

P6L
A007012



SOMACH SIMMONS & DUNN

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

500 CAPITOL MALL, SUITE 1000, SACRAMENTO, CA 95814
OFFICE: 916-446-7979 FAX: 916-446-8199
SOMACHLAW.COM

WATER RESOURCES

2011 MAR 16 PM 2:38

DIV. OF WATER RIGHTS

March 16, 2011

Via Hand-Delivered

Katherine Mrowka
Division of Water Rights
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Dear Ms. Mrowka

Enclosed please find a Petition for Long Term Transfer of Water and the required Environmental Information for Petitions and supporting documentation for a proposed transfer of up to 5,000 acre feet of water from the Stevinson Water District, in Merced County, to the San Luis Canal Company, also located in Merced County.

With Delta pumping limitations, annual changes in hydrology, and increased loss of conveyance flexibility within the Federal and State water distribution systems, water supplies to Central Valley farmers have been severely restricted, creating a demand for reliable supplemental water supplies. Additionally, variations in regional surface water quality have adversely impacted San Luis Canal Company (SLCC) water supplies delivered through the Central Valley Project. This transfer, therefore, has two primary objectives: to provide reliable, supplemental water supplies to Panoche Water District and to improve water quality in the northwesterly region of SLCC. This transfer will provide San Luis Canal Company with up to 5,000 acre-feet of water from the Stevinson Water District and East Side Canal & Irrigation Company, which will increase the quality of water within SLCC and, at the same time, provide the Panoche Water District with CVP water that would have been delivered to SLCC.

The water proposed for this transfer is the same conserved water that formed the basis of a temporary transfer approved in WR 2010-0030-DWR.

3/16/11
Rec.
\$ 3,497.00
\$ 850.00

Katherine Mrowka
March 16, 2011
Page 2

Enclosed please find a check in the amount of \$3,497 payable to the State Water Resources Control Board, along with a check for \$850 payable to the California Department of Fish and Game. Also attached hereto is a Proof of Service to the Department of Fish and Game and the Merced County Board of Supervisors. If you have any questions, or require additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'DK', with a long horizontal flourish extending to the right.

Daniel Kelly

DK:yd
Enclosures

cc: East Side Canal Irrigation Company
P.O. Box 818
Newman, CA 95360

San Luis Canal Company
11704 Henry Miller Ave
Dos Palos, CA 93620-9748

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.

On March 16, 2011 I served the following document(s):

LETTER TO KATHERINE MROWKA AT THE STATE WATER RESOURCES CONTROL BOARD, DATED MARCH 16, 2011

PETITION FOR TEMPORARY TRANSFER OF WATER RIGHTS

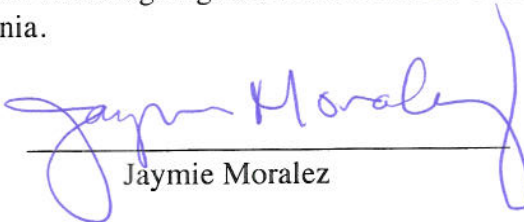
ENVIRONMENTAL INFORMATION FOR PETITIONS – PETITION FOR CHANGE

X (by mail) on all parties in said action listed below, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Somach, Simmons & Dunn, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Sacramento, California.

**Merced County Board of Supervisors
2222 M Street
Merced, CA 95340**

**California Department of Fish and Games
1416 9th Street
Sacramento, CA 95814**

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 16, 2011, at Sacramento, California.



Jaymie Moralez

KMG


SOMACH SIMMONS & DUNN
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
500 CAPITOL MALL, SUITE 1000, SACRAMENTO, CA 95814
OFFICE: 916-446-7979 FAX: 916-446-8199
SOMACHLAW.COM

WATER RESOURCES
2011 JUL 22 PM 12:44
DIV. OF WATER RIGHTS

July 22, 2011

Via Hand-Delivered

Kathryn Gaffney
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Dear Ms. Gaffney:

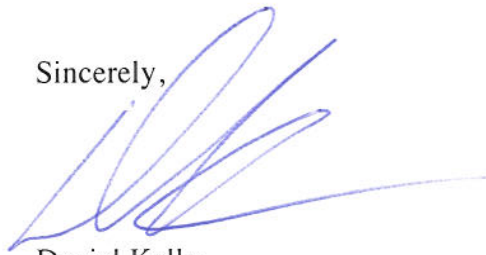
Following up on our earlier telephone conversation, enclosed please find a CD containing electronic copies of the documents filed in support of the long term transfer petition from East Side / Stevinson to the San Luis Canal Company. In addition to the transfer petition, environmental information form, California Environmental Quality Act and National Environmental Policy Act documentation, I have included the memorandum and technical document provided in support of a temporary transfer of this same "conserved" water previously approved by the State Water Resources Control Board. This information was generated as a result of a meeting with the Department of Water Resources (DWR) and the United States Bureau of Reclamation to resolve concerns that DWR had with the previous transfer. These additional documents also support the instant transfer petition

In addition to the above, and consistent with my telephone conversation with you and Kathy Mrowka, we are requesting a change to the license under which this transfer will occur. Stevinson and East Side jointly hold three licenses to divert the water subject to this transfer. License 005940 (1927), License 005941 (1928), and License 006222 (1931) all involve water diverted from Bear Creek and a combination of various small tributaries (McCoy Spillway, Arena Spillway, and Owens Creek), which all carry water delivered to Stevinson / East Side by the Merced Irrigation District. All of this water is diverted into the East Side Canal where it is transported to the Stevinson / East Side service area.

When completing water use reporting, Stevinson and East Side determined that most of its diversions took place under its most senior right (License 005940), with little, if any, occurring under its most junior right (License 006222).¹ As the diversions from Bear Creek occur primarily under License 005940, Stevinson and East Side request that the Petition for Long Term Transfer be revised to reflect actual operations – and change the place of use of License 005940 (not 006222) to add the proposed place of use.

There are no intervening rights to this water that are implicated by this proposed modification to the Petition, and the substance of the Petition remains unchanged. If you have any questions, or require additional information, please do not hesitate to contact me.

Sincerely,



Daniel Kelly

DK:yd
Enclosures

cc: East Side Canal Irrigation Company
P.O. Box 818
Newman, CA 95360

San Luis Canal Company
11704 Henry Miller Ave
Dos Palos, CA 93620-9748

¹ I also understand that the conserved water savings may have been previously reported under the report for License 006222. As the three licenses involve the same water, Stevinson has been reporting the conserved savings under a single license, as to not double or triple report. In the future, Stevinson will report this conserved water savings when it reports for License 005940.

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

WATER RESOURCES CONTROL BOARD
2011 MAR 16 PM 1:37
DIVISION OF WATER RIGHTS

**PETITION FOR LONG TERM TRANSFER OF
WATER/WATER RIGHTS**

INVOLVING A CHANGE _____ OF POINT OF DIVERSION
X OF PLACE OF USE
OF PURPOSE OF USE

Pursuant to the following Water Code section ___ 382, or X 1735

BASIS OF RIGHT:

Application ~~7012~~ 5724 Permit ~~5733~~ 5726 License ~~6222~~ 5940

I hereby petition the State Water Resources Control Board (State Water Board) for a transfer of water/water rights under the above permit or license as **shown on the accompanying map** and described as follows:

1. (a) Present Point of Diversion Intersection of Bear Creek and East Side Canal
((x)-120.7190657 (y)37.2543404 NAD 83 DATUM)
(b) Proposed Transfer Location of Point of Diversion No Change.
(Give coordinate distance from Section corner or California Coordinates)

2. (a) Present Place of Use See Attachment
(b) Proposed Transfer Location of Place of Use See Attachment
(If irrigation, state number of acres within each 40 acre subdivision)

3. (a) Present Purpose of Use Irrigation
(b) Proposed Purpose of Use No Change

4. This transfer is to be effective from April 2012 to March 2022
5. It is understood that the precise effect of a transfer on other legal users or instream beneficial uses is difficult to determine in advance of such a transfer. However, please answer the following questions to the best of your knowledge:
(a) Is this transfer likely to cause substantial injury to any legal user of water? Yes _____ No X
Remarks: _____
(b) Is this transfer likely to cause any unreasonable effect on fish, wildlife or other instream beneficial uses? Yes _____ No X Remarks: _____

(c) Will transfer unreasonably effect the overall economy of the area from which the water is being transferred (Water Code Section 386.) No

(d) Have you consulted the California Department of Fish and Game concerning this proposed change? Yes X No . If Yes, state the name and phone number of the person contacted and the opinion concerning the potential effects of your proposed change on fish and other wildlife and state measures required for mitigation.

California Department of Fish and Game, Dr. Jeffrey R. Single
(559) 243-4005

6. State the conditions that are the basis of this transfer. See Attachment

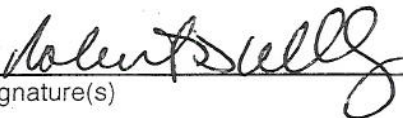
7. If the point of diversion is being changed, are there any persons taking water from the stream between the old point of diversion and the new point? Yes No X. Between the old point of return flow and the new point of return flow? Yes No X. If the answer is "yes", please list names and addresses

8. Following the expiration of the transfer period, all rights shall automatically revert to the original holders of such right without any action by the State Water Board.

THIS TRANSFER OF WATERWATER RIGHTS DOES NOT INVOLVE AN INCREASE IN THE AMOUNT OF THE RIGHT OR SEASON OF USE.

9. I (We) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief.

Dated: 3/10/11 at STEVINSON, California.


Signature(s)

209 634 4508
Telephone No.

If there is insufficient space for answers to this form, attach extra sheets. Please cross reference all remarks to the numbered paragraph to which they refer.

NOTE: All petitions must be accompanied by the **filing fee**, (see fee schedule at www.waterrights.ca.gov) made payable to the State Water Resources Control Board and an **\$850 fee** made payable to the Department of Fish and Game must accompany this petition. Separate petitions are required for each water right.

Attachment to Petition

2. Place of Use

Existing: Historic Service Area of Stevinson Water District and East Side Canal and Irrigation Company totaling 18,347 acres within Township 6, 7 and 8 south, Ranges 9 and 10 east.

Proposed: See attached "Property Transfer Documentation" for legal description of Henry Miller Reclamation District #2131 – proposed place of use

6. Conditions

Purpose of Transfer

Delta pumping limitations, annual changes in hydrology, and increased loss of conveyance flexibility within the Federal and State water distribution systems has restricted the water supply allocation to Panoche Water District (PWD), creating a demand for reliable supplemental water supplies. Additionally, variations in regional surface water quality have adversely impacted the San Luis Canal Company (SLCC) water supplies delivered through the CVP. The Proposed Project has two primary objectives: to provide reliable, supplemental water supplies to PWD; and to improve water quality in the northwesterly region of SLCC.

Source of Supply for Transfer

Water supplies originate from the various sources identified in the License and are diverted into the East Side Canal (constructed in the late 1800s). All water diverted into the East Side Canal is consumptively used, and the District manages its irrigation system so that there are no agricultural return flows. With this in mind, water diverted under License 6222 has historically been consumptively used within the existing place of use. Much of the water diverted pursuant to License 6222 is provided by the Merced Irrigation District pursuant to a 1928 settlement agreement, which was incorporated into a decree of the Merced County Superior Court. (See *Stevinson Water District v. Roduner* (1950) 36 Cal. 2d 264 [water diverted under the license includes "an undetermined amount of water released by the Merced Irrigation District in accordance with Decree of the Superior Court, Merced County, No. 6179, entered February 11, 1930"].)

The Stevinson Water District (Stevinson) and East Side Canal and Irrigation Company (East Side) deliver water to the Merquin County Water District (Merquin). Merquin is located within the existing place of use of the water right license. Stevinson and East Side have completed piping 46,150 linear

feet of open ditches within Merquin, which resulted in the conservation of 4,707 acre-feet of water previously lost to evaporation and deep percolation. The piping project has directly resulted in a reduction of deliveries to Merquin of 4,000 afa. Stevinson and East Side meter deliveries to Merquin and Merquin will receive no more than 14,211 af of deliveries this year under its contract with Stevinson and in all subsequent years, down from a previously delivery obligation of 18,211 af. This 4,000 af is proposed to be delivered to San Luis Canal Company under the proposed transfer.

Stevinson's and East Side's delivery obligation to Merquin has a single shortage provision, which is only applicable when Stevinson's supplies are reduced by the Merced Irrigation District. Merced Irrigation District supplies are reduced only where the "reservoir or reservoirs of the [Merced Irrigation] District do not fill on or before June 15th to the amount of 289,000 acre feet." (Agreement between Merced Irrigation District and James J. Stevinson dated October 29, 1929, entered as a Decree of the Superior Court, Merced County, No. 6179, entered February 11, 1930.) This shortage provision was entered when old Exchequer Dam was in place on Lake McClure - which was replaced by New Exchequer Dam. This shortage provision has not, to date, taken effect and Merced Irrigation District's deliveries to Stevinson have never been reduced pursuant to this provision.

Additionally, 14,250 linear feet of piping has been completed within Stevinson, which will result in the conservation of 1,455 acre-feet of water previously lost to evaporation and deep percolation. The conservation of this 1,455 acre feet of water will result in a reduction of water delivered into Field ID's 801, 802, 89 (500 af) (Highline #1 & Rice Field laterals), Field ID's 52, 53, 54, 55, 56, 64 (300 af) (Turner Slough, Pump #1 & #2), Filed ID's 16,17,18, 25 (200 AF) (Sprole Ditch, Second Ave. Ditch, Home Ranch Lateral), which are all metered. 1,000 acre feet of the 1,455 is proposed to be delivered to San Luis Canal Company under the proposed transfer. Stevinson will document the reduced deliveries to the above-mentioned Field ID#'s to support the amount transferred.

Absent the transfer to the San Luis Canal Company for use within its service area, this water would be consumptively used within the existing service area of the Stevinson Water District and/or the historic service area of The East Side Canal & Irrigation Company.

No Changes in Return Flows or Drainage

Currently, water is diverted from the various sources, including Bear Creek, into the East Side Canal. Under the proposed transfer, water will continue to be diverted at the same point of diversion at the East Side Canal. As this water is normally diverted from Bear Creek, there will be no change in water quality, timing of diversion or use.

Stevinson Water District and the East Side Canal & Irrigation Company manage the irrigation system so that there are no discharges, resulting in no return flows. Moreover, the total quantity of water proposed for transfer has historically been consumptively used. As such, there is no expected change in return flows.

No injury to other legal users of water

Water diverted under License No. 6222 is diverted from Bear Creek into the East Side Canal, the main conveyance facility for the Stevenson Water District and The East Side Canal & Irrigation Company. Once diverted into the East Side Canal, the water is conveyed to the existing place of use, into a closed irrigation system, which provides no return flows. Under the proposed transfer, water would continue to be diverted at the East Side Canal and conveyed to the proposed place of use through new conveyance facilities currently being constructed by others.