STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 1346 PERMIT 812 LICENSE 1622

ORDER APPROVING CHANGE ADDING POINTS OF REDIVERSION AND PLACE OF USE AND AMENDING THE LICENSE

WHEREAS:

1. License 1622 was issued to the Southern California Edison Company on February 29, 1936, pursuant to Application 1346.

2. License 1622 was filed with the County Recorder of Fresno County on March 5, 1936.

3. A Petition for Change has been filed with the State Water Resources Control Board (SWRCB).

4. On May 11, 1987, the U.S. Bureau of Reclamation's protest was resolved based on a demonstration that the operation of the proposed Balsam Meadows Pumped Storage facility will not result in an injury to the prior rights of the United States.

5. On May 5, 1998, the Division of Water Rights determined that the public trust issues raised in the protest filed by the California Sportfishing Protection Alliance are not within the purview of the SWRCB. The Federal Energy Regulatory Commission is responsible for establishing minimum instream flows and determining fishery needs for hydropower projects (State of California v. Federal Energy Regulatory Commission, 495, U.S. 490, 109, L. Ed. 2d 474, 110 S. Ct. 2024 (1990)).

6. The petitioned changes would not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The average rate of water diversion through the Balsam Meadow Powerhouse, in both the flow through mode and the pumped storage mode, or any combination thereof, cannot exceed 1,780 cfs over any 14-day period under Licenses 1617, 1618, 1619, 1620, 1621, 1622, 5730, 5732, 6002 and Permit 19261. (0060900)

2. The license condition regarding the points of diversion be amended to add two points of rediversion:

   A) Balsam Meadow Dam: South 34° East 3,100 feet from NW corner of Section 9, T9S, R25E, MDB&M, being within the SE¼ of NW¼ of said Section 9.

B) Shaver Lake Dam: N 27° 20'18" East 1,591.2 feet from S¼ corner of Section 13, T9S, R24E, MDB&M, and within the NW¼ of SE¼ of said Section 13.

(0000002)

3. The license condition regarding the place of use be amended to include an additional place of use:

Balsam Meadow Powerhouse: SW¼ of NW¼ of Section 16, T9S, R25E,MDB&M.

As shown on a map on file with the SWRCB.

(0000004)

4. 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 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 an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the federal Endangered Species Act for the project authorized under this permit.

(0000014)

Dated: JANUARY 7 1999

Harry M. Schueller, Chief
Division of Water Rights

FORM 64

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

LICENSE 1622 PERMIT 812 APPLICATION 1346

THIS IS TO CERTIFY, *That* Southern California Edison Company, Ltd. (formerly Southern California Edison Company) of Los Angeles, California, *has made proof to the satisfaction of the Division of Water Resources of California of a right to the use of the waters of* Stevenson Creek in Fresno County

tributary of San Joaquin River

for the purpose of generating power
under Permit 812 *of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from* July 3, 1919;

that the amount of water to which such right is ~~[illegible]~~ *hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed* sixty-two thousand (62,000) acre feet per annum to be diverted and used under the following limitations and conditions to wit: (1) the rate of diversion, except to storage in Shaver Lake Reservoir which is unlimited, shall not exceed 620 cubic feet per second; (2) diversion may be made either for immediate use at Power Houses 2A, 8 and 3 or for similar use after storage in a reservoir of maximum capacity of 135,375 acre feet at Shaver Lake, all as more particularly described hereinafter; and (3) the combined total rate of diversion forimmediate use without storage from Stevenson Creek under this license and from Pitman Creek under Application 1345, License 1621, shall not exceed a maximum daily average of 620 cubic feet per second, and the maximum rate of simultaneous use under this license and under Application 1341, License 1617, Application 1342, License 1618, Application 1343, License 1619, Application 1344, License 1620, Application 1345, License 1621, at Power Houses 1 and 2A shall not exceed 1,286 cubic feet per second.

Diversion, Rediversion, Storage, and Use respectively are made at the following places as shown on map entitled "Exhibit C-10 DIVISION OF WATER RESOURCES - STATE OF CALIFORNIA Applications 1341 to 1346 - Permits 807 to 812", etc., filed with the Division of Water Resources June 3, 1935, amended and refiled February 24, 1936.

PLACES OF DIVERSION, REDIVERSION AND STORAGE

(a) Divert for immediate use and to storage in Shaver Lake Reservoir from Stevenson Creek in the NW¼ of SE¼ of Section 13, T 9 S, R 24 E, M.D.B.&M. at a point which bears N. 27° 20' 18" E. 1591.20 feet from the South quarter corner of Section 13, T 9 S, R 24 E, M.D.B.&M.; (b) Redivert on Big Creek at Dam No. 5 in the SE¼ of SE¼ of Section 26, T 8 S, R 24 E, M.D.B.&M. at a point which bears N. 0° 58' 31" W. 6276.23 feet from the Southwest corner of Section 36, T 8 S, R 24 E, M.D.B.&M.; (c) Redivert on San Joaquin River at Dam No. 6 in the SW¼ of NE¼ of Section 27, T 8 S, R 24 E, M.D.B.&M. at a point which bears N. 8° 29' 55" W. 9231.86 feet from the Southeast corner of Section 34, T 8 S, R 24 E, M.D.B.&M.

PLACES OF USE

Power House No. 2A in SW¼ SW¼ Section 26, T 8 S, R 24 E, M.D.B.&M.
Power House No. 8 in NE¼ NE¼ Section 27, T 8 S, R 24 E, M.D.B.&M.
Power House No. 3 in SW¼ NW¼ Section 17 and SE¼ NE¼ Section 18, both in T 9 S, R 24 E, M.D.B.&M.

The water is returned to San Joaquin River in the SE¼ NE¼ Section 18, T 9 S, R 24 E, M.D.B.&M.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

SEC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same 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 or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; *and providing, further*, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; *and providing, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; *and provided, further*, that when such municipality shall desire to use the additional waters granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness my hand and the seal of the Department of Public Works of the State of California, this 29th *day of* February, 19 36.

EDWARD HYATT
State Engineer

By Harold Conkling
Deputy

LICENSE 1622

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE
TO APPROPRIATE WATER

ISSUED TO So. Calif. Edison Co., Ltd.

DATED February 29, 1936

2542 A-33 1M CALIFORNIA STATE PRINTING OFFICE

2