

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

ORDER WR 2012-0033-EXEC

In the Matter of Permits 8964 and 20785 (Applications 12526 and 30299)

Templeton Community Services District

ORDER APPROVING PETITIONS FOR EXTENSION OF TIME

SOURCE: Salinas River Underflow Tributary to Pacific Ocean

COUNTY: San Luis Obispo

BY THE EXECUTIVE DIRECTOR:

WHEREAS:

1. On May 5, 1952, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permit 8964 (Application 12526) to San Luis Obispo County Water Works, District 5. Permit 8964 required that complete application of the water to the proposed use be made on or before December 1, 1954. Permittee requested and the Division issued orders granting extensions of time to complete beneficial use under the permit until December 1, 1958, December 1, 1960, December 7, 1963, December 1, 1965, December 1, 1968, and September 30, 1970. On June 1, 1972, following a hearing, the State Water Board granted Permittee a further extension of time until December 1, 1981.
2. On or about February 3, 1978, Permit 8964 was assigned to Templeton Community Services District (Permittee). On November 6, 1981, Permittee petitioned the State Water Board for a 10-year extension of time to complete beneficial use.
3. On February 6, 1986 Permittee petitioned for another 10-year extension of time. By order dated August 9, 1990 the State Water Board granted the Permittee an extension of time to complete beneficial use by December 31, 1999. A petition for extension of time within which to develop the project and apply the water to the proposed use under Permit 8964 was filed on December 3, 1999. On October 3, 2000, the State Water Board approved an extension for the Permittee to complete beneficial use by December 31, 2010.
4. Permit 20785 was issued to the Permittee on March 28, 1995. The permit required that complete application of the water to full beneficial use be made by December 31, 1999.
5. On December 29, 2010, the Permittee filed the subject petitions, requesting an additional 20-year extension of time to complete beneficial use under Permits 8964 and 20785. The basis cited was that the community is still building out and that both water conservation measures implemented and the recent economic downturn had slowed growth and constrained water demand.
6. The State Water Board may grant an extension of time within which to commence or complete construction work or apply water to beneficial use upon a showing of good cause. (Wat. Code, § 1398). Permittee must show that: (1) due diligence has been exercised; (2) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably

avoided; and (3) satisfactory progress will be made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay.

7. Permittee has shown that due diligence has been exercised. Among other things, Permittee has constructed all facilities necessary to serve the full amount of water it can appropriate under the permits. With the State Water Board's authorization, Permittee added and implemented a new point of diversion to optimize its diversion operations. Permittee's petitions for extension of time would allow for adequate time to accommodate growth within the community up to the permitted authorized maximum diversions. Permittee's implementation of significant conservation measures has slowed the growth in the community's water demand. Up through 2006, the community experienced significant growth as approved by San Luis Obispo County. Permittee's appropriations under Permit 8964 reached a maximum of 399.41 acre-feet out of an authorized 500 acre-foot appropriation. Under Permit 20785, Permittee's appropriations reached a maximum of 106 acre-feet out of an authorized appropriation of 133.7 acre-feet.
8. Permittee has shown that failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided. As discussed above, Permittee requests a permit extension so that it may have adequate time to accommodate growth within the community. Permittee has constructed all facilities necessary to serve the full amount of water it can appropriate under the permit, but Permittee's implementation of conservation measures and significantly slower growth since 2006 have slowed growth in the community's water demand. Since 2008, Permittee has made only 56 new connections to its water system. Permittee requests a time extension so that Permittee has enough time for anticipated higher water demands to occur.
9. Permittee has shown that satisfactory progress will be made if extension of time is granted. Permittee has constructed all facilities necessary to appropriate the maximum amount of water authorized by the permit. No new infrastructure is required because Permittee's facilities are in place. Additional time will allow Permittee to reach demand levels supporting full authorized appropriation under the permits at the current slower pace. San Luis Obispo County's Salinas River Area Plan projects that the City of Templeton is still growing and will not reach full build-out until 2020 or beyond.
10. Permittee has shown good cause for the time extension.
11. Pursuant to Resolution No. 2002-0104, the State Water Board has delegated authority to the Executive Director to conduct and supervise the activities of the State Water Board.
12. Pursuant to Resolution No. 2012-0029, the State Water Board has delegated authority to the Deputy Director to administer the duties required under the California Environmental Quality Act (CEQA). (Resolution No. 2012-0029, section 4.10.) Resolution No. 2012-0029 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director for Water Rights. This authority has been so redelegated.
13. On February 7, 2006, Permittee adopted a mitigated negative declaration (SCH No.200512156) for the project in order to comply with CEQA. The Division has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The Division will file a Notice of Determination within five days from the issuance of this order.

14. 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 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, 658 P.2d 709].) There is no evidence that Amended Permits 8964 (Application 12526) and 20785 (Application 30299) will have any adverse impacts on public trust resources.

NOW, THEREFORE, IT IS ORDERED THAT THE STATE WATER BOARD HEREBY APPROVES THE PETITIONS FOR EXTENSION OF TIME. THE ATTACHED AMENDED PERMITS, WHICH INCORPORATE THE TIME EXTENSIONS, ARE ISSUED.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Thomas M. Howard
Executive Director

Dated: NOV 16 2012

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

DIVISION OF WATER RIGHTS

AMENDED PERMIT FOR DIVERSION AND USE OF WATER

APPLICATION 12526

PERMIT 8964

Permittee: Templeton Community Services District
P.O. Box 780
Templeton, CA 93465

An amended permit on **Application 12526** filed on **May 28, 1948** has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this amended permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Salinas River Underflow

Tributary to:

Pacific Ocean

within the County of **San Luis Obispo**.

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 5	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
(1) Platz Well North 2,410,941 feet and East 5,761,427 feet	SW ¼ of SW ¼	9	27S	12E	MD
(2) Smith Well North 2,398,811 feet and East 5,759,734 feet	SE ¼ of NE ¼	29			
(3) Creekside Well North 2,400,638 feet and East 5,760,724 feet	SW ¼ of SW ¼	21			

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Domestic, Municipal	3,400 acres within the Templeton Community Services District service area boundary within Sections 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31 and 32, T27S, R12E; Sections 24, 25 and 36, T27S, R11E; Sections 5 and 6, T28S, R12E; all within MDB&M, as shown on map.					

The place of use is shown on map filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **1.5 cubic feet per second** by direct diversion to be diverted from **October 1** of each year to **April 1** of the succeeding year. The maximum amount diverted under this permit shall not exceed **500 acre-feet per year**.

(000005A)
 6. The total quantity of water diverted under this permit and the permit pursuant to Application 30299 shall not exceed 500 acre-feet per year.

(000005Q)
 7. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by **December 31, 2020**.

(0000009)
 8. Permittee shall consult with the Division and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval within one year from the date of this amended permit or such further time as, for good cause shown, may be allowed by the State Water Board. A progress report on the development of a water conservation program may be required by the State Water Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(000029B)
 9. No water shall be directly diverted under this permit unless permittee is monitoring and reporting said diversion of water. This monitoring shall be conducted using devices and methods satisfactory to the Deputy Director for Water Rights. The devices shall be capable of monitoring the rate and quantity of water diverted and shall be properly maintained.

Permittee shall provide the Division of Water Rights with evidence that the devices have been installed with the first annual report submitted after device installation. Permittee shall provide the Division of Water Rights with evidence that substantiates that the devices are functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

Permittee shall maintain a record of all diversions under this permit that includes the date, time, rate of diversion, and the amount of water diverted. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.

(000000R)
 10. The State Water Board reserves jurisdiction over this permit to modify, delete, or add minimum flow requirements or related criteria for the protection of fish and wildlife in the Salinas River should (1) additional fishery studies be conducted in the Salinas River, or (2) unforeseen adverse impacts occur to the fishery in the Salinas River. Action by the State Water Board will be taken only after notice to interested parties and opportunity for hearing.

(0390600)
-

THIS PERMIT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued. (0000010)
- C. Permittee 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 permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, 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 permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee 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 permit and to determine accurately water use as against reasonable water requirements 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 permittee 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.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee 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. (0000013)

- F. 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 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 permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)
- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605. (0000015)
- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by Department of Fish and Game. (0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit 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 1391. Every permit 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 permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, 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 permit 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 permittee 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 permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: NOV 07 2012

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2009 – 0057 - EXEC

In the Matter of the Petitions of Templeton Community Services District for
Reconsideration of Division of Water Rights Order of June 19, 2009 regarding
Petition for Change of Water Right Permits 8964 and 20785
(Applications 12526 and 30299, respectively)

TEMPLETON COMMUNITY SERVICES DISTRICT
Petitioner and Permittee

SOURCE: Salinas River
COUNTY: San Luis Obispo

**ORDER GRANTING RECONSIDERATION AND MODIFYING JUNE 19, 2009
DIVISION OF WATER RIGHTS ORDER AND AMENDED PERMITS**

BY THE EXECUTIVE DIRECTOR:

1.0 INTRODUCTION

Templeton Community Services District (District) petitions the State Water Resources Control Board (State Water Board or Board) for reconsideration of the Division of Water Rights' (Division) Order that approved the District's Change in Point of Diversion, corrected coordinates of an existing point of diversion and amended Permit 8964 and Permit 20785.

The State Water Board Executive Director finds that the petition raises substantial issues related to the causes for reconsideration set out in California Code of Regulations, title 23, section 768 and grants the District's petition for reconsideration. This order modifies the June 19 Order and directs the Division to issue amended permits consistent with this order.

2.0 APPLICABLE LAW

Any interested person may petition the State Water Board for reconsideration of a decision or order on any of the following grounds:

- (a) irregularity in the proceedings or abuse of discretion;
- (b) the decision or order is not supported by substantial evidence;
- (c) there is relevant evidence, which in the exercise of reasonable diligence, could not have been produced; or
- (d) an error in law.

(Cal. Code Regs., tit. 23, § 768.)

The State Water Board may refuse to reconsider a decision or order if the petition for reconsideration fails to raise substantial issues related to the causes for reconsideration set forth in section 768 of the State Water Board's regulations. (Cal. Code Regs., tit. 23, § 770, subd. (a)(1).) Alternatively, after review of the record, the State Water Board also may deny the petition upon a finding that the decision or order was appropriate and proper, set aside or modify the decision or order or take other appropriate action. (*Id.*, subd. (a)(2)(A)-(C).)

State Water Board Resolution No. 2007-0057 delegates to the Executive Director the authority to supervise the activities of the State Water Board. The Executive Director's consideration of a petition for reconsideration falls within the scope of authority delegated under Resolution No. 2007-0057. Accordingly, the Executive Director has the authority to refuse to reconsider a petition for reconsideration, deny the petition, set aside or modify the order, or take other appropriate action.

3.0 FACTUAL BACKGROUND

On February 14, 2008, the District petitioned to add a new point of diversion (the "Creekside" well) to License 4829, Permit 8964 and Permit 20785.¹ The District completed environmental review for the project in 2006 pursuant to the California Environmental Quality Act. The District concluded there were no adverse water resource related effects associated with the project because the project would involve adding a new point of diversion 2,100 feet from an existing point of diversion and the diversion would be from the Salinas River underflow. The District circulated a Mitigated Negative Declaration, and the State Water Board and Department of Fish and Game (DFG) submitted comments. The District certified the Mitigated Negative Declaration on February 7, 2006.

The State Water Board publicly noticed the change petition on May 15, 2008. The Board received a timely protest to the petition from Defenders of Wildlife (Defenders). The protest was

¹ The District's petition for reconsideration concerns only Permits 8964 and 20785.

dismissed, and on August 15, 2008, Defenders submitted a timely petition for reconsideration of the Division's decision not to accept the protest. In an order issued April 24, 2009, the Executive Director denied the request for reconsideration.

On June 19, 2009, the Division issued an Order approving the District's change petition and issued Amended Permits 8964 and 20785. On July 15, 2009, the State Water Board received a petition from the District requesting reconsideration of the Order.

At issue are several new permit terms and conditions that were included in the amended permits. The District claims: 1) substantial evidence does not support the inclusion of the terms; 2) the State Water Board committed an error in law by including the terms; and 3) there is relevant evidence that the District could not have produced prior to issuance of the order because it had no notice the terms would be included in its permits.

The District requests that the State Water Board take the following actions:

1. Revise Term 1 of the June 19 Order and restore the District's pre-existing "Platz" well point of diversion and reinstate that point of diversion in Permits 8964 and 20785.
2. Delete Term 6 of the June 19 Order requiring preparation of an Urban Water Management Plan, and delete related Term 8 in Amended Permit 8964 and Term 7 in Amended Permit 20785. The District claims it is not large enough to require an Urban Water Management Plan.
3. Delete Term 9 in Amended Permit 8964. This term requires measurable flow in the Salinas River at United States Geological Survey (USGS) Gage No. 11147500 prior to and during diversion.
4. Delete Term H from Amended Permits 8964 and 20785. Term H requires Permittee to consult with DFG and obtain a Streambed Alteration Agreement or waiver thereof for work in the waterway. The District claims that the new Creekside point of diversion is not in the Salinas River streambed, and that DFG did not indicate that a Streambed Alteration Agreement was necessary when it commented on the District's Mitigated Negative Declaration.

In support of its petition, the District included: 1) a copy of a 1972 State Water Board Order that discusses Permit 8964; 2) USGS surface water data for Gage No. 11147500; 3) the District's

June 2009 "Water and Sewer Report"; 4) the District's annual Water Quality Report; and 5) a declaration from the District's General Services Manager.

4.0 DISCUSSION

4.1 Restoration of "Platz" Well Point of Diversion to Amended Permits 8964 and 20785

In issuing Amended Permits 8964 and 20785, the Division deleted a point of diversion known as the "Platz" well based on information obtained from the District that the well diverts percolating groundwater not under the water right permitting jurisdiction of the State Water Board. The District claims this was in error. In a Declaration from its General Services Manager, the District asserts that it has several wells designated as "Platz" wells.² According to the District, some of the "Platz" wells divert percolating groundwater, while at least one "Platz" well diverts Salinas River underflow. The District has reviewed its records and has concluded that the point of diversion that was removed from Permits 8964 and 20785 was not a percolating groundwater well but rather a well that diverts Salinas River underflow. The District claims that it did not intend to eliminate a point of diversion that diverts underflow.

There is not substantial evidence in the record showing that the deleted "Platz" well diverts percolating groundwater or that the District requested removal of a valid point of diversion that diverts Salinas River underflow. Accordingly, the June 19 Order should be modified to reinstate the "Platz" well that diverts Salinas River underflow, and Amended Permits 8964 and 20785 should be modified to include this well as an authorized point of diversion.

4.2 Requirement for an Urban Water Management Plan

To promote water conservation, the June 19 Order requires the District to develop an Urban Water Management Plan pursuant to Water Code section 10610 et seq. This is standard permit condition 29A. The District claims that the Urban Water Management Planning Act (Act) (Wat. Code, §§ 10610-10656) does not apply to the District.

The Act requires urban water suppliers with more than 3,000 customers, or that supply more than 3,000 acre-feet (af) of water annually, to develop an Urban Water Management Plan. (Wat. Code, § 10617.) Such a plan includes an analysis of water conservation, evaluations of

² According to the District Manager, wells are named based on property ownership. Because several wells may be located on the same property there may be several wells with the same name.

groundwater basins and future water supply projects, and projections of water use by lower-income households.

The District asserts it is not subject to the Act because it does not have 3,000 customers and does not supply more than 3,000 af of water annually. The District submitted a water and sewer report dated June 19, 2009, showing 2,592 water customers for the month of June 2009. The District also submitted a copy of its annual water quality report. That document shows that the District produced 570,000,000 gallons of water in 2008 equaling approximately 1,740 af of water. This evidence could not have been provided prior to the issuance of the June 19 Order because the District did not know that the Division was including a term in Permits 8964 and 20785 requiring the development of an Urban Water Management Plan.

The record does not contain substantial evidence showing that the District has over 3,000 customers or supplies over 3,000 af of water annually. The evidence submitted by the District shows that the District supplies water at amounts below the triggering thresholds established by the Act. The June 19 Order should be amended to delete term 6, and related terms 7 and 8 should be removed from Amended Permits 20785 and 8964.

It is apparent however, that the District is expanding its water use and it is likely that the District will supply water to more than 3,000 customers in the future. Given the critical state of water resources in the state and region, the District's permits should be amended to require an Urban Water Management Plan when and if the District reaches more than 3,000 customers or supplies over 3,000 af of water annually. Amended Permits 8964 and 20785 should be amended to require the District to notify the State Water Board when it exceeds 3,000 customers or supplies over 3,000 af of water annually. No later than 12 months from reaching this threshold, the District should consult with the Division of Water Rights and submit an Urban Water Management Plan to the State Water Board

Permit 20785 originally included standard condition 29B, which requires that entities supplying water for municipal purposes, or for domestic use within subdivisions, develop and implement a water conservation plan or actions. Condition 29B applies if these entities supply water to 3,000 or fewer customers or supply 3,000 or less acre-feet of water annually and seek an appropriation which, combined with any existing appropriative rights serving the same place of use, totals 200 or more acre-feet of water annually. The term was replaced with

condition 29A, which is described above. Condition 29B shall be restored to Permit 20785 and also added to Permit 8964.

4.3 “Live Stream” Requirement in Amended Permit 8964

Term 9 in Amended Permit 8964 states in relevant part, “Water shall be diverted under this permit only when there is measurable surface flow in the Salinas River at the United States Geological Survey streamflow gage at Paso Robles (Gage No. 11147500).” While Permit 20785 had previously contained this term, Permit 8964 did not contain the term.³

The District argues that the June 19 Order did not contain findings that would justify the inclusion of the term. The District claims the term will severely restrict its water supply because there is no measurable flow in the Salinas River at Gage No. 11147500 during a significant portion of the diversion season. In support of this claim, the District included streamflow records from 1940 to 2008 and a copy of a 1972 Board Order that discusses Permit 8964.

The 1972 Order concerned a series of permits held by the Army Corps of Engineers, City of San Luis Obispo, City of Paso Robles, San Luis Obispo County Water Works District No. 6 and San Luis Obispo County Water Works District No. 5. San Luis Obispo County Water Works District No. 5 was the predecessor to the District and at the time the holder of Permit 8964.

The 1972 Order primarily concerned conditions that should be applied to water right permits associated with Salinas Dam and Reservoir. In the 1972 Order, the Board noted that downstream rights could be infringed if certain upstream rights, namely those rights under Permit 5881 and 5882 that authorized collection at Salinas Dam, were not regulated properly. The Board stated, “As evident from the method of operation of Salinas Reservoir, insufficient consideration has been given to downstream prior rights...” and “shortages of water have been experienced by downstream users during years when water was collected to storage in the Salinas Reservoir.”

Because of downstream shortages, the Board imposed conditions on upstream permittees that would provide for sufficient supplies for downstream water users. The Board stated that operation of the Salinas Dam would be determined not to “reduce the natural recharge of water

³ Permit 20785 has a limited diversion season of April 1 to May 15 and a maximum diversion amount of 133.7 af, whereas Permit 8964 covers a longer diversion season (October 1- April 1) and has a maximum diversion amount of 500 af.

into the Salinas River when there exists a visible surface flow in the Salinas River between Salinas Reservoir and confluence of the Nacimiento River.”⁴

The Board did not specifically discuss the effect of upstream diversions on Permit 8964, but in rejecting the request by the District’s predecessor for an extension of time to develop a storage right the Board stated, “clarifying permit terms on the operation of the reservoir...should materially improve the water supply of [downstream] communities.”

The District argues that this discussion is evidence that the Board imposed a “live stream” requirement on upstream Salinas River permittees for the District’s benefit, and that the June 19, 2009 Order contradicts the Board’s intent in 1972. It may be true that the Board anticipated benefits to downstream users when it issued the 1972 Order, but that does not limit the Board’s ability to impose a similar “live stream” requirement on the District. Evidence in the record suggests that downstream diversions have a possible impact on public trust resources. The National Marine Fisheries Service has designated the Salinas River and its tributaries as critical habitat for Steelhead Trout (Steelhead) where spawning fish can still migrate upstream. DFG advised Templeton that the Salinas River supports federally listed species and state species of special concern.

At this point however, there is not substantial evidence in the record showing what amount of surface flow, if any, at Gage No. 11147500 will benefit Steelhead, other federally listed species, or state species of special concern.⁵ Accordingly, Term 7 in Permit 8964 that requires measurable surface flow at Gage No. 11147500 prior to diversions should be modified. Given the concern over public trust resources in the Salinas River, and the absence of data on the effect of the District’s diversions on public trust resources, it is appropriate to require the District to submit a study that examines the effects of its diversions on public trust resources.

The Division is directed to delete the requirement that there be measurable surface flow at Gage No. 11147500 prior to diversion under Permit 8964. Amended Permit 8964 should be modified to include a new term requiring the District to submit a study to the Division by June 1, 2011 that examines the effects of its diversions on public trust resources under Amended Permit 8964. The study should address whether a measurable flow at Gage No.

⁴ Gage No. 11147500 is located in this stretch of the Salinas River.

⁵ Surface flow data submitted by the District for Gage No. 11147500 show that surface flow varies considerably. For example, mean monthly surface flow during the month of December was zero cubic feet per second in years 1974 through 1981 but jumped to almost 600 cubic feet per second in December 1982.

11147500 between October 1 and April 1 will benefit Steelhead, other federally listed species, or state species of special concern. The study shall be developed after consultation with the Division and approved by the State Water Board Deputy Director for Water Rights, prior to implementation. Upon completion of the study, the State Water Board may exercise its continuing authority to require additional terms and conditions in Amended Permit 8964 to protect Steelhead or other public trust resources in the Salinas River.

4.4 Streambed Alteration Agreement

Term H in Amended Permits 8964 and 20785 requires the District to obtain a Streambed Alteration Agreement from DFG, or a waiver of such an agreement, before it diverts, stores, or uses water under the permits. Term H is a standard Division term that is included in all water rights permits. (Cal Code Regs., tit. 23, § 780.) The District contends the term is unnecessary because its Creekside well is 200 feet west of the Salinas River channel.

Fish and Game Code section 1602 requires an entity to notify DFG of any proposed activity that may substantially modify a river, lake or stream. Notification is required by any person, business, state or local entity if it proposes an activity that will:

- 1) substantially divert or obstruct the natural flow of any river, lake or stream;
- 2) substantially change or use any material from the bed, channel, or bank of any stream, or lake; or
- 3) deposit or dispose of debris, waste or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream or lake.

(Fish and Game Code, § 1602, subd. (a).)

The District claims that when it circulated a Negative Declaration for the project, DFG did not indicate that a Streambed Alteration Agreement was necessary. The fact that DFG did not state that it would require a Streambed Alteration Agreement when it commented on the District's Negative Declaration is not evidence that an agreement is unnecessary. Irrespective of whether the term is needed to cover installation of the new well, the term may be needed to cover streambed or rehabilitation work that the District may conduct in the future. A Streambed Alteration Agreement may also be necessary for well operations, even if it is not needed for installation. The new Creekside well is capable of diverting the District's entire water right. Adding the new point of diversion is an activity that may "substantially divert or obstruct" the natural flow of the river. Inclusion of the term in Amended Permits 8964 and 20785 is

appropriate. If DFG determines that the well does not require a Streambed Alteration Agreement, it may advise the District accordingly.

Because the District has been diverting water as authorized by its permits, however, it was inappropriate to include in amendments to those permits a term that effectively requires the District to cease diversions until it obtains a Streambed Alteration Permit or waiver, without providing a reasonable period in which to comply. The Division should modify Term H in Amended Permits 8964 and 20785 to allow the District 180 days from the date of issuance of this order to provide evidence to the Division that it has either obtained a Streambed Alteration Agreement from DFG or a waiver from DFG stating that an agreement is unnecessary.

5.0 CONCLUSION

The petition and all supplemental information submitted by the District raise substantial issues related to the causes for reconsideration. Accordingly, the State Water Board finds that the June 19, 2009 Order and Amended Permits 8964 and 20785 should be modified consistent with the findings made herein.

ORDER

IT IS HEREBY ORDERED that the District's petition for reconsideration is granted, and the June 19, 2009 Division Order Approving the Change in Point of Diversion and Correcting Coordinates of Existing Point of Diversion and Amending Permits shall be modified as follows:

1. The June 19, 2009 Order is amended to include the "Platz" well point of diversion. The point of diversion at SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 9 within T27S, R12E, MDB&M that diverts Salinas River underflow is added to the permitted points of diversion in Amended Permits 8964 and 20785.
2. Term 6 in the June 19 Order requiring the District to submit an Urban Water Management Plan is deleted. Related Term 8 from Amended Permit 8964 and Term 7 from Amended Permit 20785 are deleted. The Order is amended to require the District to notify the Division of Water Rights when it exceeds 3,000 customers or supplies over 3,000 acre-feet of water annually. No later than 12 months following reaching this threshold, the District shall consult with the Division of Water Rights and submit an Urban Water Management Plan.

Amended Permits 8964 and 20785 are modified to include the following term:

When and if the permittee exceeds 3,000 customers, or supplies more than 3,000 acre-feet of water annually, the permittee shall, after notification to the Division of Water Rights, develop an Urban Water Management Plan in accordance with the Urban Water Management Planning Act (Wat. Code, §§ 10610-10656.) After consultation with the Division of Water Rights, such plan shall be submitted to the State Water Board no later than 12 months from the time permittee exceeds 3,000 customers or supplies more than 3,000 acre-feet annually of water.

3. The June 19, 2009 Order is amended to include the following condition.

Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this amended permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(0000029B)

4. Term H in Amended Permits 8964 and 20785 is modified to state:

Effective 180 days of the issuance of this amended permit, no work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and Permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of this agreement is the responsibility of Permittee. If a stream or lake agreement is not necessary for this permitted project, Permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

5. Term 9 in Amended Permit 8964 is deleted. The Division shall reissue Amended Permit 8964 with the following term:

By June 1, 2011, Permittee shall submit a study to the Division of Water Rights that examines whether its diversions under Amended Permit 8964 have an adverse impact on federally listed species or state species of special concern on the Salinas River. Specifically, the study shall address whether a measurable surface flow at United States Geological Service Gage No. 11147500 between October 1 and April 1 will benefit Steelhead Trout or any federally listed species or state species of special concern. The scope of the study shall be determined after consultation with the State Water Board Deputy Director for Water Rights and shall be approved by the Deputy Director prior to implementation. Any study should evaluate impacts to public trust resources during various water year types. The State Water Board reserves jurisdiction to impose additional terms and conditions in Amended Permit 8964 to protect Steelhead Trout or other federally listed species or state species of special concern.

9.17.09

Dated

Dorothy Rice

Dorothy Rice
Executive Director

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 8964

Application 12526 of

**Templeton Community Services District
P.O. Box 780
Templeton, CA 93465**

filed on **May 28, 1948**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Salinas River Underflow

Tributary to:

Pacific Ocean

within the County of **San Luis Obispo**.

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 5	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1. Platz Well North 2,410,941 feet and East 5,761,427 feet	SW ¼ of SW ¼	9	27S	12E	MD
2. Smith Well North 2,398,811 feet and East 5,759,734 feet	SE ¼ of NE ¼	29	27S	12E	MD
3. Creekside Well North 2,400,638 feet and East 5,760,724 feet	SW ¼ of SW ¼	21	27S	12E	MD

3. Purpose of use	4. Place of use	Section (Projected) *	Township	Range	Base and Meridian	Acres
Domestic and Municipal	3,400 acres within the District boundaries	8, 9, 16-21, 28-32	27S	12E	MD	
		24, 25, 36	27S	11E	MD	
		5, 6	28S	12E	MD	

The place of use is shown on map filed with the State Water Board.

5. The water appropriated under Amended Permit 8964 shall be limited to the quantity which can be beneficially used and shall not exceed **1.5 cubic feet per second (cfs)** to be diverted from **October 1 to April 1** of each year. The maximum amount diverted under this permit shall not exceed **500** acre-feet per year.
(000005A)
6. Complete application of the water to the authorized use shall be made by December 31, 2010.
(000009)
7. The total quantity of water diverted under this amended permit and Amended Permit 20785 (Application 30299) shall not exceed 500 acre-feet per annum.
(0000114)
8. By June 1, 2011, the permittee shall submit a study to the Division of Water Rights that examines whether its diversions under Permit 8964 have an adverse impact on federally listed species or state species of special concern on the Salinas River. Specifically, the study shall address whether a measurable surface flow at United States Geological Service Gage No. 11147500 between October 1 and April 1 will benefit Steelhead Trout or any federally listed species or state species of special concern. The scope of the study shall be determined after consultation with the Deputy Director of the Division of Water Rights and shall be approved by the Deputy Director prior to implementation. Any study should evaluate impacts to public trust resources during various water year types. The State Water Board reserves jurisdiction to impose additional terms and conditions in Permit 8964 to protect Steelhead or other federal listed species or state species of special concern. Failure to timely complete the study and document that ongoing diversions (including diversions up to the permitted diversion rate) are not injurious to listed or threatened species of concern may result in imposition of the following condition, or other measures, without further notification to the District, for the purpose of providing minimal streamflow for public trust resources:
(0400400)
9. When and if the permittee exceeds 3,000 customers, or supplies more than 3,000 acre-feet of water annually, the permittee shall, after notification to the Division of Water Rights, develop an Urban Water Management Plan in accordance with the Urban Water Management Planning Act (Wat. Code, §§ 10610-10656.) After consultation with the Division of Water Rights, such plan shall be submitted to the State Water Board no later than 12 months from the time permittee exceeds 3,000 customers or supplies more than 3,000 acre-feet annually of water.
(000029A)
10. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this amended permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(000029B)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board (State Water Board) until a license is issued.
(0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.
(0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of 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 permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee 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 permit and to determine accurately water use as against reasonable water requirements 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 permittee 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.
(0000012)
- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to permittee 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.
(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605. (0000015)

- H. Within 180 days of the issuance of this amended permit, no work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game. (0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

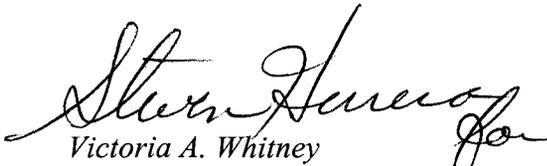
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit 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 permit is issued takes it subject to the conditions therein expressed.

||
||
||
||
||
||
||
||
||
||

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit 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 permittee 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 permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD



Victoria A. Whitney
Deputy Director for Water Rights

Dated: **SEP 17 2009**

P 8964

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

In the Matter of Permit 8964, Application 12526
Templeton Community Services District

ORDER APPROVING EXTENSION OF TIME AND AMENDING THE PERMIT

SOURCE: Salinas River tributary to Pacific Ocean
COUNTY: San Luis Obispo

WHEREAS:

1. Permit 8964 was issued to Templeton Community Services District on May 5, 1952, pursuant to Application 12526.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on December 3, 1999.
3. The permittee has proceeded with diligence and good cause has been shown for extension of time. Public notice of the request for extension of time was issued on June 16, 2000 and no protests were received.
4. The SWRCB has determined that the petition for extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT Permit 8964 IS AMENDED TO READ AS FOLLOWS:

1. Condition 5 of the permit be amended to read:

Complete application of the water to the authorized use shall be made by December 31, 2010.

(0000009)

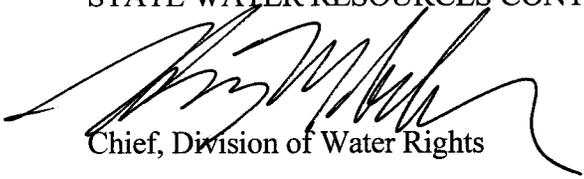
4. Permit 8964 is amended to include the following Endangered Species condition

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

(0000014)

Dated: OCT 13 2000

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights

P 8969

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 12526 PERMIT 8964 LICENSE _____

**ORDER TO CHANGE A POINT OF DIVERSION
AND CORRECT THE DESCRIPTION OF THE PLACE OF USE**

WHEREAS:

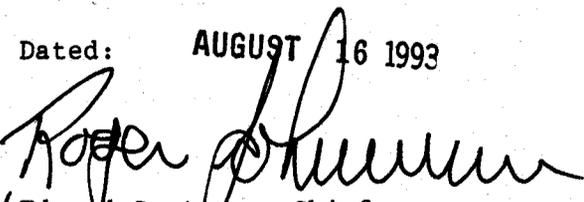
1. Permit 8964 was issued to San Luis Obispo County Water Works District No. 5 on May 5, 1952 pursuant to Application 12526.
2. Permit 8964 was subsequently assigned to Templeton Community Services District.
3. A petition to change a point of diversion on the Salinas River has been filed with the State Water Resources Control Board.
4. Prior Board order dated August 9, 1990 incorrectly described the place of use.
5. The Board has determined that the petitioned changes and correction do not constitute the initiation of a new right nor operate to the injury of any lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The points of diversion under this permit shall be as follows:
 1. North 1,500 feet, East 1,150 feet from SW corner of Projected Section 9, T27S, R12E, MDB&M, being within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 9. California Coordinate System, Zone 5, N 770,500 and E 1,200,100.
 2. California Coordinate System, Zone 5, N 758,400 and E 1,198,400, being within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 29, T27S, R12E, MDB&M.
2. The paragraph describing the place of use under this permit is corrected to read:

A gross area of 3,400 acres within Sections 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, and 32, T27S, R12E, MDB&M, Sections 24, 25, and 36, T27S, R11E, MDB&M, and Sections 5 and 6, T28S, R12E, MDB&M, as shown on a map on file with the State Water Resources Control Board.

Dated: **AUGUST 16 1993**

for 
 Edward C. Anon, Chief
 Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 12526

PERMIT 8964

LICENSE _____

ORDER INCREASING THE,
PLACE OF USE, APPROVING A NEW DEVELOPMENT
SCHEDULE, AND AMENDING THE PERMIT

WHEREAS:

1. Permit 8964 was issued to San Luis Obispo County Waterworks District No. 5 on May 5, 1952 pursuant to Application 12526.
2. Permit 8964 was subsequently assigned to Templeton Community Services District.
3. A petition to change the place of use, and a petition for an extension of time within which to develop the project and apply the water to the proposed use have been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for said change and for the extension of time.
5. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
6. Permit Condition 8 pertaining to the continuing authority of the Board should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 5 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1999

(0000009)

2. The paragraph describing the place of use under this permit is amended to read:

A gross area of 3,400 acres within Sections 16, 17, 18, 19, 20, 21, 29, 30, 31, and 32, T27S, R12E, MDB&M, Sections 24, 25, and 36, T27S, R11E, MDB&M and Sections 5 and 6, T28S, R11E, MDB&M, as shown on a map on file with the State Water Resources Control Board.

3. Condition 8 of this permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, 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 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 Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee 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 permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the 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 Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the 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.

(0000012)

Dated: **AUGUST 09 1990**


Walter G. Pettit, Chief
Division of Water Rights

5-18-82

Permit Missing

PA

200 ata revoked by Order of June 1, 1972
RCD

P 8964

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 12526

PERMIT 8964

LICENSE _____

ORDER APPROVING CHANGE IN POINT OF DIVERSION,
AND AMENDING THE PERMIT

WHEREAS:

1. A petition to add a point of diversion on the Salinas River has been filed with the State Water Resources Control Board.
2. The Board has determined that the petitioned changes do 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. Paragraph 1 of the permit is amended to include the following:

The total annual diversion and use allowed under this permit shall not exceed 500 acre-feet per annum.

2. The points of diversion under this permit shall be as follows:

- (1) North 68°30' East 2,070 feet from SW corner of Projected Section 29, T27S, R12E, MDB&M, being within SE1/4 of SW1/4 of said Section 29.
- (2) North 1,500 feet, East 1,150 feet from SW corner of Projected Section 9, T27S, R12E, MDB&M, being within the NW1/4 of SW1/4 of said Section 9.

3. Paragraph 8 is added as follows:

Pursuant to California Water Code Sections 100 and 275, all rights and privilege under this permit and under any license issued pursuant thereto, 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.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (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 permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the 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.

4. Paragraph 9 is added to this permit as follows:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the 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 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.

5. Paragraph 10 is added to this permit as follows:

The State Water Resources Control Board, under its authority to conserve the public interest, retains continuing authority over this permit to require permittee to develop and implement a water conservation program, after notice and opportunity for hearing. The requirements for this terms may be satisfied by permittee's compliance with any comprehensive water conservation program, approved by the State Water Resources Control Board, which may be imposed by a public agency.

Dated: DECEMBER 11 1981


Raymond Walsh, Chief
Division of Water Rights

P8964

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permit 8964)
(Application 12526))
TEMPLETON COMMUNITY SERVICES)
DISTRICT)
PERMITTEE)
_____)

ORDER: WR 87- 1
SOURCE: Salinas River
COUNTY: San Luis Obispo

ORDER CANCELLING PRELIMINARY CEASE AND DESIST ORDER 81-1

BY THE BOARD:

1. Permit 8964 (Application 12526), as amended by Order dated June 1, 1972, allows Templeton Community Services District (District) to divert 1.5 cfs from the Salinas River between October 1 and April 1 of each year (Condition number 1).
2. Because the District was diverting water year round, the matter was brought to the attention of the Board and Preliminary Cease and Desist Order 81-1 was adopted on September 17, 1981. The order set a time schedule for the District to obtain an alternate source of supply. An alternate supply was necessary for the District to meet its domestic and municipal needs during the summer months.
3. The District requested that Preliminary Cease and Desist Order 81-1 be cancelled since two wells had been drilled and tested as to their capacity which was found to be adequate to supply the water needed during the months the District is not authorized to direct water from the Salinas River. A proposed order cancelling Preliminary Cease and Desist Order 81-1 was prepared for the May 1986 Board Workshop. The proposed Order was deferred pending water quality tests on the wells. The tests were completed and the wells were able to meet the District's water demands during the summer of 1986.

4. The District is now in compliance with the terms and conditions of its permit.
5. The order is exempt from the Public Resource Code, Sections 21000, et seq in accordance with Section 15321 of Title 14 of the California Administrative Code.

THEREFORE, IT IS HEREBY ORDERED THAT:

Preliminary Cease and Desist Order 81-1 regarding Templeton Community Services District is cancelled.

CERTIFICATION

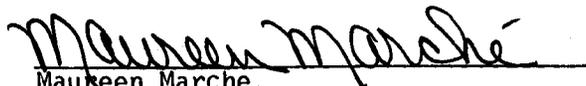
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on February 19, 1987.

Aye: W. Don Maughan
 D. E. Ruiz
 E. M. Samaniego
 D. Walsh
 E. H. Finster

No: None

Absent: None

Abstain: None


Maureen Marche,
Administrative Assistant to the Board

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of

Permit 5881 (Application 10211)
U. S. CORPS OF ENGINEERS

Permit 5882 (Application 10216)
CITY OF SAN LUIS OBISPO

Permit 7253 (Application 11745)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 6 (SANTA MARGARITA)

Permit 8471 (Application 11732)
CITY OF PASO ROBLES

Permit 8964 (Application 12526)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 5 (TEMPLETON)

Permittees

Source: Salinas River

County: San Luis Obispo

ORDER ON RECONSIDERATION OF
ORDER OF JUNE 1, 1972

Petitions for reconsideration of "Order Granting Extension of Time on Certain Permits, Imposing Clarifying Permit Terms, and Revoking Certain Permits to Appropriate Water" having been filed by the City of Paso Robles and the City of San Luis Obispo; by Order of July 20, 1972, the Board having granted said petitions; the City of San Luis Obispo having subsequently withdrawn its petition for reconsideration and requested the Board to amend said Order of June 1, 1972 to clarify the Board's intent that the "live stream" concept is not the sole permissible

criteria for operation of Salinas Reservoir so long as downstream prior rights are protected; that the reference to "downstream use and recharge of ground water" does in fact mean to the extent that prior downstream rights are satisfied, and to specify a definite date prior to which further hearing will be held to consider further and different order concerning the protection of downstream prior right holders; the Board having now further considered the petition of City of Paso Robles, responds to the items upon which reconsideration was granted.

1. The City requests the Board to restudy the amount of the releases for the current year and to increase them to at least 2,000 acre-feet.

The 1,000 acre-feet ordered released was based upon a study of the quantity of water which should have been released had the reservoir been operated under the criteria of the "clarifying permit terms". We believe the studies were sufficiently accurate, and additional releases are not warranted under the criteria adopted.

2. The Board did not deal with the desirability or necessity of regulation of the flows to which the downstream areas, including Paso Robles, are entitled.

The Order stated, "...the clarifying permit terms to be imposed in the permits of the Corps and City of San Luis Obispo should materially improve the water supply of these communities, and the need for additional stored water within the foreseeable future may be eliminated". We believe that statement is correct and the Board acted properly under the circumstances

in revoking the permit. We do, however, believe that the concerned parties should give consideration, as stated in the Order, to the benefits of an agreement whereby the winter flow entitlement of the downstream prior right holders might be retained in the Salinas Reservoir for release later in the season when the water would be of greater benefit to those users. This, however, should be done through agreement with the owner and operator of the dam, rather than under a permit to appropriate "unappropriated water".

3. The order revokes Permit 8471 of the City, although it grants extensions of time to others on the basis of existing or proposed contracts with the Corps.

The Board granted an extension of time only on the Santa Margarita permit on the basis of a proposed contract. This was based (1) upon the obvious need of this community, because of it being located away from the river, to contract for stored water if it is to benefit from the Salinas River runoff, and (2) Santa Margarita can be served conveniently with project water because of the proximity of the Salinas Dam--City of San Luis Obispo pipeline.

City of Paso Robles is not in this situation, insofar as its dependency on project water is concerned. Furthermore, without a conduit from the dam to the City, the transmission loss of water en route would appear to make a contractual arrangement for project water infeasible. While this was the conclusion of the Board at the time the June 1 Order was considered, subsequent experience further confirms that conclusion. Pursuant to

the June 1 Order, the County Flood Control and Water Conservation District, under direction of the U. S. Corps of Engineers, released 1,000 acre-feet of water during June 29 and 30, 1972 at the maximum capacity of the outlets of the dam (332 cubic feet per second at existing water level elevation). The surface flow reached 19 miles downstream from Salinas Dam, or about 10 miles upstream from Paso Robles. The plans of Paso Robles to acquire project water are too nebulous to justify further extension.

The Board finds that no change should be made in the Order of June 1, 1972 in response to the petition of City of Paso Robles.

The request of City of San Luis Obispo to clarify the June 1, 1972 Order is approved and paragraph 2 of the Order is amended to read as follows:

(Permittees 5001 & 5002)

"a. Permittee shall release water into the Salinas River channel from Salinas Reservoir in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of any surface flow ~~under vested prior rights to the extent water would be available for such diversions without the regulation of Salinas Dam and sufficient to maintain percolation of water from the stream channel as such percolation would occur without the regulation of Salinas Dam, in order that operation of Salinas Dam shall not reduce natural recharge~~

of water into the Salinas River alluvial gravels downstream to the confluence of the Nacimiento River with the Salinas River and ground water extractions under prior vested rights. Until further order of this Board it will be conclusively presumed that prior vested downstream rights will be met if at all times either a visible surface flow exists in the Salinas River between the Salinas Reservoir and the confluence of the Nacimiento River or the total inflow to the Salinas Reservoir is released therefrom into the channel of the Salinas River below the Salinas Dam. The foregoing is not intended to preclude other operational criteria that will fully satisfy prior vested downstream rights.

This condition shall be assumed to be met during such time as there exists a visible surface flow in the Salinas River between Salinas Reservoir and the confluence of the Nacimiento River."

"b." No change.

"c. The Board either upon the request of the permittee or any ~~other party~~ holder of a prior vested downstream right, or on its own motion, may and, prior to the issuance of license no later than July 1, 1974, shall hear, review, and make such further and different orders as may be required concerning releases of water into the Salinas River

below Salinas Dam to assure that prior vested downstream rights are satisfied and concerning the measurements and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of releases."

Adopted as an order of the State Water Resources Control Board at a meeting duly called and held at San Diego, California.

Dated: October 5, 1972

W. W. ADAMS

W. W. Adams, Chairman

E. F. DIBBLE

E. F. Dibble, Vice Chairman

RONALD B. ROBIE

Ronald B. Robie, Member

ROY E. DODSON

Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER

Mrs. Carl H. (Jean) Auer, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of

Permit 5881 (Application 10211)
U. S. CORPS OF ENGINEERS

Permit 5882 (Application 10216)
CITY OF SAN LUIS OBISPO

Permit 8471 (Application 11732)
CITY OF PASO ROBLES

Permit 7253 (Application 11745)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 6 (SANTA MARGARITA)

Permit 8964 (Application 12526)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 5 (TEMPLETON)

Permittees

Source: Salinas River

County: San Luis Obispo

ORDER GRANTING EXTENSION OF TIME ON CERTAIN PERMITS,
IMPOSING CLARIFYING PERMIT TERMS,
AND REVOKING CERTAIN PERMITS
TO APPROPRIATE WATER

The time to complete construction work and/or use of water having expired; the permittees having filed petitions for extension of time; a hearing having been held on January 26, 1972 to allow permittees an opportunity to show cause why extensions should be granted; the Board, having considered all the available information, finds as follows:

Substance of the Permits

The essential features of the permits are set forth in Table I. The storage allocations under all five permits are to be collected in Salinas Reservoir. The direct diversion allocations in Permits 5881, 5882, and 7253 are to be diverted at Salinas Dam. The direct diversion allocation under Permit 8964 is to be diverted from the Salinas River at a point near the town of Templeton. The amounts of water named in Permits 5881 and 5882 represent the same water and are not additive.

Salinas Reservoir

Salinas Reservoir was constructed in 1941 by the U. S. Corps of Engineers to provide a domestic water supply to Camp San Luis Obispo. The works comprise a dam and reservoir located on the Salinas River about nine miles upstream from the town of Santa Margarita in San Luis Obispo County; a water transmission system including 15 miles of pipeline, two pumping plants, two regulating reservoirs and appurtenant structures, and a tunnel 5,327 feet in length, all used to convey water out of the Salinas River watershed to the vicinity of the City of San Luis Obispo where the water is received into the City's distribution system. Camp San Luis Obispo is not presently using water from the reservoir. The reservoir capacity is 26,000 acre-feet, with a safe annual yield of about 5,400 acre-feet (RT 10).

The reservoir is presently operated by the San Luis Obispo County Flood Control and Water Conservation District (hereinafter called "District") under operating criteria and contract with the Corps of Engineers. The City of San Luis Obispo is the only regular user of water from the reservoir. During the past two years, the City has purchased substantially all of the safe yield of the reservoir under a contract with the Corps of Engineers, with lesser amounts having been purchased in earlier years. The contract was first negotiated in 1943 and is effective until 1983. The contract may be revoked by either party at the end of any year (RT 14).

Method of Operation

Salinas Reservoir has been operated so as to collect all inflow from November 1 of each year until the following June 30th, which period corresponds to the named storage season under the Corps permit. The reservoir occasionally spills during wet winters. Commencing July 1 of each year, an amount of water equal to the inflow to the reservoir during the preceding week is released to the downstream channel. Deliveries to the City of San Luis Obispo through the pipeline continue throughout the year. No project water has been delivered to the downstream permittees since 1966 (RT 15).

Downstream Rights

Substantial diversions of water from the Salinas River and its supporting underflow are made in San Luis Obispo County by riparian owners and the communities of Atascadero, Templeton, and Paso Robles. The extensive requirements in the Salinas River Valley in Monterey County are currently supplied from downstream tributaries and releases from Nacimiento Reservoir and San Antonio Reservoir of Monterey County Flood Control and Water Conservation District which have a combined capacity of about 700,000 acre-feet. According to the Corps' operation and maintenance manual for Upper Salinas River Dam, the depletion rate of the underground reservoir between Salinas Dam and the City of Paso Robles was estimated at 70 acre-feet per day in 1959 but may vary from year to year. The Board estimates that the summer water requirements of the users along that reach of the river are about 30 cfs. Most diversions are accomplished by shallow wells located in the porous river gravels adjacent to the river channel.

When Permit 5881 was issued in 1941, the Corps of Engineers, certain downstream protestants, and the then State Engineer recognized that operation of the reservoir could infringe on prior downstream rights if not regulated properly. The determination of the quantity of water required for downstream rights was deferred so that a permit could be issued and

construction of the dam as a wartime emergency project could proceed. A committee of engineers was appointed to conduct hydrologic studies and to develop operating criteria for Salinas Reservoir which would assure the downstream rights water to which they were entitled. Nothing in the Board's record indicated that any recommendations of this committee were ever submitted. In the meantime, the permit provided only that it was issued "subject to vested rights". As evident from the method of operation of Salinas Reservoir, insufficient consideration has been given to the downstream prior rights. Accordingly, this order should define in more detail the conditions under which water may be collected so as to avoid any continued infringement.

It is apparent that, during dry years, no water is available for storage during a major portion of the winter season if prior downstream rights are to be respected. Shortages of water have been experienced by downstream users during years when water was collected to storage in the Salinas Reservoir. The extremely dry year of 1971-72 may be cited as a year when little or no water should have been collected to storage.

The Corps of Engineers has contracted with the City of San Luis Obispo for substantially all of the yield of the reservoir, giving as a reason that the City's permit has priority

over the permits of others (RT 19). However, as the owner of the reservoir, the Corps is under no obligation to recognize the priority of the City's permit but may contract for water delivery with whom it pleases, provided the water user holds a valid water right permit for the supply received or is served under the Corps' permit.

Extensions of Time

Additional time is required for the District to gain operating experience under the clarifying permit terms to be imposed in order to determine the amount of water available for appropriation. For this reason, an extension of time should be granted on Permit 5881 of the Corps and Permit 5882 of the City of San Luis Obispo.

Permit 7253 (Santa Margarita) covers storage of water in Salinas Reservoir, although no water can be claimed under this permit without a contract with the Corps for the necessary storage space and for conveyance to the community through the conduit connecting Salinas Reservoir and the Cuesta Pumping Plant. The community received 57 acre-feet of water during 1968. No water has been delivered since that time. A limited extension of time should be granted for Permit 7253 to afford the parties an opportunity to negotiate a contract. We recommend that the Corps take into consideration the need of this community in allocating the reservoir yield.

Extension of time should likewise be granted for the 1.5 cfs direct diversion portion of Permit 8964 (Templeton). Water is being diverted from the river at the authorized point of diversion and use of water is progressively increasing. Maximum diversion had reached 0.4 cfs in July 1970, the last year of record before us.

Extensions of time for Permit 8471 of City of Paso Robles and the storage portion of Permit 8964 (Templeton) are not warranted. Both permits are for storage in Salinas Reservoir for later release down the river channel for recharging the water supply at their pumps. No contracts for storage space have been negotiated and none are apparently contemplated. Furthermore, the clarifying permit terms to be imposed in the permits of the Corps and City of San Luis Obispo should materially improve the water supply of these communities, and the need for additional stored water within the foreseeable future may be eliminated.

Related Projects

Although the hearing was limited to the Salinas River permits, the Board takes note of the various water right applications and permits on file, as well as various contracts to provide water within the county. Particularly, we cite the Whale Rock project from which no water has been used, according to our records, by the City of San Luis Obispo for the past two

years, although the city owns a 55 percent interest in the project. In addition, the county has an agreement with the County of Monterey which allows the use of up to 17,500 acre-feet per annum from Nacimiento Reservoir. No water has been used under this contract because of a lack of a conduit and distribution system. The County holds permits for water storage projects on Santa Rita Creek and Jacks Creek. The projects are still in the planning stage. The County holds a contract to receive up to 25,000 acre-feet per annum from the State Water Project to be delivered to the County by 1980. Studies are being made of receiving water from the construction of a desalination plant at Diablo Canyon with a capacity of from 30,000 to 50,000 acre-feet.

The issues raised by the hearing point to the necessity for a countywide plan whereby the needs and the resources of the entire county can be brought to bear. The Cuesta Divide should be a physical separation only. While the Board is not in a position to initiate the necessary action, it is apparent that, if the County is to meet the needs of all the people, a united effort will be necessary.

Conclusions

The Board concludes that:

(1) Cause has been shown for an extension of time to complete use of water under Permit 5881 of the Corps of Engineers

and Permit 5882 of the City of San Luis Obispo, and that certain clarifying conditions should be imposed on these permits regarding the operation of Salinas Reservoir in order that prior downstream rights may be protected.

(2) Permit 7253 (Santa Margarita) should be extended.

(3) Permit 8964 (Templeton) should be extended to the extent it pertains to direct diversion from the river. The storage portion of the permit should be revoked.

(4) Permit 11732 of the City of Paso Robles should be revoked.

(5) A study should be made by or on behalf of the Corps to determine the amount of water from the watershed above the Salinas Dam that should be released during the authorized storage season in order that the dam can be utilized to the greatest possible extent without interfering with downstream prior rights.

The District, being concerned that the water resources of the river are managed to the greatest possible benefit, should study the feasibility of storing in Salinas Reservoir, subject to agreement with the Corps of Engineers, the winter flow entitlement of the downstream prior right holders for release later in the season when the water would be of greater benefit to those users.

(6) Until the studies referred to in paragraph 5 are completed and further order of the Board, water should be collected to storage in Salinas Reservoir only during such time as a visible surface flow exists in the Salinas River between Salinas Dam and the confluence of Salinas River and Nacimiento River.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Time to complete use of water under Permit 5881 of the U. S. Corps of Engineers and Permit 5882 of the City of San Luis Obispo is extended to December 1, 1981.

2. Permits 5881 and 5882 are amended to include the following clarifying terms and conditions for the protection of downstream prior vested rights:

a. Permittee shall release water into the Salinas River channel from Salinas Reservoir in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of any surface flow under vested prior rights to the extent water would be available for such diversions without the regulation of Salinas Dam and sufficient to maintain percolation of water from the stream channel as such percolation would occur without the regulation of Salinas Dam, in

order that operation of Salinas Dam shall not reduce natural recharge of water into the Salinas River alluvial gravels downstream to the confluence of the Nacimiento River with the Salinas River.

This condition shall be assumed to be met during such time as there exists a visible surface flow in the Salinas River between Salinas Reservoir and the confluence of the Nacimiento River.

b. Until further order of the Board, permittee shall make or cause to be made suitable field measurements and studies and shall provide any measuring facilities necessary to determine the amount of water, timing, and rate of releases of water into the Salinas River channel below Salinas Dam required to comply with the preceding condition and shall report to the Board annually, or at such other times as the Board may require, such measurements and studies and the cumulative results.

c. The Board, either upon the request of the permittee or any party or on its own motion, may and shall, prior to the issuance of license, hear, review, and make such further and different orders as may be required concerning proper releases of water for downstream use and recharge of ground water and concerning the measurements and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of

releases of water into Salinas River in satisfaction of downstream rights.

3. The time to complete use of water under Permit 7253 of San Luis Obispo County Water District No. 6 is extended to December 1, 1981, provided, however, a valid contract is negotiated with the Corps of Engineers for storage of water in Salinas Reservoir by July 1, 1973.

4. The right to store 200 acre-feet per annum authorized under Permit 8964 of San Luis Obispo County Water Works District No. 5 is revoked, and the time to complete beneficial use of the authorized 1.5 cfs direct diversion under Permit 8964 is extended to December 1, 1981.

5. Permit 8471 of the City of Paso Robles is hereby revoked.

6. Prior to August 1, 1972, the U. S. Corps of Engineers shall release from Salinas Reservoir into the Salinas River channel 1,000 acre-feet, which is determined to be the quantity of water collected in the Salinas Reservoir during the 1971-72 runoff season which should have been allowed to flow downstream to satisfy prior vested rights. Release of water shall be at the time and rate satisfactory to the State Water Resources Control Board.

TABLE I

Permit	Priority Date of Permit	Amount of Direct Diversion in Cubic Feet per Second and Storage in Acre-feet per Annum	Season of Diversion	Purpose of Use
<u>5881</u> Corps of Engineers	May 27, 1941	12.4 cfs and 45,000 afa	Entire year for direct diversion & from Nov. 1 to June 30 for storage	Domestic
<u>5882*</u> City of San Luis Obispo	June 4, 1941	Identical to Permit 5881		Municipal
<u>8471</u> City of Paso Robles	Feb. 17, 1947	2,400 afa	November 1 to July 1	Municipal & Domestic
<u>7253</u> Santa Margarita	Feb. 26, 1947	1.5 cfs and 200 afa	Entire year for direct diversion & from Nov. 1 to June 30 for storage	Municipal & Domestic
<u>8964</u> Templeton	May 28, 1948	1.5 cfs and 200 afa	October 1 to April 1	Municipal & Domestic

* Total amount of water diverted under this permit, together with that under Permit 5881, shall not exceed 12.4 cfs by direct diversion and 45,000 afa.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at San Diego, California.

Dated: June 1, 1972

W. W. ADAMS
W. W. Adams, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

RONALD B. ROBIE
Ronald B. Robie, Member

ROY E. DODSON
Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member

{For full information concerning the filling out of this form refer to Article 4 of Rules and Regulations Pertaining to Appropriation of Water}

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

Application No. **12526** Filed **May 28, 1948** at **9:04 A M.**

August 4, 1948 **AMENDED APPLICATION RECEIVED August 30, 1948**

APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER

I, **San Luis Obispo County Waterworks District No. 5**
Name of applicant
of **Templeton** County of **San Luis Obispo**
Address
State of **California**

do hereby make application for a permit to appropriate the following described unappropriated waters of the State of California, **SUBJECT TO VESTED RIGHTS:**

Source, Amount, Use and Location of Diversion Works

1. The source of the proposed appropriation is **Salinas River**
located in **San Luis Obispo** County, tributary to **Pacific Ocean**

2. The amount of water which applicant desires to appropriate under this application is as follows:
(a) For diversion to be directly applied to beneficial use **1 1/2** cubic feet per second, to be diverted from **January 1** to **December 31** of each year.

(b) For diversion to be stored and later applied to beneficial use **200** acre-feet per annum, to be collected between **October 1** and **April 1** of each season.

NOTE—Answer (a) or (b) or both (a) and (b) as may be necessary. If amount under (a) is less than .025 cubic foot per second, state in gallons per day. Neither the amount nor the season may be increased after application is filed.

3. The use to which the water is to be applied is **municipal and domestic purposes and fire protection**

4. The point of diversion is to be located **N 27° 36' 58" E 2195.42' from W 1/2 corner of Section 8**

being within the **NW 1/4 of the NW 1/4** of Section **8**, T. **30 S**, R. **14 E**, **ND** B. & M., in the County of **San Luis Obispo**

5. The main conduit terminates in **SW 1/4 of SW 1/4**, of Sec. **29**, T. **27 S**, R. **12 E**, **ND** B. & M.

Description of Diversion Works

NOTE—An application can not be approved for an amount grossly in excess of the estimated capacity of the diversion works.

6. Intake or Headworks (fill only those blanks which apply)
(a) Diversion will be made by pumping from _____
(b) Diversion will be by gravity, the diverting dam being _____ feet in height (stream bed to level of overflow); _____ feet long on top; and constructed of _____
(c) The storage dam will be _____ feet in height (stream bed to overflow level); _____ feet long on top; have a freeboard of _____ feet, and be constructed of _____

7. Storage Reservoir **Salinas River Dam Reservoir**
The storage reservoir will flood lands in **T 30 S R 14 E NE 1/4**
It will have a surface area of **1000** acres, and a capacity of **45,000** acre-feet.

8. Conduit System (describe main conduits only)

(a) Canal, ditch, flume: Width on top (at water line) _____ feet; width at bottom _____

Cross out two not used

feet; depth of water _____ feet; length _____ feet; grade _____ feet per 1,000 feet; materials of construction _____

(b) Pipe line: Diameter 12 inches; length 73,920 feet; grade 1.36 feet per 1,000 feet; total fall from intake to outlet 270 feet; kind Concrete Pipe

Riveted steel 14 gage.
Riveted steel, concrete, wood-stave, etc.

NOTE.—If a combination of different sizes or kinds of conduit is to be used, attach extra sheets with complete description, also show location of each clearly on map.

9. The estimated capacity of the diversion conduit or pumping plant proposed is 700 gpm
State cubic feet per second or gallons per minute

The estimated cost of the diversion works proposed is already constructed
Give only cost of intake, or headworks, pumps, storage reservoirs and main conduits described herein

Completion Schedule

10. Construction work will begin on or before as soon as a district can be formed to vote bonds to finance construction of pipe line

Construction work will be completed on or before unable to determine date

The water will be completely applied to the proposed use on or before immediately upon completion of pipe line

Description of Proposed Use

11. Place of Use. W 1/2 of Section 29 T. 27 S. R 12 E. NW 1/4 covering generally the area
State 40-acre subdivisions of the public land survey. If area is unurveyed indicate the location as if lines of the public land survey were projected. In the case of irrigation use state the number of acres to be irrigated in each 40-acre tract, if space permits. If space does not permit listing of all 40-acre tracts, describe area in a general way and show detail upon map.

in the town of Templeton, San Luis Obispo County Waterworks District No. 5

Does applicant own the land whereon use of water will be made? NO
Yes or No

Application will be filed with U. S. Government, owner
If applicant does not own land whereon use of water will be made, give name and address of owner and state what arrangements have been made with him.

12. Domestic Use. Domestic use is proposed as follows: Municipal, and domestic and fire
Describe nature of use which may include stock water and the irrigation of domestic

protection - this is a rural community and considerable water is used in gardening.
gardens not exceeding one-half acre with each place of residence. State number and kind of stock to be watered, number of houses and people to be served.

The amount for which application is made was determined by existing and anticipated population
Describe basis of quantity needed

13. Irrigation Use. The area to be irrigated is _____ acres.
State net acreage to be irrigated

The segregation of acreage as to crops is as follows: Rice _____ acres; alfalfa _____ acres;

orchard _____ acres; general crops _____ acres; pasture _____ acres.

NOTE.—Care should be taken that the various statements as to acreage are consistent with each other, with the statement in Paragraph 11, and with the map.

The irrigation season will begin about _____ and end about _____
Beginning date Closing date

The land to be irrigated has another water right or source of water supply other than that herein applied for. The nature and amount of the additional supply referred to is _____
no other

14. Power Use. The total fall to be utilized is _____ feet.
Difference between nozzle or draft tube water level and first free water surface above

The maximum amount of water to be used through the penstock is _____ cubic feet per second.

The maximum theoretical horsepower capable of being generated by the works is _____ horsepower.
Second feet X fall + 5.5

The use to which the power is to be applied is _____
For distribution and sale or private use, etc.

The nature of the works by means of which power is to be developed is _____
Turbine, Pelton wheel, etc.

The size of the nozzle to be used is _____ inches.

The water will be returned to _____ in _____ of _____
will not Name stream State 40-acre subdivision

Sec. _____, Tp. _____, R. _____, M. _____

DO NOT WRITE IN THIS SPACE

ATTACH EXTRA SHEETS HERE

15. Municipal Use. This application is made for the purpose of serving San Luis Obispo County
Name city or state, town or town. Urban areas only

Waterworks District No. 5 having a present population of 700
Town of Templeton

The estimated average daily consumption during the month of maximum use at the end of each five-year period until the full amount applied for is put to beneficial use is as follows:

1948 - population 700 x 200 gallons per day or 140,000 gallons

1953 - 1200 x 200 or 240,000 gallons; 1958 0 2400 x 200 or 480,000 gallons

1963 - 3700 x 200 or 740,000 gallons; 1968 - 4860 x 200 or 972,000 gallons

16. Mining Use. The name of the mining property to be served is _____
Name of claim

_____ and the nature of the mines is _____
Gold placer, quartz, etc.

The method of utilizing the water is _____

It is estimated that the ultimate water requirement for this project will be _____
Cubic feet per second, gallons per minute. State basis of estimate

The water will be polluted by chemicals or otherwise _____
will not Explain nature of pollution, if any

and it will be returned to _____ in _____ of _____
will not Name stream State 40-acre subdivision

Sec. _____, T. _____, R. _____, B. & M. _____

17. Industrial Use. The nature of the use proposed is _____
Describe nature and method of use

The amount for which application is made was determined by _____
Describe basis of estimate of quantity needed

18. Recreational Use. Water will be used for _____
Describe nature and method of use

The amount for which application is made was determined by _____
Describe basis of estimate of quantity needed

General

19. Are the maps as required by the Rules and Regulations filed with Application? YES If not, state specifically the time required for filing same _____
Yes or No

20. Does the applicant own the land at the proposed point of diversion? NO If not, give name and address of owner and state what steps have been taken to secure right of access thereto application is being made

21. What is the name of the post office most used by those living near the proposed point of diversion?
Santa Margarita

22. What are the names and addresses of claimants of water from the source of supply below the proposed point of diversion?

[SIGNATURE OF APPLICANT] /s/ John Baskovich
Chairman, Board of Supervisors, County of San Luis Obispo, State of California

APPLICANT MUST NOT FILL IN BLANKS BELOW

PERMIT No. 0964

This is to certify that the application of which the foregoing is a true and correct copy has been considered and is hereby approved SUBJECT TO VESTED RIGHTS and the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used, and shall not exceed **one and five tenths (1.5) cubic feet per second by direct diversion and two hundred (200) acre-feet per annum by storage from about October 1 of each year to about April 1 of the succeeding year.** (000005)
2. The maximum amount herein stated may be reduced in the license if investigation so warrants. (000006)
3. Actual construction work shall begin on or before **August 1, 1952** and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked. (000007)
4. Said construction work shall be completed on or before **December 1, 1954**. (000008)
5. Complete application of the water to the proposed use shall be made on or before **December 1, 1955**. (000009)
6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Engineer until license is issued. (000010)
7. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Department acting through the State Engineer 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. (000012)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit 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 1391. Every permit 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 permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, 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 permit 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 permittee 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 permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Witness my hand and the seal of the
Department of Public Works of the State of California
this day of **MAY 5** 1952 19

A. D. EDMONSTON,
State Engineer