix	37.5	Sudan	36.2	grass hay variety	37.5
C2	rye grass	17.0	Misc grasses partially irrigated	14.0	grass hay variety	17.0
C3	pasture grass mix	18.5	Misc grasses	18.0	grass hay variety	18.5
C4	orchard grass	11.6	Misc grasses	8.6	grass hay variety	12.1
C5	rye grass	9.6	Idle - not crop'd current/prev	10.1	grass hay variety	9.6
C6	new alfalfa	45.7	Alfalfa	42.4	alfalfa	45.7
C7	pasture grass mix	72.0	Misc grain partially irrigated	39.8	alfalfa	72.0
C7	pasture grass mix		Idle - not crop'd current/prev	24.8	alfalfa	
D1	new alfalfa	93.7	Alfalfa	96.4	alfalfa	93.7
D1	new alfalfa		Native veg	6.1	alfalfa	
D1	--		Farmstead	1.3		
D2N	old alfalfa	43.0	Alfalfa	44.6	alfalfa	43.0
D2N	old alfalfa		Alfalfa	6.4	alfalfa	
D2S	sudan/wheat	10.0	FIELD NOT IDENTIFIED ON MAP		sudan/wheat	10.0
D3	new alfalfa	59.2	Alfalfa	60.9	alfalfa	59.2
D4	sudan/wheat	36.9	Sudan	36.9	alfalfa	36.9
D5	pasture grass mix	43.5	Misc grasses	44.0	grass hay variety	45.5
D5	--		Farmstead no residence	1.0	--	
M1	pasture grass mix	25.1	Misc grasses	24.7	grass hay variety	25.1
M2	orchard grass	23.9	Misc grasses	23.0	alfalfa	23.9
M3	orchard grass	23.6	Misc grasses	21.0	grass hay variety	23.6
M4	sorghum silage/wheat hay	21.2	Misc grasses	17.8	grass hay variety	21.2
M5	sorghum silage/wheat hay	21.4	Misc grasses	17.9	grass hay variety	21.4
M6	pasture grass mix	16.8	Misc grasses	11.8	grass hay variety	16.8
M6	--		Farmstead no residence	2.8	--	
M7	pasture grass mix	16.6	Misc grasses	14.8	grass hay variety	16.6
M8	orchard grass	33.2	Misc grasses	29.6	grass hay variety	33.2

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PRC Field ID	2007 PRC LAND USE	2007 PRC ACRES	2007 DWR LAND USE	2007 DWR ACRES	2008 PRC LAND USE	2008 PRC ACRES
M9	old alfalfa	31.6	Alfalfa	30.7	alfalfa	31.6
M12	2-yr alfalfa	86.1	Alfalfa	82.0	alfalfa	86.1
M13-M15	orchard grass	78.1	Misc grasses	73.8	grass hay variety	78.1
M18	sudan/wheat	48.9	Sudan	46.6	wheat hay to corn double crop	48.9
M19	sudan/wheat	24.2	Sudan	24.3	wheat hay to corn double crop	24.2
P1	new alfalfa	58.0	Alfalfa	22.4	alfalfa	58.0
P1	new alfalfa		Alfalfa	14.6	alfalfa	
P1	new alfalfa		Alfalfa	14.7	alfalfa	
P2	2-yr alfalfa	22.0	Alfalfa	20.5	alfalfa	22.0
P4	new alfalfa	23.3	Alfalfa	21.3	alfalfa	23.3
P5	sudan/wheat	41.4	Sudan	34.5	alfalfa	41.4
P7	2-yr alfalfa	21.7	Alfalfa	19.9	alfalfa	21.7
P8-P9	old (P8) new (P9) alfalfa	57.4	Alfalfa	53.5	alfalfa	57.4
P10-P11	orchard grass (P10) new alfalfa (P11)	46.2	Alfalfa	44.5	grass hay variety (P10) alfalfa (P11)	46.2
R1	orchard grass	43.0	Misc grasses	43.5	grass hay variety	44.0
R2	orchard grass	58.9	Misc grasses	24.6	grass hay variety	57.4
R2	orchard grass		Misc grasses	5.5	grass hay variety	
R2	orchard grass		Misc grasses	9.2	grass hay variety	
R2	orchard grass		Misc grasses	14.6	grass hay variety	
R3	orchard grass	50.0	Misc grasses	20.4	grass hay variety	48.6
R3	orchard grass		Misc grasses	30.5	grass hay variety	
R4	orchard grass	31.0	Misc grasses	17.3	grass hay variety	31.0
R4	orchard grass		Misc grasses	15.3	grass hay variety	
R5E	orchard grass	24.3	Misc grasses	24.3	grass hay variety	24.3
R5W	sorghum silage/wheat hay	24.0	Misc grasses	23.0	grass hay variety	24.0
R6E	orchard grass	24.8	Misc grasses	23.6	grass hay variety	24.8
R6W	sorghum silage/wheat hay	24.5	Misc grasses	22.2	grass hay variety	24.5
R7	orchard grass	25.0	Misc grasses	19.7	grass hay variety	22.1
R8	new alfalfa	30.6	Alfalfa	29.3	alfalfa	33.6
R9E	pasture grass mix	48.0	Misc grasses	30.0	grass hay variety	48.0
R9E	pasture grass mix		Idle - not cropped current/previous yr	20.3	grass hay variety	
R9W	old alfalfa	24.0	Alfalfa	17.4	alfalfa	24.0
R10A	old alfalfa	24.0	Alfalfa	18.8	alfalfa	24.0
R10B	sorghum silage/wheat hay	50.0	Misc grasses	15.1	wheat hay to corn double crop	50.0
R10B	sorghum silage/wheat hay		Misc grasses	18.1	wheat hay to corn double crop	
W1N	2-yr alfalfa	17.0	Alfalfa	18.0	alfalfa	17.0

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PRC Field ID	2007 PRC LAND USE	2007 PRC ACRES	2007 DWR LAND USE	2007 DWR ACRES	2008 PRC LAND USE	2008 PRC ACRES
W1S	pasture grass mix	32.4	Misc grasses	31.9	grass hay variety	32.4
W2	old alfalfa	53.7	Alfalfa	54.2	alfalfa	53.7
W3	pasture grass mix	22.4	Misc grasses/Alfalfa	22.6	grass hay variety	22.4
W4	sudan/wheat	29.1	Sudan/Alfalfa	29.0	alfalfa	29.1
W5	2-yr alfalfa	75.3	Alfalfa	66.7	alfalfa	75.3
W6E	rye grass	12.3	Idle - not cropped current/previous yr	10.2	grass hay variety	12.3
W6W	2-yr alfalfa	21.8	Alfalfa	21.7	alfalfa	21.8
W7	2-yr alfalfa	23.8	Alfalfa	25.2	alfalfa	23.8
W8	2-yr alfalfa	25.1	Alfalfa	27.1	alfalfa	25.1
X1	irrigated pasture	108.9	Non-irrig native pasture	37.6	pasture	108.9
X1			Farmstead w/ residence	1.3		
X1	irrigated pasture		Non-irrig native pasture	101.0	pasture	24.6
X2	irrigated pasture	24.5	Native pasture - partially irrig'd	24.3	pasture	44.7
X3	irrigated pasture	44.7	Mixed pasture	42.3	pasture	31.5
X4	irrigated pasture	31.5	Mixed pasture	29.9	pasture	51.0
X5	irrigated pasture	51.0	Mixed pasture	52.8	pasture	66.7
X6	irrigated pasture	66.7	Mixed pasture	9.0	pasture	
X6			Mixed pasture	55.5		
X7	irrigated pasture	77.0	Mixed pasture	77.0	pasture	77.0
X8	irrigated pasture	40.0	FIELD NOT IDENTIFIED ON MAP			40.0
X9	pasture	34.9	Non-irrig native pasture	28.8	pasture	34.9
X9	pasture		Native veg	34.9	pasture	
X10	pasture	59.2	Non-irrig native pasture	37.0	pasture	59.2
X11	pasture	42.6	Native veg	55.1	pasture	42.6
X11	pasture		Native veg	42.1	pasture	
X12	pasture	157.6	Native veg	28.9	pasture	157.6
X12	pasture		Native veg	128.6	pasture	
	TOTAL 2007 PRC ACRES (1)	3096.6	SUBTOTAL DWR ACRES (2)	2973.1	TOTAL 2008 PRC ACRES	3024.3
			Farmstead no residence	2.9		
	ON PRC 2007 CROP TABLE, FIELDS		Farmstead no residence	1.4	ON PRC 2008 CROP TABLE, FIELDS	
	BALDWIN, D2S, X8 ARE LISTED,		Farmstead no residence	4.3	D2S, X8 ARE LISTED.	
	THESE FIELDS ARE NOT		Farmstead w/ residence	1.5	THESE FIELDS ARE NOT	
	IDENTIFIED ON THE PRC MAP		Misc semi-ag	0.6	IDENTIFIED ON THE PRC MAP	
			Misc semi-ag	0.1		
			Misc semi-ag	2.6		
			Misc semi-ag	1.4		

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PRC Field ID	2007 PRC LAND USE	2007 PRC ACRES	2007 DWR LAND USE	2007 DWR ACRES	2008 PRC LAND USE	2008 PRC ACRES
			Misc semi-ag	0.2		
			Misc semi-ag	2.1		
			Misc semi-ag	1.6		
			Misc semi-ag	0.5		
			Misc semi-ag	0.8		
			Misc semi-ag	0.5		
			Misc semi-ag	1.2		
			Misc semi-ag	2.2		
			Native Riparian	1.2		
			Native Riparian	1.9		
			Native veg	3.1		
			Native veg	0.8		
			Native veg	15.8		
			Native veg	8.6		
			Native veg	6.9		
			Native veg	8.1		
			Native veg	1.7		
			Native veg	8.0		
			Native veg	1.6		
			Native veg	5.1		
			Native veg	4.6		
			Urban commercial - office	5.6		
			Water	2.4		
			Water	2.3		
			SUBTOTAL DWR MISC ACRES (3)	102.3		
			TOTAL DWR ACRES (4)	3075.4		

NOTES

- (1) Total acres listed on PRC documentation
- (2) Subtotal of DWR acres as fields correlate to PRC identified fields
- (3) Subtotal of DWR acres of lands associated with urban and agricultural practices (dirt roads, ditches, farmsteads, equipment/hay storage areas) but not cropped
- (4) Total DWR acreage for lands in PRC identified area

Attachment 2

Terms Under Which DWR's Protest of PRC Petition for Temporary Change Can Be Dismissed

1. Transfer shall be limited to the reduction in the evapotranspiration of applied water on the specific fields to be fallowed.
2. The petitioner and Contra Costa Water District shall jointly submit to the SWRCB Deputy Director for Water Rights a plan describing the fallowing program on Byron Ranch. Concurrent with the submission of the plan to SWRCB Deputy Director for Water Rights, the petitioner and Contra Costa Water District shall also submit the plan to DWR to allow DWR the opportunity to review it and comment on the plan to the Board. The plan shall include the following:
 - a. Specific fields to be fallowed, net acreage of the field, and the crops grown in 2008. Fallowing shall be limited to those fields fully irrigated during the months of the transfer under normal operations;
 - b. Estimation of the water made available through fallowing, taking in to consideration potential evapotranspiration and evaporation on fallowed fields;
 - c. Specific measures to control weed growth on the fallowed fields;
 - d. Specific measures acceptable to DWR to monitor fallowed fields to determine the actual amount of water saved through fallowing accounting for any losses due to soil or weed growth evapotranspiration on the fallowed fields. The monitoring plan shall require submittal of a final accounting to the Deputy Director for Water Rights verifying the quantities of water saved;
 - e. Proposed operation of the irrigation canals on Byron Ranch during the transfer period.
3. Until the Deputy Director for Water Rights approves the fallowing plan, including monitoring and verification, petitioner may not divert water at the CCWD intakes. In addition, the Petitioner may not divert water pursuant to this Order unless petitioner agrees to implement fully the approved fallowing, monitoring and verification plan.
4. Petitioner may not transfer water to CCWD pursuant to this Order unless CCWD submits to the Deputy Director for Water Rights written confirmation that CCWD has agreed to forego diversion from Old River in 2009 at a time mutually acceptable to DWR and the Bureau of Reclamation to the extent that the Deputy Director determines that the amount of water actually saved through fallowing was less than the amount of water transferred pursuant to this Order.