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

DIVISION OF WATER RIGHTS

In the Matter of Permit 8649 (Application 13130)

Browns Valley Irrigation District

ORDER APPROVING PETITION FOR CHANGE AND ISSUING LICENSE

SOURCE: Dry Creek tributary to Yuba River

COUNTY: Yuba County

WHEREAS:

1. Permit 8649 was issued pursuant to Application 13130 on July 20, 1951. Term No. 7 of the permit states "Complete application of the water to the authorized use shall be made by December 1, 1985."

2. The Division of Water Rights (Division) record of ownership for Permit 8649 shows Browns Valley Irrigation District as the current holder of the permit.

3. On October 11, 1986, Division staff conducted an inspection of the project authorized by Permit 8649 and recommended licensing of the permit based on a maximum beneficial use of water completed in 1981. The Division offered a license subject to approval of a petition for change to add points of rediversion, add recreation as a use, and increase the place of use. A Request for License, incorporating the petition for change, was signed by the permittee on December 17, 1986, and returned to the Division with the required petition fee.

4. The Browns Valley Irrigation District prepared a Negative Declaration for the project as Lead Agency under the California Environmental Quality Act (CEQA), Public Resources Code 21000 et seq.

5. On June 19, 2002, the Division determined that the subject petition for change will have a less-than-significant impact on the environment after reviewing the Negative Declaration, and will incorporate the following mitigation measures included in the environmental document in the license approving the project:

   a. To protect vernal pool habitat, no water appropriated under this license shall be applied above the 100-foot contour line on the knoll ("Knoll 132") located within Section 13, T16N, R4E, MDB&M, and in Section 18, T16N, R5E, MDB&M.

   b. To protect blue oak woodland habitat, no water supplied under these licenses shall be applied within the drip line of any blue oak trees located in the 72 acres of designated blue oak woodland in Section 13, T17N, R4E, MDB&M.

6. The State Water Resources Control Board (State Water Board) standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for a State Department of Fish and Game stream alteration agreement is updated or added to the license.

7. The State Water Board has determined the change does not constitute an initiation of a new right and does not injure prior rights or the public trust resources of the State.

THEREFORE, IT IS ORDERED:

The Petition for Change to add points of rediversion, add recreation as a use, and increase the place of use is hereby approved, and the attached license is issued pursuant to Permit 8649, Application 13130.

STATE WATER RESOURCES CONTROL BOARD

For

Victoria A. Whitney, Chief
Division of Water Rights

Dated: AUG 3 1 2005

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

DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 13130 PERMIT 8649 LICENSE **13608**

THIS IS TO CERTIFY, That

Browns Valley Irrigation District
P.O. Box 6
Browns Valley, CA 95918

has made proof as of **October 11, 1986** (the date of inspection) to the satisfaction of the State Water Resources Control Board (SWRCB) of a right to the use of the waters of **Dry Creek** in **Yuba County**

tributary to **Yuba River thence Feather River**

for the purpose of **Domestic, Irrigation and Recreational uses**

under Permit **8649** of the SWRCB; that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the SWRCB, and the permit terms; that the priority of this right dates from **June 2, 1949**; and that 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 **twenty thousand (20,000) acre-feet per annum to be collected from October 1 of each year to April 30 of the succeeding year. The maximum withdrawal in any one year shall not exceed 20,000 acre-feet.**

The maximum amount of water collected to storage under this license and the license issued pursuant to Application 13873 shall not exceed 51,900 acre-feet per year. The maximum amount of water held in storage in Lake Collins has been 57,000 acre-feet.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

(A) Virginia Ranch Dam - South 200 feet and East 550 feet from NW corner of Section 21, T17N, R6E, MDB&M, being within NW¼ of NW¼ of said Section 21.

THE POINTS OF REDIVERSION OF SUCH WATER ARE LOCATED:

(B) Sicard Flat Ditch - North 2,100 feet and West 2,500 feet from SE corner of Section 33, T17N, R6E, MDB&M, being within NW¼ of SE¼ of said Section 33;

(C) Harding Creek Canal - South 1,400 feet and East 1,400 feet from NW corner of Section 20, T17N, R6E, MDB&M, being within SE¼ of NW¼ of said Section 20; and

(D) Tennessee Ditch - South 1,600 feet and East 1,850 feet from NW corner of Section 24, T17N, R5E, MDB&M, being within SE¼ 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:

Recreational use at Lake Collins within Sections 4, 5, 8, 9, 16, 17, 20 and 21, T17N, R6E, MDB&M, and Domestic use and Irrigation of 11,000 acres net within a gross area of 50,650 acres within the boundaries of Browns Valley Irrigation District, as shown on map filed with the SWRCB.

To protect vernal pool habitat, no water appropriated under this license shall be applied above the 100-foot contour line on the knoll ("Knoll 132") located within Section 13, T16N, R4E, MDB&M, and in Section 18, T16N, R5E, MDB&M.

To protect blue oak woodland habitat, no water supplied under this license shall be applied within the drip line of any blue oak trees located in the 72 acres of designated blue oak woodland in Section 13, T17N, R4E, MDB&M.

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 SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB 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 SWRCB 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 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 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 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.

STATE WATER RESOURCES CONTROL BOARD

John O'Hagan, for

Victoria A. Whitney, Chief
Division of Water Rights

Dated:

AUG 3 1 2005