

P20301

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary
Permit 20301 (Application 29414)
of

U. S. BUREAU OF RECLAMATION
Permittee,

ORDER: WR 89-2

SOURCE: Thomes Creek

COUNTY: Tehama

FINDINGS AND ORDER VALIDATING
TEMPORARY PERMIT

The U. S. Bureau of Reclamation, having filed Application 29414 for a conditional temporary urgency permit to divert and use water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board), having consulted with the California Department of Fish and Game; Board Chairman W. Don Maughan, having reviewed available information and authorized issuance of a temporary permit; a temporary permit having been issued on February 21, 1989; the Board finds as follows:

SUBSTANCE OF THE APPLICATION

1. The U. S. Bureau of Reclamation (Bureau) filed Application 29414 for a temporary permit from the Board to divert 30 cubic feet per second, not to exceed 2,678 acre-feet, for the period from February 15, 1989 to March 31, 1989 from Thomes Creek into the Tehama-Colusa Canal. This water will replace diversions ordinarily made from the Sacramento River into the

Tehama-Colusa Canal at the Red Bluff Diversion Dam, thereby aiding salmon migration in the Sacramento River at the Red Bluff Diversion Dam.

2. Water from the Tehama-Colusa Canal is used for irrigation of 20,000 acres of orchard and 4,000 acres of tomatoes, all within the boundaries of the Bureau's Tehama-Colusa Canal Service Area.

TEMPORARY URGENCY NEED OF APPLICANT TO DIVERT AND USE WATER

3. To provide for the passage of salmon during winter months, the Bureau normally operates the Red Bluff Diversion Dam with its gates completely open. The gates, however, must be closed periodically to allow diversion of water into the Tehama-Colusa Canal in order to meet minimal demands during this time of the year.
4. The diversion of water from Thomes Creek into the Tehama-Colusa Canal under the temporary permit will allow the gates at Red Bluff Diversion Dam to remain open for longer periods of time, thus enhancing salmon migration.
5. Because of low flow conditions this year, the California Department of Fish and Game, the U. S. Fish and Wildlife Service, and the National Marine Fisheries Service have requested the Bureau to assist salmon migration in the Sacramento River at the Red Bluff Diversion Dam.

6. Based on the above information, the Board concludes that the applicant has an urgent need to divert and use water as authorized by Temporary Permit 20301.

EFFECT OF THE DIVERSION ON ANY LAWFUL USER OF WATER

7. Application 29414 was noticed on February 24, 1989 as required by the Water Code. Notice was published in a local newspaper and sent to interested parties known to the Board. There are no known downstream diverters from Thomas Creek between the point of temporary diversion at the Tehama-Colusa Canal and the Sacramento River. No objections were received.

EFFECTS OF THE DIVERSION ON FISH, WILDLIFE, AND OTHER INSTREAM USES

8. Board staff consulted with California Department of Fish and Game representatives, who stated the temporary diversion of water would not unreasonably affect fish, wildlife, or other instream beneficial uses. The basic intent of the temporary diversion is to enhance fish migration in the Sacramento River.

FINDINGS CONCERNING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

9. This order authorizes an activity to ensure the maintenance of a natural resource, and this authorization includes procedures for protection of the

environment. Consequently, the project is exempt from the provisions of the California Environmental Quality Act under Section 15307 of the California Code of Regulations, Title 14 (Categorical Exemption Class 7). A Notice of Exemption was filed on February 21, 1989.

PUBLIC INTEREST

10. The Board concludes that diversion and use of water under Temporary Permit 20301 is in the public interest and in accordance with the constitutional policy that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

ISSUANCE OF TEMPORARY PERMIT

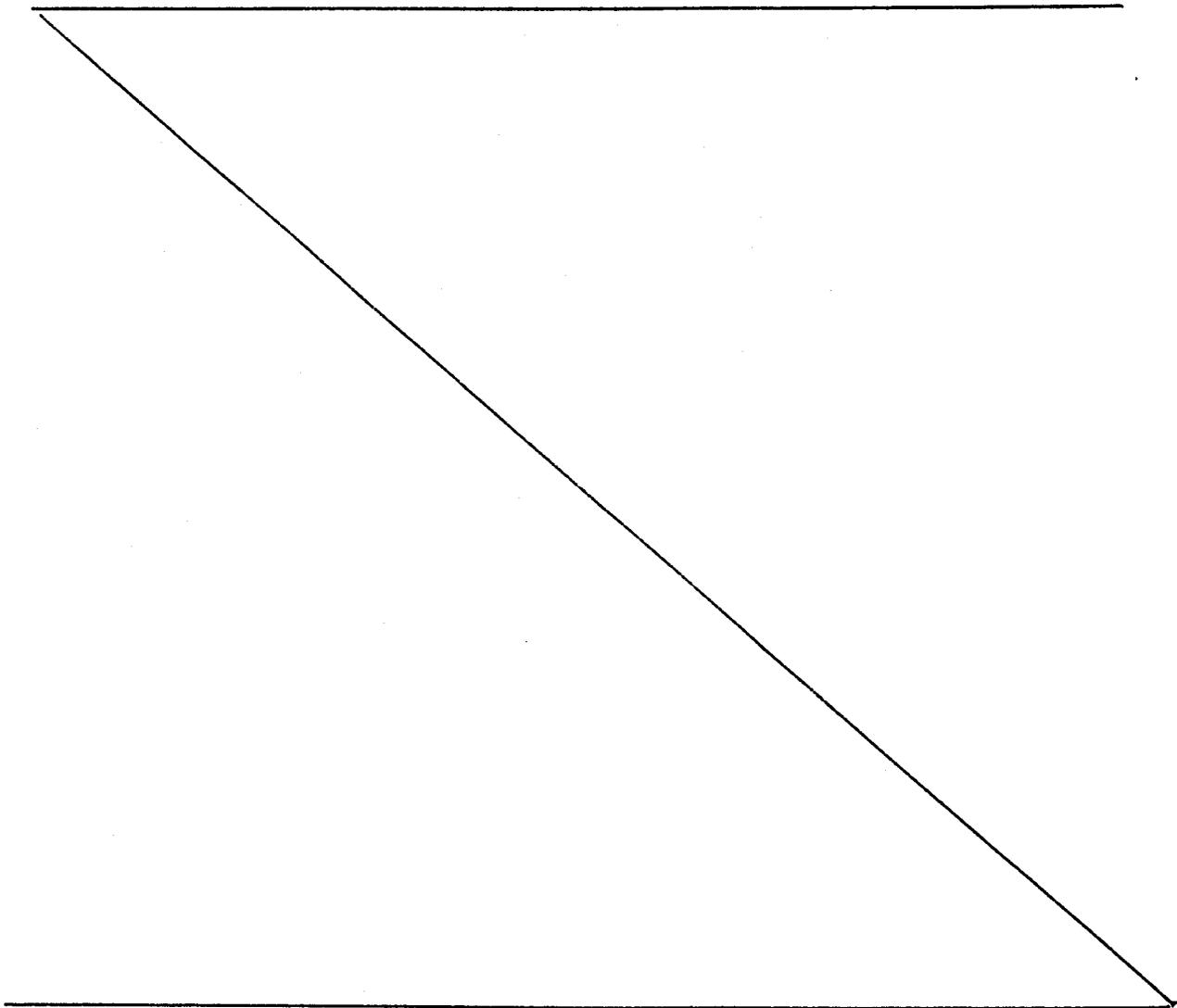
11. Water Code Section 1425(d) provides for delegation of authority to issue temporary permits. The Board has delegated this authority to each Board Member. Section 1425(d) further requires that, when the delegated authority is exercised, the Board shall, not later than 30 days following issuance, review and validate any temporary permit issued.

Board staff explained the foregoing situation to Board Chairman Maughan and recommended approval of the temporary permit. Board Chairman Maughan concurred with the staff recommendation, and on February 21, 1989, authorized issuance of a temporary permit for diversion of 30 cubic feet

per second, not to exceed 2,260 acre-feet per annum, for the period from February 21, 1989 to March 31, 1989.

The findings contained in the temporary permit are incorporated herein by reference.

On February 21, 1989, Walter G. Pettit, Chief of the Division of Water Rights, issued Temporary Permit 20301.



ORDER

NOW, THEREFORE, IT IS ORDERED THAT issuance of Temporary Permit 20301 is validated subject to the conditions specified in the permit.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on March 16, 1989.

AYE: W. Don Maughan
Darlene E. Ruiz
Danny Walsh

NO: None

ABSENT: Edwin H. Finster
Eliseo M. Samaniego

ABSTAIN: None


Maureen Marche
Administrative Assistant to the Board

STATE WATER RESOURCES CONTROL BOARD
 DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

TEMPORARY **PERMIT** 20301

Application 29414 of United States Bureau of Reclamation
2800 Cottage Way, Sacramento, California 95825

filed on February 21, 1989, 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: Thomes Creek Tributary to: Sacramento River

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2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Township	Range	Base and Meridian
By California Coordinate System, Zone 1 North 238,400 feet and East 1,962,614 feet	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	30	25N	2W	MD

County of Tehama *projected

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Irrigation	Within the boundaries of the Tehama Colusa Canal Service Area as shown on map on file with the State Water Resources Control Board.					

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

5. The water diverted and used shall be limited to the quantity which can be beneficially used and shall not exceed 30 cubic feet per second to be diverted from February 21, 1989 to March 31, 1989. The maximum amount diverted under this permit shall not exceed 2,260 acre-feet. (000005)

6. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this temporary permit, 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 temporary permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. (000012)

7. This temporary permit is issued and permittee takes it subject to California Water Code, Division 2, Chapter 6.5, Section 1425 et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the State Water Resources Control Board. (0510800)

8. The State Water Resources Control Board shall supervise diversion and use of water under this temporary permit for the protection of lawful users of water and instream beneficial uses and for compliance with permit conditions. 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 temporary permit. (0510600)

9. The State Water Resources Control Board shall within 30 days review and validate this temporary permit, including the findings upon which it was issued, and should the Board fail or refuse to validate this temporary permit, it shall stand revoked as of the date of said Board meeting and shall be of no further force and effect. (0530999)

10. This temporary permit shall automatically expire on April 1, 1989 without further action by the State Water Resources Control Board. (0510700)

11. Permittee shall report to the State Water Resources Control Board by April 17, 1989 the maximum rate of diversion and the total amount of water diverted under this temporary permit. (0100700)

12. In accordance with Sections 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 temporary 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)

13. Whenever water is diverted under this temporary permit, an equivalent amount of water shall be provided in the Sacramento River by permittee to flow past permittee's Red Bluff Diversion Dam to the confluence of Thomes Creek with the Sacramento River for the purpose of enhancing salmon migration past said Red Bluff Diversion Dam. (0510300)
(0390300)

Based upon the record in this matter, I find:

- A. That the diversion authorized herein will allow for an equivalent amount of water to flow in the Sacramento River past the applicant's Red Bluff Diversion Dam to the confluence of Thomes Creek for the purpose of enhancing salmon migration past said diversion dam. Flow in the Sacramento River below Thomes Creek will not be reduced by reason of this temporary permit.
- B. That the applicant has an urgent but temporary need to divert and use water under a temporary permit.
- C. That water is available for diversion and use by the applicant and may be diverted and used without injury to any lawful user of water and without unreasonable effect on fish, wildlife or other instream beneficial uses.
- D. That the proposed diversion and use of water under this temporary permit are in the public interest.
- E. That the project has been declared exempt and a Notice of Exemption has been approved in accordance with Title 14, California Code of Regulations, Section 15307.

Accordingly, issuance of the within temporary permit is hereby authorized.

Dated: FEBRUARY 21 1989

W. Alon Mayhew

In accordance with the foregoing, the temporary permit is hereby issued.

Walter M. Pettit 2/21/89
Chief, Division of Water Rights Date

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: FEBRUARY 21 1989

STATE WATER RESOURCES CONTROL BOARD

Chief, Division of Water Rights