



December 7, 2015

Via Electronic Mail and U.S. Mail

Kenneth P. Petruzzelli
State Water Resources Control Board, Division of Water Rights Prosecution Team
1001 I Street, 16th Floor
Sacramento, CA 95814
kenneth.petruzzelli@waterboards.ca.gov

RE: FAHEY ACL/CDO Hearing
Application ID: A029977 and A031491
Legal Justification for Diversion during Curtailment

Dear Mr. Petruzzelli:

The Purpose of this correspondence is to provide supplemental summary justification for the curtailment exemption as initially provided to the State Water Resources Control Board (“Board”) in 2014 and 2015, and as discussed at the settlement conference for the above entitled matter on October 30, 2015.

This correspondence is organized as follows:

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- G. Term No. 34 Clearly Requires a Request from the Districts as a Condition Precedent to Fahey's Obligation. Justification for Fahey NOT Being Required to Provide FASS Replacement Water.
- H. Board Staff Advised that the Exemption Would Apply Where There Were No Water Rights Between the Points of Diversion and New Don Pedro Reservoir.
- I. The Board's 2011 Curtailment Notices Directed Water Rights Holders to Purchase and Store Water.
- J. Decision 1594 Obligations Are Not Impacted by the Fahey Diversions and Exemption.

IV. Conclusion

I. Introduction

This correspondence was prepared in conjunction with Mr. Fahey and represents his long term history with the Board on his water rights while concurrently providing the legal justification for the curtailment exemption. In sum, 88.5 acre feet of surplus water was deposited and still exists in New Don Pedro Reservoir and there has never been a call made for that water pursuant to agreements entered into with several water districts. Moreover, most, if not all of the water is groundwater which is not the subject of the relevant curtailment orders.

II. Procedural History on Water Shortage Notices

On February 26, 2009 the State Water Resources Control Board (hereinafter the "Board") sent to G. Scott Fahey on behalf of Sugar Pine Spring Water LP as the Manager of its General Partner (hereinafter "Fahey") a Notice of Surface Water Shortage for 2009, **Exhibit "A"**. As a result of the Board's direction set forth in that notice to "contract for water deliveries from a water supplier...", Fahey purchased from and had Tuolumne Utilities District (hereinafter "TUD") wheel 88.55 acre-feet of surplus water to New Don Pedro Reservoir (hereinafter "NDPR"), **Exhibit "B"**, pursuant to the terms of Fahey's existing water rights emanating from the Application to Appropriate Water by Permit, dated July 12, 1991 and January 28, 2004, respectively, Application 29977 and Application 31491 (hereinafter respectively "A29977", "A31491", or together "Both Permits") (respectively **Exhibit "C"** and **Exhibit "D"**).

A. Written Communications

On June 6, 2014, Fahey submitted to the Board a Curtailment Certification Form for A029977 and A031491. The box "OTHER" on each form was checked to identify that the diversions under Both Permits were exempt from curtailment. Attached to those Curtailment Certification Forms was a written explanation, dated June 3, 2014, explaining why those diversions were exempt from curtailment. **Exhibit "E"**.

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On March 3, 2015, Fahey submitted the 2014 Progress Report by Permittee for Both Permits documenting the amount of water diverted from each Point of Diversion (hereinafter “POD,” or plural “PODs”) each month in 2014. **Exhibit “F”**.

On April 23, 2015, the Board sent Fahey a Notice of Unavailability of Water and Immediate Curtailment, in which the “Exceptions to Curtailment” states; “If you have previously collected water to storage in a reservoir covered by a post-1914 right prior to this curtailment notice, you may beneficially use that previous stored water consistent with the terms and conditions of your post-1914 water right.” **Exhibit “G”**. In response, on April 29, 2015, Fahey resubmitted to the Board for a second time, the June 3, 2014 explanation of why his diversions were exempt from curtailment. **Exhibit “H”**. Fahey’s explanation of why his diversions were and are exempt from curtailment is exactly the situation mentioned in the Board’s Exceptions to Curtailment.

B. Staff Communications

On June 12, 2015 Fahey received a phone call from a representative of the Board named David Le Brie (hereinafter “Le Brie”), initially regarding whether a Curtailment Certification Form had been filed for 2015. Later that same day, Le Brie advised Fahey that the resubmitted letter, dated June 3, 2014, had been found and was being accepted as curtailment certification. Le Brie and Fahey also discussed the validity of the legal justification proposed in the June 3, 2014 letter. Fahey carefully explained why it was valid; first, there are no instream appropriators between each POD and NDPR, and second, surplus water had been wheeled to NDRP by TUD, which the Board had accepted as the source of replacement water for Both Permits. Those facts exempt Both Permits from curtailment according to the January 26, 2004 correspondence from the Chief of the Water Rights Division, **Exhibit “I”**.

Based on those facts, Le Brie then informed Fahey that a curtailment exemption might be acceptable, as long as there are no appropriative diverters and there were no pre-1914 or riparian instream diverters between the PODs and NDPR either. Fahey informed Le Brie there was not, but Le Brie replied that was doubtful. Fahey said he would confirm the absence of diverters and Le Brie should do the same. The conversation ended with the confirmation that if Le Brie did not get back to Fahey, then “no news was good news.” Because Fahey confirmed there were no instream water rights holders between the PODs and NDPR and because neither Le Brie nor any other Board representatives contacted Fahey again to dispute the exemption, Fahey continued to believe that his diversions were exempt from the curtailment.

Two months later, on August 12, 2015, Fahey received a phone call from a representative of the Board named Sam Cole (hereinafter “Cole”) who demanded that Fahey appear for a site inspection the following day. Fahey informed Cole that would not be possible, because Fahey lives in and was presently in Boise, Idaho; however, Fahey was planning to be at the site on September 2, 2015 and could meet with Cole then. Fahey asked Cole what needed to be inspected, and Cole replied the “entire site”. Fahey asked Cole if licenses for Both Permits were going to be issued because of the inspection of Both Permits’ sites. Cole responded that it was to

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ensure Fahey was not still diverting under the permits. Prior to and during the time of this call, the Board was conducting surveillance of the site and was well aware of the activities about which Cole claimed to have no knowledge.

Fahey mentioned his prior discussion with Le Brie and explained why Both Permits are exempt from curtailment. Fahey explained to Cole why he was exempt. During that explanation of the exemption and the water exchange agreements, Cole responded that the agreements were “very complicated and difficult to understand.” Fahey suggested that Cole speak with Ms. Mrowka, as she knew all about the agreements. Mr. Cole simply commented that she is too busy and is several levels above him, so he is not going to discuss these with her. Fahey wrapped up the conversation telling Cole that he would meet him on September 3 out at the site. Fahey asked if Cole looked at the file because in fact Fahey was diverting under the permits due to an exemption, and he had twice notified the Board in writing of this exemption. Moreover, Fahey advised Cole that staff person La Brie advised him that he might well be exempt. Cole ended the conversation stating Fahey would be considered to be diverting and not in compliance with the curtailment.

On September 1, 2015, the day before Fahey was scheduled to meet with Cole onsite, the Board filed an Administrative Civil Liability Complaint (hereinafter “ACL”) against Fahey for his diversions. Prior to filing this ACL, no representative from the Board ever followed up with Fahey to discuss or provide notice of a dispute regarding his legal justification for the exemption for Both Permits.

C. Settlement Conference

A settlement conference was held on October 30, 2015. All representatives of the Board at the settlement conference were unaware of Fahey’s forthright and repeated correspondence to the Board regarding the exemptions and were clearly unaware of Fahey’s proactive phone call that he initiated with Board staff regarding the curtailment exemption. In fact, Board representatives appeared stunned by the fact of the numerous letters and calls to the Board on this subject by Mr. Fahey, and staff’s response thereto. At the settlement conference, Board representatives requested supplemental information regarding the justification to expand on the written exemption explanations that had been previously provided to the Board by Fahey on two prior occasions.

Accordingly, this correspondence is providing that supplemental information requested by Board representatives at the settlement conference of October 30, 2015.

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III. Background Facts and Summary Legal and Technical Justification for Diversion Exemption During Curtailment

A. Application to Appropriate Water Right A029977.

Fahey initially applied to the Board for the right to divert water (primarily groundwater) by appropriation on May 28, 1991. As a result, Fahey was issued A029977, **Exhibit "C"**. The Board's Yoko Mooring wrote a *Memorandum*, dated January 14, 1993, documenting that Fahey, the Modesto Irrigation District and Turlock Irrigation District (hereinafter "MID/TID") had executed an agreement, dated December 12, 1992 (hereinafter the "1992 Agreement"). **Exhibit "J"**. Edward C. Anton approved an Exception from the Legal Effects of a Declaration of a Fully Appropriated Stream System (FASS) subject to a Water Exchange Agreement, described as the 1992 Agreement, in a *Statement for File*, dated January 15, 1993. **Exhibit "K"**. With the Board's approved FASS exception of record in the Board's A029977 file the *Notice of Application to Appropriate Water* was issued on January 29, 1993 for A029977. **Exhibit "L"**.

B. The 1992 Agreement is Invalidated by Decision 995. Therefore, Term 19 Can Not Apply and Instead Terms 20 (A029977) and 34 (A031491) Control Requiring the Districts to Request Water Annually if They Need it.

It was suggested by Board staff in our settlement meeting that Term 19 of A029977 obligated Fahey to provide water to MID/TID and on an annual basis whether or not the districts requested it. This is incorrect. First, Term 19 of A029977 is followed by Term 20 which further explains the mechanics of any annual provision of water to the Districts. The Districts must request it annually under Paragraph 20. In accordance with basic contract law in California, later language such as follows in this contract, is interpreted as an intentional clarification or modification of the prior language on the same subject. Second, the Board's requirement for Fahey to establish the 1992 water exchange agreement with MID/TID was based on the Tuolumne River being managed as a fully appropriated stream system as determined by decision 995 (hereinafter "D995"). **Exhibit "M"**. However, D995 was adopted in 1961, under a different water infrastructure and delivery regime. In other words, 995 became obsolete with the creation of NDPR 10 years later. It should have never been referenced or been used to mandate the 1992 agreement.

The City and County of San Francisco's (hereinafter "CCSF") financial contribution for the construction of NDPR in return created a 570,000 acre-feet impoundment (hereinafter the "water bank") dedicated to CCSF. **Exhibit "N"**. NDPR and the water bank enable 60% of the Tuolumne River's unimpaired flow to be allocated to the CCSF and the remaining 40% to the Districts. Therefore, D995 was obsolete long before 1992 and should never have been used to justify the WEA obligations. For that reason alone, the 1992 agreement should be considered void. Even if not found void in its entirety, Term 19 should be deemed void. Term 20 of A029977, unlike D995, is relevant to the hydrodynamics of the Tuolumne River as they have existed since 1971 and should control how the demand for replacement water was managed. Term 20 takes into consideration the post NDPR infrastructure and the water bank

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hydrodynamics that were not contemplated when the Board determined that the Tuolumne River was a fully appropriated stream system by D995 in 1961.

C. Resolution of City & County of San Francisco Water Rights Protest by Annual Notification Obligation.

CCSF informally protested A029977 on November 8, 2004, stating that in addition to the Board-approved Fahey/MID/TID Exchange Agreement “to provide replacement water, a determination of effects on CCSF will have to be made in conjunction with MID/TID due to the complex water supply accounting procedures between the three entities.” Moreover, CCSF would notify Fahey “of the need to provide replacement water.” **Exhibit “O”**. A September 26, 1994, memo from Daniel B. Steiner, CCSF attorney, to the Board’s Chris Hayushi, explained the accounting scenarios which must be considered for CCSF senior rights to be protected. **Exhibit “P”**.

Regardless of AO29977, if CCSF has a positive balance in the water bank, it loses water as a result of any upstream third-party diversion and MID/TID is shielded from that loss by the NDPR water bank accounting system, which, at the expense of CCSF, shields MID/TID from any loss. To protect their water rights and the unfair loss of CCSF water due to the NDPR water bank accounting process, Permit Term 20 of A029977 must have primacy of operation with regard to Term 19, the 1992 Agreement. Therefore, A029977 Permit Term 19 must be subordinate to Term 20. As specifically stated in the November 8, 2004 letter, **Exhibit “O”** CCSF would notify Fahey “of the need to provide replacement waster.” That notification is the trigger for Fahey to provide the water.

More importantly, as explained in section B above, Term 19 is actually invalid having been based on a water system that no longer existed at the time it was inserted into the permit, since the creation of NDPR and the CCSF water bank. The Term 20 procedure: “a determination of whether permittee’s diversion has potentially or actually reduced the water supplies of CCSF and MID/TID will be made annually by the latter parties” controls. If notice is given to Fahey of a reduction in the water supply then, Fahey “shall provide replacement water within one year of the annual notification.” To date, neither MID/TID nor CCSF have ever provided Fahey an “annual notification.”

D. Application to Appropriate Water Right A031491.

Fahey applied to the Board for an additional right to divert water by appropriation on November 14, 2002 (which water is primarily groundwater). As a result, Fahey was issued Temporary Application No. X003488 (hereinafter “X003488”). Application X003488 contained a statement by Fahey confirming that the Terms of A029977 would adhere to the X003488 diversions. However, Board employees Manas Thananant and Larry Attaway considered the statement by Fahey inadequate. **Exhibit “Q”**. There needed to be something more, an expandable agreement inclusive of both water rights, A29977 and X003488.

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Therefore, an agreement between Fahey and TUD was submitted for review. The Fahey/TUD agreement was approval by Board staff. **Exhibit “R”**.

Board employee Yoko Mooring wrote a *Memorandum*, dated December 23, 2003. **Exhibit “S”**. The memo documented the Fahey/TUD agreement that had been executed and dated October 20, 2003. **Exhibit “T”**. In a *Statement for File*, dated January 26, 2004, Victoria A Whitney, approved an Exception from the Legal Effects of a Declaration of a Fully Appropriated Stream System (FASS) for Fahey to “provide replacement water to NDPR for all water diverted during the FASS period each year by way of a Water Exchange Agreement, executed on October 20, 2003, with TUD for surplus water.” **Exhibit “U”**. The December 12, 1992 Fahey/MID/TID agreement was thereby superseded by the 2003 TUD agreement. With the Board’s approved FASS exception of record in the Board’s X003488 file the *Notice of Application to Appropriate Water* was issued on January 28, 2004 for A031491. **Exhibit “V”**.

E. Resolution of CCSF Water Rights Protest.

The CCSF sent a letter, dated November 8, 2004, to the Board as a protest if minor changes to the wording of certain terms could not be resolved. **Exhibit “O”**. CCSF ended the letter by stating, “CCSF only intends to notify the applicant of the need to provide replacement water when necessary; that is, when their use has led to a reduction, or has a strong potential of reducing, the supplies delivered CCSF.....*Short of notifying the applicant each and every year that their diversions potentially could affect the supplies of CCSF, thus triggering replacement water each year, our requested modifications to the term will leave the notification to a judgment on our part as to whether the need for replacement water is critical.*” (Emphasis added.) The Board followed with a letter, dated January 31, 2005, confirming that the CCSF protest could be dismissed as a result of using the wording as corrected by the CCSF letter, dated November 8, 2004. **Exhibit “O”**.

F. Resolution of MID/TID Water Rights Protest.

Griffith & Masuda, the law firm representing MID/TID, in a letter dated March 18, 2011, again referenced the Board’s letter, dated January 31, 2005, as the reason the MID/TID protest could be resolved. Griffith & Masuda considered, “the CCSF accepted permit terms included more restrictive and detailed requirements in addition to the water exchange agreement. Those terms specifically protect the prior rights of both CCSF and the Districts and inclusion of those terms in the permit would be sufficient to resolve the District’s Protest.” **Exhibit “W”**.

G. Term No. 34 Clearly Requires a Request from the Districts as a Condition Precedent to Fahey’s Obligation. Justification for Fahey NOT Being Required to Provide FASS Replacement Water.

Those two interactions between MID/TID/Board, paragraph F above, and CCSF/Board, paragraph E above, are the reasons the A031491 Permit Terms include only one term, No. 34, which has anything to do with replacement of diverted water. MID/TID/CCSF make clear that it is their responsibility whether or not to request TUD surplus water to be used as FASS

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replacement water, when or if it is ever needed. The Fahey/TUD surplus water service agreement, **Exhibit "T"**, is the Water Exchange Agreement for "all water diverted" and it provides that Fahey does not have to provide replacement water unless it is asked for by MID/TID or CCSF. However, there is nothing prohibiting Fahey from wheeling TUD surplus water to NDPR, to remain there until needed; unless however, NDPR were to spill, then any TUD surplus water would be the first to spill. Surplus water is a separate entity that floats above the balance of the water stored in NDPR, which is the reason it spills first. It is surplus water until, as replacement water, it converts to fungible stored water.

H. Board Staff Advised that the Exemption Would Apply If There Are No Water Rights Between the Points of Diversion and New Don Pedro Reservoir.

It is a fact that there are no water rights between the points of diversion and NDPR. La Brie stated that the absence of any intervening water rights renders the exemption applicable. Le Brie left three messages on Fahey's office phone in Idaho between June 6th and the 11th, while Fahey was on site in California. Fahey returned to the office on June 12th and called Le Brie. Le Brie appreciated the call, asking immediately if Fahey had provided a 2015 Curtailment Certification Form. Fahey informed Le Brie that in lieu of that form, the June 3, 2014 letter regarding justification for exemption sent with the 2014 Curtailment Certification Form had been sent again via the Board's email address.

Le Brie then understood why it appeared Fahey had not complied with returning the 2015 form. La Brie had to find the letter to confirm certification in 2015, and a few hours later, Le Brie returned a call to Fahey, stating the email had been found, and compliance with certification established.

Le Brie said he had read the letter from Fahey, dated June 3, 2014, and had questions. The first question was the source of the replacement water, which Fahey answered by informing Le Brie of the TUD Exchange Agreement approved pursuant to A031491. Second, Le Brie and Fahey then discussed the reason for the exchange agreement, which was to provide replacement water to MID/TID and CCSF if one of them ever called for it. Fahey informed Le Brie that none of them ever had called for replacement water, so there was plenty of surplus water available to replace the spring water Fahey sold and was selling during the 2014 and 2015 curtailment periods. Third, Le Brie and Fahey discussed whether any potential impacts could occur downstream of NDPR, concluding there were none since Fahey does not control the discharge from NDPR. Le Brie mentioned that the parties to NDPR are covered by the TUD Exchange Agreement, everyone downstream is covered by the appropriate discharge from NDPR and in addition Fahey has no control over NDPR. Fahey stated that he had not considered the impact to senior instream diverters between Both Permits' PODs and NDPR. Fahey replied there are no instream appropriators between the PODs and NDPR. Le Brie said that may be true, but Fahey must consider any pre-1914 and/or riparian rights.

Fahey conducted the research and informed Le Brie there were not any. Le Brie doubted that was the case. Fahey mentioned that a Water Availability Analysis was completed prior to

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the issuance of the A031491 Permit, which stated that no senior water right would be impacted by either Permit. Le Brie said, "If that is true, then you could be the first person in California to be issued an exemption to the curtailment; but I doubt that is going to happen." Le Brie informed Fahey that it had to be confirmed that there were no instream diverters between the PODs and NDPR. Fahey told Le Brie that could be confirmed with Kathy Mrowka (hereinafter "Mrowka"), since Mrowka was in charge of compiling all the information needed to issue the A031491 Permit. Fahey informed Le Brie he would examine the Board's Electronic Water Rights Information Management System (hereinafter "eWRIMS") again, that Le Brie should contact Mrowka and search the eWRIMS too, and Le Brie should get back to Fahey if anything is found contrary to what Fahey has told Le Brie. Otherwise, Fahey told Le Brie "no news is good news." La Brie did not attempt to correct Fahey.

I. The Board's 2011 Curtailment Notices Directed Water Rights Holders to Purchase and Store Water.

As mentioned in the introduction above, on February 26, 2009 the Board sent Fahey a Notice of Surface Water Shortage for 2009, Exhibit "A", which stated, "If you plan to.....need water beyond the limited supply available, you may find yourself in a very serious dilemma." "You may....contract for water deliveries from a water supplier, such as..... a local water....district." This was the first time since Fahey started the diversion and beneficial use spring water on October 2, 1996 that anyone had given notice that surplus water should be purchased in case it is needed as replacement water whether for a diversion curtailment or otherwise. Therefore, despite that fact that this was primarily groundwater, with the TUD Exchange Agreement in place for that very reason, Fahey purchased surplus water from TUD and TUD had in wheeled to NDPR, and has it standing by in case it is needed as replacement water, which is exactly what the Board directed Fahey to do in its February 2009 Notice. Additionally, the Board's April 23, 2015 Notice of Unavailability of Water and Immediate Curtailment, Exceptions to Curtailment: states, "If you have previously collected water to storage in a reservoir covered by a post-1914 right prior to this curtailment notice, you may beneficially use that previous stored water consistent with the terms and conditions of you post-1914 water right." Fahey did and has done exactly that. Accordingly, the Fahey diversions were and are exempt from curtailment, because it is exactly the situation the Board considers is an Exception to Curtailment.

J. Decision 1594 Obligations Are Not Impacted by the Fahey Diversions and Exemption.

Decision 1594 was mentioned in our settlement conference. It does not apply. First, the water diverted by Fahey is primarily groundwater. (Exhibit "Q"). Second, Fahey has no control of the amount of water discharged from NDPR. The amount of water discharged to meet the requirements of D1594 is controlled by MID/TID. The only thing Fahey can do in regard to D1594 is replace the water Fahey diverted during a D1594 FASS period, June 15 through August 31, after it is requested by MID/TID. Fahey has no NDPR discharge authority; therefore, Fahey cannot and is not liable for any D1594 NDPR discharge flow. Third, MID/TID and the CCSF

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are not Term 80 permittees. Minimum discharge requirements from NDPR are governed by non-1594 protocol. The minimum fishery surface flows below the dam are maintained per an agreement between the TID, MID, City of San Francisco, Dept. of Fish and Game and others under FERC Agreement 2299. NDPR is operated in accordance those requirements, MID/TID pre-1914 water rights and CCSF Raker Act authority. As a result, the hydraulic continuity between the Fahey PODs and the Delta is severed by NDPR. Once again Fahey does not control the amount of surface water discharged from NDPR. The amount of water discharged to meet the minimum fish flow requirements is controlled by MID/TID. Fahey can do only one thing, replace the surface water requested by MID/TID. Fahey has neither NDPR discharge authority nor hydraulic continuity with the Delta; therefore, a nexus between Fahey and D1594 does not exist.

IV. Conclusion

Based on the foregoing, Fahey's diversions are exempt from curtailment or are groundwater and not the subject of the curtailment orders. Thank you for giving us the opportunity to provide this supplemental detail regarding the justification to the Board.

Very truly yours,



Diane G. Kindermann

DKH/sb

Enclosures

cc: John O'Hagen
Katherine Mrowka
Andrew Tauriainen
Bart Barringer
G. Scott Fahey

EXHIBIT A



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

FEB 26 2009

To: Diverters of Surface Water

NOTICE OF SURFACE WATER SHORTAGE FOR 2009

After experiencing two years of drought, California's water reserves are extremely low in many parts of the state. The California water rights system is designed to provide for the orderly allocation of water supplies in the event that there is not enough water to satisfy everyone's needs. As a result, every water right holder has a priority, relative to every other water right holder. When there is insufficient water for all, water diversions must be curtailed in order of water right priority.

Current hydrologic data indicates that this year will be a dry year in your hydrologic area. In view of the current situation, the State Water Resources Control Board (State Water Board) considers it important and prudent to assume that there will **not** be sufficient surface water available during the year for those who hold water right permits, licenses, and registrations issued by the State Water Board. If water supply conditions do not improve, permit, license and registration holders may be curtailed. It may even become necessary this year in some parts of the state to curtail more senior water rights, such as riparian rights or pre-1914 rights.

If you plan to grow crops that will need water beyond the limited supply available, you may find yourself in a very serious dilemma. There is a strong possibility that your water right will be curtailed due to a lack of surface water or a low priority of right. Consequently, you should look into acquiring a firm alternate source of water, such as a well pumping from groundwater that does not require a water right permit, purchase water from someone that pumps groundwater or has a storage reservoir, or recycled wastewater. You may also be able to contract for water deliveries from a water supplier, such as the U.S. Bureau of Reclamation, the State Department of Water Resources, or a local water or irrigation district, provided that the water supplier has water to deliver to you. In view of the current situation, the State Water Board strongly encourages your immediate implementation of the enclosed conservation guidelines. Additional guidance is available for agricultural water users at the Agricultural Water Management Council's website at <http://www.agwatercouncil.org>.

If you hold a water right for domestic or municipal use, you may also need to reduce water use and seek alternate supplies. If there are no alternate supplies available, you may be required to reduce water use down to what is necessary for health and safety purposes. Guidance for urban water users is available at the California Urban Water Conservation Council's website at <http://www.cuwcc.org>.

Unless sufficient additional precipitation occurs this rainy season, no water will be available for many water diverters. It is our intent to contact you again in the near future if there is expected to be no water available for you at your water right priority. State Water Board staff is available to answer your questions at (916) 341-5300.

Sincerely,

Victoria A. Whitney
Deputy Director for Water Rights

Enclosure

California Environmental Protection Agency

EXHIBIT B

Utility Billing Account History Report



TUOLUMNE UTILITIES DISTRICT
 18885 NUGGET BLVD., SONORA, CA 95370
 (209) 532-5536 phone (209) 536-6485 fax
 www.tudwafer.com

User Name: LISA W
 City Name: TUOLUMNE UTILITIES DIST
 Printed: 01/24/2014 - 2:01:PM

Account Status: Suspended
 Connect Date: 05/15/2009 Final Date:
 Customer Name: FAHEY, G SCOTT
 Customer Address: 2787 STONY FORK WAY
 BOISE, ID 83706
 Home Phone: (208) 345-5170 Ext.
 Business Phone: () - Ext.
 Customer Number: 111683 000

Total Acct Balance: 0.00
 Deposits: 0.00 Refunds: 0.00
 Owner name: FAHEY, G SCOTT
 Service Address: PHOENIX - SULLIVAN CRK SPILWY

Reference Number: 335

Tran Date	Tran Type	Amount	Description	Wtr	Swr	W Sur	W Pen	W Conn	S Pen	S Conn	S Sur
Current Balance By Service				0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
07/28/2011	Adjustment	-409.24	Misc Water Adj	-409.24							
06/30/2011	Balance	409.24		409.24							
06/30/2011	Billing	409.24		409.24							
05/31/2011	Balance	0.00									
05/31/2011	Billing	409.24		409.24							
12/29/2010	Payment	-409.24		-409.24							
12/01/2010	Payment	-409.24		-409.24							
10/29/2010	Balance	409.24		409.24							
10/29/2010	Billing	409.24		409.24							
10/28/2010	Payment	-409.24		-409.24							
09/28/2010	Balance	409.24		409.24							
09/28/2010	Billing	409.24		409.24							
09/23/2010	Payment	-409.24		-409.24							
08/30/2010	Payment	-409.24		-409.24							
08/26/2010	Balance	818.48		818.48							
08/26/2010	Billing	409.24		409.24							
07/29/2010	Balance	409.24		409.24							
07/29/2010	Billing	409.24		409.24							
07/20/2010	Payment	-349.24		-349.24							
06/28/2010	Balance	349.24		349.24							
06/28/2010	Billing	409.24		409.24							
05/27/2010	Balance	-60.00		-60.00							
05/27/2010	Billing	409.24		409.24							
05/04/2010	Payment	-60.00		-60.00							
12/28/2009	Payment	-409.24		-409.24							

Customer Number: 111683 000

Reference Number: 335

Tran Date	Tran Type	Amount	Description	Wtr	Swr	W Sur	W Pen	W Conn	S Pen	S Conn	S Sur
12/01/2009	Payment	-409.24		-409.24							
10/27/2009	Balance	409.24		409.24							
10/27/2009	Billing	409.24		409.24							
10/22/2009	Payment	-409.24		-409.24							
10/05/2009	Payment	-409.24		-409.24							
09/28/2009	Balance	818.48		818.48							
09/28/2009	Billing	409.24		409.24							
09/08/2009	Payment	-409.24		-409.24							
08/24/2009	Balance	818.48		818.48							
08/24/2009	Billing	409.24		409.24							
07/28/2009	Payment	-362.87		-362.87							
07/28/2009	Balance	772.11		772.11							
07/28/2009	Billing	409.24		409.24							
06/22/2009	Balance	362.87		362.87							
06/22/2009	Billing	422.87		422.87							
06/08/2009	Payment	-60.00		-60.00							

Route Sequence Serial	335 - 099999 - 111683	Read Date	Reading	Consumption	Meter Status	Active
		06/15/2013	1,781	0		
		11/15/2012	1,781	0		
		10/15/2012	1,781	0		
		09/15/2012	1,781	0		
		08/15/2012	1,781	0		
		06/15/2012	1,781	0		
		05/15/2012	1,781	0		
		01/15/2012	1,781	0		
		10/15/2011	1,781	0		
		09/15/2011	1,781	0		
		08/15/2011	1,781	0		
		07/15/2011	1,781	0		
		06/15/2011	1,781	137		
		05/15/2011	1,644	137		
		01/15/2011	1,507	0		
		12/15/2010	1,507	0		
		11/15/2010	1,507	0		
		10/15/2010	1,507	137		
		09/15/2010	1,370	137		
		08/15/2010	1,233	137		
		07/15/2010	1,096	137		
		06/15/2010	959	137		
		05/15/2010	822	137		
	To start 5/15/10 billing read	04/15/2010	685	0		
		01/15/2010	685	0		

Customer Number: 111683 000

Reference Number: 335

Route Sequence Serial	335 - 099999 - 111683	Read Date	Reading	Consumption	Meter Status	Active
		12/15/2009	685	0		
		11/15/2009	685	0		
		10/15/2009	685	137		
		09/15/2009	548	137		
		08/15/2009	411	137		
		07/15/2009	274	137		
		06/15/2009	137	137		
		05/15/2009	0	0		

EXHIBIT C

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 20784 (Application 29977)

G. Scott Fahey

**ORDER APPROVING EXTENSION OF TIME, CHANGE IN POINT OF
DIVERSION, AND AMENDING THE PERMIT**

SOURCE: Unnamed Spring (AKA Cottonwood Spring)

COUNTY: Tuolumne

WHEREAS:

1. Permit 20784 was issued to G. Scott Fahey on March 23, 1995, pursuant to Application 29977.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on May 29, 1998.
3. The permittee has proceeded with diligence and good cause has been shown for extension of time. The SWRCB has determined that the petition for extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. A petition to change a point of diversion was filed with the SWRCB on December 12, 1997 and the SWRCB has determined that good cause for such change has been shown.
5. The SWRCB has determined that the petition for change in a point of diversion does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
6. Public notice of the request for extension of time and of the change was issued on August 26, 1998 and protest issues have been resolved.
7. 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 term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
8. There is a possibility that buried archeological deposits may be present and accidental discovery could occur. In compliance with the California Environmental Quality Act, which states that a Lead Agency is required to make a provision for historical or unique archeological resources accidentally discovered during construction or operation of projects, a condition should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.

Application 29977
Page 2

Permit 20784

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 20784 IS AMENDED TO READ AS FOLLOWS:

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

- 1) North 1500 feet and West 2700 feet from SE Corner of Section 22 being within:
NW¼ of SE¼ of Section 22, Township 2 North, Range 17 East, Mount Diablo Base & Meridian.
- 2) North 1390 feet and West 2190 feet from SE corner of Section 16 being within:
NW¼ of SE¼ of Section 16, Township 2 North, Range 17 East, Mount Diablo Base & Meridian.

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

Complete application of the water to the authorized use shall be made by December 31, 2011.
(0000009)

3. Permit 20784 is amended to include the following Endangered Species condition:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

4. Permit 20784 is amended to include the following archeological condition:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet to find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools, bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects, milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

STATE WATER RESOURCES CONTROL BOARD



Edward C. Anton, Chief
Division of Water Rights

Dated: MAR - 6 2002

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20784

Application 29977 of G. Scott Fahey

2418 Pleasanton Avenue, Boise, ID 83702

filed on July 12, 1991, has been approved by the State Water Resources Control 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: | Tributary to: |
| <u>1) Unnamed Spring (AKA Cottonwood Spring)</u> | <u>Cottonwood Creek thence</u> |
| _____ | <u>Clavey River thence</u> |
| _____ | <u>Tuolumne River</u> |
| <u>2) Deadwood Spring</u> | <u>Unnamed Stream thence</u> |
| _____ | <u>Basin Creek thence</u> |
| _____ | <u>North Fork Tuolumne River thence</u> |
| _____ | <u>Tuolumne River</u> |

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1) North 5 feet and West 5 feet from SE corner of Section 16	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	16	2N	17E	MD
2) North 1,390 feet and West 2,190 feet from SE corner of Section 16	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	16	2N	17E	MD

County of Tuolumne

Application 29977

Permit 20784

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Industrial	Bottled water plant(s) off premises					

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.062 cubic foot per second to be diverted from January 1 to December 31 of each year as follows: 0.031 cubic foot per second from Cottonwood Spring and 0.031 cubic foot per second from Deadwood Spring. The maximum amount diverted under this permit shall not exceed 44.82 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1998. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1999. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

Application 29977Permit 20784

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

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

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the 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 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)

14. This permit shall not be construed as conferring upon permittee right of access to the point of diversion. (0000022)

15. The equivalent of the authorized continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed. (0000027)

Application 29977Permit 20784

16. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

17. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the San Joaquin River Basin are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing. (0000090)

18. Prior to diverting water under this permit, permittee shall notify the State Water Resources Control Board of the name(s) and location(s) of the company(s) that will be bottling the diverted water. (0280999)

19. Diversion of water under this permit during the period from June 16 through October 31 of each year is subject to maintenance of the Water Exchange Agreement executed on December 12, 1992 between the permittee and the Modesto and Turlock Irrigation Districts. Pursuant to the Agreement, permittee shall provide replacement water to New Don Pedro Reservoir for all water diverted under this permit during the period from June 16 to October 31 of each year. The source, amount and location at New Don Pedro Reservoir of replacement water discharged to the reservoir shall be reported to the State Water Resources Control Board with the annual Progress Report by Permittee. (0250300)

20. Permittee shall comply with the following provisions which are derived from the City and County of San Francisco (San Francisco) letter dated December 19, 1994 filed with the State Water Resources Control Board:

- 1) Permittee shall not interfere with San Francisco's obligations to the Modesto and Turlock Irrigation Districts (Districts) pursuant to the Raker Act and/or any implementing Agreement between the Districts and San Francisco. (000T001)
- 2) Permittee shall provide replacement water to New Don Pedro Reservoir for water diverted under this permit which is adverse to the prior rights of San Francisco and the Districts. A determination of whether permittee's diversion has potentially or actually reduced the water supplies of San Francisco and the Districts will be made annually by the latter parties in accordance with water accounting procedures being used by said parties.

Permittee shall provide replacement water within one year of the annual notification by San Francisco or the Districts of potential or actual water supply reduction caused by permittee's diversions. Permittee shall provide replacement water in a manner that will offset the separate reductions in water supplies of San Francisco and the Districts. Replacement water may be provided in advance and credited to future replacement water requirements. Permittee shall not be obligated to provide replacement water for diversions that occur

Application 29977Permit 20784

during periods when the Districts' and San Francisco's reservoirs are spilling or are being operated in anticipation of spill except that all water diverted during the period June 16 through October 31 shall be replaced pursuant to the Water Exchange Agreement executed on December 12, 1992 between permittee and the Districts. Permittee's obligations to provide replacement water under this agreement shall take into consideration permittee's obligations to provide replacement water under the Water Exchange Agreement. The source, amount and location at New Don Pedro Reservoir of replacement water discharged to the reservoir shall be reported to the State Water Resources Control Board with the annual Progress Report by Permittee.

(0250700)

(0280700)

- 3) Permittee shall not provide replacement water, under this letter agreement or permittee's aforementioned Water Exchange Agreement, from a source that is hydraulically connected to surface water tributary to the Tuolumne River. If permittee replaces water diverted pursuant to this permit with groundwater which it extracts, permittee shall demonstrate that any extracted groundwater which replaces diverted surface water is water which would not otherwise reach New Don Pedro Reservoir (NDP). Permittee shall demonstrate that there is hydraulic separation between the groundwater extracted and groundwater flow from the east into NDP; or, alternatively, permittee shall demonstrate that aquifer characteristics are such that subsurface flow to NDP is not substantial and that any extraction of groundwater by permittee would have essentially no impact on groundwater recharge via subsurface inflow from the east to NDP.

(0280800)

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

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

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

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

Dated: **MARCH 23 1995**

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson
 101 Chief, Division of Water Rights

EXHIBIT D

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

DIVISION OF WATER RIGHTS

In the Matter of Application 31491

G. SCOTT FAHEY

ORDER CANCELING PROTEST AND DISMISSING PROTESTS

SOURCE: Two Unnamed Springs tributary to Unnamed Streams thence Hull Creek

COUNTY: Tuolumne

WHEREAS:

1. G. Scott Fahey (Applicant) filed water right Application 31491 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on January 28, 2004 to divert water from two unnamed springs tributary to unnamed streams thence Hull Creek.
2. The Division publicly noticed Application 31491 on October 1, 2004. The protest filed by the City and County of San Francisco (San Francisco) was previously resolved through permit conditions related to prior water rights. The protests filed by Stanislaus National Forest, Modesto Irrigation District and Turlock Irrigation District (Districts), and Central Sierra Environmental Resource Center (Central Sierra) are addressed in this order.
3. The protest filed by Stanislaus National Forest was addressed through the Mitigated Negative Declaration (MND) and a permit condition requiring the Applicant to obtain all necessary federal permits. In an April 21, 2011 letter, Stanislaus National Forest stated that it does not oppose conditional issuance of a water right. Accordingly, the protest is dismissed.
4. The Districts' protest was based on potential injury to prior rights. The Districts' protest was addressed through inclusion of permit conditions originally developed for the San Francisco protest. The permit language specifically addresses the measures that are required to be taken to prevent interference with the Districts' water right(s). The Districts' letter of March 18, 2011 states that inclusion of the permit conditions developed for the San Francisco protest is sufficient to resolve the protest. Inasmuch as the permit conditions are included in Permit 21289 on Application 31491, the protest is dismissed.
5. The Central Sierra protest was based on: (a) violation of management direction for the Clavey River watershed (Clavey Critical Aquatic Refuge); (b) potential to diminish quality of riparian habitat; (c) potential to increase water temperature in a manner that reduces habitat suitability for amphibians and other species; and (d) cumulative impacts of this project and Applicant's diversion of other springs under Permit 20847 (Application 30104).

6. The Division circulated a MND (SCH # 2011022066) for this project. Central Sierra commented on the MND. On May 17, 2011, the Division provided protestants and those who commented on the MND with a draft response to comments and a draft permit. The Division advised these persons that the Division intended to evaluate the information in the environmental document and water availability analysis (WAA) to determine whether it can resolve the protests. (Wat. Code § 1335.)
7. On May 30, 2011, Central Sierra responded to the Division's May 17, 2011 draft documents. Central Sierra indicated that its protest could be resolved if: (a) the bypass flow is set at 10 gallons per minute (gpm) for each spring, rather than the proposed 5 gpm, and (b) the Division assumes that a 40 gpm diversion will result in a 240 percent increase in water tanker truck traffic and an increase to 100 trucks weekly, and an equal increase in greenhouse gas emissions, or the permit allows no increase over current tanker truck operations. Issue (a) is addressed below. Issue (b) is addressed in the MND.
8. Central Sierra's May 30, 2011 letter includes comments that fall into three categories. The first category is further responses to the MND. The Division's response to comment letter on the MND is being issued on the same date as this Order.

A second category relates to conditions in the draft permit. To resolve its protest, Central Sierra suggests that the bypass flow be 10 gpm for each spring, instead of the 5 gpm identified in the MND and draft permit. Central Sierra states that a higher bypass flow should better protect resources. The proposed permit requires monitoring of the areal extent of riparian habitat along set transects, and requires reduced diversion (i.e., increased bypass flows) should monitoring show a measureable diminution in riparian habitat.

A third category includes new issues. Central Sierra asserts that the Division should not have accepted onsite water measurement data for the project because the measurement was conducted by the Applicant. The Applicant is a registered engineer in the state of Idaho. As a registered engineer, the Applicant is subject to sanction by the Idaho Board of Registration for Professional Engineers and Professional Land Surveyors if he acts in a manner not allowed under his license. The Applicant made onsite measurements over an extended time period to provide accurate onsite data and correlations to other sources of information. The data was used by Dr. Grunwald, an independent consultant, to prepare a WAA for the project. Dr. Grunwald's analysis supports a finding that water is available for appropriation.

Central Sierra objects to use of the Cherry Lake Dam gage and discontinuous Clavey River stream gage data to evaluate watershed flows, and asserts that the available data does not accurately portray onsite conditions. The analysis in question relies on a method that is used to estimate streamflow in areas where stream gage data is not available at or near the vicinity of the project. This method is generally recognized as a reasonable approximation based on the available information.

Another new issue is potential injury to downstream water rights. The Applicant agreed to provide replacement water to San Francisco and the Districts from a non-hydrologically connected source whenever there is potential interference with prior rights. The comment letter questions the Districts' water right(s) and whether the replacement water should be deemed as having been obtained from a separate source. Inasmuch as San Francisco's and the Districts' prior rights protests have been addressed with inclusion of permit conditions, no further action will be taken on this issue.

9. The MND and responses to comments on the MND identify mitigation measures to: (a) reduce any impacts to riparian habitat to a less than significant level, (b) describes the consultations and biological surveys conducted to collect the data needed to address Riparian Conservation Objectives of the Clavey Critical Aquatic Refuge, and (c) address the potential for temperature increase downstream of the springs. The protest also asserts cumulative riparian habitat impacts of diversion under Application 31491 and Permit 20847. The MND mitigation measures require monitoring and corrective action to ensure no net loss of riparian habitat downstream of the Application 31491 springs. Accordingly, there will be no cumulative impact.
10. There is no substantial evidence in light of the whole record to support the protest allegations. Therefore, the protest is canceled. (Wat. Code § 1335.)

NOW, THEREFORE, IT IS ORDERED THAT THE CENTRAL SIERRA PROTEST FILED ON APPLICATION 31491 IS CANCELED.

STATE WATER RESOURCES CONTROL BOARD



*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: **AUG 01 2011**

FOR

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21289 ON APPLICATION 31491

Permittee: G. Scott Fahey
2787 Stony Fork Way
Boise, ID 83706

The Deputy Director for Water Rights finds that the State Water Resources Control Board (State Water Board) and/or the Applicant have met the following requirements for permit issuance: (a) demonstrated the availability of unappropriated water; (b) resolved any protests made in compliance with Water Code section 1330 et seq. and included appropriate permit conditions; (c) demonstrated that the water will be diverted and used without injury to any lawful user of water; (d) demonstrated that the intended use is beneficial; and (e) demonstrated that the requirements of the California Environmental Quality Act (CEQA) have been met. The permit is being issued in accordance with the redelegation of authority (Resolution No. 2007-0057.)

Additionally, the State Water Board has complied with its independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)

Therefore, Application 31491 filed on January 28, 2004 has been approved by the 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:
2 Unnamed Springs (aka Marco and Polo Spring)

Tributary to:
an Unnamed Stream thence
Hull Creek thence
Clavey River

within the County of Tuolumne

2. Location of points of diversion

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
(1) North 2,194,527 feet and East 6,679,255 feet	NW ¼ of NE ¼	22	2N	17E	MD
(2) North 2,193,583 feet and East 6,679,864 feet	NE ¼ of NE ¼	22	2N	17E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Industrial	Bottled water plant(s) (off premises)	(See Term 10)				

Acronyms used in this permit: U.S. Stanislaus National Forest (Forest Service)

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.045 cubic foot per second from each spring, with a combined diversion limit of 0.089 cubic foot per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 64.5 acre-feet per year. (000005A)
6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2021. (0000009)
7. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion. (0000022)
8. The State Water Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the State Water Board concerning availability of water and the protection of beneficial uses of water in the San Joaquin River Basin. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing. (0000080)
9. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the San Joaquin River Basin are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the State Water Board, made after notice to interested parties and opportunity for hearing. (0000090)
10. Prior to diverting water under this permit, permittee shall notify the State Water Board of the name(s) and location(s) of the company(s) that will be bottling the diverted water. (0280999)
11. No diversion is authorized by this permit under the following conditions: (1) when in order to maintain water quality in the San Joaquin River at Vernalis at a level of 500 parts per million (ppm) Total Dissolved Solids (TDS), the Bureau of Reclamation is releasing stored water from New Melones Reservoir or is curtailing the collection of water to storage, or (2) during any time of low flows when TDS levels at Vernalis exceed 500 ppm. These restrictions shall not apply when, in the judgment of the State Water Board, curtailment of diversion under this permit will not be effective in lowering the TDS at Vernalis, or when in the absence of permittee's diversion, hydraulic continuity would not exist between permittee's point of diversion and Vernalis. The Board shall notify permittee at any time curtailment of diversion is required under this term. (0000093)

12. Permittee shall minimize fugitive dust generation on all construction access roads and during trenching.
(0400500)
13. Permittee shall ensure that all on site construction equipment is equipped with muffler systems meeting the requirement of the California vehicle code.
(0400500)
14. Immediately prior to construction, a Biologist acceptable to the Deputy Director for Water Rights shall be assigned to flag, with an agreed-upon flagging color/pattern, a 100 foot radius around any active day-roosting habitat for Townsend's big-eared bat (*Plecotus townsendii*), pallid bat (*Antrozous pallidus*), and the western red bat (*Lasiurus blossevilli*). Site disturbance within 100 feet of potential day-roosting habitat shall not occur. The 100-foot radius perimeter shall be flagged with an agreed-upon flagging color/pattern and be off limits for pipeline construction. The flagged day-roosting habitat shall be avoided from March 1 through August 15.
(0400500)
15. Permittee shall not conduct any construction trenching activities within the two spotted owl Protected Activity Centers from March 1 through August 15.
(0400500)
16. Permittee shall construct silt fences within 50 feet of each point of diversion. The silt fence shall begin at a point 25 feet in the upstream direction from the springs' well-heads and shall continue on the level contour for a distance of 50 feet in the downstream direction from the springs' well-heads, bordering the riparian community. The installation shall be adjusted so as to catch all overflows of water or sediment emanating from the well-head.
(0400500)
17. When well-drilling is complete, Permittee shall remove the silt fence fabric along with sediments caught by the fence and dispose of in the County Landfill.
(0400500)
18. Permittee shall cover any soil exposure created by the silt fence removal with natural mulch removed from nearby dry upland forest habitat. So as to create a minimum disturbance, the mulch (leaf-litter/ duff) shall be hand-raked and placed in wheelbarrows for hand-spreading. Seeding of exposed soil shall be by "passive restoration" (allowing native seed to re-vegetate disturbed sites). Mulch cover shall be approximately one foot in depth.
(0400500)
19. Permittee shall complete all erosion and sediment control measures by October 1 of the construction year.
(0400500)
20. For each point of diversion Permittee shall continuously bypass a minimum of 5 gallons per minute. For each point of diversion, the total streamflow shall be bypassed whenever it is less than the designated amount.
(0140400)
21. No water shall be diverted under this permit until permittee has installed devices, satisfactory to the State Water Board, which are capable of measuring and recording the bypass flows required by the conditions of this permit. Said measuring devices shall be properly maintained.
(0060062AP)

22. Within six months of the issuance of this permit, the Permittee shall submit a Compliance Plan for approval by the Deputy Director for Water Rights that will demonstrate compliance with the flow bypass term specified in this permit. The Compliance Plan shall include the following:
- a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow.
 - b) A description of the gages and monitoring devices that will be installed or have been installed to measure and record spring bypass.
 - c) A time schedule for the installation of these facilities.
 - d) A description of the frequency of data collection and the methods for recording bypass flows and storage levels.
 - e) An operation and maintenance plan that will be used to maintain all facilities in good condition.

The Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the permittee for ten years from the date of collection and made available to the Deputy Director for Water Rights, upon request. Any non-compliance with the terms of the permit shall be reported by the permittee promptly to the Deputy Director for Water Rights.

Diversion and use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

(0000070)

23. Permittee shall avoid direct impacts to streams and wetland (waters of the United States and waters of the state) through the maintenance of a 50 foot setback from the boundaries of the riparian area. The 50 foot setback area shall be flagged by a qualified biologist acceptable to the Deputy Director for Water Rights prior to the start of construction activities.

(0400500)

24. A qualified biologist, acceptable to the Deputy Director for Water Rights, shall conduct a monitoring inspection in July of each year and shall report the results of the inspection to the Division with the Progress Report by Permittee and shall also report to the Forest Service annually. The inspection shall utilize the same transects on a year-to-year basis to monitor the size and area of the wetland. At a minimum, the number of transects identified in the Biological Survey Report, Riparian Community Monitoring Plan shall be used. The final transect locations shall be selected in cooperation with the Forest Service, and any additional transects required by the Forest Service shall be included in future submittals to the Division. Permittee shall submit a map to the Division showing the final transect locations, after completing consultation with the Forest Service. No diversion is allowed under this permit after July 30 in any year that the monitoring inspection is not conducted, until termination of this condition. Baseline monitoring shall be conducted prior to any diversion under the permit.

If the size and/or area of the wetland along the transect declines below baseline conditions, diversions at the specific spring shall be reduced to 16 gallons per minute (gpm) (20 percent reduction) by August 1. When this occurs, monthly monitoring shall be conducted starting in August and continue until freezing conditions preclude monitoring. If monitoring documents continued decline from baseline conditions, permittee shall reduce diversions in 20 percent increments until monitoring documents no further reduction in baseline conditions. The monthly monitoring (except during freezing conditions) and diversion adjustments shall continue until the biologist determines that the wetland area has returned to baseline conditions.

If permittee documents that baseline conditions have been restored, diversions may be increased to the last known extent that did not cause reduction in size and/or area of the wetland.

Monitoring may be terminated after five consecutive years of no-net change in wetland area. The last documented diversion rate that resulted in no-net change shall become the permanent diversion limit for each spring under the permit.

(0400500)

25. Prior to the start of construction and diversion and use of water, in order to avoid any project related impacts to previously identified cultural resources including sites identified as FS-05-16-51-0015/CA-Tuo and Camp 21 (FS 05-16-51-0200/CA-Tuo-2335H), Permittee shall obtain the services of a professional archeologist acceptable to the Forest Service and the Deputy Director for Water Rights, to conduct monitoring of the Project. The archaeologist will obtain a permit from the Forest Service Archeologist prior to project related work commencing in the vicinity of the sites. The archeologist shall be present during all ground disturbing activities along the railroad grade to ensure that the wood culverts are protected and the grade is returned to the original condition. Permittee shall be responsible for all costs associated with the cultural resources related work.
- (0380500)
26. Permittee shall document compliance with all of the Forest Service Special Use Permit requirements and any issues relating to cultural resources that are identified during consultation with the Forest Service. Within 60 days of completion of construction, Permittee shall provide documentation of compliance with this condition to the Division of Water Rights.
- (0380500)
27. To avoid effects to historic features of the WSRR grade, the pipeline ditch and pipeline shall traverse above the culverts, and, if necessary, Permittee shall move the line laterally or horizontally beneath any historic wooden box culverts that are within three feet of the surface of the WSRR grade. After the waterline installation is complete, the trench shall be backfilled and compacted, and the Grade restored to its original appearance.
- (0380500)
28. All box culverts along the WSSR grade shall be flagged/staked to ensure none are accidentally affected during construction. Flagging/staking shall be conducted by the on-site Archaeologist. Once staked the Archaeologist shall notify the Forest Service. Relevant historic resource records must be on-site during the flagging process and throughout construction.
- (0380500)
29. As the lateral pipeline routes leave the WSRR grade to the Marco Spring and to the Polo Spring, respectively, the lateral alignment shall avoid effects to the cut bank or fill areas of the grade. The suitability of the alignment location shall be verified by the Archaeologist and Forest Service prior to construction.
- (0380500)
30. To preserve any archaeological or paleontological resources which may be discovered during trench construction, the finding of unusual fragments or artifacts (obsidian and chert flakes, chipped stone tools, ground stone implements, darkened midden soils and any structural remains) or fossilized/petrified rocks shall be reported to the Forest Service Heritage Resource Manager and the Division and activities shall cease in the findings area. The further implementation of mitigation measures shall be under the direction of the Forest Service Archaeologist, Forest Heritage Resource Manager and the Division.
- (0380500)

31. Should any buried archaeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological indicators include: obsidian, and chert flakes and flaked stone tools; bedrock outcrops and boulders with mortar cup; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Deputy Director for Water Rights shall be notified of the discovery and the professional archaeologist shall evaluate the find and recommend appropriate mitigation measure. Proposed mitigation measure shall be submitted to the Deputy Director for Water Rights for approval. Project-related activities shall to resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director of Water Rights.
- (0000215)
32. If human remains are encountered, then the Permittee shall comply with Section 15064.5 (e) of the California Environmental Quality Act Guidelines and the Health and Safety Code Section 7050.5. All project-related ground disturbances within 100 feet of the find shall be halted until the Stanislaus County Coroner has been notified. If the Coroner determines that the remains are Native American, the Coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance in the vicinity of the find shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights.
- (0380500)
33. Permittee shall not interfere with San Francisco's obligations to Modesto and Turlock Irrigation Districts (Districts) pursuant to the Raker Act and/or any implementing agreement between the Districts and San Francisco.
- (0240300)
34. Permittee shall provide replacement water to New Don Pedro Reservoir (NDPR) for water diverted under this permit which is adverse to the prior rights of San Francisco and the Districts. A determination of whether permittee's diversion has potentially or actually reduced the water supplies of San Francisco and the Districts will be made by the latter parties in accordance with water accounting procedures used by said parties.

Permittee shall provide replacement water within one year of notification by San Francisco of potential or actual water supply reduction caused by permittee's diversion. Permittee shall provide replacement water in a manner that will offset the separate reductions in water supplies of San Francisco and the Districts. Replacement water may be provided in advance and credited to future replacement water requirements. Permittee shall not be obligated to provide replacement water for diversions that occur during periods when the Districts and San Francisco's reservoirs are spilling or are being operated in anticipation of spill.

Permittee's obligations to provide replacement water under this letter agreement shall take into consideration permittee's obligations to provide replacement water under the Water Exchange Agreement executed on December 12, 1992 between Permittee and the Districts. The source, amount and location at NDPR of replacement water discharged into NDPR shall be mutually agreed upon by the permittee, the Districts, and San Francisco, and shall be reported to the State Water Board with the annual Progress Report by Permittee.

Permittee shall not provide replacement water from a source that is hydraulically connected to surface water tributary to the Tuolumne River. If permittee replaces water diverted pursuant to this permit with groundwater which it extracts, permittee shall demonstrate that any extracted

groundwater which replaces diverted surface water is water which would not otherwise reach NDPR. Permittee shall demonstrate that there is hydrologic separation between the groundwater extracted and groundwater flow into NDPR; or, alternatively, permittee shall demonstrate that aquifer characteristics are such that subsurface flow to NDPR is not substantial and that any extraction of groundwater by permittee would have essentially no impact on groundwater recharge via subsurface flow to NDPR.

(0240300)

35. No construction shall be commenced and no water shall be used under this permit until all necessary federal, state and local approvals have been obtained.
- (000000J)
36. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.
- (0000208)

THIS PERMIT IS ALSO 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)

Application 31491
Page 9 of 9

Permit 21289

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



*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: **AUG 01 2011**

EXHIBIT E



State Water Resources Control Board

May 27, 2014

G FAHEY
2787 STONY FORK WAY
BOISE, ID 83706

In Regards to Water Right(s): A029977, A031491

NOTICE OF UNAVAILABILITY OF WATER AND IMMEDIATE CURTAILMENT FOR THOSE DIVERTING WATER IN THE SACRAMENTO AND SAN JOAQUIN RIVER WATERSHEDS WITH A POST-1914 APPROPRIATIVE RIGHT

On January 17, 2014, Governor Edmund G. Brown, Jr. proclaimed a State of Emergency (Proclamation) to address the record dry conditions around the State. On the same day, as directed by the Proclamation, the State Water Resources Control Board (State Water Board) issued a statewide notice of water shortages and potential for future curtailment of water right diversions.

Curtailment of Post-1914 Water Rights:

Based upon the most recent reservoir storage and inflow projections, along with forecasts for future precipitation events, the State Water Board has determined that the existing water supply in the Sacramento and San Joaquin River watersheds is insufficient to meet the needs of all water rights holders. With this notice, the State Water Board is notifying all holders of post-1914 appropriative water rights within the Sacramento and San Joaquin River watersheds of the need to immediately stop diverting under their post-1914 water rights, with the exceptions discussed below. This condition of curtailment will continue until water conditions improve. Even if there is water physically available at your point of diversion, that water is necessary to meet senior water right holders' needs or is water released from storage that you are not entitled to divert. If precipitation occurs in the following weeks or months, you should not commence diversion before being notified by the State Water Board that water is legally available for diversion under your priority of right.

Permission to initiate diversions during or following significant rainfall events may be posted at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/index.shtml#notices. You can get immediate email updates from the State Water Board about these notices by subscribing to "Drought Updates" at: http://www.waterboards.ca.gov/resources/email_subscriptions/

Compliance Certification Required:

Curtailed post-1914 diverters are required to document receipt of this notice by completing an online Curtailment Certification Form (Form) within seven days. The Form confirms cessation of diversion under the specific post-1914 water right, and, if applicable, identifies the alternate water supply to be used in lieu of the curtailed water right. Completion of the Form and identification of alternate rights can avoid unnecessary enforcement proceedings.

FREDIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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

Enter the Application or Statement number associated with a Water Right (e.g., A123456, G123456L001). If you are reporting for multiple Water Rights, please use a separate web submission for each Application or Statement number.

Application No: * A value is required. | Location of Water Right (County): ▼

Primary Owner: * A value is required.

Address: * A value is required.

City: * A value is required. , State: ▼ , Zip:

Telephone: * A value is required.

Email: (Required*)

Curtailment Certification

NO DIVERSION - I hereby certify that I will not be diverting any water under the above specified water right during the 2014 water diversion curtailment period.

ALTERNATE SOURCE I hereby certify that I will not be diverting any water under the above water right during the 2014 water diversion curtailment period. However, I will be serving all or a portion of its place of use with my alternate source(s) of water, as specified below:

Ground (well) water

Senior Post-1914 Appropriative Water Right | (Specify Permit/License No.):

Riparian water right(s) and/or pre1914 appropriative water right(s)*

Water use is reported under Statement of Water Diversion and Use No:

My use is excluded from filing a Statement of Water Diversion and Use under California Water Code section 5101 (generally, because the use included in other sufficient reports, or is from a spring that does not flow off your property).

None of the above.

Contract (purchased) water from:

Will serve the place of use by withdrawing water stored under Permit/License No:

Other source (specify):

SOLE SOURCE OF WATER FOR HEALTH AND SAFETY NEEDS

I hereby certify that the water right being curtailed is the only source of water available for human health and safety needs.

I also certify that I have looked into alternative water supplies from the following:

Groundwater Well

Bottled Water

Purchase Water

Other:

HYDROELECTRIC POWER GENERATION/OTHER NONCONSUMPTIVE USE I hereby certify that I am directly diverting water for hydroelectric power generation or other nonconsumptive use and all water diverted is returned to the stream.

OTHER I have additional information explaining how much water I am diverting, the use of that water, the measures being undertaken to reduce use, and the basis on which I contend that the diversion and use is legally authorized notwithstanding the very limited amounts of water available during this drought emergency.

To submit this additional information, please send an email to SWRCB-Curtailment-Certification@waterboards.ca.gov with the additional information as an attachment to the email. Please also include the Application or Statement number, your Name and Phone number in the body of the email as well. Please call 916-341-5342 if you have any questions

*Please note that only limited natural or abandoned water is available during a curtailment period. Water released from upstream storage projects is not available to divert under a riparian or pre-1914 right.

By electronically submitting this form I declare that the information in this certification is true to the best of my knowledge.

Name

Phone No:

Revised April 16, May 28, 2014

Enter the Application or Statement number associated with a Water Right (e.g., A123456, G123456L001). If you are reporting for multiple Water Rights, please use a separate web submission for each Application or Statement number.

Application No: * A value is required. | Location of Water Right (County): ▼

Primary Owner: * A value is required.

Address: * A value is required.

City: * A value is required. , State: ▼ , Zip:

Telephone: * A value is required.

Email: (Required*)

Curtailment Certification

NO DIVERSION - I hereby certify that I will not be diverting any water under the above specified water right during the 2014 water diversion curtailment period.

ALTERNATE SOURCE I hereby certify that I will not be diverting any water under the above water right during the 2014 water diversion curtailment period. However, I will be serving all or a portion of its place of use with my alternate source(s) of water, as specified below:

Ground (well) water

Senior Post-1914 Appropriative Water Right | (Specify Permit/License No.):

Riparian water right(s) and/or pre-1914 appropriative water right(s)*

Water use is reported under Statement of Water Diversion and Use No:

My use is excluded from filing a Statement of Water Diversion and Use under California Water Code section 5101 (generally, because the use included in other sufficient reports, or is from a spring that does not flow off your property).

None of the above.

Contract (purchased) water from:

Will serve the place of use by withdrawing water stored under Permit/License No:

Other source (specify):

SOLE SOURCE OF WATER FOR HEALTH AND SAFETY NEEDS

I hereby certify that the water right being curtailed is the only source of water available for human health and safety needs.

I also certify that I have looked into alternative water supplies from the following:

Groundwater Well

Bottled Water

Purchase Water

Other:

HYDROELECTRIC POWER GENERATION/OTHER NONCONSUMPTIVE USE I hereby certify that I am directly diverting water for hydroelectric power generation or other nonconsumptive use and all water diverted is returned to the stream.

OTHER I have additional information explaining how much water I am diverting, the use of that water, the measures being undertaken to reduce use, and the basis on which I contend that the diversion and use is legally authorized notwithstanding the very limited amounts of water available during this drought emergency.

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*Please note that only limited natural or abandoned water is available during a curtailment period. Water released from upstream storage projects is not available to divert under a riparian or pre-1914 right.

By electronically submitting this form I declare that the information in this certification is true to the best of my knowledge.

Name:

Phone No:

Revised April 16, May 28, 2014

SUGAR PINE SPRING WATER LP

State Water Resources Control Board
Division of Water Right
P.O. Box 2000
Sacramento, CA 95814-2000

June 3, 2014

Re.: Curtailment Certification Form – OTHER

Ref.: Water Right Applications 29977 and 31491

In good-faith, when ample water resources were available; I purchased a total of eight-two (82) acre-feet of water from the Tuolumne Utility District (TUD), during a two year period from 6/15/09 through 6/15/11. The Stanislaus River was the origin of that water. That water was released by TUD from Phoenix Lake to New Lake Don Pedro Reservoir (NDPR), via Sullivan Creek.

The reason for the purchase and diversion of that water was to ensure the City and County of San Francisco (San Francisco) and the Modesto & Turlock Irrigation Districts (Districts) would have water standing-by behind NDPR in the event “notification by San Francisco of potential or actual water supply reduction” was sent to me as a result of the reference water rights’ applications. Such notice has never been received. In the event that were to occur, the “replacement water” that I would be obligated to provide within one year of said notice would already be available in NDPR for its owners beneficial use.

I acknowledge that if NDPR had spilled, or spills in the future, that the water I have purchased, had divert, and is now pre-positioned there as “replacement water” would be lost and not available to me for its intended purpose.

As the manager of Sugar Pine Spring Water LP’s General Partner, make every effort to ensure the holders of senior downstream water rights are not impacted nor affected by Sugar Pine’s diversion of spring water. That has been accomplished by taking the initiative to purchase “replacement water” when it was available; so, if needed, neither San Francisco nor the Districts must wait one year for it to arrive. As a result, the flow of water from NDPR will not be affected nor will any senior water right holders be impacted by the referenced applications. After consultation with San Francisco and the Districts regarding this matter they concur, therefore, I contend that the diversion and use of water authorized by the referenced water rights applications is legally authorized.

Sincerely,



G. Scott Fahey
Manager of the General Partner
Sugar Pine Spring Water LP

CC: San Francisco – Attn.: Jonathan Knapp

EXHIBIT F

**[SUMMARY OF FINAL SUBMITTED VERSION]
PROGRESS REPORT BY PERMITTEE FOR 2014**

Primary Owner: G SCOTT FAHEY
Primary Contact: G SCOTT FAHEY

Date Submitted: 2015-03-03

Application Number: A029977
Permit Number: 020784

Source(s) of Water	POD Parcel Number	County
DEADWOOD SPRING		Tuolumne
UNSP (AKA SUGAR PINE SPRING)		Tuolumne

MAX Direct Diversion Rate: 0.062 CFS
MAX Collection to Storage: 0.0 AC-FT
Face Value: 44.8 AC-FT

Permitted Use(s)	Acres	Direct Diversion Season	Storage Season
Industrial	0.0	01/01 to 12/31	

1. Permit Review	
I have reviewed my water right permit	Yes

2. Compliance with Permit Terms and Conditions	
I am complying with all terms and conditions	Yes
Description of noncompliance with terms and conditions	

3. Changes to the Project	
Intake location has been changed	
Description of intake location changes	
Type of use has changed	
Description of type of use changes	
Place of use has changed	
Description of place of use changes	
Other changes	
Description of other changes	

4-6. Permitted Project Status	
Project Status	Complete
6a. Construction work has commenced	
6b. Construction is completed	
6c. Beneficial uses of water has commenced	
6d. Project will be completed within the time period specified in the permit	
6e. Explanation of work remaining to be done	
6f. Estimated date of completion	

7. Purpose of Use	
Industrial	Bulk wholesale of Federally Certified Spring Water to State Certified Bottlers

8. Amount of Water Diverted and Used		
Month	Amount directly diverted or collected to storage (Gallons)	Amount used (Gallons)
January	294577	294577
February	788800	788800
March	667247	667247
April	518441	518441
May	639117	639117
June	681103	681103
July	718556	718556
August	644405	644405
September	648128	648128
October	694220	694220
November	576025	576025
December	603810	603810
Total	7474429	7474429
Comments		

9. Maximum Rate of Diversion for each Month	
Month	Maximum Rate of Diversion (GPM)
January	6.6
February	18.9
March	14.9
April	12
May	14.3
June	15.8
July	16.1
August	14.4
September	15
October	15.6
November	13.3
December	13.5

10. Storage					
Reservoir name	Spilled this year	Feet below spillway at maximum storage	Completely emptied	Feet below spillway at minimum storage	Method used to measure water level

Conservation of Water	
11. Are you now employing water conservation efforts?	No
Description of water conservation efforts	
12. Amount of water conserved	

Water Quality and Wastewater Reclamation

13. During the period covered by this Report, did you use reclaimed water from a wastewater treatment facility, water from a desalination facility, or water polluted by waste to a degree which unreasonably affects the water for other beneficial uses?	No
14. Amount of reclaimed, desalinated, or polluted water used	

Conjunctive Use of Groundwater and Surface Water	
15. During the period covered by this Report, were you using groundwater in lieu of available surface water authorized under your permit?	No
16. Amounts of groundwater used	

Additional Remarks	

Attachments		
File Name	Description	Size
2014 Water Rights Reporting-DW&SP.xls	Use from each respective spring	24 KB

Contact Information of the Person Submitting the Form	
First Name	G SCOTT
Last Name	FAHEY
Relation to Water Right	Primary Owner of Record
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

PROGRESS REPORT BY PERMITTEE FOR 2014

Primary Owner: G SCOTT FAHEY
Primary Contact: G SCOTT FAHEY

Date Submitted: 2015-03-03

Application Number: A031491
Permit Number: 021289

Source(s) of Water	POD Parcel Number	County
UNSP		Tuolumne
UNSP		Tuolumne

MAX Direct Diversion Rate: 0.089 CFS
MAX Collection to Storage: 0.0 AC-FT
Face Value: 64.5 AC-FT

Permitted Use(s)	Acres	Direct Diversion Season	Storage Season
Industrial	0.0	01/01 to 12/31	

1. Permit Review	
I have reviewed my water right permit	Yes

2. Compliance with Permit Terms and Conditions	
I am complying with all terms and conditions	Yes
Description of noncompliance with terms and conditions	

3. Changes to the Project	
Intake location has been changed	
Description of intake location changes	
Type of use has changed	
Description of type of use changes	
Place of use has changed	
Description of place of use changes	
Other changes	
Description of other changes	

4-6. Permitted Project Status	
Project Status	Complete
6a. Construction work has commenced	
6b. Construction is completed	
6c. Beneficial uses of water has commenced	
6d. Project will be completed within the time period specified in the permit	
6e. Explanation of work remaining to be done	
6f. Estimated date of completion	

7. Purpose of Use	
Industrial	Bulk Wholesale of Federally Certified Spring Water to State Certified Water Bottlers

8. Amount of Water Diverted and Used		
Month	Amount directly diverted or collected to storage (Gallons)	Amount used (Gallons)
January	0	0
February	689302	689302
March	419272	419272
April	141585	141585
May	437741	437741
June	600075	600075
July	661652	661652
August	452645	452645
September	396315	396315
October	469579	469579
November	219493	219493
December	247860	247860
Total	4735519	4735519
Comments		

9. Maximum Rate of Diversion for each Month	
Month	Maximum Rate of Diversion (GPM)
January	0
February	17.1
March	9.4
April	3.3
May	9.8
June	13.9
July	14.8
August	10.1
September	9.2
October	10.5
November	5.1
December	5.6

10. Storage					
Reservoir name	Spilled this year	Feet below spillway at maximum storage	Completely emptied	Feet below spillway at minimum storage	Method used to measure water level

Conservation of Water	
11. Are you now employing water conservation efforts?	No
Description of water conservation efforts	
12. Amount of water conserved	

Water Quality and Wastewater Reclamation

13. During the period covered by this Report, did you use reclaimed water from a wastewater treatment facility, water from a desalination facility, or water polluted by waste to a degree which unreasonably affects the water for other beneficial uses?	No
14. Amount of reclaimed, desalinated, or polluted water used	

Conjunctive Use of Groundwater and Surface Water	
15. During the period covered by this Report, were you using groundwater in lieu of available surface water authorized under your permit?	No
16. Amounts of groundwater used	

Additional Remarks

Attachments		
File Name	Description	Size
2014 Water Rights Reporting-M&P.xls	Use from each respective spring	24 KB

Contact Information of the Person Submitting the Form	
First Name	G SCOTT
Last Name	FAHEY
Relation to Water Right	Primary Owner of Record
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

EXHIBIT G



State Water Resources Control Board

April 23, 2015

NOTICE OF UNAVAILABILITY OF WATER AND IMMEDIATE CURTAILMENT FOR THOSE DIVERTING WATER IN THE SAN JOAQUIN RIVER WATERSHED WITH A POST-1914 APPROPRIATIVE RIGHT

On January 23, 2015 and again on April 2, 2015, the State Water Resources Control Board (State Water Board) issued a Notice of Surface Water Shortage and Potential for Curtailment due to dry conditions throughout the State. On April 1, 2015, the Governor issued an executive order, order B-29-15, continuing the state of emergency, initially enacted on January 17, 2014, due to drinking water shortages, diminished water for agriculture production, degraded habitat for fish and wildlife, increased wildfire risk and the threat of saltwater contamination to fresh water supplies in the Sacramento-San Joaquin Delta.

Curtailment of Post-1914 Water Rights:

Based upon the most recent reservoir storage and inflow projections, along with forecasts for future precipitation events, the State Water Board has determined that the existing water supply in the San Joaquin River watershed is insufficient to meet the needs of all water rights holders. With this notice, the State Water Board is notifying all holders of post-1914 appropriative water rights within the San Joaquin River watershed of the need to immediately stop diverting under their post-1914 water rights, with the exceptions discussed below. Please be advised that, if you continue to divert under a claim of pre-1914 right, most or all pre-1914 rights in the San Joaquin River watershed are likely to be curtailed later this year due to the extreme dry conditions. This condition of curtailment will continue until water conditions improve. Even if there is water physically available at your point of diversion, that water is necessary to meet senior water right holders' needs or is water released from storage that you are not entitled to divert. If precipitation occurs in the following weeks or months, you should not commence diversion before being notified by the State Water Board that water is legally available for diversion under your priority of right.

Permission to initiate diversions during or following significant rainfall events may be posted at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/index.shtml#notices. You can get immediate email updates from the State Water Board about these notices by subscribing to "Drought Updates" at: http://www.waterboards.ca.gov/resources/email_subscriptions/

Compliance Certification Required:

Curtailed post-1914 diverters are required to document receipt of this notice by completing an online Curtailment Certification Form (Form) within seven days. The Form confirms your cessation of diversion under the specific post-1914 water right, and, if applicable, identifies the alternate water supply you will use in lieu of the curtailed water right. Completion of the Form is mandatory to avoid unnecessary potential enforcement proceedings. You are required to complete the Form for each post-1914 water right identified through this curtailment at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/curtailment/2015curt_form.php

FELIX MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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

To Water Right Users in the
San Joaquin River Watershed

-2-

April 23, 2015

Exceptions to Curtailment:

If your diversion is for hydroelectric generation and all water diverted is returned to the same stream system, you may continue to divert under your post-1914 permit or license. If you continue to divert under the above circumstances, you must identify that on the Form and provide the information requested. If you have previously collected water to storage in a reservoir covered by a post-1914 right prior to this curtailment notice, you still may beneficially use that previous stored water consistent with the terms and conditions of your post-1914 water right. However, you must bypass all inflow into the reservoir at all times during the curtailment.

No Exception for Health and Safety:

There is no exception to the curtailment notice for health and safety needs. However, we are aware that some water users must comply with directives issued by the Division of Drinking Water (DDW), or local health or drinking water regulation to provide continued water service to meet minimum health and safety standards. Should you continue to divert water under a curtailed water right to meet human health and safety needs, you must complete the Form identifying your health and safety needs, whether there is an applicable DDW, state or local regulation and your attempts at securing an alternate water supply. The State Water Board will carefully analyze the non-exempted continued diversions for minimum health and safety needs on a case-by-case basis.

Potential Enforcement:

Those who are found to be diverting water beyond what is legally available to them may be subject to administrative fines, cease and desist orders, or prosecution in court. The State Water Board may levy fines of \$1,000 per day of violation and \$2,500 for each acre-foot diverted or used in excess of a valid water right. (See Water Code, §§ 1052, 1055.) Additionally, if the State Water Board issues a Cease and Desist Order against an unauthorized diversion, violation of any such order can result in a fine of \$10,000 per day. (See Water Code, §§ 1831, 1845.)

The State Water Board is encouraging diverters to work together to reach local voluntary agreements that not only provide solutions that help local communities with water shortages, but also prevent impacts to other legal users of water and do not cause unreasonable effects on fish and wildlife. If you have any questions, please call our Curtailment Hotline at (916) 341-5342, contact us by email at: SWRCB-Curtailment-Certification@waterboards.ca.gov, or review our drought year webpage at:

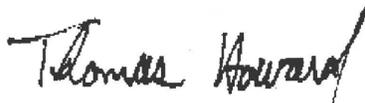
http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/index.shtml

The State Water Board also encourages water right holders to assist in the prevention of unlawful diversion of water and in discouraging any waste or unreasonable use of water. To assist the State Water Board, you may file a complaint at:

http://www.dtsc.ca.gov/database/CalEPA_Complaint/index.cfm.

We recognize the burden and loss this notice creates for you during the drought, and want to assure that others do not illegally benefit from your curtailments.

Sincerely,



Thomas Howard
Executive Director

EXHIBIT H

SUGAR PINE SPRING WATER LP

State Water Resources Control Board
Division of Water Right
P.O. Box 2000
Sacramento, CA 95814-2000

June 3, 2014

Re.: Curtailment Certification Form – OTHER

Ref.: Water Right Applications 29977 and 31491

In good-faith, when ample water resources were available; I purchased a total of eight-two (82) acre-feet of water from the Tuolumne Utility District (TUD), during a two year period from 6/15/09 through 6/15/11. The Stanislaus River was the origin of that water. That water was released by TUD from Phoenix Lake to New Lake Don Pedro Reservoir (NDPR), via Sullivan Creek.

The reason for the purchase and diversion of that water was to ensure the City and County of San Francisco (San Francisco) and the Modesto & Turlock Irrigation Districts (Districts) would have water standing-by behind NDPR in the event “notification by San Francisco of potential or actual water supply reduction” was sent to me as a result of the reference water rights’ applications. Such notice has never been received. In the event that were to occur, the “replacement water” that I would be obligated to provide within one year of said notice would already be available in NDPR for its owners beneficial use.

I acknowledge that if NDPR had spilled, or spills in the future, that the water I have purchased, had divert, and is now pre-positioned there as “replacement water” would be lost and not available to me for its intended purpose.

As the manager of Sugar Pine Spring Water LP’s General Partner, make every effort to ensure the holders of senior downstream water rights are not impacted nor affected by Sugar Pine’s diversion of spring water. That has been accomplished by taking the initiative to purchase “replacement water” when it was available; so, if needed, neither San Francisco nor the Districts must wait one year for it to arrive. As a result, the flow of water from NDPR will not be affected nor will any senior water right holders be impacted by the referenced applications. After consultation with San Francisco and the Districts regarding this matter they concur, therefore, I contend that the diversion and use of water authorized by the referenced water rights applications is legally authorized.

Sincerely,

G. Scott Fahey
Manager of the General Partner
Sugar Pine Spring Water LP

CC: San Francisco – Attn.: Jonathan Knapp

EXHIBIT I

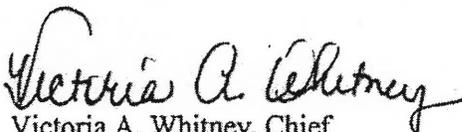
Application X3488

- 3 -

STATEMENT FOR FILES

AN EXCEPTION FROM THE LEGAL EFFECTS OF STATE WATER RESOURCES
CONTROL BOARD DECLARATION OF FULLY APPROPRIATED STREAM SYSTEMS
PURSUANT TO ORDER WR 98-08

I hereby approve an exception to Board Order WR 98-08 pursuant to Section 4.10 as it pertains to Application X3488 by G. Scott Fahey to appropriate water from the three springs in the Tuolumne River watershed in Tuolumne County. Diversion of water during the period from June 16 through October 31 of each year would be subject to maintenance of a water exchange agreement between the applicant and the Modesto Irrigation District and the Turlock Irrigation District. The Agreement will make up for any water right deficiency identified in Board Decisions 995 and 1594, in the above declarations. The applicant would provide replacement water to New Don Pedro Reservoir for all water diverted during the period from June 16 to October 31 of each year by a Water Exchange Agreement, executed on October 20, 2003, with the Tuolumne Utilities District for surplus water.


Victoria A. Whitney, Chief
Division of Water Rights

Dated:

JAN 26 2004

*California Environmental Protection Agency**Recycled Paper*

EXHIBIT J

AGREEMENT

This Agreement, by and between G. Scott Fahey ("Fahey"), an individual, the Turlock Irrigation District ("TID"), a California irrigation district, and the Modesto Irrigation District ("MID"), a California irrigation district, is made with reference to the following:

RECITALS

A. Fahey has filed an application with the State Water Resources Control Board (SWRCB) to appropriate water from Deadwood and Cottonwood springs which are tributary to the Tuolumne River (Application No. 29977).

B. Fahey desires to appropriate up to 40,000 gallons per day (44.82 acre-feet per year) year-round from these two springs under the terms and conditions set forth in Application No. 29977.

C. SWRCB Decision 995 declares that the waters of the Tuolumne River are fully appropriated from July 1 to October 31, and SWRCB Decision 1594 declares that the waters of the Sacramento-San Joaquin Delta are fully appropriated from June 15 to August 31. As a result Fahey is unable to appropriate water from Deadwood and Cottonwood springs from June 15 through October 31 (hereinafter referred to as the "period of unavailability").

D. Fahey proposes an exchange of water with TID and MID (collectively "the Districts") by pumping into Lake Don Pedro an amount equal to the amount of water appropriated from Deadwood and Cottonwood springs during the June 15 through October 31 period of unavailability (hereinafter referred to as "make-up water").

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Fahey shall be entitled to appropriate up to 20,000 gallons per day (22.41 acre-feet per year) from Deadwood Spring and up to 20,000 gallons per day (22.41 acre-feet per year) from Cottonwood Spring according to the terms and conditions in SWRCB Application No. 29977.

2. Between the period June 15 and October 31 of any year, Fahey is limited to 17 acre-feet (40,000 gallons per day x 138 days).

3. To provide sufficient make-up water during the period of unavailability, Fahey shall pump an equivalent amount of ground water from his well located in the SW ¼ of the NE ¼ of the NE ¼ of Section 8, T3S, R15E,

MDB&M. The water shall be discharged into an unnamed tributary thence into the Roger Creek arm of Lake Don Pedro.

4. Fahey may provide make-up water at any time of the year between January 1 and December 31. Fahey may pump more water than is required under this Agreement and build a surplus prior to the period of unavailability; however, no carryover will be allowed to subsequent years.

5. It shall be the responsibility of Fahey to pump sufficient make-up water according to this Agreement and to meet the requirements of SWRCB Decisions 995 and 1594. Failure to pump sufficient make-up water in any one calendar year shall be grounds for termination of this Agreement at the sole discretion of the Districts.

6. This Agreement shall be incorporated into and made a part of any permit or license granted to Fahey by the SWRCB.

7. **Reporting Requirements.** Fahey shall file semi-annual reports with both TID and MID showing the amount of water diverted monthly from Deadwood and Cottonwood springs and amount of water pumped from Fahey's well and discharged into Lake Don Pedro. Reports are due July 31st (covering the period January 1 through June 30) and January 31st (covering the period July 1 through December 31 of the preceding year).

8. **Inspection.** The Districts shall be allowed reasonable access to Fahey's pump to inspect and test the pump and well and to verify the diversions reported by Fahey. The Districts shall provide at least five days' written notice prior to inspection.

9. **Water Rights.** Fahey shall not accrue any interest in the Districts' water rights by virtue of this Agreement. Nothing contained herein shall be construed as a grant of water rights or an interest in the Districts' water rights.

10. **Indemnity.** Fahey shall defend, indemnify and hold Districts, Districts' directors, officers, representatives, agents and employees, and each of them, harmless from and against any and all expenses, losses, damages, claims or liabilities arising directly or indirectly from any act or omission in the performance of Fahey's obligations under this Agreement, and from and against any and all costs, expenses or liabilities incurred in or in connection with any of such claims or any proceeding brought thereon, except to the extent caused by the negligence or willful misconduct of the Districts.

11. **Amendment.** This Agreement may be amended only by a written instrument duly executed by all the parties.

12. **Non-Assignment.** Fahey shall not assign or transfer any right or interest in this Agreement, in whole or in part, without the prior written consent of both TID and MID. Any such assignment or transfer by Fahey without such consent shall be void.

13. **Notice.** Any notice, request, demand or other communication required or permitted hereunder shall be deemed properly given when delivered either by personal delivery in writing, or by first-class mail, postage prepaid, addressed as follows:

G. SCOTT FAHEY
120 North Bryan
Oakdale, CA 95361

TURLOCK IRRIGATION DISTRICT
Attn: General Manager
333 East Canal Drive
P. O. Box 949
Turlock, CA 95381-0949

MODESTO IRRIGATION DISTRICT
Attn: Chief Executive Officer
1231 Eleventh Street
P. O. Box 4060
Modesto, CA 95352

This agreement is dated this 12 day of December, 1992.


G. SCOTT FAHEY 12/12/92

TURLOCK IRRIGATION DISTRICT

MODESTO IRRIGATION DISTRICT


for ERNEST GEDDES
General Manager


KENNETH H. MCKINNEY
Deputy Chief Executive Officer

RESOLUTION NO. 92-207

RESOLUTION APPROVING AGREEMENT BETWEEN
TURLOCK IRRIGATION DISTRICT, MODESTO
IRRIGATION DISTRICT, AND G. SCOTT FAHEY

WHEREAS, G. Scott Fahey (Fahey) has filed an application with the State Water Resources Control Board (Board) to appropriate water from Deadwood and Cottonwood springs which are tributary to the Tuolumne River (Application No. 29977); and

WHEREAS, Fahey desires to appropriate up to 40,000 gallons per day (44.82 acre-feet per year) year-round from these two springs under the terms and conditions set forth in Application No. 29977; and

WHEREAS, The Board has declared that the waters of the Tuolumne River are fully appropriated from July 1 to October 31, and the waters of the Sacramento-San Joaquin Delta are fully appropriated from June 15 to August 31. As a result Fahey is unable to appropriate water from Deadwood and Cottonwood springs from June 15 through October 31; and

WHEREAS, Fahey proposes an exchange of water with the District and the Modesto Irrigation District by pumping into Lake Don Pedro an amount equal to the amount of water appropriated from Deadwood and Cottonwood springs from June 15 through October 31.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Turlock Irrigation District as follows:

1. The water exchange agreement between the District, Modesto Irrigation District, and Fahey is hereby approved.
2. The General Manager is authorized to sign the agreement on behalf of the District.

Moved by Director Short, seconded by Director Berryhill, that the foregoing resolution be adopted.

Upon roll call the following vote was had:

Ayes:	Directors Short, Berryhill, Long, Crowell
Noes:	Directors None
Absent:	Director Clauss

The President Pro Tempore declared the resolution adopted.

I, Barbara A. Hetrick, Secretary of the Board of Directors of the TURLOCK IRRIGATION DISTRICT, do hereby CERTIFY that the foregoing is a full, true, and correct copy of a resolution duly adopted at a regular meeting of the said Board of Directors held the 22nd day of December, 1992.

Barbara A. Hetrick
Secretary of the Board of Directors
of the Turlock Irrigation District

EXHIBIT K

STATEMENT FOR FILES

AN EXCEPTION FROM THE LEGAL EFFECTS OF STATE WATER BOARD DECLARATION OF FULLY APPROPRIATED STREAM SYSTEMS PURSUANT TO ORDER WR 91-07, SECTION 5.1

I hereby approve an exception to Board Orders WR 89-25 and WR 91-07 pursuant to Section 5.1 of Board Order WR 91-07 as it pertains to an application by G. Scott Fahey to appropriate water from two springs in the Tuolumne River water system in Tuolumne County. This exception is subject to a Water Exchange Agreement, executed on December 12, 1992, with the Modesto Irrigation District and the Turlock Irrigation District. The Agreement will make up for any water right deficiency identified in Board Decisions 995 and 1594, in the above declarations, that specify water is not available for appropriation in the watershed upstream from Sacramento-San Joaquin Delta and the Tuolumne River during the period from June 15 to October 31 of each year.



for Edward C. Anton, Chief
Division of Water Rights

Dated: 1-15-93

EXHIBIT L

STATE WATER RESOURCES CONTROL BOARD
 THE PAUL R. BONDERSON BUILDING
 901 P STREET
 SACRAMENTO, CA 95814

Mailing Address:
DIVISION OF WATER RIGHTS
 P.O. BOX 2000, Sacramento, CA 95812-2000



NOTICE OF APPLICATION TO APPROPRIATE WATER

APPLICATION 29977

Notice is hereby given that on July 12, 1991

G. Scott Fahey
 120 North Bryan
 Oakdale, CA 95361

Applied to the State Water Resources Control Board for a permit to appropriate water, subject to vested rights. The Board has determined that the application is in compliance with Section 65943 of the Government Code.

DESCRIPTION OF PROJECT

The applicant proposes to construct facilities to divert 0.031 cubic foot per second (cfs) from Deadwood Spring and 0.031 cfs from Cottonwood Spring by gravity flow through approximately 15,000 feet of two-inch-diameter buried fiberglass pipeline. Water will be held in a 16,500 gallon buried stainless steel holding tank from which approximately 2,000 feet of four inch fiberglass pipeline will convey the water to a tanker-truck filling point located near the center of the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 30, T2N, R17E, MDB&M. The water will then be transported off-site to a bottled water plant.

The applicant entered into an agreement with the Department of Fish and Game for the purposes of establishing protective features for fish and wildlife regarding activities associated with the proposed project.

The applicant also has entered into a water exchange agreement with the Turlock Irrigation District and the Modesto Irrigation District for the period from June 16 to October 31 of each year, when water is not available for appropriation in the Tuolumne River and the Sacramento-San Joaquin Delta systems. Any water that the applicant diverts pursuant to Application 29977 during this period will be replenished into the Roger Creek arm of Lake Don Pedro by pumping an equal amount of groundwater from a well located in the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 8, T3S, R15E, MDB&M.

The project is located approximately four miles southeast of Wil-Wuk Village.

APPLICATION INFORMATION

Water to be appropriated from Unnamed Spring (aka Cottonwood Spring) tributary to Cottonwood Creek thence Clavey River thence Tuolumne River
 Point of Diversion within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T2N, R17E, MDB&M

Water to be appropriated from Deadwood Spring tributary to Unnamed Stream (aka Deadwood Creek) thence Basin Creek thence North Fork Tuolumne River
 Point of Diversion within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T2N, R17E, MDB&M

In the County of Tuolumne
 Amount applied for: 0.062 cu ft/sec
 Water to be used for: Industrial purposes
 Diversion season named: January 1 to December 31

ENVIRONMENTAL INFORMATION

According to the California Environmental Quality Act (CEQA) and its guidelines, Tuolumne County is the lead agency and will be responsible for preparation of appropriate environmental documents for the project and for determining whether or not the project will cause a significant effect on the environment. If you have any information which indicates that the project will have a significant effect on the environment, please send this information to the lead agency immediately and also send a copy to Mr. Mike Falkenstein, State Water Resources Control Board, Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

APPLICATION 29977

Page 2

RELATIVE TO PROTESTS

Protests may be based on possible injury to vested rights or an allegation that the proposed appropriation would not be within the Board's jurisdiction, would not be in the public interest, would have an adverse environmental impact, would result in waste, unreasonable method of use, or unreasonable method of diversion, would impair public trust uses, or would be contrary to law. Any person desiring to protest the Board's issuance of a permit pursuant to this application shall within 40 days from date of notice shown below (or within such further time as may, for good cause shown, be allowed) file a written protest with the State Water Resources Control Board, P.O. Box 2000, Sacramento, California 95812-2000 in care of the contact person specified below. Protest forms will be furnished free of charge upon request. A copy of any protest shall be sent to the applicant.

CONTACT PERSON

- . For protest forms, call (916) 657-2170.
- . For information regarding protests and time extensions, call Yoko Mooring (916) 657-1965.
- . For information regarding CEQA, call Mike Falkenstein (916) 657-1377.

Date of Notice: **JANUARY 29 1993**

EXHIBIT M

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19136 of)
Joe R. Carmel to Appropriate from)
Moccasin Creek in Tuolumne County)

Decision D 995

ADOPTED MAY 4 '61

DECISION DENYING APPLICATION

Joe R. Carmel having filed Application 19136 for a permit to appropriate unappropriated water; protests having been received; the applicant and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 19136 is for a permit to appropriate 0.125 cubic foot per second from Moccasin Creek in Tuolumne County between May 1 and October 30 of each year for irrigation purposes within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 21, T1S, R15E, MDB&M.

2. The applicant's proposed point of diversion on Moccasin Creek is approximately 2.5 miles below the City and County of San Francisco's Moccasin Creek power plant and approximately 0.5 mile above the confluence of Moccasin Creek with the Tuolumne River. Protestants, Modesto Irrigation District and Turlock Irrigation District, have constructed Don Pedro Dam and La Grange Dam approximately 15 and 19 miles, respectively, downstream from the Moccasin Creek-Tuolumne River confluence.

3. The water in Moccasin Creek during the applicant's proposed diversion season is imported by the City and County of San Francisco

through the Hetch Hetchy Aqueduct from Tuolumne River and runs through the Moccasin Creek power plant. It is released into the creek channel for the benefit of protestant districts as required by the Raker Act (38 Stats. 242).

4. Protestants hold License 2425 (Application 6711) authorizing the diversion of 800 cubic feet per second between February 1 and November 30 of each year from the Tuolumne River at La Grange Dam. Application 6711 was filed specifically for the purpose of appropriating the releases made from Moccasin Creek power plant.

5. More water is being diverted and put to beneficial use under License 2425 during the applicant's proposed diversion season than flows from Moccasin Creek into Tuolumne River.

6. The protestants hold other licenses to appropriate from the Tuolumne River for power purposes at their Don Pedro project which require all the flow of the river from July through October of each year.

7. There is no unappropriated water available to supply applicant after about July 1 of each year. A permit limited to the months of May and June would be of no value to applicant, since his trees could not survive without irrigation after July 1.

From the foregoing findings, the Board concludes that Application 19136 should be denied.

The records, documents, and other data relied upon in determining this matter are: the file of Application 19136 and all relevant information on file therewith, with particular reference to the report of field investigation dated July 18, 1960; the files of Licenses 5420 (Application 1232), 5417 (Application 1233), 5421 (Application 1532), 2580 (Application 3139), 2424 (Application 3648), 2425 (Application 6711), 5418 (Application

9996), and 5419 (Application 9997), and Permits 9318 (Application 13604), 9319 (Application 14126) and 9320 (Application 14127); United States Geological Survey (USGS), Sonora and Merced Falls quadrangles, 15-minute series, dated 1948 and 1954, respectively; USGS Water Supply Papers, "Surface Water Supply of the United States, Part 11, Pacific Slope Basins in California".

IT IS HEREBY ORDERED that Application 19136 be, and the same is, denied.

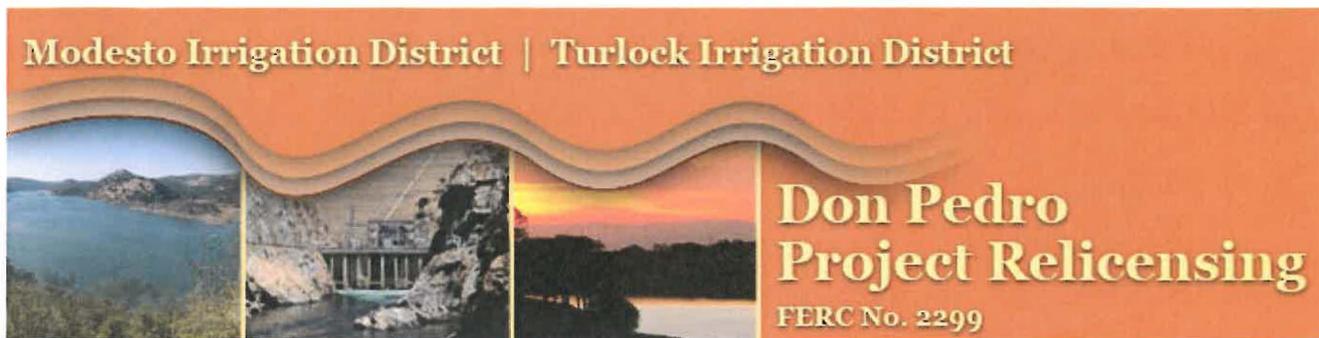
Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of _____, 1961.

Kent Silverthorne, Chairman

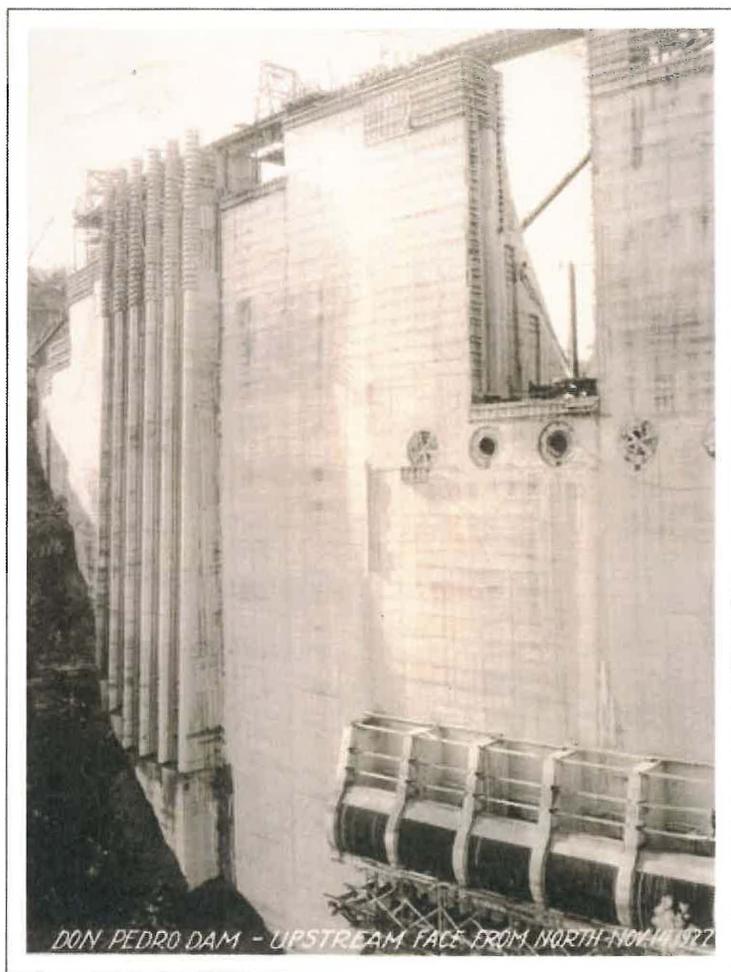
Ralph J. McGill, Member

W. A. Alexander, Member

EXHIBIT N

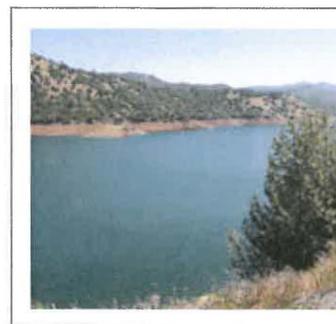


Background



First Don Pedro Dam Construction 1922

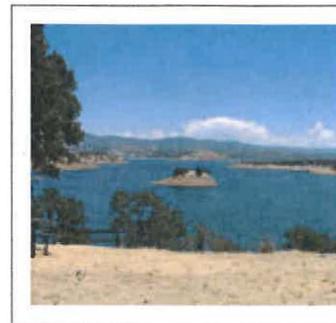
Formed in 1887, the two Districts are the oldest irrigation districts in California. They were created by a vote of the people in accordance with the laws of the State of California to provide water for agricultural purposes in their respective irrigation service areas which today total approximately 200,000 acres of trees, vines, row and



Don Pedro Reservoir

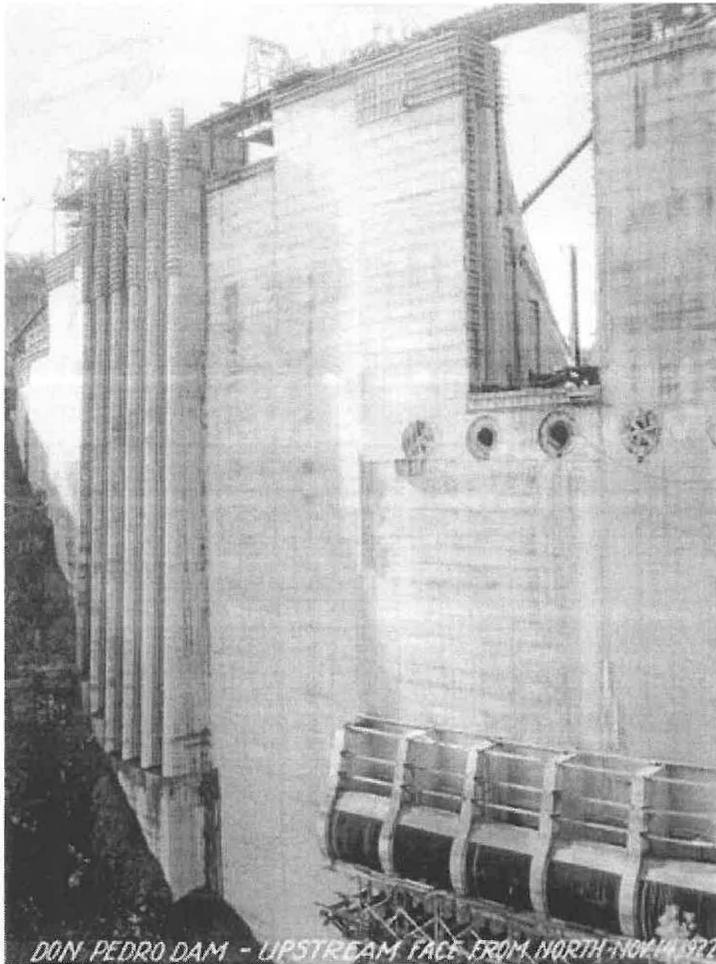


Don Pedro Spillway



Blue Oaks Picnic Area

Background



First Don Pedro Dam Construction 1922

Formed in 1887, the two Districts are the oldest irrigation districts in California. They were created by a vote of the people in accordance with the laws of the State of California to provide water for agricultural purposes in their respective irrigation service areas which today total approximately 200,000 acres of trees, vines, row and forage crops.

Soon after formation, the Districts acquired a water diversion site on the Tuolumne River located downstream of the Don Pedro site along with "pre-1914" water rights; the Districts have added other water rights to these over time. An original Don Pedro Reservoir with approximately 290,400 acre-feet of storage and its associated Powerhouse were brought online in 1923 to improve water availability for the long growing season of the Central Valley and to bring electrification to a portion of this rural area. The Districts have been providing retail electric service to the communities' farms, homes, municipalities, business and industry since that time. Today the Districts serve approximately 200,000 customers in a 1,000 square mile area.

The Tuolumne River has a long history of water planning. Concern over the need to withstand the effects of multiple dry years and the growing demand for electricity resulted in the Districts partnering with the City and County of San Francisco to develop the current Don Pedro Project. The New Don Pedro Project inundated the original dam and impoundment, and the



Water fills between the original and new dams (circa 1971)

resulting current Don Pedro Reservoir has a storage capacity of 2,030,000 acre-feet, over seven times that of its predecessor; the new Don Pedro Powerhouse constructed with the dam has a generating capacity of 203 MW. Planning for the enlarged Don Pedro began in the 1940's and culminated when the Districts received the federal license in 1966 from the Federal Power Commission, predecessor to FERC.

The City and County of San Francisco contributed to the construction of the project but has no ownership interest in the dam, reservoir, or powerhouse, nor does it have any ownership of water in the reservoir. San Francisco participated in construction of the project in order to obtain a water banking arrangement in the new reservoir which provides it with greater flexibility in storing water for use at its upstream power facilities and for water supply. Construction of the project also relieved San Francisco of flood control responsibilities in the watershed thereby providing another important benefit for the City.

As the sixth largest reservoir in California, Lake Don Pedro provides extensive habitat for fish and wildlife, and has a wide recreation following. It is known for its bass tournaments and houseboating. Up to 500,000 visitors come to the reservoir each year to camp, boat,

fish, and enjoy water sports such as skiing, wake boarding, and the use of personal watercraft.

EXHIBIT O

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA
City Attorney

DONN W. FURMAN
Deputy City Attorney

DIRECT DIAL: (415) 554-3959
E-MAIL: donn.w.furman@sfgov.org

November 8, 2004

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, California 95812-2000

Attn: Yoko Mooring
Engineering Associate, Water Rights Processing Unit

Re: Application 31491 – (1) Wet Meadows Springs tributary to Hull Creek; (2) Unnamed Spring (aqua) Marco Spring, and (3) Unnamed Spring (aqua Polo Spring), both tributary to Unnamed Stream thence Hull Creek in Tuolumne County

Dear Engineering Associate Mooring:

On behalf of the City and County of San Francisco, I write to clarify errors in the Notice and to propose minor changes to the wording of certain terms. I also hereby request an extension of time to file a protest in the event these matters cannot be resolved without a formal protest.

On page one the Notice states that "[w]hen Application 29977 was processed for Permit 20784, applicant entered into a water exchange agreement with Turlock Irrigation District, Modesto Irrigation District, and the City and County of San Francisco for the period from June 16 to October 31 of each year when water is not available for appropriation in the Tuolumne River and the Sacramento-San Joaquin Delta systems." The City was not a party to the water exchange agreement dated December 30, 1992 between the two districts and the applicant. The City applicant did agree to terms that were proposed by the City in its letter of December 19, 1994, which the SWRCB stated the applicant had agreed to in its letter of January 24, 1995.

In the same paragraph the Notice states that "...[a]pplicant recently updated the previous water exchange agreement with Tuolumne Utilities District. The updated agreement was executed on October 20, 2003 and submitted to the SWRCB." We are unaware that the applicant previously executed an agreement. On April 25, 1995 applicant submitted a draft agreement with Tuolumne Utilities District to the SWRCB, but the Board did not approve it as indicated in its letter of June 14, 1995. We seek confirmation that the "updated" water exchange agreement is inclusive of the quantities required under Permit 20784 and Application 31491.

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY

Letter to SWRCB
Page 2
November 8, 2004

Finally, we propose the following changes be made to the terms enumerated in permit conditions as they appear in the SWRCB's letter of January 24, 1995, which the City assumes are the same as those enumerated by the SWRCB in Permit 20784, Item 20.

Strike the word "annually" from the last sentence of the first paragraph of provision (2). That sentence would then read "A determination of whether permittee's diversion has potentially or actually reduced the water supplies of San Francisco and the Districts will be made by the latter parties in accordance with water accounting procedures being used by said parties."

Strike the words "the annual" from the first sentence of the second paragraph of provision (2). That sentence would then read "Permittee shall provide replacement water within one year of notification by San Francisco of potential or actual water supply reduction caused by permittee's diversions."

Replace "and/or" with "and" in the last sentence of the second paragraph of provision (2). That sentence would then read "The source, amount and location at New Don Pedro Reservoir of replacement water discharged to the reservoir shall be mutually agreed upon by the permittee, the Districts and San Francisco."

San Francisco only intends to notify the applicant of the need to provide replacement water when necessary; that is, when their use has lead to a reduction, or has a strong potential of reducing, the supplies delivered San Francisco. The wide range of year-to-year hydrology on the Tuolumne River makes it impossible to predict whether or not the diversions of the applicant in one year will have a negative impact to San Francisco the next year or later. Short of notifying the applicant each and every year that their diversions potentially could affect the supplies of San Francisco, thus triggering replacement water each year, our requested modifications to the term will leave the notification to a judgment on our part as to whether the need for replacement water is critical.

Please call me if you have any questions or would like additional information.

Very truly yours,

DENNIS J. HERRERA
City Attorney



Donn W. Furman
Deputy City Attorney

cc: ✓ G. Scott Fahey
2787 Stony Fork Way
Boise, Idaho 83706

Michael Carlin

EXHIBIT P

DANIEL B. STEINER
CONSULTING ENGINEER

MEMORANDUM

TO: Chris Hayashi
FROM: Daniel B. Steiner *Da*
SUBJECT: Impacts Due to Intervening Diversions
DATE: September 26, 1994

At your request, I have developed Table 1 to illustrate the hydrologic and water supply impacts that may be caused by an additional depletion (diversion) below Hetch Hetchy Water and Power Project facilities, such as the proposed diversion by Fahey.

The upper block of data in Table 1 illustrates an example of the status quo. Four different days of hydrologic conditions are illustrated. For example, Day 1 illustrates a day when the unimpaired flow (2,300 cfs) is less than the maximum rights and entitlements of the Districts (2,416 cfs). On this day the Districts are entitled to the full amount of unimpaired flow (2,300 cfs). However, San Francisco has the right to divert the unimpaired flow as long as it has a "positive" balance in its New Don Pedro Water Bank account. The amount of water that is "debited" or "credited" to the account is the difference between the Districts' rights and entitlements and the inflow to New Don Pedro Reservoir. In this instance, 1,000 cfs (inflow to New Don Pedro Reservoir) minus 2,300 cfs (the Districts' rights and entitlements). This negative difference (-1,300 cfs, which equals 2,579 acre-feet) is debited from San Francisco's Water Bank Account balance.

Day 2 illustrates a day when the unimpaired flow is greater than the Districts' maximum rights and entitlements. The credit or debit to the Water Bank Account is always equal to the difference between the Districts' rights and entitlements and the inflow to New Don Pedro Reservoir, and in this instance the Districts' rights and entitlements are capped to 2,416 cfs. Since inflow is less than the Districts' rights and entitlements, a debit of 1,416 cfs (2,809 acre-feet) occurs to San Francisco's Water Bank Account balance.

Day 3 illustrates unimpaired flow conditions the same as Day 1; however, San Francisco causes inflow to New Don Pedro Reservoir to equal 2,500 cfs. The rights and entitlements of each of the entities remain the same as Day 1; however, San Francisco builds a 200 cfs credit (397 acre-feet) in the Water Bank Account since inflow is greater than the Districts' rights and entitlements.

Chris Hayashi
September 26, 1994
Page 2

Day 4 illustrates unimpaired flow conditions the same as Day 2, with inflow to New Don Pedro Reservoir exceeding the Districts' rights and entitlements. Again, San Francisco builds a credit (84 cfs, which equals 167 acre-feet) to the Water Bank Account balance.

The lower block of data in Table 1 illustrates the effect of a diversion of water above New Don Pedro Reservoir. In this example, a diversion of 20 cfs is assumed. The effect of the 20 cfs diversion first appears as a reduction in New Don Pedro Reservoir inflow. Unimpaired runoff and the rights and entitlements of the Districts and San Francisco remain the same; however, since San Francisco's credit or debit to the Water Bank Account is the difference between the Districts' rights and entitlements and inflow to New Don Pedro Reservoir, a reduction in inflow will result in either a lesser credit or a greater debit to the Water Bank Account balance. In both circumstances, San Francisco's water supply is depleted.

The above described examples illustrate that the proposed diversion by Fahey would deplete water from the account of San Francisco in either the "advance releases" (credit) circumstance or the debit circumstance. Therefore, Fahey's proposal to replace only inflow which is depleted during the period when "advance releases" occurs does not fully mitigate his depletions during other periods of time when his diversion will also have an effect on the water supply of San Francisco.

Attachment

Table 1
Example of Water Bank Accounting

Without Intervening Diversion

	Unimpaired Runoff (cfs)	Districts' Cap (cfs)	Districts' Rights & Entitlements (cfs)	Water Available to San Francisco (cfs)	Inflow to New Don Pedro Reservoir (cfs)	Credit or (Debit) to SF Water Bank (cfs)	Water Bank Balance (acre-feet)
Day 1	2300	2416	2300	0	1000	(1,300)	100,000
Day 2	2500	2416	2416	84	1000	(1,416)	97,421
Day 3	2300	2416	2300	0	2500	200	94,613
Day 4	2500	2416	2416	84	2500	84	95,010
							95,176

With Intervening Diversion of 20 Cubic Feet Per Second

	Unimpaired Runoff (cfs)	Districts' Cap (cfs)	Districts' Rights & Entitlements (cfs)	Water Available to San Francisco (cfs)	Inflow to New Don Pedro Reservoir (cfs)	Credit or (Debit) to SF Water Bank (cfs)	Water Bank Balance (acre-feet)
Day 1	2300	2416	2300	0	980	(1,320)	100,000
Day 2	2500	2416	2416	84	980	(1,436)	97,382
Day 3	2300	2416	2300	0	2480	180	94,534
Day 4	2500	2416	2416	84	2480	64	94,891
							95,018

EXHIBIT Q

CONTACT REPORT

DIVISION OF WATER RIGHTS
STATE WATER RESOURCES CONTROL BOARD

Subject X3488Division Personnel Yoko MooringDate 1/30/03 Time p.m.Personal

Where _____

Telephone Number (208) 345-5170Individual(s)/Agency Contacted G. Scott Fahey, Applicant.

Conversation Description Scott called to inquire about the status of X3488. After I checked w/Manas Thanant and Larry Attaway regarding the authorization to accept X3448 under FAS special condition (water exchange), I called him back. I explained that even though Scott added his statement at the end of the application form that he continues to honor the agreements he made in 1992 w/the City & Co of San Francisco and Modesto/Turlock Irrigation Districts for his first application (A29977) for year round DD diversion, we need something more to clarify that those agreements are expandable for the new app. I also questioned the need of WR. His source appears to be groundwater. He said that since the source spring is w/in National Forest land, he needs a WR. Then I referred him to Larry Attaway for further discussion. Apparently, Scott told Larry that his agreement was w/Tuolumne WD. He is bringing out basin water to Tuolumne River to satisfy upstream of Dan Pedro needs. Scott will discuss the matter w/the Tuolumne WD to expand his original contract to apply for this app and get back to us.

Decision(s) _____ Action Items _____

SURNAME

Gm 1/30/03

EXHIBIT R

CONTACT REPORT

DIVISION OF WATER RIGHTS
STATE WATER RESOURCES CONTROL BOARD

Subject X3488

Division Personnel Yoko Mooring

Date 9/25/03 Time p.m.

Personal Where _____

Telephone Number _____

Individual(s)/Agency Contacted G. Scott Fahey, Applicant

Conversation Description Scott called me a couple of times regarding his letter (we received on 9/11/03). He asked if his proposal was acceptable to clear FAS conflict. Today he called back again to follow up the matter. I told him that I discussed with my supervisor and we also discussed with another senior in the Division. Scott's proposal (water exchange) was acceptable if he could provide some evidence that the Tuolumne District was aware of his proposal and they were willing to go with the contract. Scott said that as long as the State Board accepts his proposal he would execute the contract.

Decision(s) _____

Action Items _____

SURNAME	<u>Ym 9/25/03</u>			
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CONTACT REPORT

DIVISION OF WATER RIGHTS

STATE WATER RESOURCES CONTROL BOARD

Subject X3488

Division Personnel Yoko Mooring

Date 12/18/03 Time 9:18

Personal Where _____

Telephone Number (208) 345-5170

Individual(s)/Agency Contacted Scott Fahey, Applicant.

Conversation Description I called Scott to follow up our last conversation regarding the executed contract w/Tuolumne Water District. He said he was about to call me. Mr. Joe Whitmer, Tuolumne District called Scott on Monday and informed him that his contract was approved and he was mailing the original copy of executed contract to him. He said as soon as he received, he would fax it to me. Meanwhile, if I needed to confirm w/Tuolumne he gave me Mr. Joe Whitmer's number (209) 532-5536 ex 515.

Decision(s) _____

Action Items _____

SURNAME	<u>Ym 12/18/03</u>			
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EXHIBIT S



Terry Tamminen
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

MEMORANDUM

TO:

1. Manas Thananant *Manas Thananant*
2. Steven Herrera *SAH - 1/24/05*
3. Victoria Whitney *VW 1/24/04*

FROM:

Yoko Mooring
Yoko Mooring
Engineering Associate
Water Rights Processing Unit

DATE:

December 23, 2003

SUBJECT: AUTHORIZATION TO ACCEPT AN APPLICATION (X3488)
IN A FULLY APPROPRIATED STREAM SYSTEM PURSUANT TO
EXCEPTION CONDITIONS SPECIFIED IN BOARD ORDER WR 98-08

This is a request for your written approval to accept an application to appropriate 0.089 cubic foot per second (cfs), annual limit of 64.5 acre-feet, from fully appropriated streams; Sacramento-San Joaquin Delta upstream and the Tuolumne River in Tuolumne County. Water Code section 1206(a) provides that the State Water Resources Control Board (SWRCB) shall not accept any application within that stream system, following the adoption of a Declaration that a stream system is fully appropriated. SWRCB Order 98-08 identifies the Sacramento-San Joaquin Delta watershed upstream from the Delta as fully appropriated between June 16 and August 31 (Decision 1594), and the Tuolumne River upstream from Don Pedro Reservoir as fully appropriated between July 1 and October 31 (Decision 995). However, Section 4.10 of Order WR 98-08 sets guidance for administrating the declaration and specifically allows an exception to accepting an application on a fully appropriated stream where water is made available under an Exchange Agreement.

Application X3488 submitted by G. Scott Fahey seeks to appropriate water, year round, by direct diversion, for industrial purposes (bottled water) from the three springs (Wet Meadows Springs, Marco Spring, and Polo Spring) which are tributary to the Tuolumne River thence the Sacramento-San Joaquin Delta water system. Decision 995 found that the Modesto Irrigation District (MID) and the Turlock Irrigation District (TID) hold water right licenses to appropriate all of the flow of the Tuolumne River water for power purposes from July through October of each year. Also, the City and County of San Francisco claims pre-1914 appropriative rights

SURNAME

Gm/12/23/03

California Environmental Protection Agency

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Application X3488

2

pursuant to the Raker Act of 1913 on any diversion of water flowing into New Don Pedro Reservoir.

Background History: On July 12, 1991, Mr. Fahey filed his first application (Application 29977) for 0.062 cfs, for industrial purposes, from the two springs (different from X3488) that are tributary to the Tuolumne River and the Sacramento-San Joaquin Delta water system. At the time, Mr. Fahey entered into a water exchange agreement, which was executed on December 12, 1992, with the MID and the TID for the period from June 16 to October 31 of each year, when water is not available for appropriation in the Tuolumne River and the Sacramento-San Joaquin Delta system. Any water that the applicant diverts pursuant to this application will be replenished into the Roger Creek arm of Lake Don Pedro by pumping an equal amount of groundwater from a well located in the SW ¼ of NE ¼ of NE ¼ of Section 8, T3S, R15E, MDB&M. With this agreement, the Chief of the Division of Water Rights approved for exception from the fully appropriated stream system and Application 29977 was accepted and processed for a notice. The application was protested by several organizations and Mr. Fahey successfully negotiated and resolved all protests except one filed by the City and County of San Francisco. After the field investigation (Filante) and the subsequent extensive negotiations, Mr. Fahey entered into a private agreement with the City and County of San Francisco. After the San Francisco protest was resolved, Permit 20784 was issued on March 23, 1995.

Therefore, with this experience behind, when Mr. Fahey submitted a new application (X3488), he included the statement under penalty of perjury, that the new application shall be conditional upon and subject to the terms and conditions of the previous agreements: (1) Agreement, dated December 12, 1992, between G. Scott Fahey and the TID and MID, and as enumerated by the State Water Resources Control Board, Division of Water Rights, Permit #20784, Item 19, (2) Conditions 1, 2a, 2b, 2c, 2d, and 2e within the City of San Francisco letter, dated December 19, 1994, and as enumerated by the State Water Resources Control Board, Division of Water Rights, Permit 20784, Item 20.

However, the Division, under the previous management, requested further evidence that the water exchange contract be updated and available for the new application. Subsequently, Mr. Fahey went through the application process with the Tuolumne Utilities District for surplus water service and updated the water exchange contract. On December 19, 2003, he provided the Division a copy of the executed contract, dated October 20, 2003.

If you agree with the above-described exception to the Declaration of Fully Appropriated Stream Systems regarding a Water Exchange Agreement, please execute the attached Statement for Files.

Attachment

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California Environmental Protection Agency

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EXHIBIT T

Account # _____ Station # Phoenix Dam mydocuments/rules/surplus.wtr/application for Surplus water 4 2001

TUOLUMNE UTILITIES DISTRICT
APPLICATION AND AGREEMENT FOR SURPLUS WATER SERVICE

Scott Fahey, hereinafter called "Applicant," has requested TUOLUMNE UTILITIES DISTRICT, hereinafter called "District," to sell to Applicant, when available, non-potable untreated "Surplus Water" and deliver the same to Applicant from the District's Phoenix Ditch, at the rate applicable to a 0.05 minors-inch, at a cost per unit delivered determined by applying 1.4 Ac-Ft (Forty-one) (fee/rate schedule) for use on the N/A acre parcel, that is Tuolumne County Assessor's Parcel Number N/A and being located at (service address) 7.0 Mile Post / Cottonwood Rd., telephone # (208) 345-5170.

For the Application will be considered complete, a map showing: 1) location of property, 2) area to which water will be applied, and 3) extent of service, must be attached hereto. The use of water under this application is restricted to lands, area, quantity and flow of water, and purpose of use as stated herein. Any use other than stated herein, including but not limited to applying water to lands other than identified on the attached map will be considered sufficient cause for the District's immediate termination of this application.

The District is willing to comply with Applicant's request subject to the following terms and conditions:

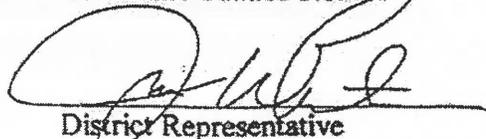
1. All deliveries of water hereunder will be made in accordance with District's Rules and Regulations applicable to such service, it being agreed, however, that nothing will prevent District from ceasing, restricting or apportioning deliveries hereunder in the case of insufficient water supply.
2. Applicant shall pay District in full immediately upon receipt of billing from the District for untreated water at the rate and charges set forth in the District's Raw Water Rate schedule identified herein above, and as revised from time to time by the District's Board of Directors.
3. Applicant hereby acknowledges notification that all water supplied hereunder is untreated water from open ditches, canals and conduits and is unfit for human consumption. Water provided hereunder is not intended nor in any way offered, and shall not be used for, residential or domestic uses including, but not limited to drinking, cooking or bathing. Any such use of this water shall be grounds for the District to immediately terminate this agreement and District shall thereby be released from any obligation for the delivery of such water.
4. Deliveries of water hereunder shall be made at the point where Applicant's water conduit contacts District facility and measurements shall be made as near thereto as practicable. All necessary works for the measurement and diversion of water from said facility shall be installed, owned, maintained and operated by District. The cost to the District of all labor and materials, including measuring devices, for the diversion of water from said facility shall be born by Applicant. All conduits and right-of-ways necessary for receiving and conveying water from said point of delivery to Applicant's point of use shall be provided and installed by Applicant and Applicant shall be responsible for the maintenance and operation thereof. Applicant's failure to operate and maintain the same shall be cause for discontinuance of service.
5. District shall have the right to temporarily discontinue water deliveries hereunder in order to perform necessary maintenance, repairs or improvements to the canal system or associated facilities. It is not uncommon for these outages to last seven or more consecutive days. In the event of a reduction or interruption of the water supply because of drought, errors in operation, or other causes beyond the control of the District, no liability shall accrue to the District, or its officers, agents or employees for any damage arising therefrom. Applicant shall indemnify and hold the District harmless against any claim or action arising out of any injury, illness or damage resulting from the unauthorized use of such water.
6. In the event of non-payment of water charges, District may discontinue the delivery of water, and may additionally record a claim of lien upon the property to which water is provided.
7. The term of this agreement shall be from the date of execution through the end of the current calendar year; provided, either party shall have the right to terminate this agreement by giving the other party thirty (30) days written notice.

Executed this 20th day of October 2003.

Applicant:

Tuolumne Utilities District:


Applicant Signature


District Representative

Mailing Address 2787 Shaw Fork Way

City Boise State ID Zip 83706

EXHIBIT U

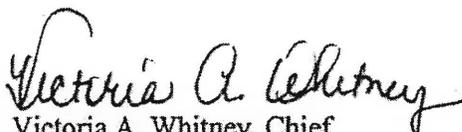
Application X3488

- 3 -

STATEMENT FOR FILES

AN EXCEPTION FROM THE LEGAL EFFECTS OF STATE WATER RESOURCES
CONTROL BOARD DECLARATION OF FULLY APPROPRIATED STREAM SYSTEMS
PURSUANT TO ORDER WR 98-08

I hereby approve an exception to Board Order WR 98-08 pursuant to Section 4.10 as it pertains to Application X3488 by G. Scott Fahey to appropriate water from the three springs in the Tuolumne River watershed in Tuolumne County. Diversion of water during the period from June 16 through October 31 of each year would be subject to maintenance of a water exchange agreement between the applicant and the Modesto Irrigation District and the Turlock Irrigation District. The Agreement will make up for any water right deficiency identified in Board Decisions 995 and 1594, in the above declarations. The applicant would provide replacement water to New Don Pedro Reservoir for all water diverted during the period from June 16 to October 31 of each year by a Water Exchange Agreement, executed on October 20, 2003, with the Tuolumne Utilities District for surplus water.


Victoria A. Whitney, Chief
Division of Water Rights

Dated:

JAN 26 2004

California Environmental Protection Agency

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EXHIBIT V



Terry Tamminen
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>



Arnold Schwarzenegger
Governor

NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

APPLICATION: 31491

DATE FILED: January 28, 2004

Notice is hereby given that G. Scott Fahey has filed an application for a water right permit to divert water from (1) Wet Meadows Springs tributary to Hull Creek, (2) Unnamed Spring (aka Marco Spring), and (3) Unnamed Spring (aka Polo Spring), both tributary to Unnamed Stream thence Hull Creek in Tuolumne County. The State Water Resources Control Board (SWRCB) will determine whether a water right permit should be issued for the application and, if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterrights.ca.gov. Any correspondence directed to the applicant should be mailed to:

G. Scott Fahey
2787 Stony Fork Way
Boise, ID 83706

Description of Project

Applicant proposes to construct facilities to develop three springs in order to divert 0.089 cubic foot per second (cfs) from January 1 to December 31 for industrial purposes. A total diversion from three springs will not exceed a rate of 0.089 cfs (39.9 gallons per minute) and 64.5 acre-feet per year. Three springs (Wet Meadows Springs, Marco Spring, and Polo Spring) will be developed by first excavating a pit approximately 15 to 25 feet in depth, boring a five-inch diameter hole by a horizontal-boring machine for a maximum boring length of 800 feet, and then installing the diversion pipeline system of a three-inch diameter PVC pipe. The water from the three springs will be conveyed through the pipeline system by gravity into the existing buried stainless steel holding tank downstream, then to a tanker-truck filling point approximately 2,000 feet away, where the water will be transported off-site to a bottled water plant. The facilities for the holding tank and the tanker-truck filling point were constructed under Permit 20784 (Application 29977) which authorizes the applicant to divert 0.062 cfs from other springs in the area; therefore, no new construction is proposed for this part.

When Application 29977 was processed for Permit 20784, applicant entered into a water exchange agreement with Turlock Irrigation District, Modesto Irrigation District, and the City and County of San Francisco for the period from June 16 to October 31 of each year when water is not available for appropriation in the Tuolumne River and the Sacramento-San Joaquin Delta systems. Applicant accepts and understands that Application 31491 shall be conditioned and subjected to the same terms and conditions as the previous agreements. Further, applicant recently updated the previous water exchange agreement with Tuolumne Utilities District. The updated agreement was executed on October 20, 2003 and submitted to the SWRCB. The project is located approximately four miles southeast of Wil-Wuk Village.

California Environmental Protection Agency

Application 31491

- 2 -

Summary of Application

County: Tuolumne.
 Source: (1) Wet Meadows Spring
 (2) Unnamed Spring (aka Marco Spring)
 (3) Unnamed Spring (aka Polo Spring).
 Points of
 Diversion: Located within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11, T2N, R17E, MDB&M
 Located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 22, T2N, R17E, MDB&M
 Located within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 22, T2N, R17E, MDB&M.
 Amount: 0.089 cubic feet per second of direct diversion,
 not to exceed a total of 64.5 acre-feet per year.
 Season: January 1 to December 31 for direct diversion.
 Purpose: Industrial.
 Place of Use: SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 30, T2N, R17E, MCB&M

Environmental Information

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; SWRCB, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION**Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

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If the protest is based on an allegation that the proposed appropriation would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division's website at www.waterrights.ca.gov/forms/ or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the 40th day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14th Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The SWRCB will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

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For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

Resolution of Protests

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "minor" project (the proposed diversion is 3 cubic feet per second or less by direct diversion or 200 acre-feet or less per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Yoko Mooring by phone at (916) 341-5362 or by electronic mail at ymooring@waterrights.swrcb.ca.gov. Information and protest forms are also available at the Division's website: www.waterrights.ca.gov/forms/.

Date of Notice: OCT 01 2004

EXHIBIT W

/KDM
A031491

STATE WATER RESOURCES

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Celebrating Our
91st Anniversary
DIV. OF WATER RIGHTS**GRIFFITH & MASUDA**

A PROFESSIONAL LAW CORPORATION

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www.calwaterlaw.com
Founded 1920W. Coburn Cook, 1892-1953
Lin H. Griffith, retiredRoger K. Masuda
rmasuda@calwaterlaw.com

March 18, 2011

VIA U.S. MAIL & EMAIL

Ms. Katherine Mrowka
Division of Water Rights
State Water Resources Control Board
P. O. Box 2000
Sacramento, CA 95812-2000

Re: Application 31491 of G. Scott Fahey – Notice of Proposed Mitigated Negative Declaration

Dear Ms. Mrowka:

I am writing this letter on behalf of both the Turlock Irrigation ("TID") and the Modesto Irrigation District ("MID") (collectively, the "Districts") in response to the above Notice. A Protest based on Environmental Considerations and Other Issues, dated November 9, 2004; to the above application was filed by Scott T. Steffen, then MID Assistant General Counsel. Mr. Steffen is now a Stanislaus County Superior Court Judge.

In Section 3.E of the MID-TID Protest, Mr. Steffen pointed out that the October 1, 2004 Notice of Application to Appropriate Water by Permit stated the following:

When Application 29977 was processed for Permit 20784, applicant [G. Scott Fahey] entered into a water exchange agreement with Turlock Irrigation District, Modesto Irrigation District, and the City and County of San Francisco for the period from June 16 to October 31 of each year when water is not available for appropriation in the Tuolumne River and the Sacramento-San Joaquin Delta systems. Applicant accepts and understands that Application 31491 shall be conditioned and subjected to the same terms and conditions as the previous agreements.

The Division of Water Rights' 2004 Notice went on to state, "Further, applicant recently updated the previous water exchange agreement with Tuolumne Utilities District. The updated agreement was executed on October 20, 2003 and submitted to the SWRCB."

The City of County of San Francisco ("CCSF") independently filed a Protest, which was resolved and the Protest dismissed when the Division of Water Rights in its letter dated January 31, 2005, to CCSF, agreed to include the terms requested by CCSF in any permit issued pursuant to the above application. CCSF's accepted permit terms included more restrictive and detailed

email copy received
3-18-11. KDM

Katherine Mrowka, SWRCB

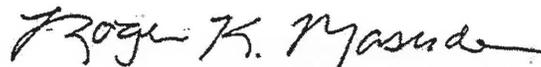
March 18, 2011

requirements in addition to the water exchange agreement. Those terms specifically protect the prior rights of both CCSF and the Districts and inclusion of those terms in the permit would be sufficient to resolve the Districts' Protest.

In reviewing the Initial Study/Mitigated Negative Declaration, there does not appear to be any reference to the MID-TID-CCSF-Fahey water exchange agreement, the Fahey-Tuolumne Utilities District water exchange agreement, or the more restrictive and detailed requirements in the DWR-accepted CCSF permit terms. Since compliance with those water exchange agreements and the accepted CCSF permit terms are to be an integral part of the proposed project, it would appear that they should be at least referenced in Section C, Project Description.

Please don't hesitate to contact me if you have any questions.

Very truly yours,



ROGER K. MASUDA
General Counsel
Turlock Irrigation District

cc: Turlock Irrigation District (R. Nees, D. Liebersbach)
Modesto Irrigation District (W. Ward, J. Warren, W. Johnston)
City and County of San Francisco (D. Furman)

G. Scott Fahey
c/o Diane Kinderman
Abbott & Kindermann, LLP
2100 - 21st Street
Sacramento, CA 95818

Central Sierra Environmental
Resource Center
Box 396
Twain Harte, CA 95383

Stanislaus National Forest
19777 Greenley Road
Sonora, CA 95370