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Arnold Schwarzenegger  
Governor

MAY 26 2005

To: Enclosed Mailing List

APPLICATIONS AND PETITION FOR PARTIAL ASSIGNMENT OF STATE FILING TO APPROPRIATE WATER FROM THE KERN RIVER IN KERN COUNTY

The State Water Resources Control Board's (State Water Board) Division of Water Rights (Division) records show that the following applications to appropriate water from the Kern River and a petition for partial assignment of State Filed Application 005642 under section 10500 et. seq. of the California Water Code were filed with the State Water Board.

Application No.	Applicant	Amount (afa)	Date Filed
X000264a	City of Bakersfield	100,000	10/10/96
X0002903a	Kern Delta Water District	280,000	03/29/99
X002907a	North Kern Water Storage District	90,000+	03/31/99
X002915	West Kern Water District	10,000	04/15/99
X002946	Buena Vista Water Storage District	90,000	05/17/99
X002957a	Kern Water Bank Authority	87,000	06/09/99
X002981	Kern-Tulare Water District	10,000	07/19/99
X002982	Rag Gulch Water District	10,000	07/19/99
X002996	Arvin Edison Water Storage District	100,000	08/05/99
X002999	Berrenda Mesa Water District	45,000	08/23/99
SFA005642aa	Arvin Edison Water Storage District	100,000	08/05/99
<p>* Petition filed requesting a change to the Declaration of Fully Appropriated Stream designation for the Kern River</p> <p>** Petition to revise the Declaration of Fully Appropriated Stream designation for the Kern River not required.</p>			

On October 8, 1999, the Division advised the applicants that because the State Water Board had declared the Kern River System to be fully appropriated, the subject applications could not be accepted for processing. The Division also advised the applicants that prior to accepting and processing the subject applications, a hearing must be held to revise the State Water Board's Declaration of Fully Appropriated Streams (declaration) in response to petitions submitted to modify the declaration.

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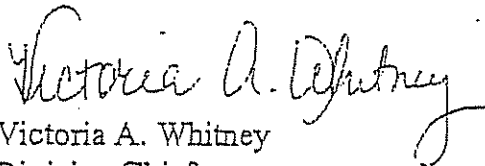
The applications and petitions listed above were submitted as a result of pending litigation relating to water rights on the Kern River. (*North Kern Water Storage District v. Kern Delta Water District et al.* Case 96-172919.) The parties who submitted the applications relied on the Superior Court's action as the basis for revising the State Water Board's declaration. Accordingly, because the Superior Court's decision was subsequently appealed by several of the parties, the Division finally advised the parties in 1999 that the State Water Board would defer any action on all subject applications and the petition for partial assignment of SFA005642 until resolution of the ongoing litigation.

Approximately six years have passed since the subject applications and petitions were filed with the State Water Board. Information made available to the Division regarding the current status of the ongoing litigation indicates that on January 31, 2003, the Fifth Appellate Court issued an opinion reversing the Superior Court's judgment and remanding this litigation for retrial. The retrial commenced on August 30, 2004. Further, on February 9, 2005, the Tulare County Superior Court entered a new judgment that has since been appealed by North Kern Water Storage District, with other parties possibly cross-appealing. At this time, there are no estimates as to when this new appellate process will be completed and whether a further retrial will be ordered.

Consequently, because no grounds currently exist for revising the State Water Board's Declaration of Fully Appropriated Streams related to the Kern River System, the Division will reject the submitted applications and petitions without prejudice. The parties may re-file their applications and petitions upon resolution of the ongoing litigation, and if the Superior Court's initial decision regarding the availability of unappropriated water is ultimately upheld.

If you have any questions, please contact Ernest Mona of my staff at (916) 341-5359 or at [emona@waterboards.ca.gov](mailto:emona@waterboards.ca.gov).

Sincerely,



Victoria A. Whitney  
Division Chief

Enclosure

## Mailing List

### Applications and Petition for Partial Assignment of State Filing To Appropriate Water from the Kern River in Kern County (updated April 26, 2005)

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DUANE MORRIS

**MAILING LIST**  
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