



Water Resources • Flood Control • Water Rights

**COPY**

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ANGUS NORMAN MURRAY  
1913 - 1985

June 8, 2007

CONSULTANTS:  
JOSEPH I. BURNS, P.E.  
DONALD E. KIENLEN, P.E.

Ms. Victoria Whitney, Chief  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

**Subject: Merced Irrigation District Petition for Temporary Urgency Change under License 11395 (Application 16186)**

Dear Ms. Whitney:

On behalf of Merced Irrigation District (Merced), enclosed are the following:

1. Petition for Temporary Urgency Change Form with Attachment (original and one copy).
2. Environmental Information Form with Attachment (original and one copy).
3. Merced Resolution No. 2007-23 authorizing the General Manager to execute an agreement with USBR for the transfer of up to 15,000 acre-feet.
4. Merced Resolution No. 2007-24 of Categorical Exemption (original and one copy).
5. Check in the amount of \$6,000 to cover the Petition fee (pursuant to WC 1435 and 1707).
6. Check in the amount of \$850 to cover the Department of Fish and Game fee.

As you are aware, and as identified in this material, this issue is critical and requires immediate action. We appreciate your immediate attention to this urgent change petition. Please call if you have any questions, require additional information, or if we can offer any assistance.

Sincerely,  
MBK ENGINEERS

  
Marc Van Camp

DC/pp  
5520/VICTORIA WHITNEY 03.09.07.DOC

- cc: Ted Selb  
Ken Robbins  
Garith Krause  
Tim Rust  
Mike Heaton  
Tim Heyne, Department of Fish and Game (via certified mail)  
Jim White, Department of Fish and Game (via certified mail)  
Mariposa County Supervisors (via certified mail)  
Merced County Supervisors (via certified mail)

*Package delivered  
@ ≈ 1240p by MVC*

State of California  
State Water Resources Control Board  
**DIVISION OF WATER RIGHTS**  
**P.O. Box 2000, Sacramento, CA 95812-2000**  
Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

**PETITION FOR TEMPORARY URGENCY CHANGE**

(Water Code 1435) and Water Code 1707

\_\_\_\_ Point of Diversion, \_\_\_\_ Point of Rediversion, \_\_\_\_ Place of Use, \_\_\_\_ Purpose of Use

Application # 16186 Permit # \_\_\_\_\_ License # 11395 Statement or Other \_\_\_\_\_

I (we) Merced Irrigation District hereby petition for a temporary urgency  
(Water Right Holders Name)  
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 No Changes Required

Proposed \_\_\_\_\_

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

Present See Attachment

Proposed \_\_\_\_\_

**Purpose of Use**

Present Irrigation, Domestic, Fish Culture, Recreation,  
and Fish and Wildlife Enhancement

Proposed Water Quality Objectives & Fish and Wildlife Enhancement

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)? Yes

The temporary urgency change(s) is to be effective from Issuance to 180 days  
(yes/no) (Cannot exceed 180 days)

Will this temporary urgency change be made without injury to any lawful user of water? Yes  
(yes/no)

Will this temporary urgency change be made without unreasonable effect upon fish, wildlife, and other instream beneficial uses? Yes  
(yes/no)

State the "Urgent Need" (Water Code 1435(c)) which is the basis of this temporary urgency change petition:

See Attachment

If the point of diversion or rediversion is being changed, is any person(s) taking water from the stream between the old point of diversion or rediversion and the proposed point? N/A  
(yes/no)

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

If yes, give name and address, as well as any other person(s) known to you who may be affected by the proposed change.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I (we) consulted the California Department of Fish and Game concerning this proposed temporary change. Yes  
(yes/no)

If yes, state the name and phone number of the person contacted and the opinion concerning the potential effects of your proposed temporary urgency change on fish and wildlife and state the measures required for mitigation.

Mr. Jim White (916) 653-3540.

Mr. White indicated the change is needed for Delta purposes and identified no  
concerns.

**THIS TEMPORARY URGENCY CHANGE DOES NOT INVOLVE AN INCREASE IN THE AMOUNT OF THE APPROPRIATION OR SEASON OF USE. THIS TEMPORARY URGENCY CHANGE IS REQUESTED FOR A PERIOD OF ONE HUNDRED EIGHTY DAYS OR LESS.**

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

Dated June 8, 2007 at Sacramento, California

Mac Van (916) 456-4400  
Signature(s) Telephone No.  
2450 Alhambra Blvd., Sacramento, CA 95817  
(Address)

**NOTE: A \$1000 filing fee, for each Application listed, 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 for change.**

**Attachment To  
Petition for Temporary Urgency Change  
In Place of Use**

**License 11395 (Application 16186)  
of Merced Irrigation District**

**Place of Use for License 11395 (Application 16186)**

*Present:*

Irrigation of 131,953 acres within a gross area of 154,394 acres within the boundaries of the Merced Irrigation District (Merced) and a 55 acre golf course within the service area of Sierra Highlands Water Company.

Domestic use at homesites within the service area of Sierra Highlands Water Company and at homesites and recreational facilities adjacent to Lake McSwain and Lake McClure including McClure Point, McClure Boat Club and Barrett Cove.

Fish culture at Licensee's salmon spawning channel and at a privately operated trout farm.

Recreational use and fish and wildlife enhancement in and around lakes McClure and McSwain.

The places of use are shown on map entitled "Official Map of the Merced Irrigation District – 1973" and other maps filed with State Water Resources Control Board.

*Proposed:*

The proposed addition to the place of use is the Merced River from New Exchequer to the confluence with the San Joaquin River, the San Joaquin River from the confluence of the Merced River to the San Joaquin River at Vernalis, and the San Joaquin River from Vernalis through the Delta.

**Basis of Urgent Need:**

On Thursday, May 31, 2007, the U.S. Bureau of Reclamation (Reclamation) announced, in coordination with the U.S. Fish and Wildlife Service (USF&WS), a plan for the immediate protection of the Delta smelt at the two major export pumps in the South Delta. The Delta smelt are identified as threatened under the California Environmental Species Act (CESA) and the Federal Endangered Species Act (FESA). Reclamation has reduced pumping at CW "Bill" Jones Pumping Plant to 850 cubic feet per second (cfs), which is the absolute minimum pumping rate possible absent the complete shut down of the pump. Reclamation must pump at this minimum

rate to provide water for public health and safety to its contractor, the City of Tracy. In order to continue diverting water for the health and safety of the City of Tracy, Reclamation contacted Merced Irrigation District (Merced) to arrange for the delivery of 850 cfs, up to a maximum of 15,000 AF, in order to mitigate for the diversions at Jones Pumping Plant. Reclamation will continue to divert water at Jones Pumping Plant pursuant to its water rights. The contribution by Merced will facilitate Reclamation's ability: a) to meet downstream commitments including instream flows and water quality at Vernalis, as required by the State Water Resources Control Board (SWRCB) in Decision-1641; b) to help maintain the combined net positive flow requirement of Old and Middle Rivers to protect Delta smelt, as recommended by the Delta Smelt Working Group; and c) to enhance Reclamation's protective action for the benefit of Delta smelt in the central Delta under FESA . Reclamation has informed Merced that the need for this water is urgent as the other available surface water supplies, such as may be available from New Melones Reservoir are limited due to project water supply commitments and forthcoming summer/fall SWRCB instream flow and water quality standards per Decision 1641. Reclamation believes water releases from Merced needs to occur as soon as possible due to the travel time of water released from Merced's New Exchequer Reservoir to the Delta, approximately 3 days.

This proposed release of water from Merced is critical for helping Reclamation meet water quality and flow objectives for the San Joaquin River at Vernalis and enhancing Reclamation's protective action to benefit Delta smelt in the central Delta. Based on the Department of Water Resources Bulletin 120 publication for May 1, 2007, *Water Supply Conditions in California*, Water Year 2007 is classified as a critical year according to the San Joaquin Valley Water Year Type Index (60-20-20).

California Environmental Protection Agency

State Water Resources Control Board

DIVISION OF WATER RIGHTS

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

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

ENVIRONMENTAL INFORMATION FOR PETITIONS

Petition for Change

Petition for Extension of Time

License 11395 (Application 16186)

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.

Multiple horizontal lines for providing a description of proposed changes or work remaining to be completed.

See Attachment No. 1

ENVIRONMENTAL INFORMATION FOR PETITIONS

**2. COUNTY PERMITS**

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 **N/A**

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: **N/A**

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:

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

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: Jim White (916) 653-3540

**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: Merced Irrigation District
- 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? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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



ENVIRONMENTAL INFORMATION FOR PETITIONS

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

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

**7. ENVIRONMENTAL SETTING**

See Attachment No. 2

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: June 8, 2007

Signature: Marc Van Cef

**Attachment No. 1  
to Environmental Information for  
Petition for Temporary Change in Place of Use**

**License 11395 (Application 16186)  
of Merced Irrigation District**

1. DESCRIPTION OF PROJECT

The Merced Irrigation District (Merced) is petitioning to temporarily change the place of use to allow up to 15,000 acre feet of previously stored water to be released downstream to: a) assist in meeting the 1995 WQCP objectives pursuant to the State Water Resources Control Board's Decision-1641; b) help maintain the combined net positive flow target for Old and Middle Rivers to protect Delta smelt, as recommended by the Delta Smelt Working Group; and c) enhance the U.S. Bureau of Reclamation's (Reclamation) action to protect Delta smelt in the central Delta while Reclamation diverts a minimum amount of water at the Jones Pumping Plant to meet health and safety needs. The intent is to release water from New Exchequer Reservoir to assist in meeting instream flow and water quality objectives at Vernalis on the San Joaquin River, the combined flow target for Old and Middle Rivers, and fish protection actions for Delta smelt. The release of this water will be used to offset the water being pumped at the Jones Pumping Plant by Reclamation.

Merced will continue to meet its own water needs as without the proposed transfer. For this reason, there is no physical change in Merced's facilities or operation, or the downstream diversions made pursuant to the Agreement.

**Attachment No. 2  
to Environmental Information for  
Petition for Temporary Change in Place of Use**

**License 11395 (Application 16186)  
of Merced Irrigation District**

**7. ENVIRONMENTAL SETTING**

No photographs have been provided as there is no proposed point of diversion. The photographs for the proposed place of use between New Exchequer Reservoir and the San Joaquin River at Vernalis would be difficult to obtain. This reach is well known and well documented.

**MERCED IRRIGATION DISTRICT  
RESOLUTION OF EXEMPTION APPROVING  
UNITED STATES BUREAU OF RECLAMATION TRANSFER**

**RESOLUTION NO. 2007 - 23**

**WHEREAS**, hydrologic conditions in the Sacramento-San Joaquin Delta have resulted in declines of Delta smelt and other species;

**WHEREAS**, the United States Bureau of Reclamation ("USBR") and the Department of Water Resources have reduced or curtailed pumping in an effort to improve conditions for Delta smelt within the Sacramento-San Joaquin Delta;

**WHEREAS**, as a result of the pumping curtailments to protect Delta smelt, USBR has determined that an emergency exists and additional water supplies are needed in order for it to meet its other regulatory obligations and fish protection; and

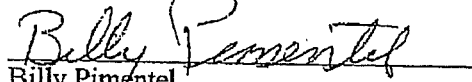
**WHEREAS**, USBR wishes to purchase up to 15,000 acre-feet to maintain fish and wildlife habitat areas, maintain stream flows, and protect fish and wildlife resources (the "Project").


**BE IT RESOLVED**, the Board hereby approves the water transfer agreement with USBR subject to general counsel review and approval; and

**BE IT FURTHER RESOLVED**, that the Board hereby authorizes the General Manager to execute an agreement with USBR for the transfer of up to 15,000 acre-feet.

**PASSED AND ADOPTED** by the Board of Directors of the Merced Irrigation District this 7<sup>th</sup> day of June 2007, by the following vote:

Ayes:           Directors:  
Noes:           Directors:  
Abstain:       Directors:  
Absent:         Directors:

  
\_\_\_\_\_  
Billy Pimentel  
President  
Merced Irrigation District

  
\_\_\_\_\_  
Tim Pellissier  
Secretary  
Merced Irrigation District

**DUPLICATE ORIGINAL**

**MERCED IRRIGATION DISTRICT**

**RESOLUTION OF EXEMPTION REGARDING  
UNITED STATES BUREAU OF RECLAMATION TRANSFER  
RESOLUTION NO. 2007 - 24**

**WHEREAS**, hydrologic conditions in the Sacramento-San Joaquin Delta have resulted in declines of Delta smelt and other species;

**WHEREAS**, the United States Bureau of Reclamation ("USBR") and the Department of Water Resources have reduced or curtailed pumping in an effort to improve conditions for Delta smelt within the Sacramento-San Joaquin Delta;

**WHEREAS**, as a result of the pumping curtailments to protect Delta smelt, USBR has determined that an emergency exists and additional water supplies are needed in order for it to meet its other regulatory and fish protection obligations;

**WHEREAS**, USBR wishes to purchase up to 15,000 acre-feet to maintain fish and wildlife habitat areas, maintain stream flows, and protect fish and wildlife resources (the "Project");

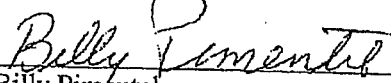
**WHEREAS**, the California Environmental Quality Act ("CEQA") contains an exemption for the use of use of existing facilities with negligible or no expansion of existing use;


**WHEREAS**, the transfer of water to USBR would not be an expansion of an existing use.

**BE IT RESOLVED**, the Board finds and determines that the Project is categorically exempt from CEQA, as the Project is for the use of existing facilities with negligible or no expansion of existing use for the purpose of maintaing fish and wildlife habitat areas, maintaing stream flows, and protecting fish and wildlife resources.(14 Cal. Code Regs. § 15301(i)).

**PASSED AND ADOPTED** by the Board of Directors of the Merced Irrigation District this 7<sup>th</sup> day of June 2007, by the following vote:

Ayes:           Directors:  
Noes:           Directors:  
Abstain:       Directors:  
Absent:        Directors:

  
\_\_\_\_\_  
Billy Pimentel  
President  
Merced Irrigation District

  
\_\_\_\_\_  
Tim Pellissier  
Secretary  
Merced Irrigation District

**DUPLICATE ORIGINAL**