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

DIVISION OF WATER RIGHTS

In the Matter of Licenses 3927, 3928 and 9993 (Applications 3736, 11270 and 15566)

Bass Lake Water Company

ORDER APPROVING CHANGES IN POINT OF DIVERSION AND PLACE OF USE, AND ISSUING AMENDED LICENSES

SOURCE: North Fork Willow Creek

COUNTY: Madera

WHEREAS:

1. The following table identifies the licenses subject to this change petition, together with information on the licenses.

Application Number	License Number	Issuance Date	Direct Diversion Amount Cubic Foot per Second
3736	3927	May 20, 1954	0.3
11270	3928	May 20, 1954	0.05
15566	9993	March 1, 1973	0.57

Recording of these licenses, and subsequent orders issued thereto, is prescribed by Water Code section 1650.

2. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) record of ownership for Licenses 3927, 3928 and 9993 shows the current holder of the licenses as Bass Lake Water Company.

3. Licensee petitioned the Division on March 24, 2009 to change the point of diversion and increase the place of use for each of the licenses. Licensee is consolidating and amending the place of use of the three licenses.

4. Public notice of the petitions was issued on May 21, 2009. No protests were filed.

5. Environmental review began on May 21, 2009. Licensee provided information on April 29, 2011 substantiating that the lands covered by the change petition, specifically the area in Section 8, T7S, R22E, MDB&M which is a subdivision of 114 residential homes was authorized by the Public Utilities Commission (PUC) in 1985. Those residences have had continuous service since that time. Therefore, the proposed change in place of use is entirely within the environmental baseline condition of the project and does not require further review under the provisions of the California Environmental Quality Act (CEQA).

   The change in point of diversion was addressed in an Initial Study/Mitigated Negative Declaration (MND) prepared by the California Department of Public Health (DPH), as CEQA lead agency.

DPH prepared an MND for the project titled “Bass Lake Surface Water Treatment Plant Project”, State Clearinghouse SCH #2008091066 which evaluated installation of a new raw water intake located on Willow Creek near Bass Lake. On December 30, 2008, DPH issued a Notice of Determination for the MND. The Department of Fish and Game (DFG) relied on the MND to issue Stream Alteration Agreement No. 2008-0150-R4 for installation of the new water intake. Licensee plans to install a screened well in the creek in an existing pool, after removing sediment. After construction, the well will be covered with gravel. Existing access roads will be used, and no riparian vegetation will be removed.

The Division has reviewed the MND and determined that the petitions to change the point of diversion can be approved because the potential for environmental impacts associated with the new point of diversion was evaluated. No new license conditions are recommended based on the MND. The State Water Board will issue a Notice of Determination within five days of issuance of this order.

In addition to any obligation the State Water Board may have under CEQA, the Board has an 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].) There is no evidence that approval of the petition to change the point of diversion with the mitigation measures listed in the MND by the CEQA lead agency will have any adverse impacts on public trust resources. There is also no evidence that approval of the petition to change the place of use will have any adverse impacts on public trust resources.

6. The State Water Board standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for State Department of Fish and Game stream alteration agreement shall be updated or added to the amended licenses.

7. The State Water Board has determined the amended licenses do not constitute initiation of new rights, and do not injure prior rights or the public trust resources of the State.

8. The State Water Board has determined that the licenses shall be amended to include the following specific changes:

   (a) Remove the existing point of diversion on North Fork Willow Creek.

   (b) Add a new point of diversion on North Fork Willow Creek, California Coordinate System of 1983, Zone 3, North 1,944,694 feet and East 6,831,568 feet, being within NW¼ of SE¼ of Section 9, T7S, R22E, MDB&M.

   (c) Revise the place of use to include Sections 8, 9, 15 and 16, T7S, R22E, MDB&M, as shown on map dated April 29, 2011 on file with the State Water Board.

THEREFORE, IT IS ORDERED:

1. The attached amended License 3927 is issued, superseding former License 3927 issued on May 20, 1954. The priority of amended License 3927 is November 30, 1923.

2. The attached amended License 3928 is issued, superseding former License 3928 issued on May 20, 1954. The priority of amended License 3928 is January 30, 1946.

3. The attached amended License 9993 is issued, superseding former License 9993 issued on March 1, 1973. The priority of amended License 9993 is October 5, 1953.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
JAMES W. KASSEL FOR:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: DEC 09 2011

Attachments

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

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 11270 PERMIT 6514 LICENSE 3928

THIS IS TO CERTIFY, That

Bass Lake Water Company
P.O. Box 113
Bass Lake, CA 93604

has the right to the use of the waters of **North Fork Willow Creek** in **Madera County**

tributary to **San Joaquin River**

for the purpose of **Domestic use.**

Amended License 3928 supersedes the license originally issued on **May 20, 1954**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (State Water Board), or its predecessor, and the terms of **Permit 6514**. The priority of this right dates from **January 30, 1946**. Proof of maximum beneficial use of water under this license was made as of **August 12, 1953** (the date of inspection).

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **five hundredths (0.05) cubic foot per second to be diverted from January 1 to December 31 of each year. The maximum diverted under this license shall not exceed 36.2 acre-feet per year.**

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

By California Coordinate System of 1983, Zone 3, North 1,944,694 feet and East 6,831,568 feet, being within NW¼ of SE¼ of Section 9, T7S, R22E, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Within the service area boundary, being within Sections 8, 9, 15 and 16, T7S, R22E, MDB&M, as shown on map dated April 29, 2011 on file with the State Water Board.

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

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the State Water Board.

Licensee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the 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 license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee 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 license and to determine accurately water use as against reasonable water requirement 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 licensee 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.

The quantity of water diverted under this license is subject to modification by the State Water Board if, after notice to the licensee 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.

This license 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 2089) 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 licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the State Water Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license 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 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, 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 license 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 licensee 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. 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 the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
PHILLIP CRADER FOR:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: DEC 09 2011