



State Water Resources Control Board



Division of Water Rights

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Linda S. Adams

Secretary for

Environmental Protection

Arnold Schwarzenegger

Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF UP TO 12,494 ACRE FEET OF WATER
FROM PROPERTY RESERVE CALIFORNIA, INC.
TO THE CONTRA COSTA WATER DISTRICT
UNDER LICENSES 1605 & 4953 (APPLICATIONS 6587 & 8338)**

Notice is hereby given that on December 23, 2008

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

filed with the State Water Resources Control Board (State Water Board) a Petition for Temporary Change under Water Code section 1725, et seq. Property Reserve California, Inc.'s (PRC) petition requests the transfer of up to 12,494 acre-feet (af) of water to the Contra Costa Water District (CCWD). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

DESCRIPTION OF THE TRANSFER

PRC proposes to transfer up to 12,494 af of water under Licenses 1605 and 4953 (Applications 6587 and 8338) to CCWD between May 4, 2009 and October 30, 2009. To make water available for transfer, PRC proposes to fallow about 2,000 acres of land previously planted with a variety of alfalfa, rye grass, pasture, wheat, and other similar crops. The area to be fallowed (referred to as Byron Ranch) is located just northwest of Italian Slough and the Clifton Court Forebay. PRC's petition states that fallowed lands will be used for spring grazing but will not be irrigated. PRC proposes to allow CCWD to divert the amount of water made available through fallowing at either the Rock Slough Intake or its Old River Intake. PRC's petition states that the maximum combined increase in rate of diversion at CCWD's intakes under the proposed transfer is 29.6 cubic feet per second (cfs). Maps showing the location of the Byron Ranch, the locations of existing points of diversion under License 1605 and 4953, the locations of CCWD's intakes, and the location of CCWD's service area are posted online with the copy of this notice at: <http://www.waterrights.ca.gov/application/tempurgnotices.htm>.

PRC's petition includes information regarding historical cropping patterns on Byron Ranch for the years 2002 through 2008, as well as estimated total annual diversions under Licenses 1605 and 4953 for these years. Additionally, PRC has submitted

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information regarding estimated evapotranspiration of applied water (ETAW) for various crop types. In the absence of this transfer, PRC would have undergone normal planting operations at Byron Ranch and diverted water under Licenses 1605 and 4953 for use within its service area.

PROPOSED TEMPORARY CHANGE

The proposed transfer would temporarily add CCWD's Rock Slough Intake and Old River Intake as points of diversion under Licenses 1605 and 4953. CCWD's service area (as shown on map submitted with the petition) would be temporarily added to the place of use of Licenses 1605 and 4953. Municipal and industrial would be temporarily added as purposes of use under Licenses 1605 and 4953.

PETITIONER'S WATER RIGHTS

License 1605 (Application 6587) authorizes the direct diversion of up to 23.7 cfs of water per annum between January 1 and December 31 of each year for irrigation purposes. License 1605 includes nine fixed points of diversion and three movable points of diversion. These points of diversion are located on Old River, Italian Slough, and Dredger Cut. The authorized place of use under License 1605 consists of 2,356.9 acres located on Byron Tract.

License 4953 (Application 8338) authorizes the direct diversion of up to 14 cfs of water per annum between January 1 and December 31 of each year for irrigation purposes. License 4953 includes nine fixed points of diversion and three movable points of diversion. These points of diversion are located on Old River, Italian Slough, and Dredger Cut and are the same as the authorized points of diversion under License 4953. The authorized place of use under License 4953 consists of 2,220.62 acres located on Byron Tract. The authorized place of use under License 4953 is substantially similar to the authorized place of use under License 1605.

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;
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses; and

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 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 commenters are strongly urged to check the website for such information prior to filing a comment.

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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 February 17, 2009**. Additionally, a copy of the comments must be filed with PRC. **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.

Division of Water Rights
c/o Greg Wilson, P.E.
P.O. Box 2000
Sacramento, CA 95812-2000
FAX: (916) 341-5400

Property Reserve California, Inc.
c/o Monique de Barruel, P.E.
West Yost Associates
2020 Research Park Drive, Suite 100
Davis, CA 95618
FAX: (530) 756-5991

Please address questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner/transferee should be addressed to Monique de Barruel at (530) 792-3221.

Original signed by

Leslie F. Grober, Manager
Hearings and Special Programs Section

Dated: January 9, 2009