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Bureau of Reclamation  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825-1098  
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February 14, 2005

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

Petition to Temporarily Change Effective Date of Condition Imposed in Water Right  
Decision 1641

Dear Ms. Whitney:

The California Department of Water Resources (DWR) and the United States Bureau of Reclamation petition the State Water Resources Control Board (SWRCB) to temporarily modify conditions of our water rights to delay the effective date for the southern Delta salinity objective of 0.7 EC at three locations: San Joaquin River at Brandt Bridge (C-6), Old River near Middle River (C-8), and Old River at Tracy Road Bridge (P-12). Under Revised Water Right Decision 1641 (D-1641), DWR and Reclamation water right permits are conditioned on implementing the 0.7 EC objective during April through August, beginning April 1, 2005, unless permanent barriers are constructed, or equivalent measures are implemented, in the southern Delta, and an operations plan that reasonably protects southern Delta agriculture is prepared. If the 0.7 EC objective is not imposed in April, DWR and Reclamation will continue to meet the 1.0 EC objective, install temporary rock barriers, and take other actions to protect agricultural beneficial uses. DWR and Reclamation have attached two petitions to request the change in our water rights: (1) Petition for Temporary Urgency Change pursuant to Water Code Section 1435 that would authorize a delay in the effective dates for 180 days; and (2) Petition for Change pursuant to Water Code Section 1700 that would authorize a delay until December 31, 2008.

DWR and Reclamation request a delay in the April 2005 effective date to implement the 0.7 EC objective because installation of permanent operable barriers in the south Delta, a key underpinning for establishment of the date, has been delayed. At the time D-1641 was adopted in December 1999 (Revised March 15, 2000), DWR and Reclamation anticipated that the Interim South Delta Program (ISDP) would be

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implemented with construction of permanent barriers by early 2005 (See DWR Exhibit to D-1641 hearings, DWR-37 p. 6; D-1641 pgs. 9 and 87). However, despite DWR and Reclamation's diligence in pursuing installation of the permanent barriers, multiple factors mostly beyond the control of DWR and Reclamation delayed the barrier project. DWR and Reclamation have reconfigured the ISDP into a similar program described by the CALFED Bay-Delta Program, now called the South Delta Improvement Program (SDIP). The Draft EIR/EIS for the SDIP is scheduled for release in March 2005 and DWR and Reclamation anticipate completion of construction and begin operation of the permanent barriers in late 2008.

DWR and Reclamation believe it is in the public interest for the SWRCB to delay the effective date of the 0.7 EC objective for 180 days on a temporary urgency basis, pursuant to Water Code Section 1435, for the reasons discussed below. In addition, subsequent to a temporary urgency change, DWR and Reclamation believe it is in the public interest to delay the date until December 31, 2008, when the permanent barriers are completed, as a temporary change in our water rights pursuant to Water Code Section 1700. Because the permanent barriers cannot be installed by April 2005, imposition of the more stringent 0.7 EC agriculture salinity objective could force DWR and Reclamation to release large quantities of water from upstream reservoirs in an attempt to meet the 0.7 EC objective in the southern Delta. It is unlikely that the increased flows alone will result in compliance with the objective. The additional releases could result in significant reductions in water supplies and could result in an unreasonable use of water in conflict with a constitutional and statutory responsibility to prevent such waste and unreasonable use of water (California Constitution Article X, section 2; Water Code Section 100). The request for delay under Section 1435 is urgent so that the change in the DWR and Reclamation water right condition can be made before April 1, 2005. [If the condition is not changed before that date, DWR and Reclamation could be required to take actions that would result in an unreasonable use of water and a significant reduction in water supplies south and west of the Delta, or be subject to the SWRCB's enforcement action.]

## DISCUSSION

### A. Decision 1641 Water Right Hearings and Basis for 2005 Date

In September 1998 during the water right hearings that led to D-1641, DWR presented testimony explaining modeling results of permanent barrier operation showing improved water levels and circulation in the southern Delta area (Exhibit DWR-37 from D-1641 hearings, p.15-22; D-1641 p. 9). DWR explained that water quality in the southern delta is dramatically improved with the permanent barriers because of the

improved circulation (*Id.* at p. 19). DWR further explained that the proposed southern Delta operable barriers would provide greater ability to improve water quality and water levels beyond that available using the current temporary rock barriers (*Id.* at p. 19-20).

In D-1641, the Board recognized the limits of the temporary rock barriers to control salinity and noted that modeling shows that "operation of the *temporary barriers* should achieve water quality of 1.0 mmhos/cm at the interior stations under most hydrologic conditions." (D-1641 p. 88, emphasis added.) The Board then required that DWR and Reclamation be responsible for meeting the 1995 WQCP salinity objectives in the southern Delta under the assumption that the projects would have the permanent operable barriers in place to meet the objectives by April 1, 2005 (D-1641, p. 88). In 1998, during Phase 5 of the D-1641 water right hearings, DWR gave testimony that it expected completion of necessary documents and the construction of the key barriers for the ISDP according to the following schedule: conclusion of formal consultation under the Endangered Species Act (ESA) by fall of 1998; completion of the final EIR/EIS for ISDP by spring of 1999; and operation of two agricultural barriers and the fish barrier by early 2005 (DWR Exhibit to D-1641 hearings, DWR-37 p. 6).<sup>1</sup>

The SWRCB relied upon the anticipated operation of the southern Delta permanent barriers when adopting the conditions to implement the southern Delta objectives by April 1, 2005. The Board linked the effective date of the 0.7 EC objective to installation of the permanent barriers in recognition that State Water Project (SWP) and Central Valley Project (CVP) operations without the barriers could not, in many years, achieve the more stringent objective. The SWRCB stated in D-1641, in reference to the *permanent barriers*, that:

"benefits of the [permanent] barriers are integral to the implementation of several of the actions approved in this decision. The benefits of the barriers could be achieved by other means, such as increased flows through the southern Delta and export restrictions, but these measures could result in unreasonable use of water and a significant reduction in water supplies south and west of the Delta" (D-1641 p. 10).

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<sup>1</sup> The third agricultural permanent barrier at Grant Line Canal was scheduled for operation in mid-2006 but the other ISDP barrier were expected to begin operation in early 2005 with expected improvements in water circulation and water quality (See DWR Exhibit to D-1641 hearing, DWR-37, p. 9 ).

In addition, as part of the conditions of Reclamation and DWR permits requiring implementation of the southern Delta agricultural salinity objectives, the SWRCB provides DWR and Reclamation "latitude in [their] method for implementing" the objective and acknowledges that "a barrier program in the southern Delta may help to ensure the objectives are met . . ." (D-1641 pp. 159 and 161).

If the water quality objectives are not met, DWR and Reclamation could be subject to enforcement action by the SWRCB. The SWRCB acknowledges, consistent with the premise that the permanent barriers are integral to implementing the southern Delta objectives, that it could find that "the noncompliance is the result of actions beyond the control of [DWR and Reclamation]" (D-1641 p. 159, 160, and 161). In such case, the SWRCB might not take enforcement actions against DWR and Reclamation. (*Id.*) Although DWR and Reclamation recognize the Board's discretion to not pursue enforcement actions, DWR and Reclamation request that the SWRCB approve a delay in the effective date to avoid placing DWR and Reclamation in a position where they are forced to choose between making an unreasonable use of water or be subject to an enforcement resulting from conditions beyond their control when no permanent barriers are in place.

As an example of the SWRCB's expectation that the permanent barriers would be operable in 2005, the SWRCB noted in D-1641 that it would "review the salinity objectives for the southern Delta in the next review of the Bay-Delta objectives *following construction of the barriers.*" (D-1641 p. 182, Table 2, footnote 5; emphasis added). The Board anticipated it would commence a WQCP review prior to 2005 and at such time would review information with respect to water quality in the southern Delta as influenced by operations of the permanent barriers. The SWRCB noted that:

"if, after actions are taken to achieve the benefits of barriers, it is determined that it is not feasible to fully implement the objectives, the SWRCB will consider revising the interior Delta salinity objectives when it reviews the 1995 Bay-Delta Plan" (D1641 p. 88, emphasis added).

The SWRCB was referring to actions that would achieve the benefits of "*permanent*" barriers. DWR provided evidence during D-1641 that even with the permanent barriers the 0.7 EC water quality objectives may not always be achieved under certain conditions. Because of this uncertainty, the SWRCB acknowledged that the objective would be reviewed after the barrier operations had commenced. The SWRCB has in fact performed review of the WQCP and is currently conducting workshops to consider amendments to the WQCP based on the review. A topic of the workshops includes

whether the WQCP should be amended to modify the southern delta agricultural water quality objectives. However, the circumstances that limit DWR and Reclamation's ability to achieve the more stringent 0.7 EC objective have not changed since adoption of D1641.

DWR and Reclamation continue to diligently pursue installation of permanent barriers as proposed in the SDIP. DWR and Reclamation are proceeding with plans to install the permanent barriers to settle a long-standing dispute with SDWA regarding the SWP and CVP Delta export facilities and water levels in the southern Delta channels. The SWRCB's Order, unfortunately, could not control the many aspects of planning for the permanent barriers and the SWRCB could not ensure installation of the barriers by the date proposed in D-1641.

#### **B. Due Diligence in Pursuing SDIP implementation**

In 1998 during water rights hearings for D-1641, DWR testified that it intended to implement permanent operable barriers (four total) by the beginning of 2005. During the hearings, DWR provided its best estimate of the schedule for completion of the permanent barriers. However, numerous developments occurred since then, many beyond DWR's control, which lengthened the schedule for construction and operation of the permanent barriers by approximately three years. The programs, actions, and circumstances below demonstrate the continued efforts made by DWR and Reclamation to diligently pursue implementation of the permanent barriers.

1. In 1995, federal and State agencies commenced actions to pursue development of a long-term CALFED Bay-Delta Program.<sup>2</sup> From 1995 to 2000, DWR worked with CALFED agencies to develop a long-term Bay Delta plan, which included consideration of alternatives for the south Delta program. In 2000 the Bay-Delta Programmatic EIR/EIS was completed and the State and federal government published the CALFED ROD (August 28, 2000). The CALFED agencies included in the ROD, as part of Delta conveyance actions, a south Delta program consisting of permanent operable barriers, increased SWP delta pumping capacity up to 10,300 cfs, and a new intake to Clifton Court Forebay with state-of-the-art fish screens. The program action also called for, prior to final construction of the facilities, DWR to operate the SWP delta pumps at a capacity of 8,500 cfs in conjunction with

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<sup>2</sup> The CALFED Program began in 1995 following federal and State agencies' agreement of the "Principles for Agreement on Bay-Delta Standards Between the State of California and the Federal Government" (December 1994, "Bay-Delta Accord").

operation of the existing temporary barriers program. As proposed under the ROD, DWR, as the implementing agency of the south Delta program, began preparing project specific environmental documentation analyzing the above actions for the South Delta Improvement Program (SDIP) EIR/EIS.

However, analysis of necessary fish screening facilities for a new Clifton Court Forebay intake and the associated increased pumping capacity to 10,300 cfs showed estimated costs of \$1 to 2 billion dollars for the intake and fish screen. In addition, the State and federal fish agencies<sup>3</sup> could not agree on the appropriate fish screen technology to use for the facilities. Because of the extremely high costs and disagreement about screening technology, DWR proposed that the scope of the SDIP be narrowed to not include a new intake nor pumping capacity to 10,300 cfs. The CALFED agencies concurred and agreed to indefinitely defer the elements associated with the 10,300 cfs action (i.e., the new intake and fish screens). Therefore, DWR redesigned the south Delta program using a SWP capacity of 8,500 cfs in conjunction with permanent operable barriers and some channel dredging. This decision-making process required approximately a year, from about December 2000 to December 2001.

2. The CALFED ROD specifies that the 8,500 cfs "operations plan will be developed through an open process" (ROD p. 49). To that end, DWR convened an 8,500 cfs stakeholder-agency process in January 2002 that lasted through October 2002 to solicit comments and recommendations on alternatives for 8,500 cfs that DWR could consider. At the conclusion of that process, three alternatives were developed for 8,500 cfs. However, because of requirements under the Federal Advisory Committee Act (FACA), Reclamation could not participate in the alternative selection process, which resulted in issues related to effects of increased SWP pumping and CVP operations.
3. In the summer of 2003, after the conclusion of the 8,500 cfs stakeholder-agency process, Reclamation and DWR met to discuss how best to integrate SWP and CVP project operations with the proposed 8,500 cfs program. These discussions led to an integration proposal agreeable to DWR and Reclamation and to the development of the California Bay Delta Authority's Delta Improvements Package that identifies

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<sup>3</sup> The three fishery agencies, NOAA fisheries, U.S. Fish and Wildlife Service and Department of Fish Game, could not reach agreement on fish screen requirements for the proposed facility.

other actions needed to fully protect Delta in-basin users. The Delta Improvements Package can be seen at the California Bay Delta Authority (CBDA) website: <http://calwater.ca.gov/> under Featured Links. CBDA adopted the DIP in August 2004.

4. During 2003 and 2004, Reclamation and DWR prepared a biological assessment (BA) of CVP and SWP operations to initiate consultation with the USFWS and NOAA Fisheries to obtain new biological opinions under the ESA for Delta smelt and salmonids, respectively. Reclamation prepared an Operations Criteria and Plan (OCAP) that describes CVP and SWP operations, which was used for the biological assessment and consultation. In order to best use staff time and resources for ESA consultations for OCAP and the proposed south Delta program, the fishery agencies requested that the OCAP consultation include the proposed permanent barriers and 8,500 cfs program. DWR prepared a preferred project description and modeling of impacts of the permanent barriers to be used during consultation and for the opinions. DWR and Reclamation expected to obtain the biological opinions in early spring of 2004. For a variety of reasons, the OCAP consultation was delayed about 4-6 months. In July 2004 and October 2004, DWR and Reclamation received biological opinions for SWP and CVP operations from the USFWS and NOAA fisheries. The opinions include early consultation regarding impacts to endangered species from the proposed permanent barrier operations. If the proposed operations change from that described in the opinions, the early consultation will be revisited and the opinions revised to address the changes, if needed.

Although DWR and Reclamation have been involved in the process of preparing environmental documents to implement the SDIP and permanent barrier program since 1995, the process has taken significantly more time than contemplated since its proposal in the CALFED program. The result is that the current estimate for constructing the permanent barriers and beginning their operation is late 2008. Therefore, we request that the SWRCB consider delaying implementation of the southern Delta objectives from 1.0 to 0.7 EC until the end of 2008.

### **C. Urgent Need to Delay Effective Date**

If D-1641 condition is not modified to allow for an extension of the effective date, then DWR and Reclamation would need to unreasonably use water in an attempt to meet the objective. DWR and Reclamation would be required to release large quantities of water from upstream reservoirs in an attempt to meet the 0.7 EC objective in the southern Delta. Due to the hydraulics in the Delta, it is unlikely that the DWR and Reclamation

can effect a measurable change in southern Delta salinity with upstream releases, making such releases a waste and unreasonable use of water. Such releases could significantly impact the water available to meet other water quality objectives contained in D-1641 as well as impact the ability of the SWP and CVP to meet water supply obligations. Without an extension in the effective date, DWR and Reclamation could be found in violation of either D-1641 if they exceed the 0.7 EC objective or in violation of statutory and Constitutional mandates to not waste or unreasonably use water (California Constitution Article 10, section 2; Water Code Section 100).

#### **D. Effect of Delaying Date**

In March 2005, DWR and Reclamation are scheduled to release the public Draft Environmental Impact Report and Environmental Impact Statement (EIR/EIS) on the proposed permanent barriers in the southern Delta. The agencies expect to certify a final EIR/EIS and complete the planning process by end of 2005. Because construction of the permanent operable barriers is scheduled to take approximately three years, the barriers will not be in operation until late 2008.

Delay of the effective date of the 0.7 EC objective will not injure other legal users of water because existing conditions would not change. DWR and Reclamation currently operate the SWP and CVP to achieve 1.0 EC in the southern Delta. They also implement the temporary barriers program, site specific modifications to agricultural diversions, and comply with operation agreements to protect southern Delta agricultural beneficial uses of water. In addition, no unreasonable effects on fish, wildlife, or other instream beneficial uses would result from the delay because existing conditions would not change.

#### **E. Proposed Change is in the Public Interest**

Attempts to meet the 0.7 EC objective could result in significant water supply impacts. It is in the public interest to not waste or unreasonably use water and therefore delay of the effective date would support the public interest. The delay should not result in impacts to agricultural or other beneficial uses in the southern Delta as the existing water quality objective of 1.0 EC will continue to be required and water quality conditions would be indistinguishable from existing conditions.

#### **F. Environmental Compliance**

DWR's request and the SWRCB approval of DWR and Reclamation's petition requesting delay of the effective date for implementing the southern Delta 0.7 EC

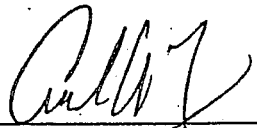
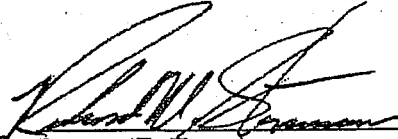


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objective at the specified locations are considered "projects" under the California Environmental Quality Act (CEQA). This proposed change, or project, however, has no potential to have a significant effect on the environment because delay of the effective date for imposing the water quality objective for agricultural uses results in environmental conditions that are indistinguishable from the pre-project conditions. Proposed projects are exempt from requirements of CEQA when there is no potential to significantly effect the environment. Therefore, DWR has determined that this proposed project is exempt from CEQA pursuant to Public Resources Code Section 21084 and Title 14 of California Code of Regulations Section 15061(b)(3). For purposes of the Temporary Urgency Change submitted under Water Code Section 1435, DWR will file a notice of exemption based on no change in the environment, especially in light of the limited duration of this change. However, because the change under Section 1700 will be for a three year period, DWR will conduct an initial study to determine if there is any potential for significant environmental impacts from the request to delay the effective dates. DWR has submitted the petitions to the California Department of Fish and Game for review to determine if the proposed change has potential to effect fish and wildlife.

**CONCLUSION**

Based on the above and as provided in the attached petitions and environmental form, DWR and Reclamation submit this request to change a term of our water right permits to delay the effective date of the southern Delta 0.7 EC objective at three compliance monitoring locations (San Joaquin River at Brandt Bridge ((C-6), Old River near Middle River (C-8), and Old River at Tracy Road Bridge (P-12)) pursuant to Water Code Section 1435 for 180 days and pursuant to Water Code Section 1700 to December 31, 2008. Please contact Cathy Crothers of DWR Office of the Chief Counsel, at (916) 653-5613, if you require additional information for the petition.

	2-14-05		2/15/05
Carl A. Torgersen, Chief SWP Front Office Division of Operations and Maintenance	Date	Donna E. Tegelman Regional Resources Manager US Bureau of Reclamation	Date

Attachments

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

**PETITION FOR CHANGE**  
(WATER CODE 1700)

\_\_\_\_ Point of Diversion, \_\_\_\_ Point of Rediversion, \_\_\_\_ Place of Use, \_\_\_\_ Purpose of Use  
 Time extension on imposition of Permit Term

Application 5630, 14443, 14445A, 17512, 17514A for DWR; See Attachment for Reclamation Application #s  
Permit 16478, 16479, 16481, 16482, 16483 for DWR; See Attachment for Reclamation Permit #s  
License 1986 (Reclamation)

I (we) California Department of Water Resources & U.S. Bureau of Reclamation hereby petition for change(s) noted above and shown on the accompanying map and described as follows:

**Point of Diversion or Rediversion** (Give coordinate distances from section corner or other ties as allowed by Cal CR 715, and the 40-acre subdivision in which the present & proposed points lie.)

Present Clifton Court Forebay, within NW ¼ of the SE ¼ of Projected Section 20, T1S, R4E MDB&M; Lindsey Slough within NW ¼ of the SE ¼ of Projected Section 20, T5N, R2E, MDB&M; Tracy Pumping Plant within SW ¼ of SW ¼, Section 31, T1S, R4E  
Proposed Same

**Place of Use** (If irrigation then state number of acres to be irrigated within each 40-acre tract.)

Present Within the Counties of Napa, Solano, Marin, Yolo, Sacramento, San Joaquin, Contra Costa, Alameda, Santa Clara, Merced, San Benito, Fresno, Tulare, Kings, San Luis Obispo, Kern, Santa Barbara, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego and Imperial as shown on the maps on file with the SWRCB; Places of use for Central Valley Project as shown on the following: CVP consolidated place of use Map # 214-208-12581, New Melones place of use Map # 214-208-10342, and Friant place of use Map #s 214-212-37 and 214-208-3331, all on file with the Division of Water Rights.  
Proposed Same

**Purpose of Use**

Present Irrigation, Domestic, Municipal, Industrial, Salinity Control, Recreation & Fish and Wildlife Enhancement, Incidental Power, Power, Water Quality Control  
Proposed Same

Does the proposed use serve to preserve or enhance wetlands habitat, fish and wildlife resources, or recreation in or on the water (See WC 1707)? No  
(yes/no)

• GIVE REASON FOR PROPOSED CHANGE:

The California Department of Water Resources (DWR) and the United States Bureau of Reclamation petition the State Water Resources Control Board (SWRCB) to temporarily modify conditions of our water rights to delay the effective date for the southern Delta salinity objective of 0.7 EC at three locations: San Joaquin River at Brandt Bridge (C-6), Old River near Middle River (C-8), and Old River at Tracy Road

Bridge (P-12). Under Revised Water Right Decision 1641 (D-1641), DWR and Reclamation water right permits are conditioned on implementing the 0.7 EC objective during April through August, beginning April 1, 2005, unless permanent barriers are constructed, or equivalent measures are implemented, in the southern Delta, and an operations plan that reasonably protects southern Delta agriculture is prepared. DWR and the Bureau are preparing a joint environmental document for the South Delta Improvement Program which includes three permanent operable barriers in the South Delta. However, due to a number of factors beyond the control of DWR and Reclamation, the permanent barriers will not be complete by April 1, 2005. The current schedule projects the release of the final environmental document in the spring of 2005 and the completion of construction and initiation of operation by late 2008. DWR is requesting an extension of the effective date of the 0.7 EC requirement in D1641 until December 31, 2008 under section 1700 of the California Water Code. DWR and Reclamation are currently operating three temporary barriers intended to benefit agricultural users in the Southern Delta. The temporary barriers are located on Old River near Tracy, Middle River and Grant Line Canal. The Department will continue to operate the temporary barriers to optimize the benefits to agricultural users in the Southern Delta and meet the 1.0 EC objective. Operation of the Temporary barriers will result in environmental conditions that are indistinguishable from the existing conditions. DWR and Reclamation will continue to pursue construction of the permanent barriers.

See attached February \_\_, 2005 letter to Mrs. Victoria Whitney and Temporary Urgency change for additional information regarding the need and justification for proposed change.

- WILL THE OLD POINT OF DIVERSION OR PLACE OF USE BE ABANDONED? No Change  
(yes/no)
- WATER WILL BE USED FOR purposes of use will not change from those specified in water rights permits.

I (we) have access to the proposed point of diversion or control the proposed place of use by virtue of? ownership  
(ownership, lease verbal or written agreement)

Are there any persons taking water from the stream between the old point of return flow and the new point of return flow? No  
(yes/no)

If by lease or agreement, state the name and address of party(s) from whom access has been obtained.

Give name and address of any person(s) taking water from the stream between the present point of diversion or redirection and the proposed point of diversion or redirection, as well as any other person(s) known to you who may be affected by the proposed change.

**THIS CHANGE DOES NOT INVOLVE AN INCREASE IN THE AMOUNT OF THE APPROPRIATION OR SEASON OF USE.**

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

Dated 02-14 2005 at Sacramento, California  
 Signature(s) [Handwritten Signature] Telephone No. (916) 574-2656  
 ACTING FOR DONNA TEGELMAN (916) 978-5200

NOTE: A \$1,000 fee, for each Application listed, made payable to the State Water Resources Control Board and an \$850 fee made payable to the Department of Fish and Game must accompany a petition for change.

United States Bureau of Reclamation Permits and License

Application	Permit	License
23	273 - 373df - 44,340 of	1986
234	11885 - 500,000	
1465	11886	
5626	12721 3 million	
5628	11967 - 1.5 million	
5638	11887 1.2 million	
9363	12722 310,000	
9364 - 1.3 million	12723	
9366 - 200 df	12725	
9367 150 df	12726	
9368 4,000 df	12727	
13370 - 1/2 million	11315	
13371 - 300,000	11316	
14858A - 980,000	16597	
14858B - 1 million	20245	
15374 - 200,000 7000 df	11968	
15375 - 1.2 million	11969	
15376 - 1.8 million	11970	
15764 - 1 million	12860	
16767 - 700,000	11971	
16768 - 700,000	11972	
17374 - 1500 df	11973	
17376 - 250,000	12364	
19304 - 1.4 million	16600	
22316	15735	

5,400 of

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

**PETITION FOR TEMPORARY URGENCY CHANGE**  
(Water Code 1435)

\_\_\_\_ Point of Diversion, \_\_\_\_ Point of Rediversion, \_\_\_\_ Place of Use, \_\_\_\_ Purpose of Use  
 Time extension on imposition of Permit Term

Application # 5630, 14443, 14445A, 17512, 17514A for DWR: See Attachment for Reclamation Application #s

Permit # 16478, 16479, 16481, 16482, 16483 for DWR: See Attachment for Reclamation Permit #s License #1986  
(Reclamation) Statement or Other

I (we) California Department of Water Resources & U.S. Bureau of Reclamation hereby petition for a temporary urgency change(s) noted above and shown on the accompanying map and described as follows:

Point of Diversion or Rediversion (Give coordinate distances from section corner or other ties as allowed by Cal CR 715; and the 40-acre subdivision in which the present & proposed points lie.)

Present Clifton Court Forebay, within NW ¼ of the SE ¼ of Projected Section 20, T1S, R4E MDB&M; Lindsey Slough within NW ¼ of the SE ¼ of Projected Section 20, T5N, R2E, MDB&M; Tracy Pumping Plant within SW ¼ of SW ¼, Section 31, T1S, R4E

Proposed Same

Place of Use (If irrigation then state number of acres to be irrigated within each 40-acre tract.)

Present Within the Counties of Napa, Solano, Marin, Yolo, Sacramento, San Joaquin, Contra Costa, Alameda, Santa Clara, Merced, San Benito, Fresno, Tulare, Kings, San Luis Obispo, Kern, Santa Barbara, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego and Imperial as shown on the maps on file with the SWRCB; Places of use for Central Valley Project as shown on the following: CVP consolidated place of use Map # 214-208-12581, New Melones place of use Map # 214-208-10342, and Friant place of use Map #s 214-212-37 and 214-208-3331, all on file with the Division of Water Rights.

Proposed Same

**Purpose of Use**

Present Irrigation, Domestic, Municipal, Industrial, Salinity Control, Recreation & Fish and Wildlife Enhancement, Incidental Power, Power, Water Quality Control

Proposed Same

Does the proposed use serve to preserve or enhance wetlands habitat, fish and wildlife resources, or recreation in or on the water (See WC 1707)? No  
(yes/no)

The temporary urgency change(s) is to be effective from April 1, 2005 to September 28, 2005  
(Cannot exceed 180 days)

Will this temporary urgency change be made without injury to any lawful user of water? Yes  
(yes/no)

Will this temporary urgency change be made without unreasonable effect upon fish, wildlife, and other instream beneficial uses? Yes (yes/no)

State the "Urgent Need" (Water Code 1435(c)) which is the basis of this temporary urgency change petition:

The California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) are proceeding with due diligence to construct permanent barriers in the south Delta in an effort to protect southern Delta agricultural. However, DWR and Reclamation will be unable to complete the barriers by April 1, 2005 because DWR and Reclamation are in the process of completing the environmental documentation necessary before the agencies can decide to approve the south Delta barrier project (SDIP). Under the current schedule, environmental documents will be completed in 2005 and barriers are expected to be constructed and in operation by late 2008. Table 2 in D1641 requires that DWR and the USBR meet a standard of 0.7 EC on April 1, 2005 at three stations in the southern Delta if the permanent barriers or equivalent measures are not implemented. The current standard is 1.0 EC. Unless a change in the compliance date for the effective date of the change to 0.7 EC is granted, DWR and Reclamation will be required to release large quantities of water from reservoirs upstream of the Delta in an attempt to meet the 0.7 standard in the southern Delta. Due to the hydraulics in the Delta, it is unlikely that the DWR and Reclamation can cause a measurable change in southern Delta Salinity with upstream releases, making such releases a waste and unreasonable use of water. Such releases could significantly impact the water available to meet other water quality criteria contained in D1641 as well as impact the ability of the projects to meet water supply obligations. See attached February 2005 letter to Mrs. Victoria Whitney for additional information regarding the need and justification for proposed change.

If the point of diversion or redirection is being changed, is any person(s) taking water from the stream between the old point of diversion or redirection and the proposed point? No change  
(yes/no)

Are there any persons taking water from the stream between the old point of return flow and the new point of return flow? N/A  
(yes/no)

If yes, give name and address, as well as any other person(s) known to you who may be affected by the proposed change.

I (we) consulted the California Department of Fish and Game concerning this proposed temporary change. Yes, but we have not concluded discussions regarding the petition.

(yes/no)

If yes, state the name and phone number of the person contacted and the opinion concerning the potential effects of your proposed temporary urgency change on fish and wildlife and state the measures required for mitigation.

DWR contacted DFG, Jim White, 653-3540, but we have not concluded discussion of this petition.

**THIS TEMPORARY URGENCY CHANGE DOES NOT INVOLVE AN INCREASE IN THE AMOUNT OF THE APPROPRIATION OR SEASON OF USE. THIS TEMPORARY URGENCY CHANGE IS REQUESTED FOR A PERIOD OF ONE HUNDRED EIGHTY DAYS OR LESS.**

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

Dated 2-14 2005 at Sacramento, California

Signature(s) [Signature] Telephone No. (916) 574-2656  
ACTING FOR  
DONNA RESELMAN (916) 975-5200

(Address)

**NOTE: A \$1000 filing fee, for each Application listed, 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 for change.**

United States Bureau of Reclamation Permits and License

<u>Application</u>	<u>Permit</u>	<u>License</u>
23	273	1986
234	11885	
1465	11886	
5626	12721	
5628	11967	
5638	11887	
9363	12722	
9364	12723	
9366	12725	
9367	12726	
9368	12727	
13370	11315	
13371	11316	
14858A	16597	
14858B	20245	
15374	11968	
15375	11969	
15376	11970	
15764	12860	
16767	11971	
16768	11972	
17374	11973	
17376	12364	
19304	16600	
22316	15735	

23 P 050214 *long way*  
23 P 050215 *long-term*  
*12/1/14*

California Environmental Protection Agency

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>

**ENVIRONMENTAL INFORMATION  
FOR PETITIONS**

**Petition for Change**

**Petition for Extension of Time**

Before the State Water Resources Control Board (SWRCB) can approve a petition to change your water right permit or a petition for extension of time to complete use, the SWRCB must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared, a determination must be made of who is responsible for its preparation. As the petitioner, you are responsible for all costs associated with the environmental evaluation and preparation of the required CEQA documents. Please answer the following questions to the best of your ability and submit any studies that have been conducted regarding the environmental evaluation of your project. If you need more space to completely answer the questions, please number and attach additional sheets:

**1. DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE COMPLETED**

For a petition to change, provide a description of the proposed changes to your project including, but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated, increase in water diversion and use (up to the amount authorized by the permit), changes in land use, and project operational changes, including changes in how the water will be used. For a petition for extension of time, provide a description of what work has been completed and what remains to be done. Include in your description any of the above elements that will occur during the requested extension period.

Table 2 of Water Rights Decision 1641 requires that the Department of Water Resources (DWR) and the Bureau of Reclamation meet 0.7 EC at three stations in the Southern Delta effective April 1, 2005 unless permanent barriers, or equivalent measures are implemented in the Southern Delta and an operations plan that reasonably protects Southern Delta is approved by the SWRCB. DWR and the Bureau are preparing a joint environmental document for the South Delta Improvement Program which includes three permanent operable barriers in the South Delta. However, due to a number of factors beyond the control of DWR and Reclamation, the permanent barriers will not be complete by April 1, 2005. The current schedule projects the release of the final environmental document in the spring of 2005 and the completion of construction and initiation of operation by late 2008. DWR is requesting an extension of the effective date of the 0.7 EC requirement in D1641 for 180 days under water code section 1435 or until December 31 2008 under section 1700. DWR and Reclamation are currently operating three temporary barriers intended to benefit agricultural users in the Southern Delta. The temporary barriers are located on Old River near Tracy, Middle River and Grant Line Canal. The Department will continue to operate the temporary barriers to optimize the benefits to agricultural users in the Southern Delta and meet the 1.0 EC objective. Operation of the Temporary barriers will result in environmental conditions that are indistinguishable from the existing conditions. DWR and Reclamation will continue to pursue construction of the permanent barriers.

See Attachment No. \_\_\_\_\_



**ENVIRONMENTAL INFORMATION FOR PETITIONS**

**2. COUNTY PERMITS**

a. Contact your county planning or public works department and provide the following information:

Person contacted: N/A Date of contact: \_\_\_\_\_  
 Department: \_\_\_\_\_ Telephone: (\_\_\_\_) \_\_\_\_\_  
 County Zoning Designation: \_\_\_\_\_

Are any county permits required for your project?  YES  NO If YES, check appropriate box below:  
 Grading permit  Use permit  Watercourse  Obstruction permit  Change of zoning  
 General plan change  Other (explain): \_\_\_\_\_

b. Have you obtained any of the required permits described above?  YES  NO  
 If YES, provide a complete copy of each permit obtained.

See Attachment No. \_\_\_\_\_

**3. STATE/FEDERAL PERMITS AND REQUIREMENTS**

a. Check any additional state or federal permits required for your project:

- Federal Energy Regulatory Commission  U.S. Forest Service  Bureau of Land Management
- Soil Conservation Service  Dept. of Water Resources (Div. of Safety of Dams)  Reclamation Board
- Coastal Commission  State Lands Commission  Other (specify) \_\_\_\_\_

b. For each agency from which a permit is required, provide the following information:

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.

See Attachment No. \_\_\_\_\_

c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed or bank of any stream or lake?  YES  NO

If YES, explain: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

See Attachment No. \_\_\_\_\_

ENVIRONMENTAL INFORMATION FOR PETITIONS

d. Have you contacted the California Department of Fish and Game concerning your project?  YES  NO  
If YES, name and telephone number of contact: \_\_\_\_\_

4. ENVIRONMENTAL DOCUMENTS

a. Has any California public agency prepared an environmental document for your project?  YES  NO  
a. If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency. Public agency: \_\_\_\_\_

b. If NO, check the appropriate box and explain below, if necessary:

- The petitioner is a California public agency and will be preparing the environmental document.\*
- I expect that the SWRCB will be preparing the environmental document.\*\*
- I expect that a California public agency other than the State Water Resources Control Board will be preparing the environmental document.\* Public agency: \_\_\_\_\_

See Attachment No. 1

\* Note: When completed, submit a copy of the final environmental document (including notice of determination) or notice of exemption to the SWRCB, Division of Water Rights. Processing of your petition cannot proceed until these documents are submitted.

\*\* Note: CEQA requires that the SWRCB, as Lead Agency, prepare the environmental document. The information contained in the environmental document must be developed by the petitioner and at the petitioner's expense under the direction of the SWRCB, Division of Water Rights.

5. WASTE/WASTEWATER

a. Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?

YES  NO

If YES, or you are unsure of your answer, explain below and contact your local Regional Water Quality Control Board for the following information (See instruction booklet for address and telephone no.):

No construction will be required as a result of the change petition

See Attachment No. \_\_\_\_\_

b. Will a waste discharge permit be required for your project?  YES  NO

Person contacted: \_\_\_\_\_ Date of contact: \_\_\_\_\_

c. What method of treatment and disposal will be used? \_\_\_\_\_

See Attachment No. \_\_\_\_\_

6. ARCHEOLOGY

a. Have any archeological reports been prepared on this project?  YES  NO

b. Will you be preparing an archeological report to satisfy another public agency?  YES  NO

c. Do you know of any archeological or historic sites located within the general project area?  YES  NO

ENVIRONMENTAL INFORMATION FOR PETITIONS

If YES, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

See Attachment No. \_\_\_\_\_

**7. ENVIRONMENTAL SETTING**

Attach three complete sets of color photographs, clearly dated and labeled, showing the vegetation that exists at the below-listed three locations. For time extension petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

- Along the stream channel immediately downstream from the proposed point(s) of diversion.
- Along the stream channel immediately upstream from the proposed point(s) of diversion.
- At the place(s) where the water is to be used.

There will be no impacts to vegetation; no construction is required as a result of the requested change.

**8. CERTIFICATION**

I hereby certify that the statements I have furnished above and in the attachments are complete to the best of my ability and that the facts, statements, and information presented are true and correct to the best of my knowledge.

Date: 2-14-05 Signature: 