



**Terry Tamminen**  
*Secretary for  
Environmental  
Protection*

# State Water Resources Control Board



**Arnold Schwarzenegger**  
*Governor*

**Division of Water Rights**  
1001 I Street, 14<sup>th</sup> Floor • Sacramento, California 95814 • (916) 341-5300  
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000  
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>

## NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

**APPLICATION:** 31491

**DATE FILED:** January 28, 2004

Notice is hereby given that G. Scott Fahey has filed an application for a water right permit to divert water from (1) Wet Meadows Springs tributary to Hull Creek, (2) Unnamed Spring (aka Marco Spring), and (3) Unnamed Spring (aka Polo Spring), both tributary to Unnamed Stream thence Hull Creek in Tuolumne County. The State Water Resources Control Board (SWRCB) will determine whether a water right permit should be issued for the application and, if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application. This notice may be viewed at the Division of Water Rights' (Division) website at [www.waterrights.ca.gov](http://www.waterrights.ca.gov). Any correspondence directed to the applicant should be mailed to:

G. Scott Fahey  
2787 Stony Fork Way  
Boise, ID 83706

### Description of Project

Applicant proposes to construct facilities to develop three springs in order to divert 0.089 cubic foot per second (cfs) from January 1 to December 31 for industrial purposes. A total diversion from three springs will not exceed a rate of 0.089 cfs (39.9 gallons per minute) and 64.5 acre-feet per year. Three springs (Wet Meadows Springs, Marco Spring, and Polo Spring) will be developed by first excavating a pit approximately 15 to 25 feet in depth, boring a five-inch diameter hole by a horizontal-boring machine for a maximum boring length of 800 feet, and then installing the diversion pipeline system of a three-inch diameter PVC pipe. The water from the three springs will be conveyed through the pipeline system by gravity into the existing buried stainless steel holding tank downstream, then to a tanker-truck filling point approximately 2,000 feet away, where the water will be transported off-site to a bottled water plant. The facilities for the holding tank and the tanker-truck filling point were constructed under Permit 20784 (Application 29977) which authorizes the applicant to divert 0.062 cfs from other springs in the area; therefore, no new construction is proposed for this part.

When Application 29977 was processed for Permit 20784, applicant entered into a water exchange agreement with Turlock Irrigation District, Modesto Irrigation District, and the City and County of San Francisco for the period from June 16 to October 31 of each year when water is not available for appropriation in the Tuolumne River and the Sacramento-San Joaquin Delta systems. Applicant accepts and understands that Application 31491 shall be conditioned and subjected to the same terms and conditions as the previous agreements. Further, applicant recently updated the previous water exchange agreement with Tuolumne Utilities District. The updated agreement was executed on October 20, 2003 and submitted to the SWRCB. The project is located approximately four miles southeast of Wil-Wuk Village.

**California Environmental Protection Agency**



**Summary of Application**

County: Tuolumne.  
Source: (1) Wet Meadows Spring  
(2) Unnamed Spring (aka Marco Spring)  
(3) Unnamed Spring (aka Polo Spring).  
Points of  
Diversion: Located within the NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 11, T2N, R17E, MDB&M  
Located within the NW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Section 22, T2N, R17E, MDB&M  
Located within the NE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Section 22, T2N, R17E, MDB&M.  
Amount: 0.089 cubic feet per second of direct diversion,  
not to exceed a total of 64.5 acre-feet per year.  
Season: January 1 to December 31 for direct diversion.  
Purpose: Industrial.  
Place of Use: SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 30, T2N, R17E, MCB&M

**Environmental Information**

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; SWRCB, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

**PROTEST SUBMITTAL INFORMATION****Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

### **Procedure for Submitting Protests**

Protests should be submitted on standard protest forms available from the Division's website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/) or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **40<sup>th</sup>** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14<sup>th</sup> Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The SWRCB will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

### **Resolution of Protests**

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "minor" project (the proposed diversion is 3 cubic feet per second or less by direct diversion or 200 acre-feet or less per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

### **CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Yoko Mooring by phone at (916) 341-5362 or by electronic mail at [ymooring@waterrights.swrcb.ca.gov](mailto:ymooring@waterrights.swrcb.ca.gov). Information and protest forms are also available at the Division's website: [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/).

Date of Notice: **October 1, 2004**