

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

DIVISION OF WATER RIGHTS

In the Matter of Permits 19229, 20068, and 20069
(Applications 27491, 28034, and 28035)

William P. Klein, Jr.

ORDER REVOKING WATER RIGHTS

SOURCES: Unnamed Stream and Unnamed Spring

COUNTY: Placer

WHEREAS:

1. William P. Klein, Jr. (Permittee) is the water right holder or authorized agent for the holder of water right Permits 19229, 20068, and 20069 (Applications 27491, 28034, and 28035).
2. On March 12, 2012, the Permittee requested that the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), revoke Permits 19229, 20068, and 20069.
3. The Division interprets the Permittee's request for revocation as a waiver of the notice and hearing requirements set forth in Water Code sections 1410 and 1410.1.

THEREFORE, IT IS ORDERED THAT PERMITS 19229, 20068, AND 20069 ARE HEREBY REVOKED, AND THE WATER IS DECLARED TO BE SUBJECT TO APPROPRIATION.

This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

It is Permittee's responsibility to remove or modify diversion works and impoundments to ensure that water subject to this revocation is not diverted and used. Permittee is hereby put on notice that unauthorized diversion and use of water is considered a trespass and subject to enforcement action under Water Code sections 1052 and 1831. Pursuant to Water Code section 1052, any diversion of water from the point of diversion(s) identified in this permit may be subject to Administrative Civil Liability of up to \$500 per day without further notice. The State Water Board also may issue a Cease and Desist Order in response to an unauthorized diversion or threatened unauthorized diversion pursuant to Water Code section 1831.

Before initiating any work in a stream channel, Permittee should consult with the Department of Fish and Game and the Regional Water Quality Control Board to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. Permittee must also consult with the Department of Water Resources, Division of Safety of Dams, if a jurisdictional size dam will be removed or breached (dam height 25 feet or more, or reservoir volume 50 acre-feet or more). These agencies may require a permit or other approval prior to any construction activity.

Permittee shall document any diversions made under claim of right independent of a permit, license, registration or certification issued by the State Water Board, such as diversions under riparian or pre-1914 rights. With limited exceptions, Water Code section 5101 requires that a Statement of Water Diversion and Use be filed for these diversions. Water Code section 5107 (c)(1) provides that the State Water Board may impose a civil liability of \$1,000, plus \$500 per day for each additional day on which the violation continues if the person fails to file a statement within 30 days after the board has called the violation to the attention of that person. These penalties are in addition to any penalties that may be imposed if the diverter does not hold a valid right or diverts in excess of what is authorized under that right.

STATE WATER RESOURCES CONTROL BOARD



FOR Barbara Evoy, Deputy Director
Division of Water Rights

Dated: **MAY 15 2012**

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 1 cubic foot per second to be diverted from November 1 of each year to June 30 of the succeeding year. The maximum amount diverted under this permit shall not exceed 200 acre-feet per 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 31, 1990. (0000008)
9. Complete application of the water to the authorized use shall be made by December 31, 1991. (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 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

- 14. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion or the pipeline right-of-way. (0000022)
- 15. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)
- 16. This permit is subject to prior rights. Permittee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing. (0000090)
- 17. For the protection of fish and wildlife, permittee shall at all times bypass, at the point of diversion, a minimum of 50 percent of the flow from the unnamed spring. (0140400)
- 18. Permittee may install diversion works for a nonmechanized mining operation from naturally available materials. Such diversion works shall automatically bypass the flows required by this permit. Whenever a mechanized mining operation is conducted, permittee shall install a concrete or steel diversion structure which meets the approval of the State Water Resources Control Board and which automatically bypasses the flows required by this permit. The diversion works shall be properly maintained by the permittee. (0360400)
- 19. Permittee shall provide access to the pool formed by the diversion structure for use by wildlife. (0030500)
- 20. Diversion of water under this permit is not authorized whenever there is insufficient water to meet the needs of Placer County Water Agency under Permits 13856 and 13858 (Applications 18085 and 18087). (0350800)