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

DIVISION OF WATER RIGHTS

In the Matter of License 5382 (Application 15038)
U.S. Coast Guard

ORDER REVOKING LICENSE

SOURCE: Putah Creek tributary to Yolo Bypass

COUNTY: Shasta County

WHEREAS:

1. The State Water Resources Control Board (State Water Board) issued License 5382 on October 22, 1958 to the Sixth United States Army-Post Engineer Section, Presidio of San Francisco. The license authorizes Licensee to divert thirty-five thousandths (0.035) cubic foot per second (cfs) from January 1 to December 31 of each year for domestic and industrial uses.

2. The license was transferred to the U.S. Army Corps of Engineers by letter dated June 4, 1969.

3. The license was assigned to the U.S. Coast Guard by letter dated December 10, 1975. Division of Water Rights (Division) records show U.S. Coast Guard as the current owner of License 5382.

4. License 5382 was amended on May 5, 2000 to include certain terms and conditions as required by State Water Board Order WR 96-002. Order 96-002 addressed Condition 12 of the United States Bureau of Reclamation's permits to divert water from Putah Creek.

5. The triennial Report of Licensee for 1998 to 2000 shows that Licensee did not divert any water in 1999 and 2000.

6. Coast Guard personnel contacted Division staff on January 12, 2005 and advised the Division that the Coast Guard hasn't made any diversions pursuant to License 5382 since 1998 because the Coast Guard drilled a groundwater well and uses the new well. The Coast Guard removed the pump from the water source.

7. Section 1241 of the Water Code provides: "When a person entitled to the use of water fails to use beneficially all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of five years, such unused water may revert to the public and shall, if reverted, be regarded as unappropriated public water."

8. Division records show Licensee has ceased to use the water for purposes for which the appropriation was made from 1999 through the present.

Based on the above facts, the Division concludes that:

1. Licensee has ceased to put the water granted under License 5382 to a useful purpose for a period exceeding five years.

2. Licensee has not provided a basis to determine the water right should not be revoked, therefore Licensee's water right should revert to the public pursuant to Water Code Section 1241.

3. On February 16, 2006, Licensee was provided notice by certified mail of the proposed revocation. The notice provided the Licensee the opportunity to object to the proposed revocation and request a hearing.

4. The Licensee did not submit a request for a hearing to the Division.

5. The State Water Board has found that Licensee failed to apply the water to beneficial use under the terms and conditions of this license.

THEREFORE, IT IS ORDERED that License 5382 is hereby revoked by the State Water Board pursuant to Water Code section 1675, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD

Victoria A. Whitney, Chief
Division of Water Rights

Dated: AUG 15 2006

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

DIVISION OF WATER RIGHTS

In the Matter of License 5382 (Application 15038)
U.S. Coast Guard

NOTICE OF PROPOSED REVOCATION

SOURCE: Putah Creek tributary to Yolo Bypass

COUNTY: Lake

You are hereby notified, pursuant to Water Code section 1675 et seq., that the State Water Resources Control Board (State Water Board) is proposing to revoke License 5382 because the Licensee has ceased to put the water granted under the license to a useful or beneficial purpose.

The facts and conclusions upon which the proposed revocation is based are as follows:

1. The State Water Board issued License 5382 on October 22, 1958 to the Sixth United States Army-Post Engineer Section, Presidio of San Francisco. The license authorizes the Licensee to divert thirty-five thousandths (0.035) cubic foot per second (cfs) to be diverted from January 1 to December 31 of each year for domestic and industrial uses.

2. The license was transferred to the U.S. Army Corps of Engineers by letter dated June 4, 1969.

3. The license was assigned to the U.S. Coast Guard by letter dated December 10, 1975. The Division of Water Rights' (Division) records show U.S. Coast Guard as the current owner of License 5382.

4. License 5382 was amended on May 5, 2000 to include certain terms and conditions as required by State Water Board Order WR 96-002. Order 96-002 addressed Condition 12 of the United States Bureau of Reclamation's permits to divert water from Putah Creek.

5. The triennial Report of Licensee for 1998 to 2000 shows that the licensee did not divert any water in 1999 and 2000.

6. Coast Guard personnel contacted Division staff on January 12, 2005, and advised the Division that the Coast Guard hasn't made any diversions pursuant to License 5382 since 1998 because the Coast Guard drilled a groundwater well and uses the new well. The Coast Guard removed the pump from the water source.

7. Section 1241 of the Water Code provides: "When a person entitled to the use of water fails to use beneficially all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of five years, such unused water may revert to the public and shall, if reverted, be regarded as unappropriated public water."

8. Division records show Licensee has ceased to use the water for purposes for which the appropriation was made from 1999 through the present.

Based on the above facts, the Division concludes that:

1. Licensee has ceased to put the water granted under License 5382 to a useful purpose for a period exceeding five years.

2. Licensee has not provided a basis to determine the water right should not be revoked, therefore Licensee's water right should revert to the public pursuant to Water Code Section 1241.

As required by Water Code Section 1675.1, you are hereby notified that the State Water Board will revoke License 5382, based on the above facts and conclusions, unless a written request for a hearing, signed by or on behalf of the Licensee, is delivered or mailed to the State Water Board's Division of Water Rights at the address listed on the cover letter within 15 days after receipt of this notice.

STATE WATER RESOURCES CONTROL BOARD

Victoria A. Whitney

Victoria A. Whitney, Chief
Division of Water Rights

Dated: FEB 16 2006

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION **15038** PERMIT **9277** LICENSE **5382**

THIS IS TO CERTIFY, That US Coast Guard
Coast Guard Island
Alameda, CA 94501

Has the right to use waters of **Putah Creek in Lake County** tributary to **Yolo Bypass**

for the following purposes: **Domestic, Industrial**

Amended License **5382** supersedes the license originally issued on **10/22/1958**, which was perfected in accordance with the laws of California, the regulations of the SWRCB or its predecessor, and the terms of Permit **9277**. The priority of this right dates from 10/02/1952. Proof of maximum beneficial use of water pursuant to Application **15038** was made as of **10/22/1957** (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed **0.035 cubic feet per second to be diverted from January 1st to December 31st**

Unless a change is approved by the State Water Resources Control Board (SWRCB), water used under this license may be diverted, rediverted, stored and used only as specified below;

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

North 300 feet and East 700 feet from W¼ corner of Section 24, T11N, R6W, MDB&M, being within SW¼ of NW¼ of said Section 24.

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

Within SE¼ of SW¼ of Section 23, T11N, R6W, MDB&M, as shown on map on file with SWRCB.

Licensee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Licensee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this license for noncompliance with the terms of the Agreement.

(2) The Court has appointed a Watermaster to implement the provisions of the Agreement. The licensee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.

(3) Licensee may employ existing methods or means of measurement (or alternatively any other standard means of measurement normally acceptable or satisfactory to the SWRCB in its administration of appropriative water rights) for determining the amount of water directly diverted under this license, unless otherwise specified by the Agreement.

(4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with Section 3.A.3 (Measuring Devices) of the Agreement.

(5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water directly diverted under this license. Such annual reports shall be made in writing on forms approved by the watermaster.

(6) The watermaster shall have the right to enter to inspect measuring equipment and to observe compliance with the terms and conditions of this license, upon 48-hour prior notice and upon such reasonable conditions as licensee may prescribe.

(7) Licensee is hereby put on notice that there may be years when diversion of water under this license will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this license.

(8) In the event Allowable Depletion is exceeded in any year, licensee shall curtail direct diversions of water during ensuing seasons until the amount of the exceedence is paid back consistent with the repayment provisions of the Agreement. (Agreement pp. 9, 10, and 11)

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversion (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, licensee shall be excused from any further obligation for repayment of the overage.

(10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Licensee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the license.

(12) Licensee is hereby put on notice of licensee's right, upon reasonable prior notice, to inspect and to copy, at licensee's own expense, all records and reports of the watermaster.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license.
(0000024)

The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this license to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995 Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.
(0000012)

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 Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

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

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.

This license is granted and 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 SWRCB.

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.

Dated: MAY 5 2000

STATE WATER RESOURCES CONTROL

SWRCB

Harry M. Schueller

Chief, Division of Water Rights

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 15038 PERMIT 9277 LICENSE 5382

Sixth United States Army - Post Engineer Section
Presidio of San Francisco
San Francisco, California

Notice of Change (Over)

THIS IS TO CERTIFY, *That* has *made proof as of* October 22, 1957 *(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of* Putah Creek in Lake County

tributary to Yolo By-Pass

for the purpose of domestic and industrial uses *under Permit* 9277 *of the State Water Rights Board and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from* October 2, 1952 *and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed* thirty-five thousandths (0.035) cubic foot per second to be diverted from January 1 to December 31 of each year.

The point of diversion of such water is *located:*
North three hundred (300) feet and east seven hundred (700) feet from W¼ corner of Section 24, T11N, R6W, MDB&M, being within SW¼ of NW¼ of said Section 24.

A description of the lands or the place where such water is put to beneficial use is as follows:
Within SE¼ of SW¼ of Section 23, T11N, R6W, MDB&M.

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 Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

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

FORM 64

This license is granted and 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 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 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.

Dated: OCT 2 2 '58

L. K. Hill
L. K. Hill
Executive Officer

11-14-75 RECEIVED NOTICE OF ASSIGNMENT TO Twelfth Coast Guard District

3-27-89 Asgd to U.S. Coast Guard

LICENSE 5382
STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO Sixth United States Army

DATED OCT 2 2 '58

72649 3-58 5M SPO