



Terry Tamminen
*Secretary for
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State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

NOTICE OF PETITION FOR LONG-TERM CHANGE INVOLVING THE TRANSFER OF UP TO 67,200 ACRE-FEET OF WATER PER YEAR TO THE CITY OF MODESTO UNDER MODESTO AND TURLOCK IRRIGATION DISTRICTS' LICENSE 11058 (APPLICATION 14127)

Notice is hereby given that on January 8, 2004,

Modesto Irrigation District
c/o Alan Short, General Manager
P.O. Box 4060
Modesto, CA 95352

filed with the State Water Resources Control Board (SWRCB), a Petition for Long-Term Change under Water Code section 1735, et seq. If approved, the Modesto Irrigation District (MID) would transfer up to 67,200 acre-feet per year (afa) of water to the City of Modesto (City) for municipal and industrial use under License 11058 (Application 14127). The petition requests that the change be effective from January 1, 2005 through December 31, 2054.

BACKGROUND

Historically, the City has relied heavily on groundwater pumping to meet its municipal water supply needs. However, as the regional groundwater basin has entered a state of overdraft, the City acquired surface water supplies to use in lieu of groundwater pumping. In 1995, the City completed construction of a 30 million gallon per day (mgd) capacity water treatment plant (Plant) to treat raw Tuolumne River water diverted at existing MID facilities for municipal use. Currently, up to 33,500 afa of Tuolumne River water diverted under a pre-1914 water right owned by MID is delivered to the Plant for treatment and use within the City.

The City is expanding the Plant to a capacity of 60 mgd and has reached agreement with MID to provide up to 67,200 afa of water under MID's License 11058 for treatment and use within the City. Since the water proposed for this transfer would be diverted at existing MID facilities and the City is located within the existing place of use, the only change that is required for this transfer is to add municipal and industrial as purposes of use under License 11058.

PETITIONER'S WATER RIGHT

License 11058 (issued July 28, 1980) authorizes Modesto and Turlock Irrigation Districts (MID/TID) to store up to 1,046,800 afa of water between November 1 and July 31 of the succeeding year for irrigation and recreational use in New Don Pedro Reservoir. Points of diversion/rediversion under License 11058 are located on the Tuolumne River at the New Don Pedro Dam and the La Grange Dam. The authorized place of use under License 11058 is the service areas of the Modesto and Turlock Irrigation Districts as shown on map titled "General Map of the Modesto and Turlock Irrigation Districts," dated 1979, on file with the SWRCB under Application 14127. On July 31, 1996, FERC issued an order amending MID/TID's FERC license for the New Don Pedro Project, requiring MID/TID to increase their instream flow releases. The petition indicated that these instream flow releases would not be affected by the proposed long-term change.

COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Under the provisions of the California Environmental Quality Act (CEQA), MID is the Lead Agency for this project and will be required to prepare the appropriate environmental document in support of this petition for long-term change. Additionally, the City prepared an Environmental Impact Report in 1990, titled *Final Environmental Impact Report for the Modesto Surface Water Treatment Plant*, in support of the planning, construction, and expansion of the Plant. The SWRCB, as a Responsible Agency, will consider both documents during the environmental review of this petition. If you have any information which indicates that the proposed project will have a significant effect upon the environment, please send this information to MID. Copies of this information should also be sent to Ms. Gita Kapahi, SWRCB, Division of Water Rights, P. O. Box 2000, Sacramento, CA 95812-2000.

SWRCB'S STATUTORY PROVISIONS

Pursuant to Water Code sections 1735, et seq., the SWRCB is authorized to consider approval of a petition for long-term transfer of water or water rights where the change:

1. would not result in substantial injury to any legal user of water; and
2. would not unreasonably affect fish, wildlife, or other instream beneficial uses.

Pursuant to the requirements of section 1735, et seq., the SWRCB is seeking information or concerns that may assist in the evaluation of the proposed transfer.

PROCEDURE FOR SUBMITTING PROTESTS

Any person may file a protest specific to this petition for long-term change. Protests filed in response to this notice must be received in the office of the SWRCB Division of Water Rights at the address listed below by **3:00 p.m. on Thursday, March 18, 2004**. Additionally, the protest must be accompanied by proof of service of a separate copy of the protest on MID, at the address listed below. Due to the constraints of the noticing period, protestants are encouraged to file protests and any related documents by FAX. However, for the SWRCB to consider your concerns, FAXed documents must be followed up with original copies of all materials.

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

Modesto Irrigation District
c/o Alan Short, General Manager
P.O. Box 4060
Modesto, CA 95352
FAX: (209) 526-7315

Parties may file protests based on any of the following factors:

- injury to another legal user of water,
- adverse environmental impact,
- not in the public interest,
- contrary to law, or
- not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the petition and the factual basis for those objections. If the objection is based on injury to a legal user of water or existing water rights, the protest must describe the specific injury that would result from approval of the petition. In addition, the party claiming injury to prior water rights must provide specific information that describes the basis of the existing right, the date the use began, the quantity of water used, and the purpose of use and the place of use of the existing right.

If the protest is based on environmental grounds, or other factors listed above, the protest must be accompanied by a statement of facts supporting the basis of the protest. If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information.

A protest should be submitted on a standard protest form available from the SWRCB, but can be submitted in letter form. Protests may be submitted by FAX, but the original(s) must be submitted to the SWRCB. An informational pamphlet is available that provides additional information relating to water rights and the procedure for filing protests. To obtain additional

information regarding this project, or to obtain copies of the protest forms or pamphlet, you may visit our website, www.waterrights.ca.gov, or contact Greg Wilson at the phone number listed below.

For good cause, the SWRCB may grant an extension in time to file a protest. A request for an extension of time must be submitted in a timely manner, must specify the additional time required, and state why additional time is needed to file the protest.

RESOLUTION OF PROTESTS

A copy of the protest shall be sent to the petitioner. The protest shall include a description of any measures that could be taken to resolve the protest, including modification of the petition (e.g., amount, season of diversion) or conditions (e.g., fish bypass flow, measuring device) that could be included in the water right order. The protestant(s) and the petitioner are encouraged to discuss methods that could be used to resolve the protest. If the protest(s) cannot be resolved, the SWRCB may conduct a field investigation with all interested parties or may hold a water right hearing.

Please address questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner or transferee should be addressed as follows:

MID (petitioner): Alan Short (209) 526-7373
FAX: (209) 526-7315

City of Modesto (transferee): George Britton (209) 577-5404
FAX: (209) 571-5128

Original signed by

James W. Kassel, Chief
Hearings & Special Project Section

Date: February 17, 2004