



# State Water Resources Control Board

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## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300

P.O. Box 2000 ♦ Sacramento, California 95812-2000

Fax: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)

**Linda S. Adams**

*Secretary for*

*Environmental Protection*

**Arnold Schwarzenegger**

*Governor*

**NOTICE OF PETITIONS FOR TEMPORARY CHANGE  
INVOLVING THE TRANSFER OF UP TO 17,941 ACRE FEET OF WATER  
FROM RECLAMATION DISTRICT NO. 756 AND  
DELTA FARMS RECLAMATION DISTRICT NO. 2026  
TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
UNDER LICENSES 1405 & 1572 (APPLICATIONS 2948 & 2952)**

Notice is hereby given that on December 31, 2008

Reclamation District No. 756  
and Delta Farms Reclamation District No. 2026  
c/o Delta Wetlands Properties  
Peter J. Kiel  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816-5905

filed with the State Water Resources Control Board (State Water Board) two Petitions for Temporary Change under Water Code section 1725, et seq. The petitions, submitted by Delta Wetlands Properties (DWP) on behalf of Reclamation District No. 756 and Delta Reclamation District No. 2026, request changes in point of diversion, place of use and purpose of use to allow the transfer of up to a total of 17,941 acre-feet (af) of water to the Metropolitan Water District of Southern California (MWD). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

## **DESCRIPTION OF THE TRANSFER**

DWP proposes to transfer up to a total of 17,941 af of water under Licenses 1405 and 1572 (Applications 2948 and 2952) to MWD during the months of May through September, 2009. To make water available for transfer, DWP proposes to fallow about 5,426 acres of land on Bouldin Island (served by License 1405) and 4,198 acres on Webb Tract (served by License 1572). In 2008, the 5,426 acres of land on Bouldin Island were planted with 4,295 acres of corn, 640 acres of rice, and 310 acres of tomatoes, with 181 acres left fallowed. In 2008, the 4,189 acres of land on Webb Tract were planted with corn. Based on this information, DWP has estimated that fallowing land on Bouldin Island will make 10,401 af of water available for transfer and that fallowing land on Webb Tract will make 7,540 af of water available for transfer. DWP proposes that the water made available for transfer be diverted at either the Jones Pumping Plant or the Banks Pumping Plant for delivery to MWD. DWP's petition states that the maximum combined increase in rate of diversion at both the Jones and Banks Pumping Plants pursuant to the proposed transfer is 107.4 cubic feet per second (cfs).

***California Environmental Protection Agency***

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Maps showing the locations of Bouldin Island, Webb Tract, the locations of existing siphons and pumps on both Bouldin Island and Webb Tract, and the locations of the Jones and Banks Pumping Plants are posted online with the copy of this notice at: <http://www.waterrights.ca.gov/application/tempurgnotices.htm>.

In the absence of this transfer, DWP would have undergone normal planting operations on Bouldin Island and Webb Tract and diverted water under Licenses 1405 and 1572 for use within these areas.

DWP's petitions include information regarding estimated evapotranspiration of applied water (ETAW) for the crop types planted on Bouldin Island and Webb Tract in 2008. The ETAW estimates are broken down to show the monthly ETAW for the various crop types for May through September. These estimates are contained in an attachment to the subject petitions which is available for viewing online with the copy of this notice, as shown above. The petitioner indicated that the following program will result in no substantial change to the land on Bouldin Island and Webb Tract other than occasional discing to control weeds, as necessary. Additionally, in an email to State Water Board staff, the petitioner stated that during fallowing, water levels within canals on Bouldin Island and Webb Tract will be regulated such that the depth to groundwater remains at levels that would have been maintained in the absence of this transfer, approximately 3 to 5 feet below the field ground surface.

## **PROPOSED TEMPORARY CHANGE**

The proposed transfer would temporarily add the Clifton Court Forebay and the Jones Pumping Plant as points of diversion under Licenses 1405 and 1572. MWD's service area would be temporarily added to the place of use of Licenses 1405 and 1572. Domestic, power generation, municipal, industrial, salinity control, and water quality control would be temporarily added as purposes of use under Licenses 1405 and 1572.

## **PETITIONER'S WATER RIGHTS**

License 1405 (Application 2948) authorizes the direct diversion of up to 71.56 cfs of between March 1 and November 1 of each year for irrigation purposes. License 1405 includes movable points of diversion located on the San Joaquin River, the South Fork Mokelumne River, Potato Slough, and Little Potato Slough. The authorized place of use under License 1405 consists of 6006 acres located on Bouldin Island.

License 1572 (Application 2952) authorizes the direct diversion of up to 63.94 cfs of water between March 1 and November 1 of each year for irrigation purposes. License 1572 includes movable points of diversion located on the San Joaquin River,

Old River, False River, Fisherman's Cut, and an unnamed dredger cut located on the west side of Webb Tract. The authorized place of use under License 1572 consists of 5,115.491 acres located on Webb Tract.

Both Licenses, 1405 and 1572, contain a term stating that the diversions regulated therein may be regulated by the State Water Board in periods of water scarcity.

### **COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Temporary changes involving the transfer of water that was previously stored are exempt from the requirements of the California Environmental Quality Act. (Wat. Code, § 1729.) However, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

### **STATE WATER RESOURCES CONTROL BOARD'S STATUTORY PROVISIONS**

Pursuant to Water Code section 1725 et seq., the State Water Board is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary changes:

1. Involve only water that would otherwise have been consumptively used, stored, or conserved pursuant to Water Code section 1011, by petitioner;
2. Would not injure any legal user of the water; and
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses.

If after conducting an initial investigation the State Water Board cannot make the findings set forth above, then the State Water Board may deny the petition or schedule and notice a hearing regarding the proposed transfer or exchange of water.

### **CONCURRENT PETITION FOR TEMPORARY URGENCY CHANGE**

On February 5, 2009, the State Water Board issued [Order WR 2009-0003-DWR](#) conditionally approving temporary urgency changes in the point of diversion, place of use, and purpose of use under Licenses 1405 and 1572 for the same action<sup>1</sup> as requested in the subject petition for temporary change. Electronic copies of

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<sup>1</sup> Order WR 2009-0003-DWR is effective through July 31, 2009. The amount of water scheduled for transfer through July 31, 2009 is 10,333 af. Accordingly, Order WR 2009-0003-DWR only approved 10,333 af for transfer. The petitioner must receive additional State Water Board authorization (such as approval of the subject petition) to transfer the remaining 7,608 af.

Order WR 2009-0003-DWR are available at:  
[http://www.waterrights.ca.gov/application/transfers\\_tu\\_orders.html](http://www.waterrights.ca.gov/application/transfers_tu_orders.html).

Any approval of this petition for temporary change will supercede Order WR 2009-0003-DWR. Accordingly, parties who have comments regarding this transfer should file them in response to this notice.

### **OPPORTUNITY FOR COMMENT**

Pursuant to the requirements outlined above, the State Water Board is seeking information to assist in the evaluation of the proposed temporary change of water rights. Any person may file comments concerning the petitions for temporary change. Commenters should provide sufficient information to support claims of injury or unreasonable effects on fish, wildlife, or other instream uses.

Due to the relative brevity of the temporary transfer process, the Division (if necessary) may request that the petitioner submit additional information during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the Division of Water Rights' website at <http://www.waterrights.ca.gov/application/tempurgnotices.htm>. Additionally, the Department of Water Resources has made comments regarding this temporary change which are posted as shown above. Potential commenters are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received by the State Water Board's Division of Water Rights, at the first address listed below by **2:00 p.m. on March 30, 2009**. Additionally, a copy of the comments must be sent to DWP. **Comments must be accompanied by proof of service of a separate copy of the comments on the petitioner.** Interested parties are encouraged to file comments by FAX and to notify the following contact persons by telephone of any comments that will be submitted. An original copy of all comments, however, must be received for the State Water Board to consider your comments.

Division of Water Rights  
c/o Greg Wilson, P.E.  
P.O. Box 2000  
Sacramento, CA 95812-2000  
FAX: (916) 341-5400

Delta Wetlands Properties  
c/o Peter Kiel  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816-5905  
FAX: (916) 447-3512

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Please address questions about this notice to Greg Wilson at (916) 341-5427.  
Questions regarding the petitioner/transferee should be addressed to Peter Kiel at  
(916) 447-2166.

*ORIGINAL SIGNED BY*

Leslie F. Grober, Manager  
Hearings and Special Programs Section

Dated: February 26, 2009