



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 3,500 ACRE FEET OF WATER
FROM RIVER GARDEN FARMS COMPANY
TO THE DEPARTMENT OF WATER RESOURCES'
DROUGHT WATER BANK
UNDER LICENSE 1718 (APPLICATION 575)**

Notice is hereby given that on March 10, 2009

River Garden Farms Company
c/o Maja K. Haium
621 Capitol Mall, 18th Floor
Sacramento, CA 95814

filed with the State Water Resources Control Board (State Water Board) a Petition for Temporary Change under Water Code section 1725, et seq. River Garden Farms Company's (RGF) petition requests the transfer of up to 3,500 acre-feet (af) of water for use within the Central Valley Project (CVP) or the State Water Project (SWP) service areas. The transfer will be administered by the Department of Water Resources' (DWR) Drought Water Bank. Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

BACKGROUND

RGF holds direct diversion water rights on the Sacramento River (near Knights Landing) to divert up to 32 cubic feet per second (cfs) of water during the irrigation season. RGF also holds a Sacramento River Settlement Contract with the United States Bureau of Reclamation (Reclamation). Pursuant to this contract, Reclamation agrees to provide water to RGF during dry periods when natural flow in the Sacramento River may not be sufficient to support direct diversion water rights. RGF proposes to reduce (or forbear) its diversions from the Sacramento River by 3,500 af and pump additional groundwater within its service area to make up the forborne water.

DESCRIPTION OF THE TRANSFER

RGF proposes to transfer up to 3,500 af of water under License 1718 (Application 575) to DWR's Drought Water Bank through the CVP or SWP Pumping Plants. To facilitate this transfer, RGF will pump additional groundwater and reduce its direct diversion from the Sacramento River by 19 cfs between July and October. The petition states that the groundwater wells proposed for additional pumping meet criteria established by the Department of Water Resources for these types of transfers. At times when pumping

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capacity is available in the Delta, the additional 19 cfs of flow in the Sacramento River would be available for diversion/rediversion at the Clifton Court Forebay or the Jones Pumping Plant. Water would be used within the SWP or CVP service areas (administered by the Drought Water Bank). The petition requests that the change be effective for up to one year from the date of approval.

In the absence of this transfer, RGF would have diverted the forborne water for use within its service area.

ADDITIONAL INFORMATION

The petitioner submitted a copy of the groundwater management plan for RGF and correspondence with Yolo County regarding the groundwater substitution plan for this transfer. This information is 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.

PROPOSED TEMPORARY CHANGE

The proposed transfer would temporarily add the Clifton Court Forebay and the Jones Pumping Plant as points of diversion/rediversion under License 1718. The service areas of the SWP (as shown on maps 1878-1, 2, 3 & 4 on file with Application 5629) and the CVP (as shown on map 214-208-12581 on file with Application 5626) would be temporality added to the place of use of License 1718. Domestic, municipal, industrial, power generation, salinity control, fish and wildlife enhancement, water quality control, and stockwatering would be temporarily added as purposes of use under License 1718.

PETITIONER'S WATER RIGHT

License 1718 (Application 575) authorizes the direct diversion of up to 32 cfs of water per annum from the Sacramento River between March 1 and October 31 of each year for irrigation purposes. Two authorized points of diversion for License 1718 are located near Knights Landing on the Sacramento River and the authorized place of use consists of 3,508.2 acres.

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, commenters should provide sufficient information to support claims of injury or unreasonable effects on fish, wildlife, or other instream uses.

Due to the relative brevity of the temporary transfer process, the Division of Water Rights (if necessary) may request that the petitioner submit additional information

during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the Division of Water Rights' website at www.waterrights.ca.gov, Water Transfer Program, Notices of Transfers and Temporary Urgency Actions. Potential commenters are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received in the office of the State Water Board's Division of Water Rights, at the first address listed below by **2:00 p.m. on April 27, 2009**. Additionally, a copy of the comments must be filed with RGF. **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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c/o Greg Wilson
P.O. Box 2000
Sacramento, CA 95812-2000
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River Garden Farms Company
c/o Maja K. Haium
621 Capitol Mall, 18th Floor
Sacramento, CA 95814
FAX: (916) 520-5912

Please address questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner should be addressed to Maja K. Haium at (916) 520-5512. Questions regarding DWR's Drought Water Bank should be directed to Theresa Geimer at (916) 651-7194.

ORIGINAL SIGNED BY

Leslie F. Grober, Manager
Hearings and Special Programs Section

Dated: March 26, 2009