



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

APR 19 2012

In Reply Refer to:
BRCoats:A030049A & A030049B

CERTIFIED MAIL NO.7004-2510-0003-9152-9426
Return Receipt Requested

Hidden Valley Lake Community Services District
c/o Wagner & Bonsignore
2151 River Plaza Drive, Suite 100
Sacramento, CA 95833-4133

Dear Wagner & Bonsignore:

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT AND CEASE AND DESIST ORDER FOR DIVERSION OF WATER FROM PUTAH CREEK UNDERFLOW IN LAKE COUNTY WHILE FAILING TO PROVIDE SUPPLEMENTAL RELEASES

Enclosed is an Administrative Civil Liability (ACL) Complaint. This letter serves as notice to your client, Hidden Valley Lake Community Services District (Hidden Valley CSD), of the intent of the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), to proceed with an enforcement action. Therefore, this matter requires your immediate attention.

On January 31, 2011, Hidden Valley CSD submitted the 2010 annual summary report for the Coyote Valley Groundwater Basin. The summary report details, among other things, how much supplemental water Hidden Valley CSD released to Putah Creek as required by License 13527A and Term 14 of Permit 20770B (Applications A030049A and A030049B). The terms of the license and permit require Hidden Valley CSD to supplement the natural flows in Putah Creek when the measured flow at the United States Geological Survey, Guenoc stream gage is less than the defined July through October 1954-1975 median flows. However, Hidden Valley CSD is not required to provide more than 2 cubic-feet per second (cfs) of supplemental flow.

The 2010 report indicates that numerous daily violations were noted during the August and September period of 2010. Division staff noted a total of 23 days (15 days in August and 8 days in September) of insufficient supplemental releases made to Putah Creek by Hidden Valley CSD.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov



By letter of April 28, 2010, the Division provided a warning to Hidden Valley CSD stating that it was their responsibility to ensure the minimum flow rates as defined in Hidden Valley CSD's license and permit were maintained at the Guenoc gauge despite outside influences. The Division advised that Hidden Valley CSD should monitor the instantaneous flow-rate at the Guenoc gage more closely and react to potential outside influences to ensure compliance with the release term requirements. If diversions occurred between Hidden Valley CSD's release point and the Guenoc gage that affected the flow, Hidden Valley CSD must increase supplemental releases to the full extent of the Term 14 requirements, to account for these diversions.

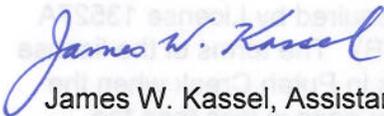
Based on these findings, I signed the enclosed ACL Complaint imposing a liability of **\$11,500** for diversion of water while failing to release supplemental water as required under the terms of License 13527 and Permit 20770 during 2010. Pursuant to the enclosed ACL Complaint, the \$11,500 liability is due and payable within 20 days of receipt of the ACL Complaint unless a written request for hearing is delivered to or received by the State Water Board in accordance with California Water Code section 1055(b). The request must be delivered to or received by mail by the State Water Board within 20 days after receipt of the complaint.

If required, a hearing will be scheduled where the State Water Board will hear the merits of this matter and may adjust the proposed ACL not to exceed the maximum allowed by statute. Prior to the hearing, Hidden Valley CSD will be required to submit any written testimony and other evidence Hidden Valley CSD would like the State Water Board to consider.

If you have any questions, please contact John O'Hagan at (916) 341-5368 or by email at JOHAGAN@waterboards.ca.gov. Written response should be addressed to:

State Water Resources Control Board
Division of Water Rights
Attn: Enforcement Section
P.O. Box 2000
Sacramento, CA 95812-2000

Sincerely,



James W. Kassel, Assistant Deputy Director
Division of Water Rights

Enclosures: 1) Administrative Civil Liability Complaint
2) Cease and Desist Order

cc: Hidden Valley Lake Community Services District (w/enclosures)
19400 Hartman Road
Middletown, CA 95461

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

DIVISION OF WATER RIGHTS

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

In the Matter of Unauthorized Diversion and Violation of Terms and Conditions for
License 13257A (A030049A) and Permit 20770B (Application 30049B)

by

Hidden Valley Lake Community Services District

SOURCE: Putah Creek Underflow

COUNTY: Lake County

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Hidden Valley Lake Community Services District (Hidden Valley CSD) is alleged to have violated California Water Code section 1052, subdivision (a), which states:

"The diversion or use of water subject to [division 2 of the Water Code (commencing with section 1000)] other than as authorized in [division 2] is a trespass."
2. California Water Code section 1052, subdivision (b), provides that the State Water Resources Control Board (State Water Board) may administratively impose civil liability in an amount not to exceed \$500 for each day that a trespass occurs.
3. California Water Code section 1055, subdivision (a), provides that the Executive Director for the State Water Board may issue a complaint to any person or entity on whom administrative civil liability (ACL) may be imposed. On May 17, 1999, the Executive Director delegated to the Deputy Director for Water Rights the authority to issue a complaint to impose an ACL under California Water Code section 1055, subdivision (a). Pursuant to State Water Board Resolution 2007-0057, the Deputy Director for Water Rights is authorized to issue an order imposing an ACL when a complaint has been issued and no hearing has been requested within 20 days of receipt of the complaint. State Water Board Resolution 2007-0057 also authorizes redelegation of this authority from the Deputy Director for Water Rights to the Assistant Deputy Director for Water Rights. This authority has been redelegated.

ALLEGATIONS

4. The following facts provide the basis for the alleged trespass:
 - a) The State Water Board, Division of Water Rights (Division) issued License 13257A and Permit 20770B to Hidden Valley CSD on November 29, 2001. The license and permit both authorize diversion of Putah Creek Underflow from subterranean wells for municipal use within portions of the Hidden Valley Lake Subdivision in the Coyote Valley, near Middletown, California. Permit 20770B also authorizes underflow diversion for fish and wildlife preservation within Putah Creek in the vicinity of the United States Geological Survey (USGS) Guenoc gage site, located downstream from the points of diversion. License 13257A and Permit 20770B respectively authorize diversion of 1.5 cubic feet-per-second (cfs) (up to 651 acre-feet per year) and 4.4 cfs (up to 1,649 acre-feet per year) from January 1 to December 31 of each year.

b) Because of the impacts of the subterranean wells on surface diverters and habitat downstream on Putah Creek, the State Water Board specifically conditioned License 13257A and Permit 20770B (at Term 14) to require Hidden Valley CSD to "provide supplemental water downstream from the points of diversion to augment low flows in Putah Creek." The license and permit each provide that "said supplemental water shall be introduced at a point on Putah Creek located approximately North 406,600 feet and East 1,848,100 feet, California Coordinate System, Zone 2, being within the NW ¼ of the NW ¼ of projected Section 28, T11N, R6W, MDB&M, as shown on the map entitled 'Hidden Valley Lake Community Services District – Supplemental Water Release Location'." This point is upstream from the USGS Guenoc gage site. The point of diversion for a senior water right, License 918 (Application 3797), commonly known as the Luchetti Well, is located along Putah Creek between the supplemental release point and the USGS Guenoc gage site.

c) License 13257A and Term 14 of Permit 20770B each provide that "the point of supplemental water discharge may be changed upon written approval of the Chief, Division of Water Rights." To date, Hidden Valley CSD has not requested a change in the point of supplemental water discharge.

d) License 13257A and Term 14 of Permit 20770B each provide the following supplemental water release schedule:

"For the period July 15 to October 31 of each year, [licensee/permittee] shall make-up the difference between actual discharge, as measured at the site of the former Guenoc USGS gaging station on Putah Creek at Guenoc as shown on the 1958 USGS 7.5 minute series quadrangle map for Middletown, California and the median daily discharge listed below:

Median Daily Discharge for Putah Creek at Guenoc, 1954-1975, (all amounts in cfs)

<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>
4.7	1.7	0.9	0.6

[Licensee/Permittee] shall not be required to provide supplemental water at a rate greater than two cubic feet per second. [emphasis added]

[Licensee/Permittee] shall maintain a measuring device, acceptable to the Chief of the Division of Water Rights, which is capable of measuring both the instantaneous rate and the total amounts of supplemental water discharged to Putah Creek."

e) License 13257A (but not Permit 20770B) also provides that:

"If the target flows at the Guenoc gage ... cannot be achieved with the maximum supplemental water discharge of two cubic feet per second, licensee shall make bi-monthly instantaneous flow measurements of the flow in Putah Creek immediately upstream of the point of supplemental water discharge. Such measurements shall employ instrumentation and methodology comparable with U.S. Geological Survey streamflow standards. If a review of these instantaneous flow measurements and measurements by the Guenoc gage indicates consistent losses of greater than 25% in flow rates, licensee shall thereafter make all supplemental water discharges to Putah Creek at the location of the Guenoc gage."

To date, Hidden Valley CSD has not implemented bi-monthly instantaneous flow measurements above the point of supplemental water discharge, nor compared such measurements to flows at the Guenoc gage site to determine losses, if any.

- f) To demonstrate compliance with the license and permit terms, Hidden Valley CSD is required to submit an annual groundwater basin monitoring report to the Division.
- g) On January 31, 2011, the consultants for Hidden Valley CSD provided Hidden Valley CSD's 2010 Coyote Valley Groundwater Basin Report to the Division. Table 4 within the report lists the average daily discharge at the USGS Guenoc gage for July through October. Table 5 lists the daily supplemental water discharged to Putah Creek by Hidden Valley CSD for the same time period. These tables are used to demonstrate compliance with the requirements for supplemental water releases.
- h) Table 4 indicates that in 2010 for fifteen days in August (14th through the 16th, 18th and the 21st through the 31st), the average daily discharge was less than the required 1.7 cfs flow listed in the conditions of the license and Term 14 of the permit. Additionally, Table 4 also indicates that for eight days in September (15th through 17th, 19th, 20th and the 28th through 30th), the average daily flow was less than the required 0.9 cfs flow. Hidden Valley CSD diverted water from its subterranean wells for municipal use pursuant to the license and permit on each of these days.
- i) Table 5 indicates that in 2010 on the same days, Hidden Valley CSD discharged supplemental water to Putah Creek at rates less than the maximum 2 cfs identified in the license and permit.
- j) The CSD's obligations and actions on these days can be summarized as follows:

	USGS		24-hour Deficiency, cfs	24-hour Deficiency, ac-ft	HV/CSD average Released Flow, cfs
	Guenoc Gage Average Flow, cfs	Required Average Flow, cfs			
8/14/2010	1.6	1.7	0.1	0.20	0.77
8/15/2010	1.5	1.7	0.2	0.40	0.7
8/16/2010	1.6	1.7	0.1	0.20	1.09
8/18/2010	1.6	1.7	0.1	0.20	1.49
8/21/2010	1.5	1.7	0.2	0.40	1.31
8/22/2010	1.3	1.7	0.4	0.79	1.2
8/23/2010	1.2	1.7	0.5	0.99	1.33
8/24/2010	1.4	1.7	0.3	0.60	1.45
8/25/2010	1.4	1.7	0.3	0.60	1.16
8/26/2010	1.5	1.7	0.2	0.40	1.32
8/27/2010	1.4	1.7	0.3	0.60	1.27
8/28/2010	1.2	1.7	0.5	0.99	1.28
8/29/2010	1.3	1.7	0.4	0.79	1.34
8/30/2010	1.2	1.7	0.5	0.99	1.33
8/31/2010	1.1	1.7	0.6	1.19	1.33
9/15/2010	0.75	0.9	0.15	0.30	0.91
9/16/2010	0.56	0.9	0.34	0.67	1.36
9/17/2010	0.71	0.9	0.19	0.38	1.39
9/19/2010	0.75	0.9	0.15	0.30	1.13
9/20/2010	0.7	0.9	0.2	0.40	1.28
9/28/2010	0.85	0.9	0.05	0.10	1.34
9/29/2010	0.81	0.9	0.09	0.18	1.17
9/30/2010	0.76	0.9	0.14	0.28	1.25

- k) Hidden Valley CSD's 2010 summary report cites downstream diversions, e.g., the Luchetti Well, pumping water immediately upstream of the Guenoc gage as a reason for the daily

fluctuations which make it difficult to maintain the minimum flow requirement. This is not the first time that Hidden Valley CSD has attempted to rely on this reason for failing to comply with the supplemental water discharge requirements. In their 2009 summary report, Hidden Valley CSD cited downstream diversions as rationale for insufficient flows at the USGS Guenoc gage during July through October of that year. Division staff warned Hidden Valley CSD in an April 2010 letter that such outside influences did not absolve Hidden Valley CSD's requirement to release supplemental water (up to 2 cfs) in order to maintain flow rates at the Guenoc gage. A copy of the April 2010, letter is enclosed hereto as Exhibit A.

PROPOSED CIVIL LIABILITY

5. The basis of this ACL Complaint is Hidden Valley CSD's continued diversion of water while failing to comply with the supplemental water release terms of their license and permit, each of which require that it release and/or maintain an established amount of flow in Putah Creek at the Guenoc gage. Hidden Valley CSD, having failed to make sufficient supplemental releases of water in 2009, was warned to correct the violation in April 2010. Hidden Valley CSD still failed to make sufficient supplemental releases to Putah Creek for a total of 23 days in August and September 2010. Continued diversion of water while in violation of a license or permit term requiring supplemental water releases for the protection of prior rights or instream beneficial uses constitutes an unauthorized diversion and a trespass against the State of California in violation of California Water Code section 1052.
6. California Water Code section 1052, subd. (b) authorizes civil liability of up to \$500 for each day in which the trespass occurred. At 23 days, the State Water Board could issue a maximum civil liability of \$11,500 (\$500 per day x 23 days) for the trespass.
7. In determining the amount of civil liability, California Water Code section 1055.3 requires that the State Water Board consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and any corrective action taken by the violator. In this case, following Hidden Valley CSD's 2009 violations, the Division notified the Hidden Valley CSD in April 2010, that it must account for all outside influences, including downstream diverters, when making supplemental water releases pursuant to the license and permit terms. The Division, as a courtesy, did not take an enforcement action in 2010 for the 2009 underdeliveries. Nevertheless, for the 2010 year, Hidden Valley CSD again stated its failure to meet the permit term requirements was caused by downstream diverters.
8. Hidden Valley CSD's insufficient releases have reduced the amount of water available for the fishery, riparian habitat and other downstream uses by at least 11.9 acre-feet.
9. Having taken into consideration the factors described above, the Assistant Deputy Director for Water Rights recommends an ACL in the amount of **\$11,500**. The Division recommends this liability amount given the repeated violation, despite a courtesy warning issued by the Division in 2010 for the 2009 calendar year report. The State Water Board may consider a different liability if this matter goes to hearing.

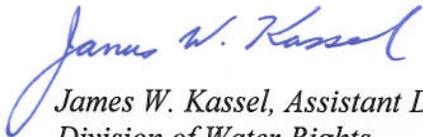
RIGHT TO HEARING

10. Hidden Valley CSD may request a hearing on this matter before the State Water Board. Any such request for hearing must be received or postmarked within 20 days of the date this notice is received. (Wat. Code, § 1055, subd. (b).)

11. If Hidden Valley CSD requests a hearing, Hidden Valley CSD will have an opportunity to be heard and to contest the allegations in this ACL Complaint and the imposition of an ACL by the State Water Board. If a hearing is requested, separate notice setting the time and place for the hearing will be mailed not less than 10 days before the hearing date.
12. If Hidden Valley CSD requests a hearing, the State Water Board will consider at the hearing whether to impose the civil liability, and if so, whether to adjust the proposed liability within the amount authorized by statute. Based on the evidence received at the hearing, the State Water Board may take any appropriate action in accordance with sections 100, 275, and 1050 et seq. of the California Water Code and its responsibilities under the public trust doctrine. Any State Water Board order imposing an ACL shall become final and effective upon issuance.
13. If Hidden Valley CSD does not wish to request a hearing, please remit a cashier's check or money order within 20 days of the date of this ACL Complaint for the amount of the ACL set forth in paragraph 10 above, to:

State Water Resources Control Board
Division of Water Rights
Enforcement Section
P.O. Box 2000
Sacramento, CA 95812-2000
14. If Hidden Valley CSD does not request a hearing and does not remit the ACL, the State Water Board may seek recovery of the ACL as authorized by California Water Code section 1055.4.

STATE WATER RESOURCES CONTROL BOARD



*James W. Kassel, Assistant Deputy Director
Division of Water Rights*

Dated: APR 19 2012

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

DIVISION OF WATER RIGHTS

ORDER WR 200 –00XX-DWR

CEASE AND DESIST ORDER

In the Matter of Violation of Terms and Conditions of License 13527A and Permit 20770B by
Hidden Valley Lake Community Services District

SOURCE: Putah Creek Underflow

COUNTY: Lake County

YOU ARE HEREBY GIVEN NOTICE THAT:

The State Water Resources Control Board (State Water Board or Board) is authorized under California Water Code section 1831 to issue a Cease and Desist Order (CDO) requiring Hidden Valley Lake Community Services District (Hidden Valley CSD) to cease and desist its unauthorized diversion, collection and use of water in violation of one or more conditions of License 13527A (Application 30049A) and Permit 20770B (Application 30049B).

Hidden Valley CSD is alleged to have violated or is threatening to violate California Water Code section 1831, which provides:

The State Water Board is authorized to issue a Cease and Desist Order (CDO) when it determines that any person is violating or threatening to violate any of the following:

- (1) The prohibition set forth in section 1052 against the diversion or use of water subject to division 2 (commencing with section 1000) of the California Water Code other than as authorized by division 2.
- (2) Any term or condition of a permit, license, certification, or registration issued under division 2 of the California Water Code.
- (3) Any decision or order of the board issued under part 2 (commencing with section 1200) of division 2 of the California Water Code, section 275, or article 7 (commencing with section 13550) of chapter 7 of division 7 of the California Water Code, in which decision or order the person to whom the CDO will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

On {DATE}, and in accordance with the provisions of section 1834 of the California Water Code, the State Water Board, Division of Water Rights (Division) provided notice of the CDO against Hidden Valley CSD for the violation and threatened violation of the prohibition against unauthorized diversion and use of water. Pursuant to State Water Board Resolution 2007-0057, the Deputy Director for Water Rights is authorized to issue a notice of cease and desist, and when a hearing has not been timely requested, issue a CDO in accordance with California Water Code section 1831 et seq. State Water Board

Resolution 2007-0057 also authorizes redelegation of this authority from the Deputy Director for Water Rights to the Assistant Deputy Director for Water Rights. This authority has been redelegated.

FACTS AND INFORMATION

The facts and information upon which this CDO is based are as follows:

1. The State Water Board's Division of Water Rights issued License 13257A and Permit 20770B to Hidden Valley CSD on November 29, 2001. The license and permit both authorize diversion of Putah Creek Underflow from subterranean wells for municipal use within portions of the Hidden Valley Lake Subdivision in the Coyote Valley, near Middletown, California. Permit 20770B also authorizes Underflow diversion for fish and wildlife preservation within Putah Creek in the vicinity of the former United States Geological Survey (USGS) Guenoc streamflow gage site, located downstream from the points of diversion. License 13257A and Permit 20770B respectively authorize diversion of 1.5 cubic feet-per-second (cfs) (up to 651 acre-feet per year) and 4.4 cfs (up to 1,649 acre-feet per year) from January 1st to December 31st.
2. Because of the impacts of the subterranean wells on surface diverters and habitat downstream on Putah Creek, the State Water Board specifically conditioned License 13257A and Permit 20770B (at Term 14) to require Hidden Valley CSD to "provide supplemental water downstream from the points of diversion to augment low flows in Putah Creek." The license and permit each provide that "said supplemental water shall be introduced at a point on Putah Creek located approximately North 406,600 feet and East 1,848,100 feet, California Coordinate System, Zone 2, being within the NW ¼ of the NW ¼ of projected Section 28, T11N, R6W, MDB&M, as shown on the map entitled 'Hidden Valley Lake Community Services District – Supplemental Water Release Location'." This point is upstream from the USGS Guenoc gage site. The point of diversion for a senior water right, License 918 (Application 3797), commonly known as the Luchetti Well, is located along Putah Creek between the supplemental release point and the USGS Guenoc gage site.
3. License 13257A and Term 14 of Permit 20770B each provide that "the point of supplemental water discharge may be changed upon written approval of the Chief, Division of Water Rights." To date, Hidden Valley CSD has not requested a change in the point of supplemental water discharge.
4. License 13257A and Term 14 of Permit 20770B each provide the following supplemental water release schedule:

"For the period July 15 to October 31 of each year, [licensee/permittee] shall make-up the difference between actual discharge, as measured at the site of the former Guenoc USGS gaging station on Putah Creek at Guenoc as shown on the 1958 USGS 7.5 minute series quadrangle map for Middletown, California and the median daily discharge listed below:

Median Daily Discharge for Putah Creek at Guenoc, 1954-1975, (all amounts in cfs)

July	August	September	October
4.7	1.7	0.9	0.6

[Licensee/Permittee] shall not be required to provide supplemental water at a rate greater than two cubic feet per second. [emphasis added]

[Licensee/Permittee] shall maintain a measuring device, acceptable to the Chief of the Division of Water Rights, which is capable of measuring both the instantaneous rate and the total amounts of supplemental water discharged to Putah Creek."

5. License 13257A (but not Permit 20770B) also provides that:

"If the target flows at the Guenoc gage ... cannot be achieved with the maximum supplemental water discharge of two cubic feet per second, licensee shall make bi-monthly instantaneous flow measurements of the flow in Putah Creek immediately upstream of the point of supplemental water discharge. Such measurements shall employ instrumentation and methodology comparable with U.S. Geological Survey streamflow standards. If a review of these instantaneous flow measurements and measurements by the Guenoc gage indicates consistent losses of greater than 25% in flow rates, licensee shall thereafter make all supplemental water discharges to Putah Creek at the location of the Guenoc gage."

To date, Hidden Valley CSD has not implemented bi-monthly instantaneous flow measurements above the point of supplemental water discharge, nor compared such measurements to flows at the Guenoc gage site to determine losses, if any.

6. To demonstrate compliance with the license and permit terms, Hidden Valley CSD is required to submit an annual groundwater basin monitoring report to the Division.
7. On January 31, 2011, the consultants for Hidden Valley CSD provided Hidden Valley CSD's 2010 Coyote Valley Groundwater Basin Report to the Division. Table 4 within the report lists the average daily discharge at the USGS Guenoc gage for July through October. Table 5 lists the daily supplemental water discharged to Putah Creek by Hidden Valley CSD for the same time period. These tables are used to demonstrate compliance with the requirements for supplemental water releases.
8. Table 4 indicates that for fifteen days in August (14th through the 16th, 18th and the 21st through the 31st), the average daily discharge was less than the required 1.7 cfs flow listed in the conditions of the license and Term 14 of the permit. Additionally, Table 4 also indicates that for eight days in September (15th through 17th, 19th, 20th and the 28th through 30th), the average daily flow was less than the required 0.9 cfs flow. Hidden Valley CSD diverted water from its subterranean wells for municipal use pursuant to the license and permit on each of these days.
9. Table 5 indicates that on the same days, Hidden Valley CSD discharged supplemental water to Putah Creek at rates less than the maximum 2 cfs identified in the license and permit.

10. The Hidden Valley CSD's obligations and actions on these days can be summarized as follows:

	USGS				
	Guenoc Gage	Required	24-hour	24-hour	HVCSD average
	Average Flow, cfs	Average Flow, cfs	Deficiency, cfs	Deficiency, ac-ft	Released Flow, cfs
8/14/2010	1.6	1.7	0.1	0.20	0.77
8/15/2010	1.5	1.7	0.2	0.40	0.7
8/16/2010	1.6	1.7	0.1	0.20	1.09
8/18/2010	1.6	1.7	0.1	0.20	1.49
8/21/2010	1.5	1.7	0.2	0.40	1.31
8/22/2010	1.3	1.7	0.4	0.79	1.2
8/23/2010	1.2	1.7	0.5	0.99	1.33
8/24/2010	1.4	1.7	0.3	0.60	1.45
8/25/2010	1.4	1.7	0.3	0.60	1.16
8/26/2010	1.5	1.7	0.2	0.40	1.32
8/27/2010	1.4	1.7	0.3	0.60	1.27
8/28/2010	1.2	1.7	0.5	0.99	1.28
8/29/2010	1.3	1.7	0.4	0.79	1.34
8/30/2010	1.2	1.7	0.5	0.99	1.33
8/31/2010	1.1	1.7	0.6	1.19	1.33
9/15/2010	0.75	0.9	0.15	0.30	0.91
9/16/2010	0.56	0.9	0.34	0.67	1.36
9/17/2010	0.71	0.9	0.19	0.38	1.39
9/19/2010	0.75	0.9	0.15	0.30	1.13
9/20/2010	0.7	0.9	0.2	0.40	1.28
9/28/2010	0.85	0.9	0.05	0.10	1.34
9/29/2010	0.81	0.9	0.09	0.18	1.17
9/30/2010	0.76	0.9	0.14	0.28	1.25

11. Hidden Valley CSD's 2010 summary report cites downstream diversions, e.g., the Luchetti Well, pumping water immediately upstream of the Guenoc gage as a reason for the daily fluctuations which make it difficult to maintain the minimum flow requirement. This is not the first time that Hidden Valley CSD has attempted to rely on this reason for failing to comply with the supplemental water discharge requirements. In their 2009 summary report, Hidden Valley CSD cited downstream diversions as rationale for insufficient flows at the USGS Guenoc gage during July through October of that year. Division staff warned Hidden Valley CSD in an April 2010 letter that such outside influences did not absolve Hidden Valley CSD's requirement to release supplemental water (up to 2 cfs) in order to maintain flows at the Guenoc gage. A copy of the April 2010 letter is enclosed hereto as Exhibit A.
12. For the July 15 to October 31 period of 2009, Hidden Valley CSD failed to provide 22 acre-feet of supplemental water in July and 4.5 acre-feet of water in August. The Division notified Hidden Valley CSD, by letter dated April 28, 2010, of the violations and instructed Hidden Valley CSD to monitor the downstream Guenoc gage more closely, taking into account riparian diverters intercepting the supplemental releases. No enforcement action was taken for the 2009 violations.
13. For the July 15 to October 31 period of 2010, Hidden Valley CSD failed to provide 9.3 acre-feet of supplemental water in August and 2.6 acre-feet of water in September. The 9.3 acre-foot deficiency in August was generated by insufficient supplemental releases for 15 days using the difference between the reported releases and term requirements. Using the same calculation,

2.6 acre-feet of water was determined to be insufficient for 8 days in September, totaling 23 days for the July 15 to October 31 period.

IT IS HEREBY ORDERED, pursuant to sections 1831 through 1836 of the California Water Code, Hidden Valley CSD shall cease and desist from violating the terms and conditions of License 13527A and Permit 20770B and shall take compliance with the following corrective actions:

1. For the July 15 to October 31 period of 2012, 2013 and 2014, Hidden Valley CSD shall submit weekly reports to the Division detailing: Hidden Valley CSD's daily diversions under License 13527A and Permit 20770B, the amount of its daily supplemental release flows and the reported average daily flow at the USGS Guenoc gage. The weekly reports may be provided by email or made available to the Division on a website. Any diversions on days where the reported Guenoc gage flow is less than the minimum flows outlined in the license and permit term will be treated as a violation of this CDO.

Upon the failure of any person or entity to comply with a CDO issued by the State Water Board pursuant to chapter 12 of the California Water Code (commencing with section 1825), and upon the request of the State Water Board, the Attorney General shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction. (Water Code, § 1845, subd. (a).) Section 1845, subdivision (b) of the California Water Code provides:

- (1) Any person or entity that violates a CDO issued pursuant to this chapter may be liable for a sum not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.
- (2) Civil liability may be imposed by the superior court. The Attorney General, upon request of the [board], shall petition the superior court to impose, assess, and recover those sums.
- (3) Civil liability may be imposed administratively by the [board] pursuant to section 1055.

STATE WATER RESOURCES CONTROL BOARD

*James W. Kassel, Assistant Deputy Director
Division of Water Rights*

Dated: