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 Permits 12721, 12722, 12723, 11967, 11968, 11969, 11971, 11973 and 12364
(Applications 5626, 9363, 9364, 5628, 15374, 15375, 16767, 17374 and 17376)

U. S. Bureau of Reclamation

ORDER APPROVING CHANGE IN POINT OF DIVERSION AND/OR REDIVERSION AND AMENDING PERMITS

SOURCE: Trinity River, Clear Creek, Sacramento River, and Old River

COUNTY: Trinity, Contra Costa, Shasta, Glenn, Sacramento, and Tehama

---

WHEREAS:

1. Permits were issued to the U. S. Bureau of Reclamation (Reclamation) as follows:
   a) Permit 12721 was issued on April 12, 1961, pursuant to Application 5626.
   b) Permit 12722 was issued on April 12, 1961, pursuant to Application 9363.
   c) Permit 12723 was issued on April 12, 1961, pursuant to Application 9364.
   d) Permit 11967 was issued on September 16, 1959, pursuant to Application 5628.
   e) Permit 11968 was issued on September 16, 1959, pursuant to Application 15374.
   f) Permit 11969 was issued on September 16, 1959, pursuant to Application 15375.
   g) Permit 11971 was issued on September 16, 1959, pursuant to Application 16767.
   h) Permit 11973 was issued on September 16, 1959, pursuant to Application 17374.
   i) Permit 12364 was issued on July 28, 1960, pursuant to Application 17376.

2. Petitions to add a point of diversion/rediversion were filed with the State Water Resources Control Board (State Water Board) on February 10, 2010 to add a new fish screened pumping plant to be used in lieu of the existing unscreened pumping facility. The fish screened facility will be used to divert water into the Tehama-Colusa and Corning Canals. Public notice of the change was issued on June 3, 2010 and no protests were received.

3. The State Water Board has determined that the petitions for change do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water. The State Water Board has also determined that good cause for such change has been shown.

4. Under the California Environmental Quality Act (CEQA), Tehama-Colusa Canal Authority (TCCA) is

the lead agency for preparation of environmental documentation for the project. On May 22, 2008, a Final Environmental Impact Statement/Environmental Impact Report (FEIS/EIR) titled Red Bluff Diversion Dam Fish Passage Improvement Project was issued (SCH #2002042075). On June 4, 2008, TCCA issued a Notice of Determination (NOD) for the project. On February 20, 2009, TCCA issued an NOD for an addendum to the FEIS/EIR. TCCA adopted a Statement of Overriding Considerations regarding recreation, land use, socioeconomics and aesthetics. These issues are not within the State Water Board's water right permitting jurisdiction. Consequently, the State Water Board is not adopting a Statement of Overriding Considerations.

5. The State Water Board is a responsible agency for purposes of considering whether to approve the change petition that will allow Reclamation and TCCA to proceed with the proposed project. As a responsible agency, the State Water Board must consider the environmental documentation prepared by the lead agency, and any other relevant evidence in the record, and reach its own conclusions on whether and how to approve the project involved. (Cal. Code Regs., tit. 14, § 15096, subd. (a).) The State Water Board has considered the FEIS/EIR in deciding whether to approve the petition. The State Water Board will issue an NOD within 5 days of the date of this order.

6. In addition to any obligation the State Water Board may have under CEQA, the Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (National Audubon Society v. Superior Court (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346].) There is no evidence that approval of the change petitions, with the CEQA lead agency's mitigation measures from the FEIS/EIR to minimize impacts to fishery resources, water resources, biological resources, recreation, geology, and cultural resources will have any adverse impacts on public trust resources.

7. A term has been added to require measurement of water diverted under the permits to comply with Water Code section 1605.

8. The State Water Board has delegated the authority to act on change petitions to the Deputy Director for Water Rights (Deputy Director) pursuant to Resolution No. 2007-0057. (Resolution No. 2007-0057, section 4.2.4) Resolution No. 2007-0057 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director for Water Rights. This authority has been so redelegated.

9. Pursuant to Resolution No. 2007-0057, the State Water Board has delegated authority to the Deputy Director to administer the duties required under CEQA. (Resolution No. 2007-0057, section 4.10.) Resolution No. 2007-0057 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director for Water Rights. This authority has been so redelegated.

NOW, THEREFORE, IT IS ORDERED THAT THE CHANGE PETITIONS ARE APPROVED AND PERMITS 12721, 12722, 12723, 11967, 11968, 11969, 11971, 11973 AND 12364 ARE AMENDED TO READ AS FOLLOWS:

1. A point of diversion and/or rediversion shall be added to the permits as follows:

   By California Coordinate System of 1983, Zone 1, North 1,940,053 feet, East 6,502,708 feet, being within NE ¼ of NW ¼ of projected Section 33, T27N, R3W, MDB&M.

2. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

   (0000015)

3. All other conditions of Permits 12721, 12722, 12723, 11967, 11968, 11969, 11971, 11973 and 12364 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

Original Signed by: JWK for

Barbara Evoy
Deputy Director for Water Rights

Dated: June 30, 2011

JL: DCC: 10/25/10
U:\PERDRV\JLing\CVP-USBR petitions\USBR RBDD change order\USBR RBDD PET-ORD-C-PER.doc

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 11971 (Application 16767)

of United States Bureau of Reclamation

AMENDED ORDER SUPERSEDING AND REPLACING JULY 18, 1994 ORDER AMENDING PERMIT 11971 TO CONFORM WITH DECISION 1629

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

SOURCE: Trinity River

COUNTIES: Trinity, Contra Costa

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 11971 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 11971.

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 11971 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 conditions were added to the permit by Decision 1629, and are 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)

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 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 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

for James W. Kassel

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 Permit 11971 (Application 16767)

U.S. Bureau of Reclamation

ORDER APPROVING CHANGE IN PLACE OF USE AND AMENDING THE PERMIT

SOURCE: Trinity River

COUNTY: Trinity

WHEREAS:

1. Permit 11971 was issued to U.S. Bureau of Reclamation on September 16, 1959, pursuant to Application 16767.

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 11971 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 11971 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 11971 (Application 16767)

U.S. Bureau of Reclamation

ORDER APPROVING CHANGE IN PLACE OF USE AND AMENDING THE PERMIT

SOURCE: Sacramento River

COUNTY: Shasta

WHEREAS:

1. Permit 11971 was issued to U.S. Bureau of Reclamation on September 16, 1959, pursuant to Application 16767.

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 11971 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 11971 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

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

Dated: JUL 1 9 2002

P 11971

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

IN THE MATTER OF PERMIT 12721, ET AL. (APPLICATION 5626, ET AL.) OF
U.S. BUREAU OF RECLAMATION AND
CALIFORNIA DEPARTMENT OF WATER RESOURCES,
PETITIONERS

ORDER APPROVING TEMPORARY CHANGE OF EFFECTIVE DATE OF
SUISUN MARSH CHANNEL SALINITY OBJECTIVES

BY BOARD MEMBER JAMES M. STUBCHAER

1.O INTRODUCTION

On September 19, 1997, the California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (USBR) jointly filed a petition for Temporary Urgency Change with the State Water Resources Control Board (SWRCB), pursuant to Water Code section 1435 et seq., requesting a delay in the date when their water right permits will require them to meet channel water salinity objectives at compliance stations S-35 (Goodyear Slough at Morrow Island Clubhouse) and S-97 (Cordelia Slough at Ibis Club). Temporary changes authorized under section 1435 et seq. expire 180 days after date of issuance, after which they may be renewed.

I am delegated authority to approve this temporary urgency change, pursuant to Water Code section 1435(d) and SWRCB Resolution No. 97-006, section 1.3.

2.O SUBSTANCE OF THE PETITION

The DWR and the USBR are, essentially, requesting that the SWRCB, under Water Code 1435 et seq., temporarily relieve them of the obligation to meet channel water salinity standards at two western Suisun Marsh stations, S-35 and S-97. Granting their petition would delay the effective date for meeting the salinity standards at these two stations. In the absence of this Order, the standards for these two stations would become effective in October 1997, and would have to be in compliance by the end of October 1997.

3.0 BACKGROUND

Under SWRCB Order WR 95-6, the water rights held by the DWR and the USBR for operation of the State Water Project (SWP) and the Central Valley Project (CVP) require compliance with salinity objectives for the Suisun Marsh. The effective date for meeting the last of the salinity objectives to be met, in the western Suisun Marsh, is October, 1997. The Suisun Marsh salinity objectives in Order WR 95-6 implement aspects of the

May 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (1995 Bay-Delta Plan). The objectives are intended to protect the beneficial uses of the Suisun Marsh as a brackish tidal marsh and to ensure a continued supply of water for waterfowl food plant production.

The 1995 Bay-Delta Plan's numeric salinity objectives for three locations in the eastern marsh and four locations within the western marsh (see Figure 1) are based on the Suisun Marsh Preservation Agreement (SMPA) executed in 1987 by the DWR, the USBR, the California Department of Fish and Game (DFG) and the Suisun Resource Conservation District (SRCD). The objectives establish the maximum monthly average of electrical conductivity (EC) levels of both daily high tide EC values (mmhos/cm @ 25°C), for each month during the October through May period. The objectives for the eastern marsh and for station S-21 in the western marsh are currently in effect and are being met. In the absence of this Order, the western marsh channel water salinity objectives at S-97, S-35 and S-42 all would be in effect for the first time in October 1997. Order WR 95-6 requires the DWR and the USBR to either comply with the Suisun Marsh channel water salinity objectives or demonstrate that other actions undertaken by the permittees will provide equivalent or better protection to the managed wetlands.

In July 1995 the DWR, the USBR, the DFG and the SRCD began negotiating an update (Amendment Three) to the SMPA. The parties have agreed, based on technical analysis, that additional large scale facilities are not needed for salinity control in the Marsh because the Suisun Marsh Salinity Control Gates are effective in controlling the salinity in most areas of the Suisun Marsh. In lieu of new large facilities the parties have proposed a series of management actions which are consistent with the SMPA objectives of (1) improving water and habitat management throughout the marsh, (2) lowering diversion water salinity and soil water salinity on western Marsh managed wetlands and (3) providing funds to managed wetlands for more intensive management activities during prolonged drought conditions.

The parties are in the final phases of negotiating Amendment Three, and expect to execute it within the next several months. Amendment Three requires the parties to the SMPA to carry out a series of twelve management actions to improve water quality and habitat conditions within the managed wetlands of the Marsh. When Amendment Three has been executed, the parties will seek SWRCB concurrence that the management actions required by Amendment Three will provide protection to the managed wetlands which is equivalent to or better than that provided by the numeric channel water salinity standards. Until Amendment Three is executed, the DWR and the USBR allege that they have an urgent need to be relieved temporarily from the requirement to meet the salinity standards for stations S-35 and S-97.

In summary form, SMPA Amendment Three management actions include:

1. Meeting Channel Water Salinity Standards in Order WR 95-6 for all stations except S-35 and S-97.
2. Conversion of S-35 and S-97 compliance stations to monitoring stations.
3. September Operation of Suisun Marsh Salinity Control Gates.
4. A Water Manager Program.
5. Update Existing Management Plans.
6. A Joint-Use Facilities Program
7. Managed Wetland Improvement Fund.
8. Consolidate and Redirect Morrow Island Drainage to Suisun Bay.
9. Portable Diversion Pumps With Fish Screens.
10. Portable Drainage Pumps.
11. Realign and Stabilize Roaring River Distribution System Turnouts.
12. Drought Response Fund

In support of the petition, the DWR submitted a Demonstration Document which discusses in detail each of the above actions and explains how they would provide equivalent or better protection.

4.0 OBJECTIONS TO THE PETITION

The SWRCB received two objections to the proposed change. The first objection is from Morrow Island Land Company (Morrow), an owner of property located in the Suisun Marsh adjacent to Goodyear Slough (the location of station S-35). Morrow asserts that there is no logical reason for delaying the effective date for meeting the salinity objectives at S-35 and S-97, and argues that the salinity standards should be implemented until SMPA Amendment Three is applicable.

The second objection is from the California Sportfishing Protection Alliance (CSPA). CSPA misunderstands the petition and believes that the proposed action is final approval of the program described in the Demonstration Document. On the basis of this belief, CSPA argues that the proposed action is premature and is inadequately supported under the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.). In effect, CSPA is objecting to a proposal, alternative implementation under SMPA Amendment Three, that is not yet before the SWRCB.

5.0 CRITERIA FOR APPROVING THE PROPOSED CHANGE

Chapter 6.6 of Part 2, Division 2, of the Water Code, commencing at section 1435, provides that any permittee or licensee who has an urgent need to change a point of diversion, place of use, or purpose of use from that specified in the permit or license may petition for a conditional, temporary change order. The SWRCB's regulation, at California Code of Regulations, Title 23, section 791(e), provides that the SWRCB shall follow as

nearly as possible the procedures for changes in point of diversion, place of use, or purpose of use when processing petitions for other types of changes in water right permits and licenses. Accordingly, the procedures under section 1435 are applicable to changes to water right permits and licenses that the SWRCB approves pursuant to its duty of continuing supervision over the diversion and use of water.

The SWRCB must make the findings specified in section 1435(b) before issuing a temporary change order pursuant to Chapter 6.6. The required findings are:

(1) The permittee or licensee has an urgent need to make the proposed change.

(2) The proposed change may be made without injury to any other lawful user of water.

(3) The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses.

(4) The proposed change is in the public interest, including findings to support change order conditions imposed to ensure that the change is in the public interest, and may be made without injury to any other lawful user of the water, and without unreasonable effect upon fish, wildlife, and other instream beneficial uses.

5.1 Urgency of the Proposed Change

Under Chapter 6.6, an urgent need to make a proposed change exists when the SWRCB concludes that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented. An urgent need does not exist, however, if the petitioner has failed to exercise due diligence either in petitioning for a change pursuant to other provisions of Division 2 of the Water Code or in pursuing the petition for change.

The permittees have an urgent need for the proposed temporary change because without the change the requirement to meet the salinity standards at stations S-35 and S-97 will be in effect immediately, and the DWR and the USBR will be required to meet the salinity standards. Meeting the standards at this time would require the devotion of substantial quantities of water to diluting salinity in the channels of the western Suisun Marsh, and would not provide an opportunity to test some of the management actions. The purpose of meeting the salinity standards in the channels is to achieve soil water salinities that will support plants characteristic of a brackish marsh. The DWR and the USBR have provided information that indicates that the planned management actions using less water, and using the water more effectively, will achieve the same results as meeting the standards or will achieve better results, while minimizing the use of fresh water. The DWR and USBR

should be given the opportunity to put this program in place and make the argument that such a program provides benefits equivalent to providing in-channel salinity control.

5.2 No Injury to Any Other Lawful User of Water

Morrow's objection may be intended to express a concern that the proposed temporary change could work an injury on Morrow's use of water. Morrow does not specifically allege that it is a legal user of water. Assuming that Morrow is a legal user of the water in the channels of the Suisun Marsh, I find that the proposed change will not injure Morrow's use of water. Impacts on instream beneficial uses, which may also be considered legal users of water to the extent that those uses are protected by the public trust or other legal doctrines, are discussed in section 5.3.

The DWR and USBR will be able to implement some management measures under the authority of the existing SMPA without completing their environmental documentation. The management measures that the permittees intend to implement during the period of the temporary change can be expected to improve the soil salinity conditions compared with previous conditions, by making better use of the channel water. This should be beneficial to Morrow, not injurious. The western Suisun Marsh standards at S-35 and S-97 have never been met through specific water project operations. A six-month delay in implementing these standards developed to protect wildlife resources may or may not provide the expected benefits, but will not cause new injury to other legal users of water.

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

CSPA's objection is based on impacts to fish. The salinity standards for which the compliance requirement will be temporarily lifted, are not established for the protection of fish or other instream beneficial uses, but rather are intended to protect wildlife that use the plants grown in a brackish marsh habitat as a food reserve. Therefore, extending the date for meeting the salinity standards will not affect a use of water by fish.

Further, the Suisun Marsh Salinity Control Gates (SMSCG) and their effects on Chinook salmon that CSPA mentions in its objection are not involved in the proposed temporary change. The proposed change will have no effect on the operation of the Gates. DWR has conducted field testing that shows that SMSCG operation has little or no effect on the far western compliance stations. If the DWR and USBR were to attempt compliance through more aggressive SMSCG operation, the impact on migratory fish would be increased.

With respect to potential impacts on instream beneficial uses other than fish, I find that because this change is only temporary, and the management measures being implemented during that period are expected to improve soil salinity conditions compared to previous conditions, the change will not have an unreasonable effect on aquatic vegetation or wildlife dependent on that vegetation.

5.4 The Proposed Change is in the Public Interest

The DWR and the USBR are on the brink of executing Amendment Three of the SMPA. The DWR and USBR intend that Amendment Three will establish protection for the beneficial uses in the Suisun Marsh that will be equivalent to, or better than, the protection that would be achieved by meeting the in-channel salinity standards in the 1995 Bay-Delta Plan at stations S-35 and S-97. The DWR and the USBR, however, need additional time to complete necessary documentation before seeking the SWRCB's concurrence in the implementation of Amendment Three. Requiring them to meet the salinity standards at the two stations at this time could preclude them from testing the management strategies they intend to use this year, and would require the dedication of a substantial additional amount of fresh water. Allowing them to conduct the management actions during the term of the temporary change instead of meeting the salinity standards in the channels will make the most reasonable use of the available water.

6.0 ENVIRONMENTAL COMPLIANCE

The proposed change is exempt from the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.) in accordance with Title 14, California Code of Regulations section 15061(b)(3). CEQA applies to those projects which have a potential for causing a significant effect to the environment. If it can be foreseen with certainty that there is no possibility that an activity will have a significant effect on the environment, then the activity is not subject to CEQA. Channel water salinity standards for the western Suisun Marsh compliance stations S-35 and S-97 have never been in effect. A temporary extension of the effective compliance date creates an environmental condition which is indistinguishable from the pre-project or base condition. Therefore, approval of the proposed petition can cause no change to the environment and is exempt from CEQA.

CSPA argued in its objection that the proposed temporary change should not be approved until a particular environmental document being prepared by the DWR and USBR is completed. CSPA misunderstands the purpose of the subject environmental document. The environmental document that DWR and USBR are preparing will not address the proposed temporary change, but instead will address the long-term change in the implementation of protections for the Suisun Marsh under Amendment Three. This is a separate action.

7.0 CONCLUSIONS

1. The DWR and the USBR have an urgent need to make the proposed change.

2. The proposed change may be made without injury to any other lawful user of water.

3. The proposed change may be made without unreasonable effect upon fish, wildlife, and other instream beneficial uses of water.

4. The proposed change is in the public interest.

ORDER

NOW, THEREFORE, IT IS ORDERED that the DWR's and USBR's petition for temporary urgency change of permits and licenses issued under Application 5626 et al. (listed in Appendix B, Order WR 95-6) under Water Code section 1435 et seq. is approved, temporarily removing the requirement that the DWR and the USBR meet the channel water salinity objectives at compliance stations S-35 (Goodyear Slough at Morrow Island Clubhouse) and S-97 (Cordelia Slough at Ibis Club), subject to the following terms and conditions:

1. All terms and conditions of the permits and licenses issued under Application 5626 et al. shall remain in effect, except as temporarily modified by the terms and conditions of this Order and any further related Order that may be issued during the effective period of the temporary changes.

2. The temporary change in the requirement to meet the salinity objectives will be effective for a period of 180 days commencing on October 1, 1997, and may be renewed for additional periods not to exceed 180 days from the date of renewal.

3. Not later than March 15, 1998, DWR and USBR shall provide a summary of the results of implementing management measures during the temporary change to the Chief of the Division of Water Rights, and to any parties requesting a copy of the summary.

4. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this temporary change Order, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

   The continuing authority of the SWRCB 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.

///
///
///
///
///
///
///

5. The SWRCB reserves 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.

Dated: October 30, 1997

JAMES R. STUBCHAER, MEMBER
STATE WATER RESOURCES CONTROL BOARD

APPLICATION 16767, PERMIT 11971

PERMIT AMENDED

SEE WR ORDER 95-6

ISSUED JUNE 8, 1995

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 16767 Permit 11971 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 purpose 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)

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

Roger Johnson

for Edward C. Anton, Chief
Division of Water Rights

P 46767

P 11971

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 5626 and 11 others (as listed on attachment A) PERMIT 1272~~0~~1 and 11 others LICENSE _____

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:

Roger Johnson

for Edward C. Anton, Chief
Division of Water Rights

Feb 23, 1993

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)
[redacted]
Permit 11973 (Application 17374)
Permit 12364 (Application 17376)

P.

11971

SEE ORDER: WR 92-02, DATED MARCH 19, 1992

P.11971

SEE WR 91-01 dated January 10, 1991

ALSO SEE WR 91-03 dated April 1, 1991

4

11611 ∅

Permit

12721
11967
12722
12723
12727
11315
11316
11968
11969
12860
11971
11973
12364

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:

P11971

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:

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

P119 71

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary Urgency Change Order On Permits (Applications) 11315 (13370), 11316 (13371), 11967 (5628), 11968 (15374), 11969 (15375), 11971 (16767), 11973 (17374), 12364 (17376) 12721 (5626), 12722 (9363), 12723 (9364) 12727 (9368), and 12860 (15764) U.S. BUREAU OF RECLAMATION, Permittee	)	ORDER: WR 88- 23 SOURCES: American River Trinity River Clear Creek Sacramento River The Delta COUNTIES: Trinity, Shasta Sacramento, Contra Costa

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

BY THE BOARD:

The U. S. Bureau of Reclamation (Bureau) having filed a petition for a Conditional 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 (DFG) and the Department of Water Resources (DWR); Board Chairman W. Don Maughan having concluded from available information that the Bureau qualifies for a Temporary Urgency Change and having issued a Conditional Temporary Urgency Change Order on October 17, 1988, 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 Change

1. On September 30, 1988 the Bureau filed a petition with the Board to add the State Water Project's Harvey O. Banks Pumping Plant (SWP Banks), operated by DWR as an additional temporary point of diversion and rediversion, for a 180 day period. The petition requests authorization for pumping of Bureau entitlement water, under 13 Central Valley Project (CVP) permits, through SWP Banks to accommodate the following drought related urgency requests:

   (A) To increase the supply of CVP water to the Kern National Wildlife Refuge this fall from 7,500 acre-feet (approved September 7, 1988 by the Board Order WR 88-18) to 8,200 acre-feet.

   (B) To supply 800 acre-feet of CVP water to Semitronic Water Storage District this fall for waterfowl areas located within the District.

   (C) To replace curtailments at the Tracy Pumping plant CVP (Tracy) caused by reduced releases from Shasta Reservoir requested by the DFG. The reduction of release at Shasta Reservoir is for the purpose of enhancing temperature conditions for salmon eggs and juvenile salmon in the upper Sacramento River below Keswick Dam. The reduction in releases from Shasta Reservoir and possible curtailments at CVP Tracy during October, November and December 1988 are estimated to be up to an additional 125,000 acre-feet more than the 30,000 acre-feet approved in Board Order WR 88-18.

Notice and Responses

2. On October 7, 1988 a Notice of the petition for Temporary Urgency Change was provided by publication and mail to interested parties. The period for submitting objections ended October 21, 1988.

3. Objections to granting the Bureau Temporary Urgency Change petition were received from the Environmental Defense Fund (EDF) and from Stockton East Water District (SEWD). Board staff met with EDF, SEWD, DWR, DFG and the Bureau on October 26, 1988 to discuss the objectors' concerns.

4. The EDF objection raises three areas of concern, absent certain assurances. Each concern is paraphrased below, followed by findings on each.

   (A) Trinity River: EDF is concerned that approval of the petition will result in increased diversions from the Trinity Basin and reduced flows in the Trinity River. EDF asserts that no further reductions should be permitted.

   The petition states that the Bureau is already planning to operate the Trinity River diversion and conveyance facilities at full capacity this fall. The plan under the petition would be to continue the current Trinity River diversion rates but reduce the Shasta Reservoir releases in the fall and then make up the reduced Shasta Reservoir releases with pumping at SWP Banks before April 1, 1989.

Minimum flows in the Trinity River are controlled by various permit conditions and the January 14, 1981 Trinity River Fishery Mitigation Agreement. The flow regime change requested by DFG which prompted the Bureau petition would not reduce those minimum flow requirements; nor does the October 17, 1988 Order authorize a reduction. Consequently the Trinity River will not be adversely affected by approval of the petition.

(B) Increased Diversions: EDF is concerned that the continuing actions approved by Board Order WR 88-18 together with approval of the September 30, 1988 Bureau petitioned actions may affect the availability of CVP and SWP pumping capacity. EDF asks that the Board require an accounting from the Bureau which will show that the total quantity of export pumping at the Delta plants does not increase (except for associated evaporative losses).

Conditions 4 and 5 in the October 17, 1988 Conditional Order requires the Bureau to develop and file a revised accounting procedure (with updated operation study) acceptable to the Chief of the Division of Water Rights. The consolidated accounting procedure will itemize and totalize the daily pumping at the CVP Tracy and SWP Banks. The accounting procedure will be used to check the times and amounts of pumping under the various categories of the orders and will be used specifically to measure compliance with Condition 5(c) of the October 17, 1988 Order.

(C) Timing of Diversions: EDF also expressed concern about increased releases from Lake Oroville this fall being pumped at CVP Tracy with DWR making up its deferred SWP Banks pumping prior to September 1989. EDF alleges that, to facilitate May and June 1989 pumping at SWP Banks, DFG would agree to relieve DWR of its 2,000 cubic feet per second (cfs) pumping limit during May and June 1989 under the January 5, 1987 DWR/DFG letter agreement. EDF's concern is that relaxation of the agreement would allow pumping during May and June at 3,000 cfs, which is the maximum diversion allowed under Board Decision 1485. They allege the relaxation would in essence shift Delta pumping from the fall to May and June when they believe adverse direct pumping effects are more severe and when the need for Delta outflow is more critical. EDF claims this shift in timing of diversions would result in an environmental trade-off between the immediate benefits of reducing warm-water Shasta Reservoir releases and the future costs of increasing Delta pumping in May and June of 1989.

The shift of releases from Shasta Reservoir to Lake Oroville alleged by EDF and any change in diversion rates in May and June is not addressed in the petition; nor is it affected by the October 17, 1988 Order, which terminates March 31, 1989. Our review indicates that shifts in pumping authorized herein from October, November and December to January, February and March will result in no significant effects and will have no effect on diversions during May and June because all diversions under this temporary change will have been completed by

March 31, 1989. To further eliminate concern about the timing of diversions under this Order, Condition 3 of the October 17, 1989 Order will be amended to strike the reference to the possibility of an extension past April 1, 1989.

5. The SEWD objection asks that any permit (change order) granted for curtailment of releases of up to 125,000 acre-feet from Shasta and subsequent increased pumping from the Delta be conditioned to provide that no water from New Melones be used to make up the 125,000 acre-feet.

Condition 4 in Permits 16597 and 16600 restricts the place of use under the Bureau's New Melones storage permits to the Counties of Stanislaus, Calaveras, Tuolumne and San Joaquin. The October 17, 1988 Order does not authorize a change of place of use under Permits 16597 and 16600. The consolidated accounting procedure discussed in finding 4(B) above will also assure that no water is released from New Melones to make up the 125,000 acre-foot curtailment.

Action by Board Chairman Maughan

6. 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 October 17, 1988 allowing a temporary change in point of diversion and point of rediversion of up to 126,500 acre-feet of water under the 13 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 October 17, 1988.

ORDER

IT IS HEREBY ORDERED THAT:

1. Issuance of the October 17, 1988 order by Board Chairman Maughan allowing a Conditional Temporary Urgency Change in the point of diversion and point of rediversion under Permits 11315, 11316, 11967, 11968, 11969, 11971, 11973, 12364, 12721, 12722, 12723, 12727 and 12860 is validated subject to the terms and conditions specified in the Order except as amended below.

2. Condition 3 of the October 17, 1988 order is amended to read:

3. Diversion or rediversion of water at SWP Banks under this Order is authorized beginning October 17, 1988 and continuing through March 31, 1989. This authorization shall be of no further force or effect on April 1, 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 November 2, 1988.

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

NO: None

ABSENT: Edwin H. Finster

ABSTAIN: None

Maureen Marche
Administrative Assistant to the Board

P11971

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:

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

8/11971

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) U.S. BUREAU OF RECLAMATION, Permittee	ORDER: WR 88- 5 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); Chairman W. Don Maughan having concluded from available information that the Bureau qualifies for a Temporary Urgency Change and having issued a Conditional Temporary Urgency Change Order on March 14, 1988, 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 Change

1. The Bureau filed a petition with the Board on March 9, 1988 to add the State Water Project (SWP) Harvey O. Banks Pumping Plant (Banks Plant) as a temporary point of diversion and rediversion in the Bureau permits set forth in Table 1, to pump (in March and April 1988) water to make up for diversions that will be curtailed to facilitate changes in flow regime requested by DFG and the Service as a part of operational studies during April and June 1988.

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 (CVP) point of diversion and rediversion specified in the permits, the permittee be allowed to divert or redivert water temporarily under said permits at the Clifton Court Forebay Intake of the Banks 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 petition requests that diversion and rediversion at the Banks Plant be authorized from March 14 through April 30, 1988 with the total amount diverted or rediverted in March and April not to exceed the quantity that otherwise could be made up in July and August, after the May and June curtailment required in Decision 1485, Condition 3. The petition also states that the quantity of make-up water pumped at the Banks Plant during July and August for the Bureau in accordance with Condition 3 would be reduced by the quantity pumped under the petitioned temporary urgency change, less the quantity of curtailment for the studies requested by DFG and the Service.

Reason for Change

3. Low flow conditions, expected in the spring of this dry water year, make it possible to conduct a series of experiments as part of operational studies (studies) to evaluate the effects of temperature and the operation of the Delta Cross Channel Gates on the survival of young Chinook (King) Salmon passing through the Sacramento-San Joaquin Delta (Delta).

4. To carry out these studies, both DWR and the Bureau have been asked to modify their normal operations to attain similar flow conditions at Rio Vista in April and June, with and without the Delta Cross Channel

Gates open. In order to achieve the flows with the Delta Cross Channel Gates closed, export water will need to be reduced for several days. The exact duration and magnitude of this curtailment is not yet known.

5. The Bureau expects to have insufficient capacity available through the Tracy Pumping Plant this spring to accommodate flow regime changes and pumping curtailments requested by DFG and the Service without depleting the storage in the Federal portion of San Luis Reservoir thereby requiring shortages to be imposed on CVP contractors.

Notice and Responses

6. Notice of the petition for a temporary urgency change was provided by publication and by mail to interested parties. The Board received responses from four interested parties; two supported the proposed change, one commented on the proposed change and one opposed the proposed change. DFG and the Service supported the change. East Contra Costa Irrigation District commented and sought assurance that there would be no provision in the order that would conflict with Paragraph 4 "Water Surface Elevation" of its contract with DWR. The California Sportfishing Protective Alliance (CSPA) listed seven objections. Objection number one was simply a statement of CSPA concerns about normal operation of the CVP and SWP. Number two alluded to CSPA objections to the Bay-Delta hearing process. Number three requests that the results of the current fishery studies be included in the records for the Bay-Delta hearings. Number four requested that the proposed studies include recommendations for the Board's determination under its public trust responsibilities. Number five addressed daily reporting requirements already included in the

Conditional Temporary Urgency Change Order signed by Chairman Maughan March 14, 1988. Number six asked Board staff to monitor the reporting requirements already included in conditions of the March 14, 1988 order. Number seven requested that DFG and the Service monitor and report any adverse impacts below various storage and diversion points in the CVP and SWP. The Board has considered the comments and objections and found that none of them raise issues necessitating a hearing, nor have any of the objectors shown that the proposed change would cause injury to any lawful user of water or would have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

Additional Findings

7. The proposed action is a series of operating experiments, data collection and resources evaluation activities which do not result in a serious or major disturbance to environmental resources.

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

9. The permittee has a temporary urgent need to add the proposed point of diversion and rediversion at Banks Plant to pump replacement water for curtailments pursuant to DFG and the Service's operation studies in the Delta.

10. DWR staff has informed Board staff that it is willing and able to wheel the replacement water for the Bureau through the Banks Plant and the California Aqueduct to O'Neill Forebay.

11. The temporary urgency change validated by this order 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, and other instream beneficial uses.

Action by Board Chairman Maughan

12. In accordance with the authorization in Water Code Section 1435(d), the Board adopted Resolution 84-2 delegating authority to individual Board members to approve temporary changes on projects where no detrimental effects are anticipated.

13. In accordance with the delegation of authority in Resolution 84-2, Board Chairman Maughan issued a Conditional Temporary Urgency Change Order on March 14, 1988 allowing a temporary change to add the point of diversion and rediversion at Clifton Court Forebay under the permits listed in Table 1, subject to several specified conditions.

ORDER

1. IT IS HEREBY ORDERED THAT issuance of the March 14, 1988 order by Board Chairman Maughan allowing a Conditional Temporary Urgency Change in point of diversion and point of rediversion under Permit 12721 and 12 others is validated subject to the terms and conditions specified in the order.

2. IT IS FURTHER ORDERED THAT the quantity of make-up water pumped at the Banks Plant for the Bureau during July and August, 1988 pursuant to Decision 1485, Condition 3, shall be reduced by the quantity pumped under this temporary urgency change, less the quantity of the curtailment of pumping at the Tracy Pumping Plant for the April and June 1988 studies requested by DFG and the Service.

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 April 6, 1988.

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

NO: none

ABSENT: Darlene E. Ruiz

ABSTAIN: None

Maureen Marche'
Administrative Assistant to Board

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, 12364 and 13776 (Applications 5626, 5628, 9363, 9364, 9368, 13370, 13371, 15374, 15375, 15764, 16767, 17374, 17376 and 18115) U.S. BUREAU OF RECLAMATION, Permittee	)	Order: WR 87- 12 Source: Old River County: Contra Costa

ORDER VALIDATING CONDITIONAL
TEMPORARY URGENCY CHANGE
IN POINT OF DIVERSION

BY THE BOARD:

The U.S. Bureau of Reclamation (Bureau) having filed a petition for a conditional 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 U.S. Fish and Wildlife Service, the Department of Fish and Game and the Department of Water Resources (DWR); Chairman W. Don Maughan having concluded from available information that the Bureau qualifies for a temporary urgency change and having issued a conditional temporary urgency change order on October 20, 1987, 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 Change

1. The Bureau filed a petition with the State Water Resources Control Board (Board) on October 14, 1987 to add the Harvey O. Banks Pumping plant (Banks Plant) operated by the Department of Water Resources (DWR) as a temporary point of diversion and rediversion in the Bureau permits specified in Table 1 below to pump the amount of water foregone by changes in operation of the Central Valley Project requested by the Department of Fish and Game (DFG):

TABLE 1
WATER RIGHT 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
18115	13776

* This permit allows diversion of water to storage in San Luis Reservoir.
**These permits allow direct diversion of water only and cannot be used to place water into storage as requested in this petition.

The October 14, 1987 petition requests that, in addition to the existing point of diversion and rediversion specified in the permits, the permittee be allowed to divert or redivert water temporarily under said permits at the Clifton Court Forebay Intake of the State Water Project, Harvey O. Banks Pumping Plant (Banks Plant) at the following location:

> California Coordinates, Zone 3, North 486,035; East 1,695,057; being within the NW{ of SE{ of projected Section 20, T1S, R4E, MDB&M.

2. The petition for a temporary urgency change requests that diversion and rediversion at the Banks Plant be authorized to pump the amount of water not to exceed 80,000 acre-feet (ac-ft), not exported because of certain changes in operation during October and November, 1987 requested by Department of Fish and Game (DFG).

Temporary Urgency Need

3. The Bureau's dry year contingency schedule of releases below Keswick Dam showed substantial reductions in flows of the Sacramento River later this fall to conserve reservoir storage. The scheduled reductions could have resulted in the stranding of spawning salmon and dewatering of a significant number of salmon spawning beds and spawned eggs by early November if no mitigation actions were taken.

4. On October 14, 1987, DFG requested the Bureau to reduce flow immediately in the Sacramento River below Keswick Dam from about 6,000 cubic feet per second (cfs) to about 4,500 cfs with an increase in the proportion of releases of cooler Trinity River water at Keswick Dam to improve and

maintain more stable minimum flows favorable to spawning conditions in the Sacramento River during the period October 15, through about November 30, 1987. The Bureau complied with this request immediately. The result of compliance is a reduction in the total quantity of water the Bureau can divert or redivert through the Delta at its diversion facilities near Tracy without a temporary permit change.

5. The DFG also requested curtailment of diversion at the Bureau's Tracy Pumping Plant for improved passage of outmigrating yearling salmon from the DFG Merced River spawning channel between October 24, 1987 and November 3, 1987.

6. The Bureau expects to have insufficient capacity available through the Tracy Pumping Plant later this water year to make up for the flow reductions requested by DFG (about 80,000 ac-ft), if runoff this year is normal or above.

7. The requested modification of flows below Keswick Dam and curtailment of pumping at Tracy for Merced River yearly salmon passage will reduce the amount of stored water being transferred by the Bureau from storage north of the Delta to San Luis Reservoir south of the Delta.

Notice and Response

8. Notice of the petition for temporary urgency change was provided by publication in the Contra Costa Times October 26, 1987 and by mail to interested parties. The Board received a written objection from Contra Costa County Water Agency (Contra Costa) on November 12, 1987, two days after the objection period ended.

9. Contra Costa pointed out that the current water year may be classified as "dry" and alleged that rediversion of CVP storage releases out of the Delta may jeopardize the ability of the CVP to maintain adequate salinity control in the Delta later in the water year. The order approving a temporary urgency change allows either diversion or rediversion of an amount by which diversions at the Bureau Tracy Pumping Plant are reduced during the period of October 15 through November 30 pursuant to the DFG request. The Bureau has advised that as of October 12, 1987, the amount allowed under the accounting procedure in Term 4 of the October 20, 1987 order will be about 8,500 acre-feet. The reduced amounts of the replacement pumping and the option to use direct diversion for replacement over a three-month period of time makes it apparent that the deferral of pumping will, in fact, enhance the Bureau's capacity to meet Delta salinity standards in 1988.

10. Contra Costa also expressed concern that the petition is an "end run" around the EIR requirement for the earlier 80,000 acre-feet trial transfer and that there could be environmental or other impacts that are not addressed in the petition filed by the Bureau. The present action is not an "end run" around applicable CEQA requirements because the proposed trial transfers would allow additional exports from the Delta in a given water year, whereas the present action would allow no such increase. Approval of the present temporary urgency change would simply authorize a shift in monthly export amounts in an environmentally beneficial manner. Board

staff has reviewed the potential impacts of the proposed action and on October 21, 1987 filed a Notice of Exemption pursuant to Section 15307 of the State EIR Guidelines.

Other Findings by the Board

11. The proposed action is an urgent measure that will reduce adverse temperature effects on salmon spawning due to unusually dry conditions and will result in improved habitat conditions in the Sacramento River below Keswick Dam by maintaining moderate flows until after the spawned salmon eggs hatch and emerge as fry.

12. Having considered the objection of Contra Costa, the Board concludes it does not raise issues requiring a hearing, nor does it present any evidence to indicate that the proposed change would cause injury to any lawful user of water or have unreasonable effects upon wildlife or other instream beneficial uses.

13. The proposed reductions in pumping at the Tracy Plant will have a secondary benefit in facilitating the outmigration of yearling salmon scheduled for release from the DFG Merced River Spawning Channel on October 19, 1987. Pumping at the Tracy Plant will be curtailed October 24 through November 3 to create more favorable conditions in the Southern Delta for passage of the yearling salmon.

14. The Chief of the Division of Water Rights is authorized to file a Notice of Exemption pursuant to Section 15307 of the State EIR Guidelines.

15. Permits 12727 and 11973 (Applications 9368 and 17374) allow direct diversion of water only and cannot be used to place water into storage.

16. The permittee has a temporary urgent need to add the proposed point of diversion and rediversion at DWR's Banks Pumping Plant to replace water which would normally be transferred between October 15 and about November 30 from reservoirs north of the Delta to storage in San Luis Reservoir for subsequent delivery to water users under existing contracts.

17. DWR staff has informed Board staff that DWR is willing to wheel the replacement water for the Bureau through the Banks Plant and the California Aqueduct to storage in San Luis Reservoir.

18. The Bureau submitted an accounting procedure pursuant to Term 4 of the October 20, 1987 order and the Board finds that the procedure is satisfactory.

19. The temporary urgency change validated by this order 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. The temporary urgency change validated by this order is in the public interest and will further the constitutional policy to maximize the beneficial use of water.

Action by Board Chairman Maughan

20. In accordance with the authorization in Water Code Section 1435(d), the Board adopted Resolution 84-2 delegating authority to individual Board members to approve temporary changes on projects where no detrimental effects are anticipated.

21. In accordance with the delegation of authority in Resolution 84-2, Board Chairman Maughan issued a conditional temporary urgency change order on

October 20, 1987 allowing a temporary change in the point of diversion at Clifton Court Forebay under Permit 12860 subject to several specified conditions.

ORDER

IT IS HEREBY ORDERED THAT:

1. The issuance of the October 20, 1987 order by Board Chairman Maughan allowing a conditional Temporary Urgency Change in point of diversion and point of rediversion under Permit 12721 and 10 others is validated subject to the terms and conditions specified in the order except as corrected below.

2. Condition 1. b[illegible]f the order is corrected to read[illegible]s follows:

Rediversion of releases of stored water to storage in San Luis Reservoir under 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).

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 State Water Resources Control Board held on November 17, 1987.

Aye: W. Don Maughan
Darlene E. Ruiz
Edwin H. Finster
Danny Walsh
Eliseo M. Samaniego

No: None

Absent: None

Abstain: None

Maureen Marché
Administrative Assistant to the Board

P ~~12860~~
11971

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Conditional Temporary Urgency Change Order On Permit 12860 (Application 15764) U.S. BUREAU OF RECLAMATION, Permittee	)	ORDER: WR 87 - 10 SOURCE: Old River COUNTY: Contra Costa

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

BY THE BOARD:

The U.S. Bureau of Reclamation (Bureau) having filed a petition for a conditional 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 U.S. Fish and Wildlife Service, the Department of Fish and Game and the Department of Water Resources (DWR); Chairman W. Don Maughan having concluded from available information that the Bureau qualifies for a temporary urgency change and having issued a conditional 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 July 27, 1987, the Bureau filed a petition for a temporary urgency change in the point of diversion under the 13 water right permits specified in Table 1 Below:

Table 1
Water Right 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*

*These permits allow rediversion of water stored north of the Delta to use or to storage in San Luis Reservoir (rediversion) using the permittee's Tracy Pumping Plant and the Delta Mendota Canal.

**These permits allow direct diversion of water only and cannot be used to place water into storage.

The July 27, 1987 petition requests that, in addition to the existing point of diversion and rediversion specified in the permits, the permittee be allowed to divert or redivert water temporarily under said permits at the Clifton Court Forebay Intake of the State Water Project, Harvey O. Banks Pumping Plant (Banks Plant) at the following location:

California Coordinates, Zone 3, N 486,035; E 1,695,057;

within NW¼ of SE¼ 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 Plant be authorized from September 1, 1987 to April 30, 1988 with the total amount diverted or rediverted not to exceed 10,000 acre-feet (ac-ft) for use at Kern National Wildife Refuge (Kern NWR). Subsequent correspondence from Kern NWR reduced that amount to 6,200 ac-ft.

Temporary Urgency Need

3. The urgent need to utilize facilities of the State Water Project (SWP) arises as a result of the Kern NWR requirement for 6,200 ac-ft of water for waterfowl habitat which, due to unusually dry conditions, is not available from the normal sources of surface water supply previously used by the refuge.

4. Petitioner states that this action is needed to provide important wintering migratory waterfowl habitat on the refuge and that no substitute supply is available. Marsh habitat in the Central Valley of California is in critically short supply and flooding this fall is urgently needed to support Pacific Flyway waterfowl. The water to be applied to Kern NWR is especially important to produce wildlife food crops and to make this food available to waterfowl during the winter period. The proposed action of applying good quality water for wetland habitat at Kern NWR will provide a direct benefit to migratory waterfowl. Wetland habitat values will be greatly restricted if the water is not delivered. The proposed action will also assist the U.S. Fish and Wildlife Service in carrying out its responsibilities for management of migratory bird resources.

Notice and Responses

5. Notice of the petition for a temporary change was provided by publication and by mail to interested parties. The Board received responses from eight interested parties; three supported the proposed change, three commented on the proposed change and two opposed the proposed change.

6. Contra Costa Water Agency objects to the proposed change based on the contention that there is insufficient justification and contends no "urgency" for the change exists, as required by statute. As explained in the preceeding paragraphs, however, there is sufficient evidence for the Board to conclude that there is an urgent need to approve the change in order to maintain waterfowl habitat under the unusually dry conditions existing this year.

7. Central Delta Water Agency and Conrad Sylva joined in an objection to the proposed change based on alleged adverse effects to "water levels and water quality." No explanation is provided regarding the "water levels" contention. With respect to water quality, the Board finds that Delta water quality will be adequately protected by the provision of Chairman Maughan's September 11, 1987 order which effectively restricts diversion of water under the temporary urgency change to times when Delta outflow exceeds the amount required to meet the water quality standards established by Decision 1485.[1]

---

[1] The change order restricts diversion to times when the Delta "is not in a balanced condition". The Delta is said to be in balanced conditions when Delta inflow is just sufficient to satisfy Delta consumptive use, Delta and Suisun Marsh water quality standards, CVP & SWP water quality objectives at their export facilities in the Southern Delta and Delta export demands. When Delta inflow is in excess of these demands the Delta is not in balanced conditions.

8. The Board has considered the comments and objections and found that none of them raise issues necessitating a hearing, nor have any of the objectors shown that the proposed change would cause injury to any lawful user of water or have unreasonable effect upon fish, wildlife, or other instream beneficial uses.

Other Findings by the Board

9. Permits 12727 and 11973 (Application 9368 and 17374) allow direct diversion of water only and cannot be used to place water into storage.

10. Permits 12721, 11967, 12722, 12723, 11315, 11316, 11968, 11969, 11971 and 12364 (Applications 5626, 5628, 9363, 9364, 13370, 13371, 15374, 15375, 16767 and 17376) allow rediversion of stored water to use or to restorage in San Luis Reservoir through the permittee's Tracy Pumping Plant.

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

12. DWR staff has informed Board staff that DWR is willing to wheel the replacement water for the Bureau through the Banks Plant and the California Aqueduct to storage in San Luis Reservoir.

13. The temporary urgency change as approved in this order 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.

14. The proposed action is an emergency measure under CEQA that will avoid adverse effects on wildlife habitat and wildlife due to unusually dry conditions.

Action by Board Chairman Maughan

15. In accordance with the authorization in Water Code Section 1435(d), the Board adopted Resolution 84-2 delegating authority to individual Board members to approve temporary changes on projects where no detrimental effects are anticipated.

16. In accordance with the delegation of authority in Resolution 84-2, Board Chairman Maughan issued a conditional temporary urgency change order on September 11, 1987 allowing a temporary change in the point of diversion at Clifton Court Forebay under Permit 12860 subject to several specified conditions.

ORDER

IT IS HEREBY ORDERED THAT:

1. Issuance of the September 11, 1987 order by the Board Chairman Maughan allowing a conditonal Temporary Urgency Change in point of diversion and point of rediversion under Permit 12860 is validated subject to the terms and conditions specified in the order as revised herein.

2. Condition 2 of the order is corrected to read as follows:

   Use of Clifton Court Forebay and the Banks Plant to transfer (redivert) stored water into San Luis Reservoir under Permits 12721, 11967, 12722, 12723, 11315, 11316, 11968, 11969, 11971 and 12364 (Application 5626, 5628, 9363, 9364, 13370, 13371, 15374, 15375, 16767 and 17376) is not authorized under this temporary urgency change.

3. Condition 3 of the order is modified to read as follows:

Diversion of water at the Banks Pumping Plant under this order is authorized beginning November 1, 1987 and continuing until 6,200 ac-ft are delivered to San Luis Reservoir or until March 10, 1988, whichever occurs first and shall then be of no further force or effect unless extended by the Board prior to that event.

4. Condition 10 of the order is 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 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.

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 October 8, 1987.

Aye: W. Don Maughan
Darlene E. Ruiz
Edwin H. Finster

No: None

Absent: Danny Walsh
Eliseo M. Samaniego

Abstain: None

Maureen Marché

Maureen Marche'
Administrative
Assistant to Board

P11971

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

P 1197

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					
• SUISUN MARSH				Month	EC in mmhos
– 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)

P11971

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary Urgency Change Order Regarding Permit 12721 (Application 5626) and 10 other Permits U. S. BUREAU OF RECLAMATION, Permittee	)	ORDER: WR 85-10 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 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 (DWR) and the Department of Fish and Game (DFG); Board Member Ruiz 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 Bureau having submitted a petition requesting modification of the order; the Board having duly considered the petition for a temporary urgency change, the petition requesting a modification and other related information; the Board finds as follows:

Substance of the Proposed Change

1. On October 2, 1985, the Bureau filed a petition for a temporary urgency change in the point of diversion and rediversion under the 11 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
9364	12723
9368	12727*
13370	11315
15375	11969
15764	12860**
16767	11971
17374	11973*
17376	12364
18115	13776

*Permits 12727 and 11973 allow direct diversion of water only and cannot be used to place water into storage at San Luis Reservoir under this petition.

**Permit 12860 allows diversion of water at Permittee's Tracy Pumping Plant for storage in San Luis Reserovir.

The October 2, 1985 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 October 18, 1985 to April 15, 1986 with the total amount diverted or rediverted not to exceed 50,000 acre-feet for use in duck ponds on State, federal and private lands.

Temporary Urgent Need

3. The urgent need to utilize facilities of the State Water Project (SWP) arises as a result of federal and State wildlife management agencies and private duck clubs in the Grasslands area deciding not to use agricultural drainage water this season on duck ponds which may be contaminated with excessive amounts of selenium.

4. Agricultural drainage water supplies to the State and federal wildlife areas have experienced dramatic increases in selenium levels. These increases have resulted from the bypass of drainage water by upstream duck clubs in the south Grasslands area. In the past, the south Grasslands clubs have accepted drainage water. The marsh habitat in the clubs effectively removed large quantities of selenium. Because of the recent knowledge concerning bioaccumulation of selenium, the south Grasslands clubs have opted to bypass agricultural drainage flows. Therefore, the historic removal of selenium by the south Grasslands area is no longer taking place and the selenium content downstream is higher than in previous years.

5. The 1985 fall waterfowl migration season has started. The only alternate source of water available to the State and federal wildlife management agencies is from the Delta Mendota Canal. Approximately 28,000 acre-feet of the additional Central Valley Project (CVP) water is proposed for use in duck ponds on the federal and State lands. The remaining 22,000 acre-feet was requested

for use in duck ponds on private lands. A condition of any private lands receiving water is that they first use any uncontaminated supply available to them.

6. Existing commitments for CVP water deliveries require replacement of the capacity used to deliver water for the duck ponds prior to the 1986 irrigation season. Replacement is proposed by using the SWP Banks Pumping Plant and the California Aqueduct to wheel an equivalent amount of water to O'Neill Forebay for storage in the federal portion of San Luis Reservoir under the Bureau's water rights. The wheeling will not commence until November 15, 1985, and will be completed by March 1, 1986, in order to minimize any adverse effects to the Delta fishery and irrigation. The extended period of replacement was requested so that the capacity available at the Banks Pumping Plant may be more economically used and to provide a margin of safety if either plant should be down for any length of time prior to replacement. The Board finds that emergency conditions exist within the meaning of Water Code Section 1435(c) which require immediate action by the petitioner to protect the public health and welfare.

Notice and Responses

7. Notice of the petition for a temporary change was provided by publication and by mail to interested parties. The Board received responses from nine interested parties, five of which supported the proposed change, one of which conditionally supported the proposed change, and three of which opposed the proposed change. The Board has considered the objections and finds that none of the objections have raised issues necessitating a hearing, nor have any of the objections shown that the proposed change would cause injury to any lawful user of water or have unreasonable effect upon fish, wildlife, or other instream beneficial uses.

Other Findings by the Board

8. Permits 12727 and 11973 (Applications 9368 and 17374) allow direct diversion of water only and cannot be used to place water into storage.

9. Permits 12721, 11967, 12723, 11315, 11969, 11971, 12364 and 13776 (Applications 5626, 5628, 9364, 13370, 15375, 16767, 17376 and 18115) allow transfer of stored water to San Luis Reservoir through the permittee's Tracy Pumping Plant.

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

11. Board staff has consulted with representatives of the Department of Fish and Game who stated that the proposed temporary urgency change would not unreasonably affect fish and wildlife.

12. The staff of DWR has informed the Board that DWR is willing to pump water for the Bureau through the Banks Pumping Plant in the southern Delta and the California Aqueduct for storage in San Luis Reservoir.

13. The temporary urgency change as approved in this order 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.

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

15. A staff analysis has shown that the proposed action will assure the maintenance of waterfowl areas in a safe and healthful condition for waterfowl and not result in significant adverse environment impacts.

Action by Board Member Ruiz

16. In accordance with the authorization of Water Code Section 1435, the Board has adopted Resolution 84-2 delegating authority to individual Board members to approve temporary changes on projects where no detrimental effects are anticipated.

17. In accordance with the delegation of authority in Resolution 84-2, Board Member Darlene Ruiz issued a change order on October 25, 1985 allowing a temporary change in the point of diversion and rediversion, subject to several specified conditions.

Action by the Permittee

18. In a letter delivered October 30, 1985, the Bureau requested "...that the October 25, 1985 Order Allowing Temporary Urgency Change in Point of Diversion and Rediversion be modified by: (1) changing paragraph 3 of the Order to reflect a reduction in the quantity of water to be diverted from 50,000 to 28,000 acre-feet; (2) clearly stating that the 28,000 acre-feet of water made available by this Order will be delivered solely to state and federal wildlife refuges and management areas in the West Grasslands area to alleviate emergency water shortage conditions existing on these lands; and (3) eliminating conditions 7, 8 and 9 from the Order."

Board Findings Based on Requested Modification to October 25 Order

19. On October 31, 1985, Board staff contacted the managers of the State and federal wildlife areas and Central Valley Regional Water Quality Control Board staff to discuss the modifications proposed by the Bureau. The area managers presented information demonstrating that these wildlife areas have historically received water generally low in selenium concentrations. They stated that the water draining from the wildlife areas will also be low in selenium (less than 5 ppb and likely less than 2 ppb). Regional Board staff confirmed these statements and expressed their belief that leaching of salts or boron will be insignificant. Also the area managers stated that their experience shows the clay soils and surrounding water table in these areas limit seepage from the ponds to extremely low rates.

20. State Board staff will report to the Board on the water quality in the State and federal wildlife areas receiving water by virtue of this permit. This report will be made prior to the discharge of this water to the San Joaquin River system. The report will contain data on selenium, boron, electrical conductivity and molybdenum.

21. On October 31, 1985, the State Water Resources Control Board staff prepared a Notice of Exemption specifying that under Class 7 of the CEQA Guidelines categorical exemptions (14 Cal. Admin. Code, Section 15307), the proposed action described above qualifies for an exemption in accordance with the California Environmental Quality Act (CEQA).

22. Having reviewed the changes requested by the Bureau and related information, the Board finds that the October 25, 1985 order by Board member Ruiz should be modified and that a temporary urgency change should be reissued to reflect the changed conditions requested by the Bureau and to eliminate terms 7, 8, and 9 of the October 25 order.

ORDER

IT IS ORDERED THAT:

1. The permittee may temporarily divert or redivert water to storage in San Luis Reservoir using the Banks Pumping Plant of the California Department of Water Resources 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, 12723, 11315, 11316, 11971, 12364 and 13776 (Applications 5626, 5628, 9364, 15374, 15375, 16767, 17376 and 18115).

2. Diversion or rediversion of water at the Banks pumping plant under this order shall be effective for a period starting November 15, 1985 and ending March 1, 1986. At the end of this period, this authorization shall be of no further force and effect.

3. The total quantity of water diverted or rediverted under this temporary urgency change shall not exceed 28,000 acre-feet. Any water made available by this order shall be delivered solely to State and federal

wildlife refuges and management areas in the west Grasslands area to alleviate emergency water shortage conditions existing on those lands.

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. No water shall be diverted pursuant to this order at any time when such diversion will jeopardize the existence of adequate water levels for agricultural pumping in southern Delta channels. South Delta Water Agency or any other party requesting that diversion of water pursuant to this order be restricted due to inadequate water levels should immediately define inadequate water levels with precise engineering criteria and send that information to the permittee, the Department of Water Resources (Department) and the Board. South Delta Water Agency shall inform representatives of the permittee, the Department and the Board of the existence or the potential for the existence of inadequate water levels as soon as reasonably possible.

6. The permittee shall report to the State Water Resources Control Board by May 1, 1986, the daily combined diversion and rediversion of the Tracy Pumping Plant and that portion of the diversion and rediversion of the Banks Pumping Plant made under this change order. The report shall also state the total acre-feet diverted and rediverted at the Banks Pumping Plant under this change order.

7. Pond discharge shall not cause adverse impacts to beneficial uses in the San Joaquin River system. The Board reserves jurisdiction to take such action as may be necessary including revocation of this order if the

Chief, Division of Water Rights determines that adverse impacts to beneficial uses are occurring in the San Joaquin River system as a result of activities authorized by this order.

8. This temporary urgency change order 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.

9. 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.

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 the permits covered by this order shall remain in effect.

12. This order supersedes the order allowing temporary urgency change in point of diversion and point of rediversion issued by Board Member Darlene E. Ruiz on October 25, 1985.

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 November 6, 1985.

Aye: Raymond V. Stone
Darlene E. Ruiz
E. H. Finster
Eliseo M. Samaniego

No: None

Absent: None

Abstain: None

Raymond Walsh

Raymond Walsh
Interim Executive Director

P 11971

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary Urgency Change Order Regarding Permit 12721 (Application 5626) and 13 other Permits U. S. BUREAU OF RECLAMATION, Permittee	ORDER: 85- 8 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; Board Member Finster 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 August 30, 1985, the Bureau filed a petition for a temporary urgency change in the point of diversion and point of rediversion under the 14 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
9368	12727
13370	11315
13371	11316
15374	11968
15375	11969
15764	12860
16767	11971
17374	11973
17376	12364
18115	13776

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 September 1, 1985 or when approved by the Board to October 15, 1985 with the total amount diverted or rediverted not to exceed 12,800 acre-feet of water into storage in San Luis Reservoir.

Temporary Urgency Need

The urgent need to utilize facilities of the State Water Project is due to the fact that this year has been classified as a dry year under the Four-Basins Index. This fact along with certain unavoidable operational outages on the Federal facilities for transporting water to San Luis Reservoir, has resulted in the Federal portion of San Luis Reservoir storage to be the lowest since the 1977 drought and the 1981 slide on the San Luis Reservoir Dam. Normal Central Valley Project procedure is to maintain a minimum storage of 250,000 acre-feet on September 1 in the Federal portion of San Luis Reservoir storage. Use of the State's Banks Pumping Plant will allow the Federal project to place 12,800 acre-feet more water into storage in the San Luis Reservoir to aid in meeting this objective and the normal demands in the coming water year.

California Environmental Quality Act

4. 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.

Action by Board Member Finster

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, Board Member Finster 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 Board Member Finster as specified in the order dated September 19, 1985.

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 except Permits 12727 and 11973 which are for direct diversion of water only, is validated subject to the terms and conditions specified in the order.

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 October 17, 1985.

Aye: Raymond V. Stone
Darlene E. Ruiz
E. H. Finster
Eliseo M. Samaniego

No: None

Absent: None

Abstain: None

Raymond Walsh

Raymond Walsh
Interim Executive Director

P 11971

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

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

P11971

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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.

M A Campos

Michael A. Campos
Executive Director

PERMIT NO. 11971

APPLICATION NO. 16767

SEE DECISION 1485 ISSUED 8-16-78
& Order 78-17, 10-13-78

P11971

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

PERMITS 12721, 11967, 12722, 12723, 11315, 11316, 11968, 11969, 12860, 11971, 11972, 12364 AND 15149, (APPLICATIONS 5626, 5628, 9363, 9364, 13370, 13371, 15374, 15375, 15764, 16767, 17374, 17376 AND 21542) United States Bureau of Reclamation, Permittee

WHEREAS:

1. The United States Bureau of Reclamation 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. 83-80 delegating authority to the Chief of the Division of Water Rights to approve temporary changes where no detrimental effects are indicated.

3. The Chief of the Division of Water Rights has found that good cause for the temporary change requested has been shown.

4. The Department of Fish and Game has informed Board staff that the proposed temporary change would not adversely affect fish and wildlife.

5. The Chief of the Division of Water Rights has determined that 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.

6. The Chief of the Division of Water Rights has determined that emergency conditions exist requiring immediate action to protect the public welfare.

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 California Aqueduct Intake for 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.

2. The temporary change shall be effective for a period starting November 1, 1983 and ending February 29, 1984. At the end of this period, all rights to divert or redivert water at the Banks Pumping Plant revert back to the Tracy Pumping Plant as allowed under the permits prior to the date of this order.

3. 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.

4. Permittee shall report to the State Water Resources Control Board by April 15, 1984 the maximum rate of diversion and total acre-feet diverted at Banks Pumping Plant and the maximum combined rate of diversion from Tracy Pumping Plant and Banks Pumping Plant under this temporary change.

5. 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 change, it shall stand revoked as of the date of said Board meeting and shall be of no further force and effect.

6. This temporary change is issued and permittee takes it subject to the California Water Code, Division 2, Chapter 6.6, Section 1435 et seq. This temporary 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.

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

8. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this temporary 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 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.

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

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights
State Water Resources Control Board

OCTOBER 31 1983

P11971

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary Urgency Change Order Regarding Permit 12721 (Application 5626) and 12 Other Permits U. S. BUREAU OF RECLAMATION, Permittee	ORDER: 83- 17 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; the Chief of the Division of Water Rights 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 October 18, 1983, 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	11972
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 NW¼ of SE¼ 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 November 1, 1983 to February 29, 1984.

Temporary Urgency Need

3. The Bureau's facilities at the O'Neill Forebay assist in delivering water to an extensive service area in the San Joaquin Valley. The water surface elevation in O'Neill Forebay Reservoir will be lowered to allow for emergency rehabilitation to the upstream face of the dam. As a result, the Bureau may not be able to deliver the full quantity necessary to meet delivery requirements through its regular diversion facilities. For that reason it requested a temporary urgency change to divert and redivert at the Department of Water Resources Banks Pumping Plant. 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.

Instream Uses

4. The California Department of Fish and Game has informed Board staff that the proposed temporary urgency change would not adversely affect fish and wildlife. No stream alteration will take place since the diversion facilities are already in place. The maximum combined rate of diversion and rediversion under the temporary urgency change from both the Banks Pumping Plant and the Tracy Pumping Plant shall not exceed the 4,600 cubic feet per second normally allowed at the Tracy Pumping Plant. Accordingly, we find that the temporary change of diversion and rediversion will not have an unreasonable effect on fish, wildlife or other instream beneficial uses and that it may be made without injury to any lawful user of water.

California Environmental Quality Act

5. This Board Order authorizes a temporary urgency change in the point of diversion and rediversion ending February 29, 1984. Such activity is exempt from the provisions of the California Environmental Quality Act in accordance with Public Resources Code Section 21080(b)(4). (Actions necessary to prevent or mitigate an emergency.)

Action by the Chief of the Division of Water Rights

6. In accordance with the authorization of Water Code Section 1435, the Board has adopted Resolution No. 83-80 delegating authority to the Chief of the Division of Water Rights 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.

7. The Chief of the Division of Water Rights, Raymond Walsh, has reviewed the available evidence relating to the petition. In accordance with the delegation of authority in Resolution No. 83-80, Mr. Walsh issued a change order on October 31, 1983 allowing a temporary change in the point of diversion and point of rediversion, subject to several specified conditions.

8. The Board concurs with the findings of Mr. Walsh as specified in his order of October 31, 1983.

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 I is validated subject to the terms and conditions specified in the order.

Dated: November 17, 1983

Carole A. Onorato, Chairwoman

Warren D. Noteware, Vice Chairman

F. K. Aljibury, Member

Kenneth W. Willis, Member

ORDER

APPLICATION 16767 PERMIT 11971 LICENSE _____

ORDER ALLOWING CHANGE IN POINTS OF REDIVERSION AND CHANGE IN PLACE OF USE

WHEREAS permittee has established to the satisfaction of the State Water Rights Board that the change in points of rediversion and change in place of use under Application 16767, Permit 11971, for which petitions were submitted on March 7, 1960, and December 23, 1959, will not operate to the injury of any other legal user of water and the Board so finds;

NOW THEREFORE IT IS ORDERED that permission be and the same is hereby granted to change the points of rediversion under said Application 16767, Permit 11971, so that the point of diversion and points of rediversion are those points described as follows, to wit:

1. THE POINT OF DIVERSION IS AT TRINITY DAM, N34° 42'E 2308 FEET FROM SW CORNER OF SECTION 15, T34N, R8W, MDB&M, BEING WITHIN N½ OF SW¼ OF SAID SECTION 15.

2. THE FOLLOWING ARE POINTS OF REDIVERSION:

   (A) LEWISTON DAM, N73° 56'E 3777 FEET FROM SW CORNER OF SECTION 8, T33N, R8W, MDB&M, BEING WITHIN SW¼ OF SE¼ OF SAID SECTION 8.

   (B) WHISKEYTOWN DAM, N16° E 2760 FEET FROM SW CORNER OF SECTION 27, T32N, R6W, MDB&M, BEING WITHIN NW¼ OF SW¼ OF SAID SECTION 27. SAID POINT IS ALSO THE POINT OF DIVERSION DESCRIBED AS SHASTA COUNTY AREA DIVERSIONS INTAKE.

   (C) KESWICK DAM, S62° 38' 15"E 1567.15 FEET FROM W¼ CORNER OF SECTION 21, T32N, R5W, MDB&M, BEING WITHIN NW¼ OF SW¼ OF SAID SECTION 21.

   (D) BELLA VISTA CONDUIT INTAKE, SOUTH 200 FEET AND WEST 4500 FEET FROM NE CORNER OF SECTION 31, T32N, R4W, MDB&M, BEING WITHIN NW¼ OF NW¼ OF SAID SECTION 31.

   (E) CORNING CANAL AND TEHAMA-COLUSA CANAL INTAKE N31° 15'W 800 FEET ± FROM E¼ CORNER OF SECTION 33, T27N, R3W, MDB&M, BEING WITHIN SE¼ OF NE¼ OF SAID SECTION 33.

ORDER

APPLICATION 16767 PERMIT 11971 LICENSE

(F) CHICO CANAL INTAKE, N51° 20'E 1878 FEET FROM W¼ CORNER OF SECTION 1, T23N, R2W, MDB&M, BEING WITHIN THE SE¼ OF NW¼ OF SAID SECTION 1.

(G) AT VARIOUS POINTS ON THE SACRAMENTO RIVER FROM KESWICK DAM TO CONFLUENCE WITH AMERICAN RIVER, BY MEANS OF NON-PROJECT WORKS.

(H) YOLO-ZAMORA CONDUIT INTAKE, S21° 50'W 539 FEET FROM NE CORNER OF SECTION 25, T12N, R1E, MDB&M, BEING WITHIN NE¼ OF NE¼ OF SAID SECTION 25.

(I) EAST SIDE CANAL INTAKE, S29° 30'W 1825 FEET FROM NE CORNER OF SECTION 22, T6N, R4E, MDB&M, BEING WITHIN SE¼ OF NE¼ OF SAID SECTION 22.

(J) AT VARIOUS POINTS IN THE SACRAMENTO-SAN JOAQUIN DELTA AND ON THE SACRAMENTO RIVER BELOW THE AMERICAN RIVER, BY MEANS OF NON-PROJECT WORKS.

(K) DELTA CROSS CHANNEL INTAKE, STATION 1 + 69.2, S 4° 17'W, APPROXIMATELY 999 FEET ± FROM NW CORNER OF SWAMP AND OVERFLOW LAND SURVEY 763, T5N, R4E, MDB&M.

(L) CONTRA COSTA CANAL INTAKE, N89° 52'W 8.9 FEET FROM E¼ CORNER OF SECTION 33, T2N, R3E, MDB&M, BEING WITHIN SE¼ OF NE¼ OF SAID SECTION 33.

(M) SANTA CLARA CONDUIT INTAKE, WITHIN SW¼ OF NW¼ OF SECTION 24, T1S, R3E, MDB&M.

(N) DELTA-MENDOTA CANAL INTAKE, L 6 + 90, S76° 39'E 2674.53 FEET FROM W¼ CORNER OF SECTION 29, T1S, R4E, MDB&M, BEING WITHIN NE¼ OF SW¼ OF SAID SECTION 29.

(O) SAN LUIS DAM, BEING WITHIN SW¼ OF SE¼ OF SECTION 15, T10S, R8E, MDB&M.

(P) FIGARDEN DAM, BEING WITHIN SW¼ OF SE¼ OF SECTION 28, T12S, R19E, MDB&M.

(Q) MENDOTA DAM BEING WITHIN SE¼ OF SE¼ OF SECTION 19, T13S, R15E, MDB&M.

(R) TEMPLE SLOUGH (ARROYO CANAL) INTAKE APPROXIMATELY 500 FEET NORTH AND 2,400 FEET EAST FROM SW CORNER OF SECTION 12, T11S, R13E, MDB&M, BEING WITHIN SE¼ OF SW¼ OF SAID SECTION 12.

IT IS FURTHER ORDERED that permission be and the same is hereby granted to change the place of use under said Application 16767, Permit 11971, to a place of use described as follows, to wit:

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. 16767 Filed December 5, 1955 at 4:53 P.M.
(Applicant must not fill in the above blanks)

APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER

AMENDED APPLICATION RECEIVED NOVEMBER 28, 1956

I, U. S. Bureau of Reclamation (Name of applicant) OVER

of P. O. Box 2511, Sacramento 11 (Address) County of Sacramento

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

Source, Amount, Use and Location of Diversion Works

1. The source of the proposed appropriation is Trinity River (Give name of stream, lake, etc., if named; if unnamed state nature of source and that it is unnamed)

located in Trinity County, tributary to Klamath 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 – (1 cubic foot per second equals 40 statute miner's inches or 646,317 gallons per day) cubic feet per second, to be diverted from (Beginning date) to (Closing date) of each year.

(b) For diversion to be stored and later applied to beneficial use 700,000 (1 acre-foot equals 325,851 gallons) acre-feet per annum, to be collected between January 1 (Beginning date) and December 31 (Closing date) of each season.

NOTE.—Answer (a) or (b) or both (a) and (b) as may be necessary. If amount under (a) is less than .025 cubic foot per second, state in gallons per day. Neither the amount nor the season may be increased after application is filed. 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 and incidental domestic, and water quality control (Domestic, irrigation, power, municipal, mining, industrial, recreational) purposes.

4. The point of diversion is to be located Trinity N34°42'E, 2308 feet from SW corner of Section 15, T34N, R8W, MDB&M. (Lewiston Rediversion is N73°56'E, 5777 feet from SW corner of Section 8, T33N, R8W, MDB&M.) (State bearing and distance or coordinate distances from section or quarter section corner)

being within the N½ of SW¼ (SW¼ of SE¼) (State 40-acre subdivision of public land survey or projection thereof)

of Section 15 (8), T. 34N (33N), R. 8W, MD B. & M., in the County of Trinity

5. The main conduit terminates in Spring Creek Powerplant, discharging into Keswick Reservoir NW¼ of SW¼ of Sec. 21, T. 32N, R. 5W, MD 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)

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

Re (b) Diversion will be by gravity, the diverting dam being 58 feet in height (stream bed to level of overflow); 715 feet long on top; and constructed of earth and rock fill (Concrete, earth, brush, etc.)

(c) The storage dam will be 440 feet in height (stream bed to overflow level); 2430 feet long on top; have a freeboard of 8.0 feet, and be constructed of earth and rock fill (Concrete, earth, etc.)

7. Storage Reservoir Trinity (Name)

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

It will have a surface area of 16,600 acres, and a capacity of 2,500,000 acre-feet.

☞ In case of insufficient space for answers in form, attach extra sheets at top of page 3 and cross reference.

FORM 1

110

2-1-80 Name chgd to U.S. Water + Power. Res. Service

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

ORDER

APPLICATION 16767 PERMIT 11971 LICENSE

WITHIN A GROSS AREA OF 10,925,000 ACRES TO BE SERVED BY TRINITY RIVER WATER AS SHOWN ON MAPS NUMBERED 214-208-3330 AND 214-208-3331 REVISED AS OF JULY 19, 1960.

IT IS FURTHER ORDERED that the foregoing approvals be conditioned in accordance with the following special terms:

1. THE AMOUNT OF WATER IN STORAGE UNDER THIS PERMIT SHALL NOT BE INCREASED BY USE OF RESERVOIRS ALLOWED AS POINTS OF REDIVERSION, ABOVE THE AMOUNT WHICH COULD HAVE BEEN COLLECTED TO STORAGE IN THE RESERVOIR NAMED IN THE PERMIT AS ORIGINALLY ISSUED.

2. BEFORE WATER IS REDIVERTED FROM THE SACRAMENTO RIVER AT ANY POINT BELOW KESWICK DAM OR FROM THE SACRAMENTO-SAN JOAQUIN DELTA CHANNELS UNDER THIS PERMIT BY MEANS OF NON-PROJECT WORKS THERE SHALL FIRST BE EXECUTED AND FILED WITH THE STATE WATER RIGHTS BOARD A CONTRACT BETWEEN THE UNITED STATES AND THE PROSPECTIVE WATER USER DESCRIBING THE POINT OF REDIVERSION IN CONFORMITY WITH SUBSECTION (d) OF SECTION 670 OF TITLE 23, CALIFORNIA ADMINISTRATIVE CODE.

WITNESS my hand and the seal of the State Water Rights Board of the State of California this 30th day of December, 1960

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

FORM 100

25300 6-60 5M SPO

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-staves, 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 3200-Clear Creek Tunnel 3600-Spring Creek Tunnel
State cubic feet per second or gallons per minute

The estimated cost of the diversion works proposed is 203,673,000
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 Has begun

Construction work will be completed on or before July 1964

The water will be completely applied to the proposed use on or before July 1966

Description of Proposed Use

11. Place of Use. See Supplement and Paragraph 13
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? No (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 Within the gross service area of 4,031,000 acres any 1,400,000 acres during a single year. ~~xxxx acres.~~ (see supplement)
State net acreage to be irrigated

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

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

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

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

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

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

SUPPLEMENT TO APPLICATION NO. 16767

Paragraph 2: AMOUNT OF WATER

No direct diversion is applied for in this application. For diversion to be stored and later applied to beneficial use, 700,000 acre-feet are applied for for irrigation and incidental domestic use.

This quantity of water (700,000 acre-feet), together with the 1,800,000 acre-feet applied for in Application 15375, are intended to be additive to a total of 2,500,000 acre-feet, which is the capacity of Trinity Reservoir.

Paragraph 3: USE

The primary purpose of this application is to appropriate water for irrigation purposes to the total storage capacity of Trinity Dam. During some years some of the 2,500,000 acre-feet of stored water applied for under this and Application 15375 may be released specifically to supplement the flow of the Sacramento River to provide the flow necessary for navigation and fish propagation purposes; provided such releases are not specifically required for other project purposes, and such releases are not intended to be subject to appropriation by others until they have fulfilled their specific purpose of navigation and fish propagation supplementation. Return flows resulting from water diverted into the Central Valley Project service area from Trinity Reservoir under this application and remaining within the place of use depicted on the accompanying map (No. 416-208-341) are intended for reuse to serve Central Valley Project requirements and are not intended for appropriation by others.

Paragraph 4: POINT OF DIVERSION

The point of diversion for the quantities of water applied for in this application is Trinity Dam. The course of the Trinity River below Trinity Dam (storage dam for water applied for in this application) will be used for a conveyance to Lewiston Reservoir where it will be rediverted via Clear Creek Tunnel to the Whiskeytown Reservoir where, commingled with Clear Creek water, they will be rediverted via Spring Creek Tunnel to Keswick Reservoir, and, commingled with Sacramento River water, they will flow in the course of the Sacramento River to the intakes of the canals or channels which will utilize the diversion applied for in this application. Such canals authorized to date by Congress are included in the following list. This list also includes canals or channels that will redivert the quantities of temporary storage applied for in this application.

Trinity Dam: Station 12+60 on axis of Trinity Dam is 535,615 N, 1,788,887 E (Zone I, State Coordinate System), and N 34°42' E, 2,308 feet from SW Cor. Sec. 15, T34N, R8W, M.D.B.&M.

Lewiston Dam: Station 5+20 on axis of Lewiston Dam is 508,480 N and 1,780,500 E (California Zone I Rectangular Coordinate System), and N 73°56' E, 3,777 feet from SW Cor. Sec. 8, T33N, R8W, M.D.B.&M.

Whiskeytown Dam: Station 22+60 on axis of Whiskeytown Dam is 1,860,360 E, 461,580 N (California Zone I Rectangular Coordinate System), and N 16° E, 2,760 feet from SW Cor. Sec. 27, T32N, R6W, M.D.B.&M.

Keswick Dam: Station 5+00 on axis of Keswick Dam is S 62°38'15" E, 1,567.15 feet from the W¼ Cor. Sec. 21, T32N, R5W, M.D.B.&M.

Corning Canal: Intake will be located N 31°15' W, 800 feet from E¼ Cor. Sec. 33 within SE¼NE¼, Sec. 33, T27N, R3W, M.D.B.&M.

Tehama-Colusa Canal: Intake will be located N 31°15' W, 2,530 feet from E¼ Cor. Sec. 33 within SE¼NE¼, Sec. 33, T27N, R3W, M.D.B.&M.

Chico Canal: Intake will be located N 51°20' E, 1,878 feet from W¼ Cor. Sec. 1 within SE¼NW¼, Sec. 1, T23N, R2W, M.D.B.&M.

Delta Cross Channel: Initial diversion from Sacramento River is at Walnut Grove; intake structure is located at Delta Cross Channel approximately S 4°17' W, 999.0 + feet from NW corner of Swamp Land Survey 763 in T5N, R4E, M.D.B.&M.

Delta-Mendota Canal: Diversion point from Delta Cross Channel is located on Old River. Intake headworks is S 76°39'23" E, 2,674.53 feet from W¼ Cor. Sec. 29, T1S, R4E, M.D.B.&M.

Centerline of units of Tracy Pumping Plant at Canal Station L 133+75 is N 26°54'47" E, 800.63 feet from SW Cor. Sec. 31, T1S, R4E, M.D.B.&M.

Contra Costa Canal: Diversion point from Delta is at Rock Slough. Intake is N 89°52' W, 8.9 feet from E¼ Cor. Sec. 33, T2N, R3E, M.D.B.&M.

The points of diversion or rediversion are within the following 40-acre subdivision of U.S. Government Survey or projection thereof:

16767-2

Trinity Dam	N½ SW¼, Sec. 15, T34N, R8W, MDB&M, Trinity County
Lewiston Dam	SW¼SE¼, Sec. 8, T33N, R8W, MDB&M, Trinity County
Whiskeytown Dam	NW¼SW¼, Sec. 27, T32N, R6W, MDB&M, Shasta County
Keswick Dam	NW¼SW¼, Sec. 21, T32N, R5W, MDB&M, Shasta County
Corning Canal and Tehama-Colusa Canal	NE¼NE¼, Sec. 33, T27N, R3W, MDB&M, Tehama County
Chico Canal	SE¼NW¼, Sec. 1, T23N, R2W, MDB&M, Butte County
Delta Cross Channel	Swamp Land Survey 763, T5N, R4E, MDB&M, Sacramento Co.
Delta-Mendota Canal:	
Pilot Canal Intake, Sta. 6+90	NE¼SW¼, Sec. 29, T1S, R4E, MDB&M, Alameda County
Tracy Pumping Plant, Sta. L 133+75	SW¼SW¼, Sec. 31, T1S, R4E, MDB&M, Alameda County
Contra Costa Canal	SE¼NE¼, Sec. 33, T2N, R3E, MDB&M, Contra Costa Co.

Paragraph 7: STORAGE RESERVOIR AND REGULATING RESERVOIRS

Trinity Reservoir (storage): The lands to be flooded by Trinity Reservoir are those lying below elevation 2,387, as shown on the compiled U. S. Geological Survey quadrangle maps (Nos. 416-208-342, 416-208-344 and 416-208-345), accompanying this application. The reservoir will flood lands in projected sections shown in the following: Sections 20, 28, 29, 32, and 33, T37N, R7W. Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 16, 17, 20, 21, 22, 28, 29, 32, 33, and 34, T36N, R7W. Sections 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 29, and 30, T35N, R7W. Sections 13, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, T35N, R8W. Sections 34 and 35, T35N, R9W. Sections 1, 2, and 3, T34N, R9W. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16 and 18, T34N, R8W.

Coordinated with the storage reservoir are regulating reservoirs which will, or do now, flood the lands shown as follows:

Lewiston Reservoir: The lands to be flooded by Lewiston Reservoir are those lands lying below elevation 1,902, as shown on the accompanying compiled U. S. Geological Survey maps (Nos. 416-208-342 and 416-208-346), in sections as follows: Sections 21, 22, 23, and 28, T34N, R8W; Sections 4, 5, 6, 7 and 8, T33N, R8W, MDB&M.

Whiskeytown Reservoir: The lands to be flooded by Whiskeytown Reservoir are those lands lying below elevation 1,220.5, as shown on the accompanying compiled U. S. Geological Survey maps (Nos. 416-208-342 and 416-208-347), in sections as follows: Sections 4, 5, 6, 7, 8, 9, 15, 16, 17, 18, 20, 21, 22, 27 and 28, T32N, R6W; Sections 1, 2, 11 and 12, T32N, R7W, MDB&M.

Keswick Reservoir: The lands flooded by Keswick Reservoir are as follows: Sections 4, 5, 8 and 9, T32N, R5W; Sections 15, 16, 20, 21, 28, 29, and 32, T33N, R5W, MDB&M.

Paragraph 8: CONDUIT SYSTEM

The dimensions and capacities of the main conduits are as follows:

Tunnels	Size	Length (feet)	Grade (1/1000)	Capacity in c.f.s.	Type
Clear Creek	17'-16" Dia.	57,000	.0034	3,200	Circ.-concrete lined
Spring Creek	18'-6" Dia.	15,400	.0044	3,600	Circ.-concrete lined

Pipe Lines	Size	Length
Clear Creek Powerhouse	14'-3"	2,000
Spring Creek Powerhouse	15'-6"	2,000
Trinity Powerhouse	16'-0"	1,500

Corning Canal: The proposed diversion works, heading at the Redbank Diversion Dam, will have an intake channel 3,500 feet long, a pumping plant of 500 c.f.s. capacity for a lift of 55 feet through an 8.5-foot diameter concrete pipeline 5,400 feet long. The water will then flow by gravity in a canal having a top width of 50 feet, a bottom width of 22 feet, and a depth of 7.2 feet, a slope of 0.98 feet per 1,000 feet at the head of the canal and a top width of 24 feet, bottom width of 10 feet, depth of 3.55 feet, and a slope of 0.2 feet per 1,000 feet in the last section of the canal, which will terminate in Section 5, T23N, R3W, M.D.B.&M.

Tehama-Colusa Canal: Heading at the Redbank Diversion Dam the first 3,500 feet of the canal will have a capacity of 2,500 c.f.s., of which 500 c.f.s. will be for Corning Canal pumping plant. The remaining 2,000 c.f.s. will be carried in the canal for irrigation uses. The canal dimensions for the 2,000 c.f.s. capacity are 87 feet top width, 80 feet bottom width, and 11.6 feet deep. The canal will be 121 miles long with the last reach having a top width of 24 feet, bottom width of 8.0 feet, depth of 5.4 feet, and a carrying capacity of 175 c.f.s. The slope of the canal is about 0.10 feet per 1,000 feet.

37

167[illegible]-1

Chico Canal: With an intake heading at Hazel Bend on the Sacramento River, an intake channel 9,000 feet long, a pumping plant of 310 c.f.s. capacity, the main canal will be 19 miles long, with the upper reach having a capacity of 310 c.f.s., a top width of 34 feet, bottom width of 16 feet, and a depth of 5.93 feet, and a slope of 0.1 feet per 1,000 feet.

Delta Cross Channel: Presently used channel for Central Valley Project purposes, with variable dimensions due to the dredged and natural channels utilized along the 50-mile length. Dredged sections are 426 feet wide at water line, 210 feet at bottom, with depth of 26 feet. Grade is approximately level.

Delta-Mendota Canal: Heads at Old River, with approximately 2.5 miles of intake channel, with water surface width of 186 feet, bottom width of 98 feet and a water depth of 14.3 feet, to the Tracy Pumping Plant. The pumping plant, with six electrically driven pumps has a capacity of 4,600 c.f.s. with an approximate lift of 200 feet to the gravity section of the canal through which it flows southerly about 113 miles to the Mendota Pool on the San Joaquin River.

Contra Costa Canal: Heads at Rock Slough, with intake channel to the first of a series of four pumping plants whose diversion flows westerly and southerly for approximately 46 miles, terminating in Martinez Reservoir.

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 Map 416-208-341, 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, State or United States agencies, authorities, associations, public or private corporations, political subdivisions, and other agencies, whether as 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.

Paragraph 13: IRRIGATION USE

Parts of the area within the described place of use are or will be served, in part or entirely, with water under lawful rights acquired and used independently of those of the United States. Other parts will require, either as a supplemental supply or the entire supply, water furnished under 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.

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 No water to be used except as required for
Industrial, recreational, domestic, stockwatering, fish culture, etc. higher uses.

State basis of determination of amount needed. _____
Number of persons, residences, area of domestic lawns and gardens, number and kind of stock, type

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? No
Yes or No
If not, give name and address of owner and state what steps have been taken to secure right of access thereto Agreements are being entered into with owners.

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

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

[SIGNATURE OF APPLICANT] /s/ A. N. Murray
Acting Regional Director

PERMIT No. 11971

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 appropriated shall be limited to the amount which can be beneficially used and shall not exceed 700,000 acre-feet per annum by storage to be collected between January 1 and December 31 of each year. The amount of water diverted under this permit and permits issued pursuant to Applications 5628, 15374, 15375 and 17374 shall not exceed a total of 2,500,000 acre-feet per annum by storage.

2. The maximum amount herein stated may be reduced in the license if investigation so warrants.

3. Construction work shall be completed on or before December 1, 1964.

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

5. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

6. 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.

7. Permittee shall maintain a daily record of inflow into and outflow from Trinity Reservoir, volumes in storage and water surface elevations. Permittee shall maintain like records with respect to Lewiston 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. Permittee shall at all times bypass or release over, around or through Lewiston Dam the following quantities of water down the natural channel of Trinity River for the protection, preservation and enhancement of fish and wildlife from said dam to the mouth of said stream;

October 1 through October 31	-	200 cfs
November 1 through November 30	-	250 cfs
December 1 through December 31	-	200 cfs
January 1 through September 30	-	150 cfs

Any water released through said Lewiston Dam for use in the fish hatchery now under construction adjacent thereto

shall be considered as partial fulfillment of the above schedule.

9. Permittee shall release sufficient water from Trinity and/or Lewiston Reservoirs into the Trinity River so that not less than an annual quantity of 50,000 acre-feet will be available for the beneficial use of Humboldt County and other downstream users.

10. This permit shall be subject to the prior rights of the county in which the water sought to be appropriated originates to use such water as may be necessary for the development of the county, as provided in Section 10505 of the Water Code of California.

11. The Board retains continuing jurisdiction for the purpose of coordinating terms and conditions with other applications of the United States in furtherance of the Central Valley Project including but not limited to Applications 5625, 5626, 9363, 9364, 9365, 9366, 9367, 9368 and 10588, when acted upon, and for a period of two years thereafter, which period may be extended upon hearing and further order of the Board.

12. Subject to the existence of long-term water delivery contracts between the United States and public agencies and subject to the compliance with the provisions of said contracts by said public agencies, this permit is further conditioned as follows:

(a) The right to the beneficial use of water for irrigation purposes, 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 on 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.

(b) The right to the beneficial use of water for irrigation purposes shall, consistent with other terms of this permit, continue in perpetuity.

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: SEP 16 1959

STATE WATER RIGHTS BOARD

L. K. Hill

L. K. Hill
Executive Officer

IMPORTANT

[Please Read Carefully]

1. *Note the terms and conditions of this permit.* Construction work must be prosecuted, and the water applied to the beneficial uses intended with due diligence. Annual reports of progress will be expected from you upon forms which will be furnished for the purpose. When the water has been fully applied to the beneficial uses intended the Water Code requires that you notify the State Water Rights Board thereof.
2. Neither this application nor the permit is a water right, but *if the terms and conditions of the permit are observed a water right can be obtained through beneficial use of the water*—the extent of the right to be determined by a field inspection which will be made by a representative of the State Water Rights Board.
3. *No change in point of diversion, or place of use or character of use, can be made under this application and permit* without the approval of the State Water Rights Board.
4. *If the rights under this permit are assigned* immediate notice to that effect with the name and address of the new owner should be forwarded to the State Water Rights Board, Sacramento, California.
5. *Please advise immediately of any change of address.* Until otherwise advised communications will be sent to the address used in the letter transmitting this permit.

74032 4-57 2M SPO