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

DIVISION OF WATER RIGHTS

IN THE MATTER OF LICENSE 1986 AND PERMITS 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973 AND 12364 (APPLICATIONS 23, 234, 1465, 5626, 5628, 5638, 9363, 9364, 9366, 9367, 9368, 13370, 13371, 15374, 15375, 15376, 15764, 16767, 16768, 17374, AND 17376) OF U.S. BUREAU OF RECLAMATION

AND PERMIT 16479 (APPLICATION 14443) OF DEPARTMENT OF WATER RESOURCES

PETITIONS FOR TEMPORARY CHANGE INVOLVING THE TRANSFER OF 196,000 ACRE-FEET OF WATER

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

1.0 SUBSTANCE OF PETITIONS

1.1 Description of the Transfer. On May 1, 2013, the U.S. Bureau of Reclamation (Reclamation) and the Department of Water Resources (DWR) filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), Petitions for Temporary Change under Water Code Section 1725, et seq.

With the petitions, Reclamation requests a one-year modification of License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973 and 12364 and DWR requests a one-year modification of Permit 16479 to temporarily change the authorized place of use of (1) the Reclamation license and permits to include the State Water Project (SWP) authorized place of use downstream of Harvey O. Banks Pumping Plant (Banks); and (2) the DWR permit to include the Central Valley Project (CVP) authorized place of use downstream of Jones Pumping Plant (Jones). The maximum total transfer quantity will be 196,000 acre-feet (af). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

2013 Water Supply Conditions

Water supply conditions are currently classified as “Dry” for the Sacramento River basin and “Critical” for the San Joaquin River basin. The dry conditions in 2013 to date have resulted in allocations of 35 percent of contract Table A amounts to the SWP contractors and only 20 percent of contract amounts to CVP agricultural contractors south of Jones.

In addition to annual hydrology conditions, the ability of DWR and Reclamation to deliver Project water south of the Sacramento-San Joaquin Delta (Delta) is affected by operational restrictions which limit diversions from the Delta. The operational restrictions include those contained in State Water Board Decision 1641 (D1641) as well as the current biological opinions issued for the protection of Delta smelt and anadromous fish and marine mammal species. Operational limitations severely restrict Project exports through June, impacting the ability of the Projects to capture excess spring flows and move water from upstream storage to contractors south of the Delta.

Changes Proposed Under the Transfer

The petitions will further the following list of projects:

a. CVP-SWP Exchange under a Consolidated Place of Use Petition to Facilitate Conveyance of Water to Santa Clara Valley Water District

   Santa Clara Valley Water District (SCVWD) contracts for a water supply from both the CVP (delivered from San Luis Reservoir through the San Felipe Division) and the SWP (delivered via the South Bay Aqueduct (SBA)). Based on projected operating conditions for 2013, total storage in San Luis Reservoir may drop to levels which can result in impaired water quality, potentially causing reductions in CVP supplies available through the San Felipe Division. Further, aging infrastructure in the San Felipe Division could result in both planned and unplanned facility shutdowns for maintenance and repair. In 2013, there are several operational and maintenance issues that may require delivery of the SCVWD's CVP or SWP supplies through an exchange. Up to 40,000 af of the SCVWD's CVP and/or SWP supplies may be subject to these alternative conveyance approaches.

   When SCVWD's pumping capacity through the San Felipe Division is limited, meeting district water demands can be impacted, necessitating the request to transfer SCVWD's CVP water through an exchange with the SWP. The proposed transfer includes an exchange of CVP and SWP water to allow SCVWD's CVP water to be pumped at Jones and delivered to DWR at O'Neill Forebay for use within the SWP service area south of O'Neill, and in exchange, an equal amount of SWP water would be pumped at Banks and delivered to SCVWD through the SBA.

   In addition, planned and unplanned shutdowns on the SBA as well as within SCVWD's service area may prevent deliveries of SWP water through the SBA. Reclamation and DWR propose an exchange of CVP and SWP water to allow the delivery of SCVWD's SWP through an exchange with CVP. SWP water will be pumped at Banks and delivered to the CVP at O'Neill Forebay for use within the CVP service area south of O'Neill. In exchange, an equal amount of CVP water will be pumped at Jones Pumping Plant and delivered to SCVWD through the San Felipe Division.

   The proposed exchanges would not increase the total amount of CVP or SWP water allocated to SCVWD by DWR or Reclamation.

b. Oak Flat Water District/Del Puerto Water District Exchange

   Oak Flat Water District (Oak Flat), an SWP contractor, and Del Puerto Water District (Del Puerto), a CVP contractor, are adjacent districts located north of San Luis Reservoir in San Joaquin, Stanislaus and Merced Counties. The districts share common landowners with water supply allocations from both projects. These landowners have requested the ability to optimize the application of available supplies on their combined properties. The proposed exchange would allow 1) the delivery of 1,000 af of the landowners' allocated CVP supplies through SWP turnouts on the California Aqueduct to lands within Del Puerto; 2) delivery of a portion of their allocated CVP supply to lands within Oak Flat; and 3) delivery of a portion of their allocated SWP supplies through CVP turnouts on the Delta Mendota Canal to lands within Del Puerto.

   In addition to the transfer described above, Oak Flat and Del Puerto propose an even exchange to affect the delivery of up to 2,000 af of Del Puerto's 2013 CVP allocation. A portion of the lands within Del Puerto adjacent to Oak Flat are more efficiently served from Oak Flat's turnouts on the California Aqueduct. Del Puerto proposes to deliver a portion of its 2013 CVP allocation to the lands adjacent to Oak Flat through an even exchange with the SWP. Up to 2,000 af of SWP water will be delivered through the Oak Flat turnouts on the California Aqueduct. An equal amount of CVP water will be delivered to the SWP at O'Neill Forebay. The proposed exchanges will not result in any increase in pumping from the Delta by either the SWP or CVP, and will result in no increase in total SWP or CVP allocations to either district.

c. Kern County Water Agency – Kern Tulare Water District Exchange

Kern County Water Agency (KCWA) is an SWP contractor with numerous member units within Kern County. Kern Tulare Water District (Kern Tulare) is a CVP contractor located in Kern County with a contract for water delivered through the Cross Valley Canal (CVC). Due to limited capacity at Jones, conveyance of CVP-CVC water through SWP facilities is often required to provide deliveries to the CVC contractors. As a result of projected hydrologic conditions and anticipated operational restrictions, it is possible there will be no capacity to move CVC water through Jones or Banks until fall 2013. In order to assist Kern Tulare in meeting peak irrigation demands this summer, KCWA will deliver up to 16,000 af of SWP water to Kern Tulare through the summer months. In exchange, Kern Tulare will deliver an equivalent amount of CVP-CVC water to KCWA in the fall.

d. Castaic Lake Water Agency – San Luis Water District

Castaic Lake Water Agency (CLWA), an SWP contractor, entered in to a long-term water banking and exchange program with Rosedale-Rio Bravo Water Storage District (RRBWSD) to store up to 100,000 af of its SWP contract supply in the RRBWSD Water Banking and Recovery Program. CLWA also entered into a long-term agreement with Buena Vista Water Storage District (BVWSD) for the purchase of up to 11,000 af per year of Kern River water appropriated under BVWSD's pre-1914 water rights to high flows on the Kern River. The high flow Kern River water is diverted and placed in groundwater storage for later extraction. The pre-1914 water purchased by CLWA is stored in its share of the RRBWSD banking and storage program. CLWA is proposing to transfer up to 11,000 af of its purchased pre-1914 water to San Luis Water District (SLWD). The transfer would be accomplished by exchange. CLWA will provide up to 11,000 af of its 2013 SWP supply to SLWD. CLWA will retain up to 11,000 af of pre-1914 water in its portion of the RRBWSD program.

e. Arvin-Edison Water Storage District/Metropolitan Water District Program

Groundwater Banking

Metropolitan Water District of Southern California (Metropolitan) stores a portion of its SWP supply in CVP contractor Arvin-Edison Water Storage District's (AEWSD) groundwater banking facilities depending on annual allocations. If requested, AEWSD is obligated to return previously banked SWP water to Metropolitan. In the absence of this proposed exchange, previously banked SWP water can only be recovered from the AEWSD banking facilities through groundwater extraction. The expansion of the CVP place of use will allow AEWSD the option and flexibility to return Metropolitan's banked water through an exchange of its available CVP Delta/San Luis Reservoir, or Friant surface supplies (CVP water). The exchange will allow AEWSD greater flexibility in the scheduling and use of its CVP supplies as well as a reduction in energy and costs associated with groundwater extraction. CVP water supplied to Metropolitan by AEWSD in lieu of extraction to recover previously stored SWP water will result in a balanced exchange or one-for-one reduction of Metropolitan's groundwater banking account with AEWSD. The exchange will occur only to the extent Metropolitan has a positive bank account. Upon return of water to Metropolitan, Metropolitan's previously banked SWP water would transfer to AEWSD.

Regulation Program

Additionally, the requested change in consolidated place of use would allow AEWSD to deliver CVP water supplies to Metropolitan first and receive back SWP water supplies in exchange at a later time. This program better facilitates the use of AEWSD CVP water supplies that have a limited opportunity for use under current CVP operations. The ability to regulate water in this manner reduces the need to directly recharge and subsequently extract supplemental water on a one-for-one basis.

Fall/Winter Supplies Exchange

In the event that hydrologic conditions become wetter than expected later in the year (2013 fall or 2013/2014 winter), and AEWSD believes that there may be limited ability to carry over 2013 CVP supplies in CVP reservoirs, AEWSD CVP water supplies would be delivered to Metropolitan to reduce risk of spill and subsequent potential loss of water supplies. The CVP water will be delivered to Metropolitan by exchange in San Luis Reservoir or directly into the California Aqueduct via the Friant Kern Canal and AEWSD facilities. Metropolitan would later return a lesser amount (return 2 af for every 3 af regulated) to AEWSD. The unbalanced nature of the exchange reflects the compensation to Metropolitan for its water management services, which would protect a portion of the water from spilling. In the absence of the exchange with Metropolitan, AEWSD would attempt to avoid spilling the water by delivering the available CVP contract supplies to groundwater banking programs within the AEWSD service area or other areas that are within the CVP place of use.

One of the benefits of the above exchanges is reduction of the impacts to AEWSD of the San Joaquin River Restoration Program (SJRRP). The exchanges increase AEWSD's ability to efficiently use water supplies and increase the opportunities to complete the return of SJRRP releases to AEWSD.

The proposed exchanges total up to 100,000 af of CVP water supplies for all three programs described above. CVP Delta supplies will be provided as stated above. Friant Division CVP water will be provided directly via delivery from the Friant-Kern Canal and AEWSD's distribution system, including its connections to the California Aqueduct at Milepost 227 (Reach 14C) or via its capacity in the Cross Valley Canal to the California Aqueduct at Tupman/Milepost 238 (Reach 12E).

f. Kern County Water Agency to Westlands

KCWA proposes to deliver up to 10,000 af of its 2013 SWP allocation to land within Westlands Water District (Westlands) to facilitate the delivery of previously stored CVP water in the Semitropic Water Storage District (Semitropic) groundwater banking program. Two landowners, Paramount Farming Company and Poso Creek Water Company, have agricultural operations in both KCWA and Westlands and have both a SWP and CVP contract supply. The landowners have banked CVP water in the Semitropic program. The landowners plan to recover up to 10,000 af of their previously stored CVP water. Delivery of the CVP water currently stored in Semitropic will be accomplished through exchange. KCWA will deliver up to 10,000 af of SWP water to Westlands turnouts on the joint use facilities. An equivalent amount of the landowners' water stored in Semitropic will be transferred to KCWA.

g. Kern County Water Agency to Westlands – Kern River Water

KCWA proposed to deliver up to 16,000 af of its 2013 SWP allocation to Westlands to facilitate the delivery of Kern River water rights water purchased by Westlands. Up to 7,600 af of Nickel Kern River water rights previously stored in Semitropic along with up to 8,400 af of 2013 Kern River water will be assigned to KCWA. The exchange will be a one for one exchange. The KCWA SWP Table A water will be delivered to Westlands turnouts in Reaches 4-7 of the joint-use San Luis Canal.

2.0 BACKGROUND

2.1 Existing Place of Use

The service areas of the SWP is shown on maps 1878-1, 1878-2, 1878-3, and 1878-4 (on file under Application 5629) and the service areas of the CVP is shown on map 214-208-12581 (on file under Application 5626).

2.2 Place of Use under the Proposed Transfer

The petitioners request the temporary addition of the CVP service area downstream of Jones to the place of use under DWR's Permit 16479. The petitioners also request the temporary addition of the SWP service area downstream of Banks to the place of use under Reclamation license and permits noted above. These temporary additions would be for the purpose of completing the transfers/exchanges described above and would be effective from the date the petitions are approved for a period of one year. The areas to be added to the SWP are shown on Map 214-202-83 and the areas added to CVP are shown on Map 214-202-84 on file with the State Water Board under Applications 14443 and 5626, respectively.

2.3 Governor's 2013 Executive Order to Streamline Approvals for Water Transfers

On May 20, 2013, Governor Edmund G. Brown Jr. issued Executive Order B-21-13 to streamline approvals for water transfers to address the dry conditions and water delivery limitations in 2013 to protect California's agriculture. The Governor's Order directs the State Water Board and DWR to expedite the review and processing of temporary transfers for 2013 (in accordance with the Water Code) and to assist water transfer proponents and suppliers, as necessary, provided that the transfers will not harm other legal users of water and will not unreasonably affect fish, wildlife, or other instream beneficial uses. The State Water Board and DWR were also directed to make all efforts to coordinate with relevant federal agencies, water districts, and water agencies to expedite the review and approval of water transfers in California.

3.0 LEGAL REQUIREMENTS FOR TEMPORARY TRANSFERS

Temporary change petitions receive approval where the water transfer: "would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of water, and would not unreasonably affect fish, wildlife or other instream beneficial uses." (Wat. Code, §§ 1725, 1727.) Contractors are "legal users of water" for purposes of the no injury rule for transfers. However, the extent to which they are protected from injury is only to the extent that their contractual rights are violated: a harm within the bounds permitted by their contract is not legally cognizable. (*State Water Resources Control Board Cases* (2006) 135 Cal.App.4th 674, 803-805).

4.0 PUBLIC NOTICE AND COMMENTS

On May 7, 2013, public notice of the petitions for temporary change was provided as follows: 1) via first class mail to interested parties; 2) by posting on the Division's website; 3) via the State Water Board's Lyris email notification program; and 4) by publication in the Sacramento Bee and the Stockton Record. California Water Impact Network (C-WIN), California Sportfishing Protection Alliance (CSPA), and AquAlliance submitted a joint comment letter to the State Water Board on June 3, 2013.

4.1 Joint Comments of C-WIN, CSPA, and AquAlliance

On June 3, 2013, the commenters indicated their concerns regarding the transfer proposal. The concerns extend beyond the scope of the current transfer, and encompass all pending 2013 water transfers being processed by the State Water Board. To expedite transfer processing, the concerns are not repeated herein; however, the State Water Board response letter dated June 27, 2013 is incorporated by reference. The response letter details the issues raised by the commenters. Reclamation also responded to the commenters' letter and a summary of their response is provided below as well.

<u>Reclamation Response</u>:

On June 14, 2013, Reclamation responded to the commenters letter and indicated that Reclamation

and DWR filed almost identical petitions to consolidate the CVP and SWP places of use on three previous occasions, and the State Water Board has made findings on each previous petition that the consolidation of the places of use, and the actions implemented by the consolidation, will not harm other legal users of water, fish, wildlife, or other instream beneficial uses. Reclamation believes it established a prima facie case regarding the petition pursuant to Water Code section 1727 (c) since the State Water Board has approved three similar petitions in the past.

Water Code section 1727 (c) requires that the commenters bear the burden of proof that the proposed consolidated place of use is injurious to other legal users of water or fish, wildlife, or other instream beneficial uses if the State Water Board has determined the petitioners have established a prima facie case. Reclamation claims the commenters have not provided any specific evidence that meets their burden of proving that the proposed temporary change would not comply with paragraphs (1) and (2) of Water Code section 1727 (b).

State Water Board Response:

The State Water Board response letter identifies a need to evaluate the following issues in the present order: (a) whether there is a change in return flow associated solely with the transfer, and (b) whether the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee in the absence of the proposed temporary change or conserved pursuant to Water Code section 1011.

In addition, the response letter indicates that use of the Delta Pumps for transfer purposes should be conditioned on compliance by DWR and Reclamation with D1641, all applicable biological opinions and court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.

The objection is addressed upon a finding that: (a) no change in return flows is occurring, and (b) the transfer only involves water that would have been consumptively used or stored. Approval of the petition is also contingent on inclusion of condition 6 of this order. The required evaluations are found in Section 5 of this order.

5.0 REQUIRED FINDINGS OF FACT

5.1 Transfer Only Involves Water That Would Have Been Consumptively Used or Stored

Before approving a temporary change due to a transfer or exchange of water pursuant to Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change or conserved pursuant to Section 1011. (Wat. Code, §§ 1725, 1726.) Water Code section 1725 defines “consumptively used” to mean “the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.”

The projects proposed under these petitions involve water that would have been consumptively used or stored in the absence of the transfers/exchanges. According to the petitions, the transfer/exchange will not result in the diversion of additional water from the Delta or the delivery of more water to any individual water supplier or user than has been delivered historically. Instead, the requested change will provide the operational flexibility the Projects need to get available supplies where they are needed most and in the most efficient manner possible. The water proposed for transfer/exchange consists of either:

a) Water stored pursuant to the specified license and permits of the CVP and SWP; or
b) Water directly diverted pursuant to the specified license and permits of the CVP and SWP for use outside of the Delta watershed, and thus removed from use in the downstream water supply.

In light of the above, I find in accordance with Water Code section 1726, subdivision (e) that the water proposed for transfer pursuant to this Order would be consumptively used or stored in the absence of the proposed temporary change.

5.2 No Injury to Other Legal Users of Water

Before approving a temporary change due to a transfer or exchange of water pursuant to Article 1 of Chapter 10.5 of Part 2 of Division 2 of the Water Code, the State Water Board must find that the transfer would not injure any legal user of the water during any potential hydrologic condition that the Board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows. (Wat Code, § 1727, subd. (b)(1).)

The total quantity of diversions from the Delta will not change. The timing of diversions from the Delta will not change, however the timing of deliveries south of the Delta diversion facilities to specific SWP or CVP contractors will change as detailed above in paragraphs 1.1 (b), (d) and (f). The delivery rates from San Luis Reservoir may be slightly different. The scheduling of the deliveries will be coordinated between DWR and Reclamation so as not to adversely impact any SWP or CVP contractor deliveries. Adequate capacity in the California Aqueduct and in the Delta Mendota Canal is available, and will not be adversely impacted as a result of the exchanges. The terms and conditions contained in D1641 protect other in-basin diverters from any potential impacts of Project diversions of natural flow. DWR and Reclamation are required to operate in conformance with D1641 and all other applicable regulatory restrictions governing SWP and CVP operations. There are no other legal users downstream of the points of diversion that would be affected by the exchanges. Overall, there will be no impact to other legal users of water.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(1) that the proposed temporary change will not injure any legal user of the water.

5.3 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses

In accordance with Water Code section 1729, temporary changes involving transfer of water are exempt from the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) However, the State Water Board must consider potential impacts to fish, wildlife, or other instream beneficial uses in accordance with Water Code section 1727(b)(2).

The water is diverted out of the watershed from which it originates in conformance with the provisions of the respective DWR and Reclamation water right license and permits governing those diversions. There will be no change in the amount of SWP or CVP water diverted at the Banks or Jones Pumping Plants. Therefore, there will be no change in flow or water quality conditions in the Delta. All water exported at the SWP and CVP pumping plants is pumped consistent with the criteria contained in D1641 and all other applicable regulatory restrictions governing SWP and CVP operations.

Exchanges similar to those proposed herein occurred in 2009, 2010 and 2012 consistent with the provisions of WR 2009-0033, WR 2010-0032-DWR and a July 6, 2012 State Water Board order on transfer. No measurable effects on fish and wildlife or the environment were noted from those transfers. The exchanges will not result in an increase in deliveries to any drainage impaired lands, or in a measurable change in quantity or quality of return flows.

In light of the above, I find in accordance with Water Code section 1727, subdivision (b)(2) that the proposed transfer will not unreasonably affect fish, wildlife, or other instream beneficial uses.

6.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY

On June 5, 2012, the State Water Board adopted Resolution 2012-0029, delegating to the Deputy Director for Water Rights the authority to act on petitions for temporary change if the State Water Board does not hold a hearing. This Order is adopted pursuant to the delegation of authority in section 4.4.2 of Resolution 2010-0029.

7.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727, and therefore I find as follows:

I conclude that, based on the available evidence:

1. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.

2. The proposed temporary change will not injure any legal user of water.

3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petitions filed for temporary change for transfer of 196,000 af of water are approved.

All existing terms and conditions of the DWR and Reclamation license and permits remain in effect, except as temporarily amended by the following provisions:

1. The transfer/exchanges of water are limited to the period commencing on the date of this Order and continuing for one year.

2. The place of use under DWR Permit 16479 is temporarily expanded to include portions of the CVP service area shown on map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to SWP Authorized Place of Use,* Map 214-202-83.

3. The place of use under Reclamation License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973, and 12364 is temporarily expanded to include portions of the SWP service area as *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to CVP Authorized Place of Use,* Map No.214-202-84.

4. Water transferred/exchanged pursuant to this Order shall be limited to 196,000 af as specifically described in item 1.1 (a) through (g) in "Substance of Petitions" above. Although the transfer limits water service as noted herein, the one-for-one repayment of exchanged transfer water is not limited to service areas (a) through (g), but may occur within the more general service areas shown on Maps 214-202-83 and 214-202-84.

5. DWR and Reclamation shall not increase their allocations of water to the transfer/exchange parties beyond the quantities authorized by existing contract for purposes of this transfer/exchange.

6. Diversion of water at the Delta Pumps pursuant to this Order is subject to compliance by the SWP and CVP project operators with the objectives set forth in Tables 1, 2 and 3 on page 181 to 187 of State Water Board's Revised Decision 1641 (D-1641), or any future State Water Board order or decision implementing Bay-Delta water quality objectives at those points of diversion/rediversion, including compliance with the various plans required under D-1641 as prerequisites for the use of the Joint Points of Diversion by DWR and Reclamation. Diversion of water at the Delta Pumps pursuant to this Order is subject to compliance by the pumping plant operators with all applicable biological opinions, court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.

7. Within 90 days of the completion of the transfer; but no later than September 30, 2014, the Petitioners shall provide to the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report shall include the following information:

    a. Separate data identifying the monthly and total volumes of water delivered to each of the transfer/exchange parties pursuant to this Order.

    b. The monthly and total amounts of Delta and delivered water to each of the transfer/exchange parties for the period covered by this transfer. This total shall include SWP and CVP deliveries, other water transfers, and any other amount of Delta water each location received.

    c. Documentation that the water transferred/exchanged did not result in an increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's license and permits beyond the quantities that would otherwise have been diverted absent the transfer.

8. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change order, including 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 also may be exercised by imposing specific requirements over and above those contained in this order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.

9. This order 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 transfer, the petitioners shall obtain authorization for an incidental take permit prior to construction or operation. Petitioners shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this order.

10. I reserve jurisdiction to supervise the transfer, exchange, and use of water under this order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
JAMES W. KASSEL FOR:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: JUL 01 2013

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 11315 (Application 13370)

of United States Bureau of Reclamation

AMENDED ORDER SUPERSEDING AND REPLACING JULY 18, 1994 ORDER AMENDING PERMIT 11315 TO CONFORM WITH DECISION 1629

AND INCORPORATING TERMS OF CONCURRENT ORDER ON AUGUST 9, 2007 AND JULY 16, 2009 PETITIONS TO CHANGE

SOURCES: American River, Old River, Sacramento River

COUNTIES: Contra Costa, Sacramento

WHEREAS:

1. The Permittee is the U.S. Bureau of Reclamation (Reclamation).

2. On July 18, 1994, the State Water Resources Control Board (State Water Board) issued an Order Amending Permit 11315 to Conform with Decision 1629 (1994 Order) regarding the Los Vaqueros Reservoir Project. The order identified the conditions in Decision 1629 that were applicable to Permit 11315.

3. On August 9, 2007, Reclamation filed a petition to add a point of rediversion on Victoria Canal.

4. On July 16, 2009, Reclamation filed a petition to add incidental hydroelectric power generation as a purpose of use in connection with Contra Costa Water District's Los Vaqueros Energy Recovery Project.

5. The Division of Water Rights evaluated the 2007 and 2009 petitions and determined the conditions for approval of the two pending petitions in an Order Approving Changes in Point of Diversion and Rediversion and Purpose of Use on 15 water right permits of Reclamation and Permits 20245 and 20249 of Contra Costa Water District (2010 Order on petitions) that will be issued concurrently with this Order. The 2010 Order on petitions modifies some of the terms in the 1994 Order.

6. This order lists the entire group of conditions that are applicable, based on the 1994 and 2010 Orders. This Order supersedes the July 18, 1994 Order.

NOW, THEREFORE, IT IS ORDERED THAT:

The July 18, 1994 Order on Permit 11315 is superseded by this Order.

The following list of acronyms is used within the text of the following Order:

- Department of Fish and Game - DFG

- National Marine Fisheries Service – NMFS
- Alternate Intake Project – AIP
- U.S. Fish and Wildlife Service – USFWS
- Department of Water Resources – DWR
- U.S. Bureau of Reclamation – Reclamation
- State Water Resources Control Board – State Water Board
- Division of Water Rights - Division
- Contra Costa Water District - CCWD

1. Condition (a) was added to the permit by Decision 1629. Condition (b) was added to the permit by the 2010 Order. The condition of the permit related to the points of diversion is amended to include the following:

   (a) A point of rediversion on Old River tributary to San Joaquin Delta Channels, within NW ¼ of SE ¼ of projected Section 31, T1N, R4E, MDB&M, also described as California Coordinates, NAD 83, Zone 3, North 2,147,455 feet and East 6,250,918 feet.

   (b) A point of rediversion on Victoria Canal tributary to Old River thence San Joaquin Delta Channels, within NE ¼ of NW ¼ of Section 9, T1S, R4E, MDB&M. also described as California Coordinates, NAD 83, Zone 3, North 2,139,610 feet and East 6,259,970 feet.

2. Condition (a) was added to the permit by Decision 1629. Condition (b) was added to the permit by the 2010 Order. The condition of the permit related to the purpose of use shall be amended to include:

   (a) Municipal and industrial uses. These uses are only authorized in the service area of the CCWD, as shown on a map filed with the State Water Board.

   (b) Incidental hydroelectric power generation at: California Coordinates, NAD 83, Zone 3, North 2,182,439 feet and East 2,201,417 feet, being within the NW ¼ of NW ¼ of Section 34, T2N, R2E, MDB&M.

(0000003)
(0000004)

The following conditions were added to the permit by Decision 1629, and are updated by the 2010 Order as shown:

3. The combined instantaneous maximum rate of diversion and rediversion to offstream storage in Los Vaqueros Reservoir from Old River and Victoria Canal shall not exceed 200 cubic feet per second.

(000005J)

4. Permittee shall maintain a daily record of water diversion utilizing both the Old River and Victoria Canal points of diversion and submit such record to the Division on an annual basis.

(0090700)

5. No water shall be diverted under this permit until Permittee has installed devices, satisfactory to the State Water Board, which are capable of measuring the flow: (1) directly diverted at Victoria Canal; (2) diverted into the Los Vaqueros Reservoir from Old River and Victoria Canal; and (3) releases through or flowing out of the outlet facilities of Los Vaqueros Reservoir. Said measuring devices shall be properly maintained.

(0060062)

6. The total combined quantity of water diverted and/or rediverted from Old River and Victoria Canal under Permits 20749, 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 16597, 11968, 11969, 11971, 11973, 12364, 13776, 16600, and 15735, issued pursuant to Applications 20245, 5626, 5628, 9363, 9364, 9366, 9367, 13370, 13371, 14858, 15374, 15375, 16767, 17374, 17376, 18115, 19304 and 22316 shall not exceed 180,675 acre-feet per annum, and also shall not exceed in any one-year period commencing on March 1, the sum of (i) 177,000 acre-feet and (ii) 4,000 acre-feet to replace evaporation losses and (iii) the difference between the quantity of water in storage in Los Vaqueros Reservoir at the end of the period and the quantity of water in storage in Los Vaqueros Reservoir at the beginning of the period from Old River and Victoria Canal combined. If the quantity of water in storage in Los Vaqueros Reservoir at the end of the period is less than the quantity of water in storage in Los Vaqueros Reservoir at the beginning of the period, the change in storage shall be subtracted from the 177,000 acre-feet.

   Until further order of the State Water Board, the combined maximum annual diversion shall not exceed 222,000 acre-feet per annum from Old River, Rock Slough, and Victoria Canal. Any such further order of the State Water Board shall be preceded by notice to all interested parties, by opportunity for hearing, and a showing that water can be diverted in excess of 222,000 acre-feet per annum, taking into account the needs of public trust uses, senior water right holders, and other beneficial uses. Any petition seeking such a further order of the State Water Board shall be accompanied by any environmental documentation required under California law. This requirement for a further order of the State Water Board shall not preclude the Permittee from filing an appropriate petition or petitions for temporary changes or application(s) for temporary permits under laws existing at the time of the filing of the petition or application.

   Provided, however, that if during the 12 months after the date when water is first diverted to storage in Los Vaqueros Reservoir there is adequate water available under the water rights listed above, the combined maximum diversion during that initial 12 months shall be 252,000 acre-feet from Old River and Rock Slough**.**

   The total quantity of water under the permits on the above water rights distributed within the authorized place of use served by CCWD for use by the customers of CCWD, in any-year commencing March 1 shall not exceed 177,000 acre-feet.

   (0000114)

7. The combined rates of diversion and/or rediversion from Old River under Permits 20749, 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 16597, 11968, 11969, 11971, 11973, 12364, 13776, 16600, and 15735 to Reclamation (issued pursuant to Applications 20245, 5626, 5628, 9363, 9364, 9366, 9367, 13370, 13371, 14858A, 15374, 15375, 16767, 17374, 17376, 18115, 19304, and 22316) shall not exceed 250 cubic feet per second.

   (0000114)

The following condition was added to the permit by Decision 1629 and is unchanged:

8. Permittee shall comply with all legally binding requirements of DFG, USFWS, and NMFS imposed on the Permittee under the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544) and the California Endangered Species Act (Fish and Game Code Sections 2050 to 2098) with respect to the Los Vaqueros Project.

   (0400500)
   (0600999)

The following condition was added to the permit by Decision 1629, and is updated by the 2010 Order as shown:

9. Permittee shall in cooperation with CCWD implement the mitigation monitoring and reporting measures for Bay-Delta fishery resources, Bay-Delta water quality, vegetation resources, wildlife resources, cultural resources, and to comply with the Fish and Wildlife Coordination Act (16 U.S.C.

Section 661 et seq.), which are set forth in the Environmental Commitments and Mitigation Monitoring the Reporting Plan for the Los Vaqueros Project Stage 2 Environmental Impact Report/Environmental Impact Statement, dated October 27, 1993. Permittee in cooperation with CCWD shall provide a report to the Deputy Director for Water Rights by April 1 of each year detailing the results of the previous year's monitoring, plans for the current year's monitoring, and the status of implementation of each mitigation measure required by this decision.

(0400500)

The following condition was added to the permit by Decision 1629 and is unchanged:

10. Permittee shall minimize increased levels of suspended sediments discharged to Old River during construction, maintenance and repair of the Old River intake facility and minimize loss of fish and riparian wildlife at the Old River intake facility construction site by: (1) installing floating silt curtains, silt fences, stormwater detention facilities, and other appropriate sediment control facilities; (2) mapping existing riparian/aquatic fish habitat prior to construction and taking steps to avoid losses to existing habitat during facility construction as much as possible; and (3) reestablishing suitable new habitat on newly constructed or existing levees to compensate for unavoidable losses. Further, the Permittee shall perform all construction, maintenance and repair operations on the Old River intake facility only during the period from September 1 through December 30 of each year, unless USFWS and DFG authorized these activities during other periods. Best management practices shall be used to minimize direct and indirect impacts to fish and wildlife.

(0400500)

The following condition was added to the permit by Decision 1629, and is updated by the 2010 Order as shown:

11. (a) Until the Rock Slough diversion is screened, water diversion from Rock Slough will be minimized under Permits 12725, 12726, and 15735 on Applications 9366, 9367, and 22316 of Reclamation from December 1 through June 30. Permittee shall maximize use of its screened intakes, unless monitoring at the intakes indicates, and DFG, USFWS and NMFS agree, that the incidental take of winter-run Chinook salmon, spring-run Chinook salmon, delta smelt and longfin smelt adults, juveniles, or larvae would be less at Rock Slough than another intake, or that these species are not present at Rock Slough. Permittee shall provide to the Division written concurrence, including the calendar dates when use is authorized, from DFG, USFWS and NMFS prior to use of any unscreened facilities.

    (b) During the period from March 15 through May 31 of each year, Permittee shall not divert water from the Old River or Victoria Canal points of diversion to offstream storage in Los Vaqueros Reservoir except when the reservoir storage level is less than 70,000 acre-feet in a below normal, above normal, or wet water-year, or less than 44,000 acre-feet in a dry or critical water-year ("emergency storage levels"). Water-year types will be as defined in the February edition of the DWR Bulletin 120 or the Four Basin Index set forth in the permits and licenses of Reclamation. If reservoir storage is below emergency storage levels, Permittee may fill the reservoir only if: 1) Permittee has provided DFG with notification that reservoir storage is expected to be below emergency storage level, and 2) DFG concurs with the proposed diversion and rate of diversion. Permittee shall provide the Deputy Director for Water Rights a minimum 15-day notification after obtaining DFG concurrence with the proposed dates and rate of diversion in advance of any diversion. Unless within 15 days the Deputy Director for Water Rights objects to the proposed modification or proposes an alternative, the Permittee may divert at the identified rate of diversion.

    (c) Beginning in the February following the first operation of the Victoria Canal diversion, Permittee shall not divert water from any of its diversions to storage in Los Vaqueros Reservoir for 15 days from February 14 through February 28, provided that reservoir storage is at or above 90,000 acre-feet on February 1. If reservoir storage is at or above 80,000 acre-feet on February 1 but below 90,000 acre-feet, Permittee shall not divert water to storage in Los Vaqueros

Reservoir for 10 days from February 19 through February 28. If reservoir storage is at or above 70,000 acre-feet on February 1, but below 80,000 acre-feet, Permittee shall not divert water to storage in Los Vaqueros Reservoir for five days from February 24 through February 28.

(d) During the period April 1 to April 30, Permittee shall not divert from the Delta for use by CCWD unless Los Vaqueros Reservoir is below emergency storage levels as defined above, and will instead release up to 12,500 acre-feet of water from storage in Los Vaqueros Reservoir to meet demand in the CCWD service area. In those instances where diversions are necessary due to the Reservoir being at or below emergency storage levels, Permittee may divert from the Delta only for direct use by CCWD within the CCWD service area, and no water may be diverted to storage in Los Vaqueros Reservoir.

(e) The Permittee may submit to DFG, USFWS and NMFS by January 1 of each year, a proposal for modifying the dates of conditions (b), (c), and (d) to better protect threatened or endangered species. DFG may approve modification of the dates for the periods when the reservoir filling is to be avoided and the periods when no diversion shall occur if DFG determines the proposed modification of dates will be more effective in minimizing take of delta smelt and longfin smelt. If no response from DFG is received, conditions (b), (c), and (d) shall apply. Condition (c) is a condition of DFG only. In addition, prior to modifying the dates of conditions (b) and (d), the concurrence of USFWS and NMFS is required. Permittee shall by February 15, or immediately if after February 15, notify the Deputy Director for Water Rights of the time period modifications for that year. Unless within 15 days the Deputy Director for Water Rights objects to the proposed modifications or proposes an alternative, the Permittee shall implement the modifications.

(0560900)
(0360900)
(0600500)

The following conditions from the 2010 Order shall be added to the permit

12. The maximum instantaneous combined rate of diversion for all diversions from Mallard Slough, Rock Slough, Old River and Victoria Canal under CCWD's Permit 29749 and License 10514 (Application 5941), and Reclamation Permits 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 16597, 11968, 11969, 11971, 11973, 12364, 16600, 15735 and 13776 shall not exceed: 540 cubic feet per second for the months of June, July, August, September and October; 410 cubic feet per second for the months of November, December, January, February and March; and 470 cubic feet per second for April and May; the maximum rate of diversion from Victoria Canal shall not exceed 250 cubic feet per second; and the maximum combined rate of diversion from Old River and Victoria Canal shall not exceed 320 cubic feet per second.

(0000005J)

13. If DFG, USFWS, or NMFS notifies CCWD that a change in the periods described in conditions 11(b) or 12 is desirable, then Reclamation will cooperate with CCWD to, no later than January 15 of any year, provide the Division with a written request to modify one or more of those conditions. CCWD shall indicate to each agency and the Division whether the change is accepted.

The following conditions were added to the permit by Decision 1629 and are unchanged:

14. Permittee shall construct, operate and maintain a fish screen and fish screen cleaning system at the Old River intake facility, satisfactory to the DFG, USFWS, and NMFS. The fish screen facility shall be constructed and made fully operational prior to operation of the Old River intake facility and by not later than January 1, 1997. In addition, the screen facility shall be designed and operated to achieve an average water approach velocity no greater than 0.2 feet per second for a 3/32" vertical slotted screen opening, and be operated to effectively screen fish greater than 21 millimeters long.

(0400500)

15. To avoid construction impacts to Swainson's hawks, surveys shall be conducted weekly beginning the first week of April through May 15 by a biologist acceptable to DFG to determine if any nesting is occurring within ½ mile of the Old River diversion point, and to determine whether there is any suitable nesting habitat within ½ mile. If nesting is occurring within ½ mile, construction may not be initiated or continued until August 15 without additional consultation with DFG. This term shall expire upon completion of construction.

(0400500)

The following condition was added to the permit by Decision 1629 and is updated as shown:

16. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a Lake and Streambed Alteration Agreement between DFG and CCWD is filed with the Division. Compliance with the terms and conditions of the agreement is the responsibility of CCWD. If a Lake and Streambed Alteration Agreement is not necessary for this permitted project, the Permittee shall cooperate with CCWD to provide the Division a copy of a waiver signed by DFG.

(0000063)

The following conditions from the 2010 Order shall be added to the permit:

17. Permittee shall comply with the following:

    (a) Diversions at Victoria Canal Intake under Permit 20749 of CCWD and Permits 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 11968, 11969, 11971, 11973, 12364, 13776, and 15735 of Reclamation can be made only when no adverse impact in water levels or water quality resulting from said diversions is detected at West Side Irrigation District (WSID) diversion points.

    (b) The State Water Board reserves jurisdiction over the permits providing for diversions from the new intake at Victoria Canal for such additional time as necessary to determine if use of said point of diversion adversely impacts the water supply or water quality available to WSID. The State Water Board shall, after giving due notice thereof, make any further orders that it finds to be necessary concerning proper use of the point of diversion, and impose conditions providing for additional measurements or studies as it may deem necessary.

18. Nothing shall alter the relative priority of diversions under Permit 20749 of CCWD and Permits 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 16597, 11968, 11969, 11971, 11973, 12364, 16600, 15735 and 13776 of Reclamation from that contained in State Water Board Decision 1629.

All other permit terms and conditions not specifically modified or added by this Order shall remain in effect.

STATE WATER RESOURCES CONTROL BOARD

James W. Kassel
for *Victoria A. Whitney*
Deputy Director for Water Rights

Dated: AUG 25 2010

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

DIVISION OF WATER RIGHTS

In the Matter of Permits 11315 and 11316 (Applications 13370 and 13371)

United States Bureau of Reclamation

ORDER APPROVING CHANGE IN POINT OF DIVERSION AND AMENDING THE PERMITS

SOURCE: Sacramento River

COUNTY: Sacramento

WHEREAS:

1. Permits 11315 and 11316 were issued to United States Bureau of Reclamation (Reclamation) on April 22, 1958, pursuant to Applications 13370 and 13371.

2. A petition to change a point of diversion/rediversion (POD) was filed with the State Water Resources Control Board (State Water Board) on March 1, 2006 and the State Water Board has determined that good cause for such change has been shown. In accordance with California Code of Regulations, title 23, section 795(a), the State Water Board finds that this petition for change will not have negative effects on any other legal users of water, or fish, wildlife, and other in-stream beneficial uses of water. Therefore, a public notice of the change was not issued.

3. The State Water Board has determined that the petition for change in POD will not harm any legal user of water, fish, wildlife or other in stream beneficial users of water, and does not constitute the initiation of a new right.

4. Please note that the existing continuing authority condition in the permits has been amended to reflect the current common law public trust doctrine as contained in title 23, California Code of Regulations, section 780(a).

5. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. A condition will be included in this Order requiring notification of Reclamation if project activities uncover any buried archeological materials.

6. The California Environmental Quality Act (CEQA) lead agency, the Freeport Regional Water Authority (Authority) prepared a Final Environmental Impact Report, Freeport Regional Water Project (State Clearinghouse number 2002032132) on April 15, 2004. The State Water Board filed a Notice of Determination with the State Clearinghouse in compliance with sections 21108 or 21152 of the Public Resources Code.

NOW, THEREFORE, IT IS ORDERED THAT PERMITS 11315 AND 11316 ARE AMENDED TO READ AS FOLLOWS:

1. The point of diversion at North 1,934,570 feet and East 6,702,360 feet by California Coordinate system in Zone 2, being within the NE ¼ of SE ½ of Section 11, T7N, R4E, MDB&M will be changed to be located within North 1,934,251 feet and East 6,702,930 feet.

2. The continuing authority condition, shall be updated to read as follows:

   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 requirement for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

   The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the 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)

3. Permits 11315 and 11316 are amended to include the following archeological condition:

   Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils

chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. Reclamation shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to Reclamation for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of Reclamation.

(0000215)

4. All other conditions of Permit 11315 and 11316 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

James W. Kassel.
for *Victoria A. Whitney, Chief*
Division of Water Rights

Dated: JUN 15 2006

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 11315 (Application 13370)

U.S. Bureau of Reclamation

ORDER APPROVING CHANGE IN PLACE OF USE AND AMENDING THE PERMIT

SOURCE: American River

COUNTY: Sacramento

WHEREAS:

1. Permit 11315 was issued to U.S. Bureau of Reclamation on April 22, 1958, pursuant to Application 13370.

2. A petition to change the place of use was filed with the State Water Resources Control Board (SWRCB) on May 23, 2001, and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on November 16, 2001, and no protests were received.

3. The SWRCB has determined that the petition for change in place of use does 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 PERMIT 11315 IS AMENDED TO READ AS FOLLOWS:

1. The place of use as shown on USBR Map No. 214-208-12581 on file with the Board, and as further delineated in the GIS maps on file with the Board and attached to Board Decision 1641, is amended to include the following:

   71 acres within E½ of Section 12, T14S, R11E, MDB&M.
   160 acres within NW¼ of Section 29, T14S, R12E, MDB&M.

2. All other conditions of Permit 11315 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

Edward C. Anton, Chief
Division of Water Rights

Dated: JUL 29 2002

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 11315 (Application 13370)

U.S. Bureau of Reclamation

ORDER APPROVING CHANGE IN PLACE OF USE AND AMENDING THE PERMIT

SOURCE: Sacramento River

COUNTY: Shasta

WHEREAS:

1. Permit 11315 was issued to U.S. Bureau of Reclamation on April 22, 1958, pursuant to Application 13370.

2. A petition to change the place of use was filed with the State Water Resources Control Board (SWRCB) on November 21, 1996, and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on March 12, 1997, and the protests have been resolved.

3. The SWRCB has determined that the petition for change in place of use does 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 PERMIT 11315 IS AMENDED TO READ AS FOLLOWS:

1. The place of use as shown on USBR Map No. 214-208-12480 on file with the SWRCB, and as further delineated in the GIS maps on file with the SWRCB and attached to SWRCB Decision 1641, is amended to include the following:

   30,000 net acres within a gross area of 70,000 acres within the Pajaro Valley Water Management District, as shown on USBR Map No. 214-208-12480 dated November 1, 1996, on file with the SWRCB.

2. All other conditions of Permit 11315 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY

for *Edward C. Anton, Chief*
Division of Water Rights

Dated: JUL 1 9 2002

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

DIVISION OF WATER RIGHTS

ORDER

Applications 13370 and 13371 Permits 11315 and 11316

ORDER AMENDING ORDER DATED JULY 29, 1999, TO CORRECT AN OVERSIGHT

WHEREAS:

1. On July 29, 1999, the State Water Resources Control Board (SWRCB) issued an order approving a petition to change the place of use and add three additional points of diversion under Permits 11315 and 11316 held by the United States Bureau of Reclamation (USBR).

2. The purpose of the USBR's change petition was to allow for the delivery of water in accordance with contracts authorized by Public Law 101-514.

3. In order to resolve a protest filed against its change petition by the Department of Fish and Game (DFG), the USBR agreed to certain fish screen requirements.

4. The SWRCB dismissed the DFG's protest with the understanding that the SWRCB's order on the USBR's change petition would reflect the agreement between the USBR and DFG regarding fish screens.

5. Accordingly, the SWRCB's July 29, 1999 order required that a protest dismissal condition concerning fish screens be added to Permits 11315 and 11316. The protest dismissal condition did not, however, accurately reflect the agreement between DFG and the USBR.

6. Water Code section 1124 authorizes the SWRCB to amend an order or decision to correct "any obvious typographical or clerical error or oversight without the necessity of notice and a hearing thereon."

7. On October 8, 1998, the National Marine Fisheries Service issued a biological opinion and an incidental take statement concerning implementation of the contracts authorized by Public Law 101-514. Among other things, the incidental take statement required installation of fish screens at the three new points of diversion that were identified in the USBR's change petition, and that were subsequently approved by the SWRCB's July 29, 1999 order.

COPY FOR FIELD ENGINEER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The protest dismissal condition set forth in paragraph 3.b. of the SWRCB's July 29, 1999 order shall be removed from Permits 11315 and 11316, and replaced with the following protest dismissal condition:

   Permittee shall design and construct a fish screen on the new intake to the Sacramento River Water Treatment Plant diversion structure identified in the SWRCB's July 29, 1999 order. The design, construction, and maintenance of the fish screen shall be consistent with the Biological Opinion and Incidental Take Statement of the National Marine Fisheries Service, dated October 8, 1998, as it may subsequently be amended. The fish screen shall be satisfactory to meet the physical and operational specifications of the California Department of Fish & Game and National Marine Fisheries Service to protect species of fish listed as endangered or threatened under the California Endangered Species Act (Fish & Game Code, §§2050-2098) and the Federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). Once the new fish screen has been completed, no water shall be diverted at the Sacramento River Water Treatment Plant except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of the California Department of Fish & Game and National Marine Fisheries Service to protect species of fish listed as endangered or threatened under the California Endangered Species Act and the Federal Endangered Species Act. Provided that Permittee designs and constructs a fish screen as required by the Biological Opinion and Incidental Take Statement, Permittee may divert water, prior to completion of the new screen, at the interim point of diversion at the existing intake to the Sacramento River Treatment Plant diversion structure.

   No water may be diverted at the remaining points of diversion identified in the SWRCB's July 29, 1999 order except through fish screens on the intake to the diversion structures. These fish screens must meet the physical and operational specifications of the California Department of Fish & Game and National Marine Fisheries Service to protect species of fish listed as endangered or threatened under the California Endangered Species Act and the Federal Endangered Species Act. Construction, operation, and maintenance of all facilities required by this condition are the responsibility of the permittee.

Dated: NOV - 3 1999

Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Applications 13370 & 13371 Permits 11315 & 11316

ORDER APPROVING CHANGE IN THE PLACE OF USE AND ADDING ADDITIONAL POINTS OF DIVERSION/REDIVERSION, AND AMENDING THE PERMIT

WHEREAS:

1. Permits 11315 and 11316 were issued to United States Bureau of Reclamation on April 22, 1958

2. A petition to change the place of use and the addition of three additional points of diversion/rediversion to the project covered by permits 11315 and 11316 were filed with the State Water Resources Control Board (SWRCB) on December 13,1996.

3. The petition was noticed and protests to the proposed changes were received. Negotiations between the parties have resolved the protests that were accepted by the SWRCB.

4. The United States Bureau of Reclamation has agreed to the inclusion of two permit conditions concerning potential injury to the City of Sacramento and fish screens, respectively, as conditions of protest resolution.

5. The SWRCB has determined that the petition for change in the place of use and points of diversion/rediversion do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

6. The permit term relating to water quality objectives of the SWRCB should be added to conform to Section 780(a), Title 23 Code of Regulations of the California.

7. 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:

1. Permits 11315 and 11316, shall be amended to include the following additional points of diversion/rediversion:

   A Point of Diversion/Rediversion located at the new City of Sacramento Water Treatment Plant Intake Structure; North 1,977,670 feet and East 6,702,740 feet by California Coordinate System in Zone 2, being within Projected Section 35, T9N, R4E, MDB&M. (An interim point of diversion/rediversion, the existing City of Sacramento Water Treatment Plant Intake Structure located North 1,978,390 feet and East 6,702,600 feet by California Coordinate System in Zone 2, and being within Projected Section 35, T9N, R4E, MDB&M, will be used until completion of the new City of Sacramento Water Treatment Plant Intake Structure.)

   A Point of Diversion/Rediversion located on the American River; North 1,981,090 feet and East 6,703,780 feet by California Coordinate System in Zone 2, being within the SE¼ of SE¼ of Projected Section 26, T9N, R4E, MDB&M

   A Point of Diversion/Rediversion located at the proposed Freeport Water Treatment Plant; North 1,934,570 feet and East 6,702,360 feet by California Coordinate System in Zone 2, being within the NE¼ of SE¼ of Section 11, T7N, R4E, MDB&M

2. The condition of Permits 11315 and 11316, relating to the place of use shall be amended as follows:

   The place of use is expanded to include those areas within:
   Sections 28, 29, 32 and 33, T10N, R8E, MDB&M;
   Sections 25 and 36, and Projected Sections 26 and 35, T9N, R7E, MDB&M;
   Sections 3, 4, 5, 7, 8, 9, 10, and 31, T9N, R8E, MDB&M;
   Sections 1, 2, 11, 12, 13, and 14, T8N, R7E, MDB&M; and,
   Sections 6, 7, 18, and 19, T8N, R8E, MDB&M:
   As shown on the map No. 485-208-1255 dated December 20, 1996, on file with the SWRCB, Division of Water Rights.

3. The following protest dismissal conditions shall be added to Permits 11315 and 11316:

   a) The Bureau of Reclamation will not divert water from Folsom Reservoir or the American River for delivery to Sacramento County Water Agency or the City of Folsom under water service contacts entered into pursuant to Pub. L. No. 101-514 whenever such diversions alone or inconjunction with other diversions by the Bureau of Reclamation from the American River would limit or impair the ability of the City of Sacramento to make diversions from the American River in accordance with the terms of Contract No. 14-06-200-6497 between the City of Sacramento and the United States of America, by and through the Bureau of Reclamation.

b) No water shall be diverted under the points of diversion identified in this order except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of the California Department of Fish and Game, United States Fish and Wildlife Service, and National Marine Fisheries Service to protect species of fish listed as endangered or threatened under the California Endangered Species Act (Fish and Game Code sections 2050 to 2098) and the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). Construction, operation, and maintenance costs of the required facility are the responsibility of the permittee.

4. The water quality objectives condition of Permits 11315 and 11316 shall be updated to read as follows:

> The quantity of water diverted under this permit is subject to modification by the 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.
>
> (0000013)

5. An Endangered Species condition shall be added to the Permits 11315 and 11316 that reads as follows:

> 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 5131 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
>
> (0000014)

Dated: JUL 2 9 1999

Harry M. Schueller, Chief
Division of Water Rights

State Water Resources Control Board

Winston H. Hickox
Secretary for Environmental Protection

901 P Street • Sacramento, California 95814 • (916) 657-2170
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 657-1485 • Web Site Address: http://www.swrcb.ca.gov

Gray Davis
Governor

MEMORANDUM

TO: File A013370 & A013371

FROM: Greg Wilson
Water Resource Control Engineer
DIVISION OF WATER RIGHTS

DATE: 11/4/99

SUBJECT: COORDINATES USED FOR 7/29/99 ORDER PERMITS 11315 & 11316 (APPLICATIONS 13370 & 13371)

California Coordinates were used to specify four points of diversion/rediversion in the July 29, 1999 "Order Approving the Change in the Place of Use and Adding Additional Points of Diversion/Rediversion" (Order) for Permits 11315 & 11316 (Applications 13370 & 13371). The coordinate system used in the Order was a 1984 version of the California Coordinate System which is significantly different from the typical version used in WRIMS (the 1927 version of the California Coordinate System). Conversions for the four points of diversion/rediversion from the 1984 coordinate system (given in the Order) to the 1927 coordinate system are given in the table below. Note: All coordinates given below are in Zone 2.

Description of Point of Diversion/Rediversion (given in order)	1984 California Coordinate System (given in Order)	1927 California Coordinate System (used by WRIMS)
"new City of Sacramento Water Treatment Plant Intake Structure"	North 1,977,670 East 6,702,740	North 337,280 East 2,141,380
"existing City of Sacramento Water Treatment Plant Intake Structure"	North 1,978,390 East 6,702,600	North 338,000 East 2,141,240
"located on the American River"	North 1,981,090 East 6,703,780	North 340,700 East 2,142,420
"proposed Freeport Water Treatment Plant"	North 1,934,570 East 6,702,360	North 294,180 East 2,141,000

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 13370 Permit 11315 License _____

**ORDER AMENDING PERMIT
TO CONFORM WITH DECISION NO. 1629
AND APPROVING PETITION FILED
MAY 4, 1994 TO ADD
MUNICIPAL AND INDUSTRIAL USE**

WHEREAS:

1. The permittee is the U.S. Bureau of Reclamation.

2. The permit should be amended to conform with State Water Resources Control Board (SWRCB) Decision No. 1629 related to the Los Vaqueros Project in Contra Costa County.

3. Permittee filed a petition to add municipal and industrial uses on May 4, 1994.

4. The petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The condition of the permit related to the points of diversion shall be amended to include the following:

   A point of rediversion on Old River tributary to San Joaquin Delta Channels within the NW¼ of SE¼ of projected Section 31, T1N, R4E, MDB&M, also described as
   California Coordinates, Zone 3, N 507,050 and E 1,689,550. (0000002)

2. The condition of the permit related to the purposes of use shall be amended to include municipal and industrial uses. These uses are only authorized in the service area of the Contra Costa Water District, as shown on a map filed with the SWRCB. (0000003) (0000004)

3. Condition is added to the permit as follows:

   The maximum rate of diversion and rediversion to offstream storage in Los Vaqueros Reservoir shall not exceed 200 cubic feet per second. (000005J)

COPY FOR FIELD ENGINEER

4. Conditions are added to this permit as follows:

a. The permittee shall maintain a daily record of water diversion utilizing the Old River point of diversion and submit such record to the Division of Water Rights on an annual basis. (0090700)

b. No water shall be diverted from Old River under this permit until permittee has installed devices, satisfactory to the SWRCB, which are capable of measuring the flow: (1) diverted into Los Vaqueros Reservoir from Old River; and (2) released throught the outlet facilities of Los Vaqueros Reservoir. Said measuring devices shall be properly maintained. (0060062)

c. The total combined quantity of water diverted and/or rediverted under Permits 20749, 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 16597, 11968, 11969, 11971, 11973, 12364, 13776, 16600, and 15735 (issued pursuant to Applications 20245, 5626, 5628, 9363, 9364, 9366, 9367, 13370, 13371, 14858, 15374, 15375, 16767, 17374, 17376, 18115, 19304, and 22316) shall not exceed 180,675 acre-feet per annum from Old River and also shall not exceed in any one-year period commencing on March 1, the sum of (i) 195,000 acre-feet and (ii) 4,000 acre-feet to replace evaporation losses and (iii) the difference between the quantity of water in storage in Los Vaqueros Reservoir at the end of the period and the quantity of water in storage at the end of the period and the quantity of water in storage at the beginning of the period, from Old River and Rock Slough, combined. If the storage at the end of the period is less than the storage at the beginning of the period, the change in storage shall be subtracted from the 195,000 acre-feet.

Until further order of the SWRCB, the combined maximum annual diversion shall not exceed 242,000 acre-feet per annum from Old River and Rock Slough. Further order of the SWRCB shall be preceded by notice to all interested parties, by opportunity for hearing, and a showing that water can be diverted in excess of 242,000 acre-feet per annum, taking into account the needs of public trust uses, senior water right holders, and other beneficial uses. The petition shall be accompanied by any environmental documentation required under California law. This requirement for further order of the SWRCB shall not preclude the permittee from filing appropriate petitions for temporary changes or applications for temporary permits under laws existing at the time of the petition or application.

Provided, however, that if during the twelve months after the date when water is first diverted to storage in Los Vaqueros Reservoir there is adequate water available under the water rights listed above, the combined maximum diversion during that initial twelve months shall be 252,000 acre-feet from Old River and Rock Slough.

The total quantity of water distributed under the permits on the above water rights within the authorized place of use served by Contra Costa Water District for use by the customers of the Contra Costa Water District, in any year commencing March 1 shall not exceed 195,000 acre-feet. (0000114)

d. The combined rates of diversion and/or rediversion from Old River under Permits 20749, 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 16597, 11968, 11969, 11971, 11973, 12364, 13776, 16600, and 15735 (issued pursuant to Applications 20245, 5626, 5628, 9363, 9364, 9366, 9367, 13370, 13371, 14858, 15374, 15375, 16767, 17374, 17376, 18115, 19304, and 22316) shall not exceed 250 cubic feet per second. (0000114)

e. Permittee shall comply with all legally binding requirements of the California Department of Fish and Game, the United States Fish and Wildlife Service and the National Marine Fisheries Service imposed on the permittee under the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544) and the California Endangered Species Act (Fish and Game Code Sections 2050 to 2098) with respect to the Los Vaqueros Project. (0400500) (0600999)

f. Permittee shall in cooperation with the Contra Costa Water District implement the mitigation monitoring and reporting measures for Bay-Delta fishery resources and Bay-Delta water quality which are set forth in the Environmental Commitments and Mitigation Monitoring and Reporting Plan for the Los Vaqueros Project Stage 2 Environmental Impact Report/Environmental Impact Statement, dated October 27, 1993. Permittee in cooperation with the Contra Costa Water District shall provide a report to the Chief, Division of Water Rights by April 1 of each year detailing the results of the previous year's monitoring, plans for the current year's monitoring, and the status of implementation of each mitigation measure required by this decision. (0400500)

5. Permittee shall minimize increased levels of suspended sediments discharged to Old River during construction, maintenance and repair of the Old River intake facility and minimize loss of fish and riparian wildlife at the Old River intake facility construction site by: (1) installing floating silt curtains, silt fences, stormwater detention facilities, and other appropriate sediment control facilities; (2) mapping existing riparian/aquatic fish habitat prior to construction and taking steps to avoid losses to existing habitat during facility construction as much as possible; and (3) reestablishing suitable new habitat on newly constructed or existing levees to compensate for unavoidable losses. Further, the permittee shall perform all construction, maintenance and repair operations on the Old River intake facility only during the period from September 1 through December 30 of

each year, unless U.S. Fish and Wildlife Service and Department of Fish and Game authorized these activities during other periods. Best management practices shall be used to minimize direct and indirect impacts to fish and wildlife. (0400500)

6. a. During the period from March 15 through May 15 of each year, the permittee shall use the Old River point of diversion as much as possible in order to minimize diversions at the Rock Slough point of diversion under Permits 12725, 12726, and 15735 on Applications 9366, 9367, and 22316 of the U.S. Bureau of Reclamation.

   b. During the period from March 15 through May 31 of each year, the permittee shall not divert water from the Old River point of diversion to offstream storage in Los Vaqueros Reservoir when the reservoir storage level is more than 70,000 acre-feet (af) in a below normal, above normal or wet water year, or more than 44,000 af in a dry or critical water year. Water year types will be as defined in the February edition of the California Department of Water Resources Bulletin 120 of the Four Basin Index set forth in the permits and licenses of the Bureau of Reclamation.

   c. During the period from April 1 through April 30 of each year, permittee shall not divert water from the Delta for use by Contra Costa Water District at times when storage in the reservoir is more than 70,000 af in a below normal, above normal or wet water year, or more than 44,000 af in a dry or critical water year, unless more than 12,500 acre-feet is necessary to meet reasonable demands in the Contra Costa Water District service area during this period.

   d. If in any year the Department of Fish and Game, U.S. Fish and Wildlife Service or National Marine Fisheries Service require modifications in the time periods specified in items (b) or (c) above to protect endangered or threatened species, permittee shall by February 15, or immediately if after February 15, notify the Chief, Division of Water Rights of the time period modifications for that year. Unless within 15 days the Chief, Division of Water Rights, objects to the proposed modifications or proposes an alternative, the permittee shall implement the modifications.

   e. The requirements of this permit term shall become effective when Los Vaqueros Reservoir is initially filled to a level of 90,000 af. (0560900)
(0360900)
(0600500)

7. Permittee shall construct, operate and maintain a fish screen and fish screen cleaning system at the Old River intake facility, satisfactory to the Department of Fish and Game, United States Fish and Wildlife Service and National Marine Fisheries Service. The fish screen facility shall be constructed and made fully operational prior to operation of the Old River intake facility and by not later than January 1, 1997. In addition, the screen facility shall be designed and operated to achieve an average water approach velocity no greater than 0.2 feet per second for a 3/32" vertical slotted screen opening, and be operated to effectively screen fish greater than 21 millimeters long. (0400500)

8. To avoid construction impacts to Swainson's hawks, surveys shall be conducted weekly beginning the first week of April through May 15 by a biologist acceptable to the Department of Fish and Game to determine if any nesting is occurring within ½ mile of the Old River diversion point, and to determine whether there is any suitable nesting habitat within ½ mile. If nesting is occurring within ½ mile, construction may not be initiated or continued until August 15 without additional consultation with the Department of Fish and Game. This term shall expire upon completion of construction. (0400500)

9. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fisha and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

Dated: JULY 18 1994

ORIGINAL SIGNED
BY ROGER JOHNSON

Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 5626 and 11 others PERMIT 12720 and 11 others LICENSE _____
(as listed on attachment A)

ORDER APPROVING CHANGE(S)
IN POINT OF DIVERSION AND REDIVERSION,
THE PLACE OF USE, AND AMENDING THE PERMIT

WHEREAS:

1. The permittee is the U.S. Bureau of Reclamation.

2. A petition for change has been filed with the State Water Resources Control Board (Board).

3. The petitioned change(s) would not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

4. The Board's continuing authority should be updated to conform to Title 23, CCR Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition of the permit related to the points of diversion shall be amended to include the following:

   A point of diversion or rediversion at Clifton Court Forebay; being within the NW¼ of SE¼ of projected Section 20, T1S, R7E, MDB&M: California Coordinate System: Zone 3, N 786,035, E 1,695,057. (0000001)

   The amount of water diverted under this order shall be limited to the amount required for use at the National Cemetery of Northern California as described in Condition 2 below. The rates of diversion shall conform to the provisions of Decision 1485 and any subsequent Decisions or Orders affecting the diversion of water at Clifton Court Forebay.

2. The condition of the permit related to the place of use shall be amended to include the following:

   The National Cemetery of Northern California, being 322 acres within the S½ of Section 27 and the N½ of Section 34, T9S, R8E, MDB&M. (0000004)

3. A condition of the permit be added 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: FEBRUARY 23 1993

Roger Johnson

for Edward C. Anton, Chief
Division of Water Rights

ATTACHMENT A

Permits of the United States Bureau of Reclamation:

Permit 12721 (Application 5626)
Permit 11967 (Application 5628)
Permit 12722 (Application 9363)
Permit 12723 (Application 9364)
Permit 12727 (Application 9368)
Permit 11315 (Application 13370)
Permit 11316 (Application 13371)
Permit 11968 (Application 15374)
Permit 11969 (Application 15375)
Permit 11971 (Application 16767)
Permit 11973 (Application 17374)
Permit 12364 (Application 17376)

A 13370

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary Urgency Change Order for Permitted Application 5626 and 12 others, as listed in Table 1 U. S. BUREAU OF RECLAMATION, Permittee	ORDER: WR 89-21 SOURCE: Old River COUNTY: CONTRA COSTA

ORDER VALIDATING THE ISSUANCE OF A
CONDITIONAL TEMPORARY URGENCY CHANGE ORDER
ADDING A POINT OF DIVERSION AND REDIVERSION
TO DELIVER WATER TO KERN NATIONAL WILDLIFE REFUGE

BY THE BOARD:

The U. S. Bureau of Reclamation (Bureau) having filed a petition for a Temporary Urgency Change in point of diversion and rediversion, pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the U. S. Fish and Wildlife Service (Service), the Department of Fish and Game (DFG) and the Department of Water Resources (DWR); on August 23, 1989, Board Chairman Maughan having concluded from available information that a conditional temporary urgency change order was appropriate, issued said order subject to review and validation by the Board within 30 days, as provided by Water Code Section 1435(d); the Board finds as follows:

SUBSTANCE OF THE PROPOSED CHANGE:

1. On August 3, 1989, the Bureau filed a petition for a temporary urgency change to add the State Water Project's (SWP) Clifton Court Forebay, the intake to the DWR's Harvey O. Banks Pumping Plant (SWP Banks) as an additional temporary point of diversion and rediversion for the September 15, 1989 through December 31, 1989 period. The petition requests authorization to pump up to 8,200 acre-feet (af) of Bureau entitlement water through SWP Banks under the water rights listed in Table 1, for use by the Service. Use of SWP Banks was requested to wheel Bureau water through the California Aqueduct to the Kern National Wildlife Refuge (Kern NWR) for wintering migratory waterfowl this fall.

TABLE 1

Water Right Applications and Permits Covered by the Petition for Temporary Urgency Change

Application	Permit
5626	12721
5628	11967
9363	12722
9364	12723
9368	12727
13370	11315
13371	11316
15374	11968
15375	11969
15764	12860
16767	11971
17374	11973
17376	12364

ACTION BY BOARD CHAIRMAN:

2. On August 23, 1989, Board Chairman Maughan in accordance with Water Code Section 1435(d) and the Board's Resolution No. 84-2, issued a conditional temporary urgency change order for the petitioned actions, subject to several specified conditions. The Board concurs in and incorporates herein by reference the findings set forth in that order.

NOTICE OF THE PETITION:

3. On August 28, 1989, Notice of the petition for the temporary urgency change was mailed to interested parties.

   In accordance with Water Code Section 1438(b)(1), the Notice was published in the September 6, 1989 edition of the Contra Costa Times newspaper, since the temporary point of diversion and rediversion is located within Contra Costa County.

   The final date for submitting objections was September 14, 1989.

COMMENTS AND OBJECTIONS:

4. The Office of Historic Preservation of the Department of Parks and Recreation commented that if this temporary urgency change

will affect historic properties, it must comply with Section 106 of the National Historic Preservation Act (16 U.S.C.A. Section 470f) and the regulations at 36 CFR Section 800 et seq. The federal lead agency is required to comply with the National Historic Preservation Act. The office says that this responsibility cannot be delegated to a non-federal agency such as the Board. Consequently, the U. S. Bureau of Reclamation or the U. S. Fish and Wildlife Service is responsible to comply with the National Historic Preservation Act.

5. The Semitropic Water Storage District did not object to the temporary urgency change, but commented that Semitropic should not be required to prepare an Environmental Impact Report for any additional diversion it requests for irrigation use, since the Board is not in this case requiring environmental documentation. The need for CEQA documentation for any project of Semitropic's is not an issue herein, and we do not comment upon it herein. Each case is evaluated on its facts to determine the need for and nature of CEQA documentation.

6. The California Sportfishing Protection Alliance (CSPA) commented on several features of the petitioned temporary urgency change:

   a. CSPA commented that the Board's notice did not analyze the cumulative environmental impacts of this project

under CEQA together with certain water transfers from the Yuba River and the operations of the State Water Project and the Central Valley Project. CSPA points out that Section 15065(c) of Title 14 of the California Code of Regulations (CEQA Guidelines), requires that a project be found to have a significant effect on the environment and that an EIR be prepared in instances in which a project has possible environmental effects which are individually limited but "cumulatively considerable" when viewed in connection with the effects of past projects, other current projects, and probable future projects.

In this instance, information provided by DFG led Division staff to conclude that the project would not have a significant adverse environmental effect and that the project was categorically exempt from CEQA under Section 15307 of the CEQA Guidelines. Based on the information before the Board, we find no reason to change that determination with respect to this particular project. The Board notes, however, that this project and similar water transfers involving increased exports of water from the Delta appear to be increasing. Thus, while this individual project may not have significant environmental effects, at some point we believe that water transfers resulting in increased Delta exports could have significant adverse environmental effects.

Therefore, in the future, the Board will not approve projects which involve increased Delta exports in the absence of an adequate environmental assessment which addresses potential fishery impacts and other environmental effects of the proposed project. In the case of temporary urgency changes or temporary permits, the required environmental assessment must comply with CEQA.[1]

b. CSPA commented that the notice did not identify where the stored water for the project is located and will be diverted, and asked some questions. However, the notice identifies the State Water Project's Harvey O. Banks Pumping Plant as the added point of diversion and lists all of the permits that will be affected. Listing the permits and their application numbers is adequate to identify the sources and original diversion points of the water. Consequently, the notice is sufficient. The questions involve project operations and should be directed to the petitioners.

---

1 In the case of temporary transfers or exchanges of water or water rights pursuant to Water Code Section 1725 et seq., the Legislature has determined that the formal requirements of CEQA are inapplicable (Water Code Section 1729). Nevertheless, in view of the potential for cumulative impacts in the future, the Board concludes that an assessment of the environmental effects of the proposed transfer of water through the Delta should be provided in order that the Board can make the evaluation and findings with respect to fish and wildlife which are required by Water Code Section 1727.

c. CSPA commented that the notice does not contain findings under Water Code Section 1435(b). The notice is not required to contain these findings. These findings are contained in the conditional temporary urgency change order dated August 23, 1989.

d. CSPA commented that the project has a potential to affect Chinook salmon resources, the Bay-Delta Estuary, and the amount of cold water in reservoir storage, and that the notice does not provide site-specific information to evaluate the effects on fish, wildlife, and other beneficial uses. This comment appears to refer to the findings required by Water Code Section 1435(b). We have received no evidence that the proposed temporary change will have an unreasonable effect on fish, wildlife, and other beneficial uses, or on the Bay-Delta Estuary, or on the amount of cold water in reservoir storage. Further, CSPA has not provided any such evidence. Considering that the proposed change will authorize the transfer of only 8200 acre-feet and is requested for the benefit of wildlife in the Kern National Wildlife Refuge, we find that the effect of this transfer will not be unreasonable.

Regarding CSPA's comment that the notice lacks site-specific information to evaluate the effects on

beneficial uses, we note that the function of the notice is to advise interested parties of the proposed change, not to present a detailed analysis of the project. A name and telephone number are included in the notice so that any interested person may request more information about the proposed change, or may obtain the names of the proponents' representatives and other people who can provide such information. The notice is sufficient.

e. CSPA prefaced its comments with the observation that the petition was approved by Chairman Maughan before it was formally noticed. We note in response that Water Code Section 1438(a) expressly authorizes approval of a temporary urgency change "in advance of the notice required by this section".

In addition to its comments, CSPA has requested certain information and documents. These requests are being handled separately from this order.

CONCLUSION:

7. Based on the findings set forth above, the Board concludes that the conditional temporary urgency change order issued by Chairman Maughan on August 23, 1989 should be validated.

ORDER

IT IS HEREBY ORDERED THAT:

The issuance of the August 23, 1989, the conditional temporary urgency change order by Board Chairman Maughan temporarily authorizing an additional point of diversion and rediversion, under the permits listed in Table 1, is hereby validated subject to the terms and conditions specified in that order.

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 September 21, 1989.

AYE:	W. Don Maughan Darlene E. Ruiz Edwin H. Finster Eliseo M. Samaniego Danny Walsh
NO:	None
ABSENT:	None
ABSTAIN:	None

Maureen Marche'
Administrative Assistant to the Board

A 13370

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary Change Order for Permitted Application 5626 and 12 others, as listed in Table 1	ORDER: WR 89- 10
	SOURCE: Old River
U. S. BUREAU OF RECLAMATION, Permittee	COUNTY: Contra Costa

ORDER VALIDATING THE ISSUANCE OF A
CONDITIONAL TEMPORARY URGENCY CHANGE ORDER
ADDING A POINT OF DIVERSION AND REDIVERSION

BY THE BOARD:

The U. S. Bureau of Reclamation (Bureau) having filed a petition for a Temporary Urgency Change, in point of diversion and rediversion, pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the U. S. Fish and Wildlife Service, the Department of Fish and Game and the Department of Water Resources (DWR); Board Vice Chairwoman Darlene E. Ruiz, having concluded from available information that a Temporary Urgency Change Order should be issued and having issued said order on May 9, 1989, subject to review and validation by the Board as provided by Water Code Section 1435(d); the Board finds as follows:

Substance of the Proposed Temporary Urgency

1. On April 28, 1989, the Bureau filed a petition for a temporary urgency change to add the State Water Project's (SWP) Clifton Court Forebay, the intake to the DWR's Harvey O. Banks Pumping Plant (SWP Banks) as an additional temporary point of diversion, for the May 10, 1989 through

COPY FOR FIELD ENGINEER

August 20, 1989 period. The petition requests authorization to pump up to 30,000 acre-feet (af) of Bureau entitlement water through SWP Banks under the water rights listed in Table 1. Use of SWP Banks was requested to offset reduced diversions at the Bureau's Central Valley Project Tracy Pumping Plant (CVP Tracy). The reduced diversions at CVP Tracy were required in order to allow fish studies in the Sacramento-San Joaquin Delta (Delta) from May 1 through May 9, 1989.

TABLE 1

Water Right Applications and Permits Covered by the Petition for Temporary Urgency Change

Application	Permit
5626	12721
5628	11967
9363	12722
9364	12723
9368	12727
13370	11315
13371	11316
15374	11968
15375	11969
15764	12860
16767	11971
17374	11973
17376	12364

Action By Board Vice Chairwoman Ruiz:

2. In accordance with the delegation of authority in Water Code Section 1435(d) and the Board's adoption of Resolution 84-2, Board Vice Chairwoman Darlene E. Ruiz made findings and issued a Conditional Temporary Urgency

Change Order on May 9, 1989, allowing a temporary change in point of diversion and rediversion, at the Clifton Court Forebay, for up to 30,000 af of water under permits listed in Table 1, subject to several specified conditions. We concur in and incorporate herein by reference the findings set forth in the Order issued on May 9, 1989.

Notice Of The Petition:

3. On May 12, 1989, Notice of the petition for the Temporary Urgency Change was mailed to interested parties.

4. In accordance with Water Code Section 1438(b)(1), the Board advised the Bureau to have the Notice published in the Contra Costa Times newspaper since the point of diversion and rediversion is located within Contra Costa County. The Notice was published on May 19, 1989.

5. The final date for submitting objections was May 26, 1989.

Responses:

6. The Department of Fish and Game submitted a memorandum dated May 31, 1989 expressing support for the temporary urgency change.

7. No written objections to the proposed temporary urgency change have been submitted.

Additional Findings:

8. The mean monthly diversion limit at CVP Tracy for May and June, under Board Decision 1485 (D1485), is 3,000 cfs.

9. In order to accommodate the previously described fish studies, the CVP Tracy pumping rate was reduced from about 3,000 cfs to about 1,650 cfs during the May 2 though May 9, 1989 period. This resulted in reduced diversions during this period amounting to about 18,000 af.

10. Bureau pumping at CVP Tracy may exceed the 3,000 cfs instantaneous rate during the remainder of May 1989. Pumping at that rate would offset a portion of the curtailments without violating D1485 criteria.

11. The Bureau has a temporary urgent need to add the proposed point of diversion and rediversion at the entrance to the Clifton Court Forebay and to use the SWP Banks Pumping Plant to make up for the pumping curtailment not offset at CVP Tracy.

12. On May 9, 1989, pursuant to the conditional order issued by Vice Chairwoman Ruiz, the Chief of the Division of Water Rights filed a Notice of Exemption under Section 15306 of the State EIR Guidelines, Title 14 of the California Code of Regulations.

ORDER

IT IS HEREBY ORDERED THAT:

The issuance of the May 9, 1989, Conditional Temporary Urgency Change Order, by Board Vice Chairwoman Darlene E. Ruiz, allowing an additional point of diversion and rediversion under the permits listed in Table 1, is hereby validated, subject to the terms and conditions specified in the Order and subject to the additional condition that the quantity of water diverted under the change order not exceed the actual CVP Tracy pumping quantity forgone for the fish studies during May 1989.

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 June 7, 1989.

AYE: W. Don Maughan
Edwin H. Finster
Danny Walsh

NO: None

ABSENT: Darlene E. Ruiz
Eliseo M. Samaniego

ABSTAIN: None

Maureen Marche'
Administrative Assistant to the Board

A 13370

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary Urgency Change Order On Permits 12721 (Application 5626) 11967 (A-5628), 12722 (A-9363), 12723 (A-9364) 12727 (A-9368), 11315 (A-13370) 11316 (A-13371), 11968 (A-15374), 11969 (A-15375), 12860 (A-15764), 11971 (A-16767), 11973 (A-17374) and 12364 (A-17376) U.S. BUREAU OF RECLAMATION, Permittee	ORDER: WR 89-1 SOURCE: Old River COUNTY: Contra Costa

ORDER VALIDATING ISSUANCE OF
TEMPORARY URGENCY CHANGE
IN POINT OF DIVERSION
AND REDIVERSION

BY THE BOARD:

The U. S. Bureau of Reclamation (Bureau) having filed a petition for a temporary urgency change in point of diversion and rediversion pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the Board having consulted with the Department of Fish and Game and the Department of Water Resources (DWR); Chairman W. Don Maughan having concluded from available information that a temporary urgency change order should be issued and having issued said order on December 23, 1988 subject to review and validation by the Board as provided by Water Code Section 1435 (d); The Board finds as follows:

COPY FOR FIELD ENGINEER

Substance of the Proposed Change

1. On December 21, 1988, the Bureau filed a petition for a temporary urgency change to add the State Water Project's Harvey O. Banks Pumping Plant (SWP Banks), as an additional temporary point of diversion and rediversion, for the January 1, 1989 through March 31, 1989 period. The petition requests authorization to pump up to 10,000 acre-feet of Bureau entitlement water through SWP Banks under Permit 12721 and the 12 other permits listed above. Use of SWP Banks was requested to offset reduced diversions at the Central Valley Project Tracy Pumping Plant (CVP Tracy) which were required to meet water quality standards in the Sacramento-San Joaquin Delta from December 20 through December 23, 1988.

Notice and Responses

2. On January 3, 1989, notice of the Petition for Temporary Urgency Change was provided by mail to interested parties by publication in the Contra Costa Times. The period for submitting objections ended January 17, 1989. No objections were received.

Action by Board Chairman Maughan

3. In accordance with the delegation of authority in Water Code Section 1435(d), and the Board's adoption of Resolution 84-2, Board Chairman Maughan made findings and issued a Conditional Temporary Urgency Change Order on December 23, 1988 allowing a temporary change in point of diversion and point of rediversion, of up to 10,000 acre-feet of water under Permits 12721 and the 12 other permits listed above subject to several specified conditions. We concur in and incorporate herein by reference the findings set forth in the Order issued on December 23, 1989.

ORDER

IT IS HEREBY ORDERED THAT:

The issuance of the December 23, 1988 order by Board Chairman Maughan allowing a Conditional Temporary Urgency Change in the point of diversion and point of

rediversion under Permit 12721 and the 12 other permits listed above is validated subject to the terms and conditions specified in the Order.

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 January 19, 1989.

AYE: W. Don Maughan, Darlene E. Ruiz, Eliseo M. Samaniego, Danny Walsh.

NO: None

ABSENT: Edwin H. Finster

ABSTAIN: None

Maureen Marche'
Administrative Assistance to the Board

13370

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary Urgency Change Order on Permits 12721, 11967, 12722, 12723, 12727, 11315, 11316, 11968 11969, 12860, 11971, 11973 and 12364 issued pursuant to Applications 5626, 5628, 9363, 9364, 9368, 13370, 13371, 15374 15375, 15764, 16767, 17374 and 17376	)	ORDER: WR 88-18 SOURCE: Old River COUNTY: Contra Costa

ORDER VALIDATING ISSUANCE OF
CONDITIONAL TEMPORARY URGENCY CHANGE
IN POINT OF DIVERSION AND REDIVERSION

BY THE BOARD:

The U.S. Bureau of Reclamation (Bureau) having filed a petition for a Temporary Urgency Change in point of diversion and rediversion pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the U. S. Fish and Wildlife Service (Service), the Department of Fish and Game (DFG) and the Department of Water Resources (DWR); Board Member Edwin H. Finster having concluded from available information that the Bureau qualifies for a Temporary Urgency Change and having issued a Conditional Temporary Urgency Change Order on August 18, 1988, subject to review and validation by the Board as provided by Water Code Section 1435(d); the Board finds as follows:

COPY FOR FIELD ENGINEER

Substance of the Proposed Change

1. On June 30, 1988 the Bureau filed a petition with the Board to add the State Water Project's (SWP) Clifton Court Forebay, at the intake of the Harvey O. Banks Pumping Plant (Banks Plant), operated by the DWR, as a temporary point of diversion and rediversion under the following Bureau permits.

TABLE 1

Water Right Applications and Permits Covered by the Petition for Temporary Urgency Change

Application	Permit
5626	12721
5628	11967
9363	12722
9364	12723
9368	12727
13370	11315
13371	11316
15374	11968
15375	11969
15764	12860
16767	11971
17374	11973
17376	12364

The petition requests that, in addition to the existing Central Valley Project's (CVP) point of diversion and rediversion specified in the permits, the Bureau be allowed to divert or redivert water temporarily under the above permits at the Clifton Court Forebay, the intake of the Banks Plant, at the following location:

California Coordinates, Zone 3, N 486,035;
E 1,695,057; within the NW 1/4 of SE 1/4 of
projected Section 20, T1S, R4E, MDB&M.

2. The petition requests that diversion and rediversion at the Banks Plant be authorized for up to 85,500 acre-feet of the Bureau's water that the Bureau is entitled to divert under the permits listed above during the July 1, 1988 through February 28, 1989 period, to accommodate the following drought related requests:

   A) To supply 7,500 acre-feet of water to the Kern National Wildlife Refuge (KNWR) from September 1, 1988 through December 31, 1988.

   B) To replace pumping capacity lost to the Bureau caused by reductions of pumping at the Tracy Pumping Plant. This operation is for the purpose of studying the influences of the Tracy Pumping Plant, during extreme tidal events, on minimum water levels in the southern Delta, for water users of the South Delta Water Agency (SDWA). The pumping capacity lost is estimated to be up to 48,000 acre-feet due to tidal events during July and August of 1988.

   C) To replace pumping capacity lost to the Bureau caused by reductions in releases from Shasta Reservoir. This operation is for the purpose of enhancing temperature conditions for Chinook (King)

salmon eggs and juvenile salmon in the upper Sacramento River. The pumping capacity lost is estimated to be up to 30,000 acre-feet during October and November 1988.

Temporary Urgency Need

3. The Central Valley of California is experiencing consecutive critically dry water years.

4. Even if the fall and winter runoff this year is normal or above normal the Bureau will not have sufficient pumping capacity available at the Tracy Pumping Plant to pump water related to the requested additional service and pumping deferrals.

Notices and Responses

5. On July 15, 1988 a Notice of the petition for a Temporary Urgency Change and of a proposed hearing was mailed to interested parties. The Board received letters of support, policy statements or objections from:

   A) Semitropic Water Storage District,
   B) Wilson, Hoslett & Whitridge (for the South Delta Water Agency),
   C) California Waterfowl Association,
   D) Murray, Burns and Kienlen (for the East Contra Costa Irrigation District),
   E) Trinity County, and
   F) Legal Department of the Hoopa Valley Business Council.

   Three of the letters (A, B, and C) were supportive of the proposed change, one letter (D) requested the observance of a condition in an existing agreement with DWR, and two letters (E and F) contained objections. The

objectors indicated that they would not attend the hearing scheduled for August 10 and 11, 1988. The hearing was therefore cancelled. The observance of the DWR Agreement will be made a condition of this temporary change order. The objections are addressed in the findings below.

The California Waterfowl Association letter of support mentions that the KNWR requires 8,200 af rather than 7,500 af this year. The petition was noticed for the requested 7,500 af. If further water is needed, an additional petition is required.

6. On August 26, 1988 a Notice of the petition was published in the Contra Costa Times. The period for submitting objections ended September 6, 1988.

FINDINGS RELATED TO DELIVERY OF WATER TO KERN NATIONAL WILDLIFE REFUGE (KNWR) ACTION:

7. The Bureau is authorized under its existing permits to service the KNWR with water from the Delta. Under existing limits on the Tracy Plant the Bureau cannot service the KNWR request for 7,500 af this season.

8. Both objectors are concerned that no additional reduction in flows in the Trinity River result from this temporary change. This conditional temporary urgency change allows the Bureau to use the Banks Plant to pump the 7,500 af for KNWR. When uncontrolled flows are available for diversion, no additional releases from Trinity would be necessary. While a portion of the 7,500 af could be withdrawn from the Trinity River such withdrawal would be insignificant this year and would not cause a violation of any permit terms or conditions.

9. The proposed action is a minor alteration in the operations of the water projects, results in an improvement of habitat for wildlife and assures maintenance of a natural resource. Successive actions of this type do not have significant cumulative impacts.

FINDINGS RELATED TO PUMPING MODIFICATIONS TO BENEFIT THE SOUTH DELTA WATER AGENCY ACTION:

10. Water users along the Old River, within the southern Delta, have had pumping problems when low water levels occur during extremely low tide cycles.

11. The water level problem may be compounded by pumping at the Tracy Pumping Plant.

12. Low tides are anticipated to occur about four days per tidal event, with four events occurring during July and August of 1988.

13. The SDWA, the DWR and the Bureau have an October 10, 1986 Agreement on a Framework for Settling Litigation regarding this problem, i.e., diversions in the south Delta during low water elevation conditions.

14. The Bureau's ability to reduce pumping at the Tracy Pumping Plant is constrained by the Bureau's contractual obligations to deliver CVP water to its users, and by capacity limits in the first reach of the Delta Mendota Canal. The Bureau has agreed to curtail pumping at the Tracy pumping plant by up to 1,600 cfs during the tidal events if the DWR is authorized to wheel replenishment water through the Banks Plant and the California Aqueduct.

15. This critically low flow year provides an opportunity to measure the influence of the Tracy Pumping Plant operations on water levels in the Old River during low tide events.

16. The East Contra Costa Irrigation District (ECCID), by Letter of Comment, dated July 28, 1988, had no objection to the temporary change "provided that the State Water Project facilities are operated in accordance with the following condition contained in paragraph 4 from the Contract Between the State of California, DWR, and the ECCID for the Assurance of a Dependable Water Supply of Suitable Quality.

> "4. Water Surface Elevation: The State shall not operate the SWP so as to cause the water surface elevation at the District's Pumping Plant No. 1 to fall below - .230 feet, District datum (0.0 on District datum is equal to +0.35 feet USGS datum) during the period April 1 through October 31 of each year."

17. This change will not have an effect on storage in Trinity Reservoir distinguishable from the operations of the CVP without this change, and consequently will not adversely affect the interests of the objectors.

18. The proposed action is an experimental management activity that will allow collection of valuable information regarding the effects of curtailing diversions during low tide cycles. Successive projects of this type do not have a significant cumulative impact.

FINDINGS RELATED TO FLOW AND PUMPING CHANGES REQUESTED BY THE DEPARTMENT OF FISH AND GAME:

19. Because of low runoff conditions this year, Shasta Reservoir will be at a low level and consequently releases from the reservoir during this fall will be warmer than optimum for the survival of salmon eggs and juvenile salmon. Water temperatures can be lowered by: 1) increasing the proportion of Keswick Dam releases originating from the Trinity River, and/or 2) by making releases from the lower level outlets at Shasta Dam, which results in loss of hydroelectric power generation.

20. This year's critically dry water conditions and very hot weather this summer have resulted in high water temperatures in the upper Sacramento River below Keswick Dam. This is threatening the survival of the fall run Chinook (King) salmon eggs and fry (juvenile salmon). The Bureau has already begun releasing water from the lower levels at Shasta Dam to reduce temperatures and as a consequence has lost some hydroelectric power generation.

21. The requested modifications in flows below Keswick Dam will be achieved by reducing releases from Shasta Reservoir rather than increasing releases from Trinity Reservoir. The result will be an increase in the proportion of cooler Trinity Reservoir water below Keswick without an increase in the volumne of Trinity water released. This will affect the amount of water being transferred this fall by the Bureau from storage (north of the Delta) to the San Luis Reservoir (south of the Delta). The modifications will not affect the net amount of carryover storage in Trinity Reservoir or the flows in the Trinity River that would be present without the temporary change.

22. The proposed changes will allow the Bureau to reduce considerably mortality in the fall salmon run without foregoing export of the water. The Bureau will be diverting water at Banks Plant for export at a time when it is anticipated that potential impacts of pumping will be minimal.

23. The proposed action is a minor alteration in water resources which results in improved habitat for fish and greater fish production, and is also an action to assure maintenance of a natural resource. Successive actions of this type do not have a significant cumulative impact.

Additional Findings

24. The Bureau has a temporary urgent need to add the proposed point of diversion and rediversion at the entrance to the Clifton Court Forebay and to use the DWR's Banks Plant, to make up for: 1) deliveries to the KNWR, 2) tidal considerations for the SDWA, and 3) reconfigured operations to reduce upper Sacramento River temperatures.

25. The temporary change described above:

    A) is in the public interest, because the actions are planned to assist and enhance fish and wildlife and gain information regarding natural tidal events,

    B) does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water; since there is no other user between the permitted point and changed point; additional pumping (above Tracy's capacity) will occur when there are higher flows in the Delta to limit salinity intrusion, and

C) does not unreasonably affect fish, wildlife or other instream beneficial uses, and the intent of the measures is to enhance fish and wildlife habitats.

26. The temporary change will not have an effect distinguishable from normal operations of the CVP on the level of water stored in Trinity Reservoir or on flow in the Trinity River. Consequently, it will not adversely affect the interests of the objectors.

27. The Chief of the Division of Water Rights is authorized to file a Notice of Exemption pursuant to the State EIR Guidelines, Title 14, California Code of Regulations, Sections 15304, 15306 and 15307.

Actions by Board Member Finster

28. In accordance with the delegation of authority in Resolution 84-2 as authorized by Water Code Section 1435(d), Board Member Edwin H. Finster issued a Conditional Temporary Urgency Change Order on August 18, 1988, allowing a temporary change to the Bureau's permits, in the point of diversion and rediversion at the Clifton Court Forebay, subject to several specified conditions.

ORDER

IT IS HEREBY ORDERED THAT:

1. The issuance of the August 18, 1988 order by Board Member Finster allowing a Conditional Temporary Urgency Change in point of diversion and rediversion under Permit 12721 and 12 others is validated subject to the terms and conditions specified in the order except as corrected below.

2. IT IS FURTHERED ORDERED that this change is subject to the observance by the SWP at all times of Paragraph 4 of the October 10, 1986 Agreement between the DWR and the ECCID.

3. Information shall be gathered during the actions related to the tidal events and shall be submitted along with the information required in the Conditional Temporary Change Order.

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 September 7, 1988.

AYE:	W. Don Maughan	Eliseo M. Samaniego	Danny Walsh
NO:	None		
ABSENT:	Darlene E. Ruiz	Edwin H. Finster	
ABSTAIN:	None		

Maureen Marche
Administrative Assistant to the Board

13370

CO[illegible]OR FIELD ENGINEER

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary Change Order Regarding Permit 12721 (Application 5626) and 12 Other Permits U. S. BUREAU OF RECLAMATION, Permittee	ORDER: WR 86-4 SOURCE: Various sources COUNTIES: Alameda, Sacramento, Shasta, Trinity

ORDER MODIFYING AND REISSUING

TEMPORARY URGENCY CHANGE IN POINT OF DIVERSION AND REDIVERSION

BY THE BOARD:

The U. S. Bureau of Reclamation (Bureau) having filed a petition for a temporary urgency change in point of diversion and point of rediversion pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the Board having consulted with the Department of Water Resources and the Department of Fish and Game; Board Member Samaniego having concluded from available information that the Bureau qualifies for a temporary urgency change and having issued a temporary urgency change order, subject to review and validation by the Board as provided by Water Code Section 1435; the South Delta Water Aency and Central Delta Water Agency having subsequently requested that approval of the temporary urgency change include certain conditions; the Board having duly considered the petition for a temporary change, the requests by South Delta Water Agency and Central Delta Water Agency and other related information; the Board finds as follows:

1.0 SUBSTANCE OF THE PROPOSED CHANGE

On February 13, 1986, the Bureau filed a petition for a temporary urgency change in the point of diversion and point of rediversion under the 13 water right permits specified in Table I below:

TABLE I

WATER RIGHT PERMITS COVERED BY

THE PETITION FOR TEMPORARY URGENCY CHANGE

Application	Permit
5626	12721
5628	11967
9363	12722
9364	12723
13370	11315
13371	11316
15374	11968
15375	11969
15764	12860
16767	11971
17374	11973
17376	12364
21542	15149

The petition requests that, in addition to the points of diversion and rediversion specified in the permits, the permittee be allowed to divert or redivert water temporarily under said permits from the Department of Water Resources' Harvey O. Banks Pumping Plant Plant at the following location:

> California Coordinates, Zone 3, N 486,035; E 1,695,057; within NW 1/4 of SE 1/4 of Projected Section 20, T1S, R4E, MDB&M.

The petition for a temporary urgency change requests that the diversion and rediversion at the Banks Pumping Plant be authorized from February 24, 1986 to April 7, 1986 at a maximum rate of 6000 cubic feet per second with the total amount diverted or rediverted not to exceed 100,000 acre-feet.

2.0 TEMPORARY URGENCY NEED

The urgent need to utilize Department of Water Resources' facilities arises from the curtailment of pumping through the Central Valley Project and State Water Project Delta facilities proposed by the California Department of Fish and Game for striped bass tests scheduled during April 1986. These tests are designed to determine whether maintenance of specific flow regimes in the Delta stimulate production of food organisms important to survival of young striped bass. Information from these tests may help determine the cause for the recent decline in young striped bass.

The Bureau must replace pumping capacity foregone during these tests to enable the federal portion of San Luis Reservoir to be filled for the 1986 irrigation season. Replacement of this lost pumping capacity with capacity at the Banks Pumping Plant is proposed. The increased period of replacement diversion over that of the pumping curtailment is requested so that the capacity available at the Banks Pumping Plant may be more economically utilized and that there may be a margin of safety if that plant should be down for any length of time during the period. When available, off-peak energy periods will be used. The quantities to be diverted will not exceed the quantities that would have been diverted, absent the striped bass test.

3.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT

The State Water Resources Control Board staff has prepared a Notice of Exemption specifying the reason why the above proposed action qualifies for a Categorical Exemption Class 6 (information collection) in accordance with Title 14, California Administrative Code, Section 15306.

4.0 ACTION BY BOARD MEMBER SAMANIEGO

In accordance with the authorization of Water Code Section 1435, the Board has adopted Resolution 84-2 delegating authority to an individual Board Member to approve temporary changes on projects where no detrimental effects are indicated. Water Section 1435(b) requires the Board, at its next regular meeting, to review and validate and change order issued by an employee.

In accordance with the delegation of authority in Resolution 84-2, Board Member Samaniego issued a change order on February 20, 1986 allowing a temporary change in the point of diversion and point of rediversion, subject to several specified conditions.

5.0 NOTICE AND RESPONSES

Notice of the petition for a temporary change was provided by publication and by mail to interested parties. The Board received responses from two parties, South Delta Water Agency and Central Delta Water Agency.

5.1 South Delta Water Agency Request

South Delta Water Agency requested that approval of the temporary change be conditioned to exclude diversion and rediversion under the temporary change at times when the water elevation at the south end of Tom Paine Slough is lower than 0.35 foot below mean sea level or the water elevation in Middle River at Undine Road is lower than 0.25 foot below mean sea level.

5.2 Central Delta Water Agency Request

Central Delta Water Agency requested that approval of the temporary change be conditioned to include the water level standards proposed by South Delta Water Agency and also provide that water quality should not exceed a 14-day running average of 0.45 millimhos EC at Emmaton on the Sacramento River, Jersey Point on the San Joaquin River, Terminous on the Mokelumne River, San Andreas Landing on the San Joaquin River, Turner Cut off the San Joaquin River and Rancho Del Rio on Old River.

5.3 Response to Requests

State Board staff contacted Bureau staff and determined the conditions requested by South Delta Water Agency and Central Delta Water Agency were acceptable to the Bureau.

6.0 BOARD FINDINGS

Having reviewed the conditions requested by South Delta Water Agency and Central Delta Water Agency, and the Bureau's agreement to accept those conditions, the Board finds that the February 20, 1986 order by Board Member Samaniego should be modified and reissued to include the conditions requested by South Delta Water Agency and Central Delta Water Agency.

NOW THEREFORE, IT IS ORDERED THAT:

1. In addition to the points of diversion and rediversion specified in the permits listed above, the Permittee may temporarily divert or redivert water under said Permits at the Department of Water Resources' Harvey O. Banks Pumping Plant at the following location:

   California Coordinates, Zone 3, N 486,035;
   E 1,695,057; within NW 1/4 of SE 1/4
   of Projected Section 20, T1S, R4E, MDB&M.

2. The temporary urgency change shall be effective for a period starting February 24, 1986 and ending April 7, 1986. At the end of this period, this authorization shall be of no further force and effect.

3. Under this temporary urgency change, the maximum rate of diversion or rediversion shall not exceed 6,000 cubic feet per second and the total quantity diverted or rediverted shall not exceed 100,000 acre-feet.

4. Under this temporary urgency change no diversion or rediversion shall take place when the water elevation at the south end of Tom Paine Slough is lower than 0.35 foot below mean sea level or the water elevation in Middle River at Undine Road is lower than 0.25 foot below mean sea level.

5. Under this temporary urgency change no diversion or rediversion shall take place when the 14-day running average electrical conductivity exceeds 0.45 millimhos at any of the following locations:

   Emmaton on the Sacramento River
   Jersey Point on the San Joaquin River
   Terminous on the Mokelumne River
   San Andreas Landing on the San Joaquin River
   Turner Cut off the San Joaquin River
   Rancho Del Rio on Old River

6. Should the total quantity of water diverted or rediverted under this temporary urgency change exceed the quantity that would have been diverted or rediverted at the Bureau's Tracy Pumping Plant absent the striped bass test, the excess water shall be credited toward that allowed under Order Condition 3 of water right Decision 1485.

7. The Permittee shall report to the State Water Resources Control Board by July 15, 1986 the maximum rate and total acre-feet diverted or rediverted at Banks Pumping Plant under this temporary urgency change. The Permittee shall also provide to the Board by July 15, 1986 an estimate of its water exports at Tracy Pumping Plant foregone due to the striped bass test.

8. The Chief of the Division of Water Rights may suspend this temporary urgency change order at any time he determines that conditions in the Bay-Delta Estuary would be more conducive to the striped bass test absent this temporary urgency change.

9. This temporary urgency change is issued and Permittee takes it subject to the California Water Code, Division 2, Chapter 6.6, Section 1435 et seq. This temporary urgency change order shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the Board.

10. The Board shall supervise the use of water under this temporary urgency change order for the protection of vested rights and instream beneficial uses and for compliance with this order.

11. The Chief of the Division of Water Rights is authorized to File a Notice of Exemption pursuant to Section 15306 of the State EIR Guidelines.

12. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this temporary urgency change order, 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. The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this temporary urgency change order with a view to minimizing waste of water and to meeting the reasonable water requirements of Permittee without unreasonable draft on the source.

13. Except as expressly provided herein, all terms and conditions of these permits shall remain in effect.

14. This order supersedes the order allowing temporary urgency change in point of diversion and point of rediversion issued by Board Member Eliseo Samaniego on February 20, 1986.

CERTIFICATION

The undersigned, Interim Executive Director of the State Water Resources Control 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 March 20, 1986.

AYE: Darlene E. Ruiz
E. H. Finster
Eliseo Samaniego
Danny Walsh

NO: None

ABSENT: Raymond V. Stone

ABSTAIN: None

Raymond Walsh

Raymond Walsh
Interim Executive Director

COPY FOR FIELD ENGINEER

13370

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 5625 and 26 others (as listed on attached sheet) PERMIT 12720 and 26 others LICENSE

ORDER ALLOWING EXTENSION OF TIME
TO COMPLY WITH SUISUN MARSH STANDARDS

WHEREAS:

1. Order Condition 7(b) of Decision 1485 requires the permittee to meet specific water quality standards for full protection of the Suisun Marsh by October 1, 1984, as set forth in Table II of the Decision.

2. A petition for an extension of time to comply with the water quality standards for full protection of Suisun Marsh set forth in Order Condition 7(b) and Table II of Decision 1485 was filed by the U. S. Bureau of Reclamation on August 6, 1985.

3. The permittee has proceeded with diligence and good cause has been shown for the extension of time.

NOW THEREFORE, IT IS ORDERED THAT:

1. Order Condition 7(b) of Decision 1485 is superseded in accordance with Order Conditions 2 and 3 below.

2. Permittee shall comply with the water quality standards for full protection of Suisun Marsh set forth in Order Condition 7(a) of Decision 1485 (hereinafter termed standards) in accordance with the following schedule:

   (a) Permittee shall meet the standards by October 1, 1988 at the following locations:

      (1) Sacramento River at Collinsville Road in Collinsville (C-2)
      (2) Montezuma Slough at National Steel (three miles south of Mien's Landing) (S-64)
      (3) Montezuma Slough near Beldon Landing (0.35 miles east of Grizzly Island Bridge) (S-49)

   (b) Permittee shall either meet the standards by October 1, 1991 at:

      (1) Chadbourne Slough at Chadbourne Road (S-21), and
      (2) Cordelia Slough, 500 feet west of the Southern Pacific crossing at Cygnus (S-33),

      or meet the standards by October 1, 1993 at:

      (1) Chadbourne Slough at Chadbourne Road (S-21), and
      (2) Cordelia Slough at Cordelia-Goodyear Ditch (S-97)

   (c) Permittee shall either meet the standards by October 1, 1991 at Goodyear Slough at the Morrow Island Clubhouse (S-35), or meet the standards by October 1, 1994 at Goodyear Slough, 1.3 miles south of Morrow Island Ditch (S-75)

(d) Permittee shall meet the standards by October 1, 1997 at:

(1) Suisun Slough 300 feet south of Volanti Slough (S-42), and
(2) Water supply intake locations for waterfowl management areas on Van Sickle Island and Chipps Island.

3. Table II of Decision 1485 is amended on page 39 to replace the Suisun Marsh electrical conductivity standards that became effective October 1, 1984 with the following:

BENEFICIAL USE PROTECTED and LOCATION	PARAMETER	DESCRIPTION	YEAR TYPE	VALUES	
FISH AND WILDLIFE				Month	EC in mmhos
• SUISUN MARSH					
– To become effective on October 1, 1988 at: Sacramento River at Collinsville Road in Collinsville (C–2) Montezuma Slough at National Steel (3 miles south of Mein's Landing) (S–64) Montezuma Slough near Beldon Landing (0.35 miles east of Grizzly Island Bridge) (S–49)	Electrical Conductivity (EC)	The monthly average of both daily high tide values not to exceed the values shown (or demonstrate that equivalent or better protection will be provided at the location)	All	Oct. Nov. Dec. Jan. Feb. Mar. Apr. May	19.0 15.5 15.5 12.5 8.0 8.0 11.0 11.0
– To become effective either on October 1, 1991 at: Chadbourne Slough at Chadbourne Road (S–21) and Cordelia Slough, 500 feet west of the Southern Pacific crossing at Cygnus (S–33); or on October 1, 1993 at: Chadbourne Slough at Chadbourne Road (S–21) and Cordelia Slough at Cordelia–Goodyear Ditch (S–97)					
– To become effective either on October 1, 1991 at: Goodyear Slough at the Morrow Island Clubhouse (S–35); or on October 1, 1994 at: Goodyear Slough, 1.3 miles south of Morrow Island Ditch (S–75)					
– To become effective on October 1, 1997 at: Suisun Slough, 300 feet south of Volanti Slough (S–42), and Water supply intake locations for waterfowl management areas on Van Sickle Island and Chipps Island.					

4. By January 15 of each year, permittee shall provide, either separately or jointly with California Department of Water Resources, a written report to the Board on its progress toward achieving full compliance with this order.

Lloyd D. Johnson

Lloyd D. Johnson, Interim Chief
Division of Water Rights

Dated DECEMBER 5 1985

DECEMBER 5 1985

ATTACHMENT A

Permits of the United States Bureau of Reclamation:

Permit 12720 (Application 5625)
Permit 12721 (Application 5626)
Permit 11966 (Application 5627)
Permit 11967 (Application 5628)
Permit 12722 (Application 9363)
Permit 12723 (Application 9364)
Permit 12724 (Application 9365)
Permit 12725 (Application 9366)
Permit 12726 (Application 9367)
Permit 12727 (Application 9368)
Permit 11315 (Application 13370)
Permit 11316 (Application 13371)
Permit 11317 (Application 13372)
Permit 11318 (Application 14662)
Permit 11968 (Application 15374)
Permit 11969 (Application 15375)
Permit 11970 (Application 15376)
Permit 12860 (Application 15764)
Permit 11971 (Application 16767)
Permit 11972 (Application 16768)
Permit 11973 (Application 17374)
Permit 16209 (Application 18721)
Permit 16210 (Application 18723)
Permit 15149 (Application 21542)
Permit 16211 (Application 21636)
Permit 16212 (Application 21637)
Permit 15735 (Application 22316)

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER ALLOWING TEMPORARY URGENCY CHANGE
IN POINTS OF DIVERSION AND POINTS OF REDIVERSION

COPY FOR FIELD ENGINEER

PERMITS 12721, 11967, 12722, 12723, 12727, 11315, 11316, 11968, 11969, 12860, 11971, 11973, 12364 AND 13776 (APPLICATIONS 5626, 5628, 9363, 9364, 9368, 13370, 13371, 15374, 15375, 15764, 16767, 17374, 17376 AND 18115) United States Bureau of Reclamation, Permittee

WHEREAS:

1. The United States Bureau of Reclamation (Bureau) has filed a petition for a temporary urgency change in the points of diversion and rediversion authorized in the above permits.

2. In accordance with the authorization of Water Code Section 1435, the Board has adopted Resolution No. 84-2 delegating authority to an individual Board member to approve temporary urgency changes where no detrimental effects are indicated.

3. The temporary change will allow the Bureau to use the State Water Project Harvey O. Banks Pumping Plant to place 12,800 acre-feet of water into storage in San Luis Reservoir.

4. Permits 12727 and 11973 (Applications 9368 and 17374) allow direct diversion of water only.

5. Permits 12721, 11967, 12722, 12723, 11315, 11316, 11968, 11969, 11971, 12364 and 13776 (Applications 5626, 5628, 9363, 9364, 13370, 13371, 15374, 15375, 16767, 17376 and 18115) allow transfer of stored water to storage in San Luis Reservoir at the permittee's Tracy Pumping Plant.

6. Permit 12860 (Application 15764) allows diversion at the permittee's Tracy Pumping Plant to storage in San Luis Reservoir.

7. Board staff has contacted the Department of Fish and Game who stated that the proposed temporary urgency change would not unreasonably affect fish and wildlife.

8. The staff of the Department of Water Resources has informed the Board that the Department is willing to pump water for the Bureau through the Banks Pumping Plant in the Southern Delta.

9. The temporary urgency change requested in the petition does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water and does not unreasonably affect fish, wildlife or other instream beneficial uses.

10. The permittee has a temporary but urgent need for the proposed change in order to protect the public welfare as set forth in Section 1435 of the Water Code.

11. An environmental analysis has shown that the project consists of the operation of an existing public facility involving negligible or no expansion of use beyond that previously existing and that no significant environmental impacts will result.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The permittee may temporarily divert or redivert water to storage in San Luis Reservoir at California Intake of the Banks Pumping Plant at the following location:

   California Coordinates, Zone 3, N 486,035;
   E 1,695,057; within NW 1/4 of SE 1/4
   of projected Section 20, T1S, R4E, MDB&M.

   under the following permits:

   a) Diversion to storage in San Luis Reservoir under Permit 12860 (Application 15764).

   b) Rediversion to transfer stored water to San Luis Reservoir under Permits 12721, 11967, 12722, 12723, 11315, 11316, 11968, 11969, 11971, 11973 12364 and 13776 (Applications 5626, 5628, 9363, 9364, 13370, 13371, 15374, 15375, 16767, 17374, 17376 and 18115)

2. The temporary urgency change shall be effective for a period starting September 19, 1985 and ending October 15, 1985. At the end of this period, this authorization shall be of no further force and effect.

3. The total quantity of water diverted under this temporary urgency change shall not exceed 12,800 acre-feet.

4. The maximum combined rate of diversion and rediversion under these permits from both the Banks Pumping Plant and the Tracy Pumping Plant shall not exceed 4,600 cubic feet per second.

5. The Bureau shall report to the State Water Resources Control Board by November 1, 1985, the daily combined diversion of the Tracy Pumping Plant and that portion of the diversion of the Banks Pumping Plant made under this change order. The report shall also contain the total acre-feet diverted at the Banks Pumping Plant under this change order.

6. This temporary urgency change will be presented to the Board for review at its next regular meeting. Should the Board fail or refuse to validate the temporary urgency change, it shall stand revoked as of the date of said Board meeting and shall be of no further force and effect.

7. This temporary urgency change is issued and permittee takes it subject to the California Water Code, Division 2, Chapter 6.6, Section 1435 et seq. This temporary urgency change order shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the Board.

8. The Board shall supervise the use of water under the temporary urgency change order for the protection of vested rights and instream beneficial uses and for compliance with change order conditions.

9. The Chief of the Division of Water Rights is authorized to File a Notice of Exemption pursuant to Section 15301 of the State EIR Guidelines.

10. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this temporary urgency change order, 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.

    The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this temporary urgency change order with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

11. Except as expressly provided herein, all terms and conditions of these permits shall remain in effect.

Dated: September 19, 1985

Edwin H. Finster
Board Member

A-5626

U. S. Bureau of Reclamation
2800 Cottage Way, MP 710
Sacramento, CA 95818

Department of Water Resources
1416 Ninth Street
Sacramento, CA 95814

Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

Tom Graff
Environmental Defense Fund
2606 Dwight Way
Berkeley, CA 94704

13370

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

COPY FOR FIELD ENGINEER

In the Matter of Temporary Urgency Change Order Regarding Permit 12721 (Application 5626) and 12 other Permits	)	ORDER: 85-2
U. S. BUREAU OF RECLAMATION, Permittee	)	SOURCE: Various sources COUNTIES: Alameda, Sacramento, Shasta, Trinity

ORDER VALIDATING ISSUANCE OF
TEMPORARY URGENCY CHANGE ORDER

BY THE BOARD:

The U. S. Bureau of Reclamation (Bureau) having filed a petition for a temporary urgency change in point of diversion and point of rediversion pursuant to Chapter 6.6 (commencing with Section 1435), Part 2, Division 2 of the Water Code; the Board having consulted with the Department of Water Resources and the Department of Fish and Game; former Board Vice Chairman Noteware having concluded from available information that the Bureau qualifies for a temporary urgency change and having issued a temporary urgency change order, subject to review and validation by the Board as provided by Water Code Section 1435; the Board finds as follows:

Substance of the Proposed Change

1. On February 21, 1985, the Bureau filed a petition for a temporary urgency change in the point of diversion and point of rediversion under the 13 water right permits specified in Table I below:

TABLE I
WATER RIGHT PERMITS COVERED BY
THE PETITION FOR TEMPORARY URGENCY CHANGE

Application	Permit
5626	12721
5628	11967
9363	12722
9364	12723
13370	11315
13371	11316
15374	11968
15375	11969
15764	12860
16767	11971
17374	11973
17376	12364
21542	15149

The petition requests that, in addition to the points of diversion and rediversion specified in the permits, the permittee be allowed to divert or redivert water temporarily under said permits at the California Aqueduct Intake for the Banks Pumping Plant at the following location:

> California Coordinates, Zone 3, N486,035; E 1,695,057; within NW 1/4 of SE 1/4 of projected Section 20, T1S, R4E, MDB&M.

2. The petition for a temporary urgency change requests that the diversion and rediversion at the Banks Pumping Plant be authorized from March 1, 1985 to June 30, 1985 with the total amount diverted or rediverted not to exceed 195,000 acre-feet.

Temporary Urgency Need

3. The urgent need to utilize facilities of the State Water Project arises from the curtailment of pumping through the Central Valley Project and State Water Project Delta facilities proposed by the California Department of Fish and Game for striped bass tests. The Bureau must replace this capacity to enable the Federal portion of San Luis Reservoir to be filled for the 1985 irrigation season. Replacement of this lost pumping capacity with capacity at the Banks Pumping Plant is proposed. The increased period of replacement diversion over that of the pumping curtailment is requested so that the capacity available at the Banks Pumping Plant may be more economically utilized and that there may be a margin of safety if that plant should be down for any length of time during the period. When available, off-peak energy periods will be used. The quantity to be diverted will not exceed the quantity that would have been diverted absent the striped bass test. We find that emergency conditions exist within the meaning of Water Code Section 1435(c) which require immediate action by the petitioner to protect the public welfare.

California Environmental Quality Act

4. The State Water Resources Control Board staff has prepared a draft Notice of Exemption specifying under Class 6 (14 Cal. Admin. Code, Sec. 15306) the reason why the above proposed action qualifies for an exemption in accordance with the California Environmental Quality Agency (CEQA).

Action by former Board Vice Chairman Noteware

5. In accordance with the authorization of Water Code Section 1435, the Board has adopted Resolution 84-2 delegating authority to an individual Board member to approve temporary changes on projects where no detrimental effects are indicated. Water Section 1435(b) requires the Board, at its next regular meeting, to review and validate any change order issued by an employee.

6. In accordance with the delegation of authority in Resolution 84-2, former Board Vice Chairman Noteware issued a change order allowing a temporary change in the point of diversion and point of rediversion, subject to several specified conditions.

7. The Board concurs with the findings of former Vice Chairman Noteware as specified in the order dated March 1, 1985.

8. South Delta Water Agency alleges that diversion under this temporary urgency change may tend to reduce channel water levels to the injury of southern Delta water users. The Board does not herein find a relationship between water levels in southern Delta water channels and export pumping rates under this temporary urgency change. However, because of South Delta Water Agency's objection, the Board finds that during periods of unusually low water levels in channels of the southern Delta, no diversion under this temporary

urgency change should be made. This order is conditioned on compliance by the permittee with a term addressing this concern.

NOW, THEREFORE, IT IS ORDERED that issuance of the order allowing a temporary urgency change in point of diversion and point of rediversion for the permits listed in Table 1 is validated subject to the terms and conditions specified in the order, and the following additional condition:

> No diversion shall be made under this temporary urgency change during periods of unusually low water levels in channels of the southern Delta. These periods are expected to be March 15-17, March 30-April 1, April 11-13, April 25-29, May 10-12, May 24-27, and June 7-9, 1985. No diversion shall be made during these periods unless approved by the Chief of the Division of Water Rights. Should unusually low channel water levels occur at other times, the Chief of the Division of Water Rights may require the permittee to cease diversion under the temporary urgency change at such times.

Dated: MAR 15 1985

CERTIFICATION

The undersigned, Executive Director of the State Water Resources Control 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 March 15, 1985.

Michael A. Campos
Executive Director

September 4, 1962

Mr. H. P. Dugan
Regional Director, Region 2
U. S. Bureau of Reclamation
Post Office Box 2511
Sacramento, California

Subject: Applications 13370 and 13371

Dear Mr. Dugan:

This will belatedly acknowledge your letter of July 17, 1962, transmitting petitions for change in place of use and supporting maps in connection with Application 13370, Permit 11315, and Application 13371, Permit 11316, together with copies of the contracts between the United States and the El Dorado County Water Agency and between United States and Retirement Activities Group. Your letter states that you have cancelled the release from priority of State Applications Nos. 7936, 7937, 7938 and 7939 which had been granted in favor of United States Applications Nos. 13370, 13371, 13372 and 14662. Your letter expresses the view that approval of the changes by the California Water Commission is no longer necessary and also any obstacle which may have existed due to pending litigation is now removed.

Action on your petitions is being temporarily deferred pending receipt of the views of the California Water Commission.

Very truly yours,

L. K. Hill
Executive Officer

LCS: tm

FILE IN DUPLICATE

[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—STATE WATER RIGHTS BOARD

Application No. 13370 Filed October 1, 1949 at 9:15 A. M.
(Applicant must not fill in the above blanks)

APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER

AMENDED APPLICATION RECEIVED JANUARY 29, 1952

~~I~~ The United States of America, by the United States Bureau of Reclamation
Name of applicant

of Sacramento OVER County of Sacramento
Address

State of California, ~~I~~ does 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 American River
Give name of stream, lake, etc., if named; if unnamed state nature of source and that it is unnamed

located in Sacramento, Placer & El Dorado Counties, tributary to Sacramento River

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 8,000 cubic feet per second, to be diverted from [redacted] Nov. - 1 to [redacted] Aug. - 1 of each year. Per D893
1 cubic foot per second equals 40 statute miner's inches or 646,317 gallons per day
Beginning date Closing date

(b) For diversion to be stored and later applied to beneficial use 1,000,000 (See Supplement) acre-feet per annum, to be collected between [redacted] Nov. 1 and July 1 of each season.
1 acre-foot equals 325,851 gallons
Beginning date Closing date

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. If underground storage is proposed a special supplemental form will be supplied by the State Water Rights Board upon request.

3. The use to which the water is to be applied is irrigation (see supplement)
Domestic, irrigation, power, municipal, mining, industrial, recreational

purposes.

4. The first point of diversion is to be located at Folsom Dam
State bearing and distance or coordinate distances from section or quarter section corner

S. 30°18' W., 2715 feet from the NE corner of Section 24, T10N, R7E, MDB&M

being within the SW¼ of NE¼ (for other points of diversion see supplement)
State 40-acre subdivision of public land survey or projection thereof

of Section 24, T. 10N, R. 7E, MD B. & M., in the County of Sacramento

5. The main conduit terminates in (see supplement) Sec. ____, T. ____, R. ____, ____ B. & M.
State 40-acre subdivision of U. S. Government survey or projection thereof

Description of Diversion Works

NOTE.—An application cannot 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) (see supplement)

(a) Diversion will be made by pumping from
Sump, offset well, unobstructed channel, etc.

(b) Diversion will be by pumping and gravity, the diverting dam being Nimbus 46 feet in height (stream bed to level of overflow); 1,141 feet long on top; and constructed of concrete
Concrete, earth, brush, etc.

(c) The storage dam will be Folsom-275.5 feet in height (stream bed to overflow level); 1,400 feet long on top; have a freeboard of 14.5 feet, and be constructed of concrete
Concrete, earth, brush, etc.
Auxiliary earth fill wing dams and dikes will be 20,540 feet long.

7. Storage Reservoir Folsom Reservoir (see supplement)
Name

The storage reservoir will flood lands in (see supplement)
Indicate section or sections, also 40-acre subdivisions unless shown upon map

(see supplement) ... (see supplement) acre-feet

8. **Conduit System** (describe main conduits only) (See supplement)

(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 _____
Earth, rock, timber, etc.

(b) Pipe line: Diameter _____ inches; length _____ feet; grade _____ feet per

1,000 feet; total fall/lift from intake to outlet _____ feet; kind _____
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 (see supplement)
State cubic feet per second or gallons per minute

The estimated cost of the diversion works proposed is $185,500,000.00
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 (see supplement)

Construction work will be completed on or before (see supplement)

The water will be completely applied to the proposed use on or before 1990

Description of Proposed Use

11. **Place of Use.** (see supplement and accompanying maps)
State 40-acre subdivisions of the public land survey. If area is unsurveyed 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.

Do(es) applicant(s) own the land whereon use of water will be made? No (Yes or No) Jointly? _____ (Yes or No)

Contracts will be negotiated with representatives of owners.
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. **Other Rights.** Describe all rights except those on file with the State Water Rights Board under which water is served to the above named lands.

Nature of Right (riparian, appropriative, purchased water, etc.)	Year of First Use	Use made in recent years including amount if known	Season of Use	Source of Other Supply
1.				
2.				
3.				
4.				

Attach supplement at top of page 3 if necessary.

13. **Irrigation Use.** The area to be irrigated is any 500,000 acres during a single year within the gross service area as shown on the accompanying maps. acres.
Insert number of acres to be irrigated

The segregation of acreage as to crops is as follows: ~~Rice~~ various (see supplement) 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 January 1 (Beginning date) and end about December 31 (Closing date)

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 × fall ÷ 8.8

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

ATTACH EXTRA SHEETS HERE

15. **Municipal Use.** This application is made for the purpose of serving _____
Name city or cities, town or towns. Urban areas only

_____ having a present population of _____

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:

_____

_____

_____

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

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

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

17. **Other Uses.** The nature of the use proposed is _____
Industrial, recreational, domestic, stockwatering, fish culture, etc.

_____

State basis of determination of amount needed. Estimating needs of land that could be supported by
Number of persons, residences, area of domestic lawns and gardens, number and kind of stock, type

the project.
industrial use, and unit requirements.

_____

_____

_____

_____

_____

_____

General

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

19. Does the applicant own the land at the proposed point of diversion? Yes, most of it
Yes or No. If not, give name and address of owner and state what steps have been taken to secure right of access thereto will be acquired by purchase or agreements with owners

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

Folsom, California

21. What are the names and addresses of claimants of water from the source of supply below the proposed point of diversion? Pacific Gas and Electric Co., San Francisco; Folsom State Prison, Represa; City of Sacramento; see State Water Supervision Report for diverters from American River from Fair Oaks to Sacramento River; water users in Sacramento-San Joaquin delta area.

SUPPLEMENTS TO APPLICATION 13370

GENERAL

The service areas of the Santa Clara and Pacheco Pass Conduits are included at present within the scope of this application. However, more refined planning studies on these conduits are being conducted which may show that it will be more desirable to use portions of the water supply available under this application in parts of the potential service area other than those shown under the Santa Clara and Pacheco Pass Conduits. The details concerning these two conduits will be supplied after the present planning studies are completed.

Paragraph 2: AMOUNT OF WATER

The 8,000 cubic feet per second of water applied for in this application will usually be the same water as applied for in Application 13372 for power purposes. Application for storage of 1,000,000 acre-feet of water in Folsom Reservoir includes the storage for irrigation, municipal, industrial, and power purposes. Any water stored and later released primarily to provide storage for flood control purposes is not included in the 1,000,000 acre-feet of stored water applied for in this application.

Since most of the 1,000,000 acre-feet of water stored in Folsom Reservoir will be released for irrigation, municipal, and industrial purposes, and will be utilized enroute for power generation, 1,000,000 acre-feet will be used in some years for irrigation under this application, and up to 300,000 acre-feet may be used in other years under Application 13371 for municipal and industrial purposes, and in the same years, 1,000,000 acre-feet will also be used for power generation under Application 13372.

Quantities of water to be temporarily stored in Nimbus Reservoir, a regulatory reservoir, are applied for in this application, although they are not included in the 1,000,000 acre-feet of storage specified in this application since they will be stored for relatively brief periods of time.

Paragraph 3: USE

The water applied for in this application will be used for irrigation purposes by diversion through facilities as located on the accompanying maps Nos. 353-205-105 and 353-205-106. Portions of this water will be integrated into the operation of the Central Valley Project through the Delta Cross Channel, the Delta-Mendota Canal, and the Contra Costa Canal.

In order to provide irrigation water of suitable quality for the Delta-Mendota and Contra Costa Canals, it is believed that up to 6,000 cubic feet per second of direct diversion and/or storage releases may be required to flow into Suisun Bay in order to dispose of the chemical elements that would otherwise accumulate in the irrigation waters flowing in the delta channels of the Sacramento and San Joaquin Rivers. Water to be used for such purposes is included within the quantities applied for in this application.

Paragraph 4: POINTS OF DIVERSION

Points of diversion for the water applied for herein are at Folsom Dam and at downstream points of diversion for existing and future facilities of the Central Valley Project, including non-project facilities diverting project waters. The points of diversion and/or rediversion include the following:

Folsom Suburban Conduit: The intake will be located in Folsom Dam; S 38° 25' W, 2775 feet from the NE corner of Sec. 24, T. 10 N., R. 7 E., M.D.B. & M., being within the SW¼ of NE¼ of said Sec. 24, in Sacramento County.

Nimbus Dam: To be located on the American River; S. 60° E, 1600 feet from the NW corner of projected Sec. 16, T. 9 N., R. 7 E., M.D.B. & M., being within the NE¼ of NW¼ of said projected Sec. 16, in Sacramento County.

Folsom North Canal: The intake will be located approximately N. 36 E., 3000 feet from the S¼ corner of projected Sec. 34, T. 10 N., R. 7 E., M.D.B. & M., being in the NE¼ of SE¼ of said projected Sec. 34, in Sacramento County.

A reservoir to store small quantities of water for very brief periods, for regulating the water diverted from Nimbus Reservoir will be located on the Folsom North Canal in the NW¼ of SE¼ of Sec. 26, T. 11 N., R. 6 E., M.D.B. & M., in Placer County. This reservoir will flood approximately 300 acres in Sections 26 and 35, T. 11 N., R. 6 E., M.D.B. & M.

Folsom South Canal: The intake will be located approximately S 58° E., 1650 feet from the NW corner of projected Sec. 16, T. 9 N., R. 7 E., M.D.B. & M., being in the NE¼ of NW¼ of said projected Sec. 16, in Sacramento County.

Delta Cross Channel: This channel diverts water initially from the Sacramento River at Walnut Grove. The intake structure is located at Delta Cross Channel Station 1+69.2 and is approximately S. 4° 17' W., 999.0 feet from the NW corner of Swamp and Overflow Land Survey No. 763, in T. 5 N., R. 4 E., M.D.B. & M.

Contra Costa Canal: This canal diverts water from the Old River through Rock Slough in the Sacramento-San Joaquin Delta. The intake point is N. 89° 52' W., 8.9 feet from E¼ corner, Sec. 33, T. 2 N., R. 3 E., M.D.B. & M., being in the SE¼ of NE¼ of said section, in Contra Costa County. Canal Station 0+00 is located S. 4° 35' E., 105.5 feet from the intake point.

Delta-Mendota Canal: Water from the Delta Cross Channel is diverted at an intake point on the Old River. The pilot intake headworks, located at Canal Station L 6+90, is S. 76° 39' 23" E., 2674.53 feet from the W¼ corner of Sec. 29, T. 1 S., R. 4 E., M.D.B. & M., being in the NE¼ of SW¼ of said Sec. 29, in Alameda County.

The center line of the pumping units of the Tracy Pumping Plant at Canal Station L 133+75 is N. 26° 54" E., 800.63 feet from the SW corner of Sec. 31, T. 1 S., R. 4 E., M.D.B. & M., being in the SW¼ of SW¼ of said Sec. 31, in Alameda County.

The terminus of the pump discharge conduits and beginning of the concrete-lined gravity section of the Delta-Mendota Canal at Canal Station L 185+50, is S. 37° 38' 22" W., 1988.26 feet from the E¼ corner of Sec. 1, T. 2 S., R. 3 E., M.D.B. & M., being in the SE¼ of SE¼ of said Sec. 1, in Alameda County.

Paragraph 5: THE MAIN CONDUITS TERMINATE IN

Folsom Suburban Conduit: SW¼ of SE¼ Sec. 30, T. 11 N., R. 7 E., M.D.B. & M.

Folsom North Canal: NE¼ of NW¼, Sec. 10, T. 13 N., R. 5 E., M.D.B. & M.

Folsom South Canal: SE¼ of SW¼, Sec. 22, T. 1 S., R. 8 E., M.D.B. & M.

Delta Cross Channel: Old River at intake of Delta-Mendota Canal, NE¼ of SW¼, Sec. 29, T. 1 S., R. 4 E., M.D.B. & M.

Contra Costa Canal: Martinez Reservoir near City of Martinez, NE¼ of NW¼, projected Sec. 20, T. 2 N., R. 2 W., M.D.B. & M.

Delta-Mendota Canal: Mendota Pool located in SE¼ of SE¼, Sec. 19, T. 13 S., R. 15 E., M.D.B. & M.

Paragraph 6: INTAKE OR HEADWORKS

Folsom Suburban Conduit: Water will be diverted through Folsom Dam by gravity, supplemented by a 315 c.f.s. pumping plant during periods of low storage in Folsom Reservoir.

Folsom North Canal: Water will be diverted from Nimbus Reservoir through a pumping plant of 1,100 c.f.s. capacity.

Folsom South Canal: Water will be diverted at Nimbus Dam by gravity. The canal intake capacity will be 5,000 c.f.s.

Delta Cross Channel: At present, water is diverted from the Sacramento River into this channel by means of gravity without a diversion dam. The water passes into the Delta Cross Channel through a gate-controlled works.

In the operation of the Central Valley Project, it is intended to divert about 9,500 c.f.s. of water from the Sacramento River into the Delta channels of the San Joaquin River. Part of this is diverted through natural channels such as Georgiana Slough. An initial cut is being constructed to convey 4,500 c.f.s. into the Delta Cross Channel. The means of diverting the water required in excess of that which can be conveyed by this cut and existing channels, will be determined on the basis of data collected during the first years of operation of the Delta Cross Channel, and will be presented at a later date. This additional information may indicate a total diversion requirement slightly exceeding the presently planned 9,500 c.f.s.

Contra Costa Canal: Water from the Old River through Rock Slough is diverted at the canal intake by gravity. There are four pumping plants along the canal located at Canal Stations 209+25, 248+90, 308+70, and 372+20. The first three plants each have an initial capacity of 210 c.f.s., with an ultimate planned capacity of 350 c.f.s. The plant at Station 373+20 has an initial capacity of 190 c.f.s. and an ultimate capacity estimated at 330 c.f.s. (Part of this canal's capacity will be utilized to transport municipal and industrial water under other United States applications.)

Delta-Mendota Canal: Water is diverted from the Old River through fish-protective headworks and intake canal to Tracy Pumping Plant where 4,600 c.f.s. of water will be lifted 200+ feet to the gravity section of the Delta-Mendota Canal.

Paragraph 7: STORAGE & REGULATORY RESERVOIRS

Folsom Reservoir: Lands that will be flooded by Folsom Reservoir are those lying below elevation 466 in Sections 11, 12, 13, 14, and 24, in T. 10 N., R. 7 E.; Sections 1 to 11, inclusive, 15 to 22, inclusive, 29 and 30 in T. 10 N., R. 8 E.; Section 36 in T. 11 N., R. 7 E.; Sections 3, 4, 8, 9, 10, 16, 17, 19, 20, 21, 25, 26, and 29 to 35, inclusive, in T. 11 N., R. 8 E.; Sections 30 and 31 in T. 11 N., R. 9 E.; and Sections 23, 26, 34, and 35, in T. 12 N., R. 8 E., as shown on the accompanying reservoir topography maps numbered 485-205-105 to 485-205-108, inclusive. Folsom Reservoir will have a surface area of 11,400 acres, and a capacity of 1,000,000 acre-feet.

Nimbus Regulatory Reservoir: Lands that will be flooded by Nimbus Reservoir are those lying below elevation 125 in projected Sections 2, 3, 9, 10, 15, and 16, T. 9 N., R. 7 E., 25, 26, 34, and 35, T. 10 N., R. 7 E., M.D.B. & M., as indicated on the accompanying reservoir topography maps numbered 485-205-109 to 485-205-111, inclusive. The reservoir will have a surface area of approximately 500 acres, and a capacity of 8,700 acre-feet.

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Paragraph 8: CONDUIT SYSTEMS

Folsom Suburban Conduit: A pressure system consisting of a main conduit and a branch conduit with intakes in the Folsom Dam. The branch conduit will be for service to Folsom Prison and the Natomas Water Company. Diversion will be made by gravity during periods when the water surface elevation in Folsom Reservoir is high enough to provide the necessary head and will be supplemented by a 315 c.f.s. capacity pumping plant during periods of low storage.

Main Conduit (1st section): Pipe line, diameter 84 inches; length, 4,060 feet; hydraulic gradient, 3.1 feet per 1,000 feet; total fall, 12.4 feet; kind, steel.

Main Conduit (2nd section): Pipe line, diameter, 72 inches; length, 3,450 feet; hydraulic gradient, 2.4 feet per 1,000 feet; total fall, 8.2 feet; kind, steel.

Branch Conduit: Pipe line, diameter, 42 inches; length, 2,800 feet; hydraulic gradient, 5.0 feet per 1,000 feet; total fall, 14.0 feet; kind, steel.

Folsom North Canal: The initial section will be a pipe line, diameter, 168 inches; length, 4.2 miles; grade, 0.77 feet per 1,000 feet; kind, concrete.

The next section will be a canal, width on top (at water line), 33 feet; width at bottom, 9 feet; depth of water, 8 feet; length, 13.8 miles; grade, 0.2 feet per 1,000 feet; kind, concrete. The canal cross section dimensions will decrease toward the end, to a terminal section with a capacity of 205 c.f.s.

Folsom South Canal: Width at top (at water line), 104 feet*; width, at bottom, 40 feet*; depth of water, 18 feet*; length, 60 miles (total); grade, 0.06* feet per 1,000 feet; material of construction, concrete.

Delta Cross Channel: Width on top (at water line), 426 feet; width at bottom, 210 feet; depth of water, 26 feet; length, 50 miles (cross section varies from above dimensions to those of dredged and natural channels of sloughs and rivers along route). Grade of invert is approximately zero. Hydraulic gradient will vary with tide. Materials of construction, earth.

Contra Costa Canal: Width on top (at water line), 25.43 feet; width at bottom, 7.0 feet; depth of water, 7.37 feet; length, 45.93 miles (canal cross-section dimensions decrease toward the end). Grade, 0.125 feet per 1,000 feet. Materials of construction, concrete.

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* Initial section only.

Delta-Mendota Canal: The intake canal between Old River and Tracy Pumping Plant is approximately 2.5 miles in length and has a width of 185.6 feet at water surface, a bottom width of 97.7 feet, and a water depth of 14.3 feet. At the pumping plant, 4,600 c.f.s. of water will be lifted approximately 200 feet by 6 electrically-driven pumps through three 15-foot diameter, reinforced concrete conduits a distance of one mile and discharged into a gravity canal which extends in a southerly direction about 113 miles to the Mendota Pool on the San Joaquin River. The first 95 miles of the gravity canal are concrete-lined; the initial section is 97.68 feet wide at the water surface, 48.00 feet wide at the bottom and has a water depth of 16.56 feet, and has a capacity of 4,600 c.f.s. The last 18 miles of the gravity canal are earth-lined. The initial section has a top width of 131.5 feet, a bottom width of 62.0 feet, and a water depth of 13.9 feet. The canal grade is 0.05 feet per 1,000 feet.

Paragraph 9: ESTIMATED CAPACITY

Folsom Suburban Conduit: 315 c.f.s.

Folsom North Canal: 1,100 c.f.s.

Folsom South Canal: 5,000 c.f.s.

Delta Cross Channel: 9,500 c.f.s. (see supplement to Paragraph 6)

Contra Costa Canal: 350 c.f.s. (see supplement to Paragraph 6)

Delta-Mendota Canal: 4,600 c.f.s.

Paragraph 10: CONSTRUCTION WORK WILL BEGIN

Folsom Suburban Conduit: 1956

Folsom North Canal: 1958

Folsom South Canal: 1960

Delta Cross Channel: Already begun.

Contra Costa Canal: Already begun

Delta-Mendota Canal: Already begun.

Construction work will be completed on or before:

Folsom Suburban Conduit: 1960

Folsom North Canal: 1965

Folsom South Canal: 1970

Delta Cross Channel: 1956

Contra Costa Canal: 1956

Delta-Mendota Canal: 1954

Paragraph 11: PLACE OF USE

The water will be used within the service areas of districts, municipalities, water companies, corporations, and other legal entities within the gross area of the place of potential use delineated on maps No. 353-205-105 and No. 353-205-106, provided that the delivery of the water is conditioned upon execution of valid contracts for such deliveries.

Water will be used by the United States of America, or by persons, the State or United States agencies, authorities, associations, public or private corporations, political subdivisions, and other agencies, whether as a primary or supplemental supply, and under contracts with the United States of America or other authorization which may be made or given by authority of and pursuant to law.

The place of use under the Santa Clara and Pacheco Pass Conduits is discussed under the "GENERAL" heading preceeding the supplement to Paragraph 2.

Paragraph 13: IRRIGATION USE

Parts of the irrigable area included within the described place of use are or will be adequately served with water under lawful rights acquired and usedindependently of the United States. Other parts of the area will be partially so served, but will require a supplemental water supply which will be furnished through rights acquired by the United States. Other parts of the area will be furnished their entire water supply through rights acquired by the United States.

The general crop segregation of the irrigable acreages will be alfalfa, irrigated pasture, rice, orchards, vineyards, cereals, hay, and other crops adaptable to the areas involved.

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PERMIT No. 11215

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

1. The amount of water to be appropriated shall be limited to the amount that can be beneficially used.

2. The amount of water appropriated shall not exceed 8,000 cubic feet per second by direct diversion to be diverted between about November 1 of each year and about August 1 of the succeeding year and 1,000,000 acre-feet per annum by storage to be collected between about November 1 of each year and about July 1 of the succeeding year.

3. The maximum amounts herein stated may be reduced in license if investigation so warrants.

4. Construction work shall be completed on or before December 1, 1970.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1990.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board.

7. Permittee shall maintain a daily record of inflow into and outflow from Folsom Reservoir, volumes in storage and water surface elevations. Permittee shall maintain like records with respect to Nimbus Reservoir. Permittee shall provide and maintain such measuring facilities as may be necessary for the formulation of said records. Permittee shall make said records of inflow, outflow, volumes in storage and water surface elevations available to the State Water Rights Board and shall allow authorized representatives of said Board access to its project works and properties for the purpose of securing supplemental information.

8. The amounts which may be diverted under rights acquired or to be acquired under this permit are and shall remain subject to reduction by future appropriation of water for reasonable, beneficial use within the watershed tributary to Folsom Reservoir.

9. This permit shall be subject to an agreement to be entered into between the United States of America and the water users of the Sacramento River and the Sacramento-San Joaquin Delta with respect to releases from Folsom and Nimbus Reservoirs

in co-ordination with other units of the Central Valley Project for consumptive uses and salinity control in the Sacramento-San Joaquin Delta, provided such agreement is entered into within one year from date of issuance of a decision by the State Water Rights Board in connection with and after hearing on Applications 5625, 5626, 9363, 9364, 9365, 9366, 9367, 9368 and 10588 of permittee, and is approved by the State Water Rights Board, or in the event of failure to reach an agreement by that date, this permit shall be subject to further order of the Board, which order shall be preceded by further hearings.

10. Permittee shall by-pass down the natural channel of American River below Folsom Dam and Nimbus Dam for the purpose of maintaining fish life such flows as are provided for in that certain document entitled "Memorandum of Operating Agreement for the Protection and Preservation of Fish Life in the American River as Affected by Folsom and Nimbus Dams and their Related Works and Diversion of Water Under Contracts with the United States" between the United States and the California Department of Fish and Game, dated October 15, 1957, filed of record as Fish and Game Exhibit 19 of the hearing of Applications 13370, 13371, 13372, and 14462.

11. Deliveries of water under this permit shall be limited to deliveries for beneficial use within Placer, Sacramento and San Joaquin Counties and shall not be made beyond the westerly or southerly boundaries thereof, except on a temporary basis, until the needs of those counties, present or prospective, are fully met provided, however, that agreements in accordance with Federal Reclamation laws between permittee and parties desiring such service within said counties are executed by July 1, 1968.

12. The right to divert and store water and apply said water to beneficial use as provided in this permit is granted to the United States as Trustee for the benefit of the public agencies of the State together with the landowners and water users within such public agencies as shall be supplied with the water appropriated hereunder.

13. Subject to compliance by the public agencies concerned with any and all present and future valid contractual obligations with the United States, such public agencies, on behalf of their landowners and water users, shall, consistent with other terms of this permit, have the permanent right to the use of all water appropriated and beneficially used hereunder, which right, except where water is distributed to the general public by a private agency in charge of a public use, shall be appurtenant to the land to which said water shall be applied, subject to continued beneficial use and the right to change the point of diversion, place of use, and purpose of use, as provided in Chapter 10 of Part 2 of Division 2 of the Water Code of the State of California, and further subject to the right to dispose of a temporary surplus.

14. Upon completion of the appropriation and beneficial use of water under this permit any license which may be issued pursuant to Chapter 9 of Part 2 of Division 2 of the California Water Code shall be issued to the public agencies of the State within which the water shall have been found by inspection by the Board to have been applied to beneficial use.

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

Those portions of Application 13370 seeking either direct diversion or diversion to storage other than the season of about November 1 of each year to about August 1 of the succeeding year are denied by Decision 893.

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).

Dated: APR 22 1958

STATE WATER RIGHTS BOARD

L. K. Hill

L. K. Hill
Executive Officer

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