

Memorandum

Date: JUN 19 2008

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

From: Department of Water Resources

Subject: Petition for Temporary Urgency Change to Allow Transfer of up to 4,000 Acre-feet
From Tulare Lake Basin Water Storage District to Westlands Water District

This is to transmit the attached Petition for Temporary Urgency Change to allow the transfer of 4,000 acre-feet of State Water Project water from the Tulare Lake Basin Water Storage District (TLBWSD) to Westlands Water District (WWD) in the U.S. Department of the Interior's Bureau of Reclamation's service area. The quantity requested under the attached petition is included in the quantity covered by the Department of Water Resources' (DWR) Petition for Temporary Change submitted to the State Water Resources Control Board (SWRCB) on May 7, 2008 for the transfer of up to 7,000 acre-feet from the TLBWSD service area to WWD in accordance with Water Code Section 1725 et seq.

A change in circumstances related to the quantity of CVP water available to the Newton Farms and Hansen-Vista Verde acreage in WWD has created an urgent need for supplemental water in advance of the date at which water might be available under the May 7, 2008 Petition. DWR believes that a Temporary Urgency Petition is appropriate at this time given the current conditions. The critically dry conditions in 2008, pumping restrictions in the Delta and the projected drawdown at San Luis Reservoir has led the CVP to ration the available supply to its contractors resulting in a critical shortage to water available for the irrigation of permanent crops in WWD.

STATE WATER RESOURCES
CONTROL BOARD
2008 JUN 19 PM 3:17
D. J. M. [unclear]
SUPERVISOR

Ms. Victoria Whitney

JUN 19 2008

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Enclosed with the petition are (1) a check for the \$2,197 fee to the State Water Resources Control Board, (2) a check for \$850 to the Department of Fish and Game, and (3) maps showing the areas of the proposed change and the depth to shallow groundwater within WWD. If you have any questions, please contact Maureen Sergent of my staff at (916) 653-9467.



Robert B. Cooke, Chief
State Water Project Analysis Office
(916) 653-4313

Attachments

cc: (Attached list)

Mr. Terry Erlewine
General Manager
State Water Contractors
1121 L Street, Suite 1050
Sacramento, California 95814

Mr. Tom Birmingham
General Manager
Westlands Water District
Post Office Box 6056
Fresno, California 93703

Mr. Frank Apgar, Manager
Tulare Lake Basin Water
Storage District
1109 S. Whitley
Corcoran, California 93212

Mr. James E. Turner
Office of the Solicitor
U.S. Department of the Interior
2800 Cottage Way, Room E-2753

Fresno County Board of Supervisors
2281 Tulare-Hall of Records, Room 301
Fresno, California 93721-2198

Kings County Board of Supervisors
1400 West Lacey Boulevard
Hanford, California 93230

Tulare County Board of Supervisors
2800 West Burrel
Visalia, California 93291

Ms. Marty Kaiser
Bureau of Reclamation
U.S. Department of the Interior
2800 Cottage Way
Sacramento, California 95825

Mr. Anthony Toto
Central Valley Regional Water
Quality Control Board
1685 E Street
Fresno, California 93706-2007

Mr. Dean Marston
California Department of
Fish and Game, Region 4
1234 East Shaw
Fresno, California 93710

U.S. Fish and Wildlife Service
Habitat Conservation
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

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

RECEIVED
DIVISION OF WATER RIGHTS
JUN 19 2008
L.C. 19 61100 3332
COURTESY OF
SACRAMENTO COUNTY
SACRAMENTO, CALIFORNIA

PETITION FOR TEMPORARY URGENCY CHANGE
(Water Code 1435)

_____ Point of Diversion, _____ Point of Rediversion, X Place of Use, _____ Purpose of Use

Application # 17512 Permit # 16482 License # _____
License and Permits of the US Bureau of Reclamation as shown on Supplement

I (we) Department of Water Resources hereby petition for a temporary urgency
(Water Right Holders Name)
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 Harvey O. Banks Pumping Plant, within NW 1/4 of SE 1/4 of Projected Section 20, T1S, R3E MDB&M

Proposed No change

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

Present Tulare Lake Basin Water Storage District service area as shown on the attached maps.

Proposed Westlands Water District As shown on the attached maps

Purpose of Use

Present Municipal, Domestic, Irrigation, Fish & Wildlife Enhancement, Recreation, Streamflow Enhancement, Salinity Control, Incidental Power

Proposed No Change

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 June 20, 2008 to December 12, 2008
(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:
See Supplement

If the point of diversion or rediversion is being changed, is any person(s) taking water from the stream between the old point of diversion or rediversion and the proposed point? N/A
(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? No change in return flow location
(yes/no)

Rec'd
\$2197.00
\$450
6/19/08
MS

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/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.

A copy of the Petition for Temporary Urgency Change was submitted to Dean Marston with the DFG's Region 4 at dmarston@dfg.ca.gov, (559) 243-4014, ext 241. The requested change will result in no additional pumping at the Banks Pumping Plant. The water to be transferred would have been used on land within the TLBWS in the absence of the transfer. The transfer will not result in a change in return flow to the San Joaquin River or Sacramento/San Joaquin Delta.

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 June 18, 2008 at Sacramento, California

Nancy Ann (916) 653-0190
Signature(s) Telephone No.

P.O. Box 942836, Sacramento, California 94236
(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.

Supplement to Petition for Temporary Urgency Change

Requested Change

The Department of Water Resources (DWR) requests that the State Water Resources Control Board (SWRCB) approve the delivery of up to 4,000 acre-feet of State Water Project (SWP) water currently allocated to the Tulare Lake Basin Water Storage District (TLBWSD) to lands within the Westlands Water District (WWD) as shown on the attached map. The 4,000 acre-feet requested under this petition is included in the quantity covered by DWR's Petition for Temporary Change submitted to the SWRCB on May 7, 2008 for the transfer of up to 7,000 acre-feet from the TLBWSD service area to land within WWD in accordance with Water Code Section 1725 et seq. A change in circumstances related to the quantity of CVP water available to the Hansen-Vista Verde and Newton Farms acreage in WWD has created an urgent need for supplemental water in advance of the date at which water might be available under the May 5, 2008 Petition for Temporary Change. The critically dry conditions in 2008, pumping restrictions in the Delta and the projected drawdown at San Luis Reservoir has led the CVP to ration the available supply to its contractors resulting in a critical shortage to water available for the irrigation of permanent crops on the Hansen-Vista Verde and Newton Farms property within WWD.

Urgent Need

On June 4, 2008, citing two straight years of below-average rainfall, very low snowmelt runoff and the largest court-ordered water transfer restrictions in state history, Governor Schwarzenegger declared a statewide drought and issued Executive Order S-06-08

(Executive Order). The Executive Order directs DWR and other entities to take immediate action to address the situation where numerous California communities are being forced to mandate water conservation or rationing. Importantly, it directs DWR to, among other things, 1) facilitate water transfers to respond to emergency shortages across the state and 2) coordinate with other state and federal agencies and departments to assist water suppliers and implement operations and water exchanges to alleviate critical impacts to San Joaquin Valley agriculture.

One week later, after assessing the full impact that the severe water shortages have had on San Joaquin Valley agriculture, Governor Schwarzenegger proclaimed a state of emergency in nine Central Valley counties. The Governor's proclamation directs DWR, in coordination with USBR, to take the necessary steps and make the necessary operational changes that will allow more water to be delivered to the San Joaquin Valley during the coming summer months, when it is needed the most. Relevant to this Petition, the Governor's proclamation directs DWR to do the following:

1. along with the SWRCB, expedite the processing of water transfer requests;
2. in cooperation with USBR, make operational changes to State Water Project (SWP) facilities, including the San Luis Reservoir and Southern California reservoirs, that will permit additional water deliveries to the San Joaquin Valley; and
3. prepare and file necessary water right urgency change petitions to facilitate surface water transfers and the use of joint point of diversion by the SWP and Central Valley Project (CVP).

In light of the above directives and the subsequent need for DWR and USBR to immediately find ways to facilitate water transfers and exchanges, there is an urgent need for the requested change.

Due to the extremely dry conditions and the impacts of the Delta smelt remedial actions imposed on the Projects' operations by the Wanger Decision¹, the current allocation to the SWP water users is only 35% of this year's contract amount and the allocation to CVP contractors was initially only 45% of their contract amount. The CVP allocation has now been reduced to 40%. Because of the 45% allocation that WWD initially received from the CVP, approximately one-third of WWD's lands (200,000 acres) were fallowed this year. Even with the fallowing, crops planted this year and permanent crops have created an aggregate demand of approximately 350,000 acre-feet in June, July, and August. However, based on the amount of CVP water presently in storage at San Luis Reservoir and WWD's projections of the amount of water the CVP will be able to pump at the Jones Pumping Plant between now and the end of August, WWD calculated that the amount of water that it can reasonably expect to receive from the CVP prior to the end of the low point period is approximately 240,000 acre-feet. This projection led the WWD Board of Directors to take action to ration the amount of water available to farmers until the end of the San Luis Reservoir low point period. The ration, apportioned among all irrigable acres in WWDt, excluding WWD owned lands, will result in 0.47 acre-feet being available to each irrigable acre. This is insufficient for permanent crops and has created an emergency situation where immediate action is

needed to prevent the irretrievable loss of these crops.

The water to be used on land within Hansen-Vista Verde and Newton Farms will be used for irrigation of permanent crops. The rationing of CVP supply in WWD threatens the health of those permanent crops.

In sum, the combination of a critically dry year, a court ruling seriously curtailing the ability of the Projects to export water during the winter and spring, and the Governor's drought proclamation and Executive Order directing DWR to take immediate actions has created an urgent need for the requested change.

The Transfer can be Conducted Without Injury to Other Legal Users or the Environment

The proposed transfer will not result in increased risk to the environment or increased export of water from the Delta. First, all water exported at the SWP and CVP pumping plants is and will be pumped in conformance with the criteria contained in D1641 and mandated under the Biological Opinions for protection of Sacramento River winter-run Chinook salmon, Delta smelt, spring-run Chinook salmon and steelhead. The additional restrictions imposed on the operations of the Projects by the December 14, 2008, Wanger Decision, which limits the export of water from the Delta late December through June, are also being met. If the current consultation on the Long-Term CVP and SWP Operations Criteria and Plan (OCAP) with the United States Fish and Wildlife Service

¹ Natural Resources Defense Council v. Kempthorne (2008) 539 F.Supp.2d 1155. The Wanger Decision's remedial actions have reduced the Projects' exports by more than 600,000 acre/feet of water.

(USFWS) and National Oceanic and Atmospheric Agency (NOAA) Fisheries Service is completed during 2008, resulting in new Biological Opinions for delta smelt, salmon, and green sturgeon, DWR will modify export operations to comply with any applicable new regulations.

Second, the change requested by DWR involves a change in the delivery location of up to 4,000 acre-feet of SWP water from land within TLBWSD to land within WWD. It will not result in additional water being pumped at the Banks Pumping Plant. In the absence of the requested change the water proposed for transfer would be delivered to the TLBWSD service area.

Lastly, the proposed transfer will not add to the drainage issues in the San Joaquin Valley. In general, land in WWD has complete tailwater control within each field. Water planned for transfer to WWD will be delivered to Priority Area II lands (3,461 acres) in the western half of WWD and Priority Area I lands (875 acres) in the southern half of WWD. Lands within the WWD area having selenium and other drainage problems are located in the low lying areas in the northern quarter of WWD. However, most lands in WWD to receive the transferred water are located west of the California Aqueduct (Portions of Sections 10, 15, and 16, T20S, R18E are located east of the California Aqueduct) and no further north or west than T17S, R15E.

All lands, as shown on the attached transfer map, have depths to groundwater of greater than 15 feet of the ground surface as identified on WWD map Generalized Depth to Shallow Groundwater, October 2007, with the exception of portions of Sections

10 and 15, T20S, R18E, which have a depth to groundwater of greater than 10 feet. Total quantities of water delivered to the drainage problem area will not be affected by this transfer. Lands to receive increased water deliveries due to this transfer have not been shown to have drainage or selenium problems. None of WWD's drainage is discharged to the San Joaquin River system. In addition, WWD has an aggressive program to deal with water conservation and drainage reduction.

Petition is in the Public Interest

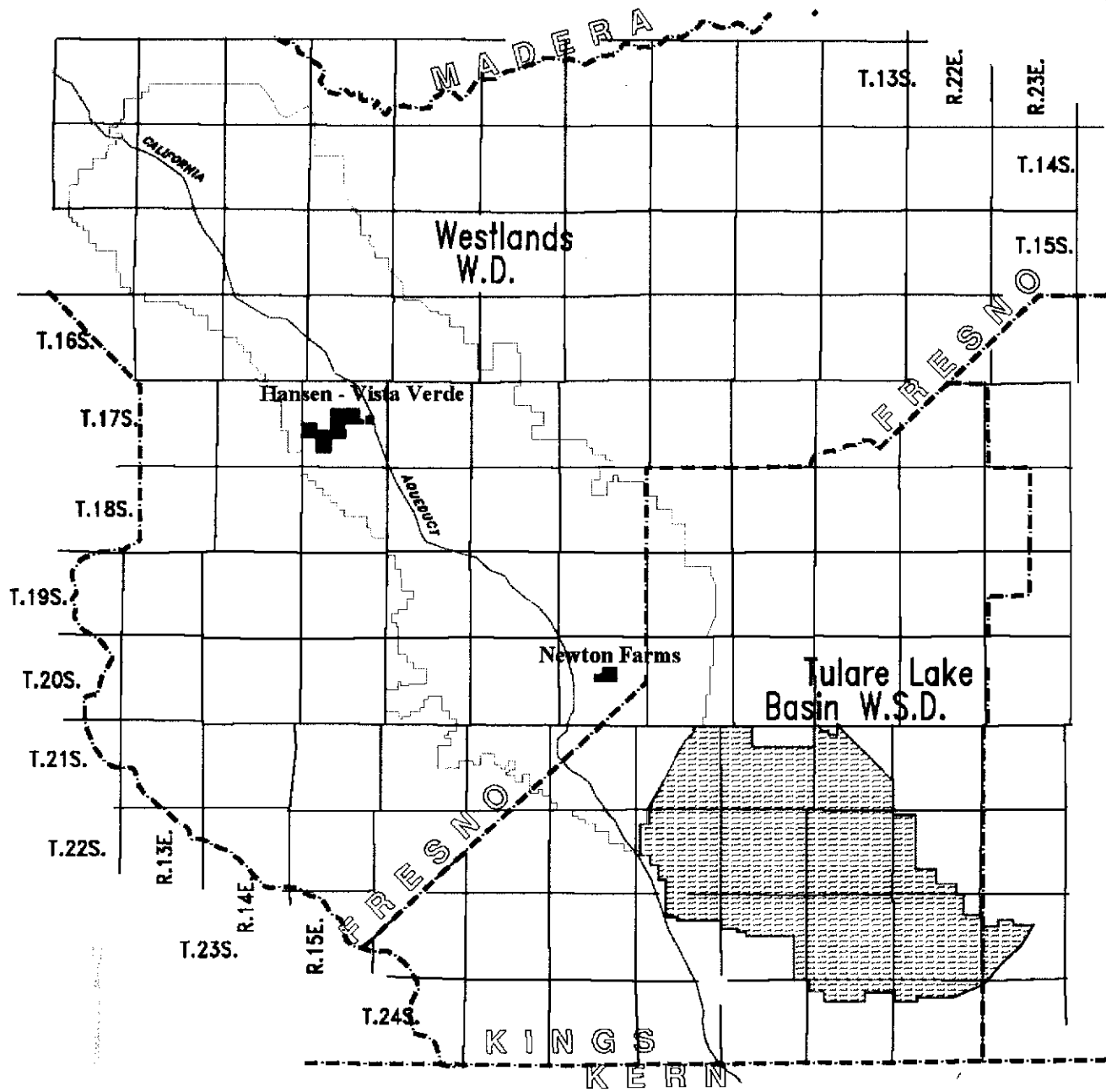
As stated above, the combination of a critically dry year and a recent court ruling that seriously curtailed the Projects' ability to export water during the winter and spring has led the Governor to proclaim a statewide drought and issue an Executive Order. DWR, along with federal and state agencies, has been directed to take immediate actions to facilitate transfers and implement operations designed to alleviate harmful impacts to San Joaquin Valley agriculture. This petition for change seeks to further the above directives and is subsequently in the public interest.

Approval of the change will not exacerbate the otherwise existing water supply or water quality conditions in the Delta or adversely affect the environment. Instead, it will provide needed water in other regions of California during this critically dry year. DWR believes it is in the public interest to allow the temporary urgency change so the conveyance of this water can reduce the severity of the water supply shortages this year.

2008 SWP WATER TRANSFER UP TO 4,000 ACRE-FEET

AREA MAP OF WATER TRANSFER FROM
TULARE LAKE BASIN WATER STORAGE
DISTRICT TO WESTLANDS WATER DISTRICT

UNDER STATE WATER RIGHT
PERMIT 16482, APPLICATION 17512



■ WWD AREAS INVOLVED IN TRANSFER

Notice of Exemption

Form D

To: Office of Planning and Research
P.O. Box 3044, Room 212
Sacramento, CA 95812-3044

From: (Public Agency) Dept of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

County Clerk
County of

(Address)

Project Title: Petition for Temporary Urgency Change for Water Rights Permit 16482

Project Location - Specific:

Kings, Tulare and Fresno Counties within the service areas of the Tulare Lake Basin Water Storage District and Westlands Water District

Project Location - City: Kettleman City Project Location - County: Kings/Fresno County

Description of Nature, Purpose and Beneficiaries of Project:

The critically dry conditions in 2008, pumping restrictions in the Delta and the projected drawdown at San Luis Reservoir has led to a critical shortage in water available for the irrigation of permanent crops in land within Westlands Water District. DWR is requesting a Temporary Urgency Change to allow the delivery of State Water Project water allocated to the service area of the Tulare Lake Basin Water Storage District to land within WWD to alleviate the critical shortage in water supply.

Name of Public Agency Approving Project: State Water Resources Control Board

Name of Person or Agency Carrying Out Project: Department of Water Resources

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
Declared Emergency (Sec. 21080(b)(3); 15269(a));
Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
Categorical Exemption. State type and section number: Existing Facilities-Class 1, section 15301
Statutory Exemptions. State code number:

Reasons why project is exempt:

On June 12, 2008, after assessing the full impact that the severe water shortages have had on San Joaquin Valley Agriculture, Governor Schwarzenegger proclaimed a state of emergency in nine Central Valley counties. The emergency states that the emergency exemptions in sections 21080(b)(3) and 21172 of the Public Resources Code shall apply to all activities and projects ordered and directed under the proclamation, to the fullest extent allowed by law. Included in the activities listed in the proclamation is the direction to DWR to file necessary water right urgency change petitions to facilitate surface water transfers. Thus, according to the emergency proclamation, this petition is exempt from CEQA.

Lead Agency Contact Person: Nancy Quan Area Code/Telephone/Extension: (916) 653-0190

If filed by applicant:

- 1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Nancy Quan Date: 6/18/08 Title: Supervising Engineer

- Signed by Lead Agency
Signed by Applicant

Date received for filing at OPR:



Revised 2005