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Agency Secretary

State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

NOTICE OF PETITIONS FOR CHANGE OF PLACE AND PURPOSE OF USE TO DEDICATE WATER FOR ENHANCEMENT OF FISH AND WILDLIFE RESOURCES (WATER CODE SECTION 1707)

**PRE-1914 APPROPRIATIVE RIGHTS-
LICENSES 2614, 2615, 2616, 2617, AND
PERMITS 4743, 4744, 5847 AND 5848**
(APPLICATIONS 5109, 5110, 8187, 8188,
8559, 8565, 9735 AND 9736)

PETITIONS FILED: July 13, 2005

STREAM SYSTEM: Butte Creek tributary Sacramento River

COUNTY: Butte

Notice is hereby given that M & T Chico Ranch and Parrott Investment Company filed petitions for change of place and purpose of use to dedicate water for enhancement of fish and wildlife resources pursuant to Water Code section 1707 for the water rights identified above. The State Water Resources Control Board (State Water Board) will determine whether an order approving the petitions should be issued and, if so, whether conditions are needed in the water rights to protect the environment, the public interest, and downstream water users. This notice provides a description of the project and also describes the procedure and time frame for submittal of protests against the petitions. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterboards.ca.gov. Any correspondence directed to the petitioners should be mailed to:

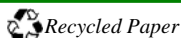
M & T Ranch and Parrott Investment Company
c/o James C. Hanson
Hanson Engineering
444 North Third Street, Suite 400
Sacramento, CA 95814-0228

Description of Project: The water rights affected by the petitions include pre-1914 appropriative rights, and permits and licenses associated with water right Applications 5109, 5110, 8187, 8188, 8559, 8565, 9735 and 9736. These water rights involve the diversion of water at the Parrott-Phelan Dam, being within the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 4, T21N, R2E, MDB&M. The water rights are reflected in the Butte Creek Decree, dated November 6, 1942, as supplemented on December 16, 1946. (Butte County, Superior Court No. 18917.)

Most of the rights list the Petitioners as co-equal owners, with either party having the right to take any water that the other is not using.

The Butte Creek Decree sets forth the Petitioners' priorities as follows:

California Environmental Protection Agency



1. A first priority right to the year-round diversion of up to 6.666 cubic feet per second (cfs); i.e., 3.333 cfs for each party.
2. A second priority right to the year-round diversion of foreign water at rates up to 100 cfs; i.e., 50 cfs for each party.
3. A sixth priority right, relating to the “surplus class” of natural flow in Butte Creek. Petitioners may divert up to 5 cfs, during the October 16 through March 31 period; and up to 62.5 cfs during the rest of the year, provided that the total quantity of water diverted during such period does not exceed a continuous 25 cfs flow allotment. This priority relates to permitted Applications 8559, 8565, 9735 and 9736.
4. A seventh priority right, for M & T alone, for the year-round diversion of up to 2.5 cfs.

In combination, licensed Applications 5109, 5110, 8187 and 8188 are limited to 100 cfs and 5,060 acre-feet per annum.

The Butte Creek Decree references the use of Butte Creek water “...upon [the parties] respective lands shown on D.W.R. Map.” The proposed dedication of water to the Butte Creek watercourse will be made upon the approval of the pending petition. In exchange for the water dedicated to Butte Creek under the pending petition, the Petitioners would use water from the Sacramento River, provided under contract with the U.S. Bureau of Reclamation (Reclamation), upon the places of use specified in the Butte Creek Decree. Those places of use are also within Reclamation’s authorized place of use.

Summary of Water Rights:

Basis of Right	Source	Diversion Quantity in cfs	Diversion Season	Purposes of Use	Point of Diversion	Place of Use
<u>Pre-1914 Appropriative Rights (4)</u>						
<u>M&T Inc.</u>						
First Priority	Feather River Imports to Butte Creek	3.33	1-1 to 12-31	Domestic, irrigation, stockwatering	(1)	(2)
Second Priority	"	50	1-1 to 12-31	Domestic, irrigation, stockwatering	(1)	(2)
<u>Parrott Investment</u>						
First Priority	"	3.33	1-1 to 12-31	Domestic, irrigation, stockwatering	(1)	(3)

Second Priority	"	50	1-1 to 12-31	Domestic, irrigation, stockwatering	(1)	(3)
Licensed Rights (5)						
Application 5109	"	20	10-1 to 3-31	Irrigation	(1)	(2)
Application 5110	"	20	10-1 to 3-31	Irrigation	(1)	(3)
Application 8187	"	100	1-1 to 12-31	Irrigation, stockwatering	(1)	(3)
Application 8188	"	100	1-1 to 12-31	Irrigation, stockwatering	(1)	(2)
Permitted Rights (6)						
Application 8559	Butte Creek Natural Flow	50	4-1 to 5-31	Irrigation	(1)	(3)
Application 8565	"	50	4-1 to 5-31	Irrigation	(1)	(2)
Application 9735	"	50	6-1 to 10-15	Irrigation	(1)	(2)
Application 9736	"	50	6-1 to 10-15	Irrigation	(1)	(3)
Notes:						
(1) DWR Gage "PARROTT DIV FROM BUTTE CREEK (BPD)". Referred to as Diversion 50 per Butte Creek Adjudication Decree No 18917. Located: N. 744,200 & E. 2,082,200 of the California Coordinate System, Zone 2 and being within the NE1/4 of the NE1/4 of Section 4, T 21 N, R 2E, MDB & M.						
(2) M & T Chico Ranch: 3,620 acres located within Sections 1, 11, 12, 13, 14, 24 and 25, T 21 N, R 1 W, and Sections 6, 7, 18 and 19, T 21 N, R 1 E, MDB & M.						
(3) Parrott Investment Co.: 17,427 acres located within Sections 1 through 4, 8 through 17, 20 through 29, and 32 through 36, T 20 N, R 1 W, Sections 35 and 36, T 21 N, R 1 W, Section 31, T 21 N, R 1 E, Sections 6, 7, 18, 19, 30 and 31, T 20 N, R 1 E, and Sections 2 through 8, T 19 N, R 1 W, MDB & M.						
(4) Confirmed as "All Foreign Water less 5% for transportation losses" per the Judgment and Decree of Case No 1355, entered May 25, 1920 in the Superior Court Of Sutter County. Re-confirmed and Quantified per the Judgment and Decree of Case No 18917, paragraphs 37 and 38 and Schedule 3, Entered in the Superior Court of Butte County November 6, 1942.						

(5) License to water Released from Philbrook Reservoir on Philbrook Creek, Tributary of Feather River. Maximum Combined Diversion Rate for all four licenses was modified so as to be equal to that of the Second Priority Right in Schedule 3 of the Judgement and Decree for Case No 18917 (not to exceed 100 cfs) with a Maximum Annual Diversion of 5,060 acre-feet which was the original capacity of Philbrook Reservoir.

(6) Rights to water confirmed per the Judgement and Decree of Case No 18917, paragraph 85 and Schedule 7 entered in the Superior Court of Butte County November 6, 1942 and Supplemental Decree of same entered in the Superior Court of Butte County December 16, 1946.

Petition Summary for the Project.

The proposed “Butte Creek Enhancement Project” involves the Petitioners foregoing gravity diversion of up to 40 cfs of water from Butte Creek, at the Parrott-Phelan Dam, during April 1 through June 30 and October 1 through March 31 of the succeeding year. In exchange for the water not being diverted from Butte Creek, Petitioners have entered into a contract with the Reclamation to divert a like amount of water from the Sacramento River. The water rights identified in this notice will not be used for diversion on the Sacramento River. Pursuant to the petitions, water that would otherwise have been diverted from Butte Creek will remain instream and be dedicated to fishery and habitat enhancement in Butte Creek, between the Parrott-Phelan Dam and the confluences of Butte Creek with the Sacramento River. The project is proposed as part of a cooperative effort involving the California Department of Fish and Game (DFG), the NOAA Fisheries, and Reclamation.

A new state-of-the-art screened pumping plant was constructed on the Sacramento River, just downstream from its confluence with Big Chico Creek, being within the SE ¼ of the SE ¼ of projected section 2, T21N, R1W, MDB&M. The new pumping plant will provide water to the Petitioners’ places of use via a 72-inch pipeline to be connected to their existing irrigation systems. The pumping plant has been designed to mitigate impacts to chinook salmon and steelhead. The DFG and NOAA Fisheries, through the Wildlife Conservation Board, prepared a Negative Declaration for the new Sacramento River pumping plant.

Upon reaching the Sacramento River, the dedicated water will be available to Reclamation in exchange for water supplied to the Petitioners at the upstream pumping plant. DFG has installed real-time monitoring stations on Butte Creek to monitor the flows in the reach affected by the petitions.

If the petitions are approved, downstream portions of the Butte Creek watercourse would be added to the authorized places of use, and fish and wildlife enhancement would be added as purposes of use. Petitioners would continue to have the right to divert additional water from Butte Creek under their existing water rights, provided that sufficient water is bypassed to satisfy the requirements of downstream prior right holders, and Petitioner’s exchange agreement with Reclamation.

Environmental Information

The following environmental documents have been prepared for this project:

1. Proposed Finding of No Significant Impact/Mitigated Negative Declaration and Draft Environmental Assessment/Initial Study for the M & T/Parrott Pumping Plant and Fish Screen Project, April 1996, prepared for Sacramento National Wildlife Refuge, DFG and Ducks Unlimited.
2. Finding of No Significant Impact, M & T/Parrott Pumping Station and Fish Screen Project, May 21, 1996.
3. Negative Declaration for the Proposed M & T Pump Relocation and Fish Screen, prepared by DFG, May 21, 1996.
4. Notice of Determination, M & T Parrott Pumping Plant and Fish Screen, May 21, 1996.

If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; State Water Board, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with the California Environmental Quality Act.

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 State Water Board.

All protests must clearly describe the objections to approval of the petition, and the factual basis for those objections. For example, if the objection is based on injury to existing water rights, the protest must describe the specific injury to the existing water right that would result from approval of the changes proposed by the petition. In addition, the party claiming injury to prior water rights must provide specific information that describes the basis of the existing right, the date the use began, the quantity of water use, the purpose of use, and the place of use. Protests based on environmental impacts, public interest, legality, or jurisdictional issues must be accompanied by a statement of facts supporting the basis of the protest. If sufficient information is not submitted, the State Water Board 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. **The Division will not accept protests that are directed against the underlying water right, rather than the change proposed by the petition.**

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at www.waterboards.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 and should include a description of any measures that could be taken to resolve the protest.**

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 State Water Board 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 State Water Board 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 petitioners will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

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 phone 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.waterboards.ca.gov/forms/.

Date of Notice: **November 18, 2005**

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