

## APPLICATION FOR SECRETARIAL DETERMINATION REGARDING DROUGHT EMERGENCY PROJECT

Applicant:

Entity Name	California Department of Water Resources
Street Address	1416 Ninth Street
City, State, Zip	Sacramento, CA 95814
Telephone/Fax	Phone: (916) 653-8826 Fax: (916) 654-9822
Email	esoderlu@water.ca.gov

Project Title: Consolidated Place of Use Petition

Project Location-Specific:

Trinity, Shasta, Tehama, Glenn, Butte, Colusa, Sutter, Yuba, Yolo, Placer, Sacramento, El Dorado, Solano, Fresno, Tulare, Madera, Kern, Kings, Stanislaus, San Joaquin, Merced, Yolo, Solano, Napa, Contra Costa, Alameda, Santa Clara, San Benito, San Joaquin, Stanislaus, Merced, Fresno, Madera, Kings, Tulare, Kern, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, Dan Diego, San Bernardino, and Riverside Counties.

Project Description:

Through the Change of Place of Use Petition, the Department of Water Resources (DWR) is seeking to consolidate the State Water Project (SWP) and Central Valley Project (CVP) places of use under their respective water rights for 2 years.

Name of Public Agency Approving Project:

The California State Water Resources Control Board (SWRCB)

Name of Person or Agency Carrying out Project:

DWR and the U.S. Bureau of Reclamation (Reclamation)

Nature, Purpose and Beneficiaries of Project:

Consolidating the SWP and CVP places of use will allow DWR and Reclamation to more effectively and efficiently utilize the operational flexibility of the combined SWP

and CVP facilities to facilitate water transfers and exchanges and provide water to the combined SWP and CVP service areas to minimize the potential impacts of the current critical water shortage within California.

Exemption or Suspension Status: (check one)

- Declared Emergency [PRC, Sec. 21080(b)(3); 21172]
- Emergency Project [PRC, Sec. 21080(b)(4); 14 CCR, Sec. 15269(c)]
- Suspension of Water Code section 13247

Reasons Why Project is Exempt:

**21080(b)(3) (projects to maintain or repair property or facilities damaged as a result of a disaster for which a State of Emergency has been proclaimed)**

On February 27, 2009, the Governor Proclaimed a State of Emergency resulting from drought conditions in the state. Precipitation in late February and March of this year is not sufficient to alleviate emergency conditions because reservoir levels have already been depleted as a result of previous years' dry conditions. (Department of Water Resources and Department of Food and Agriculture, "California's Drought: Water Conditions & Strategies to Reduce Impacts, Report to the Governor March 30, 2009," ("DWR Report"), at 14.) Due to extremely dry conditions, regulatory and operational constraints, the allocation to the SWP water users is only 30 percent of requested demand. If the SWP 2009 allocation is not increased over the course of the year, this would represent the lowest allocation for Municipal and Industrial contractors since the construction of the SWP. In addition, the allocation to the CVP agricultural water service contractors south of the Delta is 10 percent. (*Ibid.*)

While droughts are normal in California, this drought event presents "an unprecedented crisis." (Richard E. Howitt, et al., "Economic Impacts of Reductions in Delta Exports on Central Valley Agriculture," Agricultural and Resource Economics Update, University of California (Feb. 2009), at p. 1.) The crisis results in part because typical responses to normal drought events are unavailable.

For example, increased groundwater pumping is no longer an available option in some areas. In the Central Valley, groundwater levels are at historic lows. Even where groundwater is available, continued pumping threatens land subsidence, which can cause damage to property and infrastructure. (DWR Report, at p. 13.) Increasing efficiency in water use is unlikely to provide significant additional water because the agricultural industry has already invested in water-efficient technologies. (Howitt, at p. 1.)

Availability is further curtailed by water needs for special status species. Recently imposed limitations on water use to protect endangered species include a December 2008 Biological Opinion for delta smelt, the listing of long-fin smelt as threatened and the uplisting of delta smelt to endangered status under California's Endangered Species Act on March 4, 2009. Further restrictions to protect salmonids and marine mammal species are expected to be imposed in the forthcoming National Marine Fisheries Service's Biological Opinion on the Long-Term Operations Criteria and Plan (OCAP) for the Central Valley Project and State Water Project. (DWR Report, at p. 15.)

This drought event is also unlike past droughts because California has added nine million residents since the 1990s. (*Id.* at p. 16.) California's agricultural industry has also shifted to higher value permanent crops. Due to the investments necessary for such crops, changing crop patterns and land fallowing are not available options. (*Ibid.*) Economic losses in the Central Valley in 2009 are projected to range between \$1.6 million to \$2.2 million. Job losses are projected to range between 60,000 to 80,000. (Howitt, at pp. 2-3.) Severe economic losses are already occurring in Fresno County. Fresno County is served primarily by the Westlands Water District, which in turn gets its water from the Central Valley Project. At the time of this report, agricultural users were scheduled to receive 0% of their allotment of CVP water this year. (DWR Report, at p. 14.) As a result, crops that have already been planted are being abandoned and existing orchards are being destroyed. (Westlands Water District, "Water Allocation 0%," February 20, 2009.)

Since crops are not being planted or are being destroyed, agricultural workers are no longer being employed. Unemployment rates in some Fresno County cities ranges between 20% and 40%. (Fresno County Board of Supervisors, Resolution No. 09-134, "Proclamation of Existence of a Local Emergency and Request for the Governor to Proclaim a State of Emergency and Request for a Presidential Declaration and Request for State and Federal Assistance," April 14, 2009.) Similarly, local food banks have reported that demand has increased significantly, and that they are unable to meet that increased demand. (*Ibid.*) The Community Food Bank in Fresno County polled households that received food assistance; over eighty-percent reported that they were affected by the drought. (*Ibid.*)

DWR's Change in Place of Use petition will facilitate water transfers that are necessary to maintain properties and crops damaged by emergency drought conditions. As explained in the March 30, 2009 Report to the Governor:

Water transfers are an important strategy to respond to drought conditions. Maximizing the ability to move water around the state increases water system flexibility and allows water to be used in the places where it is needed the most....

[¶]

... Water for transfer is generally made available in four main ways: reservoir releases above average operations; groundwater substitution in which groundwater is used instead of surface water supplies; cropland idling; and crop substitution by growing a less water-intensive crop than would have been planted except for the water transfer.

(DWR Report, at pp. 20-21; see also Howitt, at p. 4 (South-of-Delta water exchanges would help to alleviate existing damage and prevent future losses).)

In sum, as result of the limited or non-existent Projects supplies, thousands of acres of agricultural land will be fallowed this year and cities across the state have imposed, or will soon impose, water rationing programs. Water transfers and exchanges can provide supplemental supplies to help mitigate the devastating crop losses or risks to human health and safety. The Project will help maintain property, including crops, orchards, and vineyards, that may be damaged or destroyed as a result of the drought and is necessary to mitigate the emergency.

Explanation of How Project Serves the Purposes of the Drought Proclamation:

To combat the dire water supply conditions, the Governor ordered immediate action to manage the crisis. The Governor's Proclamation directs state agencies to implement a range of activities intended to prevent, remedy or mitigate the effects of the extreme drought emergency. Importantly, the Proclamation directs DWR to, among other things, facilitate and expedite water transfers and related efforts by water users and suppliers. The Governor also ordered the SWRCB to expedite the processing and consideration of this request, which seeks to consolidate the places of use for the Projects to allow flexibility among the projects and to facilitate water transfers and exchanges.

DWR believes this petition furthers the directives of the Emergency Proclamation. The requested change is necessary to allow the Projects to help alleviate the impacts of the severe water shortages to users throughout California. Due to the combination of dry conditions and increased regulatory restrictions on the Projects, water transfers and exchanges are more important than ever. The consolidation of the SWP and CVP places of use will provide an important tool that will help the Projects and water suppliers manage the water supplies that are currently available more effectively.

Describe Any Actions Related to the Project that the Applicant is Taking to Protect the Public and the Environment:

In order to protect the public and the environment, DWR offers the following parameters within which all transfers or exchanges furthered by this petition will be conducted. It is also possible that the SWRCB will add other measures intended to protect the public and the environment.

- A. For any transfer of SWP or CVP water through the Delta, DWR and Reclamation will continue to operate the Projects in accordance with the 2008 delta smelt biological opinion, which analyzed the effects of a maximum of 600,000 acre-feet of transfers exported only from July through September.
- B. Carriage loss will be deducted from any water transferred through the Delta.
- C. The total quantity of water delivered to SWP or CVP contractors as a result of the Petition will not exceed historic average deliveries.
- D. No transfer or exchange will take place that results in the net loss of San Joaquin River or Sacramento River flow.
- F. DWR and Reclamation will develop, in coordination with SWRCB staff, a reporting plan that will account for all water transferred or exchanged under the provisions of any order approving the consolidated place of use. The reporting plan will include the parties to the transfer or exchange, how much water is to be transferred, how the water will be made available, the facilities required to affect the transfer, any anticipated changes to streamflow or drainage resulting from the transfer and how the transfer will affect the overall water supply of the agency receiving the transfer water.

In addition, any groundwater pump-in program will not be conducted unless those programs are accompanied in compliance with CEQA, DWR's pump-in policies designed to protect SWP water quality, and demonstrate that economic effects resulting from subsidence associated with the increased groundwater pumping or any water quality degradation for SWP contractors are either fully mitigated or compensation is provided.

Erick Soderlund  
Applicant Contact Person

Staff Counsel  
Title

(916) 653-8826  
Phone Number

*Cathy Crothers for Erick Soderlund*      April 24, 2009  
Applicant Signature      Date

For Agency Use Only

I hereby determine that this project falls within one or more of the exemptions and suspension referenced in paragraph 17 of the Governor's Drought Emergency Proclamation dated February 27, 2009. This determination may be signed in counterparts.

<u>Cindy Tuck, Acting</u>	<u>4/28/09</u>	<u>Mike Chrisman</u>	<u>4/28/09</u>
Linda S. Adams	Date	Mike Chrisman	Date
Secretary for the Environmental Protection Agency		Secretary for Natural Resources	

# Notice of Exemption

Form D

To: Office of Planning and Research  
P.O. Box 3044, Room 212  
Sacramento, CA 95812-3044

From: (Public Agency) Department of Water Resources  
1416 Ninth Street  
Sacramento CA 94236-0001

County Clerk  
County of \_\_\_\_\_

(Address)

Project Title: Change of Place of Use Petition

### Project Location - Specific:

Trinity, Shasta, Tehama, Glenn, Butte, Colusa, Sutter, Yuba, Yolo, Placer, Sacramento, El Dorado, Solano, Fresno, Tulare, Madera, Kern, Kings, Stanislaus, San Joaquin and Merced Counties.  
Yolo, Solano, Napa, Contra Costa, Alameda, Santa Clara, San Benito, San Joaquin, Stanislaus, Merced, Fresno, Madera, Kings, Tulare, Kern, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Diego, San Bernardino, and Riverside.

Project Location – City: Sacramento

Project Location – County: Sacramento

### Description of Nature, Purpose and Beneficiaries of Project:

Through the Change of Place of Use Petition, the Department of Water Resources (DWR) is seeking to consolidate the State Water Project and Central Valley Project places of use.

The change will allow DWR and Reclamation to more effectively and efficiently utilize the operational flexibility of the combined SWP (SWP) and CVP (CVP) facilities to facilitate water transfers and exchanges and provide water to the combined SWP and CVP service areas to minimize the potential impacts of the current critical water shortage within California.

Name of Public Agency Approving Project: State Water Resources Control Board

Name of Person or Agency Carrying Out Project: Department of Water Resources

### Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: \_\_\_\_\_
- Statutory Exemptions. State code number: Section 21080(b)(3) of the Public Resources Code

### Reasons why project is exempt:

The Project is subject to the Governor's Proclamation of a State of Emergency, issued on February 27, 2009 (attached), combating the natural disaster created by the critical drought conditions currently existing in the State. The Proclamation states that CEQA exemptions shall apply to Projects found consistent with the Proclamation. The Secretary for the California Natural Resources Agency and the Secretary for the California Environmental Protection Agency have concurred that the using the above CEQA exemptions for the Consolidated Place of Use Petition is consistent with the Proclamation.

Lead Agency  
Contact Person: Nancy Quan Area Code/Telephone/Extension: (916) 653-0190

### If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature: \_\_\_\_\_ Date: 04/\_\_\_/2009 Title: Branch Chief, Program Development and Transfers

- Signed by Lead Agency
- Signed by Applicant

Date received for filing at OPR: \_\_\_\_\_

Revised 2005