

Keith Blean

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary)		
Urgency Change Order for License 12087)	ORDER:	WR 96-03
(Application 16305))		
)	SOURCE:	Sacramento River
COLUSA DRAIN MUTUAL WATER COMPANY,)		
)	COUNTY:	Sacramento
Licensee.)		
)		
)		

CONDITIONAL TEMPORARY URGENCY CHANGE ORDER
AUTHORIZING AN ADDITIONAL POINT OF DIVERSION
LICENSE 12087 (APPLICATION 16305)

BY THE BOARD:

1.0 INTRODUCTION

The Colusa Drain Mutual Water Company (CDMWC) possesses an appropriate water right license which presently authorizes diversion of water from the Sacramento River only at the Knights Landing Outfall gates. This license authorizes conveyance of water from the Sacramento River via the Colusa Basin Drain and the Knights Landing Ridgecut to 23 secondary points of redistribution which serve 14,444 acres.

The pumping plant at the Knights Landing Outfall Gates is in need of repair and, consequently, water has not been diverted at this location for several years. During some of these years, water was not available for diversion under the petitioner's license. The CDMWC diverts water from the Colusa Basin Drain pursuant to various water rights which have been issued by the State Water Resources Control Board. The source of most of this water is return

flow from diversions from the Sacramento River. During periods of most years, these rights are deficient and the CDMWC has entered into a contract with the U.S. Bureau of Reclamation which allows the CDMWC to continue to divert from the Colusa Basin Drain by paying for an "exchange supply" to meet the prior rights their diversions would be otherwise affecting. Reclamation does not directly supply water to the CDMWC. Return flows in recent years, especially during the rice flooding season, have decreased and supplemental water from the Sacramento River is needed to meet CDMWC's demands.

CDMWC submitted a petition for a permanent change in February 1995 which requests approval of variable points of diversion on the Sacramento River between the Tehama-Colusa Canal and the Knights Landing Outfall Gates. The petition for permanent change also requests that the place of use be changed from the present 14,444 acres located in the vicinity of the Knights Landing to a net of 14,444 acres within a gross of 57,500 acres within the Colusa Drain Mutual Water Company service area. The permanent change petition has not yet been noticed.

Because of the time required to obtain approval of a permanent change, the petitioner filed a temporary urgency change petition with the State Water Resources Control Board (SWRCB) on November 5, 1995 pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code.

Public notice of the petition was circulated on March 1, 1996 by regular mail and published in two newspapers. The period for submitting objection(s) ended on March 18, 1996. No objections were filed.

2.0 SUBSTANCE OF PETITION

The proposed change would add a temporary point of diversion at the existing pump site operated by the Maxwell Irrigation District, located within the NW¼ of NE¼ of Projected Section 12, T17N, R2W, MDB&M. A temporary change in the place of use is not being sought (i.e., if the temporary urgency change is granted, the place of use for the 1996 season will remain the same as is presently authorized by the petitioner's water right license). The Maxwell Irrigation District pumps are equipped with state-of-the-art fish screens which have been approved by the California Department of Fish and Game.

3.0 SUBSTANCE OF THE LICENSE 12087

License 12087 authorizes direct diversion of 36 cubic feet per second from Sacramento River at the Knights Landing Outfall Gate during the period of April 1 to June 30. Water is used for the irrigation of 14,444 acres located in the vicinity of Knights Landing. Annual diversion is limited to 3,660 acre-feet per year.

4.0 COMPLIANCE WITH CALIFORNIA WATER CODE SECTION 1435(b)

To approve a petition for temporary urgency change, the SWRCB must find that:

1. The licensee has an urgent need to make the proposed change;
2. The proposed change may be made without injury to any lawful user of water;
3. The proposed change may be made without unreasonable effect upon the fish, wildlife, or other instream beneficial uses; and
4. The proposed change is in the public interest.

4.1 URGENT NEED FOR THE TEMPORARY CHANGE

The petitioner argues that the need for a temporary urgency change order is based on the following:

"To allow more flexible and efficient distribution of irrigation water. This change is necessary to help assure a reliable supply of water to the Colusa Drain and users along the drain. Water supplies were critically low in 1994. This petition is a necessary precaution to avoid the same situation that occurred in 1994."

Section 1435(c) of the Water Code defines an "Urgent need" as:

"The existence of circumstances from which the Board may in its judgment conclude that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented; except that the Board shall not find a petitioner's need to be urgent if the Board in its judgment concludes, if applicable, that the petitioner has not exercised due diligence either (1) in petitioning for a change pursuant to provisions of this division other than this chapter, or (2) in pursuing the petition for change."

The outlook for runoff in the Sacramento River during the spring and early summer of 1996 is very promising following the relatively wet 1995-96 winter. The proposed change in point of diversion would take advantage of available runoff to provide CDMWC with a reliable supply, which assuring that the

diversion occurs at facilities with the state-of-the-art fish screens. Granting the CDMWC's request would further the constitutional mandate to put the State's water resources to the fullest extent possible. The CDMWC has pursued a permanent change order in a diligent fashion. Consequently, there is an urgent need for the proposed change.

4.2 EFFECT ON OTHER LAWFUL USERS OF WATER

All diverters who have filings with the SWRCB were provided notice of the CDMWC's request for a temporary urgency change petition. The notice was also published in newspapers closest to the area of potential impact if the CDMWC's request were to be granted in order to notify other interested parties.

The notice allowed interested parties until 4 P.M. on March 18, 1996 to object to the proposed temporary urgency change. No objections were received during this period. By letter dated March 15, 1996, the U.S. Bureau of Reclamation (USBR) endorsed the temporary urgency change, with the following two provisions:

1. That Standard Permit Term 91 be included, and
2. That a method of differentiating the quantity of water diverted by CDMWC under this order and the quantity of water diverted by Maxwell Irrigation District under their USBR contract be established.

Standard Permit Term 91, which is included in all new permits which authorize diversions that are tributary to the Sacramento-San Joaquin Delta, will be made a condition of this order to protect the interests of the Central Valley Project and the State Water Project. Except for the USBR letter, the SWRCB

has not received any objections indicating that a lawful user of water would be injured if the requested temporary urgency change were approved provided that Standard Permit Term 91 and a term requiring accounting of all diversions are made a condition of this order. Thus, the SWRCB finds that this change may be made without injury to any lawful water user.

4.3 EFFECTS ON FISH, WILDLIFE, OR OTHER INSTREAM BENEFICIAL USES

The effect of approving the requested change would be to reduce the flow in the Sacramento River by 36 cfs between the Maxwell Irrigation District pumps and the Knights Landing Outfall Gates and to reduce the flow in the Sacramento River below the Knights Landing Outfall Gates by 36 cfs (assuming repairs are not made to CDMWC's existing diversion facilities) between April 1 and June 30, 1996. The following tables depict the average flow over the past 40 years at three locations on the Sacramento River in the reaches impacted by the proposed change and the potential impact of a 36 cfs diversion by CDMWC at the Maxwell Irrigation District pumps on the flow in these reaches:

SACRAMENTO RIVER - AVERAGE MONTHLY STREAMFLOW (cfs)

Location	April	May	June
Hamilton City	13,155	10,401	8,930
Colusa	12,986	9,741	7,510
Knights Landing	12,027	10,165	7,795

POTENTIAL IMPACTS TO AVERAGE MONTHLY STREAMFLOW

Location	April	May	June
Hamilton City*	13,155 cfs	10,401 cfs	8,930 cfs
Potential Impact	0%	0%	0%
Colusa**	12,986 cfs	9,741 cfs	7,510 cfs
Potential Impact	-0.28%	-0.37%	-0.48%
Knights Landing**	12,027 cfs	10,165 cfs	7,795 cfs
Potential Impact	-0.30%	-0.35%	-0.46%

* Gage station located upstream of the Maxwell Irrigation District pump site

** Gage station located downstream of the Maxwell Irrigation District pump site

Runoff this spring is forecasted to be at or above long-term average amounts. Additionally, the Maxwell Irrigation District pumps have a reported maximum capacity of 80 cfs. Maxwell Irrigation District also has a right to divert 63 cfs for irrigation purposes between March 15 and November 1. Therefore, a continuous diversion of 36 cfs by CDMWC at these facilities is unlikely, if Maxwell Irrigation District is also diverting water. Consequently, the percentage figures contained in the above table should be the maximum impacts attributable to the CDMWC diversion. These reductions in flow will be insignificant for fish, wildlife, or other instream beneficial uses of water. Since the Maxwell Irrigation District pumps are equipped with state-of-the-art screens, approval of this requested temporary urgency change would provide a potential benefit over diversions as presently authorized under License 12087 which may be made at facilities which do not have state-of-the-art fish

screens. Therefore, the SWRCB finds that the proposed temporary urgency change will not produce an unreasonable effect upon fish, wildlife, or other instream beneficial uses of water.

4.4 CHANGE IS IN THE PUBLIC INTEREST

Because the CDMWC has been unable to divert water at the Knight Landing Outfall Gates for several years and the CDMWC users have had to rely solely on the return flow in the Colusa Drain Canal, the proposed change would provide a more reliable supply of water to the petitioner without causing injury to other lawful users of water or unreasonable effect on fish, wildlife, or other instream beneficial uses of water. Therefore, the SWRCB finds that the proposed change is in the public interest.

5.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The SWRCB is the Lead Agency under the California Environmental Quality Act (CEQA), Public Resources Code, Section 21000 et seq. SWRCB staff has conducted an environmental review of the project proposed under temporary urgency change and has determined that the project consists of only minor alterations in the conditions of the land, water and vegetation and will not cause a significant environmental impact. Therefore, staff recommends that the temporary urgency change be exempt from CEQA in accordance with Section 15061(b)(3) of Title 14, California Code of Regulations.

6.0 CONCLUSION

1. The licensee has an urgent need to make the proposed change;
2. The proposed change will not injury any lawful user of water;

3. The proposed change will not cause an unreasonable impact upon the fish, wildlife, or other instream beneficial uses; and
4. The proposed change is in the public interest.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Petition of Temporary Urgency Change for License 12087 adding a point of diversion at the Maxwell Irrigation District Pumps from the date of issuance of this order to June 30, 1996 is approved subject to the following terms and conditions:

1. A method of differentiating diversions made by the licensee under this order and diversions made by Maxwell Irrigation District under USBR contract shall be established prior to the initiation of the diversions under this order. A written description of the method shall be transmitted to the Division of Water Rights and the USBR prior to the initiation of the diversions under this order.
2. No later than September 30, 1996, licensee shall submit a summary report to the Division of Water Rights regarding the water diverted at the Maxwell Irrigation District pumps during 1996 under License 12087. This report shall identify all diversions made on a daily basis under this Temporary Urgency Change Order.

3. In the event of any dispute brought to the attention of the SWRCB, the licensee shall cooperate fully with SWRCB staff to resolve the dispute by providing all diversion data requested as soon as reasonably possible.
4. The licensee shall continue to pursue the permanent change order in a diligent fashion.
5. No diversion is authorized under this temporary urgency change order when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.
 - a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basin of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
 - b. Supplemental Project water is defined as that water imported to the basin by the projects plus water released from Project storage which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The State Water Resources Control Board shall notify the licensee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the licensee of the probability of imminent curtailment of

diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

6. No diversion shall be made pursuant to this order unless the diversion facilities utilized are equipped with fish screens approved by the California Department of Fish and Game and all diversions are made through the approved fish screens.
7. This order shall automatically expire June 30, 1996 pursuant to Section 1440 of the California Water Code.

CERTIFICATION

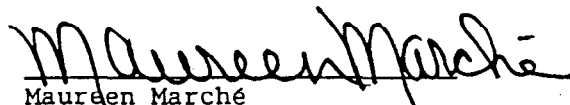
The undersigned, Administrative Assistant to the State Water Board, does hereby certify that the foregoing is a full, true and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 4, 1996.

AYE: John Caffrey
 Mary Jane Forster
 Marc Del Piero
 James M. Stubchaer
 John W. Brown

NO: None

ABSENT: None

ABSTAIN: None


Maureen Marché
Administrative Assistant to the Board

