

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21176

Application 30531A of City of Stockton
c/o Department of Municipal Utilities
2500 Navy Drive
Stockton, CA 95206-1191

filed on April 18, 1996, 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:
San Joaquin River

Tributary to:
Sacramento-San Joaquin Delta

within the County of San Joaquin

2. Location of point of diversion

By California Coordinate System of 1927 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
POD #1: N563,400 - E1,713,150	NE¼ of NE¼	11	2N	4E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Portions of C.M. Weber Grant with Place of Use boundaries and Township and Range
Municipal and Industrial	Portions of:	2, 12, 24, 36, 25	2N	5E	MD	None
	All of:	1	2N	5E	MD	
	Portions of:	1, 12	1N	5E	MD	None
	Portions of:	7, 13, 18, 21, 22, 23, 33	2N	6E	MD	All
	All of:	1-6, 8-12, 14-17, 19, 20, 29-32	2N	6E	MD	
	Portions of:	4, 15, 18, 27, 34, 21, 28, 33	1N	6E	MD	All
	All of:	5-9, 16, 17, 22	1N	6E	MD	
	Portions of:	3, 5, 9, 10	1S	6E	MD	All except portions of sections G and 3
	All of:	4	1S	6E	MD	
	Portions of:	4, 8, 9, 17, 18	2N	7E	MD	All except portions of sections 81-86, H, M, 93 and 94
	All of:	5, 6, 7	2N	7E	MD	
	Portions of:	1, 11, 12, 25, 26	1N	7E	MD	All except portions of sections M, 86, 93, and 94
	All of:	13, 14, 23, 24, 27, 28, 33, 34	1N	7E	MD	
	Portions of:	3, 4, 5, 8, 9, 10	1S	7E	MD	All except portions of sections O and 27
	All of:	None	1S	7E	MD	
Total area within Place of Use = 81,441 acres						

The place of use is shown on map dated October 27, 1997 filed with the State Water Board.

5. The water appropriated shall be limited to the quantity, which can be beneficially used, and shall not exceed 317 cubic feet per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 33,600 acre-feet per year. (000005A)
6. Construction work of Delta Water Supply Project facilities developed under this permit: (a) the point of diversion (water intake site), (b) the raw water and treated water transmission pipelines, and (c) the 30 million gallon per day water treatment facility, shall be prosecuted with reasonable diligence and completed by December 31, 2015. Complete application of the water to the authorized uses under this permit shall be completed by December 31, 2020. (0000009)
7. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
8. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued. (0000010)
9. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
10. 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 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 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 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)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB 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 SWRCB 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)
12. 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)
13. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605. (0000015)
14. 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)
15. Permittee shall comply with the following conditions that are derived from the agreements and stipulations between permittee and the California Department of Water Resources, the United States Bureau of Reclamation, the San Joaquin River Group Authority, dated November 22, 2004, November 29, 2004, September 27, 2005, respectively, and filed with the State Water Resources Control Board:
 - a. In order to ensure compliance with Water Code section 1485, the permittee shall conduct its diversions as follows:
 1. The permittee shall maintain records of (a) daily diversion of water from the Delta at its Delta Diversion Facility and (b) daily discharge of effluent to the Delta at its Regional Wastewater Control Facility.
 2. The 15-day running average of diversions from the Delta under this permit shall be less than or equal to the 15-day running average of discharges of properly treated effluent discharged from the Regional Wastewater Control Facility into the San Joaquin River. The term "properly treated effluent" means effluent that meets the requirements of the Central Valley Regional Water Quality Control Board.
 3. The permittee shall maintain weekly summary records of diversions, discharges and computations specified in paragraphs 15a.1 and 15a.2.

4. The permittee shall post on the World Wide Web (WWW) Internet for public monitoring purposes, within five (5) days of the diversion or discharge, the daily total amount of water in acre-feet diverted from the Delta at the permittee's diversion facility, the daily total amount of water in acre-feet of properly treated effluent discharged into the San Joaquin River from the permittee's Regional Wastewater Control Facility, and the weekly summary records specified in paragraph 15a.3.

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

(0000024)

16. Permittee shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Resources Control Board its Urban Water Management Plan as prepared and adopted in conformance with section 10610, et seq. of the California Water Code, supplemented by any additional information that may be required by the Board.

All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein.

(0000029A)

17. No water shall be used under this permit until permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, Central Valley Region, pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met. No point source discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to ground water without issuance of a waste discharge requirement may be allowed if, after filing the report pursuant to Section 13260:

- (1) the Regional Board issues a waiver pursuant to Section 13269, or
- (2) the Regional Board fails to act within 120 days of the filing of the report.

No permittee shall be required to file a report of waste discharge pursuant to Section 13260 of the Water Code for percolation to ground water of water resulting from the irrigation of crops.

(0290101)

18. No water shall be diverted under this permit except through a fish screen on the intake to the diversion structure, designed to meet the California Department of Fish and Game (CDFG) and the National Marine Fisheries Service (NMFS) screening criteria to protect all life history stages of emigrating juvenile Chinook salmon (*Oncorhynchus tshawytscha*), steelhead (*Oncorhynchus mykiss*) and Delta smelt (*Hypomesus transpacificus*). The screen will meet the following specifications:

- The screen will be oriented such that flow past the screen will be parallel to river flow.
- The screen will be designed so that a maximum uniform approach velocity of 0.2 feet per second as well as an adjustment for flow patterns will be provided across the face of the screen.

- The screen will be fitted with an automatic rotating brush or hydraulic screen cleaner that cleans the entire fish screen once every five minutes, while the diversion is in operation. Except during periods of tidal flow reversal, sweeping flow velocity will be at least twice the approach velocity.
- Screen openings will not exceed 1.75 millimeters with a minimum opening of 27 percent based on the salmonid fry criterion.
- The screen will be made of rigid, corrosion-resistant material with no sharp edges or projections (stainless-steel or copper-nickel alloy using wedge wire.)

(0000214)

19. No water shall be diverted until permittee has completed a monitoring and response plan for larval delta smelt (*Hypomesus transpacificus*). Monitoring for larval delta smelt will be conducted annually between February 15 and July 31 to detect the presence of larval delta smelt and trigger the implementation of the response plan, if necessary. The densities and geographic distribution of smelt will be used to identify those periods when larval delta smelt are not in the area and no operational changes are necessary. An annual monitoring and response report will be submitted to the Chief, Division of Water Rights by September 15.

Permittee shall submit the monitoring and response plan to the CDFG, NMFS and United States Fish and Wildlife Service (USFWS) for review. Permittee shall submit evidence of the review and the completed response plan to the Chief, Division of Water Rights.

In consultation with CDFG, permittee shall complete a census of larval delta smelt to determine the effectiveness of the response plan. If the response plan measures are not effective in protecting larval smelt from entrainment, permittee shall identify and develop alternative measures in cooperation with USFWS and CDFG. Permittee shall submit evidence of the effectiveness of the response plan or the alternative measures to the Chief, Division of Water Rights. Permittee shall be responsible for the construction, operation, and maintenance of the required facility.

Permittee shall mitigate for the impacts of the project to special-status species identified in the FEIR. Permittee may either submit to the Chief, Division of Water Rights, evidence that the Project is approved for participation in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and comply with the requirements under that program, or permittee may obtain the necessary individual permits from the appropriate regulatory agency (CDFG or USFWS). Evidence of regulatory agency review will be submitted to the Chief, Division of Water Rights.

20. The State Water Board reserves jurisdiction to amend this permit, after notice and opportunity for hearing, to reduce the maximum amount authorized to be diverted or require other appropriate action if the State Water Board receives new substantial evidence showing that, due to the diversion of water under this permit, the SWP or the federal CVP is required to forego exports from the southern Delta or release from upstream storage additional water to meet salinity objectives in the Delta compared with the amount of water that the SWP or the federal CVP would have to forego exporting or release from upstream storage for salinity control in the absence of diversions under this permit.
21. In accordance with Public Resources Code, section 21167.3, the City is authorized under this permit to proceed with the project at the City's risk.

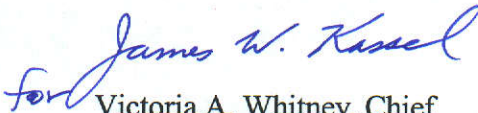
This permit is issued and permittee takes it subject to the following provisions of the Water Code:

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 therefore 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

Victoria A. Whitney, Chief
Division of Water Rights

Dated: March 8, 2006