



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

DIVISION OF WATER RIGHTS

TEMPORARY PERMIT FOR
DIVERSION AND USE OF WATER

APPLICATION T032564

TEMPORARY PERMIT 21364

Permittee: Scott Valley Irrigation District
P.O. Box 216
Fort Jones, CA 96032

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the Permittee in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS including all rights adjudicated in the 1980 Scott River Decree No. 30662. The priority of this temporary permit dates from **January 13, 2016**. This temporary permit is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. The State Water Board has delegated to the Deputy Director of the Division of Water Rights (Division) the authority to act on applications for temporary permits pursuant to chapter 6.5 (commencing with section 1425) of part 2 of division 2 of the Water Code if there are no outstanding objections. (State Water Board Resolution 2012-0029, para. 4.2.14.)

Scott Valley Irrigation District (Permittee or Applicant) filed Application T032564 to appropriate water by temporary permit on January 13, 2016, pursuant to Water Code section 1425 et seq. The Applicant proposes to divert up to 5,400 acre-feet, at a maximum diversion rate of 30 cubic feet per second (cfs), from the Scott River to groundwater recharge (underground storage) for later instream fish and wildlife habitat enhancement use between River Mile (RM) 46.7 and RM 21, location of the USGS Gage No. 11519500 on Scott River near Fort Jones (Fort Jones Gage). Diversions from the Scott River will be limited to January 1 through March 31. The Applicant has an existing diversion dam at RM 46.7 and a 13.2-mile canal system for diverting and conveying water to its service area. The unlined, earthen canal system and up to 3,475 acres of existing, dormant agricultural fields within the Applicant's service area will serve as infiltration areas.

Researchers at the University of California at Davis (UC Davis) have been studying the infiltration effects of winter application of water on 15 acres of agricultural land in the Scott River Valley and a portion of the water diverted under this permit will be used to continue the study (UC Davis Pilot Project). UC Davis has also developed an integrated hydrologic model and water budget for the Scott River. Modeling results indicate that water to be stored underground under the permit will raise the groundwater gradient near the channel, temporarily increasing spring and summer discharge to the Scott River. Data from this project will be used to better calibrate the model for future conjunctive use projects. UC Davis estimates that the volume of water requested for underground storage under this temporary permit will return to the stream for fish and wildlife enhancement during spring and summer 2016.

The Applicant has indicated they will monitor water diversions using their existing diversion and monitoring infrastructure and additional pressure transducer(s) in the Applicant's ditch. To monitor changes in groundwater levels to determine the quantity of water placed to underground storage and later contributions to Scott River flow, the Applicant indicates they plan to utilize nine existing wells located below the ditch through the Scott Valley Community Well Measuring Program. It is also likely they will rely upon data generated from the UC Davis Pilot Project, and other available information.

The State Water Board may issue a temporary permit in advance of the notice required by the Water Code. (Wat. Code § 1428.) A public notice of Application T032564 is pending.

Ordinarily, the State Water Board must comply with any applicable requirements of the California Environmental Quality Act (CEQA) prior to issuance of a temporary permit pursuant to Water Code section 1425 et seq. However, on November 13, 2015, Governor Edmund G. Brown Jr. issued Executive Order B-36-15, which concluded that strict compliance with CEQA would prevent, hinder or delay the mitigation of the effects of the ongoing drought. Item 6 of the Executive Order suspends CEQA for purposes of carrying out the directives in the order, including the issuance of temporary permits to capture high precipitation events for local storage or recharge. The suspension applies to any actions taken by state agencies, and for actions taken by local agencies where the state agency with primary responsibility for implementing the directive concurs that local action is required. The Applicant filed a Notice of Exemption (NOE) with the Siskiyou County Clerk on January 14, 2016. The Applicant determined that the project is exempt from CEQA based on the CEQA suspension described above. The State Water Board has reviewed the information submitted by the Applicant and has made an independent finding that the proposed project is consistent with the suspension of CEQA in Executive Order B-36-15. The State Water Board will issue an NOE for the proposed project within five days of order issuance.

Item 2 of the Executive Order requires the State Water Board to prioritize temporary water right permits to accelerate approvals for projects that enhance the ability of a local or state agency to capture high precipitation events this winter and spring for local groundwater storage or recharge, consistent with water rights priorities and protections for fish and wildlife. The State Water Board concurs that local action by the Applicant is required to implement the directive. Accordingly, CEQA is suspended to the extent that it would otherwise apply to the temporary permit.

The State Water Board has complied with its independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)

The State Water Board finds that: (1) the Applicant has an urgent need for the proposed diversion and use of water; (2) the water may be diverted and used without injury to any lawful user of water; (3) the water may be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and (4) the proposed diversion and use is in the public interest. (Wat. Code, § 1425, subd. (b).)

Water Code section 1427 requires the State Water Board to: a) review available records, files, and decisions which relate to the availability of water from the source at the proposed point of diversion to serve the proposed temporary diversion and use and which relate to the rights of downstream users; and b) consult with representatives of the Department of Fish and Wildlife (DFW). Division staff has reviewed available records, files and decisions relating to the availability of water for the project and the rights of downstream users, and has consulted with representatives from DFW. DFW staff has concurred with the terms and conditions specified under this temporary permit for protection of fish and wildlife.

This temporary permit does not create a vested right, even of a temporary nature. This temporary permit is not precedential to future permitting actions for this or other similar projects.

The Applicant Has an Urgent Need for the Water

The State Water Board finds that the Applicant has an urgent need for the water to be diverted and used. Four years of state-wide drought has caused substantial depletion of the state's water reserves in above-ground reservoirs and underground aquifers. The Scott River Valley Groundwater Basin is designated as medium-priority by the Department of Water Resources because of its high proportion of irrigated agriculture and high reliance on groundwater supplies.

The Scott River and its tributaries support runs of Upper Klamath-Trinity Rivers Chinook, Klamath Mountains Province steelhead, and state and federally threatened Southern Oregon-Northern California Coast coho salmon. Low spring and summer flows in recent drought years have limited access of salmonids from many typical spawning grounds, creating crowded conditions in the mainstem for spawning, rearing and outmigration. This crowding triggered relocation of more than 100,000 coho in 2014. Augmentation of spring and summer flows for salmonids through winter diversion and underground storage will increase hydraulic connectivity and enhance spawning and rearing conditions for salmonids. The predicted high precipitation events that are anticipated to

occur this year as the result of major winter storms driven by the warming trend in the Pacific Ocean known as El Niño provide an opportunity for artificial groundwater recharge to support spring and summer surface flows in the Scott River.

The Water May Be Diverted and Used Without Injury to Any Lawful User of Water

The water will be diverted and used without injury to any lawful user. The Scott River has been adjudicated according to the terms of the 1980 Scott River Decree, which quantifies certain surface and groundwater rights in the Scott River Basin. The decree sets terms for diversions based on schedules and priority classes. The proposed project is junior to all water rights set forth in the Scott River Decree.

Diversions for irrigation, which constitute the majority of large diversions from the Scott River, are limited to “about April 1 through about October 15 of each year.” (Scott River Decree, p. 8.) This season of use is outside of the diversion season authorized by this temporary permit. The U.S. Forest Service (USFS) has a right to 426 cfs identified as a daily mean flow or the calculated average flow during the preceding 10 days as measured at the Fort Jones Gage, from January through March for instream use for fish and wildlife, and recreational and aesthetic purposes within the Klamath National Forest. Domestic users are each entitled throughout the year to approximately 0.01 cfs. No other legal users of water have been identified that could be injured by the proposed diversion. The use of the water under this permit is non-consumptive and will be available, less natural losses, to users below the downstream limit of the place of use (i.e., the confluence of the Scott and Klamath Rivers).

To protect the rights of the USFS and downstream domestic users, diversions under this permit are prohibited unless flow at the Fort Jones Gage is at least 440 cfs. The State Water Board has determined these limits will protect downstream lawful users. The State Water Board will require the Permittee to comply with these limitations as conditions of this permit.

The Water May Be Diverted and Used Without Unreasonable Effects upon Fish, Wildlife, or Other Instream Beneficial Uses

Diversion and use of water under this permit will not unreasonably affect fish, wildlife, or other instream beneficial uses within the watershed. The Scott River Decree governs diversions of surface water in the basin, and defines procedures and bypass flows necessary to protect instream fish and wildlife habitat. As noted above, this permit only authorizes diversions when instream flow in the Scott River is above minimum flows required to meet both downstream demand and instream habitat requirements. Water stored underground under this permit will discharge into the mainstem Scott River in the spring and summer, enhancing flows for salmonid spawning, rearing and outmigration.

The Scott River Decree requires reduced diversions during certain water years to enable high, flushing flows in the system necessary for maintaining instream salmonid habitat; however, the next flushing flow event protected by the Decree will occur after the expiration of this temporary permit, and diversion under this permit will not interfere with flows necessary for channel-formation. The existing diversion structure is equipped with fish screening that meets California Department of Fish and Wildlife guidelines. The Applicant has also consulted with CDFW staff regarding the project’s potential for impacts to fish and wildlife.

The Proposed Diversion and Use Is in the Public Interest

The proposed diversion, storage, and use of water are in the public interest. Storage of peak flows pursuant to this permit that would otherwise be unused by downstream users will mitigate the ongoing effects of the current drought on fish and wildlife. The project will release water back to the river in the late spring and summer months to alleviate the effect of future dry conditions on anadromous fish by improving rearing habitat conditions. It is in the public interest to enhance the Scott River’s salmonid fisheries. Data gathered from the project will also improve the scientific understanding of conjunctive use projects in the Scott Valley and further the goals of the Sustainable Groundwater Management Act. Additionally, the proposed use will be non-consumptive, less natural losses, and the water will be available for downstream beneficial uses below the downstream limit of the place use.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water: **Scott River**

tributary to: **Klamath River thence the Pacific Ocean**

within the County of **Siskiyou**.

2. Locations of point of diversion to underground storage and infiltration areas

By California Coordinate System of 1983 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Diversion Dam</u> North 2,408,397 feet and East 6,329,813 feet	NW ¼ of NE ¼	2*	41N	9W	MD
<u>Infiltration areas</u>	Within the Scott Valley Water District service area boundary as shown on map filed, on January 13, 2016, with the State Water Board.				

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Fish and Wildlife Enhancement	Within the Scott River; the upstream limit (RM 46.7) is located, by California Coordinate System 1983 (CCS83), Zone 1, at North 2,408,397 feet and East 6,329,813 feet, being within NW ¼ of NE ¼ of projected Section 2, T41N, R9W, MDB&M. The downstream limit (RM 21) is located, by CCS83, Zone 1, at North 3,089,801 feet and East 6,283,961 feet, being within the NE ¼ of NE ¼ of projected Section 29, T44N, R10W, MDB&M.					

The place of use is shown on map filed on January 13, 2016 with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **5,400 acre-feet per year** by underground storage to be collected from January 1 to March 31. The maximum rate of diversion to underground storage shall not exceed **30 cubic feet per second**. This permit expires 180 days from the date of its issuance.

(0000005C), (0510700), (0000005J)

6. No water shall be diverted under this temporary permit unless the Permittee monitors and records the rate of diversion and quantity of water diverted to underground storage under this temporary permit. Permittee shall use a measuring device or other method satisfactory to the Deputy Director for Water Rights. The device or method shall be capable of quantifying the daily rate and amount of diversion and shall be properly maintained.

Permittee shall provide the Division of Water Rights with current photographs of the device or method installed with certification that it is properly installed, calibrated and operating as designed. The photograph and certification shall be filed with the summary report required by Term 0100500.

Permittee shall maintain a daily record of the quantity of water diverted, and the maximum daily rate of water diverted. If Permittee is using the point of diversion under other rights, the records of diversion shall be separately quantified. A copy of the daily records shall be submitted with the report required by Term 0100500 or whenever requested by the Division of Water Rights.

(0109999)

7. Permittee shall report to the Deputy Director for Water Rights by May 31, 2016, the total quantity of water diverted under this temporary permit to date and any other amounts diverted from the point of diversion under other basis of right during the reporting period. The report shall also include records of the daily quantity and the maximum rate of diversion as described in Term 0109999 and the corresponding daily mean flow and calculated average flow during the preceding 10 days as recorded at the USGS Fort Jones Gage to document compliance with Term 0000204

(0100500)
8. By October 1, 2016, Permittee shall provide a summary report to the Deputy Director for Water Rights describing the results of fish and wildlife enhancement beneficial use of water authorized under this temporary permit, including the total estimated amount diverted to underground storage based on changes in groundwater elevation under this temporary permit and the total amount that augmented flows in the Scott River. The Permittee may extrapolate data collected from the UC Davis Pilot Project, the Scott Valley Community Well Measuring Program and other available well data, and utilize other information sources to assist in compiling results. The summary report shall discuss estimated relative amounts contributed to Scott River flow from natural recharge due to rainfall compared to the artificial recharge under this temporary permit.

(0119999)
9. No water shall be diverted under this temporary permit unless the daily mean flow or the calculated average flow during the preceding 10 days is above **440 cubic feet per second**, as measured at USGS Fort Jones Gage. If the daily mean flow or the calculated average flow during the preceding 10 days is above 440 cubic feet per second but below 470 cubic feet per second, the Permittee shall limit its diversion rate such that it does not cause the stream flow to fall below 440 cubic feet per second. In the event that said USGS gage is no longer available for streamflow measurements, Permittee shall immediately notify and consult with the Deputy Director for Water Rights regarding a substitute gage(s) to be used to determine the appropriate minimum flow requirements.

(0000204)
10. No water shall be diverted under this temporary permit unless Permittee is operating the water diversion facility at the diversion ditch with existing fish screen(s).

(0000213)
11. The State Water Board may supervise diversion and use of water under this temporary permit for the protection of lawful users of water and instream beneficial uses and for compliance with permit conditions. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this temporary permit.

(0480600)
12. This temporary permit is issued and Permittee takes it subject to California Water Code, Division 2, Chapter 6.5, section 1425 et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the State Water Board.

(0510800)
13. Issuance of this temporary permit shall not be construed as indicating State Water Board approval of water right permits requested under any other applications.

(0510999)
14. The Permittee must cease diversions if directed by the Deputy Director for Water Rights. The Deputy Director will direct the Permittee to cease diversions upon a finding that the diversion threatens to injure downstream senior right holders, or the diversion creates a threat to human health or safety.

(0359999)

15. To prevent waste and unreasonable use of water, Permittee shall minimize excess surface water runoff from fields used for infiltration to underground storage. (0510999)
16. Permittee shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use and documentation of compliance with the terms and conditions of this temporary permit. (0000010)
17. No water shall be diverted or used under this temporary permit unless Permittee has obtained and is in compliance with all necessary permits or other approvals required by other agencies. (0000203)
18. This temporary permit does not authorize any act which results in the taking of a candidate, threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this temporary permit, Permittee shall obtain any required authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this temporary permit. (0000014)

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: JAN 15 2016