



# State Water Resources Control Board



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Agency Secretary

**Division of Water Rights**  
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**Arnold Schwarzenegger**  
Governor

## NOTICE OF PETITIONS FOR CHANGE IN PLACE OF USE

**PERMIT 11887 (APPLICATION 5638)**

**PETITIONS FILED:** May 18, 2005

**STREAM SYSTEM:** San Joaquin River

**COUNTIES:** Fresno, Madera

Notice is hereby given that the U.S. Bureau of Reclamation (Reclamation) filed two petitions for change in the place of use for Permit 11887 (Application 5638) to expand the place of use. The State Water Resources Control Board (State Water Board) will determine whether an order approving the changes in the place of use should be issued for permitted Application 5638, and if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the project and also describes the procedure and time frame for submittal of protests against the petitions. This notice may be viewed at the Division of Water Rights' (Division) website at [www.waterboards.ca.gov](http://www.waterboards.ca.gov). Any correspondence directed to the petitioners should be mailed to:

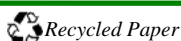
U.S. Bureau of Reclamation  
Ms. Jo Ann Struebing  
2800 Cottage Way  
Sacramento, CA 95825-1898

**Description of Project:** The Petitioner filed two petitions for change in the place of use for Permit 5638 to add (1) Sky Harbour, Hidden Lake Estates, Brighton Crest and Millerton Newtown, and (2) Table Mountain Rancheria to the permit.

### **Summary of PERMIT 11887 (APPLICATION 5638):**

Counties: Fresno, Madera.  
Source: San Joaquin River tributary to Suisun Bay.  
Point of  
Diversion: Friant Dam within NW ¼ of SW ¼ of section 5, T11S, R21E, MDB&M.  
Direct  
Diversion  
Amount: 5,000 cubic feet per second.  
Direct  
Diversion  
Season: February 1 to October 31.  
Storage: 1,210,000 acre-feet.  
Storage

*California Environmental Protection Agency*



Season: November 1 to August 1.  
Purposes: Municipal, domestic, irrigation and recreational.  
Place of Use: Within the boundaries of the Friant Project as shown on Reclamation Map #214-212-37, on file with the State Water Board.

### **Petition Summary for Permit 11887.**

#### **Petition 1**

Petition 1 is for a change to expand the existing place of use under Permit 11887, to include an additional 2,170 acres of municipal service in: (a) Millerton New Town and Brighton Crest developments, (b) Sky Harbour development and (c) Hidden Lakes Estates.

##### a. Millerton New Town And Brighton Crest

Permit 11887 authorizes the diversion of San Joaquin River water at Friant Dam (Millerton Lake). Millerton New Town and Brighton Crest projects will utilize a pump station and inlet structure located at Winchell Cove, Millerton Lake. Millerton New Town and Brighton Crest currently are served under Permits 11885 and 11886. These permits do not, however, authorize municipal water use. Therefore, Reclamation has petitioned to add this service area to Permit 11887.

This area currently receives delivery of Central Valley Project (CVP) water pursuant to an existing contract between Reclamation and the County of Fresno. Reclamation asserts that the CVP contract water to serve this area is currently either already being used by one of the projects (Brighton Crest) or is being used on a temporary basis by other entities that receive the water from the Friant-Kern Canal.

The Millerton New Town is located within E½ of section 9, section 10, W½ of section 11, section 15, and E½ of section 16, T11S, R21E, MDB&M.

##### b. Sky Harbour

Sky Harbour includes 78 acres directly adjacent to Millerton Reservoir. Sky Harbour currently is served under Permits 11885 and 11886. These permits do not, however, authorize municipal water use. Therefore, Reclamation has petitioned to add this service area to Permit 11887. These lands receive delivery of CVP water pursuant to an existing long-term water service contract between Reclamation and the County of Fresno. Sky Harbour is located within SE½ of SW ¼ of section 23 and W½ of section 26, T10S, R21E, MDB&M.

##### c. Hidden Lakes Estates

Hidden Lakes Estate is comprised of 154 acres of land within Madera County. Hidden Lakes Estates currently is served under Permits 11885 and 11886. These permits do not, however, authorize municipal water use. Therefore, Reclamation has petitioned to add this service area to

Permit 11887. Hidden Lakes Estates receives delivery of CVP water pursuant to an existing long-term contract between Reclamation and Madera County.

Hidden Lakes is located within S½ of section 14 and section 23, T10S, R21E, MDB&M.

### **Petition 2**

Petition 2 is for a change to expand the place of use for Permit 11887 to include an additional 540 acres associated with the Table Mountain Rancheria in Fresno County. The petition was filed to allow for future delivery of CVP water for municipal purposes to these lands as shown on USBR Map #1785-202-15, filed with the State Water Board.

The lands are located within SW¼ of section 1, SE¼ of SE¼ of section 2, E½ of section 10, section 11 and W½ of section 12, T11S, R21E, MDB&M. This area is within the place of use of License 1986 and Permits 11885 and 11886.

### Background

Reclamation holds one license and three water right permits associated with the Friant Division of the CVP: License 1986, Permit 11885, Permit 11886 and Permit 11887 (Applications 23, 234, 1465 and 5638, respectively). The permitted use of water under License 1986 is for domestic, irrigation and stock watering uses. The permitted use of water under Permits 11885 and 11886 is for irrigation and incidental domestic uses. The permitted use of water under Permit 11887 is for municipal, domestic, irrigation and recreational uses. Application 5638 (Permit 11887) is a state filed application, assigned to the United States by the State of California, Department of Finance on September 30, 1939.

The place of use boundary for License 1986, Permit 11885, Permit 11886 and Permit 11887 was originally delineated on USBR Map #214-212-37. The place of use for irrigation under Permits 11885 and 11886 includes 353,000 net acres within a gross area of 5,431,000 acres. The place of use for irrigation under Permit 11887 includes 900,000 net acres within a gross area of 4,986,000 acres.

On December 23, 1959, Reclamation submitted a petition for change in place of use under License 1986, and Permits 11885, 11886 and 11887, to the State Water Rights Board. The State Water Rights Board approved the petitions for change on License 1986, and Permits 11885 and 11886 on December 20, 1960 by adoption of Change Order No. 37. The changed, permitted place of use for these applications is described on Map #214-208-3331 (revised 7-19-1960). The changed place of use includes an expanded area around Millerton Lake. The place of use for Permit 11887 was not modified at that time.

The time to complete full beneficial use of water under Permit 11887 ended on December 1, 1990. Reclamation has not petitioned for an extension of time for this project to develop additional water use. Reclamation Petitions 1 and 2 state that approval of the petitions will not result in any increase in total diversions from the San Joaquin River under Reclamation's License 1986 or Permits 11885, 11886 and 11887, for the Friant Project and will not result in any changes to

Friant Project operations. In Petition 2, Reclamation states that any future water service to the Table Mountain Rancheria will be made available through transfers or exchanges involving existing long-term Friant contractors.

### **Environmental Information**

#### Sky Harbour and Hidden Lake Estates:

Sky Harbour and Hidden Lakes Estates areas were developed prior to the enactment of the California Environmental Quality Act (CEQA).

#### Millerton New Town And Brighton Crest:

Millerton New Town Specific Plan Environmental Impact Report (EIR): In May 1984, the County of Fresno prepared an EIR for the Millerton New Town Specific Plan. The Draft EIR described the project as a “new growth center . . . planned to accommodate upwards of 10,000 people in an environment of housing, commerce, public facilities and open space, separated physically from the existing Fresno Growth center and managed governmentally by Fresno County.” Draft EIR at 7. Analyses in the Draft EIR include physical and biological impacts. The Fresno County Planning Commission approved on November 1, 1984, and the Fresno County Board of Supervisors adopted on December 18, 1984, the Millerton Specific Plan.

Pump Station and Inlet Structure Environmental Assessment (EA): On September 19, 1988, an EA was completed for a proposed pump station and inlet structure at Winchell Cove, Millerton Lake for Millerton New Town. The proposed project consisted of the installation of a pump station and pipeline on United States land at Millerton Lake to provide water for Millerton New Town. The EA for the Proposed Pump Station and Inlet Structure at Winchell Cove considers the potential impacts of and mitigation for the proposed project. It also considers possible growth inducing impacts.

Fresno County General Plan EIR: On October 3, 2000, the final EIR for the Fresno County General Plan was certified. The final EIR analyzed impacts from implementation of the Fresno County General Plan. The EIR reflects the County’s surface water supply.

Addendum to Millerton New Town Specific Plan EIR: In April 1999, the County of Fresno approved a resolution: (1) determining that the EIR previously prepared for the Millerton New Town Specific Plan was adequate for the project, (2) adopting facts, findings, and overriding considerations and Millerton New Town Specific Plan Mitigation Measures and Monitoring Program Matrix to comply with CEQA, (3) adopting amendments to the Millerton New Town Specific Plan, and (4) approving concurrent amendment application and conditional use permit.

Addendum to Millerton New Town Specific Plan EIR: In November 2004, the County of Fresno prepared an addendum to the final Millerton New Town EIR. That addendum: (1) addressed a prior change made to the General Plan (GPA 489); (2) added 66 resort units at the planned hotel/conference center in the southeast quadrant of the White Fox Creek Sub-Unit and to add a

library site in the southwest quadrant; (3) updated land use changes and brought the Specific Plan into consistency with the General Plan adopted October, 2000; and (4) updated the Specific Plan to make it a current document reflecting current service considerations and to expand on development detail. The addendum considers impacts caused by the changes.

Mitigation Measures and Monitoring Program Matrix: In December 2004, Fresno County adopted the "Millerton Specific Plan Mitigation Measures and Monitoring Program Matrix." The matrix provides mandatory actions to mitigate for potential impacts.

Open Space and Natural Resource Plan: The Millerton Open Space and Natural Resource Plan was formed pursuant to Matrix Mitigation Measure Nos. 16.f, 16.g, 16.h, 16.i, and provides for each residence and commercial facility in Millerton New Town to pay a fee for cumulative impacts to the Sierra Foothill Conservancy for acquisition of lands off-site.

#### Table Mountain Rancheria:

The lead agency will prepare the appropriate environmental documents for the project according to the CEQA and its guidelines, and will determine whether or not the project will cause a significant effect on the environment.

If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; SWRCB, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

### **PROTEST SUBMITTAL INFORMATION**

#### **Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- 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. For example, if the objection is based on injury to existing water rights, the protest must describe the specific injury to the existing water right that would result from approval of the changes proposed by 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 use, the purpose of use, and the place of use. Protests based on environmental impacts, public interest, legality, or jurisdictional issues 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.

Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest. **The Division will not accept protests that are directed against the underlying water right, rather than the change proposed by the petition.**

### **Procedure for Submitting Protests**

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at [www.waterboards.ca.gov/forms/](http://www.waterboards.ca.gov/forms/) or upon request from the Division of Water Rights. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the engineer listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the petitioner and should include a description of any measures that could be taken to resolve the protest.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **30<sup>th</sup>** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14<sup>th</sup> Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. The SWRCB will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

### **Resolution of Protests**

The petitioners will have 30 days to respond to a protest after the protest is accepted by the Division of Water Rights. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

**CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Katherine Mrowka by phone at (916) 341-5363 or by electronic mail at [kmrowka@waterboards.ca.gov](mailto:kmrowka@waterboards.ca.gov). Information and protest forms are also available at the Division's website: [www.waterboards.ca.gov/forms/](http://www.waterboards.ca.gov/forms/).

Date of Notice: **JUNE 17, 2005**

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