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State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

NOTICE OF PETITION TO CHANGE THE PLACE OF USE AND ADD POINTS OF REDIVERSION

LICENSE: 7543 (Application 16124)

PETITION FILED: November 8, 2004

LICENSE: 12624 (Application 16761)

PERMIT: 21089 (Application 30532)

Notice is hereby given that the Monterey County Water Resources Agency (MCWRA) (Petitioner) has filed a petition to change the place of use and add a point of rediversion under Licenses 7543 (Application 16124) and 12624 (Application 16761) and Permit 21089 (Application 30532). Petitioner currently collects water to storage from the Nacimiento River to Nacimiento Reservoir in San Luis Obispo County and from the San Antonio River to San Antonio Reservoir in Monterey County. The State Water Resources Control Board (SWRCB) will determine whether the licenses and permit should be amended and whether further conditions are needed in the licenses and permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the existing project and the proposed change and also describes the procedure and time frame for submittal of protests against the petition. The Division of Water Rights (Division) will not accept protests that are directed against the underlying water rights, rather than the changes proposed by the petition. This notice may be viewed at the Division website at www.waterrights.ca.gov. Any correspondence directed to the Petitioner should be mailed to:

Monterey County Water Resources Agency
c/o Scott L. Shapiro
Downey Brand LLP
555 Capitol Mall, Tenth Floor
Sacramento, CA 95814

Description of Project

The Salinas Valley Water Project is intended to reduce seawater intrusion in the Salinas Valley basin, continue conservation of winter flows for recharge of the basin through summer releases, provide flood protection, improve the long-term hydrologic balance between recharge and withdrawal in the basin, and provide a sufficient water supply to meet water needs through the year 2030. Project flows are being re-operated to release additional water to the stream system during the irrigation season for downstream rediversion for irrigation. Previously, this increment of water would have percolated into the groundwater basin and subsequently been diverted for direct use by the same irrigators. As a result of the re-operation, the irrigators will use released stored water instead of directly pumping groundwater, thus reducing demand and halting or reducing seawater intrusion.

The project consists of three distinct components -- (i) modification of the Nacimiento Dam spillway, (ii) operation and maintenance of Nacimiento and San Antonio Reservoirs, and (iii) construction of the Salinas River Diversion Facility. The first component, the spillway modification at Nacimiento Dam is intended both to protect the dam and reservoir from damage during a maximum probable flood event and to allow the current joint operation of both reservoirs to be modified (re-operation). These modifications are necessary to meet requirements of the California Department of Water Resources, Division of Dam Safety, and include lowering the existing spillway, installing an inflatable dam on the new spillway sill, and enlarging the spillway chute. The inflatable dam would be lowered during a large flood event to preclude the dam from overtopping. The inflatable dam would be raised after winter rains, allowing the reservoir storage to be maintained at its present 800-foot maximum pool elevation.

The second component, operation and maintenance of the reservoirs, includes direct operations and maintenance of the existing facilities, along with associated activities of maintenance of the Salinas Valley River channel, Salinas River mouth, cloud seeding, debris clearing, data collection and management, and other administrative tasks. After the spillway modification is made at Nacimiento Dam, MCWRA will re-operate the amount, frequency, and schedule of releases from the reservoirs into the Nacimiento and San Antonio Rivers, which in turn flow into the Salinas River. The greater spillway capacity along with the inflatable dam will give MCWRA greater operational flexibility for water storage, while still providing for passage of the probable maximum flood. Releases from the reservoirs will be used to supplement and/or replace existing groundwater use through surface diversion and/or groundwater recharge in MCWRA's existing service area and the new Zone 2-C.

The third component is construction of an inflatable diversion structure, with an associated fish screen and pumping facilities, which would allow for diversion of Salinas River water into the existing Castroville Seawater Intrusion Project (CSIP) distribution system. The diverted Salinas River water would be blended with recycled water to be used to help irrigate approximately 12,800 acres of agricultural lands within the CSIP service area. This enhanced surface water supply would replace current groundwater pumping and provide improved and more uniform irrigation water quality. The reduction in groundwater pumping is anticipated, in conjunction with other projects undertaken by MCWRA, to reduce seawater intrusion in aquifers underlying the Salinas Valley.

Summary of Petition

License 7543 Information:

Counties: Monterey and San Luis Obispo.
Licensee: MCWRA.
Source: Nacimiento River tributary to Salinas River.
Point of
Diversion: Nacimiento Dam, S58° 57' 28"W, 10,837 feet from NW corner of Section 12, T25S, R10E, MDB&M, being within NE¼ of NW¼ of Section 15, T25S, R10E, MDB&M.

Purpose of

Use: Irrigation, domestic, municipal, industrial, and recreation.

Amount and

Season: 350,000 acre-feet (af) per year to be collected from about October 1 of each year to about July 1 of the succeeding year. The maximum withdrawal in any one-year has been 180,000 af.

Place of

Use: Recreational use at Nacimiento Reservoir within San Luis Obispo County; irrigation, domestic, municipal, industrial, and recreational uses within an area within Monterey County consisting of 200,000 acres net within a gross area of 240,000 acres as shown on map dated November 4, 1954 on file with the SWRCB; net area of 500 acres of irrigated agriculture and net area of 7,000 acres of urban and suburban lands within the San Luis Obispo County Flood Control and Water Conservation District as shown on map dated June 8, 1967 on file with the SWRCB.

Petition to Change the Place of Use Under License 7543

Petitioner seeks to change the place of use under License 7543 to include MCWRA Zone 2-C (an assessment zone) as shown on map dated October 28, 2004.

Petition to Add Point of Rediversion Under License 7543

Petitioner further seeks to add a point of rediversion to License 7543 to be located as follows: North 420 feet and West 1,700 feet from SE corner of Section 16, T14S, R2E, MDB&M (N76°W, 1,800 feet from SE corner of Section 16 and N81°E, 3,200 feet from SW corner of Section 16, T14S, R2E, MDB&M, being within SE¼ of Section 16, T14S, R2E, MDB&M).

License 12624 Information:

County: Monterey.

Licensee: MCWRA.

Source: San Antonio River tributary to Salinas River.

Point of

Diversion: San Antonio Dam, North 26° East 1,800 feet from SW corner of projected Section 34, T24S, R10E, MDB&M, being within NE¼ of SW¼ of Section 34.

Purpose of

Use: Irrigation, domestic, municipal, industrial, and recreation.

Amount and

Season: 220,000 af per year to be collected from October 1 of each year to July 1 of the succeeding year. The maximum withdrawal in any one-year shall not exceed 210,000 af.

Place of Use: Recreational use at San Antonio Reservoir within T23S, R8E; T23S, R9E; T24S, R9E; and T24S, R10E, all within MDB&M, and irrigation, municipal, industrial, and domestic uses within Zone 2A of MCWRA consisting of 259,000 acres net within a gross area of 357,000 acres, as shown on a map filed with the SWRCB.

Petition to Change the Place of Use Under License 12624

Petitioner seeks to change the place of use under License 12624 to include MCWRA Zone 2-C (an assessment zone) as shown on attached map.

Petition to Add Point of Rediversion Under License 12624

Petitioner further seeks to add a point of rediversion to License 7543 to be located as follows: North 420 feet and West 1,700 feet from SE corner of Section 16, T14S, R2E, MDB&M (N76°W, 1,800 feet from SE corner of Section 16 and N81°E, 3,200 feet from SW corner of Section 16, T14S, R2E, MDB&M, being within SE¼ of Section 16, T14S, R2E, MDB&M).

Permit 21089 Information:

County: Monterey and San Luis Obispo.
Licensee: MCWRA.
Source: Nacimiento River tributary to Salinas River.
Point of
Diversion: California Coordinate System Zone 5, North 834,000 ft. and East 1,444,260 feet; SE¼ of NW¼ of Section 15, T25S, R10E, MDB&M.
Purpose of
Use: Irrigation, domestic, municipal, industrial, and recreation.
Amount and
Season: 27,900 af per year to be collected from October 1 of each year to July 1 of the succeeding year.

Place of Use: Recreational use at Nacimiento Reservoir within San Luis Obispo County; irrigation, domestic, municipal, industrial, and recreational uses within an area within Monterey County consisting of 200,000 acres net within a gross area of 240,000 acres comprising Zone 2 of MCWRA, excluding all lands annexed to Zone 2 after November 4, 1965. Zone 2 is shown on map dated June 13, 1997 on file with the SWRCB. Net area of 500 acres of irrigated agriculture and net area of 7,000 acres of urban and suburban lands within San Luis Obispo County Flood Control and Water Conservation District comprising a gross area of 1,040,590 acres as shown on a map dated June 8, 1967 on file with the SWRCB.

Petition to Change the Place of Use Under Permit 21089

Petitioner seeks to change the place of use under Permit 21089 to include MCWRA Zone 2-C (an assessment zone) as shown on attached map.

Petition to Add Point of Rediversion Under Permit 21089

Petitioner further seeks to add a point of rediversion to License 7543 to be located as follows: North 420 feet and West 1,700 feet from SE corner of Section 16, T14S, R2E, MDB&M (N76°W, 1,800 feet from SE corner of Section 16 and N81°E, 3,200 feet from SW corner of Section 16, T14S, R2E, MDB&M, being within SE¼ of Section 16, T14S, R2E, MDB&M).

Environmental Information

MCWRA is the California Environmental Quality Act (CEQA) lead agency on the project and, in conjunction with the U.S. Army Corps of Engineers, has prepared a joint Environmental Impact Report / Environmental Impact Statement (EIR/EIS) according to CEQA, its guidelines, and the National Environmental Policy Act.

The EIS/EIR evaluated the project's potential impacts in the areas of land use and planning; geology, soils, and seismology; hydrology and flooding; water quality and public health; terrestrial biology; fish biology; cultural resources; visual resources; recreation; traffic and circulation; air quality; noise; and environmental justice. The investigation identified the following potentially significant impacts:

- potential waterlogging of agricultural areas
- potential water quality effects on agricultural use
- effects on riparian habitat
- effects on jurisdictional waters of the United States
- effects on recreational warmwater sportfish reproduction and habitat
- steelhead migration impacts related to spillway and diversion operation
- steelhead predation and other impacts related to impoundment operation
- potential for discovery of undiscovered cultural resources
- effects on aesthetic value of San Antonio Reservoir
- effects on aesthetic value of Nacimiento Reservoir
- effects on recreation at San Antonio Reservoir
- effects on recreation at Nacimiento Reservoir
- effects on sportfishing at Nacimiento Reservoir
- effects of construction-related road and lane closures
- effects of construction-related traffic delays
- effects of construction-related pavement degradation
- effects of construction-related safety hazards from tracking of mud or gravel
- construction emissions—South Central Coast Air Basin
- construction emissions—North Central Coast Air Basin
- operational emissions—South Central Coast Air Basin
- construction-related noise impacts
- operational noise impacts

For the majority of these impacts, the EIR/EIS proposed mitigation measures that will avoid the impacts entirely or else reduce them to below the level of significance. MCWRA will incorporate the mitigation measures into the construction and operation of the project.

The following significant impacts, however, were found to be unavoidable: potential effects on largemouth bass spawning in Lake Nacimiento; a reduction in aesthetic values and recreation at the reservoirs; and short-term, construction-related air emissions. The MCWRA Board of Supervisors determined that the benefits of the project overrode the need to avoid those impacts.

Seawater intrusion has threatened the Salinas Valley basin for more than 50 years, contaminating groundwater and making it unfit for human consumption or agricultural use. Failing to reduce seawater intrusion could jeopardize the local water supply and prevent agriculture on fertile land within the Salinas Valley with resulting impacts to the area's economy. Therefore, on June 4, 2002, the Board of Supervisors issued a Statement of Overriding Considerations as provided in CEQA Guidelines section 15093.

Regarding potential growth-related impacts, as noted in section 7 of the EIR/EIS it would be speculative to forecast any level of growth that would occur in the region as a result of the project. MCWRA does not currently serve water to any municipal or industrial uses (the only water served is treated wastewater delivered to irrigation in areas threatened by seawater intrusion) and has no land use authority. Thus, the project's primary theoretical impact on growth would be in removing the potential obstacle to continued use of the groundwater basin posed by seawater intrusion. The project is designed to enable continued use of the existing groundwater supply through recharge or provision of a substitute supply to reduce irrigation pumping. Given that agriculturalists and urban areas will both have the right to continue pumping basin groundwater regardless of the project, albeit at the risk of greater seawater intrusion, MCWRA believes that other factors, and not the project, will necessarily be the direct cause of any population increase.

The MCWRA Board of Supervisors adopted a resolution certifying the Final EIR/EIS on June 4, 2002 and filed a Notice of Determination on June 5, 2002.

The EIR/EIS and related documents can be viewed in their entirety at http://www.mcwra.co.monterey.ca.us/welcome_svw_p_n.htm.

If you are not filing a protest, but wish to submit information not covered in the lead agency's environmental document that indicates that the project may cause a significant effect on the environment, please send this information immediately 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. There must be a clear link between the proposed change and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the petition is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed change would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the proposed change will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed change on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed change and how the change will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the petitioner a duplicate copy 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.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at www.waterrights.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.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **30th** 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, 14th 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 applicant will have 30 days to respond to a protest once it is accepted by the Division of Water Rights. The protestant and the petitioner are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "major" petition for change (the subject diversions are for 350,000 acre-feet, 220,000 acre-feet, and 27,900 acre-feet or less per year by storage) as defined by section 1704.4 of the Water Code. Therefore, any protest issues not resolved by the petitioner or by provisions of section 1703.6 of the Water Code will be decided by the Chief, Division of Water Rights, following a hearing.

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 telephone at (916) 341-5363 or by electronic mail at kmrowka@waterboards.ca.gov. Information and protest forms are also available at the Division's website: www.waterrights.ca.gov/forms/.

Date of Notice: **12-17-04**

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