



Water Resources ♦ Flood Control ♦ Water Rights

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May 3, 2010

Ms. Victoria Whitney, Deputy Director  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

**Subject: Merced Irrigation District Petition for Temporary Transfer  
under License 11395 (Application 16186)**

Dear Ms. Whitney:

Enclosed are the following documents relative to the Petition for Temporary Transfer under Merced Irrigation District's License 11395 (Application 16186):

1. Petition for Temporary Transfer Form with Attachment (one original and one copy).
2. Environmental Information Form with Attachment (one original and one copy).
3. Check in the amount of \$6,497 to cover the Petition fees.
4. Check in the amount of \$850 to cover the fee for the Department of Fish and Game.

Merced Irrigation District is petitioning to temporarily add a point of redirection, place of use, and purposes of use to its License 11395 (Application 16186) in order to transfer up to a total of 15,000 AF by reservoir release of previously stored surface water to participating State Water Contractor (SWC) Agencies. As you are aware, time is of the essence to process this petition for the implementation of the water transfer to the participating SWCs; and we appreciate your attention to this temporary transfer petition.

Please call if you have any questions or require additional information.

Sincerely,  
MBK ENGINEERS

for Marc Van Camp

SH/pp  
5520.3/MERCED VICTORIA WHITNEY 2010-05-03.DOC

Enclosures

cc: John Sweigard, General Manager, Merced Irrigation District (via e-mail)  
Hicham Eltal, Merced Irrigation District (via e-mail)  
Ken Robbins, District Counsel (via e-mail)  
Nancy Quan, DWR SWPAO (via e-mail)  
Tim Rust, U.S. Bureau of Reclamation (via e-mail)  
Greg Wilson, Division of Water Rights (via e-mail)  
Jacqueline Matthews, CVRWQCB (via certified mail)  
Lauren Dailey, Department of Fish and Game (via certified mail and via e-mail)  
Board of Supervisors, County of Mariposa (via certified mail)  
Board of Supervisors, County of Merced (via certified mail)  
Board of Supervisors, County of Fresno (via certified mail)  
Board of Supervisors, County of Kings (via certified mail)  
Board of Supervisors, County of Kern (via certified mail)  
Board of Supervisors, County of Stanislaus (via certified mail)  
Board of Supervisors, County of Tulare (via certified mail)  
Board of Supervisors, County of San Benito (via certified mail)

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 TRANSFER  
 OF WATER/WATER RIGHTS**  
*(Water Code 1725)*

Point of Diversion  Point of Rediversion  Place of Use  Purpose of Use

Application No(s). 16186 Permit No. \_\_\_\_\_ License No. 11395

Statement or Other No. \_\_\_\_\_

***Present Holder and User of Water Right***

Merced Irrigation District	John Sweigard	(209) 722-5761
Person or Company name	Contact person	Telephone No
P.O. Box 2288	CA	95344-0288
Address	City	State
		Zip Code

E-MAIL (For noticing purposes)

***Co-petitioner***

N/A

Person or Company name	Contact person	Telephone No
Address	City	State
		Zip Code

E-MAIL (For noticing purposes)

***Proposed New User***

See Attachment

Person or Company name	Contact person	Telephone No
Address	City	State
		Zip Code

E-MAIL (For noticing purposes)

I (We) hereby petition the State Water Resources Control Board (State Water Board) under the provisions of Water Code (WC) section 1725 et seq. and in conformance with the specific requirements of California Code of Regulations (CCR) section 794 for temporary change(s) to the water right application(s) noted above for the purpose of transferring water. The changes are **shown on the accompanying map and described as follows** (attach additional pages, as needed):

**Amount of Water to be Transferred** up to 15,000 Acre-feet (AF). If the basis of right is direct diversion, the average rate of diversion for the maximum 30 day period of use is N/A cubic feet per second (cfs).

**Period of Transfer/Exchange** (Not to exceed one year) July 1, 2010 through September 30, 2010

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

Present See Attachment  
Proposed See Attachment

**Place of Use**

Present See Attachment  
Proposed See Attachment

**Purpose of Use**

Present See Attachment  
Proposed See Attachment

	<b>Season of Use</b>	<b>Direct Use (cfs)</b>	<b>Storage (ac-ft)</b>
Present	<u>No Change Requested</u>	<u>No Change Requested</u>	<u>No Change Requested</u>
Proposed	<u>No Change Requested</u>	<u>No Change Requested</u>	<u>No Change Requested</u>

The proposed transfer/exchange water is presently used or stored within the county/counties of:  
Mariposa and Merced Counties

The proposed transfer/exchange water will be placed to beneficial use within the following county/counties:  
Merced, Fresno, Kings, San Benito, Kern, Stanislaus, and Tulare Counties


- 1a. Would the transfer/exchange water have been consumptively used or stored in the absence of the proposed temporary change (See WC 1725)? Yes  
(yes/no)
- 1b. Provide an analysis which provides documentation that the amount of water to be transferred/exchanged would have been consumptively used or stored in the absence of the proposed temporary change. See Attachment
- 2a. If the point of diversion/rediversion is being changed, are there any person(s) taking water from the stream between the present point of diversion/rediversion and the proposed point? Yes  
(yes/no)
- 2b. Are there any persons taking water from the stream between the present point of diversion or return flow and the proposed point of diversion or return flow? Yes  
(yes/no)
- 2c. If the answer to 2a. or 2b. is yes, provide the name and address. Also provide the name and address of other persons known to you who may be affected by the proposed change.  
See Attachment  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 3a. Provide an analysis of any changes in streamflow, water quality, timing of diversion or use, return flows, or effects on legal users resulting from the proposed transfer/exchange. See Attachment  
\_\_\_\_\_
- 3b. State reasons you believe the proposed temporary change will not injure any legal user of the water, see Water Code Section 1727 (b)(1). See Attachment  
\_\_\_\_\_
- 4. Consult with staff of the applicable Regional Water Quality Control Board concerning the proposed temporary change. State the name and phone number of person(s) contacted. Summarize their opinion concerning compliance with CCR 794(b) and any Regional Board requirements. See Attachment  
\_\_\_\_\_
- 5a. Consult with the California Department of Fish and Game pursuant to CCR 794(b) concerning the proposed temporary change. State the name and phone number of the person(s) contacted and their opinion concerning the potential effect(s) of the proposed temporary change on fish, wildlife, or other instream beneficial uses, and state any measures recommended for mitigation. See Attachment

- 5b. 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) ? Yes  
(yes/no)
- 5c. Provide an analysis of potential effect(s) on fish, wildlife, or other instream beneficial uses which may arise from the proposed change. See Attachment
- 
- 5d. State reasons you believe the proposed temporary change will not unreasonably affect fish, wildlife, or other instream beneficial uses, see Water Code Section 1727 (b)(2). See Attachment
- 
- 6a. Does any agency involved in the proposed transfer/exchange rely upon section 382 of the Water Code to allow the delivery of water outside of the agency's service area? No  
(yes/no)?
- 6b. If yes, provide an analysis of the effect of the proposed transfer/ exchange on the overall economy of the area from which the water is being transferred. \_\_\_\_\_
- 

A TRANSFER/EXCHANGE UNDER WATER CODE SECTION 1725 INVOLVES ONLY THE AMOUNT OF WATER WHICH WOULD HAVE BEEN CONSUMPTIVELY USED OR STORED IN THE ABSENCE OF THE PROPOSED TEMPORARY CHANGE. A CHANGE WILL BE EFFECTIVE FOR A PERIOD OF ONE YEAR OR LESS, BEGINNING ON THE APPROVAL OF THIS PETITION OR ON SUCH DATE OTHERWISE SPECIFIED BY THE STATE WATER BOARD ORDER. FOLLOWING EXPIRATION OF THIS TEMPORARY CHANGE, ALL RIGHTS AUTOMATICALLY REVERT TO THE PRESENT HOLDER BY OPERATION OF LAW.

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

Dated: April 29, 2010 at Merced, California

  
Signature(s)

(209) 385-6268  
Telephone No.

**NOTE:** This petition shall be accompanied by all information required by this farm and W.C. Section 1725 et. seq, and the fees before the State Water Board will consider acceptance of the petition requesting a temporary change to facilitate a transfer/exchange.

**Proof of Service:** Compliance with W.C. section 1726(c) shall be met by the filing of copies of the proof of service to the Department of Fish and Game and to the board of supervisors of the counties where the water is currently used and the counties to which water is proposed to be transferred.

**NOTE:** All petitions must be accompanied by the **filing fee, (see fee schedule at [www.waterrights.ca.gov](http://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 for Temporary Transfer  
License 11395 (Application 16186)  
held by Merced Irrigation District**

**GENERAL**

The purpose of this Petition for Temporary Transfer is to: (1) add the State Water Project's (SWP) Harvey O. Banks Pumping Plant as a point of rediversion, (2) change the place of use to include the service area of the State Water Project (SWP), and (3) add Municipal and Industrial as purposes of use under License 11395 (Application 16186). This petition is being filed to facilitate a one-year transfer of up to 15,000 acre-feet (AF) of previously stored surface water from Merced Irrigation District (District), which will be made available by reservoir release to participating State Water Contractor (SWC) Agencies in order to provide an additional water supply for irrigation, domestic, municipal, and industrial uses. Reservoir reoperation will involve the release of water previously stored to the transfer participants from Lake McClure (New Exchequer Dam). The District is willing to accept reservoir refill criteria to ensure no injury occurs to downstream water right holders when water is made available. Absent the proposed temporary transfer, the District would retain the entire quantity of water proposed for transfer in storage pursuant to its water rights.

**PROPOSED NEW USER**

The proposed new users will be water users within the following four SWC Agencies listed below:

- DUDLEY RIDGE WATER DISTRICT,
- KERN COUNTY WATER AGENCY,
- OAK FLAT WATER DISTRICT, AND
- TULARE LAKE BASIN WATER STORAGE DISTRICT.

**POINT OF DIVERSION OR REDIVERSION**

**POINTS OF DIVERSION**

***Present:***

By California Coordinate System of 1927 Zone 3:

1. New Exchequer Dam (Lake McClure) – North 42°11'03" West 3,089.69 feet from SE corner of Section 13, T4S, R15E, MDB&M, being within NW ¼ of SE ¼ of said Section 13 and,

2. McSwain Dam – North 80°36'38" West 2,275.01 feet from SE corner of Section 3, T5S, R15E, MDB&M, being within SW ¼ of SE ¼ of said Section 3.

***Proposed:***

No change in the points of diversion is proposed.

**POINTS OF REDIVERSION**

***Present:***

1. McSwain Dam - North 80°36'38" West 2,275.01 feet from SE corner of Section 3, T5S, R15E, MDB&M, being within SW ¼ of SE ¼ of said Section 3,
2. Merced Falls Diversion Dam for Northside Canal – North 67 °00'00" West 2,760 feet from SE corner of Section 4, T5S, R15E, MDB&M, being within SW ¼ of SE ¼ of said Section 4 and
3. Crocker-Huffman Diversion Dam for Main Canal, Trout Farm and Salmon Spawning Channel – South 24 °00'00" East 2,700 feet from NW corner of Section 7, T5S, R15E, MDB&M, being within SW ¼ of NW ¼ of said Section 7.
4. Duck Slough at a point 100 feet North and 50 feet East of ¼ Cor. Sections 10 and 11, T8S, R14E, within the SW ¼ of the NW ¼ Section 11, T8S, R14E, MDB&M in Merced County.

***Proposed Additional Point of Rediversion:***

No change in the present points of rediversion is proposed. The District proposes to add the following point of rediversion:

**Banks Pumping Plant via the Clifton Court Forebay**

N 486,035, E 1,695,057, California Coordinate System Zone 3, within the NW ¼ of SE ¼ of Projected Section 20, T1S, R4E, MDB&M

This proposed additional point of rediversion is identified on maps filed with the Division of Water Rights (Division) under Application 5630.

**PLACE OF USE**

***Present:***

Irrigation of 131,953 acres within a gross area of 154,394 acres within the boundaries of the Merced Irrigation District and a 55 acre golf course within the service area of Sierra Highlands Water Company.

Domestic use at homesites within the service area of Sierra Highlands Water Company and at homesites and recreational facilities adjacent to Lake McSwain and Lake McClure including McClure Point, McClure Boat Club and Barrett Cove.

Fish culture at Licensee's salmon spawning channel and at a privately operated trout farm.

Recreational use and fish and wildlife enhancement in and around lakes McClure and McSwain.

The present places of use are shown on map entitled "Official Map of the Merced Irrigation District – 1973" and other maps filed with State Water Resources Control Board.

In addition to the place of use authorized in License 11395 as set fourth on August 15, 1983, per Water Rights Order 93-2 issued on January 21, 1993, the place of use also includes South Shore Club, an area within the Lake San Pedro Community Services District described as follows:

2,010 acres located within Sections 11, 12, and 13, T3S, R14E and Sections 7 and 18, T3S, R15E, MDB&M, as shown on a map on file with the State Board prepared in accordance with the specifications in Title 23, Cal. Code of Regs., Div. 3, Ch. 2, Art. 7 (commencing with Section 715). Licensee may deliver water for domestic use within this place of use.

Irrigation purposes on 9,418.6 acres within the boundaries of El Nido Irrigation District as shown on map of District filed with the Division of Water Rights for Application 8238. El Nido Irrigation District has been consolidated with the District.

***Proposed:***

No change in the present place of use is proposed. The District proposes to add the service area of the SWP as the proposed additional place of use in order to facilitate the temporary water transfer to the participating SWCs. The service area of the SWP is shown on Map 1878-1, 2, 3, and 4 on file with the Division under Application 5630.



**PURPOSE OF USE**

***Present:***

Irrigation, Domestic, Fish Culture, and Recreation

***Proposed:***

The District proposes to temporarily add Municipal and Industrial as additional purposes of use.

**RESPONSES TO NUMBERED ITEMS ON PETITION:**

- 1b.** Absent the proposed temporary transfer to the participating SWCs, the District would retain the entire quantity of water proposed for transfer in storage pursuant to its water rights.
- 2b.** Although there are water users taking water from the stream between the District's current points of return flow and the points at which an export water user would return water to the system, we have answered question No. 2b as "not applicable." The District would not transfer water such that it would impact water users within Merced ID; and therefore, there will be no change in the return flow pattern from water users within the District.
- 2c.** The District is proposing to add the SWP Banks Pumping Plant as an additional point of rediversion. The proposed transfer will result in an increase in the flow between the District's present points of rediversion and the additional proposed point of rediversion. This increase in flow may result in a positive effect to the water users between the present points of rediversion and the proposed additional point of rediversion. See files of the State Water Resources Control Board.
- 3a & 3b.** Surface water will be made available for transfer from the District by reservoir release, consistent with the Draft Technical Information for Water Transfers in 2010 (Draft Technical Information) published by the Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation). The Draft Technical Information has been developed to address the concerns of DWR and Reclamation relative to the potential impacts that water transfers may have on other legal users. The District will coordinate with DWR and Reclamation for the proposed water transfer to the participating SWCs during 2010.

As a result of this proposed temporary transfer, the flow in the Merced River will increase by up to 15,000 AF during the period of the transfer over what would have occurred absent the proposed transfer. There will be no injury to other legal water users,

water quality, or return flows; in fact, the increased flows may result in instream benefits below the District's points of rediversion.

The release pattern for the proposed temporary transfer quantity will be coordinated with the U.S. Fish and Wildlife Service (USF&WS) and the Department of Fish and Game (DFG), in order to release up to 15,000 AF of water to support the District's Federal Energy Regulatory Commission (FERC) relicensing study 3.4, Instream Flow-Merced River Between Merced Falls Dam Crocker Huffman Dam (FERC Study) at the optimum high flow test rates.

- 4.** The Central Valley Regional Water Quality Control Board (CVRWQCB) was contacted; and no comments were provided at this time. A copy of this petition has been provided to Jacqueline Matthews (530-224-4845) of the CVRWQCB.
- 5a.** The Department of Fish and Game (DFG) was contacted; and no comments were provided at this time. A copy of this petition has been provided to Lauren Dailey (916-358-2909) of DFG.
- 5c & 5d.** As previously identified, the release of up to 15,000 AF of water will support the FERC Study at the optimum high flow test rates for use in an analysis to determine instream benefits to aquatic species. The proposed temporary transfer may provide environmental benefits through increased flows downstream of the District's present points of rediversion.



**2. COUNTY PERMITS NOT APPLICABLE.**

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

Person contacted: \_\_\_\_\_ 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 NOT APPLICABLE.**

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: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
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 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

d. Have you contacted the California Department of Fish and Game concerning your project?  YES  NO  
If YES, name and telephone number of contact: Lauren Dailey (916) 358-2909

**4. ENVIRONMENTAL DOCUMENTS**

a. Has any California public agency prepared an environmental document for your project?  YES  NO  
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: **SEE ATTACHMENT**

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. \_\_\_\_

\* **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 NOT APPLICABLE.**

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.):

\_\_\_\_\_  
 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

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

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


**7. ENVIRONMENTAL SETTING *SEE ATTACHMENT***

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.

**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: April, 29, 2010 Signature: 

**Attachment  
to Environmental Information for  
Petition for Temporary Transfer  
License 11395 (Application 16186)  
held by Merced Irrigation District**

1. DESCRIPTION OF PROJECT

Merced Irrigation District (District) is petitioning to temporarily add a point of rediversion, place of use, and purposes of use to the water right identified above in order to transfer up to a total of 15,000 AF to participating SWCs by release of previously stored surface water. The State Water Project's (SWP) Banks Pumping Plant is proposed to be added as a point of rediversion. In addition, the service area of the State Water Project (SWP) is proposed to be added as a place of use. Municipal and Industrial are proposed to be added as purposes of use. There is no change to the existing points of diversion or rediversion, place of use, or purposes of use. These proposed additions would authorize the transfer of water to participating SWCs during July through September 2010.

The quantity of water to be made available by reservoir release involves the use of previously stored surface water released into the Merced River for rediversion at the proposed additional point of rediversion. Absent the proposed temporary transfer, the District would have retained the 15,000 AF of surface water in storage pursuant to its water rights. For this reason, the proposed temporary transfer does not involve any construction or other physical changes to the District's facilities.

4. ENVIRONMENTAL DOCUMENTS

Petitions for temporary transfer of water pursuant to Water Code Section 1725 are exempt from CEQA. In February 2010, the U.S. Bureau of Reclamation prepared an Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) for water transfers during 2010 and 2011 pursuant to the requirements under the National Environmental Policy Act (NEPA). This EA and FONSI are available on Reclamation's web site at: [http://www.usbr.gov/mp/nepa/nepa\\_projdetails.cfm?Project\\_ID=4699](http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=4699). Although the EA and FONSI do not attempt to address the District's proposed water transfer directly, Section 3.18 of the EA covers Cumulative Effects, including a water transfer from the District for the quantity identified in this petition in 2010.

7. ENVIRONMENTAL SETTING

The proposed additional point of rediversion includes existing facilities that are well known and documented with the Division of Water Rights (Division). In addition, the proposed addition to the place of use is also well known and documented with the Division. Therefore, for these reasons, photographs of the proposed additional point of diversion and place of use are not included.