



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

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

APPLICATION 5648F

PERMIT 16338

Right Holder: Calaveras Public Utility District
P.O. Box 666
San Andreas, CA 95249

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein **SUBJECT TO PRIOR RIGHTS**. The priority of this right dates from **July 30, 1927**. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. This right supercedes any previously issued right on **Application 5648F**.

The Deputy Director for Water Rights finds that: (a) due diligence has been exercised; (b) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided; and (c) satisfactory progress will be made if an extension is granted; and (d) the State Water Resources Control Board (State Water Board) has made the required findings pursuant to the California Environmental Quality Act (CEQA) or the project is exempt from CEQA.

The State Water Board has complied with its independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)

Right holder is hereby granted a right to divert and use water as follows:

1. Source of water: **(1) Middle Fork Mokelumne River and (2) South Fork Mokelumne River**

tributary to: **(1) Mokelumne River, and (2) Middle Fork Mokelumne River**

within the County of **Calaveras**

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
(1) North 2,327,500 feet and East 6,573,869 feet	NE ¼ of SW ¼	8	6N	14E	MD
(2) North 2,319,000 feet and East 6,559,069 feet	SE ¼ of NE ¼	23	6N	13E	MD

Location of point of redirection

By California Coordinate System of 1983 in Zone3	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Jeff Davis Reservoir: North 2,315,388 feet and East 6,559,236 feet	NW ¼ of SW ¼	27	6N	13E	MD

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Municipal, Domestic and Industrial	Within the Present and Potential General Service Areas of Calaveras Public Utility District		4N, 5N, 6N	11E, 12E, 13E	MD	
Incidental Power	1) NW ¼ of NW ¼	36	6N	12E	MD	
	2) NE ¼ of NE ¼	4	5N	12E	MD	
	3) NE ¼ of NE ¼	24	5N	11E	MD	

The place of use is shown on map #1 filed August 24, 1970 with the State Water Board, and on petition map filed October 26, 1977.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **2,130 acre-feet per year** by storage to be collected from January 1 to December 31 of each year. (000005C)
6. The maximum rate of diversion to offstream storage shall not exceed **15 cubic feet per second**. (000005J)
7. The safe yield developed under this permit, together with all other prior rights of permittee, shall not exceed 6,656 acre-feet per year and shall be a part of the 27,000 acre-feet per annum reserved for use in Calaveras County pursuant to the release from priority of Applications 5647 and 5648 by the State Water Board to East Bay Municipal Utility District dated March 5, 1959, and as set forth in the agreements between Calaveras Public Utility District and East Bay Municipal Utility District dated May 8, 1940 and January 13, 1970. (0430300)
8. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2030. (0000009)
9. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation, which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050A)

10. Before making any change in the project determined by the State Water Board to be substantial, permittee shall submit such change to the Board for its approval in compliance with Water Code Section 10504.5(a).

(0000119)

 11. Permittee shall install measuring devices and report annually to the State Water Board the following:
 - A. Daily mean measurements of amounts diverted from the Middle Fork Mokelumne River.
 - B. Daily mean measurements of amounts diverted from the South Fork Mokelumne River.
 - C. Daily measurements of the contents of Jeff Davis Reservoir.

(0050300)

 12. For the maintenance of fish life, permittee shall provide immediately below the proposed point of diversion on the South Fork of the Mokelumne River, which is immediately below the confluence of the Licking Fork Mokelumne River with the South Fork Mokelumne River, a flow of five cubic feet per second or the natural flow at that point on the South Fork Mokelumne River, whichever is less. During dry years, the flow to be provided immediately below the permittee's proposed point of diversion may be reduced by the permittee to three cubic feet per second or the natural flow, whichever is less. A dry year is hereby defined as one in which the April 1st forecast of runoff made by Department of Water Resources, or such other forecast as this Board may select, indicates the surface flow in the coming year will be fifty percent of normal runoff or less. The provisions of this permit term shall be subject to the continuing jurisdiction of the State Water Board, and the magnitude of these flows will be reconsidered by the Board in twenty years unless it is requested to reconsider this matter before that time by either the permittee or the Department of Fish and Wildlife (DFW).

The provisions of this permit term are based upon a bilateral agreement between permittee and DFW and shall not be construed as a finding by the State Water Board that the amount of water named herein is either adequate or required for the maintenance of fish life.

(0430400)
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THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Once the time to develop beneficial use of water ends under this permit, right holder is not authorized to increase diversions prior to submitting a time extension petition and obtaining approval of the State Water Board. (0000019)
- E. Only the amount of water applied to beneficial use during the authorized diversion season, as determined by the State Water Board, shall be considered when issuing a license. (Wat. Code, § 1610.) (0000006)
- F. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605. (0000015)
- G. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
 - 1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;

2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(0000011)

- J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

- K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(0000025)

- L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(0000212)

- M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

- N. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An "urban water supplier" means a supplier, either publicly or privately owned, providing water

for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An "agricultural water supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

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

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder 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 right and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

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

(0000012)

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

(0000013)

- Q. This right does not authorize any act which results in the taking of a candidate, 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 & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

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

STATE WATER RESOURCES CONTROL BOARD

James W. Karsel
for Barbara Evoy, Deputy Director
Division of Water Rights

Dated: **MAY 01 2013**