

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.waterrihts.ca.gov>

PROTEST – (Petitions)

BASED ON ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS
Protests based on Injury to Vested Rights should be completed on other side of this form

APPLICATIONS: 18085 and 18087 PERMITS: 13856 and 13858

We, the California Sportfishing Protection Alliance; Chris Shutes, 1608 Francisco St., Berkeley, CA 94703; Bill Jennings, 3536 Rainier Ave, Stockton, CA 95204; and Michael Jackson, P.O. Box 207, 429 West Main St., Quincy, CA 95971. (Name and address of Protestant)

have read carefully the June 4, 2009 notice relative to a petition for temporary change of **Placer County Water Agency and Sacramento Suburban Water District**, under applications 18085 and 18087 for permits 13856 and 13858, to transfer water from present points of diversion, as listed immediately below, to the Drought Water Bank, for use within the Central Valley Project (CVP) and State Water Project (SWP) service areas. For both permit 13856 and permit 13858,

A. PCWA’s current points of diversion are located at California Grid Coordinates, Zone II,

Mount Diablo B&M:

		N	E	Quart.	Sec.	T-N	R-E
Duncan Creek	Duncan Creek	538,130	2,431,040	NW SW	24	15	13
M.F. American River	French Meadows	530,100	2,434,250	NW NE	36	15	13
Rubicon River	Hell Hole	510,750	2,452,000	SW SE	16	14	14
M.F. American River	Ralston Interbay	498,137	2,397,300	NW NE	35	14	12
M.F. American River	Ralston Afterbay	490,160	2,357,100	NW NW	3	13	11
N.F. American River	Auburn	444,400	2,267,400	NE SW	23	12	8

B. PCWA’s current points of rediversion are located at California Grid Coordinates, Zone II, Mount Diablo B&M:

		N	E	Quart.	Sec.	T-N	R-E
M.F. American River	French Meadows	530,100	2,434,250	NW NE	36	15	13
Rubicon River	Hell Hole	510,750	2,452,000	SW SE	16	14	14
M.F. American River	Ralston Interbay	498,137	2,397,300	NW NE	35	14	12
M.F. American River	Ralston Afterbay	490,160	2,357,100	NW NW	3	13	11
N.F. American River	Auburn	444,400	2,267,400	NE SW	23	12	8
American River	Folsom Dam	380,461	2,240,626	SW NE	24	10	7

It is desired to protest against the approval thereof because to the best of our information and belief:

The proposed application/petition for water will:

- (1) not be within the State Water Resources Control Board's (SWRCB) jurisdiction
- (2) not best serve the public interest** **x**
- (3) be contrary to law** **x**
- (4) have an adverse environmental impact** **x**

State Facts, which support the foregoing allegations:

A temporary urgency transfer is requested to the Drought Water Bank, whose existence is supported on the basis of a declaration of emergency by the Governor of drought conditions. However, the alleged emergency is not based on precipitation: the May 1, 2009 Department of Water Resources Bulletin 120 forecasted 80% of average precipitation statewide, and 70% of average runoff, for Water Year 2009. The May 26, 2009 update to Bulletin 120 showed substantially higher predicted runoff for most areas of the state, based on significant rainfall in the month of May. The drought that has been declared by the Governor is largely a product of management choices made by the Bureau of Reclamation and DWR over the last three years, combined with the systemic over-allocation of water statewide.

Because the declaration of an emergency is based on conditions that are perennial, and on avoidable conditions occasioned by poor management choices, and because the proposed transfer is one of many to a Drought Water Bank whose cumulative effects have not been analyzed, the exemption from environmental review under CEQA, on the grounds of de minimis impact as claimed by petitioner and temporary urgency as claimed in the Notice issued by the SWRCB, is without legal basis. The Drought Water Bank involves the Bureau of Reclamation, a federal entity, but has not been analyzed under NEPA; this failure is also without legal basis. Lack of environmental review is not in the public interest, since environmental review is one of the cornerstones of protecting the public interest. Further, the petition seeks to add points of diversion of both the State Water Project and the Central Valley Project. Because such consolidation has no legislative authorization, and also because it has not been analyzed under NEPA or CEQA, it is contrary to law.

The Drought Water Bank, to which the water is proposed to be transferred, is relying on an improper EIS/EIR and an uncertified and improper supplemental EIS/EIR for the Environmental Water Account, both of which are for an unrelated project. Such reliance is contrary to law.

The proposed transfer has potential significant impacts, particularly when considered cumulatively with an apparently increasing number of proposed transfers to the Drought Water Bank, well in excess of the cap specified in WRO 2009-0033. These include impacts to Delta pelagic fisheries, notably several listed species such as Delta smelt, by increasing the amount of water exported through the SWP and CVP South Delta facilities. These actions will further degrade existing water quality and will increase entrainment of both pelagic fishes and migrating anadromous salmonids. These include Central Valley Chinook salmon, whose returns have dropped to catastrophic levels, and listed species including Central Valley steelhead, Spring-run Chinook salmon, and Winter-run Chinook salmon. The individual and cumulative effects of the ensemble of proposed transfers have not been analyzed for their impacts on listed species in particular.

Under what conditions may this protest be disregarded and dismissed? None, other than withdrawal of petition by applicant.

A true copy of this protest has been served upon the petitioner by mail.
(Personally or by mail)

Date: June 9, 2009.

Chris Shutes, FERC Projects Director,
Bill Jennings, Executive Director
Michael Jackson
California Sportfishing Protection Alliance

Chris Shutes
(signed on his own behalf and for
Bill Jennings and Michael Jackson)

Protestant(s) Authorized Representative sign here

Certificate of Service

I hereby certify that on this day, June 9, 2009, I, Chris Shutes, have placed in first class mail at Berkeley, California, a true copy of this protest mailed to:

Placer County Water Agency
c/o Hanspeter Walter
Kronick, Moskovitz, Tiedemann & Girard
400 Capitol Mall, 27th Floor
Sacramento, CA 95814

And

Sacramento Suburban Water District
c/o Joshua Horowitz
Bartkiewicz, Kronick & Shanahan
1011 22nd Street
Sacramento, CA 95816-4907

Chris Shutes