

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

DIVISION OF WATER RIGHTS

In the Matter of License 3979 (Application 12054)

USDA FOREST SERVICE TAHOE NATIONAL FOREST

**ORDER APPROVING PETITION FOR CHANGE, 1707 INSTREAM FLOW
DEDICATION, AND ISSUING AMENDED LICENSE**

SOURCE: **Bear Creek**

COUNTY: **Sierra**

WHEREAS:

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Water Right License 3979 to Clyde Holler and Clyde Tye Holler on July 22, 1954, pursuant to Permit 7080. Ownership was transferred to George and Dorothy Biggs on March 21, 1963, then to Ted Nestor on November 1, 1971, then a partial assignment to Scott Chapman on October 2, 1984. On January 9, 2003, ownership was assigned to David Gallino before being transferred to the United States Forest Service Tahoe National Forest (licensee) on April 14, 2006.
2. License 3979 authorizes direct diversion of up to 1 cubic foot per second from April 1 to July 15 for domestic and mining uses within Sections 28, 29, and 33, all within Township 19 North, Range 11 East, Mount Diablo Base & Meridian in Sierra County.
3. On May 14, 2024, licensee submitted a petition to change the purposes of use and the place of use for License 3979 under Water Code section 1707. Licensee proposed to add Fish and Wildlife Preservation and Enhancement and change the place of use to instream flow dedication in a reach of Bear Creek and the Middle Fork Yuba River, downstream of the licensed point of diversion. Domestic and mining uses are to be removed from License 3979.

4. License 3979 does not include a maximum annual amount limitation. Consistent with current Division practice, the Division must include a maximum annual limitation for water authorized for diversion and use under this right. Division staff has determined and included a quantity limitation of 210.3 acre-feet per year in the amended license.
5. No additional conditions outside of standard license terms are recommended to be included in the amended license issued pursuant to this petition for change of License 3979.
6. There is one water diverter within the segment of instream flow dedication for the subject license. A riparian claim, S016508, owned by Sierra Pacific Industries (SPI) is within the segment and is senior to License 3979. The instream flow dedication is junior to this claim and will not affect SPI from diverting water. The petitioner indicated that there will be no construction or ground disturbance proposed in the dedication of the instream flow. Thus, Division staff believes that the proposed change in the place and purpose of use is consistent with a California Environmental Quality Act (CEQA) Categorical Exemption, Class 8, Actions by Regulatory Agencies for Protection of the Environment, in accordance with California Code of Regulations, title 14, section 15308. The Division will file a Notice of Exemption with the State Clearing House within five days of the issuance of this order.
7. In addition to any obligation the State Water Board may have under CEQA, the State Water Board has an independent obligation to consider the effect of the proposed change 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].) There is no evidence that the petition will have any adverse impacts on public trust resources.
8. Pursuant to Resolution No. 2012-0029, the State Water Board has delegated authority to the Deputy Director for Water Rights (Deputy Director) to administer the duties required under CEQA and act on change petitions. By memorandum dated April 20, 2023, the Deputy Director has redelegated the authority.

THEREFORE, THE PETITION FOR CHANGE IN THE PURPOSE OF USE AND THE PLACE OF USE FOR LICENSE 3979 IS APPROVED AND AMENDED WATER RIGHT LICENSE 3979 IS ISSUED AS FOLLOWS:

1. The Point of Diversion and Upstream Limit of Instream Flow Dedication:

By California Coordinate System of 1983, Zone 2, North 2,302,489 feet and East 6,915,360 feet, being within the Southeast quarter of the Southwest quarter of

Section 28, Township 19 North, Range 11 East, Mount Diablo Base and Meridian (MDB&M).

The Downstream Limit of Instream Flow Dedication:

By California Coordinate System of 1983, Zone 2, North 2,287,985 feet and East 6,899,042 feet, being within the Southeast quarter of the Northwest quarter of Section 12, Township 18 North, Range 10 East, MDB&M.

2. The Purpose of Use and Place of Use:

Fish and Wildlife Preservation and Enhancement on Bear Creek and the Middle Fork Yuba River within the stream segment downstream of upstream limit to the downstream limit, terminating within Section 12, Township 18 North, Range 10 East, MDB&M.

3. Amended License 3979 includes the following terms:

Licensing Term 5A: The water dedicated under this right shall be limited to 1 cubic foot per second for instream flow dedication from April 1 to July 15 of each year. The maximum amount dedicated for instream use under this right shall not exceed 210.3 acre-feet per year.

Standard Term R: Right holder shall comply with the measuring and monitoring requirements as specified in the terms of this right or any reporting requirements by statute, order, policy, regulation, decision, judgment or probationary designation. The more stringent requirement shall control in each instance where there is a conflict or inconsistency between the requirements. Right holder shall comply with the measuring and monitoring requirements of chapter 2.8, title 23, California Code of Regulations.

4. Amended License 3979 shall include all the current Division standard terms and conditions A through Q as applicable.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
DEREK WADSWORTH, FOR

*Juliet Christian-Smith, Deputy Director
Division of Water Rights*

Dated: May 13 ,2026