



State Water Resources Control Board



Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterboards.ca.gov/waterrights

Linda S. Adams

*Acting Secretary for
Environmental Protection*

Edmund G. Brown Jr.

Governor

MITIGATED NEGATIVE DECLARATION

Pursuant to Section 21080(c)
Public Resources Code

<p>To: Office of Planning & Research State Clearinghouse P.O. Box 3044 Sacramento, CA 95812-3044</p>	<p>From: State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000</p>
--	---

PROJECT TITLE: Application 31491

APPLICANT: G. Scott Fahey
2787 Stoney Fork Way
Boise, ID 83706

PROJECT LOCATION: The project is located along an approximately 5.5 mile linear route beginning four and one-half air miles southeast of Long Barn (Highway 108, Tuolumne County) in the Stanislaus National Forest. The Project is located in portions of Sections 14, 15, 22, 23, 26 and 27, T2N, R17E, MDB&M of the Hull Creek and Duckwall Mountain U.S. Geological Survey 7.5 minute topographic quadrangles.

PROJECT DESCRIPTION:

Water right Application 31491 was filed with the State Water Resources Control Board (State Water Board) on November 8, 2002. The application proposes diversion of 20 gallons per minute (gpm) from two springs, totaling 40 gpm. Water will be diverted using a four-inch diameter pipeline to convey water to an existing pipeline system, thence to an existing point of use where water is placed in water tanker trucks. The existing facility (pipeline system) diverts water pursuant to water right Permit 20784, which authorizes diversion of 14 gpm.

DETERMINATION:

The State Water Board has determined that the above-described project will have a less than significant effect on the environment for the reasons specified in the Initial Study prepared for this project.

PERMIT TERMS:

Mitigation measures have been incorporated into the project to avoid potential significant environmental impacts. Specific terms reflecting the mitigation measures, written substantially as follows, will be included in any permits, licenses, or orders issued by the State Water Board.

Permittee shall minimize fugitive dust generation on all construction access roads and during trenching using water or other palliative measures.

Permittee shall ensure that all on site construction equipment is equipped with muffler systems meeting the requirement of the California vehicle code.

Immediately prior to construction, a Biologist acceptable to the Deputy Director for Water Rights shall be assigned to flag, with an agreed-upon flagging color/pattern, a 100 foot radius around any active day-roosting habitat for Townsend's big-eared bat (*Plecotus townsendii*), pallid bat (*Antrozous pallidus*), and the western red bat (*Lasiurus blossevillei*). Site disturbance within 100 feet of potential day-roosting habitat shall not occur. The 100-foot radius perimeter shall be flagged with an agreed-upon flagging color/pattern and be off limits for pipeline construction. The flagged day-roosting habitat shall be avoided from March 1 through August 15.

Permittee shall not conduct any construction trenching activities within the two spotted owl protected activity centers from March 1 through August 15. .

To maintain herbaceous riparian habitat for Snowshoe hare (*Lepus americanus*), for each point of diversion Permittee shall continuously bypass a minimum of 5 gallons per minute. For each point of diversion, the total streamflow shall be bypassed whenever it is less than the designated amount.

No water shall be diverted under this permit until permittee has installed devices, satisfactory to the State Water Board, which are capable of measuring the bypass flows required by the conditions of this permit. Said measuring devices shall be properly maintained.

Within six months of the issuance of this permit, the Permittee shall submit a Compliance Plan for approval by the Deputy Director for Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:

- a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow.
- b) A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow and/or reservoir storage capacity.
- c) A time schedule for the installation of these facilities.
- d) A description of the frequency of data collection and the methods for recording bypass flows and storage levels.
- e) An operation and maintenance plan that will be used to maintain all facilities in good condition.

The Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the permittee for ten years from the date of collection and made available to the Deputy Director for Water Rights, upon request. Any non-compliance with the terms of the permit shall be reported by the permittee promptly to the Deputy Director for Water Rights.

Diversion and use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

Permittee shall avoid direct impacts to streams and wetland (waters of the United States and waters of the state) through the maintenance of a 50 foot setback from the boundaries of the riparian area. The 50 foot setback area shall be flagged by a qualified biologist acceptable to the Deputy Director for Water Rights prior to the start of construction activities.

Prior to the start of construction and diversion and use of water, in order to avoid any project related impacts to previously identified cultural resources including sites identified as FS-05-16-51-0015/CA-Tuo and Camp 21 (FS 05-16-51-0200/Ca-Tuo-2335H), Permittee shall obtain the services of a professional archeologist acceptable to the Stanislaus National Forest and the Deputy Director for Water Rights, to conduct monitoring of the Project. The archeologist will obtain a permit from the Stanislaus National Forest Archeologist prior to project related work commencing in the vicinity of the sites. The archeologist shall be present during all ground disturbing activities along the railroad grade to ensure that the wood culverts are protected and the grade is returned to the original condition. Permittee shall be responsible for all costs associated with the cultural resources related work.

Permittee shall document compliance with all of the Stanislaus National Forest Special Use Permit requirements and any issues relating to cultural resources that are identified during consultation with the Stanislaus National Forest. Within 60 days of completion of construction, Permittee shall provide documentation of compliance with this condition to the Division of Water Rights.

To avoid effects to historic features of the West Side Railroad (WSRR) grade, the pipeline ditch and pipeline shall traverse above the culverts, and if necessary, Permittee shall move the line laterally or horizontally beneath any historic wooden box culverts that are within three feet of the surface of the WSRR grade. After the waterline installation is complete, the trench shall be backfilled and compacted, and the Grade restored to its original appearance.

All box culverts along the WSSR grade shall be flagged/staked to ensure none are accidentally affected during construction. Flagging/staking shall be conducted by the on-site Archaeologist. Once staked the Archaeologist shall notify the Stanislaus National Forest. Relevant historic resource records must be on-site during the flagging process and throughout construction.

As the lateral pipeline routes leave the WSRR grade to the Marco Spring and to the Polo Spring, respectively, the lateral alignment shall avoid effects to the cut bank or fill areas of the grade. The suitability of the alignment location shall be verified by the Archaeologist and Forest Service prior to construction.

To preserve any archaeological or paleontological resources which may be discovered during trench construction, the finding of unusual fragments or artifacts (obsidian and chert flakes, chipped stone tools, ground stone implements, darkened midden soils and any structural remains) or fossilized/petrified rocks shall be reported to the Stanislaus National Forest Heritage Resource Manager and the Division and activities shall cease in the findings area.

The further implementation of mitigation measures shall be under the direction of the Stanislaus National Forest Archaeologist, Forest Heritage Resource Manager and the Division.

Should any buried archaeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological indicators include: obsidian, and chert flakes and flaked stone tools; bedrock outcrops and boulders with mortar cup; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Deputy Director for Water Rights shall be notified of the discovery and the professional archaeologist shall evaluate the find and recommend appropriate mitigation measure. Proposed mitigation measure shall be submitted to the Deputy Director for Water Rights for approval. Project-related activities shall to resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director of Water Rights.

If human remains are encountered, then the Permittee shall comply with Section 15064.5 (e) of the California Environmental Quality Act Guidelines and the Health and Safety Code Section 7050.5. All project-related ground disturbances within 100 feet of the find shall be halted until the Stanislaus County Coroner has been notified. If the Coroner determines that the remains are Native American, the Coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance in the vicinity of the find shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights.

Permittee shall construct silt fences within 50 feet of each point of diversion. The silt fence shall begin at a point 25 feet in the upstream direction from the well-head and shall continue on the level contour for a distance of 50 feet in the downstream direction from the well-head, bordering the riparian community. The installation shall be adjusted so as to catch all overflows of water or sediment emanating from the well-head.

When well-drilling is complete, Permittee shall remove the silt fence fabric along with sediments caught by the fence and dispose of in the Tuolumne County Landfill.

Permittee shall cover any soil exposure created by the silt fence removal with natural mulch removed from nearby dry upland forest habitat. So as to create a minimum disturbance, the mulch (leaf-litter/ duff) shall be hand-raked and placed in wheelbarrows for hand-spreading. Seeding of exposed soil shall be by "passive restoration" (allowing native seed to re-vegetate disturbed sites). Mulch cover shall be approximately one foot in depth.

Permittee shall complete all erosion and sediment control measures by October 1 of the construction year.

A qualified biologist, acceptable to the Deputy Director for Water Rights, shall conduct a monitoring inspection in July of each year and shall report the results of the inspection to the Division with the Progress Report by Permittee and shall also report to the Forest Service annually. The inspection shall utilize the same transects on a year-to-year basis to monitor the size and area of the wetland. At a minimum, the number of transects identified in the Biological Survey Report (BSR), Riparian Community Monitoring Plan shall be used. The final transect locations shall be selected in cooperation with the Forest Service, and any additional transects required by the Forest Service shall be included in future submittals to the Division. Permittee shall submit a map to the Division showing the final transect locations, after completing consultation with the Forest Service. No diversion is allowed under this permit after July 30 in any year that the monitoring inspection is not conducted, until termination of this condition. Baseline monitoring shall be conducted prior to any diversion under the permit.

If the size and/or area of the wetland along the transect declines below baseline conditions, diversions at the specific spring shall be reduced to 16 gallons per minute (gpm) (20 percent reduction) by August 1. When this occurs, monthly monitoring shall be conducted starting in August and continuing until freezing conditions preclude monitoring. If monitoring documents continued decline from baseline conditions, permittee shall reduce diversions in 20 percent increments until monitoring documents no further reduction in baseline conditions. The monthly monitoring (except during freezing conditions) and diversion adjustments shall continue until the biologist determines that the wetland area has returned to baseline conditions.

If permittee documents that baseline conditions have been restored, diversions may be increased to the last known extent that did not cause reduction in size and/or area of the wetland.

Monitoring may be terminated after five consecutive years of no-net change in wetland area. The last documented diversion rate that resulted in no-net change shall become the permanent diversion limit for each spring under the permit.

Contact Person: Katherine Mrowka	Telephone: (916) 341-5363 email: kmrowka@waterboards.ca.gov
----------------------------------	--

APPROVED:

ORIGINAL SIGNED BY: *PGC*

AUG 01 2011

Barbara Evoy, Deputy Director Date
Division of Water Rights
