

Memorandum

GFW KDM
17512
The Resources Agency

Date: JAN 16 2009

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

2009 JAN 22 AM 11:37
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

From: Department of Water Resources

Subject: Petition for Temporary Change to Allow 2009 Transfer of up to 8,000 Acre-Feet from Tulare Lake Basin Water Storage District to Westlands Water District

The Department of Water Resources submits the attached Petition for Temporary Change to allow the transfer of 8,000 acre-feet of State Water Project water from the Tulare Lake Basin Water Storage District to Westlands Water District (WWD) in the U.S. Department of the Interior's Bureau of Reclamation's service area.

Also included are (1) a check for the \$4,397 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 or need additional information, 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: (See 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. Brent Graham, Manager
Tulare Lake Basin Water
Storage District
1109 S. Whitley
Corcoran, California 93212

Mr. James E. Turner
U.S. Department of the Interior
Office of the Solicitor
2800 Cottage Way, Room E-2753
Sacramento, California 95825

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

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

Ms. Julie Means
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

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

2009 JAN 22 AM 11:39
E-MAIL NOTICING PURPOSES
SACRAMENTO

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) 17512 Permit No. 16482 License No. _____

Statement or Other No. _____

Present Holder and User of Water Right

Department of Water Resources	Nancy Quan, Bay-Delta Hearings & Program Dev	(916) 653-0190	
Person or Company name	Contact person	Telephone No.	
Post Office Box 942836	Sacramento	California	94236-0001
Address	City	State	Zip Code
<u>nquan@water.ca.gov</u>			
E-MAIL (For noticing purposes)			

Co-petitioner

Tulare Lake Basin Water Storage District	Mark Gilkey, Manager	(559) 992-4127	
Person or Company name	Contact person	Telephone No.	
1001 Chase Avenue	Corcoran	California	93212
Address	City	State	Zip Code
<u>mgilkey@tlbwsd.com</u>			
E-MAIL (For noticing purposes)			

Proposed New User

Westlands Water District	Tom Birmingham, General Manager	(559) 241-6241	
Person or Company name	Contact person	Telephone No.	
P. O. Box 6056	Fresno	California	93703
Address	City	State	Zip Code
<u>tbirmingham@westlandswater.org</u>			
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 8,000 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 _____ cubic feet per second (cfs).

Period of Transfer/Exchange (Not to exceed one year) May 2009 through April 2010

Rec'd
\$4,397.00
\$850.00
1/22/09
MS

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 Rediversion at San Luis Dam SW¼ of SE¼ of projected Section 15, T10S, R8E, MDB&M.
Proposed No Change

Place of Use

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 Irrigation
Proposed Irrigation

Season of Use	Direct Use (cfs)	Storage (ac-ft)
Present <u>May – December 2009</u>	<u></u>	<u>Up to 8,000 af</u>
Proposed <u>May 2009 – April 2010</u>	<u></u>	<u>Up to 8,000 af</u>

The proposed transfer/exchange water is presently used or stored within the county/counties of:
Kings and Tulare

The proposed transfer/exchange water will be placed to beneficial use within the following county/counties:
Fresno

The water covered by this petition, up to 8,000 AF of State Water Project water, is currently allocated to Tulare Lake Basin Water Storage District. Two farming interests in TLBWSD, Newton Farms and Hansen Ranches/Vista Verde Farms, will deliver the State Water Project water currently allocated for use within TLBWSD to lands owned by the same farming interests in Westlands Water District as shown on the attached maps.

- 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.

Current SWP allocation is 15 percent of the long-term SWP water supply contract annual Table A amounts. Newton Farms and Hansen Ranches/Vista Verde Farms own and irrigate land within TLBWSD, and demand within the district exceeds current allocation. In the absence of the proposed temporary change, TLBWSD's SWP Table A water would have been used for irrigation on Hansen Ranches/Vista Verde Farms and Newton Farms land in TLBWSD. Depending on availability, alternate local sources of surface water will be used to farm landholders' lands within TLBWSD. No additional groundwater will be pumped as a result of the transfer/exchange. Newton Farms and Hansen Ranches/Vista Verde Farms may also elect to either fallow or crop shift on a portions of the lands within TLBWSD. Due to a number of factors, CVP allocations to WWD for the 2009 irrigation season are currently estimated at 0 to 10% percent of contract amounts. There is a significant unmet demand in WWD this irrigation season. Even if water supply conditions improve significantly in the coming months, CVP allocations are not expected to exceed a 55% allocation, due to the Delta export restrictions.

- 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? N/A
(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? No
(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.

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.

The water is currently in storage in San Luis Reservoir; therefore there is no effect on streamflow or hydrologic regime. The water has already been moved out of the watershed in which it originates. Although the total amount of water used will not change, the delivery rates from San Luis Reservoir may be slightly different. The scheduling of the deliveries will be coordinated between DWR and USBR so as not to adversely impact any SWP or CVP contractor deliveries. Adequate capacity in the California Aqueduct and in the Delta Mendota Canal is available.

Dependent upon local water supplies, Newton Farms and Hansen Ranches/Vista Verde Farms will either fallow, crop shift or continue with normal farming operations within TLBWSD.

**Summary of Water Available to Lands in WWD
 Receiving Water From Transfer**

The figures shown in the table below reflect the current CVP allocation of 10% for WWD.

Landholder	Approximate Acreage	CVP (10%) AF	Transfer AF	AF/A with Transfer
Hansen/Vista Verde Farms	3,461	450	6,000	1.86
Newton Farms	856	227	2,000	2.60

Water delivered to Hansen Ranches/Vista Verde Farms will be used for irrigation in 2009. The total water demand for the Hansen Ranches/Vista Verde Farms acreage has increased in recent years due to the conversion of some acreage previously devoted to cotton to almonds. Almonds require at least 4 acre-feet per acre. The water to be used on land within Newton Farms will be used for irrigation in 2009 and pre-irrigation prior to the end of April 2010. In addition, if the season continues to be dry, total demand for imported irrigation water will increase as a result of a reduction in spring precipitation. Water will not be applied in excess of crop demand. The water obtained through the transfer will reduce the need for supplemental groundwater pumping.

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 the District and Priority Area I lands (856 acres) in the southern half of the District. Lands within the WWD area having selenium and other drainage problems are located in the low lying areas in the northern quarter of the District. 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 2008. 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.

- 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).

The quantity of water associated with this transfer was diverted at the Banks Pumping Plant and rediverted to storage in San Luis Reservoir in conformance with the criteria contained in State Water Resources Control Board Decision 1641 and the criteria 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 SWP and CVP by the December 14, 2008, Wanger Decision, which limits the export of water from the Delta late December through June, are also being met. When the current consultation on the Long-Term CVP and SWP Operations Criteria and Plan (OCAP) with the United States Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Agency (NOAA) Fisheries Service are completed resulting in new Biological Opinions for delta smelt, salmon, and green sturgeon, DWR will modify export operations to comply with any applicable new regulations. The water has been diverted out of the watershed in which the water originated. There are no other legal users of the water downstream of the point of diversion. Therefore, no legal user of the transfer would be injured.

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. Anthony Toto, (559) 445-6278, reviewed the petition and provided the following comments on January 13, 2009:

"We have reviewed the Draft Petition for Temporary Change of Place of Use for State Water Project water from Tulare Lake Water Storage District and Westlands Water District (WWD) emailed on 1/12/09. The petition proposes transfer of up to 8,000 acre-feet from Tulare Lake Basin Water Storage District to WWD, to help maintain existing water deliveries. Water supply to WWD has been severely reduced and the transfer of 8,000 acre-feet should not provide supplies in surplus of crop demand. The proposed change should result in minimal increases in water elevation at the point of application, and no measurable change in groundwater quality provided best management practices are followed."

- 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.

Julie Means (559) 243-4014 ext 240; FAX (559) 243-4020

- 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) ? No
(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.

The transfer will not effect fish, wildlife or other instream beneficial uses. The transfer will not result in an increase in diversions from the Sacramento-San Joaquin Delta or an increase in return flows to the San Joaquin River. The water to be transferred is water currently allocated to TLBWSD for use within its service area. In the absence of the transfer, the water would be used within TLBWSD. The water to be transferred is stored in San Luis Reservoir and/or approved for delivery to TLBWSD in accordance with the terms of DWR's permits.

- 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).

The transfer will not unreasonably affect fish, wildlife or other instream beneficial uses. The water to be transferred is stored in San Luis Reservoir and/or approved for delivery to TLBWSD in accordance with the terms of DWR's permits.

- 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: _____ at _____, California

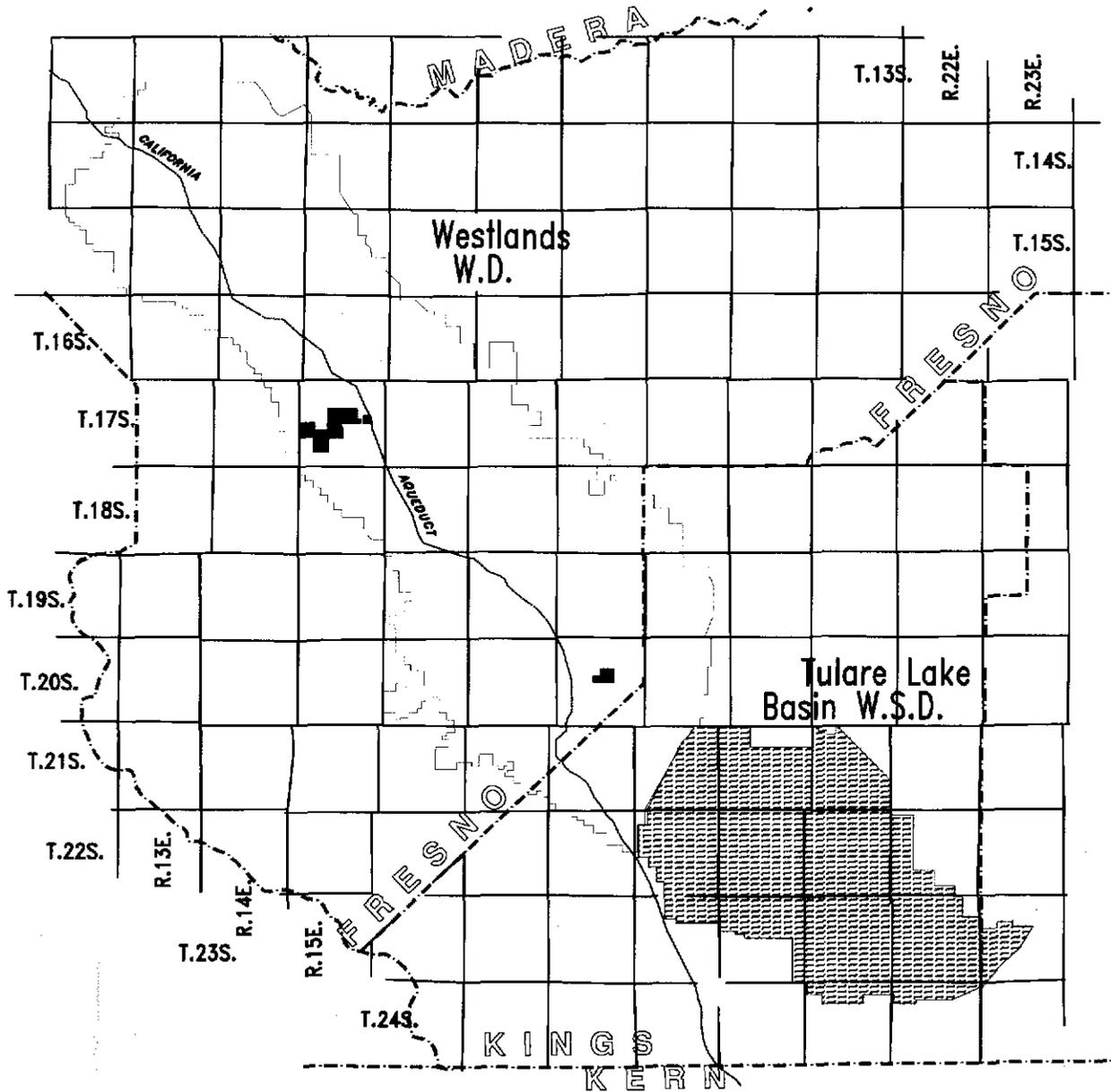
Signature(s)

(_____) _____
Telephone No.

NOTE: This petition shall be accompanied by all information required by this form 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)**, 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.



■ WWD AREAS INVOLVED IN TRANSFER

