

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

ORDER

Application 18087 Permit 13858

**ORDER APPROVING CHANGE IN THE PLACE OF USE,
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 13858 was issued to Placer County Water Agency on January 10, 1963, pursuant to Application 18087.
2. A petition to change the place of use of Permit 13858 was filed with the State Water Resources Control Board (SWRCB) on July 31, 1996 and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on October 18, 1996 and protest issues have been resolved. Resultant protest resolution agreements have been incorporated into this order.
3. The SWRCB has determined that the petition to change the place of use does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. 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 paragraph should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
5. The paragraph relating to the continuing authority of the SWRCB should be updated to conform to section 780(a), title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The place of use under Permit 13858 shall be amended as follows:

The place of use is situated in portions of Placer and Sacramento counties as shown on the Placer County Water Agency map set dated July 31, 1996, on file with the SWRCB.

Application 18087

Permit 13858

2. Paragraph 8, the continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, 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 SWRCB 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 SWRCB 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 licensee 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 requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB 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 SWRCB 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 SWRCB 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)

3. An Endangered Species term shall be added to Permit 13858 to read as follows:

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)

Application 18087

Permit 13858

3. The following term shall be added to Permit 13858 to read as follows:

Permittee shall comply with provisions of the following settlement agreements on file with the SWRCB:

- (a) *Agreement for Dismissal of Protest by California Department of Water Resources to Placer County Water Agency's Petition before State Water Resources Control SWRCB for Change in Place of Use under Permits Nos. 13856 (App. No. 18085) and 13858 (App. No. 18087) executed on September 30, 1999;*
- (b) *Stipulated Agreement for Dismissal of Bureau of Reclamation's Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858) executed on September 8, 1998;*
- (c) *SETTLEMENT AGREEMENT CONCERNING PLACER COUNTY WATER AGENCY'S PETITION TO EXPAND ITS PLACE OF USE UNDER WATER RIGHT PERMITS 13856 AND 13858* executed between Placer County Water Agency and the County of Sacramento (on March 23, 1999); as well as the City of Sacramento (on April 13, 1999); and
- (d) *Stipulated Agreement for Dismissal of Protest to Placer County Water Agency's Petition to Expand the Place of Use Under Application 18085 (Permit 13856) and Application 18087 (Permit 13858) executed between the Placer County Water Agency and the Friends of the River, Save the American River Association, and the Sierra Club, Mother Lode Chapter (on September 16, 1999); as well as Mr. William Berry (on November 20, 1999).*

Inclusion in this permit of provisions of the referenced agreements shall not be construed as affecting the enforceability, as between the parties, of such provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)



Harry M. Schnell
Division Chief

Dated: MAY 24 2000