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Division of Water Rights

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Arnold Schwarzenegger
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NOTICE OF PETITION TO CHANGE THE EFFECTIVE DATE OF PERMIT/LICENSE CONDITIONS BY THE DEPARTMENT OF WATER RESOURCES AND THE U.S. BUREAU OF RECLAMATION

PETITION FILED: February 18, 2005

DWR PERMITS: 16478, 16479, 16481, 16482, and 16483 (Applications: 5630, 14443, 14445A, 17512, and 17514A)

USBR LICENSE: 1986 (Application: 23)

USBR PERMITS: 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 16597, 20245, 11968, 11969, 11970, 12860, 11971, 11972, 11973, 12364, 16600, and 15735 (Applications: 234, 1465, 5626, 5628, 5638, 9363, 9364, 9366, 9367, 9368, 13370, 13371, 14858A, 14858B, 15374, 15375, 15376, 15764, 16767, 16768, 17374, 17376, 19304, and 22316)

STREAM SYSTEM: SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN RIVER DELTA

COUNTY: SAN JOAQUIN

Notice is hereby given that on February 18, 2005, the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (USBR) jointly filed with the State Water Resources Control Board (State Water Board) a Petition For Change pursuant to Water Code section 1700. DWR and USBR request a change in their permit and license conditions included in State Water Board Revised Decision 1641 (D-1641) requiring compliance beginning April 1, 2005, with the April through August 0.7 mmhos/cm maximum 30-day running average mean daily electrical conductivity (EC) requirement at the following locations in the southern Sacramento-San Joaquin River Delta (Delta): San Joaquin River at Brandt Bridge (Station C-6); Old River near Middle River (Station C-8); and Old River at Tracy Road Bridge (P-12), herein referred to as the interior southern Delta sites. The State Water Board will determine whether an order approving the change should be issued pursuant to the request and, if so, whether conditions are needed to protect the environment, the public interest, and other water users. This notice provides a description of the proposed change and also describes the procedure and time frame for submittal of protests against the petition. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterrights.ca.gov/application/petnot.htm. Any correspondence directed to the petitioners should be mailed to both:

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Background

The State Water Board established a 30-day running average mean daily EC objective of 0.7 mmhos/cm from April through August and an objective of 1.0 mmhos/cm from September through March for the protection of agricultural beneficial uses at the interior southern Delta sites (and the San Joaquin River at Vernalis site) in the 1978 Delta Water Quality Control Plan (Plan). The State Water Board also included these objectives in the 1995 San Francisco Bay/Sacramento-San Joaquin Delta Plan. However, the State Water Board delayed implementation of the objectives several times pending negotiations concerning construction of physical facilities (such as permanent operable barriers) to improve water levels and to help meet the objectives by improving circulation.

In D-1641, adopted on March 15, 2000, the State Water Board required a staged implementation of the southern Delta EC objectives. During the hearing leading to D-1641, DWR witnesses testified that DWR would complete permanent operable barriers in the southern Delta by 2005. As a result, the State Water Board conditioned DWR's and USBR's permits and license such that until April 1, 2005, DWR and USBR were only required to meet an EC objective of 1.0 mmhos/cm at the interior southern Delta stations at all times of the year. As of April 1, 2005, however, D-1641 requires DWR and USBR either to meet an EC objective of 0.7 mmhos/cm from April through August or to have completed construction of permanent operable barriers (or equivalent measures) in the southern Delta and an operations plan to protect southern Delta agriculture.

Related Actions

DWR and USBR submitted a Temporary Urgency Change Petition pursuant to Water Code section 1435 to the State Water Board at the same time they submitted the current petition. In the Temporary Urgency Change Petition, DWR and USBR requested a change in the 0.7 mmhos/cm EC objectives from April 1, 2005 through September 28, 2005. In lieu of meeting an EC of 0.7 mmhos/cm, DWR and USBR requested authorization from the State Water Board to meet an EC objective of 1.0 mmhos/cm at the interior southern Delta sites and to continue to install temporary rock barriers in three southern Delta locations. On February 24, 2005, the State Water Board issued Order 2005-0009 denying the petition because DWR and USBR had not provided information upon which the State Water Board could make the required findings that there was an urgent need for the change as defined by Water Code section 1435 (c) and that the change could not be made without injury to any other legal user of water as required by Water Code section 1435 (b)(2).

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's website at www.waterrights.ca.gov/forms/ or upon request from the Division. 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 Division staff person listed at the end of this notice. **A copy of the completed protest form must also be mailed to the petitioners 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 the Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400 and mailed by regular mail
3. E-mailed to the Division staff person listed below under the heading “Contact Person” and mailed by regular mail
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 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 rejected.**

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 Division staff person 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 petitioners 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 Diane Riddle by phone at (916) 341-5297 or by e-mail at driddle@waterboards.ca.gov . Information and protest forms are also available at the Division’s website: www.waterrights.ca.gov/forms/ .

Date of Notice: **April 11, 2005**

Enclosures:

1. Cover Letter and Petition by DWR and USBR to Change the Effective Date of Condition Imposed in D-1641 (dated February 14, 2005)
2. Mailing List

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