

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.

Multiple horizontal lines for providing a description of proposed changes or work remaining to be completed.

See Attachment No. 1

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- 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
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. 2

* 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 N/A

- 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 Petition for Change involves no construction

- 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

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If YES, explain: _____

See Attachment No. _

7. ENVIRONMENTAL SETTING N/A Petition for Change involves no construction or change in points of diversion or redirection

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: February 10, 2009

Signature: *Nancy Dine*

Attachment 1

Requested Change

The Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) request that the State Water Resources Control Board (SWRCB) make the following modifications to the D-1641 permit terms relating to the Delta outflow requirements (also referred to as X2) found in Tables 3 and 4 (see D-1641, pp 183-84 and 191, respectively)

1. During February, Reclamation and DWR will satisfy the Delta Outflow (X2) requirement on Table 3 by maintaining a minimum daily net Delta outflow of 7,100 cfs, calculated as a 3-day running average, at Collinsville, instead of meeting a minimum number of X2 days at Chipps Island described on Table 4 of D-1641. However, if sufficient precipitation occurs such that the Sacramento River inflow as measured at Freeport exceeds 20,000 cfs for at least 3 days in February, then Reclamation and DWR would meet X2 compliance at Chipps Island for the remainder of February or for the number of days called for in Table 4, whichever is less.
2. Waive the requirement that the daily average or 14-day running average EC at station C2 shall be less than or equal to 2.64 mmhos/cm for at least one day between February 1 and February 14 for this year (known as the "starting gate provision").
3. Waive the higher objective for the San Joaquin River flow requirement at Airport Bridge, Vernalis as noted in Table 3 for February 2009.

X2 Requirements

Water rights decision D-1641 is the primary means by which the SWRCB has implemented the water quality objectives of the 1995 San Francisco Bay/Sacramento-San Joaquin-Delta Water Quality Control Plan. A primary objective of the Plan and D-1641 is the protection of fish and wildlife beneficial uses. A key species of concern is the delta smelt. At the time the 1995 Plan and its predecessors were developed there was considerable discussion as to what criteria would best protect Delta fisheries. The SWRCB first established the geographical position of the 2-parts-per-thousand (ppt) isohaline (commonly referred to as "X2") as the primary criteria for the protection of fish and wildlife beneficial uses in D 1641. The geographical position of X2 was considered by the SWRCB to be significant to the biologically important entrapment zone of the estuary and native fishes. D-1641 objectives create a systematic approach for Central Valley Project (CVP) and State Water Project (SWP) (collectively the Projects) operations to influence the position of X2 in the Delta. The key to the regulatory system is the concept of an "X2 day." An X2 day can be operationally accomplished by the CVP-SWP meeting one of three potential equivalents. The three potential equivalents are:

- 2.64 EC at the desired geographic compliance location for the day;
- 14-day average of 2.64 EC at the desired geographic compliance location; or
- A pre-determined minimum daily net Delta outflow equivalent for the desired X2 compliance location for the day.

If any of these conditions are met, the day is included as an X2 compliance day. The determination of the desired compliance location and the required number of X2 days per month in the February to June time period is defined by regulatory tables contained in D-1641 (see D-1641, Tables 3 and 4 on pages 184 and 191, respectively). The tables specify the required number of X2 days based on the previous month's Eight River Index (8RI) which is

the estimated full natural runoff of the largest eight streams in the Sacramento-San Joaquin watershed. Excess compliance days at the desired location from the previous month are counted toward meeting the current month's required X2 days. The D-1641 X2 objectives also contain a condition known as the "salinity starting gate" objective. In all but very dry January conditions, the Projects must ensure that the actual X2 water quality (on a daily or 14-day mean) is west of Collinsville for at least one X2 day during the February 1 to 14 time period. However, if the 8RI for January is between 650 thousand acre-feet (TAF) and 900 TAF the Executive Director of the SWRCB has the delegated authority to determine if this requirement applies. The fishery significance of the salinity starting gate is considered to place X2 generally west of the export influence of the Projects and into the Suisun Marsh.

January 2009 was extremely dry and the January 8RI was 973 TAF, well below average but above the threshold included in D1641 allowing the SWRCB Executive Director to use its discretion in determining whether the February X2 "starting gate" requirement should apply. Because the January 8RI exceeds the 900 TAF threshold contained in footnote 10 of D-1641, the Projects are required to maintain a daily average or 14-day running average EC at station C2 of less than or equal to 2.64mmhos/cm for at least one day between February 1 and February 14.

As stated above, the January 8RI was less than 1000 TAF, which is the threshold for maintaining X2 at Chipps Island for the full month of February (Table 4 of D-1641). However, Footnote "c" of Table 4 requires that if the previous month 8RI is between 800 and 1000 TAF, the number of days X2 must be maintained at Chipps Island (requiring a 14-day running average NDOI of 11,400 cfs) is determined by interpolating between 0 and 28. (See Exhibit 2.) DWR and Reclamation request that the X2 requirement at Chipps Island be waived for February to allow for the conservation of cold water in upstream reservoirs necessary for the

protection of threatened and endangered salmon and steelhead in the year. Without a modification of the above X2 standards, the Projects could be forced to reduce exports even further than the severe restrictions currently projected and increase releases from upstream reservoirs in February to increase the NDOI from 7,100 cfs to 11,400 cfs (approximately 8,000 acre-feet per day). Based on the January 8RI of 973 taf, twenty-four (24) X2 compliance days are required at Chipps Island by interpolation of values in Table 4. This could result in a required release of up to nearly 200,000 acre-feet of water to meet the February X2 requirements. By way of contrast, the outflow level for most of January was 4,500 cfs. If all the X2 requirements remain in effect as currently mandated in D-1641, these outflow targets could jeopardize the Projects' ability to maintain cold-water reserves in upstream reservoirs for the protection of salmon and steelhead in 2009. The lack of sufficient upstream storage also has the potential to result in a "loss of control" over salinity encroachment in the Delta by late 2009 and into 2010 if conditions do not improve.

DWR and Reclamation also request that the SWRCB allow Reclamation to meet the San Joaquin River flow objective at Airport Bridge, Vernalis at the lower flow requirement for February 2009. (See Exhibits 3A and 3B.) The Vernalis flow requirement is designed to provide a percentage of the total Delta outflow as a function of required X2 compliance days. The higher objective applies when X2 is required to be at or west of Chipps Island. DWR and Reclamation are seeking modification of the requirement to maintain X2 at Chipps Island during February, therefore, if the SWRCB grants a relaxation of the Chipps Island X2 requirement for February, it would follow that the lower objective for the higher Vernalis flow requirement would also be appropriate.

DWR and Reclamation are seriously concerned that if the extremely dry conditions in the Bay-

Delta watershed continue without the requested modifications to the X2 and Vernalis objectives, it will jeopardize the ability of the Projects to effectively manage the water resources for the protection of fish and wildlife, and critical urban and agricultural beneficial uses. To aid in preserving some flexibility for meeting these competing needs, the Projects are requesting modification of the X2 standards for the entire month of February 2009.