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A00084

STATE WATER RESOURCES CONTROL BOARD

State of California  
State Water Resources Control Board  
**DIVISION OF WATER RIGHTS**

STATE WATER RESOURCES CONTROL BOARD

P.O. Box 2000, Sacramento, CA 95812-2000

2006 MAR 16 11:23 AM

Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

2006 FEB -6 PM 3:17

DIV. OF WATER RIGHTS  
SACRAMENTO

**PETITION FOR CHANGE**  
(WATER CODE 1700)

DIV. OF WATER RIGHTS  
SACRAMENTO

\_\_\_\_ Point of Diversion, \_\_\_\_ Point of Rediversion, X Place of Use, X Purpose of Use  
Application 000084 Permit 000485 License 000174 Statement or Other \_\_\_\_\_

(we) hereby petition for change(s) noted above and shown on the accompanying map and described as follows:

**Point of Diversion or Rediversion** (Give coordinate distances from section corner or other ties as allowed by Cal CR 715, and the 40-acre subdivision in which the present & proposed points lie.)

Present \_\_\_\_\_  
Proposed \_\_\_\_\_

**Place of Use** (If irrigation then state number of acres to be irrigated within each 40-acre tract.)

Present See Attachment 1  
Proposed See Attachment 1

**Purpose of Use**

Present Stock Watering, Irrigation, and Domestic  
Proposed Municipal Use including but not limited to and in addition for Stock Watering, Irrigation, Domestic, Commercial, Industrial, Irrigation, Groundwater Recharge

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)? Unknown

(yes/no)

- GIVE REASON FOR PROPOSED CHANGE: See Attachment 1
- WILL THE OLD POINT OF DIVERSION OR PLACE OF USE BE ABANDONED? No
- WATER WILL BE USED FOR: See Attachment 1 PURPOSES.

(we) have access to the proposed point of diversion or control the proposed place of use by virtue of? Ownership

(Ownership, lease verbal or written agreement)

Are there any persons taking water from the stream between the old point of return flow and the new point of return flow? No  
(yes/no)

If by lease or agreement, state the name and address of party(s) from whom access has been obtained.

Attach additional pages if needed.

None

Give name and address of any person(s) taking water from the stream between the present point of diversion or rediversion and the proposed point of diversion or rediversion, as well as any other person(s) known to you who may be affected by the proposed change.

None

**THIS CHANGE DOES NOT INVOLVE AN INCREASE IN THE AMOUNT OF THE APPROPRIATION OR SEASON OF USE.**

(we) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief.

Dated 1/24, 2006 at Banning, California

Signature(s)

Telephone No.

NOTE: A \$100 filing fee made payable to the State Water Resources Control Board and a \$850 fee made payable to the Department of Fish and Game must accompany a petition for change.

2/6/06  
\$1,540.00  
\$850.00  
AC

STATE WATER RESOURCES CONTROL BOARD

California Environmental Protection Agency

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### 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.

The Morongo Band of Mission Indians (Tribe) was assigned License 000174 on October 25, 2001 by Cabazon County Water District. The Tribe desires to develop and use these water rights throughout its Tribal lands for municipal beneficial uses to the fullest extent possible. As described in detail in Attachment 2, the Tribe is a "municipality" and, therefore, proposes to utilize its water rights for any beneficial purposes including and in addition for railroad, domestic, commercial, stock watering, industrial, irrigation and groundwater recharge. The Tribe anticipates timely development of appropriate conveyance facilities following State Water Resources Control Board (SWRCB) action on this "Petition for Change". A map showing the location of the source water from Millard Spring in relationship to a portion of the tribal lands is attached.

See Attachment No. \_\_\_\_\_

ENVIRONMENTAL INFORMATION FOR PETITIONS

2. COUNTY PERMITS Not Applicable (N/A)

a. Contact your county planning or public works department and provide the following information:

Person contacted: \_\_\_\_\_ Date of contact: \_\_\_\_\_

Department: \_\_\_\_\_ Telephone: (\_\_\_\_) \_\_\_\_\_

County Zoning Designation: \_\_\_\_\_

Are any county permits required for your project?  YES  NO If YES, check appropriate box below:

- Grading permit  Use permit  Watercourse  Obstruction permit  Change of zoning

General plan change  Other (explain): \_\_\_\_\_

b. Have you obtained any of the required permits described above?  YES  NO

If YES, provide a complete copy of each permit obtained.

See Attachment No. \_\_\_\_\_

3. STATE/FEDERAL PERMITS AND REQUIREMENTS

a. Check any additional state or federal permits required for your project: None

- Federal Energy Regulatory Commission  U.S. Forest Service  Bureau of Land Management  
 Soil Conservation Service  Dept. of Water Resources (Div. of Safety of Dams)  Reclamation Board  
 Coastal Commission  State Lands Commission  Other (specify) \_\_\_\_\_

b. For each agency from which a permit is required, provide the following information: N/A

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.

See Attachment No. \_\_\_\_\_

c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed or bank of any stream or lake?  YES  NO

If YES, explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

See Attachment No. \_\_\_\_\_

ENVIRONMENTAL INFORMATION FOR PETITIONS

d. Have you contacted the California Department of Fish and Game concerning your project?  YES  NO  
If YES, name and telephone number of contact: Not Applicable

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. \_\_\_\_\_

\* 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

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? N/A

See Attachment No. \_\_\_\_\_

6. ARCHEOLOGY

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

If YES, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

See Attachment No. \_\_\_\_\_

7. ENVIRONMENTAL SETTING

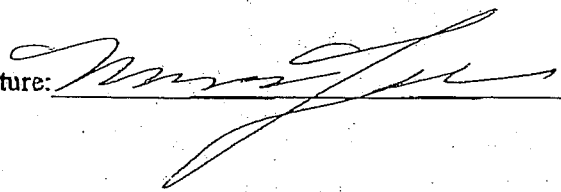
Attach three complete sets of color photographs, clearly dated and labeled, showing the vegetation that exists at the below-listed three locations. For time extension petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

- 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: 1/31/06

Signature: 

## ATTACHMENT 1 FOR LICENSE 174

### PRESENT PLACE OF USE (shown on Plate 4)

- NW1/4 of Section 5, T3S, R2E, SBB & M
- S1/2 of Section 5, T3S, R2E, SBB & M
- W1/2 NE1/4 of Section 5, T3S, R2E, SBB & M
- All of Section 15, T3S, R2E, SBB & M
- All of Section 16, T3S, R2E, SBB & M, except that portion of said section occupied by the right of way of the Southern Pacific Railroad Company
- All of Section 17, T3S, R2E, SBB & M, except that portion of said section occupied by the right of way of the Southern Pacific Railroad Company
- N1/2 NW1/4 of Section 21, T3S, R2E, SBB & M

### PROPOSED PLACE OF USE (shown on Plate 4)

- Sections 1, 2, and 12 T3S, R1E, SBB & M
- Sections 2, 3, 4, 6, 8, 10, 12, and 14 T3S, R2E, SBB & M
- Sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36 T2S, R1E, SBB & M
- Sections 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35 T2S, R2E, SBB & M
- Parts of Sections 16, 22, and 36 T2S, R2E, SBB & M
- NE1/4 of Section 5 T2S, R2E, SBB & M

The proposed place of use is within the Tribal Reservation Boundaries. There are no known downstream users, therefore, no one will be affected by the proposed change. In addition, there has been no change in property ownership.

### REASON FOR PROPOSED CHANGE

The Morongo Band of Mission Indians (Tribe) was assigned License 000174 on October 25, 2001 by Cabazon County Water District. The Tribe desires and intends to develop and use these water rights throughout its Tribal lands for municipal reasonable beneficial uses to the maximum extent possible. As described in detail in Attachment 2, the Tribe is a "municipality" and, therefore, proposes to utilize its water right for appropriate municipal beneficial purposes including and/or in addition to the use of water for railroad, domestic, commercial, stock watering, industrial, irrigation, and groundwater recharge purposes. The Tribe anticipates the timely development of appropriate conveyance facilities, following State Water Resources Control Board (SWRCB) action on this "Petition for Change". A map showing the location of the source water from Millard Spring in relationship to a portion of the Tribal lands is attached.

## **WATER WILL BE USED FOR**

The Tribe desires and intends to develop and use its water rights throughout its Tribal lands for municipal purposes including but not limited to beneficial use of commercial, stock watering, domestic, industrial, irrigation purposes and for groundwater recharge and subsequent recovery through pumping on Tribal lands. The Tribe intends to institute an integrated water resource plan to optimally use its water rights throughout the Tribal lands and endeavors to place pipeline adjacent to or in existing access roads. The Tribe plans to use its water rights to provide water to various Tribal enterprises, including for the Old Casino, Travel Center, Coco's Restaurant, A&W Restaurant, New Casino, and Hotel; Industrial Park; and to irrigate Section 8 (288 acres). In addition, the Tribe will use water from Millard Canyon to supplement water use in Potrero Canyon. The Tribe requires about 3,100 acre-feet of water per year (AFY) to 1) manage the Tribal Enterprises (about 800 AFY), 2) irrigate Section 8 (about 600 AFY), and 3) supplement water from Potrero Canyon (about 1700 AFY).

ATTACHMENT 2  
Petition for Change, License 174

In light of past disagreements surrounding the Morongo Band of Mission Indians' ("Morongo") water rights, Morongo submits this Attachment in an effort to eliminate future disagreement regarding the status of Morongo's water rights.

When Morongo acquired the property rights at issue in this Petition for Change, it did so as a federally-recognized Indian Tribe acting as the local government for its Indian Reservation, and as such is a governmental body akin to a municipality. In particular, Morongo uses and will continue to use its water rights as a municipality would. For that reason, Morongo has included municipal use among the uses proposed for the water in this Petition for Change. As discussed more fully herein, because Morongo is equivalent to a municipality for purposes of using its water rights, Morongo should be subject to the same due diligence standard that applies to municipal use of water, and should be entitled to hold water rights for anticipated future growth needs.

Municipal use encompasses the "use of water for the municipal supply of a city, town, or other similar population group, and use incidental thereto for any beneficial purpose." (Cal. Code Regs., tit. 23, § 663.) Morongo is a "similar population group" within the definition of municipal use. Indeed, Morongo operates like a city in many ways. Morongo provides utility service, including water service, to the Reservation, and the water rights subject to the enclosed Petitions for Change will contribute to Morongo's continuing ability to provide utility service to its growing population. In addition, Morongo operates much like a city with respect to its general planning for the Reservation. The water rights subject to the enclosed Petitions for Change will support the continuing growth of the Reservation.

While the Water Code does not specifically define "municipality" for purposes of water rights, many other statutes recognize that Indian Tribes are akin to municipalities. (33 U.S.C. § 1362, incorporated into Wat. Code, §§ 13476, 13959, 13973, 13988, 13999.2, 14052, 78610, 79078, 79135, 79148.2; Cal. Code Regs., tit. 13, § 2020.) Given the recognition that Indian Tribes function like municipalities and because Morongo acts as and has the same responsibilities as a municipality in terms of water use, Morongo must be treated as a municipality with respect to use of its water rights.

The Water Code and State law acknowledge that municipalities have higher priorities in the use of water and that domestic use by a municipality is a statutorily preferred use. (Wat. Code, §§ 1460, 106.5.) Water Code section 106.5 further provides:

"It is hereby declared to be the established policy of this State that the right of a municipality to acquire and hold rights to the use of water should be protected to the fullest extent necessary for existing and future uses, but that no municipality shall acquire or hold any right to waste water, or to use water for other than municipal purposes, or to prevent the appropriation and application of water in excess of its reasonable and



existing needs to useful purposes by others subject to the rights of the municipality to apply such water to municipal uses as and when necessity therefor exists.” (Wat. Code, § 106.5.)

In light of the need of municipalities to secure a water supply for future growth, municipalities may hold water rights for anticipated future needs, so long as water is not wasted. (*Id.*) This is precisely what Morongo must do and intends to do with its water rights. Morongo is proceeding, and will continue to proceed, with due diligence to put its water rights to reasonable beneficial use. Much of Morongo’s need for water, however, arises from the continuing growth of the Reservation and its expanding population. Morongo must secure sufficient water supplies to provide adequate water service to its Reservation for both existing and future uses.

Morongo’s current water needs include providing water for domestic, commercial, industrial, irrigation, and stock-watering purposes on the Reservation. Morongo has a current need for approximately 1,700 acre-feet per year of water. Water that is not currently needed for consumptive uses will be used for groundwater recharge. Morongo estimates its future needs for water to exceed the water rights subject to this Petition for Change. Morongo seeks to secure water rights to provide future water service to anticipated future areas of development, including but not limited to commercial and industrial development in the easterly I-10 corridor, development of a golf course on Reservation lands, redevelopment of a historical orchard, and expansion of existing domestic and industrial use. The proposed Petition for Change supports Morongo’s efforts to secure sufficient water rights for its current needs and anticipated future growth for its Reservation community.