

**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	NW¹/₄ of NW¹/₄	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	SW¹/₄ of SE¹/₄	5	19N	4E	MD
<u>Feather River Fish Hatchery Dam</u> North 675,483 feet and East 2,127,942 feet	SW¹/₄ of NE¹/₄	8	19N	4E	MD
<u>Delta Water Facilities</u> North 252,650 feet and East 2,137,200 feet	SW¹/₄ of NE¹/₄	22	6N	4E	MD
<u>Points of Rediversion:</u> <u>Thermalito Forebay Dam</u> North 673,570 feet and East 2,104,700 feet	NW¹/₄ of SW¹/₄	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 rediversion 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.

(0000005)

Permittee may divert or redivert 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 redivert 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 redivert 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 redivert 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 redivert 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
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