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

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 12364 (Application 17376)

**U.S. Bureau of Reclamation**

# ORDER APPROVING CHANGE IN PLACE OF USE AND AMENDING THE PERMIT

---

SOURCE: Clear Creek

COUNTY: Shasta

---

**WHEREAS:**

1. Permit 12364 was issued to U.S. Bureau of Reclamation on July 28, 1960, pursuant to Application 17376.

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 12364 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 12364 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

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

Dated: JUL 2 9 2002

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 12364 (Application 17376)

**U.S. Bureau of Reclamation**

# ORDER APPROVING CHANGE IN PLACE OF USE AND AMENDING THE PERMIT

---

SOURCE: Sacramento River

COUNTY: Shasta

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**WHEREAS:**

1. Permit 12364 was issued to U.S. Bureau of Reclamation on July 28, 1960, pursuant to Application 17376.

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 12364 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 12364 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

David R. Beringer

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

Dated: JUL 1 9 2002

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 12364 (Application 17376)
**U. S. Bureau of Reclamation**

# ORDER APPROVING MODIFICATION OF THE PERMIT

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SOURCE: Clear Creek

COUNTY: Shasta

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**WHEREAS**:

1. Permit 12364 was issued to U. S. Bureau of Reclamation on July 28, 1960, pursuant to Application 17376.

2. A request for modification of it's water right permit was filed with the State Water Resources Control Board (SWRCB) on March 15, 2001, and the SWRCB has determined that good cause for such modification has been shown. Notice of the modification request was issued on October 24, 2001, and no protests were received.

3. The SWRCB has determined that the modification to the permit does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

4. The permit condition relating to the water quality objectives of the SWRCB should be updated to conform to section 780 (b), title 23 of the California Code of Regulations.

5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

**NOW, THEREFORE, IT IS ORDERED THAT PERMIT 12364 IS AMENDED TO READ AS FOLLOWS**:

1. Condition 9 of the Permit is replaced with the following term:

   Permittee shall by-pass or release over, under, around, or through Whiskeytown Dam into the natural stream bed of Clear Creek immediately below said dam for the maintenance of fish and wildlife resource such flows as are provided for in Provision 2.1 of that certain document entitled "Instream Flow Preservation Agreement by and among U.S. Bureau of Reclamation, U. S. Fish and Wildlife Service, and California Department of Fish and Game", dated August 11, 2000, a copy of which is filed with the State Water Resources Control Board.

2. Condition 10 of the Permit is replaced with the following term:

   This Permit is subject to "Agreement between the United States and G.E. Oaks" dated May 23, 1960, a copy of which is filed with the State Water Resources Control Board.

3. The water quality objectives condition, shall be updated to read as follows:

   The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

   (0000013)

4. Permit 12364 is amended to include the following Endangered Species condition:

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

   (0000014)

5. All other conditions of Permit 12364 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

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

**Dated:** APR 1 5 2002

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T 12364

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: FEBRUARY 23 1993

Roger Johnson

for Edward C. Anton, Chief
Division of Water Rights

ATTACHMENT A

Permits of the United States Bureau of Reclamation:

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

P.
12364

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

P12364

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.

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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 M. STUBCHAER, MEMBER
STATE WATER RESOURCES CONTROL BOARD

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

# DIVISION OF WATER RIGHTS

## ORDER

Application 17376 Permit 12364 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 to be 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. 12364

SEE WR 91-01 dated January 10, 1991

ALSO SEE WR 91-03 dated April 1, 1991

Pull.
off Licens

P. 12364

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

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

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

BY THE BOARD:

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

**SUBSTANCE OF THE PROPOSED CHANGE:**

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

TABLE 1

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

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

**ACTION BY BOARD CHAIRMAN:**

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

**NOTICE OF THE PETITION:**

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

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

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

**COMMENTS AND OBJECTIONS:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**CONCLUSION:**

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

ORDER

IT IS HEREBY ORDERED THAT:

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

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 21, 1989.

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

Maureen Marche'
Administrative Assistant to the Board

P 12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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

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

BY THE BOARD:

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

Substance of the Proposed Temporary Urgency

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

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

TABLE 1

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

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

Action By Board Vice Chairwoman Ruiz:

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

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

Notice Of The Petition:

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

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

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

Responses:

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

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

Additional Findings:

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

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

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

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

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

ORDER

IT IS HEREBY ORDERED THAT:

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

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 7, 1989.

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

NO: None

ABSENT: Darlene E. Ruiz
Eliseo M. Samaniego

ABSTAIN: None

Maureen Marche'
Administrative Assistant to the Board

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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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| 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)<br><br>U.S. BUREAU OF RECLAMATION, Permittee | ORDER: WR 89-1<br><br>SOURCE: Old River<br><br>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

#12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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|---|---|---|
| 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)<br><br>U.S. BUREAU OF RECLAMATION, Permittee | ) | ORDER: WR 88- 23<br><br>SOURCES: American River<br>Trinity River<br>Clear Creek<br>Sacramento River<br>The Delta<br><br>COUNTIES: Trinity, Shasta<br>Sacramento,<br>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

8/12364

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.

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

Maureen Marché
Administrative Assistant to the Board

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

P12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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|---|---|
| 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<br>SOURCE: Old River<br>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.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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|---|---|---|
| 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<br>Source: Old River<br>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
Maureen Marche
Administrative Assistant to the Board

P 12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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

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[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 Marche'
Administrative
Assistant to Board

P12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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|---|---|
| In the Matter of Temporary Change Order Regarding Permit 12721 (Application 5626) and 12 Other Permits<br><br>U. S. BUREAU OF RECLAMATION, Permittee | ORDER: WR 86-4<br><br>SOURCE: Various sources<br><br>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 w[illegible] the delegation of authority [illegible]esolution 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

P12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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|---|---|
| In the Matter of Temporary Urgency Change Order Regarding Permit 12721 (Application 5626) and 10 other Permits<br><br>U. S. BUREAU OF RECLAMATION,<br><br>Permittee | ORDER: WR 85-10<br><br>SOURCE: Various sources<br><br>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 12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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| In the Matter of Temporary Urgency Change Order Regarding Permit 12721 (Application 5626) and 13 other Permits<br><br>U. S. BUREAU OF RECLAMATION,<br><br>Permittee | ORDER: 85- 8<br><br>SOURCE: Various sources<br><br>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

P12364

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-56626

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

P12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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

ORDER VALIDATING ISSUANCE OF
TEMPORARY URGENCY CHANGE ORDER

BY THE BOARD:

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

Substance of the Proposed Change

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

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

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

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

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

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

Temporary Urgency Need

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

California Environmental Quality Act

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

Action by former Board Vice Chairman Noteware

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

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

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

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

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

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

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

Dated: MAR 15 1985

CERTIFICATION

The undersigned, Executive Director of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on March 15, 1985.

Michael A. Campos
Executive Director

P12364

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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| In the Matter of Temporary Urgency Change Order Regarding Permit 12721 (Application 5626) and 12 Other Permits<br><br>U. S. BUREAU OF RECLAMATION,<br><br>Permittee | ORDER: 83- 17<br><br>SOURCE: Various sources<br><br>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

P12364

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

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

# ORDER

APPLICATION 17376 PERMIT 12364 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 17376, Permit 12364, 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 17376, Permit 12364, so that the point of diversion and points of rediversion are those points described as follows, to wit:

1. THE POINT OF DIRECT DIVERSION AND THE POINT OF DIVERSION TO STORAGE IS AT WHISKEYTOWN DAM, N16° E2760 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.

2. POINTS OF REDIVERSION OF DIRECT AND STORED FLOWS ARE:

   (A) 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.

   (B) 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.

3. THE FOLLOWING ARE POINTS OF REDIVERSION OF STORED WATERS ONLY:

   (A) 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.

   (B) 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.

# ORDER

APPLICATION 17376 PERMIT 12364 LICENSE

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

(D) 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.

(E) 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.

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

(G) DELTA CROSS CHANNEL INTAKE, STATION 1 + 69.2, S4° 17'W, APPROXIMATELY 999 FEET ± FROM NW CORNER OF SWAMP AND OVERFLOW LAND SURVEY 763, T5N, R4E, MDB&M.

(H) 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.

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

(J) 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.

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

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

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

(N) 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 17376, Permit 12364, to a place of use described as follows, to wit:

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

# ORDER

APPLICATION 17376 PERMIT 12364 LICENSE

WITHIN A GROSS AREA OF 10,821,000 ACRES TO BE SERVED BY CLEAR CREEK 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. PERMITTEE SHALL, UPON REQUEST OF THE STATE WATER RIGHTS BOARD, INSTALL SUITABLE MEASURING DEVICES AND SUBMIT APPROPRIATE RECORDS TO THIS BOARD TO SHOW THE AMOUNTS OF NATURAL FLOW AVAILABLE FROM CLEAR CREEK TO OWNERS OF PRIOR DOWNSTREAM RIGHTS.

2. 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.

3. 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



25308 8-60 5M SPC

[For full information concerning the filing 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.** 17376 **Filed** November 28, 1956, **at** 1:14 P.M.
(Applicant must not fill in the above blanks)

# APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER

I, U. S. Bureau of Reclamation
Name of applicant

of P. O. Box 2511 Sacramento County of Sacramento
Address

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

## Source, Amount, Use and Location of Diversion Works

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

located in Shasta County, tributary to Sacramento River

2. The amount of water which applicant desires to appropriate under this application is as follows:

(*a*) For diversion to be directly applied to beneficial use 3600 cubic feet per second, to be diverted from November 1 to April 1 of each season.
1 cubic foot per second equals 40 statute miner's inches or 646,317 gallons per day
Beginning date Closing date

(*b*) For diversion to be stored and later applied to beneficial use 250,000 acre-feet per annum, to be collected between November 1 and April 1 of each season.
1 acre-foot equals 325,851 gallons
Beginning date Closing date

NOTE.—Answer (*a*) or (*b*) or both (*a*) and (*b*) as may be necessary. If amount under (*a*) is less than .025 cubic foot per second, state in gallons per day. Neither the amount nor the season may be increased after application is filed. If underground storage is proposed a special supplemental form will be supplied by the State Water Rights Board upon request.

3. The use to which the water is to be applied is irrigation, domestic, navigation, water quality control and recreational (See Supplement) purposes.
Domestic, irrigation, power, municipal, mining, industrial, recreational

4. The point of diversion is to be located Whiskeytown Dam, N 16° E, 2760 feet from SW corner of Section 27, T32N, R6W, MDB&M., Rediversion at Keswick Dam (See Supplement)
State bearing and distance or coordinate distances from section or quarter section corner

being within the NW¼ of SW¼
State 40-acre subdivision of public land survey or projection thereof

of Section 27, T. 32N, R. 6W, M. D. B. & M., in the County of Shasta
Keswick Dam

5. The main conduit terminates in NW¼ of SW¼ of Sec. 21, T. 32, R. 5W, M. D. 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)

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

(*b*) Diversion will be by gravity, the diverting dam being Whiskeytown Dam, 260 feet in height (stream bed to level of overflow); 2150 feet long on top; and constructed of earth and rockfill
Whiskeytown Dam Concrete, earth, brush, etc.

(*c*) The storage dam will be 260 feet in height (stream bed to overflow level); 2150 feet long on top; have a freeboard of 8' 0" feet, and be constructed of earth and rockfill
Concrete, earth, etc.

7. Storage Reservoir Whiskeytown Reservoir will serve for temporary storage of Trinity River
Name Water, as well as storage for Clear Creek water.

The storage reservoir will flood lands in Sections 4,5,8 and 9, T32N, R5W, Sections 15,16,20,21,28,29, and 32, T32N,R5W, MDB&M.
Indicate section or sections, also 40-acre subdivisions unless shown upon map

It will have a surface area of 3250 acres, and a capacity of 250,000 acre-feet.

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

FORM 1

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8. **Conduit System** (describe main conduits only)
Spring Creek Tunnel 18' 6" dia.

(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 15,400 feet; grade 4.4 feet per 1,000 feet; materials of construction/ Earth, rock, timber, etc. concrete reinforcement. A conduit system, whose type and dimensions will be determined when the area is developed, will serve the Baod Hills area lying south of Whiskeytown Reservoir site. This conduit is in addition to that previously described.

(b) Pipe line: Diameter 15' 6" inches; length 2000 feet; grade _____ feet per 1,000 feet; total fall/lift from intake to outlet _____ feet; kind _____
Riveted steel, concrete, wood-stave, etc.

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

9. **The estimated capacity** of the diversion conduit or pumping plant proposed is 3600 cubic feet per second
State cubic feet per second or gallons per minute

**The estimated cost** of the diversion works proposed is $49,927,000
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 July, 1957.

Construction work will be completed on or before July, 1964.

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

## Description of Proposed Use

11. **Place of Use.** See Supplement
State 40-acre subdivisions of the public land survey. If area is unsurveyed indicate the location as if lines of the public land survey were projected. In the case of irrigation use state the number of acres to be irrigated in each 40-acre tract, if space permits. If space does not permit listing of all 40-acre tracts, describe area in a general way and show detail upon map.

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

Contracts will be negotiated with representatives of owners.
If applicant does not own land whereon use of water will be made, give name and address of owner and state what arrangements have been made with him.

12. **Other Rights.** Describe all rights except those on file with the State Water Rights Board under which water is served to the above named lands.

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

Attach supplement at top of page 3 if necessary.

13. **Irrigation Use.** The area to be irrigated is Any 1,400,000 acres during a single year within the gross service area of 4,031,000 acres.
State net acreage to be irrigated

The segregation of acreage as to crops is as follows: Rice _____ acres; alfalfa _____ acres; orchard _____ acres; general crops _____ acres; pasture _____ acres.

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

The irrigation season will begin about January 1 (Beginning date) and end about December 31 (Closing date)

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

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

The maximum theoretical horsepower capable of being generated by the works is _____ horsepower.
Second feet × fall ÷ 8.8

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

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

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

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

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

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 navigation, domestic, and recreational uses.
Industrial, recreational, domestic, stockwatering, fish culture, etc.

_____

State basis of determination of amount needed. No water except as required for other higher uses.
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? _____
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?

Shasta, California

21. What are the names and addresses of claimants of water from the source of supply below the proposed point of diversion? G. E. Oaks, et al., Redding, California. Diverters from the Saeltzer Dam.

_____

_____

_____

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

Paragraph 6: DIMENSIONS OF DAMS

| Dam | Height (feet)* | Freeboard (feet) | Crest length (feet) | Surface area | Gross capacity (ac.-ft.) | Type |
|---|---|---|---|---|---|---|
| Whiskeytown | 260 | 7.5 | 2,150 | 3,250 | 250,000 | Earth & rockfill |
| Keswick | 118 | 8.5 | 1,046 | 640 | 23,800 | Concrete |

* Height from streambed to maximum storage level.

Paragraph 7: LANDS FLOODED

The surface area and capacities of the two reservoirs are given in the tabulation shown in paragraph 6. The sections within which lands will be flooded by each of the reservoirs are as follows:

(a) Whiskeytown: Sections 4, 5, 6, 7, 8, 9, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27 and 28, T32N, R6W. Sections 1, 2, 3, 11 and 12, T32N, R7W, M.D.B.&M.

(b) Keswick: Sections 4, 5, 8, 9, 16, 17, 20 and 21, T32N, R5W, and Sections 15, 16, 20, 21, 28, 29 and 32, T33N, R5W, M.D.B.&M.

Paragraph 11: PLACE OF USE

Water appropriated will be utilized through powerplants at Spring Creek and Keswick for the production of electrical energy required for domestic, commercial and industrial use within the area served by those systems interlocked with Central Valley Project in Northern California.

Paragraph 14: POWER USE

| Powerplant | Maximum static head (feet) | Maximum flow (c.f.s.) | Maximum theoretically (h.p.) | Point of return |
|---|---|---|---|---|
| Spring Creek | 636* | 3,600 | 260,180 | NW1/4SW1/4 Sec. 21 T32N, R5W, M.D.B.&M. Point of return |
| Keswick | 101 | 13,800 | 158,000 | |

* With full Whiskeytown Reservoir and normal minimum in Keswick Reservoir.



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Center line of units of Tracy Pumping Plant at Canal Station L 133+75 is N 26°54'47" E, 800.63 feet from SW Corner, 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 E 1/4 Corner, Sec. 33, T2N, R3E, M.D.B.&M.

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.



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## SUPPLEMENT TO APPLICATION

### Paragraph 2: AMOUNT OF WATER

A direct diversion of 1,900 c.f.s. will be made from Whiskeytown Reservoir through the powerplant located at Spring Creek. This flow will be rediverted at Keswick Reservoir through the Keswick Powerplant the downstream releases of which, commingled with Sacramento River water, will flow in the course of the Sacramento River. The quantity of water in Keswick Reservoir will vary and such quantities of Clear Creek water are considered as regulatory storage for the purposes of this application.

The 250,000 acre-feet of water diverted at Whiskeytown for temporary storage will be stored at rates equal to the combined rate of flow of all presently unappropriated flows above Whiskeytown Reservoir at those times when the reservoir is not full and reservoir criteria permits storing. Any water temporarily stored and later released in order to provide flood control space in the reservoir will be in addition to the 250,000 acre-feet specified in this application, part or all of which may be used for irrigation, domestic, navigation and recreational purposes under companion applications after its use for power generation. Since Keswick Reservoir is primarily for regulatory and rediversion purposes the quantity of Clear Creek water within the reservoir will vary, but such quantities are considered as regulatory storage and are in addition to the 250,000 acre-feet applied for in this application.

### Paragraph 4: POINT OF DIVERSION AND REDIVERSION

| Diversion point | Bearing and distance from corner | Section corner | Diversion located within |
|---|---|---|---|
| Whiskeytown Dam | N 16° E, 2,760 ft. | SW corner Sec. 27, T32N, R6W, MDB&M | NW1/4SW1/4 Sec. 27 |
| Keswick Dam | S 62°38'15" E, 1,567.15 ft. | W1/4 Cor.Sec.21 T32N, R5W, MDB&M | NW1/4SW1/4 Sec. 21 |

Water stored behind Whiskeytown Dam is released via Spring Creek Tunnel to Keswick Reservoir where it commingles with Sacramento River water and is rediverted through Keswick Powerplant to the course of the Sacramento River below Keswick Dam.

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SUPPLEMENT TO APPLICATION

Paragraph 3: USE:

The primary purpose of this application is to appropriate water for irrigation purposes within the place of use depicted on Map 416-208-341. Return flows resulting from water diverted into the CVP service area under this application, and remaining within the place of use, are intended for reuse to serve the CVP 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 under this application is Whiskeytown Dam. Except that portion reserved for use in the Bald Hills area the diversion will be conveyed via Spring Creek Tunnel to Keswick Reservoir. Commingled with Sacramento River water the Clear Creek diversions will be rediverted at Keswick Dam into the course of the Sacramento River to flow to the intakes of the canals or channels which will utilize the diversions applied for. Such canals are included in the following listing.

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 N, 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 W 1/4 Cr. Sec. 21 T32N, R5W, M.D.B.&M.

Corning and Tehama-Colusa Canal: Intake will be located N 31°15' W, 800' + from E 1/4 Cor. Sec. 33 within SE 1/4 of NE 1/4, Sec. 33, T27N, R3W, M.D.B.&M.

Chico Canal: Intake will be located N 51°20' E, 1,878 feet from W 1/4 Cor. Sec. 1 within SE 1/4 of NW 1/4, 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 W 1/4 Corner, Sec. 29, T1S, R4E, M.D.B.&M.



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APPLICANT MUST NOT FILL IN BLANKS BELOW

# PERMIT No. 12364

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

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 3,600 cubic feet per second by direct diversion to be diverted from about November 1 of each year to about April 1 of the succeeding year and 250,000 acre-feet per annum by storage to be collected from about November 1 of each year to about April 1 of the succeeding year.

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

3. Actual construction work shall begin on or before June 1, 1961, and shall thereafter be prosecuted with reasonable diligence and if not so commenced and prosecuted, the permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1965.

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

6. In accordance with Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees and vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

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

8. 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 interests of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

9. Permittee shall by-pass or release over, around or through Whiskeytown Dam into the natural stream bed of Clear Creek immediately below said dam for the maintenance of fish and wildlife resources such flows as are provided for in Provision 1 of that certain document entitled "Memorandum of Operating Agreement for Streamflow Maintenance for the Protection and Preservation of Fish and Wildlife and the Recreational Resources Attendant Upon Clear Creek as Affected by Whiskeytown Dam and its Related Works and Diversions of Water Under Contract with the United States," dated March 31, 1960, a copy of which is filed with the State Water Rights Board.

10. This permit is subject to "Agreement between the United States and G. E. Oaks" and "Agreement between the United States and the Townsend Flat Water Ditch Company," both dated May 23, 1960, copies of which are filed with the State Water Rights Board.

12364

*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:* JUL 28 1960

STATE WATER RIGHTS BOARD

L. K. Hill

L. K. Hill
Executive Officer

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2-6-80 Name chgd to U.S. Water + Power Resources Service