

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

**DIVISION OF WATER RIGHTS**

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

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

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

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BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

**1.0 SUBSTANCE OF PETITIONS**

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

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

*2013 Water Supply Conditions*

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

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

*Changes Proposed Under the Transfer*

The petitions will further the following list of projects:

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

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

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

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

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

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

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

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

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

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

d. Castaic Lake Water Agency – San Luis Water District

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

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

*Groundwater Banking*

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

*Regulation Program*

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

### *Fall/Winter Supplies Exchange*

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

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

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

f. Kern County Water Agency to Westlands

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

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

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

## **2.0 BACKGROUND**

### **2.1 Existing Place of Use**

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

## **2.2 Place of Use under the Proposed Transfer**

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

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

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

## **3.0 LEGAL REQUIREMENTS FOR TEMPORARY TRANSFERS**

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

## **4.0 PUBLIC NOTICE AND COMMENTS**

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

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

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

#### Reclamation Response:

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

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

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

#### State Water Board Response:

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

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

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

## **5.0 REQUIRED FINDINGS OF FACT**

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

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

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

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

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

## **5.2 No Injury to Other Legal Users of Water**

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

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

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

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

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

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

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

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

## **6.0 STATE WATER BOARD'S DELEGATION OF AUTHORITY**

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

## **7.0 CONCLUSIONS**

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

I conclude that, based on the available evidence:

1. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.
2. The proposed temporary change will not injure any legal user of water.
3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

## ORDER

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

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

1. The transfer/exchanges of water are limited to the period commencing on the date of this Order and continuing for one year.
2. The place of use under DWR Permit 16479 is temporarily expanded to include portions of the CVP service area shown on map titled *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to SWP Authorized Place of Use*, Map 214-202-83.
3. The place of use under Reclamation License 1986 and Permits 11885, 11886, 12721, 11967, 11887, 12722, 12723, 12725, 12726, 12727, 11315, 11316, 11968, 11969, 11970, 12860, 11971, 11972, 11973, and 12364 is temporarily expanded to include portions of the SWP service area as *Petition for Temporary Change to Modify SWP and CVP Places of Use, Areas to be added to CVP Authorized Place of Use*, Map No.214-202-84.
4. Water transferred/exchanged pursuant to this Order shall be limited to 196,000 af as specifically described in item 1.1 (a) through (g) in "Substance of Petitions" above. Although the transfer limits water service as noted herein, the one-for-one repayment of exchanged transfer water is not limited to service areas (a) through (g), but may occur within the more general service areas shown on Maps 214-202-83 and 214-202-84.
5. DWR and Reclamation shall not increase their allocations of water to the transfer/exchange parties beyond the quantities authorized by existing contract for purposes of this transfer/exchange.
6. Diversion of water at the Delta Pumps pursuant to this Order is subject to compliance by the SWP and CVP project operators with the objectives set forth in Tables 1, 2 and 3 on page 181 to 187 of State Water Board's Revised Decision 1641 (D-1641), or any future State Water Board order or decision implementing Bay-Delta water quality objectives at those points of diversion/rediversion, including compliance with the various plans required under D-1641 as prerequisites for the use of the Joint Points of Diversion by DWR and Reclamation. Diversion of water at the Delta Pumps pursuant to this Order is subject to compliance by the pumping plant operators with all applicable biological opinions, court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.
7. Within 90 days of the completion of the transfer; but no later than September 30, 2014, the Petitioners shall provide to the Deputy Director for Water Rights a report describing the transfer authorized by this Order. The report shall include the following information:
  - a. Separate data identifying the monthly and total volumes of water delivered to each of the transfer/exchange parties pursuant to this Order.
  - b. The monthly and total amounts of Delta and delivered water to each of the transfer/exchange parties for the period covered by this transfer. This total shall include SWP and CVP deliveries, other water transfers, and any other amount of Delta water each location received.
  - c. Documentation that the water transferred/exchanged did not result in an increase in water diverted to SWP and CVP facilities from the source waters of DWR's permit and Reclamation's license and permits beyond the quantities that would otherwise have been diverted absent the transfer.

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

The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in this order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.

9. This order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this transfer, the petitioners shall obtain authorization for an incidental take permit prior to construction or operation. Petitioners shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this order.
10. I reserve jurisdiction to supervise the transfer, exchange, and use of water under this order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY  
JAMES W. KASSEL FOR:

*Barbara Evoy, Deputy Director*  
*Division of Water Rights*

Dated: JUL 01 2013

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 12726 (Application 9367)

**of United States Bureau of Reclamation**

**AMENDED ORDER SUPERSEDING AND REPLACING JULY 18, 1994 ORDER  
AMENDING PERMIT 12726 TO CONFORM WITH DECISION 1629**

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

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SOURCE: Rock Slough, Old River

COUNTIES: Contra Costa

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**WHEREAS:**

1. The Permittee is the U.S. Bureau of Reclamation (Reclamation).
2. On July 18, 1994, the State Water Resources Control Board (State Water Board) issued an Order Amending Permit 12726 to Conform with Decision 1629 (1994 Order) regarding the Los Vaqueros Reservoir Project. The order identified the conditions in Decision 1629 that were applicable to Permit 12726.
3. On August 9, 2007, Reclamation filed a petition to add a point of diversion on Victoria Canal.
4. On July 16, 2009, Reclamation filed a petition to add incidental hydroelectric power generation as a purpose of use in connection with Contra Costa Water District's Los Vaqueros Energy Recovery Project.
5. The Division of Water Rights evaluated the 2007 and 2009 petitions and determined the conditions for approval of the two pending petitions in an Order Approving Changes in Point of Diversion and Rediversion and Purpose of Use on 15 water right permits of Reclamation and Permits 20245 and 20249 of Contra Costa Water District (2010 Order on petitions) that will be issued concurrently with this Order. The 2010 Order on petitions modifies some of the terms in the 1994 Order.
6. This order lists the entire group of conditions that are applicable, based on the 1994 and 2010 Orders. This Order supersedes the July 18, 1994 Order.

**NOW, THEREFORE, IT IS ORDERED THAT:**

The July 18, 1994 Order on Permit 12726 is superseded by this Order.

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

- Department of Fish and Game - DFG

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

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

- (a) A point of diversion on Old River tributary to San Joaquin Delta Channels, within NW ¼ of SE ¼ of projected Section 31, T1N, R4E, MDB&M, also described as California Coordinates, NAD 83, Zone 3, North 2,147,455 feet and East 6,250,918 feet.
- (b) A point of diversion on Victoria Canal tributary to Old River thence San Joaquin Delta Channels, within NE ¼ of NW ¼ of Section 9, T1S, R4E, MDB&M. also described as California Coordinates, NAD 83, Zone 3, North 2,139,610 feet and East 6,259,970 feet.

The condition of the permit related to the purpose of use shall be amended based on the 2010 Order to include:

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

(0000003)  
(0000004)

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

3. The water appropriated at the Old River, Rock Slough and Victoria Canal points of diversion shall be limited to the quantity which can be beneficially used and shall not exceed 250 cubic feet per second by direct diversion from January 1 to December 31 of each year, combined. The combined rates of diversion from Rock Slough, Old River and Victoria Canal under Permits 12725, 12726, and 15735 (Applications 9366, 9367, and 22316) shall not exceed 350 cubic feet per second.

(0000005)  
(0000114)

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

4. Permittee shall construct, operate and maintain a fish screen and fish screen cleaning system at the Rock Slough intake of the Contra Costa Canal, satisfactory to DFG, USFWS, and NMFS. The fish screening facility shall be constructed and made fully operational by no later than October 1, 1998. The fish screening 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 shall effectively screen fish longer than 21 millimeters. After March 1997, water shall be diverted under this permit only at the Old River intake between January 1 and August 31 unless other points of diversion authorized under this permit are approved by DFG and USFWS.

(0400500)  
(0450300)  
(0450700)

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

5. Permittee shall maintain a continual record of water diversion utilizing the Rock Slough, Old River and Victoria Canal points of diversion and submit such record to the Division on an annual basis.  
(0090700)
6. Permittee shall maintain a daily record of water diversion utilizing both the Old River and Victoria Canal points of diversion and submit such record to the Division on an annual basis.  
(0090700)
7. No water shall be diverted under this permit until Permittee has installed devices, satisfactory to the State Water Board, which are capable of measuring the flow: (1) directly diverted at Victoria Canal; (2) diverted into the Los Vaqueros Reservoir from Old River and Victoria Canal; and (3) releases through or flowing out of the outlet facilities of Los Vaqueros Reservoir. Said measuring devices shall be properly maintained.  
(0060062)
8. The total combined quantity of water diverted and/or rediverted from Old River and Victoria Canal under Permits 20749, 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 16597, 11968, 11969, 11971, 11973, 12364, 13776, 16600, and 15735, issued pursuant to Applications 20245, 5626, 5628, 9363, 9364, 9366, 9367, 13370, 13371, 14858, 15374, 15375, 16767, 17374, 17376, 18115, 19304 and 22316 shall not exceed 180,675 acre-feet per annum, and also shall not exceed in any one-year period commencing on March 1, the sum of (i) 177,000 acre-feet and (ii) 4,000 acre-feet to replace evaporation losses and (iii) the difference between the quantity of water in storage in Los Vaqueros Reservoir at the end of the period and the quantity of water in storage in Los Vaqueros Reservoir at the beginning of the period from Old River and Victoria Canal combined. If the quantity of water in storage in Los Vaqueros Reservoir at the end of the period is less than the quantity of water in storage in Los Vaqueros Reservoir at the beginning of the period, the change in storage shall be subtracted from the 177,000 acre-feet.

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

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

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

(0000114)

9. The combined rates of diversion and/or rediversion from Old River under Permits 20749, 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 16597, 11968, 11969, 11971, 11973, 12364, 13776, 16600, and 15735 to Reclamation (issued pursuant to Applications 20245, 5626, 5628, 9363,

9364, 9366, 9367, 13370, 13371, 14858A, 15374, 15375, 16767, 17374, 17376, 18115, 19304, and 22316) shall not exceed 250 cubic feet per second.

(0000114)

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

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

(0400500)

(0600999)

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

11. Permittee shall in cooperation with CCWD implement the mitigation monitoring and reporting measures for Bay-Delta fishery resources, Bay-Delta water quality, vegetation resources, wildlife resources, cultural resources, and to comply with the Fish and Wildlife Coordination Act (16 U.S.C. Section 661 et seq.), which are set forth in the Environmental Commitments and Mitigation Monitoring the Reporting Plan for the Los Vaqueros Project Stage 2 Environmental Impact Report/Environmental Impact Statement, dated October 27, 1993. Permittee in cooperation with CCWD shall provide a report to the Deputy Director for Water Rights by April 1 of each year detailing the results of the previous year's monitoring, plans for the current year's monitoring, and the status of implementation of each mitigation measure required by this decision.

(0400500)

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

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

(0400500)

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

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

- (b) During the period from March 15 through May 31 of each year, Permittee shall not divert water from the Old River or Victoria Canal points of diversion to offstream storage in Los Vaqueros Reservoir except when the reservoir storage level is less than 70,000 acre-feet in a below normal, above normal, or wet water-year, or less than 44,000 acre-feet in a dry or critical water-year ("emergency storage levels"). Water-year types will be as defined in the February edition of the DWR Bulletin 120 or the Four Basin Index set forth in the permits and licenses of Reclamation. If reservoir storage is below emergency storage levels, Permittee may fill the reservoir only if:
- 1) Permittee has provided DFG with notification that reservoir storage is expected to be below emergency storage level, and
  - 2) DFG concurs with the proposed diversion and rate of diversion.
- Permittee shall provide the Deputy Director for Water Rights a minimum 15-day notification after obtaining DFG concurrence with the proposed dates and rate of diversion in advance of any diversion. Unless within 15 days the Deputy Director for Water Rights objects to the proposed modification or proposes an alternative, the Permittee may divert at the identified rate of diversion.
- (c) Beginning in the February following the first operation of the Victoria Canal diversion, Permittee shall not divert water from any of its diversions to storage in Los Vaqueros Reservoir for 15 days from February 14 through February 28, provided that reservoir storage is at or above 90,000 acre-feet on February 1. If reservoir storage is at or above 80,000 acre-feet on February 1 but below 90,000 acre-feet, Permittee shall not divert water to storage in Los Vaqueros Reservoir for 10 days from February 19 through February 28. If reservoir storage is at or above 70,000 acre-feet on February 1, but below 80,000 acre-feet, Permittee shall not divert water to storage in Los Vaqueros Reservoir for five days from February 24 through February 28.
- (d) During the period April 1 to April 30, Permittee shall not divert from the Delta for use by CCWD unless Los Vaqueros Reservoir is below emergency storage levels as defined above, and will instead release up to 12,500 acre-feet of water from storage in Los Vaqueros Reservoir to meet demand in the CCWD service area. In those instances where diversions are necessary due to the Reservoir being at or below emergency storage levels, Permittee may divert from the Delta only for direct use by CCWD within the CCWD service area, and no water may be diverted to storage in Los Vaqueros Reservoir.
- (e) The Permittee may submit to DFG, USFWS and NMFS by January 1 of each year, a proposal for modifying the dates of conditions (b), (c), and (d) to better protect threatened or endangered species. DFG may approve modification of the dates for the periods when the reservoir filling is to be avoided and the periods when no diversion shall occur if DFG determines the proposed modification of dates will be more effective in minimizing take of delta smelt and longfin smelt. If no response from DFG is received, conditions (b), (c), and (d) shall apply. Condition (c) is a condition of DFG only. In addition, prior to modifying the dates of conditions (b) and (d), the concurrence of USFWS and NMFS is required. Permittee shall by February 15, or immediately if after February 15, notify the Deputy Director for Water Rights of the time period modifications for that year. Unless within 15 days the Deputy Director for Water Rights objects to the proposed modifications or proposes an alternative, the Permittee shall implement the modifications.

(0560900)  
(0360900)  
(0600500)

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

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

for April and May; the maximum rate of diversion from Victoria Canal shall not exceed 250 cubic feet per second; and the maximum combined rate of diversion from Old River and Victoria Canal shall not exceed 320 cubic feet per second.

(000005J)

15. If DFG, USFWS, or NMFS notifies CCWD that a change in the periods described in conditions 13(b) or 14 is desirable, then Reclamation will cooperate with CCWD to, no later than January 15 of any year, provide the Division with a written request to modify one or more of those conditions. CCWD shall indicate to each agency and the Division whether the change is accepted.

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

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

(0400500)

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

(0400500)

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

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

(0000063)

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

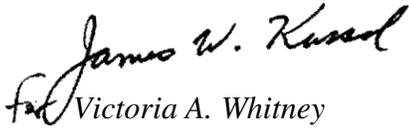
19. Permittee shall comply with the following:

- (a) Diversions at Victoria Canal Intake under Permit 20749 of CCWD and Permits 12721, 11967, 12722, 12723, 12725, 12726, 11315, 11316, 11968, 11969, 11971, 11973, 12364, 13776, and 15735 of Reclamation can be made only when no adverse impact in water levels or water quality resulting from said diversions is detected at West Side Irrigation District (WSID) diversion points.
- (b) The State Water Board reserves jurisdiction over the permits providing for diversions from the new intake at Victoria Canal for such additional time as necessary to determine if use of said point of diversion adversely impacts the water supply or water quality available to WSID. The State Water Board shall, after giving due notice thereof, make any further orders that it finds to be necessary concerning proper use of the point of diversion, and impose conditions providing for additional measurements or studies as it may deem necessary.

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

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

STATE WATER RESOURCES CONTROL BOARD

  
Victoria A. Whitney  
*Deputy Director for Water Rights*

Dated: **AUG 25 2010**

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

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 12726**

Application 9367 of **U. S. Bureau of Reclamation**  
Address

filed on August 2, 1938, has been approved by the State Water Resources Control Board (SWRCB)  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

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

1. Source of water

Source	Tributary to Old River
<b>Rock Slough</b>	thence San Joaquin River

within the County of Contra Costa

2. Location of point of diversion

By California Coordinate System in Zone	40-acre subdivision of public land survey or projection thereof	Projected Section	Township	Range	Base and Meridian
<b>Rock Slough</b>	SE ¼ of NE ¼	33	2N	3E	MD
<b>Old River: Zone 3</b> N 507, 050 and E 1,689,550	NW ¼ of SE ¼	31	1N	4E	MD

*The water appropriated at the Old River and Rock Sloughs*  
1. The amount of water to be appropriated shall be limited to the

*quantity amount* which can be beneficially used and shall not exceed 250 cubic feet per second *by direct diversion* from January 1 to December 31 of each year, *combined. The* ~~to be diverted~~ *provided, the* ~~combined rates of diversion from Rock Slough and Old River under~~ *however, that the total quantity of water to be appropriated under this* permits 12726, 12726, and 15735 *(Applications 9366, 9367, and 22316)* and permit issued pursuant to Application 9366 shall not exceed 350 cubic feet per second.

2. The total amount of water to be appropriated by direct diversion and by storage under permits issued pursuant to Applications 5626, 9363, 9364, 9366, 9367 and 9368 shall not exceed 6,500,000 acre-feet per annum of which not in excess of 3,450,000 acre-feet per annum shall be by direct diversion. The maximum combined rates of direct diversion and redirection of stored water shall not exceed 22,200 cubic feet per second.

3. The amount of water which may be appropriated hereunder may in license be reduced if investigation warrants, and may be reduced at any time prior to license if the reservation contained in Paragraph 11 of this permit is modified or set aside upon judicial review.

4. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use and unreasonable method of diversion of said water.

5. Construction work shall be completed on or before December 1, 1985.

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

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

10504.5(a).

9. In conformity with Water Code Section 10505, this permit shall be subject to any and all rights of any county in which the water sought to be appropriated originates to the extent that any such water may be necessary for the development of such county.

10. Direct diversion of water under this permit for use beyond the Sacramento-San Joaquin Delta\* or outside the watershed of Sacramento River Basin\*\* shall be subject to rights initiated by applications for use within said watershed and Delta regardless of the date of filing said applications.

11. The State Water Rights Board reserves continuing jurisdiction over this permit until March 1, 1964, or such additional time as may be prescribed by the Board, for the purpose of formulating terms and conditions relative to salinity control in the Sacramento-San Joaquin Delta. Permittee shall on or before January 1, 1962, and each six months thereafter submit to the Board a

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\* For the purpose of this permit the Sacramento-San Joaquin Delta shall be that area defined in Water Code Section 12220.

\*\* For the purpose of this permit the Sacramento River Basin shall be that portion of the State encompassed by a line beginning at the Sacramento-San Joaquin Delta at Collinsville thence northeasterly to the crest of the Montezuma Hills; thence northwesterly through the crest of the Vaca Mountains; thence northerly along the crest of Putah, Cache, Stony, Thomas and Cottonwood Creek Basins and along the crest of the Trinity Mountains to Mt. Eddy; thence easterly through Mt. Shasta and along the northern boundary of the Pit River Basin to the crest of the Warner Mountains; thence southerly and westerly along the boundary of the Pit River Basin to Red Cinder Cone Peak; thence easterly along the northern boundary of the Feather River Basin to the crest of the Sierra-Nevada; thence southerly along the crest of the Sierra-Nevada to the southern boundary of the American River Basin; thence westerly along the southern boundary of the American River Basin to the eastern boundary of said Delta; thence northerly, westerly and southerly along the boundary of the Delta to the point of beginning.

written report as to the progress of negotiations relative to agreement between permittee and the State of California and/or the permittee and water users in the Delta and in Northern Contra Costa County.

12. The Board reserves continuing jurisdiction over this permit for an indefinite period not to extend beyond the date of issuance of license for the purpose of coordinating terms and conditions of this permit with terms and conditions which have been or which may be included in permits issued pursuant to other applications of the United States in furtherance of the Central Valley Project and applications of the State of California in furtherance of the State Water Resources Development System.

13. Upon the request of the Board permittee shall make such measurements and maintain and furnish to the Board such records and information as may be necessary to determine compliance with the terms and conditions of this permit, including the recognition of vested rights and for the further purpose of determining the amount of water placed to beneficial use under this permit.

14. This permit is subject to "Agreement Between the United States of America and the Department of Water Resources of the State of California for the Coordinated Operation of the Federal Central Valley Project and the State Feather River and Delta Diversion Projects" dated May 16, 1960, filed of record as Department of Water Resources Exhibit 77 at the hearing of said applications.

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres

The place of use is shown on map on file with the State Water Resources Control Board.

**(1) Permittee shall construct, operate, and maintain a fish screen and fish screen cleaning system at the Rock Slough intake of the Contra Costa Canal, satisfactory to the Department of Fish and Game, United States Fish and Wildlife Service, and National Marine Fisheries Service. The fish screening facility shall be constructed and made fully operational by no later than October 1, 1998. The fish screening 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 shall effectively screen fish longer than 21 millimeters. After March 1997, water shall be diverted under this permit only at the points of diversion authorized under this permit are approved by Department of Fish and Game and United States Fish and Wildlife Service.**

**(2) The permittee shall maintain a continual record of water diversion utilizing the Rock Slough and Old River points of diversion and submit such record to the Division of Water Rights on an annual basis.**

**(3) 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.**

**(4) 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 through the outlet facilities of Los Vaqueros reservoir. Said measuring devices shall be properly maintained.

(5) 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 per 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 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 an 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.

(6) 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.

(7) 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.**

**(8) 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.**

**(9) 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 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.**

**(10) 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 diversion 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.**

**(11) 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.**

**(12) 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 are during this period.

(13) 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) and (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.

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

(15) 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 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.

(15) To avoid construction impacts to Swainson's hawks, surveys shall be conducted weekly beginning the first week of April through May 15 by a biologist acceptable to 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.

(11) 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 Fish 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.

(12) This permit is subject to the conditions set forth in Decision 1485 issued August 16, 1978; Water Right Order 78-17 issued October 13, 1978; and Water Right Order 95-6 issued June 8, 1995.

Application

Permit

**MANDATORY TERMS**

- |  |  |
|--|--|
| <u>6.</u> License Reduction.             | <u>12.</u> Continuing Authority            |
| <u>7.</u> Begin Construction: DELETED    | <u>13.</u> Water Quality Objectives        |
| <u>8.</u> Complete Construction: DELETED | <u>14.</u> Endangered Species Term         |
| <u>10.</u> Progress Reports              | <u>15.</u> Water Diversion and Use Records |
| <u>11.</u> Access to Project             |  |

REMOVE SECTION BREAK (NEXT PAGE) TO FINAL

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

- (A) Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.
- (B) The amount authorized for appropriation may be reduced in the license if investigation warrants.
- (C) Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.
- (D) Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
- (E) 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 SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this 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 SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

**Application****Permit**

(F) 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.

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

***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:**

STATE WATER RESOURCES CONTROL BOARD

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 12726 (Application 9367)  
U.S. Bureau of Reclamation

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

---

SOURCE: Rock Slough  
COUNTY: Contra Costa

---

**WHEREAS:**

1. Permit 12726 was issued to U.S. Bureau of Reclamation on April 12, 1961, pursuant to Application 9367.
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 12726 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 E $\frac{1}{2}$  of Section 12, T14S, R11E, MDB&M.
  - 160 acres within NW $\frac{1}{4}$  of Section 29, T14S, R12E, MDB&M.
3. All other conditions of Permit 12726 are still applicable.

STATE WATER RESOURCES CONTROL BOARD



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

Dated: JUL 29 2002

APPLICATION 9367, PERMIT ~~12720~~

PERMIT AMENDED

SEE WR ORDER 95-6

ISSUED JUNE 8, 1995

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

**ORDER**

Application 9367 Permit 12726 License \_\_\_\_\_

**ORDER AMENDING PERMIT  
TO CONFORM WITH DECISION NO. 1629**

**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.

**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 diversion on Old River tributary to San Joaquin Delta Channels, within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 31, T1N, R4E, MDB&M, also described as California Coordinates, Zone 3, N 507,050 and E 1,689,550.

(000001)  
(000002)

2. Conditions are added to the permit as follows:

- a. Permittee shall construct, operate, and maintain a fish screen and fish screen cleaning system at the Rock Slough intake of the Contra Costa Canal, satisfactory to the Department of Fish and Game, United States Fish and Wildlife Service, and National Marine Fisheries Service. The fish screening facility shall be constructed and made fully operational by no later than October 1, 1998. The fish screening 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 shall effectively screen fish longer than 21 millimeters. After March 1997, water shall be diverted under this permit only at the Old River intake between January 1 and August 31 unless other points of diversion authorized under this permit are approved by Department of Fish and Game and United States Fish and Wildlife Service.

(0400500)  
(0450300)  
(0450700)

- b. The permittee shall maintain a continual record of water diversion utilizing the Rock Slough and Old River points of diversion and submit such record to the Division of Water Rights on an annual basis.

(0090700)

3. Term 1 of Permit 12726 is amended to read:

The water appropriated at the Old River and Rock Slough points of diversion shall be limited to the quantity which can be beneficially used and shall not exceed 250 cubic feet per second by direct diversion from January 1 to December 31 of each year, combined. The combined rates of diversion from Rock Slough and Old River under Permits 12725, 12726, and 15735 (Applications 9366, 9367, and 22316) shall not exceed 350 cubic feet per second.

(0000005)

(0000114)

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 through 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 Fish 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**

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

PERMIT NO. 12726  
APPLICATION NO. 9367

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

P 12/10/84

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

**ORDER**

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

ORDER ALLOWING EXTENSION OF TIME  
TO COMPLY WITH SUISUN MARSH STANDARDS

WHEREAS:

1. Order Condition 7(b) of Decision 1485 requires the permittee to meet specific water quality standards for full protection of the Suisun Marsh by October 1, 1984, as set forth in Table II of the Decision.
2. A petition for an extension of time to comply with the water quality standards for full protection of Suisun Marsh set forth in Order Condition 7(b) and Table II of Decision 1485 was filed by the U. S. Bureau of Reclamation on August 6, 1985.
3. The permittee has proceeded with diligence and good cause has been shown for the extension of time.

NOW THEREFORE, IT IS ORDERED THAT:

1. Order Condition 7(b) of Decision 1485 is superseded in accordance with Order Conditions 2 and 3 below.
2. Permittee shall comply with the water quality standards for full protection of Suisun Marsh set forth in Order Condition 7(a) of Decision 1485 (hereinafter termed standards) in accordance with the following schedule:
  - (a) Permittee shall meet the standards by October 1, 1988 at the following locations:
    - (1) Sacramento River at Collinsville Road in Collinsville (C-2)
    - (2) Montezuma Slough at National Steel (three miles south of Mien's Landing) (S-64)
    - (3) Montezuma Slough near Beldon Landing (0.35 miles east of Grizzly Island Bridge) (S-49)
  - (b) Permittee shall either meet the standards by October 1, 1991 at:
    - (1) Chadbourne Slough at Chadbourne Road (S-21), and
    - (2) Cordelia Slough, 500 feet west of the Southern Pacific crossing at Cygnus (S-33),
 or meet the standards by October 1, 1993 at:
    - (1) Chadbourne Slough at Chadbourne Road (S-21), and
    - (2) Cordelia Slough at Cordelia-Goodyear Ditch (S-97)
  - (c) Permittee shall either meet the standards by October 1, 1991 at Goodyear Slough at the Morrow Island Clubhouse (S-35), or meet the standards by October 1, 1994 at Goodyear Slough, 1.3 miles south of Morrow Island Ditch (S-75)

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

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

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

BENEFICIAL USE PROTECTED and LOCATION	PARAMETER	DESCRIPTION	YEAR TYPE	VALUES	
<b>FISH AND WILDLIFE</b>				Month	EC in mmhos
<ul style="list-style-type: none"> <li>• SUISUN MARSH               <ul style="list-style-type: none"> <li>- To become effective on October 1, 1988 at: Sacramento River at Collinsville Road in Collinsville (C-2)</li> <li>Montezuma Slough at National Steel (3 miles south of Mein's Landing) (S-64)</li> <li>Montezuma Slough near Beldon Landing (0.35 miles east of Grizzly Island Bridge) (S-49)</li> <li>- To become effective either on October 1, 1991 at: Chadbourne Slough at Chadbourne Road (S-21) and Cordelia Slough, 500 feet west of the Southern Pacific crossing at Cygnus (S-33); or on October 1, 1993 at: Chadbourne Slough at Chadbourne Road (S-21) and Cordelia Slough at Cordelia-Goodyear Ditch (S-97)</li> <li>- To become effective either on October 1, 1991 at: Goodyear Slough at the Morrow Island Clubhouse (S-35); or on October 1, 1994 at: Goodyear Slough, 1.3 miles south of Morrow Island Ditch (S-75)</li> <li>- To become effective on October 1, 1997 at: Suisun Slough, 300 feet south of Volanti Slough (S-42), and Water supply intake locations for waterfowl management areas on Van Sickle Island and Chipps Island.</li> </ul> </li> </ul>	Electrical Conductivity (EC)	The monthly average of both daily high tide values not to exceed the values shown (or demonstrate that equiva- lent or better protection will be provided at the location)	All	Oct. 19.0 Nov. 15.5 Dec. 15.5 Jan. 12.5 Feb. 8.0 Mar. 8.0 Apr. 11.0 May 11.0	

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

*Lloyd D. Johnson*  
Lloyd D. Johnson, Interim Chief  
Division of Water Rights

Dated DECEMBER 5 1985

ATTACHMENT A

Permits of the United States Bureau of Reclamation:

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

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Applications 5625, 5626,  
9363, 9364, 9365, 9366, 9367, 9368, 10588,  
and 15764, )

UNITED STATES OF AMERICA,  
BUREAU OF RECLAMATION,

Applicant

SACRAMENTO RIVER AND DELTA WATER  
ASSOCIATION, ET AL.,

Protestants

Sources: Sacramento  
River, Rock Slough,  
Old River, and  
Channels of the  
Sacramento-  
San Joaquin Delta

ADOPTED  
DEC 23 1965

ORDER EXTENDING TIME IN WHICH  
TO FORMULATE TERMS AND CONDITIONS  
RELATIVE TO SALINITY CONTROL  
PURSUANT TO DECISIONS D 990 AND D 1020

Condition No. 25 of the Board's order under Decision D 990, made on February 9, 1961, and condition No. 9 of the Board's order under Decision D 1020, made on June 30, 1961, reserved continuing jurisdiction over permits issued pursuant to Applications 5625, 5626, 9363, 9364, 9365, 9366, 9367, 9368, 10588, and 15764 until March 1, 1964, or such additional time as may be prescribed by the Board, for the purpose of formulating terms and conditions relative to salinity control in the Sacramento-San Joaquin Delta.

The initial period of three years was considered reasonable in order to allow the United States, the State of California, and the water users in the Delta an opportunity to work out their problems by mutual agreement; or, failing to reach agreement, to provide the Board with information upon which to make such further order as may be necessary and proper relating to salinity control in the Delta.

The Board finds that no emergency has arisen in the interim requiring imposition of specific permit terms; that additional time for the parties to resolve their problems would not cause injury to any lawful user of water; and that there has been no material change in project operations which would alter the conditions under which salinity incursion is now controlled.

Upon such findings, the Board concludes that the reservation of continuing jurisdiction should be extended.

IT IS HEREBY ORDERED that the State Water Rights Board reserve continuing jurisdiction over permits issued pursuant to Applications 5625, 5626, 9363, 9364, 9365, 9366, 9367, 9368, 10588, and 15764 until further order of the Board, for the purpose of formulating terms and conditions relative to salinity control in the Sacramento-San Joaquin Delta.

Adopted as the order of the State Water Rights Board at a meeting duly called and held in Sacramento, California, on the \_\_\_\_\_ day of \_\_\_\_\_, 19

/s/ Kent Silverthorne  
Kent Silverthorne, Chairman

/s/ Ralph J. McGill  
Ralph J. McGill, Member

/s/ W. A. Alexander  
W. A. Alexander, Member

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

Application No. 9367 Filed August 2, 1938 at 8:38 A. M.  
(Applicant must not fill in the above blanks)

**APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER**  
 AMENDED APPLICATION RECEIVED 8-14-52

The United States of America, assignee of the above-numbered application for a permit to appropriate the following described unappropriated waters to be used in furtherance of Central Valley Project, California, which project is under the supervision of the United States Bureau of Reclamation, shows:

For the purpose of this application, the post office address of the applicant is United States Bureau of Reclamation, P. O. Box 2511, Sacramento 11, California.

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

1. The source of the proposed appropriation is Rock Slough (see supplement) OVER  
Give name of stream, lake, etc., if named; if unnamed state nature of source and that it is unnamed  
 located in Contra Costa County, tributary to a delta channel of the Sacramento and San Joaquin Rivers.

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 250 (see supplement) \_\_\_\_\_ cubic feet per second, to be diverted from January 1 to December 31 of each year.  
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 None \_\_\_\_\_ acre-feet per annum, to be collected between \_\_\_\_\_ and \_\_\_\_\_ 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 municipal and industrial (see supplement)  
Domestic, irrigation, power, municipal, mining, industrial, recreational  
\_\_\_\_\_ purposes.

4. The point of diversion is to be located Rock Slough N89° 52'W, 8.9 feet from E<sup>1</sup> corner of Section 33, T2N, R3E, MDB&M,  
State bearing and distance or coordinate distances from section or quarter section corner

being within the SE<sup>1</sup> of NE<sup>1</sup>  
State 40-acre subdivision of public land survey or projection thereof  
 of Section 33, T. 2N, R. 3E, M. D. B. & M., in the County of Contra Costa  
Martinez Reservoir

5. The main conduit terminates in NE<sup>1</sup> of NW<sup>1</sup> of Sec. 20, T. 2N, R. 2W, 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 \_\_\_\_\_  
Sump, offset wall, unobstructed channel, etc.

(b) Diversion will be by gravity, the diverting dam being \_\_\_\_\_ feet in height (stream bed to level of overflow); \_\_\_\_\_ feet long on top; and constructed of (No diversion dam)(See supplement)  
Concrete, earth, brush, etc.

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

7. Storage Reservoir No storage - Martinez Reservoir near City of Martinez is a balancing reservoir.  
Name

The storage reservoir will flood lands in \_\_\_\_\_  
Indicate section or sections, also 40-acre subdivisions unless shown upon map

It will have a surface area of \_\_\_\_\_ acres, and a capacity of \_\_\_\_\_ acre-feet.

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

of construction earth-concrete-lined

Earth, rock, timber, etc.

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

1,000 feet; total <sup>fall</sup> 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. (See supplement

9. The estimated capacity of the diversion conduit or pumping plant proposed is 350 c.f.s. to paragraph 6)  
State cubic feet per second or gallons per minute

The estimated cost of the diversion works proposed is \$ 6,675,000  
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 Under construction

Initial Construction work will be completed on or before 1956 and ultimate pump capacity 1980

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

### Description of Proposed Use

11. Place of Use. (See supplement and accompanying map No. 614-212-2)  
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 Jointly? \_\_\_\_\_  
Yes or No Yes or No

Contracts have or 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 <small>(riparian, appropriative, purchased water, etc.)</small>	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 \_\_\_\_\_ acres.  
State net acreage to be irrigated

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

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

The irrigation season will begin about \_\_\_\_\_ and end about \_\_\_\_\_  
Beginning date Closing date

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

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

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

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

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

The size of the nozzle to be used is \_\_\_\_\_ inches.

The water <sup>will</sup> be returned to \_\_\_\_\_ in \_\_\_\_\_ of  
will not Name stream State 40-acre subdivision

Sec. \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_, \_\_\_\_\_ B. & M.

having a present position 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 be polluted by chemicals or otherwise \_\_\_\_\_  
will not Explain nature of pollution, if any

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

Sec. \_\_\_\_\_, T. \_\_\_\_\_, R. \_\_\_\_\_, B. & M.

17. Other Uses. The nature of the use proposed is \_\_\_\_\_ Industrial (see supplement)  
Industrial, recreational, domestic, stockwatering, fish culture, etc.

State basis of determination of amount needed. Estimation based upon studies made of industrial  
needs (see supplement) 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 If not,  
Yes or No state specifically the time required for filing same \_\_\_\_\_

19. Does the applicant own the land at the proposed point of diversion? Yes If not, give name and  
Yes or No address of owner and state what steps have been taken to secure right of access thereto \_\_\_\_\_

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

Oakley, California

21. What are the names and addresses of claimants of water from the source of supply below the proposed point of diversion? Unknown water users in lower delta area of the Sacramento and San Joaquin River

[SIGNATURE OF APPLICANT] /s/ Richard L. Boke  
Regional Director

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

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

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: APR 12 1961

STATE WATER RIGHTS BOARD



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

SUPPLEMENT TO APPLICATION 936.

Paragraph 1. SOURCE OF WATER:

The water applied for in this application will be diverted from Rock Slough, a tidal channel of the Sacramento-San Joaquin Delta. The water will originate in all streams tributary to the Sacramento or San Joaquin Rivers.

Paragraph 2. AMOUNT OF WATER:

The direct diversion of up to 250 c.f.s. applied for herein with the direct diversion of upwards to 200 c.f.s. applied for in Application 9366 for irrigation purposes will supplement the water applied for in Applications 5626, 9364, and 9363, to the extent necessary to provide a total of upwards to 350 c.f.s. for diversion into the Contra Costa Canal, (a unit of the Central Valley Project) for irrigation, municipal, and industrial uses combined. Water applied for under Applications 13370 and 13371 will also at times be diverted through the Contra Costa Canal to supply service under contracts covering areas specified in those applications.

Paragraph 3. USE:

The use of the water applied for under this application for municipal and industrial purposes, will increase with future conversion of agricultural areas into urban areas, as well as with increased use within present industrial and urban areas. The municipal and industrial uses are expected to increase up to a maximum of 250 c.f.s. by the year 1990 as the irrigation use, after an expected increase to a maximum of 200 c.f.s., decreases. The combined use under this application and No. 9366 will not exceed 350 c.f.s.

Paragraph 6. INTAKE OR HEADWORKS:

Water from Rock Slough is diverted at the Canal intake by gravity. There are four pumping plants along the Canal, located at Canal Stations 209+25, 248+90, 308+70, and 372+20. The first three plants each have an initial capacity of 210 c.f.s. with a planned ultimate capacity of 350 c.f.s. The plant at Station 372+20 has an initial capacity of 190 c.f.s. and a planned ultimate capacity estimated at 330 c.f.s.

ESTIMATED GROWTH OF POPULATION AND WATER USE

Year	Estimated Contra Costa County population	Estimated population served from Contra Costa Canal	Maximum monthly mean diversion requirements of Contra Costa Canal					
			Municipal			Combined municipal & industrial(a)		
			Non-military & non-industrial	Military	Industrial	Non-military & non-industrial	Military & Industrial	
			M.g.d.	C.f.s.	C.f.s.	C.f.s.	C.f.s.	C.f.s.
1950	299,000(b)	40,000	9	14	0	45	55	
1955	340,000	65,000	14	22	5	68	89	
1960	380,000	85,000	20	31	10	90	123	
1965	430,000	109,000	24	38	10	107	145	
1970	480,000	129,000	28	43	10	123	165	
1975	530,000	151,000	33	51	10	138	187	
1980	580,000	172,000	38	59	10	153	209	
1985	625,000	195,000	43	67	10	167	229	
1990	670,000	220,000	48	75	10	180	250	

(a) Estimated maximum combined use is less than total of maximum municipal, military and industrial uses because maximums of separate uses are expected to occur in different months.

(b) U.S. Census of April 1, 1950.

The principal towns within the service area, along with their 1950 population (1950 U.S. Census) are as follows:

Antioch	11,051	Crockett	3,400
Pittsburg	12,763		
Martinez	8,268	Shell Point	4,674
Concord	6,953	Port Chicago	3,000
Walnut Creek	2,420		

Paragraph 11. PLACE OF USE:

The water applied for under this application will be used within the boundaries of the potential service area delineated on map No. 614-212-2, accompanying this application.

The water will be used within the service areas of municipalities, districts, water companies, corporations, and other legal entities, either as a primary or supplemental supply, provided that the delivery of the water is conditioned upon the execution of valid contracts, for such deliveries, with the United States of America, or other authorization which may be made or given by authority of and pursuant to law.

Paragraphs 15 and 17. MUNICIPAL AND INDUSTRIAL USE:

Water demands for municipal and industrial uses will be supplied as required to cities, towns, and other municipalities presently in existence, or as may be created within the place of use. Some municipalities are or will be adequately served with water by appropriations under lawful rights acquired and used independently of the United States. Other municipalities are or will be partially so served, but will require a supplemental water supply which will be furnished through rights acquired by the United States.

The estimates of water requirements for municipal and industrial uses within the service area were based on estimates of the acreage of the land within the area that would probably be devoted to municipal or industrial useage and the expected use on military reservations. Based on present industrial useage within the area, a maximum monthly mean rate of diversion of approximately 180 c.f.s. was estimated to be required for industrial uses by 1990. The municipal useage was estimated by applying a population density of 15 persons per acre to the acreage of suitable land, allowing a maximum monthly mean non-industrial diversion of 220 gallons per person per day, and then adding the use expected at military establishments. By this method, it was estimated that the mean gross diversion for municipal use during the maximum month would be 85 c.f.s. The use of the diversion figures were checked for reasonableness by comparison of the estimated population growth of Contra Costa County with the population estimated to be served within the service area. The estimated population growth of Contra Costa County along with the estimated portion of the growth to be served under this application are tabulated below, along with the maximum mean monthly diversions expected for municipal, military, and industrial uses:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 250 cubic feet per second to be diverted from January 1 to December 31 of each year provided, however, that the total quantity of water to be appropriated under this permit and permit issued pursuant to Application 9366 shall not exceed 350 cubic feet per second.

2. The total amount of water to be appropriated by direct diversion and by storage under permits issued pursuant to Applications 5626, 9363, 9364, 9366, 9367 and 9368 shall not exceed 6,500,000 acre-feet per annum of which not in excess of 3,450,000 acre-feet per annum shall be by direct diversion. The maximum combined rates of direct diversion and rediversion of stored water shall not exceed 22,200 cubic feet per second.

3. The amount of water which may be appropriated hereunder may in license be reduced if investigation warrants, and may be reduced at any time prior to license if the reservation contained in Paragraph 11 of this permit is modified or set aside upon judicial review.

4. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use and unreasonable method of diversion of said water.

5. Construction work shall be completed on or before December 1, 1985.

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

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

8. This permit is subject to compliance with Water Code Section 10504.5(a).

9. In conformity with Water Code Section 10505, this permit shall be subject to any and all rights of any county in which the water sought to be appropriated originates to the extent that any such water may be necessary for the development of such county.

10. Direct diversion of water under this permit for use beyond the Sacramento-San Joaquin Delta\* or outside the watershed of Sacramento River Basin\*\* shall be subject to rights initiated by applications for use within said watershed and Delta regardless of the date of filing said applications.

11. The State Water Rights Board reserves continuing jurisdiction over this permit until March 1, 1964, or such additional time as may be prescribed by the Board, for the purpose of formulating terms and conditions relative to salinity control in the Sacramento-San Joaquin Delta. Permittee shall on or before January 1, 1962, and each six months thereafter submit to the Board a

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\* For the purpose of this permit the Sacramento-San Joaquin Delta shall be that area defined in Water Code Section 12220.

\*\* For the purpose of this permit the Sacramento River Basin shall be that portion of the State encompassed by a line beginning at the Sacramento-San Joaquin Delta at Collinsville thence northeasterly to the crest of the Montezuma Hills; thence northwesterly through the crest of the Vaca Mountains; thence northerly along the crest of Putah, Cache, Stony, Thomes and Cottonwood Creek Basins and along the crest of the Trinity Mountains to Mt. Eddy; thence easterly through Mt. Shasta and along the northern boundary of the Pit River Basin to the crest of the Warner Mountains; thence southerly and westerly along the boundary of the Pit River Basin to Red Cinder Cone Peak; thence easterly along the northern boundary of the Feather River Basin to the crest of the Sierra-Nevada; thence southerly along the crest of the Sierra-Nevada to the southern boundary of the American River Basin; thence westerly along the southern boundary of the American River Basin to the eastern boundary of said Delta; thence northerly, westerly and southerly along the boundary of the Delta to the point of beginning.

written report as to the progress of negotiations relative to agreement between permittee and the State of California and/or the permittee and water users in the Delta and in Northern Contra Costa County.

12. The Board reserves continuing jurisdiction over this permit for an indefinite period not to extend beyond the date of issuance of license for the purpose of coordinating terms and conditions of this permit with terms and conditions which have been or which may be included in permits issued pursuant to other applications of the United States in furtherance of the Central Valley Project and applications of the State of California in furtherance of the State Water Resources Development System.

13. Upon the request of the Board permittee shall make such measurements and maintain and furnish to the Board such records and information as may be necessary to determine compliance with the terms and conditions of this permit, including the recognition of vested rights and for the further purpose of determining the amount of water placed to beneficial use under this permit.

14. This permit is subject to "Agreement Between the United States of America and the Department of Water Resources of the State of California for the Coordinated Operation of the Federal Central Valley Project and the State Feather River and Delta Diversion Projects" dated May 16, 1960, filed of record as Department of Water Resources Exhibit 77 at the hearing of said applications.