

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

DIVISION OF WATER RIGHTS

AMENDED PERMIT FOR DIVERSION AND USE OF WATER

APPLICATION 27651

PERMIT 19312

of:

Kenneth Wilson
771 Donald Drive
Hollister, CA 95023

The Deputy Director for Water Rights finds that: (a) the change will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; (c) the petition does not constitute the initiation of a new right; 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 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; (c) satisfactory progress will be made if an extension is granted; and (d) the requirements of the California Environmental Quality Act (CEQA) have been met or the project is exempt from CEQA.

Additionally, 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.)

The amended permit is being issued in accordance with the redelegations of authority (Resolution No. 2012-0029.) Therefore, an amended permit on **Application 27651** filed on **February 10, 1983** has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this amended permit.

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

1. Source of water

Source:

Canyon Creek

Tributary to:

Middle Fork American River

within the County of El Dorado

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 2,106,185 feet and East 6,877,510 feet	SW¹/₄ of SW¹/₄	29	13N	10E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Hydroelectric Power	NW ¼ of NE ¼	30	13N	10E	MD	

The place of use is shown on map filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **11.6 cubic feet per second** to be diverted from **January 1 to December 31** of each year. The quantity of water to be taken from the source shall not exceed **8,398 acre-feet** per water year of October 1 to September 30. (0000005)
6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2022. (0000009)
7. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion. (0000022)
8. The equivalent of the continuous flow allowance for any 14-day period may be diverted in a shorter time, provided there be no interference with other rights and instream beneficial uses; and provided further that all terms or conditions protecting instream beneficial uses be observed. (0000027)
9. For the protection of fish and wildlife, permittee shall during the period:
 - (a) February 15 through May 31 bypass a minimum of 15 cubic feet per second or the natural flow, whichever is less;
 - (b) from June 1 through September 30 bypass a minimum of 10 cubic feet per second or the natural flow, whichever is less; and
 - (c) October 1 through February 14 bypass a minimum of 4 cubic feet per second or the natural flow, whichever is less. (0140060)
10. Permittee shall, prior to construction, file a Report of Waste Discharge pursuant to Water Code section 13260 with the California Regional Water Quality Control Board, Central Valley Region (Regional Board), and shall comply with all Waste Discharge Requirements issued by the Regional Board. If the Regional Board waives issuance of Waste Discharge Requirements, permittee shall comply with Parts I and II of the "Guidelines for Protection of Water Quality During Construction and Operation of Small Hydro Projects" (Guidelines) as contained in the Water Quality Control Plans of the Central Valley Basin.

Specific requirements set forth in this permit shall prevail over any specific or general requirements in the referenced Guidelines in the event of conflict. When complying with the Guidelines, pursuant to this condition, permittee shall not commence construction until the Erosion Control Plan and any baseline data required by the Guidelines have been submitted to and approved in writing by the Regional Board; and before commencing sluicing operations, permittee shall submit and receive written approval from the Regional Board of the Sluicing Operation Plan.

(0000102)

11. Water diverted under this permit is for nonconsumptive uses and is to be released to Canyon Creek within NW¼ of NE¼ of Section 30, T13N, R10E, MDB&M. (0000111)
12. Permittee shall bypass sufficient water, up to the entire natural flow, to prevent the water temperature in Canyon Creek from exceeding 20° C as measured 100 feet upstream from the tailrace of the powerhouse. (0140400)
13. The diversion structure shall be constructed in such a manner that the required bypass flows are automatically and continuously released. (0140400)
14. All streamflow releases shall be monitored by a continuous recording stream gage located immediately downstream from the point of diversion. Said recording gage shall be properly maintained by the permittee. The daily record of maximum and minimum flows shall be provided to the Department of Fish and Game {DFG} by December 31 of each year for the preceding October 1 to September 30 water year. (0060500)
15. To prevent fish stranding, increases in the amount of water diverted shall be gradual and at a rate not to exceed 30 percent of the total streamflow per hour. (0140400)
16. Permittee shall install and maintain devices, satisfactory to the State Water Board, which are capable of measuring the temperatures required by this permit. (0400500)
17. Permittee shall install and properly maintain a fish screen, acceptable to DFG, on the diversion structure. (0400500)
18. To minimize fire danger during project construction, permittee shall require the contractor to coordinate all activities with the California Department of Forestry. (0400500)
19. Permittee shall, by a method acceptable to the Central Valley Regional Water Quality Control Board and DFG, remove sand and sediment from the pool immediately upstream from the diversion structure on Canyon Creek to a site acceptable to the aforementioned agencies. All accumulated materials greater than or equal to one-half inch in greatest dimension shall be returned in an approved manner to Canyon Creek downstream from the diversion structure, or permittee may design his diversion structure to be self-cleaning in order to pass all material as it is being moved downstream during high flows. (0400500)
20. Transmission lines shall be designed and constructed in such a way that they are not a hazard to raptors. (0400500)
21. All areas denuded by project construction shall be reseeded with native plant species valuable to wildlife. Denuded slopes shall be covered with a protective mulch or other protective reseeding technique as soon as practicable following active work at a specific site, but before October 15. Slope protection shall be repeated as often as necessary to ensure erosion prevention. (0400500)

THIS PERMIT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. 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 State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water 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 the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee 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)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or candidate 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 water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the state and federal Endangered Species Acts for the project authorized under this permit. (0000014)
- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605. (0000015)
- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between DFG and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by DFG. (0000063)

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).

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: DEC 05 2012

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

ORDER

APPLICATION 27651 PERMIT 19312 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 19312 was issued to Steve W. Ricketts on August 30, 1984 pursuant to Application 27651.
2. Permit 19312 was subsequently assigned to Eagle Hydro Partners.
3. A petition for an extension of time has been filed with the State Water Resources Control Board (Board).
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
5. Permit Condition 12 regarding the Board's continuing authority should be updated to conform to Title 23, CCR Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2003

(0000009)

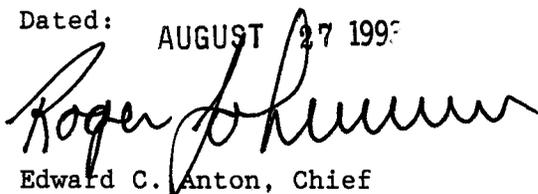
2. Condition 12 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (000012)

Dated: AUGUST 27 1995



for Edward C. Anton, Chief
Division of Water Rights

P19312

10-29-85 Org to Eagle Hydro, a Calif Partnership

12-30-85 Name chge to Eagle Hydro Partners

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

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19312

Application 27651 of Steve W. Ricketts *(over)*
6375 Auburn Boulevard, Citrus Heights, California 95610

filed on February 10, 1983, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

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

1. Source:	Tributary to:
<u>Canyon Creek</u>	<u>Middle Fork American River</u>

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 200 feet and East 1,200 feet from SW corner of Section 29	SW ¹ / ₄ of SW ¹ / ₄	29	13N	10E	MD

County of El Dorado

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Power	NW ¹ / ₄ of NE ¹ / ₄	30	13N	10E	MD	

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 11.6 cubic feet per second to be diverted from January 1 to December 31 of each year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
8. Construction work shall be completed by December 1, 1987. (0000008)
9. Complete application of the water to the authorized use shall be made by December 1, 1990. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
12. Pursuant to California Water Code Sections 100 and 275, and the public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (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) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution. (0000012)
13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)
14. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion. (0000022)

15. The equivalent of the continuous flow allowance for any 14-day period may be diverted in a shorter time, provided there be no interference with other rights and instream beneficial uses; and provided further that all terms or conditions protecting instream beneficial uses be observed. (0000027)

16. For the protection of fish and wildlife, permittee shall during the period: (A) from February 15 through May 15 bypass a minimum of 15 cubic feet per second, (B) from June 1 through February 14 bypass a minimum of 10 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount. (0140060)

17. 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 or the powerhouse tailrace and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the 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 permittee. (0000063)

18. Permittee shall, prior to construction, file a Report of Waste Discharge pursuant to Water Code Section 13260 with the California Regional Water Quality Control Board, Central Valley Region, (Regional Board) and shall comply with all Waste Discharge Requirements issued by the Regional Board. If the Regional Board waives issuance of Waste Discharge Requirements, the permittee shall comply with Parts I and II of the "Guidelines for Protection of Water Quality During Construction and Operation of Small Hydro Projects" (Guidelines) as contained in the Water Quality Control Plans of the Central Valley Basin.

Specific requirements set forth in the permit shall prevail over any specific or general requirements in the referenced Guidelines in the event of conflict.

When complying with the Guidelines, pursuant to this condition, the permittee shall not commence construction until the Erosion Control Plan and any baseline data required by the Guidelines have been submitted to and approved in writing by the Regional Board; and before commencing sluicing operations, the permittee shall submit and receive written approval from the Regional Board of the Sluicing Operation Plan. (0000102)

19. Water diverted under this permit is for nonconsumptive uses and is to be released to Canyon Creek within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 30, T13N, R10E, MDB&M (0000111)

20. Permittee shall bypass sufficient water, up to the entire natural flow, to prevent the water temperature in Canyon Creek from exceeding 20°C as measured 100 feet upstream from the tailrace of the powerhouse. (0140400)

21. The diversion structure shall be constructed in such a manner that the required bypass flows are automatically and continuously released. (0140400)

22. All streamflow releases shall be monitored by a continuous recording stream gage located immediately downstream from the point of diversion. Said recording gage shall be properly maintained by the permittee. The daily record of maximum and minimum flows shall be provided to the Department of Fish and Game annually by December 31 of each year for the preceding October 1 to September 30 water year. (0060500)

23. To prevent fish stranding, increases in the amount of water diverted shall be gradual and at a rate not to exceed 30 percent of the total streamflow per hour. (0140400)

24. Permittee shall install and maintain devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the temperatures required by this permit. (0400500)

25. Permittee shall install and properly maintain a fish screen, acceptable to the Department of Fish and Game, on the diversion structure. (0400500)

26. To minimize fire danger during project construction, permittee shall require the contractor to coordinate all activities with the California Department of Forestry. (0400500)

Application 27651

Permit

27. Permittee shall, by a method acceptable to the Central Valley Regional Water Quality Control Board and the Department of Fish and Game, remove sand and sediment from the pool immediately upstream from the diversion structure on Canyon Creek to a site acceptable to the aforementioned agencies. All accumulated materials greater than or equal to one-half inch in greatest dimension shall be returned in an approved manner to Canyon Creek downstream from the diversion structure, or permittee may design his diversion structure to be self-cleaning in order to pass all material as it is being moved downstream during high flows. (0400500)

28. Transmission lines shall be designed and constructed in such a way that they are not a hazard to raptors. (0400500)

29. All areas denuded by project construction shall be reseeded with native plant species valuable to wildlife. Denuded slopes shall be covered with a protective mulch or other protective reseeded technique as soon as practicable following active work at a specific site, but before October 15. Slope protection shall be repeated as often as necessary to ensure erosion prevention. (0400500)

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).

AUGUST 30 1984

Dated:

STATE WATER RESOURCES CONTROL BOARD

L. D. Johnson
for Chief, Division of Water Rights