

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 1381 (Application 301)
West Side Irrigation District

NOTICE OF PROPOSED PARTIAL REVOCATION

SOURCE: Old River
COUNTY: San Joaquin

You are hereby notified, pursuant to Water Code section 1675 et seq., that the State Water Resources Control Board (State Water Board) is proposing to partially revoke License 1381 because the Licensee has ceased to put the full amount of water granted under the license to a useful or beneficial purpose and has failed to observe terms and conditions in the license.

The facts and information upon which the proposed revocation is based are as follows:

1. The State Water Board issued License 1381 on September 29, 1933. The Division of Water Rights' (Division) records show West Side Irrigation District (Licensee) as the owner of License 1381. The license authorizes the Licensee to divert 82.5 cubic feet per second (cfs) from April 1 to October 31. The authorized purpose of use is irrigation of 11,993.8 acres.
2. On July 18, 1985, the Division conducted a field inspection of the project served by License 1381. Division staff observed that the place of use had been reduced from 11,993.8 acres to 9,413 acres. Division staff recommended that the authorized direct diversion rate be reduced to 64.75 cfs. The field engineer calculated that the maximum monthly diversion should not exceed 4,900 acre-feet (af) (82.5 cfs x 1.98 af/cfs x 30 days = 4,900 af). The reduction in the licensed direct diversion rate was calculated based on a pro-rata reduction in service area.

11,993 acres in license
-2,746 acres no longer irrigated
9,247 acres
+ 166 acres annexed to district
9,413 acres existing.

$9,413 \text{ acres} / 11,993 \text{ acres} \times 82.5 \text{ cfs} = 64.75 \text{ cfs}$.

The license inspection results were provided to the Licensee on October 8, 1986. The Licensee was requested to provide a new engineered map and a petition to change the place of use for the reduced place of use. The Licensee did not provide a revised map.

3. In the Division's April 9, 1992 letter, staff reminded the Licensee of the need for a revised engineered map.
4. The Licensee advised the Division on June 4, 1992 that the Local Agency Formation Commission (LAFCO) had detached lands from the district. The Licensee advised the Division that it was premature to submit a new engineered map because its service area was undergoing change.

5. On July 27, 1992, Division staff advised the Licensee that the Division needs more specific details on its planning effort. The matter of updating the license and maps had been outstanding since 1986, but the Licensee had not yet submitted revised maps.
6. The Licensee informed the Division by letter dated September 21, 1998 that it would not be taking any action to amend the place of use. The Licensee confirmed that the district boundaries have been reduced over time as land is annexed into the City of Tracy for municipal development. The land is routinely detached from the district.
7. On September 19, 2001, the State Clearinghouse circulated an Initial Study and Negative Declaration (ND) for change in purpose of use of License 1381 of West Side Irrigation District. The ND states that the district consists of approximately 6,161 acres.
8. The Licensee's November 21, 2001 letter states that approximately 5,800 acres of land have changed from agricultural to urban uses, and have detached from the district. The district is now comprised of 6,161 acres.
9. During a telephone conversation on April 28, 2004, Jeanne Zolezzi (legal counsel for the Licensee) and Gene Carson (Licensee's representative) advised Division staff that the Licensee uses 3 af/acre, on average.
10. Based on information provided by the Licensee on November 21, 2001 and in the Reports of Licensee, the Licensee has used the following amounts of water in recent years:

YEAR	ACREAGE	AF	AVERAGE CFS
1975	10,560	44,836	105.6
1976	11,780	48,673	114.7
1977	11,014	42,274	99.6
1978	9,416	22,658	53.4
1979	10,283	28,591	67.4
1980	10,198	17,239	40.6
1981	9,761	25,546	60.2
1982	10,041	27,960	65.9
1983	8,779	23,025	54.2
1984	8,774	31,492	74.2
1985	8,679	31,838	75.0
1986	7,477	23,097	54.4
1987	8,280	21,119	49.8
1988	8,679	22,949	54.1
1989	7,871	19,673	46.4
1990	No Data Provided	No Data Provided	No Data Provided
1991	No Data Provided	No Data Provided	No Data Provided
1992	7,500	25,121	59.2
1993	7,500	19,358	45.6
1994	7,500	21,437	50.5
1995	7,500	23,433	55.2
1996	7,500	24,028	56.6

1997	7,500	24,957	58.8
1998	5,676	16,258	38.3
1999	6,207	22,033	51.9
2000	5,954	22,595	53.2
2001	5,555	21,324	No Data Provided
2002	6,049	23,286	No Data Provided
2003	5,360	19,277	No Data Provided
2004	5,088	21,194	No Data Provided
2005	4,774	17,311	No Data Provided
2006	4,498	18,149	No Data Provided

11. On May 28, 2004, the U.S. Bureau of Reclamation advised the Division that it appears that a portion of License 1381 appears to have been abandoned or forfeited through non-use.
12. On August 5, 2004, the Division advised the Licensee that License 1381 may be amended to reflect the maximum recent use of 58.8 cfs, with an annual limit of 24,957 af. This represents the largest quantity of water used during the most recent five years of record (1996 through 2000) provided by the Licensee. The Division requested that the Licensee submit a statement of facts documenting recent use of 85 cfs and the maximum annual use by September 4, 2004. The Licensee did not submit the requested statement of facts.
13. On September 7, 2004, the Licensee informed the Division that it has experienced low water levels in Old River, particularly in the spring months, for several years, which have inhibited its pumping capacity. The Licensee did not identify which years had low water levels.
14. In a May 10, 2005 letter, Division staff restated the information regarding recent use of only 58.8 cfs, with an annual limit of 24,957 af. The May 10 letter documents that the Division did not receive the requested statement of facts showing: (a) use of 85 cfs or (b) a lack of available water, and advised the Licensee that the Division may consider amending the license to limit the use to the documented amounts.
15. The Licensee's July 7, 2005 letter informed the Division that the license can only be reduced through the procedure outlined in Water Code section 1675 et seq. The July 7 letter did not provide the requested statement of facts.
16. The Division's June 20, 2006 letter requested that the Licensee submit its triennial Report of Licensee for 2001, 2002, 2003 by July 20, 2006. The Licensee has not done so.
17. In a July 13, 2006 letter, the Licensee's counsel advised the Division that: "If the State Board wishes to reduce WSID's licensed diversion amount, it must pursue a section 1675 investigation and attempt to obtain a final order revoking a portion of License 1381."
18. Section 1675 of the Water Code provides: "If at any time after a license is issued, the board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to such useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the board, after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to section 1675.1, may revoke the license and declare the water to be subject to appropriation in accordance with this part."

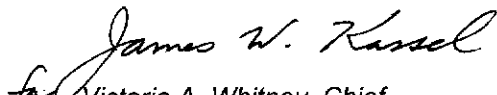
19. Division records show that the maximum quantity of water diverted in the most recent five years for which Licensee has provided records is 58.8 cfs, with an annual limit of 24,957 af.

Based on the above facts, the Division concludes that:

1. Licensee has failed to observe the terms and conditions of License 1381.
2. Licensee has not, or has ceased to, put part of the water granted under License 1381 to a useful or beneficial purpose. The maximum quantity diverted is 58.8 cfs, with an annual limit of 24,957 af.
3. Licensee has not applied part of the water to beneficial use for at least five consecutive years nor shown that water was not available. Licensee's water right should, therefore, be partially revoked pursuant to Water Code section 1675. The unused water should revert to the public and be regarded as unappropriated public water pursuant to Water Code section 1675.

As required by Water Code section 1675.1, you are hereby notified that the State Water Board will partially revoke License 1381, based on the above facts and conclusions, unless a written request for a hearing, signed by or on behalf of the Licensee, is delivered or mailed to the State Water Boards' Division of Water Rights at the address listed on the cover letter within 15 days after receipt of this notice.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated: **JAN 25** 2008