

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

DIVISION OF WATER RIGHTS

IN THE MATTER OF LICENSE 1986 AND PERMITS 11885, 11886, 12721, 11967, 11887, 12722,
12723, 12725, 12726, 12727, 11315, 11316,
11968, 11969, 11970, 12860, 11971, 11972, 11973 AND 12364
(APPLICATIONS 23, 234, 1465, 5626, 5628, 5638, 9363, 9364, 9366, 9367, 9368, 13370, 13371,
15374, 15375, 15376, 15764, 16767, 16768, 17374, AND 17376)
OF U.S. BUREAU OF RECLAMATION

AND PERMIT 16479 (APPLICATION 14443) OF DEPARTMENT OF WATER RESOURCES

**PETITIONS FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF 196,000 ACRE-FEET OF WATER**

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITIONS

1.1 Description of the Transfer. On May 1, 2013, the U.S. Bureau of Reclamation (Reclamation) and the Department of Water Resources (DWR) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), Petitions for Temporary Change under Water Code Section 1725, et seq.

With the petitions, Reclamation requests a one-year modification of License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973 and 12364 and DWR requests a one-year modification of Permit 16479 to temporarily change the authorized place of use of (1) the Reclamation license and permits to include the State Water Project (SWP) authorized place of use downstream of Harvey O. Banks Pumping Plant (Banks); and (2) the DWR permit to include the Central Valley Project (CVP) authorized place of use downstream of Jones Pumping Plant (Jones). The maximum total transfer quantity will be 196,000 acre-feet (af). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

2013 Water Supply Conditions

Water supply conditions are currently classified as "Dry" for the Sacramento River basin and "Critical" for the San Joaquin River basin. The dry conditions in 2013 to date have resulted in allocations of 35 percent of contract Table A amounts to the SWP contractors and only 20 percent of contract amounts to CVP agricultural contractors south of Jones.

In addition to annual hydrology conditions, the ability of DWR and Reclamation to deliver Project water south of the Sacramento-San Joaquin Delta (Delta) is affected by operational restrictions which limit diversions from the Delta. The operational restrictions include those contained in State Water Board Decision 1641 (D1641) as well as the current biological opinions issued for the protection of Delta smelt and anadromous fish and marine mammal species. Operational limitations severely restrict Project exports through June, impacting the ability of the Projects to capture excess spring flows and move water from upstream storage to contractors south of the Delta.

Changes Proposed Under the Transfer

The petitions will further the following list of projects:

- a. CVP-SWP Exchange under a Consolidated Place of Use Petition to Facilitate Conveyance of Water to Santa Clara Valley Water District

Santa Clara Valley Water District (SCVWD) contracts for a water supply from both the CVP (delivered from San Luis Reservoir through the San Felipe Division) and the SWP (delivered via the South Bay Aqueduct (SBA)). Based on projected operating conditions for 2013, total storage in San Luis Reservoir may drop to levels which can result in impaired water quality, potentially causing reductions in CVP supplies available through the San Felipe Division. Further, aging infrastructure in the San Felipe Division could result in both planned and unplanned facility shutdowns for maintenance and repair. In 2013, there are several operational and maintenance issues that may require delivery of the SCVWD's CVP or SWP supplies through an exchange. Up to 40,000 af of the SCVWD's CVP and/or SWP supplies may be subject to these alternative conveyance approaches.

When SCVWD's pumping capacity through the San Felipe Division is limited, meeting district water demands can be impacted, necessitating the request to transfer SCVWD's CVP water through an exchange with the SWP. The proposed transfer includes an exchange of CVP and SWP water to allow SCVWD's CVP water to be pumped at Jones and delivered to DWR at O'Neill Forebay for use within the SWP service area south of O'Neill, and in exchange, an equal amount of SWP water would be pumped at Banks and delivered to SCVWD through the SBA.

In addition, planned and unplanned shutdowns on the SBA as well as within SCVWD's service area may prevent deliveries of SWP water through the SBA. Reclamation and DWR propose an exchange of CVP and SWP water to allow the delivery of SCVWD's SWP through an exchange with CVP. SWP water will be pumped at Banks and delivered to the CVP at O'Neill Forebay for use within the CVP service area south of O'Neill. In exchange, an equal amount of CVP water will be pumped at Jones Pumping Plant and delivered to SCVWD through the San Felipe Division.

The proposed exchanges would not increase the total amount of CVP or SWP water allocated to SCVWD by DWR or Reclamation.

- b. Oak Flat Water District/Del Puerto Water District Exchange

Oak Flat Water District (Oak Flat), an SWP contractor, and Del Puerto Water District (Del Puerto), a CVP contractor, are adjacent districts located north of San Luis Reservoir in San Joaquin, Stanislaus and Merced Counties. The districts share common landowners with water supply allocations from both projects. These landowners have requested the ability to optimize the application of available supplies on their combined properties. The proposed exchange would allow 1) the delivery of 1,000 af of the landowners' allocated CVP supplies through SWP turnouts on the California Aqueduct to lands within Del Puerto; 2) delivery of a portion of their allocated CVP supply to lands within Oak Flat; and 3) delivery of a portion of their allocated SWP supplies through CVP turnouts on the Delta Mendota Canal to lands within Del Puerto.

In addition to the transfer described above, Oak Flat and Del Puerto propose an even exchange to affect the delivery of up to 2,000 af of Del Puerto's 2013 CVP allocation. A portion of the lands within Del Puerto adjacent to Oak Flat are more efficiently served from Oak Flat's turnouts on the California Aqueduct. Del Puerto proposes to deliver a portion of its 2013 CVP allocation to the lands adjacent to Oak Flat through an even exchange with the SWP. Up to 2,000 af of SWP water will be delivered through the Oak Flat turnouts on the California Aqueduct. An equal amount of CVP water will be delivered to the SWP at O'Neill Forebay. The proposed exchanges will not result in any increase in pumping from the Delta by either the SWP or CVP, and will result in no increase in total SWP or CVP allocations to either district.

c. Kern County Water Agency – Kern Tulare Water District Exchange

Kern County Water Agency (KCWA) is an SWP contractor with numerous member units within Kern County. Kern Tulare Water District (Kern Tulare) is a CVP contractor located in Kern County with a contract for water delivered through the Cross Valley Canal (CVC). Due to limited capacity at Jones, conveyance of CVP-CVC water through SWP facilities is often required to provide deliveries to the CVC contractors. As a result of projected hydrologic conditions and anticipated operational restrictions, it is possible there will be no capacity to move CVC water through Jones or Banks until fall 2013. In order to assist Kern Tulare in meeting peak irrigation demands this summer, KCWA will deliver up to 16,000 af of SWP water to Kern Tulare through the summer months. In exchange, Kern Tulare will deliver an equivalent amount of CVP-CVC water to KCWA in the fall.

d. Castaic Lake Water Agency – San Luis Water District

Castaic Lake Water Agency (CLWA), an SWP contractor, entered in to a long-term water banking and exchange program with Rosedale-Rio Bravo Water Storage District (RRBWSD) to store up to 100,000 af of its SWP contract supply in the RRBWSD Water Banking and Recovery Program. CLWA also entered into a long-term agreement with Buena Vista Water Storage District (BVWSD) for the purchase of up to 11,000 af per year of Kern River water appropriated under BVWSD's pre-1914 water rights to high flows on the Kern River. The high flow Kern River water is diverted and placed in groundwater storage for later extraction. The pre-1914 water purchased by CLWA is stored in its share of the RRBWSD banking and storage program. CLWA is proposing to transfer up to 11,000 af of its purchased pre-1914 water to San Luis Water District (SLWD). The transfer would be accomplished by exchange. CLWA will provide up to 11,000 af of its 2013 SWP supply to SLWD. CLWA will retain up to 11,000 af of pre-1914 water in its portion of the RRBWSD program.

e. Arvin-Edison Water Storage District/Metropolitan Water District Program

Groundwater Banking

Metropolitan Water District of Southern California (Metropolitan) stores a portion of its SWP supply in CVP contractor Arvin-Edison Water Storage District's (AEWSD) groundwater banking facilities depending on annual allocations. If requested, AEWSD is obligated to return previously banked SWP water to Metropolitan. In the absence of this proposed exchange, previously banked SWP water can only be recovered from the AEWSD banking facilities through groundwater extraction. The expansion of the CVP place of use will allow AEWSD the option and flexibility to return Metropolitan's banked water through an exchange of its available CVP Delta/San Luis Reservoir, or Friant surface supplies (CVP water). The exchange will allow AEWSD greater flexibility in the scheduling and use of its CVP supplies as well as a reduction in energy and costs associated with groundwater extraction. CVP water supplied to Metropolitan by AEWSD in lieu of extraction to recover previously stored SWP water will result in a balanced exchange or one-for-one reduction of Metropolitan's groundwater banking account with AEWSD. The exchange will occur only to the extent Metropolitan has a positive bank account. Upon return of water to Metropolitan, Metropolitan's previously banked SWP water would transfer to AEWSD.

Regulation Program

Additionally, the requested change in consolidated place of use would allow AEWSD to deliver CVP water supplies to Metropolitan first and receive back SWP water supplies in exchange at a later time. This program better facilitates the use of AEWSD CVP water supplies that have a limited opportunity for use under current CVP operations. The ability to regulate water in this manner reduces the need to directly recharge and subsequently extract supplemental water on a one-for-one basis.

Fall/Winter Supplies Exchange

In the event that hydrologic conditions become wetter than expected later in the year (2013 fall or 2013/2014 winter), and AEWS D believes that there may be limited ability to carry over 2013 CVP supplies in CVP reservoirs, AEWS D CVP water supplies would be delivered to Metropolitan to reduce risk of spill and subsequent potential loss of water supplies. The CVP water will be delivered to Metropolitan by exchange in San Luis Reservoir or directly into the California Aqueduct via the Friant Kern Canal and AEWS D facilities. Metropolitan would later return a lesser amount (return 2 af for every 3 af regulated) to AEWS D. The unbalanced nature of the exchange reflects the compensation to Metropolitan for its water management services, which would protect a portion of the water from spilling. In the absence of the exchange with Metropolitan, AEWS D would attempt to avoid spilling the water by delivering the available CVP contract supplies to groundwater banking programs within the AEWS D service area or other areas that are within the CVP place of use.

One of the benefits of the above exchanges is reduction of the impacts to AEWS D of the San Joaquin River Restoration Program (SJRRP). The exchanges increase AEWS D's ability to efficiently use water supplies and increase the opportunities to complete the return of SJRRP releases to AEWS D.

The proposed exchanges total up to 100,000 af of CVP water supplies for all three programs described above. CVP Delta supplies will be provided as stated above. Friant Division CVP water will be provided directly via delivery from the Friant-Kern Canal and AEWS D's distribution system, including its connections to the California Aqueduct at Milepost 227 (Reach 14C) or via its capacity in the Cross Valley Canal to the California Aqueduct at Tupman/Milepost 238 (Reach 12E).

f. Kern County Water Agency to Westlands

KCWA proposes to deliver up to 10,000 af of its 2013 SWP allocation to land within Westlands Water District (Westlands) to facilitate the delivery of previously stored CVP water in the Semitropic Water Storage District (Semitropic) groundwater banking program. Two landowners, Paramount Farming Company and Poso Creek Water Company, have agricultural operations in both KCWA and Westlands and have both a SWP and CVP contract supply. The landowners have banked CVP water in the Semitropic program. The landowners plan to recover up to 10,000 af of their previously stored CVP water. Delivery of the CVP water currently stored in Semitropic will be accomplished through exchange. KCWA will deliver up to 10,000 af of SWP water to Westlands turnouts on the joint use facilities. An equivalent amount of the landowners' water stored in Semitropic will be transferred to KCWA.

g. Kern County Water Agency to Westlands – Kern River Water

KCWA proposed to deliver up to 16,000 af of its 2013 SWP allocation to Westlands to facilitate the delivery of Kern River water rights water purchased by Westlands. Up to 7,600 af of Nickel Kern River water rights previously stored in Semitropic along with up to 8,400 af of 2013 Kern River water will be assigned to KCWA. The exchange will be a one for one exchange. The KCWA SWP Table A water will be delivered to Westlands turnouts in Reaches 4-7 of the joint-use San Luis Canal.

2.0 BACKGROUND

2.1 Existing Place of Use

The service areas of the SWP is shown on maps 1878-1, 1878-2, 1878-3, and 1878-4 (on file under Application 5629) and the service areas of the CVP is shown on map 214-208-12581 (on file under Application 5626).

2.2 Place of Use under the Proposed Transfer

The petitioners request the temporary addition of the CVP service area downstream of Jones to the place of use under DWR's Permit 16479. The petitioners also request the temporary addition of the SWP service area downstream of Banks to the place of use under Reclamation license and permits noted above. These temporary additions would be for the purpose of completing the transfers/exchanges described above and would be effective from the date the petitions are approved for a period of one year. The areas to be added to the SWP are shown on Map 214-202-83 and the areas added to CVP are shown on Map 214-202-84 on file with the State Water Board under Applications 14443 and 5626, respectively.

2.3 Governor's 2013 Executive Order to Streamline Approvals for Water Transfers

On May 20, 2013, Governor Edmund G. Brown Jr. issued Executive Order B-21-13 to streamline approvals for water transfers to address the dry conditions and water delivery limitations in 2013 to protect California's agriculture. The Governor's Order directs the State Water Board and DWR to expedite the review and processing of temporary transfers for 2013 (in accordance with the Water Code) and to assist water transfer proponents and suppliers, as necessary, provided that the transfers will not harm other legal users of water and will not unreasonably affect fish, wildlife, or other instream beneficial uses. The State Water Board and DWR were also directed to make all efforts to coordinate with relevant federal agencies, water districts, and water agencies to expedite the review and approval of water transfers in California.

3.0 LEGAL REQUIREMENTS FOR TEMPORARY TRANSFERS

Temporary change petitions receive approval where the water transfer: "would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of water, and would not unreasonably affect fish, wildlife or other instream beneficial uses." (Wat. Code, §§ 1725, 1727.) Contractors are "legal users of water" for purposes of the no injury rule for transfers. However, the extent to which they are protected from injury is only to the extent that their contractual rights are violated: a harm within the bounds permitted by their contract is not legally cognizable. (*State Water Resources Control Board Cases* (2006) 135 Cal.App.4th 674, 803-805).

4.0 PUBLIC NOTICE AND COMMENTS

On May 7, 2013, public notice of the petitions for temporary change was provided as follows: 1) via first class mail to interested parties; 2) by posting on the Division's website; 3) via the State Water Board's Lyris email notification program; and 4) by publication in the Sacramento Bee and the Stockton Record. California Water Impact Network (C-WIN), California Sportfishing Protection Alliance (CSPA), and AquAlliance submitted a joint comment letter to the State Water Board on June 3, 2013.

4.1 Joint Comments of C-WIN, CSPA, and AquAlliance

On June 3, 2013, the commenters indicated their concerns regarding the transfer proposal. The concerns extend beyond the scope of the current transfer, and encompass all pending 2013 water transfers being processed by the State Water Board. To expedite transfer processing, the concerns are not repeated herein; however, the State Water Board response letter dated June 27, 2013 is incorporated by reference. The response letter details the issues raised by the commenters. Reclamation also responded to the commenters' letter and a summary of their response is provided below as well.

Reclamation Response:

On June 14, 2013, Reclamation responded to the commenters letter and indicated that Reclamation

and DWR filed almost identical petitions to consolidate the CVP and SWP places of use on three previous occasions, and the State Water Board has made findings on each previous petition that the consolidation of the places of use, and the actions implemented by the consolidation, will not harm other legal users of water, fish, wildlife, or other instream beneficial uses. Reclamation believes it established a prima facie case regarding the petition pursuant to Water Code section 1727 (c) since the State Water Board has approved three similar petitions in the past.

Water Code section 1727 (c) requires that the commenters bear the burden of proof that the proposed consolidated place of use is injurious to other legal users of water or fish, wildlife, or other instream beneficial uses if the State Water Board has determined the petitioners have established a prima facie case. Reclamation claims the commenters have not provided any specific evidence that meets their burden of proving that the proposed temporary change would not comply with paragraphs (1) and (2) of Water Code section 1727 (b).

State Water Board Response:

The State Water Board response letter identifies a need to evaluate the following issues in the present order: (a) whether there is a change in return flow associated solely with the transfer, and (b) whether the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee in the absence of the proposed temporary change or conserved pursuant to Water Code section 1011.

In addition, the response letter indicates that use of the Delta Pumps for transfer purposes should be conditioned on compliance by DWR and Reclamation with D1641, all applicable biological opinions and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.

The objection is addressed upon a finding that: (a) no change in return flows is occurring, and (b) the transfer only involves water that would have been consumptively used or stored. Approval of the petition is also contingent on inclusion of condition 6 of this order. The required evaluations are found in Section 5 of this order.

5.0 REQUIRED FINDINGS OF FACT

5.1 Transfer Only Involves Water That Would Have Been Consumptively Used or Stored

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1726.) Water Code section 1725 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.”

The projects proposed under these petitions involve water that would have been consumptively used or stored in the absence of the transfers/exchanges. According to the petitions, the transfer/exchange will not result in the diversion of additional water from the Delta or the delivery of more water to any individual water supplier or user than has been delivered historically. Instead, the requested change will provide the operational flexibility the Projects need to get available supplies where they are needed most and in the most efficient manner possible. The water proposed for transfer/exchange consists of either:

- a) Water stored pursuant to the specified license and permits of the CVP and SWP; or
- b) Water directly diverted pursuant to the specified license and permits of the CVP and SWP for use outside of the Delta watershed, and thus removed from use in the downstream water supply.

In light of the above, I find in accordance with Water Code section 1726, subdivision (e) that the water proposed for transfer pursuant to this Order would be consumptively used or stored in the absence of the proposed temporary change.

5.2 No Injury to Other Legal Users of Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, § 1727, subd. (b)(1).)

The total quantity of diversions from the Delta will not change. The timing of diversions from the Delta will not change, however the timing of deliveries south of the Delta diversion facilities to specific SWP or CVP contractors will change as detailed above in paragraphs 1.1 (b), (d) and (f). The delivery rates from San Luis Reservoir may be slightly different. The scheduling of the deliveries will be coordinated between DWR and Reclamation so as not to adversely impact any SWP or CVP contractor deliveries. Adequate capacity in the California Aqueduct and in the Delta Mendota Canal is available, and will not be adversely impacted as a result of the exchanges. The terms and conditions contained in D1641 protect other in-basin diverters from any potential impacts of Project diversions of natural flow. DWR and Reclamation are required to operate in conformance with D1641 and all other applicable regulatory restrictions governing SWP and CVP operations. There are no other legal users downstream of the points of diversion that would be affected by the exchanges. Overall, there will be no impact to other legal users of water.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed temporary change will not injure any legal user of the water.

5.3 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses

In accordance with Water Code section 1729, temporary changes involving transfer of water are exempt from the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) However, the State Water Board must consider potential impacts to fish, wildlife, or other instream beneficial uses in accordance with Water Code section 1727(b)(2).

The water is diverted out of the watershed from which it originates in conformance with the provisions of the respective DWR and Reclamation water right license and permits governing those diversions. There will be no change in the amount of SWP or CVP water diverted at the Banks or Jones Pumping Plants. Therefore, there will be no change in flow or water quality conditions in the Delta. All water exported at the SWP and CVP pumping plants is pumped consistent with the criteria contained in D1641 and all other applicable regulatory restrictions governing SWP and CVP operations.

Exchanges similar to those proposed herein occurred in 2009, 2010 and 2012 consistent with the provisions of WR 2009-0033, WR 2010-0032-DWR and a July 6, 2012 State Water Board order on transfer. No measurable effects on fish and wildlife or the environment were noted from those transfers. The exchanges will not result in an increase in deliveries to any drainage impaired lands, or in a measurable change in quantity or quality of return flows.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(2) that the proposed transfer will not unreasonably affect fish, wildlife, or other instream beneficial uses.

6.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in section 4.4.2 of Resolution 2010-0029.

7.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727, and therefore I find as follows:

I conclude that, based on the available evidence:

1. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will not injure any legal user of water.
3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petitions filed for temporary change for transfer of 196,000 af of water are approved.

All existing terms and conditions of the DWR and Reclamation license and permits remain in effect, except as temporarily amended by the following provisions:

1. The transfer/exchanges of water are limited to the period commencing on the date of this Order and continuing for one year.
2. The place of use under DWR Permit 16479 is temporarily expanded to include portions of the CVP service area shown on map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to SWP Authorized Place of Use*, Map 214-202-83.
3. The place of use under Reclamation License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973, and 12364 is temporarily expanded to include portions of the SWP service area as *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to CVP Authorized Place of Use*, Map No.214-202-84.
4. Water transferred/exchanged pursuant to this Order shall be limited to 196,000 af as specifically described in item 1.1 (a) through (g) in "Substance of Petitions" above. Although the transfer limits water service as noted herein, the one-for-one repayment of exchanged transfer water is not limited to service areas (a) through (g), but may occur within the more general service areas shown on Maps 214-202-83 and 214-202-84.
5. DWR and Reclamation shall not increase their allocations of water to the transfer/exchange parties beyond the quantities authorized by existing contract for purposes of this transfer/exchange.
6. Diversion of water at the Delta Pumps pursuant to this Order is subject to compliance by the SWP and CVP project operators with the objectives set forth in Tables 1, 2 and 3 on page 181 to 187 of State Water Board's Revised Decision 1641 (D-1641), or any future State Water Board order or decision implementing Bay-Delta water quality objectives at those points of diversion/rediversion, including compliance with the various plans required under D-1641 as prerequisites for the use of the Joint Points of Diversion by DWR and Reclamation. Diversion of water at the Delta Pumps pursuant to this Order is subject to compliance by the pumping plant operators with all applicable biological opinions, court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.
7. Within 90 days of the completion of the transfer; but no later than September 30, 2014, the Petitioners shall provide to the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report shall include the following information:
 - a. Separate data identifying the monthly and total volumes of water delivered to each of the transfer/exchange parties pursuant to this Order.
 - b. The monthly and total amounts of Delta and delivered water to each of the transfer/exchange parties for the period covered by this transfer. This total shall include SWP and CVP deliveries, other water transfers, and any other amount of Delta water each location received.
 - c. Documentation that the water transferred/exchanged did not result in an increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's license and permits beyond the quantities that would otherwise have been diverted absent the transfer.

8. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change order, including method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in this order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.

9. This order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this transfer, the petitioners shall obtain authorization for an incidental take permit prior to construction or operation. Petitioners shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this order.
10. I reserve jurisdiction to supervise the transfer, exchange, and use of water under this order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
JAMES W. KASSEL FOR:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: JUL 01 2013

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

DIVISION OF WATER RIGHTS

In the Matter of Permits 16478, 16479, 16481 and 16482 (Applications 5630, 14443, 14445A and 17512)

California Department of Water Resources

**ORDER APPROVING CHANGE IN PLACE OF USE
AND ISSUING AMENDED PERMITS**

SOURCES: Indian Slough, Feather River, Sacramento-San Joaquin Delta Channels, and San Luis Creek

COUNTIES: Alameda, Butte, Contra Costa, Los Angeles, Merced, Riverside, Sacramento, San Bernardino, Solano and Stanislaus

WHEREAS:

1. Permits 16478, 16479, 16481 and 16482 were issued to California Department of Water Resources (DWR) on September 26, 1972, pursuant to Applications 5630, 14443, 14445A and 17512.
2. Petitions to change the place of use to add Oak Flat Water District (District) were filed with the State Water Resources Control Board (State Water Board) on August 3, 2005.
3. Public notice of the change petitions was issued on September 25, 2008 and no protests were received.
4. The State Water Board has determined that good cause for such change has been shown.
5. The State Water Board has determined that the petitions for change do not constitute the initiation of new rights nor operate to the injury of any other lawful user of water.
6. The State Water Board has reviewed the petitioned changes in accordance with Water Code section 10504.5 and finds that the change will not conflict with the general or coordinated plan or with water quality objectives established pursuant to law.
7. The permit conditions relating to the continuing authority and water quality objectives of the State Water Board should be updated to conform to section 780(a & b), title 23 of the California Code of Regulations.
8. DWR explained the background regarding water service to the District in its August 1, 2005 letter to the Division. The District was formed in 1964 for the purpose of obtaining an irrigation supply from the State Water Project (SWP) operated by DWR. SWP water is the sole supply of irrigation water within the District. The original District consisted of 2,158 acres. Additional land was annexed to the District in 1970, 1972 and 1974, expanding the District to its current size of 4,015 acres. The District entered into a long-term water supply contract with DWR on March 23, 1965

for delivery of up to 5,700 acre-feet of SWP water per year. The initial year of delivery from the SWP was 1968. Although the size of the District increased following execution of the SWP contract, the District's SWP allocation did not, resulting in no net increase in overall water use within the District.

9. On August 31, 2005, DWR, acting as lead agency, filed a Notice of Determination (NOD) for the completion of an Initial Study/Negative Declaration (IS/ND) for the Petition to Change the State Water Project Place of Use to Include the Service Area of the Oak Flat Water District, SCH #2005072155. DWR determined that no new mitigation measures are required. The State Water Board, as responsible agency, finds that the proposed project would be implemented without causing a significant adverse impact to the environment. The State Water Board shall file a NOD for the project within 5 days of issuance of this order.
10. Pursuant to Resolution No. 2007-0057, the State Water Board has delegated authority to the Deputy Director for Water Rights to administer the duties required under the California Environmental Quality Act. The Deputy Director has re-delegated this authority to the Assistant Deputy Director. (Resolution No. 2007-0057, section 4.10.)
11. The State Water Board has delegated the authority to act on change petitions to the Deputy Director for Water Rights pursuant to Resolution No. 2007-0057. (Attachment to Resolution No. 2007-0057, section 4.2.9) The Deputy Director has re-delegated this authority to the Assistant Deputy Director.
12. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT PERMITS 16478, 16479, 16481 AND 16482 ARE AMENDED AS FOLLOWS:

1. Condition 4 of the permits is amended to include Oak Flat Water District within the place of use.
2. The permits are amended to include the following Endangered Species condition:

This permit does not authorize any act which results in the taking of a 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 and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain 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 permit.

(0000014)

3. Amended permits are issued, which include these changes. All other permit terms and conditions are still applicable.

STATE WATER RESOURCES CONTROL BOARD

Original Signed by: JWK for

Victoria A. Whitney
Deputy Director for Water Rights

Dated: September 14, 2009

KDM: DCC: 08/28/09
U:\PERDR\kdm:DWR Permit Change Order.

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 16479

Application 14443 of

State of California, Department of Water Resources
1416 Ninth Street
Sacramento, CA 95814

filed on **August 24, 1951**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

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

1. Source of water

Source:

Feather River

Sacramento-San Joaquin Delta Channels

Tributary to:

Sacramento River

Suisun Bay

within the Counties of Alameda, Butte, Contra Costa, Los Angeles, Merced, Riverside, Sacramento, San Bernardino, Solano and Stanislaus

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Point of Diversion:</u> <u>Oroville Dam</u> North 681,581 feet and East 2,145,832 feet	NW¼ of NW¼	1	19N	4E	MD
<u>Points of Diversion and Rediversion:</u> <u>Thermalito Diversion Dam</u> North 678,538 feet and East 2,128,276 feet	SW¼ of SE¼	5	19N	4E	MD
<u>Feather River Fish Hatchery Dam</u> North 675,483 feet and East 2,127,942 feet	SW¼ of NE¼	8	19N	4E	MD
<u>Delta Water Facilities</u> North 252,650 feet and East 2,137,200 feet	SW¼ of NE¼	22	6N	4E	MD
<u>Points of Rediversion:</u> <u>Thermalito Forebay Dam</u> North 673,570 feet and East 2,104,700 feet	NW¼ of SW¼	10	19N	3E	MD

<u>Thermalito Afterbay Dam- River Outlet</u> North 652,500 feet and East 2,102,200 feet	SW¹/₄ of SE¹/₄	33	19N	3E	MD
<u>North Bay Aqueduct Intake</u> North 216,350 feet and East 2,064,750 feet	NW¹/₄ of SE¹/₄	20*	5N	2E	MD

By California Coordinate System of 1983 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Point of Diversion and Rediversion: California Aqueduct Intake</u> North 489,027 feet and East 1,684,405 feet	NW¹/₄ of NE¹/₄	24*	1S	3E	MD
<u>Clifton Court Forebay</u> North 485,035 feet and East 1,695,057 feet	NW¹/₄ of SE¹/₄	20*	1S	4E	MD
<u>Tracy Pumping Plant</u> North 473,995 feet and East 1,686,706 feet	SW¹/₄ of SW¹/₄	31*	1S	4E	MD
<u>Points of Rediversion: Del Valle Dam</u> North 408,222 feet and East 1,639,465 feet	NE¹/₄ of SW¹/₄	3*	4S	2E	MD
<u>San Luis Forebay Dam</u> North 216,800 feet and East 1,841,100 feet	NE¹/₄ of SW¹/₄	1	10S	8E	MD
<u>San Luis Dam</u> North 204,450 feet and East 1,832,440 feet	SW¹/₄ of SE¹/₄	15*	10S	8E	MD

By California Coordinate System of 1983 in Zone 5	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Points of Rediversion: Cedar Springs Dam</u> North 293,520 feet and East 2,207,260 feet	S¹/₂ of NE¹/₄	32	3N	4W	SB
<u>Pyramid Dam</u> North 417,150 feet and East 1,1770,500 feet	SW¹/₄ of NW¹/₄	2	6N	18W	SB

By California Coordinate System of 1983 in Zone 6	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Point of Rediversion: Perris Dam North 613,500 feet and East 1,713,400 feet	N½ of SE¼	4	4S	3W	SB

By California Coordinate System of 1983 in Zone 7	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Point of Rediversion: Castaic Dam North 4,301,400 feet and East 4,104,900 feet	N½ of SW¼	18	5N	16W	SB

3. Purposes of use	4. Place of use	Section (Projected) *	Township	Range	Base and Meridian	Acres
Irrigation, Domestic, Municipal, Industrial, Salinity Control, Recreational, Fish And Wildlife Enhancement	Within the Service Area of the State Water Project as shown on map Nos. 1878-1, 1878-2 and 1878-3, revised December, 1964					9,546,000 net acres within a gross area of 29,402,000 acres.
	Oak Flat Water District as shown on map dated January 2009					4,015 acres.
	Diablo Grande Project as shown on map titled "Western Hills Water District"					466 net acres within a gross area of 2,300 acres.

Incidental Power	POWERPLANTS:				
	<u>San Luis</u> NE¼ of NE¼	15*	10S	8E	MD
	<u>San Luis Obispo</u> SW¼ of NE¼	5	31S	13E	MD
	<u>Cottonwood</u> SE¼ of SE¼	32*	9N	17W	SB
	<u>Pyramid</u> SE¼ of NE¼	21	7N	18W	SB
	<u>Castaic</u> NE¼ of SE¼	22	6N	17W	SB
	<u>Devil Canyon #1</u> SW¼ of NW¼	32	2N	4W	SB
	<u>Devil Canyon #2</u> SW¼ of SW¼	6*	1N	4W	SB
	<u>Del Valle</u> SW¼ of NW¼	3*	4S	2E	MD
	<u>Mohave Siphon</u> NE¼ of NE¼	32	3N	4W	SB

The place of use is shown on maps filed with the State Water Board.

Acronyms used in this permit: State Water Project – SWP: Central Valley Project – CVP

- The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **1,360 cubic feet per second** by direct diversion, to be diverted from **January 1 to December 31** of each year, and **3,500,000 acre-feet per annum** by storage; to be collected from **September 1 of each year to July 31** of the succeeding year; provided the quantity of water appropriated by direct diversion shall be limited to such quantity as would be available for appropriation at Oroville Dam; the water appropriated from the Sacramento-San Joaquin Delta Channels shall not exceed **6,185 cubic feet per second** by direct diversion and **42,100 acre-feet per annum** by storage to be diverted and collected from January 1 to December 31 of each year.

(000005)

The total quantity of water to be appropriated by storage from the Feather River under this permit and permits issued pursuant to Applications 5629, 5630, and 14444 shall not exceed **3,880,000 acre-feet per annum**.

(0000114)

The maximum combined rates of direct diversion, diversion to storage, and redirection of stored water for export through the Delta Pumping Plant, Tracy Pumping Plant and Clifton Court Forebay shall not exceed **10,350 cubic feet per second**.

(000005)

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage or for any other purpose.

(000005)

Permittee may divert or divert water up to **4,600 cubic feet per second** at the Tracy Pumping Plant, subject to the permission of the U.S. Bureau of Reclamation. This authorization has three stages corresponding to export rates and limitations on the purposes for which Permittee is authorized to divert or divert water at the Tracy Pumping Plant.

a. All stages of this authorization are subject to the following terms and conditions:

- (1) Diversion by Permittee at Tracy Pumping Plant is not authorized when the Delta is in excess conditions¹ and such diversion causes the locations of X2² to shift upstream so far that:
 - (a) It is east of Chipps Island (75 river kilometers upstream of the Golden Gate Bridge) during the months of February through May, or
 - (b) It is east of Collinsville (81 river kilometers upstream of the Golden Gate Bridge) during the months of January, June, July, and August, or
 - (c) During December it is east of Collinsville and Delta smelt are present at Contra Costa Water District's point of diversion under Permits 20749 and 20750 (Applications 20245 and 25516A).
 - (2) Any diversion by Permittee at the Tracy Pumping Plant that causes the Delta to change from excess to balanced conditions³ shall be junior in priority to Permits 20749 and 20750 of the Contra Costa Water District.
 - (3) Permittee may divert or divert water at Tracy Pumping Plant only if a response plan to ensure that water levels in the southern Delta will not be lowered to the injury of water users in the southern Delta has been approved by the Executive Director of the State Water Board. Permittee shall prepare the response plan with input from the designated representative of the South Delta Water Agency.
 - (4) All other provisions of the above permits are met.
 - (5) Permittee shall develop a response plan to ensure that the water quality in the southern and central Delta will not be significantly degraded through operations of the Joint Points of Diversion to the injury of water users in the southern and central Delta. Such a plan shall be prepared with input from the designated representative of the Contra Costa Water District and approved by the Deputy Director for Water Rights.
- b. In Stage 1, Permittee is authorized to divert or divert water at the Tracy Pumping Plant to recover export reductions taken to benefit fish, if exports by the Permittee at the Banks Pumping Plant are reduced below the applicable export limits set forth in Table 3, attached.

- (1) The authorization to divert or divert water at the Tracy Pumping Plant under Stage 1 is subject to the following provisions:

¹ Excess conditions exist when upstream reservoir releases plus unregulated natural flow exceed Sacramento Valley inbasin uses, plus exports.

² For the purposes of this term, X2 is the most downstream location of either the maximum daily average or the 14-day running average of the 2.64 mmhos/cm isohaline.

³ Balanced conditions exist when it is agreed by the SWP and the CVP that releases from upstream reservoirs plus unregulated flow approximately equal the water supply needed to meet Sacramento Valley inbasin uses, plus exports.

- (a) Recovery of export reductions shall not cause an increase in annual exports above that which would have been exported without use of the Tracy Pumping Plant.
 - (b) Recovery of export reductions using the Tracy Pumping Plant shall occur within twelve months of the time the exports are reduced.
 - (c) Before Permittee diverts or rediverts water at Tracy Pumping Plant, Permittee shall consult with DFG, USFWS, and NMFS. Consultation with the CALFED Operations Group established under the Framework Agreement will satisfy this requirement. Permittee shall submit agreements on coordinated operations under this authorization to the Executive Director of the State Water Board for approval and shall also submit complete documentation showing that no additional water will be exported because of the use of the Tracy Pumping Plant, including the method used to make this determination. Authority is delegated to the Executive Director of the State Water Board to act on the proposal if the conditions set forth above are met.
 - (2) The Executive Director of the State Water Board is authorized to grant short-term exemptions to the export limits in Stage 1, for purposes as the Executive Director of the State Water Board deems appropriate, provided that such exemptions will not have a significant adverse effect on the environment and will not cause injury to other legal users of water.
- c. In Stage 2, Permittee will be authorized to divert or redivert water at the Tracy Pumping Plant for any purpose authorized under the above permits, subject to the following:
 - (1) Permittee shall develop in consultation with the U.S. Bureau of Reclamation, DFG, USFWS and NMFS an operations plan to protect fish and wildlife and other legal users of water. The operations plan shall be submitted to the Executive Director of the State Water Board for approval at least 30 days prior to use by the Permittee of Tracy Pumping Plant. The plan shall include, but not be limited to, the following elements:
 - (a) The plan shall include specific measures to avoid or minimize the effects of the export operations at Tracy Pumping Plant on entrainment and through-Delta survival of Chinook salmon. The plan shall include monitoring of environmental conditions and fish abundance at upstream locations, as appropriate, to determine vulnerability of Chinook salmon to entrainment at Tracy Pumping Plant. The plan shall include monitoring of entrainment at Tracy Pumping Plant. The plan shall include the frequency and method of data collection.
 - (b) The plan shall include minimum survival levels of protection for Chinook salmon. The minimum survival levels shall be used to trigger consultation with fishery agencies regarding data evaluation and decision making to minimize or avoid the impact of pumping at Tracy Pumping Plant. The plan shall identify the consultation process that will be used including identifying the parties who will consult, how they will be notified, and a time schedule for decision making.
 - (c) The plan shall include specific measures at Oroville Reservoir, to avoid or minimize any adverse effects to Chinook salmon when Permittee is using Tracy Pumping Plant, if upstream or Delta monitoring indicates that such impacts are occurring. Measures may include the reoperation of the Delta Cross Channel Gates, increasing Delta outflow, or reducing exports at Tracy Pumping Plant
 - (d) The plan shall include operating criteria to ensure that use of the Joint Point of Diversion does not significantly impact aquatic resources in upstream areas due to changes in flow, water temperature, and reservoir water levels.

- (e) The plan shall include specific measures to protect other legal users of water.
 - (f) The plan shall include specific measures to mitigate significant effects on recreation and cultural resources at affected reservoirs.
- (2) The Executive Director of the State Water Board is authorized to grant short-term exemptions to the export limits in Stage 2, for purposes as the Executive Director of the State Water Board deems appropriate, provided that such exemptions will not have a significant adverse effect on the environment and will not cause injury to other legal users of water.
- d. In Stage 3, Permittee will be authorized to divert or redivert water at the Tracy Pumping Plant for any authorized purpose under the above permits, up to the physical capacity of the Tracy Pumping Plant, subject to completion of the following measures.
- (1) Permittee shall prepare an operations plan acceptable to the Executive Director of the State Water Board that will protect aquatic resources and their habitat and will protect other legal users of water. The operations plan shall include the same elements required for Stage 2. Permittee shall prepare the operations plan in consultation with the USBR, USFWS, NMFS and DFG.
 - (2) Permittee shall protect water levels in the southern Delta through measures to maintain water levels at elevations adequate for diversion of water for agricultural uses. This requirement can be satisfied through construction and operation of three permanent tidal barriers in the southern Delta or through other measures that protect water quality in the southern and central Delta and protect water levels at elevations adequate to maintain agricultural diversions. If construction and operation of tidal barriers is used as a basis for Stage 3 operation, such construction and operation shall be subject to certification of a project-level Environmental Impact Report by Permittee that discloses the impacts of the tidal barriers.
6. Construction work shall be completed on or before December 31, 2000. (0000008)
7. Complete application of the water to the proposed use shall be made on or before December 31, 2009. (0000009)
8. Water entering Oroville Reservoir or collected in the reservoir under this permit during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and to the extent that appropriation of water is not authorized under the permit. (0160400)
9. In accordance with the requirements of Water Code section 1393, Permittee shall clear the site of the proposed reservoirs of all structures, trees, and other vegetation which would interfere with the use of the reservoirs for water storage and recreational purposes. (0120050)
10. No direct diversion, diversion to storage, or rediversion of stored water from the Feather River or the Sacramento-San Joaquin Delta for beneficial use under this permit other than from the points of diversion or rediversion named in this permit shall be made until a description of the location of each point of diversion and statement of the quantity of water to be diverted is filed with the State Water Board (0360999)
11. Upon the request of the Board, Permittee shall make such measurements and maintain and furnish to the Board such records and information as may be necessary to determine compliance with the terms

- and conditions of this permit including the recognition of vested rights and for the further purpose of determining the quantities of water placed to beneficial use under this permit, both by direct diversion and storage. (0100300)
12. In conformity with Water Code section 10505, this permit shall be subject to any and all rights of any county in which the water sought to be appropriated originates to the extent that any such water may be necessary for the development of such county. (0000300)
 13. Until further order of the Board, Permittee shall make no direct diversions and shall not collect water to storage during the period from April 1 through June 30 at any time the maximum surface zone chloride ion content of the San Joaquin River at Blind Point exceeds 250 parts per million. If Blind Point is not used as a monitoring station, Permittee shall establish a correlation with some other station satisfactory to the Board to provide the necessary data on quality at Blind Point. (0400500)
 14. Until further order of the Board, this permit shall be subject to the water quality criteria included as "Exhibit A" of the agreement entered at the hearing of Applications 5629, etc., as SRDWA Exhibit 17, insofar as those criteria do not conflict with other terms included in this permit. (0000300)
 15. Permittee shall not object to the use of any quantities of water specified in the schedules of monthly diversion of water attached to those contracts between users of water above Sacramento and the United States Bureau of Reclamation heretofore or hereafter entered into as such quantities are from time to time revised except in the event of a general adjudication of rights to the use of water of the Sacramento River System. (0000300)
 16. To the extent of its authority, Permittee shall not impair the vested rights for any Delta lands by severance of said lands from their sources of water supply by the construction of the peripheral canal unless Permittee acquires a right against the holders of said rights by agreement or by the exercise of its power of eminent domain. (0000300)
 17. The State Water Board reserves continuing jurisdiction over this permit for the purpose of formulating or revising terms and conditions relative to salinity control in the Sacramento-San Joaquin Delta. (0000600)
 18. The State Water Board reserves continuing jurisdiction over this permit for the purpose of formulating or revising terms and conditions relative to flows to be maintained in the Delta for the protection of fish and wildlife. (0000600)
 19. Upon request to and approval of the Executive Director of the State Water Board, variations in flow for experimental purposes for protection and enhancement of fish and wildlife may be allowed; provided, that such variations in flow do not cause violations of municipal, industrial and agricultural objectives in Tables 1 and 2.
 20. For the protection of Suisun Marsh, Permittee shall report to the State Water Board by September 30 of each year on progress toward implementation of mitigation facilities and on water quality conditions in the Suisun Marsh during the previous salinity control season.
 21. Permittee shall report to the Board by January 15, 1979, and annually thereafter, on the methods to be used in determining flows past Rio Vista and improving accuracy of Delta outflow estimates or on studies to be commenced by that date to determine such procedures. Permittee shall also report

annually on methods for making more precise projections of salinity distribution in the Delta under varying inflow, outflow and export conditions.

22. To develop a better understanding of the hydrodynamics, water quality, productivity and significant ecological interactions of the Delta and Suisun Marsh so that more accurate predictions of environmental impacts related to operations of the CVP and the SWP can be made, Permittee shall, independently or in cooperation with other agencies or individuals:
- (a) Conduct special studies to meet specific needs and to take advantage of particular circumstances where the data obtained are of significant value. Such studies include, but are not limited to, fish population and zooplankton measurements, waterfowl food plant production measurements, intensive phytoplankton studies, tissue analysis of selected biota, photosynthesis rates, sediment profile and composition, and water velocity.
 - (b) Develop and improve water quality and biological predictive tools with emphasis on improving the understanding of flow/salinity/phytoplankton relationships in the western Delta, and in improving hydraulic characteristics in existing models to represent more closely true channel characteristics, for the following areas of the estuary:
 - i) Western Delta and Suisun Bar area, including Suisun Marsh.
 - ii) San Francisco Bay to Golden Gate Bridge.
 - iii) Interior Delta.
 - (c) Participate in research studies to determine:
 - i) Outflow needs in San Francisco Bay, including ecological benefits of unregulated outflows and salinity gradients established by them.
 - ii) The need for winter flows for long-term protection of striped bass and other aquatic organisms in the Delta.
23. Direct diversion and storage of water under this permit for use beyond the Sacramento-San Joaquin Delta, as defined in Water Code Section 12220, or outside the watershed of the Sacramento River Basin, as defined in Decision D990 of the State Water Board, shall be subject to rights initiated by applications for beneficial use within said watershed and Delta regardless of the date of filing said applications. (0360999)
24. Direct diversion and storage of water which originates in that part of the Central Valley Basin consisting of the watershed of streams tributary to the Delta south of the American River under this permit for use outside the Central Valley Basin, shall be subject to rights initiated by applications for use within said part of the Central Valley Basin regardless of the date of filing said applications (0000999)
25. Water stored under this permit shall be available within the Feather River Basin, the Sacramento River Basin, and the Sacramento-San Joaquin Delta for such uses as are reasonably required to adequately supply both present and future beneficial needs of said areas, provided, however, such water shall not be available until an agreement for such uses of said water is first entered into with the State of California. Such agreements shall be governed by requirements of uniformity imposed by law and other water supply contracts for State Project Water. (0000999)
26. This Permit shall be subject to the agreement between the State of California, acting by and through its Department of Water Resources, and Contra Costa County Water District (CCCWD) dated April 21, 1967, and entered at the hearing of Applications 5629, etc., as an attachment to CCCWD Exhibit 9. (0000300)

27. The Board reserves continuing jurisdiction over this permit for the purpose of coordinating terms and conditions of the permit with terms and conditions which have been or which may be included in permits issued pursuant to applications of the United States in furtherance of the Central Valley Project and other applications of the State of California in furtherance of the SWP. At such time as the Department of Water Resources and the United States Bureau of Reclamation have entered into a coordinated operation agreement, the Board will review said agreement for the purpose of formulating and imposing such coordinated terms and conditions as may be appropriate. The Board, on its own motion or on the motion of any interested party, after hearing, may formulate and impose such coordinated terms and conditions as may be appropriate pending the execution of such agreement.

(0000600)
28. Permittee shall operate Pyramid Dam and Reservoir and Castaic Dam and Reservoir in accordance with the contract between the State of California, acting by and through its Department of Water Resources, and United Water Conservation District dated April 14, 1967.

(0000300)
29. This permit is subject to compliance by Permittee with Water Code Section 10504.5(A).

(0000300)
30. This permit shall be subject to the "Agreement and Stipulation concerning the operation of the Oroville Division of the State Water Project" entered into July 19, 1967, filed of record as DWR Exhibit 120 in the hearing on reconsideration of Decision D1275 in the matter of Applications 5629, etc., of the California Department of Water Resources. The State Water Resources Control Board reserves continuing jurisdiction over this permit for the purpose of formulating terms and conditions relative to flows to be maintained in the Delta for the protection of fish and wildlife.

(0000300)
31. The State Water Resources Control Board, under its authority to conserve the public interest, retains continuing authority over this permit to require Permittee to develop and implement a water conservation program, after notice and opportunity for hearing. The requirements of this term may be satisfied by Permittee's compliance with any comprehensive water conservation program, approved by the State Water Board, which may be imposed by a public agency.

(0000029)
32. Permittee shall ensure that Western Hills Water District requires Diablo Grande Limited Partnership (Diablo Grande) and its successors or assignees, to implement and comply with the following measures concerning erosion and sediment control and prevention:
 - a. Diablo Grande shall prepare and submit to the Central Valley Regional Water Quality Control Board (Regional Board) a written report examining (a) the nature and location of the erosion control measures that have been implemented by Diablo Grande in November 1999-March 2000 along Diablo Grande Parkway (aka Oak Flat Road) (work performed under WDID No. 5B50S303265), and (b) the plan to place gravel on the shoulder of the sloped and curved portions of the road, including a map or drawing showing the locations of the road shoulders to be graveled. The report shall be submitted by April, 2000. The rock gravel shall be placed by June 30, 2000.
 - b. Diablo Grande shall compile and submit to the Regional Board copies of the documents that have been submitted to the U.S. Army Corps of Engineers concerning wetlands delineation and identification, wetlands avoidance, wetlands impacts mitigation plan and related maps for the entire phase 1 (approximately 2,300 acres) Diablo Grande development project.
 - c. For construction work on the Diablo Grande project (phase 1, approximately 2,300 acres), conducted after the date of this order, Diablo Grande shall prepare and submit to the Regional Board a site-specific erosion and sediment control and prevention plan for each construction

project (i.e., cut-across road, hotel/conference center, winery, housing development, water and wastewater treatment plants). Each plan shall include the following elements:

1. Explanation of site specific erosion control measures and devices to be implemented during construction, including a map or drawing showing the location of such measures and devices.
2. Timeframe or schedule of implementation.
3. Inspection and monitoring plan, including the frequency of inspections and means of documenting inspections.
4. Alternative plan of erosion control measures and devices to be implemented in the event an initial measure or device fails.
5. Accident response plan showing how Diablo Grande will respond to an incident involving unanticipated erosion or other failure of an erosion control device or measure.

Each plan shall be implemented and shall be consistent with applicable storm water pollution prevention plans and general permit requirements for waste discharge requirements. Each plan shall be submitted to the Regional Board prior to the commencement of construction of the particular construction project.

33. Permittee shall ensure that the water quality objectives for municipal and industrial beneficial uses and agricultural beneficial uses for the western Delta, interior Delta and export area as set forth in Tables 1 and 2, attached, are met on an interim basis until the Board adopts a further decision assigning responsibility for meeting these objectives. The condition, as written in Order WR 2001-05, states that unless it is renewed pursuant to a further order after notice and opportunity for hearing, this condition shall expire no later than one year after the DWR or the USBR requests in writing that the State Water Board convene a water right proceeding to determine whether to replace this condition with another condition that meets the objectives in Tables 1 and 2. Any extension hearing shall be for the limited purpose of determining whether additional time is necessary, and shall not include consideration of changes in allocation of responsibility. The State Water Board shall expedite any proceeding it conducts to assign long term responsibility to meet the objectives in Tables 1 and 2, in an effort to keep the proceeding under two years. This condition does not mandate that the Permittee use water under this permit if it uses other sources of water or other means to meet this condition. Order WR 2002-0012 states this condition of Order 2001-05 remains in full force and effect.
34. Permittee shall ensure that the water quality objectives for Delta outflow and for Sacramento River flow at Rio Vista for fish and wildlife beneficial uses as set forth in Table 3, attached, are met on an interim basis, until the Board adopts a further decision in the Bay-Delta Water Rights Hearing assigning responsibility for meeting these objectives. The condition, as written in Order WR 2001-05, states that unless it is renewed pursuant to a further order after notice and an opportunity for hearing, this condition shall expire no later than one year after the DWR or the USBR requests in writing that the State Water Board convene a water right proceeding to determine whether to replace this condition with another condition that meets the objectives in Table 3. Any extension hearing shall be for the limited purpose of determining whether additional time is necessary, and shall not include consideration of changes in allocation of responsibility. The State Water Board shall expedite any proceeding it conducts to assign long term responsibility to meet the objectives in Table 3, in an effort to keep the proceeding under two years. This condition does not mandate that the Permittee use water under this permit if it uses other sources of water or other means to meet this condition. Order WR 2002-0012 states this condition of Order 2001-05 remains in full force and effect.
35. Permittee shall implement the water quality compliance and baseline monitoring plan set forth in Table 5 on an interim basis, including construction, maintenance and operation of all necessary devices, until the

Board adopts a further decision in the Bay-Delta Water Rights Hearing assigning responsibility for meeting the requirements in Table 5.

36. Permittee shall:
- a. In consultation with the U.S. Fish and Wildlife Service (USFWS), Department of Fish and Game (DFG), San Joaquin River Group Authority (SJRGAA), City and County of San Francisco (CCSF) and CVP/SWP Export Interests, prepare a fishery monitoring plan for the Vernalis Adaptive Management Plan (VAMP) experiment consistent with the San Joaquin River Agreement (SJRA) and with the findings in this decision. The plan shall specify study objectives, sampling locations, methodology, and sampling periods. The monitoring plan shall be submitted to the Executive Director of the State Water Board for approval by May 14, 2000.
 - b. Conduct the fishery monitoring studies according to the monitoring plan for the duration of the VAMP/SJRA study period, and submit results to the Executive Director of the State Water Board on an annual basis. A monitoring report summarizing the study methodology and results from each year's experiment shall be submitted to the Executive Director of the State Water Board by December 31 of each year. A final report shall be submitted to the Executive Director of the State Water Board no later than eight months following completion of the VAMP experiment.
37. To ensure compliance with the water quality objectives, to identify meaningful changes in any significant water quality parameters potentially related to operation of the SWP or the CVP, and to reveal trends in ecological changes potentially related to project operations, Permittee shall, independently or in cooperation with other agencies or individuals:
- a. Perform the Water Quality and Baseline Monitoring program described in Table 5 and in Figure 4.
 - b. Conduct ongoing and future monitoring surveys as recommended by the DFG, the USFWS or the National Marine Fisheries Service (NMFS), and acceptable to the Executive Director of the State Water Board concerning food chain relationships, fisheries impacts, or impacts to brackish tidal marshes, as they are affected by operations of the SWP or the CVP in the Delta and Suisun Marsh.
 - c. Permittee shall make available to the State Water Board and other interested parties the results of the above monitoring as soon as practicable. Timely posting of this information on the Internet will satisfy this requirement. Permittee shall submit to the Executive Director of the State Water Board, by December 1 of each year, annual reports summarizing the previous calendar year's findings and detailing future study plans.
 - d. If Permittee anticipates violations of the water quality objectives or if such violations have occurred, Permittee shall provide immediate written notification to the Executive Director of the State Water Board.
 - e. Permittee shall evaluate the Water Quality Compliance and Baseline Monitoring once every three years to ensure that the goals of the monitoring program are attained. Permittee shall report to the Executive Director of the State Water Board the conclusions based upon this evaluation. Permittee may propose appropriate modifications of the program for concurrence of the Executive Director of the State Water Board.
38. Permittee shall ensure that the San Joaquin River salinity; eastern Suisun Marsh salinity; western Suisun Marsh salinity at Chadbourne Slough, at Sunrise Duck Club (station S-21), and Suisun Slough near Volanti Slough (station S-42); and export limits for fish and wildlife beneficial uses as set forth in Table 3, attached, are met.

If any Suisun Marsh salinity objectives at the above locations are exceeded at a time when the Suisun Marsh Salinity Control Gates are being operated to the maximum extent, then such exceedances shall not

be considered violations of this permit/license. A detailed operations report acceptable to the Executive Director of the State Water Board regarding Suisun Marsh Salinity Control Gate operation and a certification from the parties that the gates were operated to the extent possible must be submitted to receive the benefit of this exception.

39. Permittee is jointly responsible with the USBR for providing Delta flows that otherwise might be allocated to Mokelumne River water right holders.
40. Permittee shall provide water to meet any responsibility of water right holders within the North Delta Water Agency to provide flows to help meet the 1995 Bay-Delta Water Quality Control Plan objectives as long as the 1981 contract between North Delta Water Agency and the Permittee is in effect.
41. This permit is conditioned upon implementation of the water quality objectives for agricultural beneficial uses in the southern Delta, as specified in Table 2, attached, at the following locations in the southern Delta:
 - a. San Joaquin River at Brandt Bridge (Interagency Station No. C-6);
 - b. Old River near Middle River (Interagency Station No. C-8); and
 - c. Old River at Tracy Road Bridge (Interagency Station No. P-12).

Permittee has latitude in its method for implementing the water quality objectives at Stations C-6, C-8, and P-12, above; however, a barrier program in the southern Delta may help to ensure that the objectives are met at these locations. If Permittee exceeds the objectives at stations C-6, C-8, or P-12, Permittee shall prepare a report for the Executive Director. The Executive Director will evaluate the report and make a recommendation to the State Water Board as to whether enforcement action is appropriate or the noncompliance is the result of actions beyond the control of the Permittee.

42. Permittee may divert in compliance with special conditions in this permit and all applicable laws only when it can do so without interfering with the exercise of vested rights, including those rights of the United States under permits granted by Decision D990 which have priority dates earlier than the priority dates of the permits under which Permittee is diverting.

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain 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 permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

Original Signed by: JWK for

Victoria A. Whitney
Deputy Director for Water Rights

Attachments: Table 1 – Water Quality Objectives for Municipal and Industrial Beneficial Uses
Table 2 – Water Quality Objectives for Agricultural Beneficial Uses
Table 3 – Water Quality Objectives for Fish and Wildlife Beneficial Uses
Table 4 – Number of Days When Maximum Daily Average Electrical Conductivity of
2.64 mmhos/cm Must Be Maintained at Specified Location
Table 5 – Water Quality Compliance and Baseline Monitoring
Figure 1 – Sacramento Valley Water Year Hydrologic Classification
Figure 2 – San Joaquin Valley Water Year Hydrologic Classification
Figure 3 – NDOI and Percent Inflow Diverted
Figure 4 – Bay-Delta Estuary Monitoring Stations

Dated: September 14, 2009

KDM: DCC: 08/28/09
U:\PERDRV\KMrowka\DWR Permit 16479.doc

STATE OF CALIFORNIA
 THE RESOURCES AGENCY
 STATE WATER RESOURCES CONTROL BOARD
 DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT No. 16479

Application 14443 of ~~STATE OF CALIFORNIA, DEPARTMENT OF WATER RESOURCES~~
~~1416 NINTH STREET, SACRAMENTO, CALIFORNIA 95814~~

filed on AUGUST 24, 1951, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

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

1. Source:	Tributary to:
FEATHER RIVER	SACRAMENTO RIVER
SACRAMENTO-SAN JOAQUIN DELTA CHANNELS	SUISUN BAY
.....
.....
.....

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
(SEE SUPPLEMENT)	1/4 of	1/4			
	1/4 of	1/4			
	1/4 of	1/4			
	1/4 of	1/4			
	1/4 of	1/4			
	1/4 of	1/4			

County of (SEE SUPPLEMENT)

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
IRRIGATION, DOMESTIC, MUNICIPAL, INDUSTRIAL, SALINITY CONTROL, RECREATIONAL & FISH AND WILDLIFE ENHANCEMENT	WITHIN THE SERVICE AREA OF THE STATE WATER PROJECT AS SHOWN ON MAPS NOS. 1878-1, 1878-2 AND 1878-3 REVISED DECEMBER, 1964.					9,546,000 NET ACRES WITHIN A GROSS AREA OF 29,402,000 ACRES
INCIDENTAL POWER	AT THE FOLLOWING POWERPLANTS: (SEE SUPPLEMENT)					

The place of use is shown on map filed with the State Water Resources Control Board.

SUPPLEMENT (PARAGRAPH 2)

LOCATION OF POINTS OF DIVERSION

	COUNTY	CALIFORNIA COORDINATE SYSTEM	ZONE	1/4 1/4	SECTION	TOWNSHIP	RANGE	MERIDIAN
DIVERSION:								
OROVILLE DAM	BUTTE	N 681,581 E 2,145,832	2	NW OF NW	1	19N	4E	MD
DIVERSION AND REDIVERSION:								
THERMALITO DIVER- SION DAM	BUTTE	N 678,539 E 2,128,276	2	SW OF SE	5	19N	4E	MD
FEATHER RIVER FISH HATCHERY DAM	BUTTE	N 675,463 E 2,127,942	2	SW OF NE	8	19N	4E	MD
DELTA WATER FACILITIES	SACRAMENTO	N 252,650 E 2,137,200	2	SW OF NE	22	6N	4E	MD
CALIFORNIA AQUE- DUCT INTAKE	CONTRA COSTA	N 489,027 E 1,684,405	3	NW OF NE	PROJ. 24	1S	3E	MD
REDIVERSION:								
THERMALITO FORE- BAY DAM	BUTTE	N 673,570 E 2,104,700	2	NW OF SW	10	19N	3E	MD
THERMALITO AFTER- BAY DAM-RIVER OUTLET	BUTTE	N 652,500 E 2,102,200	2	SW OF SE	33	19N	3E	MD
NORTH BAY AQUE- DUCT INTAKE	SOLANO	N 216,350 E 2,064,750	2	NW OF SE	PROJ. 20	5N	2E	MD
DEL VALLE DAM	ALAMEDA	N 408,222 E 1,639,465	3	NE OF SW	PROJ. 3	4S	2E	MD
SAN LUIS FORE- BAY DAM	MERCED	N 216,800 E 1,841,100	3	NE OF SW	1	10S	8E	MD
SAN LUIS DAM	MERCED	N 204,450 E 1,832,440	3	SW OF SE	PROJ. 15	10S	8E	MD
PYRAMID DAM	LOS ANGELES	N 417,150 E 1,770,500	5	SW OF NW	2	6N	18W	SB
CASTAIC DAM	LOS ANGELES	N 4,301,400 E 4,104,900	7	N1/2 OF SW	16	5N	16W	SB
CEDAR SPRINGS DAM	SAN BERNARDINO	N 293,520 E 2,207,260	5	S1/2 OF NE	32	3N	4W	SB
PERRIS DAM	RIVERSIDE	N 613,500 E 1,713,400	6	N1/2 OF SE	4	4S	3W	SB

SUPPLEMENT (PARAGRAPH 4)

POWERPLANTS FOR INCIDENTAL POWER:

- SAN LUIS - WITHIN NE1/4 OF NE1/4 OF PROJECTED SECTION 15, T10S, R8E, MOB&M.
- SAN LUIS OBISPO - WITHIN SW1/4 OF NE1/4 OF SECTION 5, T31S, R13E, MOB&M.
- COTTONWOOD - WITHIN SE1/4 OF SE1/4 OF PROJECTED SECTION 32, T9N, R17W, SOB&M.
- PYRAMID - WITHIN SE1/4 OF NE1/4 OF SECTION 21, T7N, R18W, SOB&M.
- CASTAIC - WITHIN NE1/4 OF SE1/4 OF SECTION 22, T6N, R17W, SOB&M.
- DEVIL CANYON #1 - WITHIN SW1/4 OF NW1/4 OF SECTION 32, T2N, R4W, SOB&M.
- DEVIL CANYON #2 - WITHIN SW1/4 OF SW1/4 OF PROJECTED SECTION 6, T1N, R4W, SOB&M.

5. THE WATER APPROPRIATED FROM THE FEATHER RIVER SHALL BE LIMITED TO THE QUANTITY WHICH CAN BE BENEFICIALLY USED AND SHALL NOT EXCEED 1,300 CUBIC FEET PER SECOND BY DIRECT DIVERSION, TO BE DIVERTED FROM JANUARY 1 TO DECEMBER 31 OF EACH YEAR, AND 3,500,000 ACRE-FEET PER ANNUM BY STORAGE, TO BE COLLECTED FROM SEPTEMBER 1 OF EACH YEAR TO JULY 31 OF THE SUCCEEDING YEAR, PROVIDED THE QUANTITY OF WATER APPROPRIATED BY DIRECT DIVERSION SHALL BE LIMITED TO SUCH QUANTITY AS WOULD BE AVAILABLE FOR APPROPRIATION AT OROVILLE DAM; THE WATER APPROPRIATED FROM THE SACRAMENTO-SAN JOAQUIN DELTA CHANNELS SHALL NOT EXCEED 6,185 CUBIC FEET PER SECOND BY DIRECT DIVERSION AND 42,100 ACRE-FEET PER ANNUM BY STORAGE, TO BE DIVERTED AND COLLECTED FROM JANUARY 1 TO DECEMBER 31 OF EACH YEAR.

THE TOTAL QUANTITY OF WATER TO BE APPROPRIATED BY STORAGE FROM THE FEATHER RIVER UNDER THIS PERMIT AND PERMITS ISSUED PURSUANT TO APPLICATIONS 5629, 5630, AND 14443 SHALL NOT EXCEED 3,680,000 ACRE-FEET PER ANNUM.

THE MAXIMUM COMBINED RATES OF DIRECT DIVERSION, DIVERSION TO STORAGE, AND REDIVERSION OF STORED WATER FOR EXPORT THROUGH THE DELTA PUMPING PLANT, SHALL NOT EXCEED 10,350 CUBIC FEET PER SECOND.

THIS PERMIT DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE THE SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE OR FOR ANY OTHER PURPOSE.

6. THE MAXIMUM QUANTITIES HEREIN STATED MAY BE REDUCED IN THE LICENSE IF INVESTIGATION WARRANTS.

7. CONSTRUCTION WORK SHALL BE COMPLETED ON OR BEFORE DECEMBER 1, 1980.

8. COMPLETE APPLICATION OF THE WATER TO THE PROPOSED USE SHALL BE MADE ON OR BEFORE DECEMBER 1, 1990.

9. PROGRESS REPORTS SHALL BE FILED PROMPTLY BY PERMITTEE ON FORMS TO BE PROVIDED ANNUALLY BY THE STATE WATER RESOURCES CONTROL BOARD UNTIL LICENSE IS ISSUED.

10. ALL RIGHTS AND PRIVILEGES UNDER THIS PERMIT, INCLUDING METHOD OF DIVERSION, METHOD OF USE AND QUANTITY OF WATER DIVERTED, ARE SUBJECT TO THE CONTINUING AUTHORITY OF THE STATE WATER RESOURCES CONTROL BOARD IN ACCORDANCE WITH LAW AND IN THE INTEREST OF THE PUBLIC WELFARE TO PREVENT WASTE, UNREASONABLE USE, UNREASONABLE METHOD OF USE OR UNREASONABLE METHOD OF DIVERSION OF SAID WATER.

11. WATER ENTERING OROVILLE RESERVOIR OR COLLECTED IN THE RESERVOIR UNDER THIS PERMIT DURING AND AFTER THE CURRENT STORAGE SEASON SHALL BE RELEASED INTO THE DOWNSTREAM CHANNEL TO THE EXTENT NECESSARY TO SATISFY DOWNSTREAM PRIOR RIGHTS AND TO THE EXTENT THAT APPROPRIATION OF WATER IS NOT AUTHORIZED UNDER THE PERMIT.

12. IN ACCORDANCE WITH THE REQUIREMENTS OF WATER CODE SECTION 1393, PERMITTEE SHALL CLEAR THE SITE OF THE PROPOSED RESERVOIR OF ALL STRUCTURES, TREES, AND OTHER VEGETATION WHICH WOULD INTERFERE WITH THE USE OF THE RESERVOIR FOR WATER STORAGE AND RECREATIONAL PURPOSES.

13. NO DIRECT DIVERSION, DIVERSION TO STORAGE, OR REDIVERSION OF STORED WATER FROM THE FEATHER RIVER OR THE SACRAMENTO-SAN JOAQUIN DELTA FOR BENEFICIAL USE UNDER THIS PERMIT OTHER THAN FROM THE POINTS OF DIVERSION OR REDIVERSION NAMED IN THIS PERMIT SHALL BE MADE UNTIL A DESCRIPTION OF THE LOCATION OF EACH POINT OF DIVERSION AND STATEMENT OF THE QUANTITY OF WATER TO BE DIVERTED IS FILED WITH THE STATE WATER RESOURCES CONTROL BOARD.

14. UPON THE REQUEST OF THE BOARD, PERMITTEE SHALL MAKE SUCH MEASUREMENTS AND MAINTAIN AND FURNISH TO THE BOARD SUCH RECORDS AND INFORMATION AS MAY BE NECESSARY TO DETERMINE COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS PERMIT INCLUDING THE RECOGNITION OF VESTED RIGHTS AND FOR THE FURTHER PURPOSE OF DETERMINING THE QUANTITIES OF WATER PLACED TO BENEFICIAL USE UNDER THIS PERMIT, BOTH BY DIRECT DIVERSION AND STORAGE.

15. IN CONFORMITY WITH WATER CODE SECTION 10505, THIS PERMIT SHALL BE SUBJECT TO ANY AND ALL RIGHTS OF ANY COUNTY IN WHICH THE WATER SOUGHT TO BE APPROPRIATED ORIGINATES TO THE EXTENT THAT ANY SUCH WATER MAY BE NECESSARY FOR THE DEVELOPMENT OF SUCH COUNTY.

16. UNTIL FURTHER ORDER OF THE BOARD, PERMITTEE SHALL MAKE NO DIRECT DIVERSIONS AND SHALL NOT COLLECT WATER TO STORAGE DURING THE PERIOD FROM APRIL 1 THROUGH JUNE 30 AT ANY TIME THE MAXIMUM SURFACE ZONE CHLORIDE ION CONTENT OF THE SAN JOAQUIN RIVER AT BLIND POINT EXCEEDS 250 PARTS PER MILLION. IF BLIND POINT IS NOT USED AS A MONITORING STATION, PERMITTEE SHALL ESTABLISH A CORRELATION WITH SOME OTHER STATION SATISFACTORY TO THE BOARD TO PROVIDE THE NECESSARY DATA ON QUALITY AT BLIND POINT.

17. UNTIL FURTHER ORDER OF THE BOARD, THIS PERMIT SHALL BE SUBJECT TO THE WATER QUALITY CRITERIA INCLUDED AS "EXHIBIT A" OF THE AGREEMENT ENTERED AT THE HEARING OF APPLICATIONS 5629, ETC., AS SHOWN EXHIBIT 17, INsofar AS THOSE CRITERIA DO NOT CONFLICT WITH OTHER TERMS INCLUDED IN THIS PERMIT.
18. PERMITTEE SHALL NOT OBJECT TO THE USE OF ANY QUANTITIES OF WATER SPECIFIED IN THE SCHEDULES OF MONTHLY DIVERSION OF WATER ATTACHED TO THOSE CONTRACTS BETWEEN USERS OF WATER ABOVE SACRAMENTO AND THE UNITED STATES BUREAU OF RECLAMATION HERETOFORE OR HEREAFTER ENTERED INTO AS SUCH QUANTITIES ARE FROM TIME TO TIME REVISED EXCEPT IN THE EVENT OF A GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER OF THE SACRAMENTO RIVER SYSTEM.
19. TO THE EXTENT OF ITS AUTHORITY, PERMITTEE SHALL NOT IMPAIR THE VESTED RIGHTS FOR ANY DELTA LANDS BY SEVERANCE OF SAID LANDS FROM THEIR SOURCES OF WATER SUPPLY BY THE CONSTRUCTION OF THE PERIPHERAL CANAL UNLESS PERMITTEE ACQUIRES A RIGHT AGAINST THE HOLDERS OF SAID RIGHTS BY AGREEMENT OR BY THE EXERCISE OF ITS POWER OF EMINENT DOMAIN.
20. THE STATE WATER RESOURCES CONTROL BOARD RESERVES CONTINUING JURISDICTION OVER THIS PERMIT FOR THE PURPOSE OF FORMULATING OR REVISING TERMS AND CONDITIONS RELATIVE TO SALINITY CONTROL IN THE SACRAMENTO-SAN JOAQUIN DELTA. PERMITTEE SHALL, ON OR BEFORE JANUARY 1 OF THE YEAR FOLLOWING THE DATE OF THIS PERMIT, AND EACH SIX MONTHS THEREAFTER, SUBMIT TO THE BOARD A WRITTEN REPORT AS TO THE PROGRESS OF NEGOTIATIONS RELATIVE TO AGREEMENT BETWEEN PERMITTEE AND WATER USERS IN THE DELTA AND IN NORTHERN CONTRA COSTA COUNTY.
21. DIRECT DIVERSION AND STORAGE OF WATER UNDER THIS PERMIT FOR USE BEYOND THE SACRAMENTO-SAN JOAQUIN DELTA, AS DEFINED IN WATER CODE SECTION 12220, OR OUTSIDE THE WATERSHED OF THE SACRAMENTO RIVER BASIN, AS DEFINED IN DECISION 9990 OF THE STATE WATER RIGHTS BOARD (NOW STATE WATER RESOURCES CONTROL BOARD), SHALL BE SUBJECT TO RIGHTS INITIATED BY APPLICATIONS FOR BENEFICIAL USE WITHIN SAID WATERSHED AND DELTA REGARDLESS OF THE DATE OF FILING SAID APPLICATIONS.
22. DIRECT DIVERSION AND STORAGE OF WATER WHICH ORIGINATES IN THAT PART OF THE CENTRAL VALLEY BASIN CONSISTING OF THE WATERSHED OF STREAMS TRIBUTARY TO THE DELTA SOUTH OF THE AMERICAN RIVER UNDER THIS PERMIT FOR USE OUTSIDE THE CENTRAL VALLEY BASIN, SHALL BE SUBJECT TO RIGHTS INITIATED BY APPLICATIONS FOR USE WITHIN SAID PART OF THE CENTRAL VALLEY BASIN REGARDLESS OF THE DATE OF FILING SAID APPLICATIONS.
23. WATER STORED UNDER THIS PERMIT SHALL BE AVAILABLE WITHIN THE FEATHER RIVER BASIN, THE SACRAMENTO RIVER BASIN, AND THE SACRAMENTO-SAN JOAQUIN DELTA FOR SUCH USES AS ARE REASONABLY REQUIRED TO ADEQUATELY SUPPLY BOTH PRESENT AND FUTURE BENEFICIAL NEEDS OF SAID AREAS, PROVIDED, HOWEVER, SUCH WATER SHALL NOT BE AVAILABLE UNTIL AN AGREEMENT FOR SUCH USES OF SAID WATER IS FIRST ENTERED INTO WITH THE STATE OF CALIFORNIA. SUCH AGREEMENTS SHALL BE GOVERNED BY REQUIREMENTS OF UNIFORMITY IMPOSED BY LAW AND OTHER WATER SUPPLY CONTRACTS FOR STATE PROJECT WATER.
24. THIS PERMIT SHALL BE SUBJECT TO THE AGREEMENT BETWEEN THE STATE OF CALIFORNIA, ACTING BY AND THROUGH ITS DEPARTMENT OF WATER RESOURCES, AND CONTRA COSTA COUNTY WATER DISTRICT DATED APRIL 21, 1967, AND ENTERED AT THE HEARING OF APPLICATIONS 5629, ETC., AS AN ATTACHMENT TO CONTRA COSTA COUNTY WATER DISTRICT EXHIBIT 9.
25. THE BOARD RESERVES CONTINUING JURISDICTION OVER THIS PERMIT FOR THE PURPOSE OF COORDINATING TERMS AND CONDITIONS OF THE PERMIT WITH TERMS AND CONDITIONS WHICH HAVE BEEN OR WHICH MAY BE INCLUDED IN PERMITS ISSUED PURSUANT TO APPLICATIONS OF THE UNITED STATES IN FURTHERANCE OF THE CENTRAL VALLEY PROJECT AND OTHER APPLICATIONS OF THE STATE OF CALIFORNIA IN FURTHERANCE OF THE STATE WATER PROJECT. AT SUCH TIME AS THE DEPARTMENT OF WATER RESOURCES AND THE UNITED STATES BUREAU OF RECLAMATION HAVE ENTERED INTO A COORDINATED OPERATION AGREEMENT, THE BOARD WILL REVIEW SAID AGREEMENT FOR THE PURPOSE OF FORMULATING AND IMPOSING SUCH COORDINATED TERMS AND CONDITIONS AS MAY BE APPROPRIATE. THE BOARD, ON ITS OWN MOTION OR ON THE MOTION OF ANY INTERESTED PARTY, AFTER HEARING, MAY FORMULATE AND IMPOSE SUCH COORDINATED TERMS AND CONDITIONS AS MAY BE APPROPRIATE PENDING THE EXECUTION OF SUCH AGREEMENT.

~~5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed~~

26. PERMITTEE SHALL OPERATE PYRAMID DAM AND RESERVOIR AND CASTAIC DAM AND RESERVOIR IN ACCORDANCE WITH THE CONTRACT BETWEEN THE STATE OF CALIFORNIA, ACTING BY AND THROUGH ITS DEPARTMENT OF WATER RESOURCES, AND UNITED WATER CONSERVATION DISTRICT DATED APRIL 14, 1967.

27. THIS PERMIT IS SUBJECT TO COMPLIANCE BY PERMITTEE WITH WATER CODE SECTION 10504.5(A).

28. THIS PERMIT SHALL BE SUBJECT TO THE "AGREEMENT AND STIPULATION CONCERNING THE OPERATION OF THE OROVILLE DIVISION OF THE STATE WATER PROJECT" ENTERED INTO JULY 19, 1967, FILED OF RECORD AS DWR EXHIBIT 120 IN THE HEARING ON RECONSIDERATION OF DECISION D 1275 IN THE MATTER OF APPLICATIONS 5629, ETC., OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES. THE STATE WATER RESOURCES CONTROL BOARD RESERVES CONTINUING JURISDICTION OVER THIS PERMIT FOR THE PURPOSE OF FORMULATING TERMS AND CONDITIONS RELATIVE TO FLOWS TO BE MAINTAINED IN THE DELTA FOR THE PROTECTION OF FISH AND WILDLIFE.

29. THE DEPARTMENT MAY DIVERT IN COMPLIANCE WITH SPECIAL CONDITIONS IN THIS PERMIT AND ALL APPLICABLE LAWS ONLY WHEN IT CAN DO SO WITHOUT INTERFERING WITH THE EXERCISE OF VESTED RIGHTS, INCLUDING THOSE RIGHTS OF THE UNITED STATES UNDER PERMITS GRANTED BY DECISION D 990 WHICH HAVE PRIORITY DATES EARLIER THAN THE PRIORITY DATES OF THE PERMITS UNDER WHICH THE DEPARTMENT IS DIVERTING.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: SEP 26 1972

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights

Field File

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits)
 11966, 11967, 19968, 11969,)
 11970, 11971, 11973, 12364,)
 12365, 12720, 12721, 12722,)
 12723, and 12724, and)
 Licenses 9956 and 9957, on)
 Permitted Applications 5625,)
 5626, 5627, 5628, 9363, 9364,)
 9365, 15374, 15375, 15376,)
 16767, 17374, 17375, and)
 17376, and on Licensed)
 Applications 10588 and 15424)
 of the)
)
 UNITED STATES BUREAU OF)
 RECLAMATION)
)
 and Permits 16477, 16478,)
 16479, 16480, 16481, 16482,)
 and 16483, on Permitted)
 Applications 5629, 5630,)
 14443, 14444, 14445A, 17512,)
 and 17514A of the)
)
 DEPARTMENT OF WATER RESOURCES.)
)

ORDER: WR 92-02

*Copy of
Order in
5625*

ORDER ESTABLISHING DROUGHT-RELATED REQUIREMENTS
FOR THE BAY-DELTA ESTUARY DURING 1992

BY THE BOARD:

1.0 INTRODUCTION

Notice of public hearing having been given to consider specified drought-related issues involving fishery protection within and upstream of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Estuary); a public hearing having been held on March 3 and 19, 1992; the State Water Resources Control Board

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 14443

PERMIT 16479

LICENSE _____

ORDER TO ADD TO THE PLACE OF USE, APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 16479 was issued to California Department of Water Resources on September 26, 1972 pursuant to Application 14443.
2. A petition to add a power plant to the place of use and a petition for an extension of time within which to develop the project and apply the water to the proposed use have been filed with the State Water Resources Control Board.
3. The Board has determined that the petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. The permittee has proceeded with diligence and good cause has been shown for the said changes and for the extension of time.
5. Permit Condition 10 pertaining to the continuing authority of the Board should be updated to conform to Standard Permit Term 12 as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 7 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 2000 (0000008)

2. Condition 8 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2009 (0000009)

3. Condition 4 of this permit pertaining to Power Plants for Incidental Power be amended to read:

Power Plants for Incidental Power:

San Luis within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 15, R10S, R8E, MDB&M,
San Luis Obispo within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 5, T31S, R13E, MDB&M,
Cottonwood within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 32, T9N, R17W, SBB&M,
Pyramid within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 21, T7N, R18W, SBB&M,
Castaic within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 22, T6N, R17W, SBB&M,
Devil Canyon #1 within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 32, T2N, R4W, SBB&M,
Devil Canyon #2 within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T1N, R4W, SBB&M,
Del Valle within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 3, T4S, R2E, MDB&M,
Mohave Siphon within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 32, T3N, R4W, SBB&M.

4. Condition 10 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: JULY 02 1991

ORIGINAL SIGNED
BY ROGER JOHNSON

J Jesse M. Diaz, Chief
Division of Water Quality
and Water Rights