

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

ORDER WR 2012-0033-EXEC

In the Matter of Permits 8964 and 20785 (Applications 12526 and 30299)

Templeton Community Services District

ORDER APPROVING PETITIONS FOR EXTENSION OF TIME

SOURCE: Salinas River Underflow Tributary to Pacific Ocean

COUNTY: San Luis Obispo

BY THE EXECUTIVE DIRECTOR:

WHEREAS:

1. On May 5, 1952, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permit 8964 (Application 12526) to San Luis Obispo County Water Works, District 5. Permit 8964 required that complete application of the water to the proposed use be made on or before December 1, 1954. Permittee requested and the Division issued orders granting extensions of time to complete beneficial use under the permit until December 1, 1958, December 1, 1960, December 7, 1963, December 1, 1965, December 1, 1968, and September 30, 1970. On June 1, 1972, following a hearing, the State Water Board granted Permittee a further extension of time until December 1, 1981.
2. On or about February 3, 1978, Permit 8964 was assigned to Templeton Community Services District (Permittee). On November 6, 1981, Permittee petitioned the State Water Board for a 10-year extension of time to complete beneficial use.
3. On February 6, 1986 Permittee petitioned for another 10-year extension of time. By order dated August 9, 1990 the State Water Board granted the Permittee an extension of time to complete beneficial use by December 31, 1999. A petition for extension of time within which to develop the project and apply the water to the proposed use under Permit 8964 was filed on December 3, 1999. On October 3, 2000, the State Water Board approved an extension for the Permittee to complete beneficial use by December 31, 2010.
4. Permit 20785 was issued to the Permittee on March 28, 1995. The permit required that complete application of the water to full beneficial use be made by December 31, 1999.
5. On December 29, 2010, the Permittee filed the subject petitions, requesting an additional 20-year extension of time to complete beneficial use under Permits 8964 and 20785. The basis cited was that the community is still building out and that both water conservation measures implemented and the recent economic downturn had slowed growth and constrained water demand.
6. The State Water Board may grant an extension of time within which to commence or complete construction work or apply water to beneficial use upon a showing of good cause. (Wat. Code, § 1398). Permittee must show that: (1) due diligence has been exercised; (2) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably

avoided; and (3) satisfactory progress will be made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay.

7. Permittee has shown that due diligence has been exercised. Among other things, Permittee has constructed all facilities necessary to serve the full amount of water it can appropriate under the permits. With the State Water Board's authorization, Permittee added and implemented a new point of diversion to optimize its diversion operations. Permittee's petitions for extension of time would allow for adequate time to accommodate growth within the community up to the permitted authorized maximum diversions. Permittee's implementation of significant conservation measures has slowed the growth in the community's water demand. Up through 2006, the community experienced significant growth as approved by San Luis Obispo County. Permittee's appropriations under Permit 8964 reached a maximum of 399.41 acre-feet out of an authorized 500 acre-foot appropriation. Under Permit 20785, Permittee's appropriations reached a maximum of 106 acre-feet out of an authorized appropriation of 133.7 acre-feet.
8. Permittee has shown that failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided. As discussed above, Permittee requests a permit extension so that it may have adequate time to accommodate growth within the community. Permittee has constructed all facilities necessary to serve the full amount of water it can appropriate under the permit, but Permittee's implementation of conservation measures and significantly slower growth since 2006 have slowed growth in the community's water demand. Since 2008, Permittee has made only 56 new connections to its water system. Permittee requests a time extension so that Permittee has enough time for anticipated higher water demands to occur.
9. Permittee has shown that satisfactory progress will be made if extension of time is granted. Permittee has constructed all facilities necessary to appropriate the maximum amount of water authorized by the permit. No new infrastructure is required because Permittee's facilities are in place. Additional time will allow Permittee to reach demand levels supporting full authorized appropriation under the permits at the current slower pace. San Luis Obispo County's Salinas River Area Plan projects that the City of Templeton is still growing and will not reach full build-out until 2020 or beyond.
10. Permittee has shown good cause for the time extension.
11. Pursuant to Resolution No. 2002-0104, the State Water Board has delegated authority to the Executive Director to conduct and supervise the activities of the State Water Board.
12. Pursuant to Resolution No. 2012-0029, the State Water Board has delegated authority to the Deputy Director to administer the duties required under the California Environmental Quality Act (CEQA). (Resolution No. 2012-0029, section 4.10.) Resolution No. 2012-0029 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director for Water Rights. This authority has been so redelegated.
13. On February 7, 2006, Permittee adopted a mitigated negative declaration (SCH No.200512156) for the project in order to comply with CEQA. The Division has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The Division will file a Notice of Determination within five days from the issuance of this order.

14. In addition to any obligation the State Water Board may have under CEQA, the State Water Board has an 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].) There is no evidence that Amended Permits 8964 (Application 12526) and 20785 (Application 30299) will have any adverse impacts on public trust resources.

NOW, THEREFORE, IT IS ORDERED THAT THE STATE WATER BOARD HEREBY APPROVES THE PETITIONS FOR EXTENSION OF TIME. THE ATTACHED AMENDED PERMITS, WHICH INCORPORATE THE TIME EXTENSIONS, ARE ISSUED.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Thomas M. Howard
Executive Director

Dated: NOV 16 2012

**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 30299

PERMIT 20785

Permittee: Templeton Community Services District
P.O. Box 780
Templeton, CA 93465

An amended permit on **Application 30299** filed on **September 23, 1993** 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:
Salinas River Underflow

Tributary to:
Pacific Ocean

within the County of **San Luis Obispo**.

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 5	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
(1) Platz Well North 2,410,941 feet and East 5,761,427 feet	SW ¼ of SW ¼	9	27S	12E	MD
(2) Smith Well North 2,398,811 feet and East 5,759,734 feet	SE ¼ of NE ¼	29			
(3) Creekside Well North 2,400,638 feet and East 5,760,724 feet	SW ¼ of SW ¼	21			

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
Domestic, Municipal	3,400 acres within the Templeton Community Services District service area boundary within Sections 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31 and 32, T27S, R12E; Sections 24, 25 and 36, T27S, R11E; Sections 5 and 6, T28S, R12E; all within MDB&M, as shown on map.					

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 **1.5 cubic feet per second** by direct diversion to be diverted from **April 1 to May 15** of each year. The maximum amount diverted under this permit shall not exceed **133.7 acre-feet per year**.
(000005A)
 6. The total quantity of water diverted under this permit and the permit pursuant to Application 12526 shall not exceed 500 acre-feet per year.
(000005Q)
 7. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by **December 31, 2020**.
(0000009)
 8. Permittee shall consult with the Division and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval within one year from the date of this amended permit or such further time as, for good cause shown, may be allowed by the State Water Board. A progress report on the development of a water conservation program may be required by the State Water Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(000029B)
 9. No water shall be directly diverted under this permit unless permittee is monitoring and reporting said diversion of water. This monitoring shall be conducted using devices and methods satisfactory to the Deputy Director for Water Rights. The devices shall be capable of monitoring the rate and quantity of water diverted and shall be properly maintained.

Permittee shall provide the Division of Water Rights with evidence that the devices have been installed with the first annual report submitted after device installation. Permittee shall provide the Division of Water Rights with evidence that substantiates that the devices are functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

Permittee shall maintain a record of all diversions under this permit that includes the date, time, rate of diversion, and the amount of water diverted. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.

(000000R)
 10. Water shall be diverted under this permit only when there is measurable surface flow in the Salinas River at the United States Geological Survey streamflow gage at Paso Robles (Gage #11147500). Prior to diverting water each year, permittee shall notify the State Water Board in writing that said conditions exist. Permittee shall also notify the State Water Board in writing if, after commencing diversion under this permit, the streamflow at the Paso Robles gage becomes unmeasurable prior to the end of the diversion season authorized herein.
(0390600)
-

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 the 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 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 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 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 authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act 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 the Department of Fish and Game 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 the Department of Fish and Game.

(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: NOV 07 2012

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2009 – 0057 - EXEC

In the Matter of the Petitions of Templeton Community Services District for
Reconsideration of Division of Water Rights Order of June 19, 2009 regarding
Petition for Change of Water Right Permits 8964 and 20785
(Applications 12526 and 30299, respectively)

TEMPLETON COMMUNITY SERVICES DISTRICT
Petitioner and Permittee

SOURCE: Salinas River
COUNTY: San Luis Obispo

**ORDER GRANTING RECONSIDERATION AND MODIFYING JUNE 19, 2009
DIVISION OF WATER RIGHTS ORDER AND AMENDED PERMITS**

BY THE EXECUTIVE DIRECTOR:

1.0 INTRODUCTION

Templeton Community Services District (District) petitions the State Water Resources Control Board (State Water Board or Board) for reconsideration of the Division of Water Rights' (Division) Order that approved the District's Change in Point of Diversion, corrected coordinates of an existing point of diversion and amended Permit 8964 and Permit 20785.

The State Water Board Executive Director finds that the petition raises substantial issues related to the causes for reconsideration set out in California Code of Regulations, title 23, section 768 and grants the District's petition for reconsideration. This order modifies the June 19 Order and directs the Division to issue amended permits consistent with this order.

2.0 APPLICABLE LAW

Any interested person may petition the State Water Board for reconsideration of a decision or order on any of the following grounds:

- (a) irregularity in the proceedings or abuse of discretion;
- (b) the decision or order is not supported by substantial evidence;
- (c) there is relevant evidence, which in the exercise of reasonable diligence, could not have been produced; or
- (d) an error in law.

(Cal. Code Regs., tit. 23, § 768.)

The State Water Board may refuse to reconsider a decision or order if the petition for reconsideration fails to raise substantial issues related to the causes for reconsideration set forth in section 768 of the State Water Board's regulations. (Cal. Code Regs., tit. 23, § 770, subd. (a)(1).) Alternatively, after review of the record, the State Water Board also may deny the petition upon a finding that the decision or order was appropriate and proper, set aside or modify the decision or order or take other appropriate action. (*Id.*, subd. (a)(2)(A)-(C).)

State Water Board Resolution No. 2007-0057 delegates to the Executive Director the authority to supervise the activities of the State Water Board. The Executive Director's consideration of a petition for reconsideration falls within the scope of authority delegated under Resolution No. 2007-0057. Accordingly, the Executive Director has the authority to refuse to reconsider a petition for reconsideration, deny the petition, set aside or modify the order, or take other appropriate action.

3.0 FACTUAL BACKGROUND

On February 14, 2008, the District petitioned to add a new point of diversion (the "Creekside" well) to License 4829, Permit 8964 and Permit 20785.¹ The District completed environmental review for the project in 2006 pursuant to the California Environmental Quality Act. The District concluded there were no adverse water resource related effects associated with the project because the project would involve adding a new point of diversion 2,100 feet from an existing point of diversion and the diversion would be from the Salinas River underflow. The District circulated a Mitigated Negative Declaration, and the State Water Board and Department of Fish and Game (DFG) submitted comments. The District certified the Mitigated Negative Declaration on February 7, 2006.

The State Water Board publicly noticed the change petition on May 15, 2008. The Board received a timely protest to the petition from Defenders of Wildlife (Defenders). The protest was

¹ The District's petition for reconsideration concerns only Permits 8964 and 20785.

dismissed, and on August 15, 2008, Defenders submitted a timely petition for reconsideration of the Division's decision not to accept the protest. In an order issued April 24, 2009, the Executive Director denied the request for reconsideration.

On June 19, 2009, the Division issued an Order approving the District's change petition and issued Amended Permits 8964 and 20785. On July 15, 2009, the State Water Board received a petition from the District requesting reconsideration of the Order.

At issue are several new permit terms and conditions that were included in the amended permits. The District claims: 1) substantial evidence does not support the inclusion of the terms; 2) the State Water Board committed an error in law by including the terms; and 3) there is relevant evidence that the District could not have produced prior to issuance of the order because it had no notice the terms would be included in its permits.

The District requests that the State Water Board take the following actions:

1. Revise Term 1 of the June 19 Order and restore the District's pre-existing "Platz" well point of diversion and reinstate that point of diversion in Permits 8964 and 20785.
2. Delete Term 6 of the June 19 Order requiring preparation of an Urban Water Management Plan, and delete related Term 8 in Amended Permit 8964 and Term 7 in Amended Permit 20785. The District claims it is not large enough to require an Urban Water Management Plan.
3. Delete Term 9 in Amended Permit 8964. This term requires measurable flow in the Salinas River at United States Geological Survey (USGS) Gage No. 11147500 prior to and during diversion.
4. Delete Term H from Amended Permits 8964 and 20785. Term H requires Permittee to consult with DFG and obtain a Streambed Alteration Agreement or waiver thereof for work in the waterway. The District claims that the new Creekside point of diversion is not in the Salinas River streambed, and that DFG did not indicate that a Streambed Alteration Agreement was necessary when it commented on the District's Mitigated Negative Declaration.

In support of its petition, the District included: 1) a copy of a 1972 State Water Board Order that discusses Permit 8964; 2) USGS surface water data for Gage No. 11147500; 3) the District's

June 2009 "Water and Sewer Report"; 4) the District's annual Water Quality Report; and 5) a declaration from the District's General Services Manager.

4.0 DISCUSSION

4.1 Restoration of "Platz" Well Point of Diversion to Amended Permits 8964 and 20785

In issuing Amended Permits 8964 and 20785, the Division deleted a point of diversion known as the "Platz" well based on information obtained from the District that the well diverts percolating groundwater not under the water right permitting jurisdiction of the State Water Board. The District claims this was in error. In a Declaration from its General Services Manager, the District asserts that it has several wells designated as "Platz" wells.² According to the District, some of the "Platz" wells divert percolating groundwater, while at least one "Platz" well diverts Salinas River underflow. The District has reviewed its records and has concluded that the point of diversion that was removed from Permits 8964 and 20785 was not a percolating groundwater well but rather a well that diverts Salinas River underflow. The District claims that it did not intend to eliminate a point of diversion that diverts underflow.

There is not substantial evidence in the record showing that the deleted "Platz" well diverts percolating groundwater or that the District requested removal of a valid point of diversion that diverts Salinas River underflow. Accordingly, the June 19 Order should be modified to reinstate the "Platz" well that diverts Salinas River underflow, and Amended Permits 8964 and 20785 should be modified to include this well as an authorized point of diversion.

4.2 Requirement for an Urban Water Management Plan

To promote water conservation, the June 19 Order requires the District to develop an Urban Water Management Plan pursuant to Water Code section 10610 et seq. This is standard permit condition 29A. The District claims that the Urban Water Management Planning Act (Act) (Wat. Code, §§ 10610-10656) does not apply to the District.

The Act requires urban water suppliers with more than 3,000 customers, or that supply more than 3,000 acre-feet (af) of water annually, to develop an Urban Water Management Plan. (Wat. Code, § 10617.) Such a plan includes an analysis of water conservation, evaluations of

² According to the District Manager, wells are named based on property ownership. Because several wells may be located on the same property there may be several wells with the same name.

groundwater basins and future water supply projects, and projections of water use by lower-income households.

The District asserts it is not subject to the Act because it does not have 3,000 customers and does not supply more than 3,000 af of water annually. The District submitted a water and sewer report dated June 19, 2009, showing 2,592 water customers for the month of June 2009. The District also submitted a copy of its annual water quality report. That document shows that the District produced 570,000,000 gallons of water in 2008 equaling approximately 1,740 af of water. This evidence could not have been provided prior to the issuance of the June 19 Order because the District did not know that the Division was including a term in Permits 8964 and 20785 requiring the development of an Urban Water Management Plan.

The record does not contain substantial evidence showing that the District has over 3,000 customers or supplies over 3,000 af of water annually. The evidence submitted by the District shows that the District supplies water at amounts below the triggering thresholds established by the Act. The June 19 Order should be amended to delete term 6, and related terms 7 and 8 should be removed from Amended Permits 20785 and 8964.

It is apparent however, that the District is expanding its water use and it is likely that the District will supply water to more than 3,000 customers in the future. Given the critical state of water resources in the state and region, the District's permits should be amended to require an Urban Water Management Plan when and if the District reaches more than 3,000 customers or supplies over 3,000 af of water annually. Amended Permits 8964 and 20785 should be amended to require the District to notify the State Water Board when it exceeds 3,000 customers or supplies over 3,000 af of water annually. No later than 12 months from reaching this threshold, the District should consult with the Division of Water Rights and submit an Urban Water Management Plan to the State Water Board

Permit 20785 originally included standard condition 29B, which requires that entities supplying water for municipal purposes, or for domestic use within subdivisions, develop and implement a water conservation plan or actions. Condition 29B applies if these entities supply water to 3,000 or fewer customers or supply 3,000 or less acre-feet of water annually and seek an appropriation which, combined with any existing appropriative rights serving the same place of use, totals 200 or more acre-feet of water annually. The term was replaced with

condition 29A, which is described above. Condition 29B shall be restored to Permit 20785 and also added to Permit 8964.

4.3 “Live Stream” Requirement in Amended Permit 8964

Term 9 in Amended Permit 8964 states in relevant part, “Water shall be diverted under this permit only when there is measurable surface flow in the Salinas River at the United States Geological Survey streamflow gage at Paso Robles (Gage No. 11147500).” While Permit 20785 had previously contained this term, Permit 8964 did not contain the term.³

The District argues that the June 19 Order did not contain findings that would justify the inclusion of the term. The District claims the term will severely restrict its water supply because there is no measurable flow in the Salinas River at Gage No. 11147500 during a significant portion of the diversion season. In support of this claim, the District included streamflow records from 1940 to 2008 and a copy of a 1972 Board Order that discusses Permit 8964.

The 1972 Order concerned a series of permits held by the Army Corps of Engineers, City of San Luis Obispo, City of Paso Robles, San Luis Obispo County Water Works District No. 6 and San Luis Obispo County Water Works District No. 5. San Luis Obispo County Water Works District No. 5 was the predecessor to the District and at the time the holder of Permit 8964.

The 1972 Order primarily concerned conditions that should be applied to water right permits associated with Salinas Dam and Reservoir. In the 1972 Order, the Board noted that downstream rights could be infringed if certain upstream rights, namely those rights under Permit 5881 and 5882 that authorized collection at Salinas Dam, were not regulated properly. The Board stated, “As evident from the method of operation of Salinas Reservoir, insufficient consideration has been given to downstream prior rights...” and “shortages of water have been experienced by downstream users during years when water was collected to storage in the Salinas Reservoir.”

Because of downstream shortages, the Board imposed conditions on upstream permittees that would provide for sufficient supplies for downstream water users. The Board stated that operation of the Salinas Dam would be determined not to “reduce the natural recharge of water

³ Permit 20785 has a limited diversion season of April 1 to May 15 and a maximum diversion amount of 133.7 af, whereas Permit 8964 covers a longer diversion season (October 1- April 1) and has a maximum diversion amount of 500 af.

into the Salinas River when there exists a visible surface flow in the Salinas River between Salinas Reservoir and confluence of the Nacimiento River.”⁴

The Board did not specifically discuss the effect of upstream diversions on Permit 8964, but in rejecting the request by the District’s predecessor for an extension of time to develop a storage right the Board stated, “clarifying permit terms on the operation of the reservoir...should materially improve the water supply of [downstream] communities.”

The District argues that this discussion is evidence that the Board imposed a “live stream” requirement on upstream Salinas River permittees for the District’s benefit, and that the June 19, 2009 Order contradicts the Board’s intent in 1972. It may be true that the Board anticipated benefits to downstream users when it issued the 1972 Order, but that does not limit the Board’s ability to impose a similar “live stream” requirement on the District. Evidence in the record suggests that downstream diversions have a possible impact on public trust resources. The National Marine Fisheries Service has designated the Salinas River and its tributaries as critical habitat for Steelhead Trout (Steelhead) where spawning fish can still migrate upstream. DFG advised Templeton that the Salinas River supports federally listed species and state species of special concern.

At this point however, there is not substantial evidence in the record showing what amount of surface flow, if any, at Gage No. 11147500 will benefit Steelhead, other federally listed species, or state species of special concern.⁵ Accordingly, Term 7 in Permit 8964 that requires measurable surface flow at Gage No. 11147500 prior to diversions should be modified. Given the concern over public trust resources in the Salinas River, and the absence of data on the effect of the District’s diversions on public trust resources, it is appropriate to require the District to submit a study that examines the effects of its diversions on public trust resources.

The Division is directed to delete the requirement that there be measurable surface flow at Gage No. 11147500 prior to diversion under Permit 8964. Amended Permit 8964 should be modified to include a new term requiring the District to submit a study to the Division by June 1, 2011 that examines the effects of its diversions on public trust resources under Amended Permit 8964. The study should address whether a measurable flow at Gage No.

⁴ Gage No. 11147500 is located in this stretch of the Salinas River.

⁵ Surface flow data submitted by the District for Gage No. 11147500 show that surface flow varies considerably. For example, mean monthly surface flow during the month of December was zero cubic feet per second in years 1974 through 1981 but jumped to almost 600 cubic feet per second in December 1982.

11147500 between October 1 and April 1 will benefit Steelhead, other federally listed species, or state species of special concern. The study shall be developed after consultation with the Division and approved by the State Water Board Deputy Director for Water Rights, prior to implementation. Upon completion of the study, the State Water Board may exercise its continuing authority to require additional terms and conditions in Amended Permit 8964 to protect Steelhead or other public trust resources in the Salinas River.

4.4 Streambed Alteration Agreement

Term H in Amended Permits 8964 and 20785 requires the District to obtain a Streambed Alteration Agreement from DFG, or a waiver of such an agreement, before it diverts, stores, or uses water under the permits. Term H is a standard Division term that is included in all water rights permits. (Cal Code Regs., tit. 23, § 780.) The District contends the term is unnecessary because its Creekside well is 200 feet west of the Salinas River channel.

Fish and Game Code section 1602 requires an entity to notify DFG of any proposed activity that may substantially modify a river, lake or stream. Notification is required by any person, business, state or local entity if it proposes an activity that will:

- 1) substantially divert or obstruct the natural flow of any river, lake or stream;
- 2) substantially change or use any material from the bed, channel, or bank of any stream, or lake; or
- 3) deposit or dispose of debris, waste or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream or lake.

(Fish and Game Code, § 1602, subd. (a).)

The District claims that when it circulated a Negative Declaration for the project, DFG did not indicate that a Streambed Alteration Agreement was necessary. The fact that DFG did not state that it would require a Streambed Alteration Agreement when it commented on the District's Negative Declaration is not evidence that an agreement is unnecessary. Irrespective of whether the term is needed to cover installation of the new well, the term may be needed to cover streambed or rehabilitation work that the District may conduct in the future. A Streambed Alteration Agreement may also be necessary for well operations, even if it is not needed for installation. The new Creekside well is capable of diverting the District's entire water right. Adding the new point of diversion is an activity that may "substantially divert or obstruct" the natural flow of the river. Inclusion of the term in Amended Permits 8964 and 20785 is

appropriate. If DFG determines that the well does not require a Streambed Alteration Agreement, it may advise the District accordingly.

Because the District has been diverting water as authorized by its permits, however, it was inappropriate to include in amendments to those permits a term that effectively requires the District to cease diversions until it obtains a Streambed Alteration Permit or waiver, without providing a reasonable period in which to comply. The Division should modify Term H in Amended Permits 8964 and 20785 to allow the District 180 days from the date of issuance of this order to provide evidence to the Division that it has either obtained a Streambed Alteration Agreement from DFG or a waiver from DFG stating that an agreement is unnecessary.

5.0 CONCLUSION

The petition and all supplemental information submitted by the District raise substantial issues related to the causes for reconsideration. Accordingly, the State Water Board finds that the June 19, 2009 Order and Amended Permits 8964 and 20785 should be modified consistent with the findings made herein.

ORDER

IT IS HEREBY ORDERED that the District's petition for reconsideration is granted, and the June 19, 2009 Division Order Approving the Change in Point of Diversion and Correcting Coordinates of Existing Point of Diversion and Amending Permits shall be modified as follows:

1. The June 19, 2009 Order is amended to include the "Platz" well point of diversion. The point of diversion at SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 9 within T27S, R12E, MDB&M that diverts Salinas River underflow is added to the permitted points of diversion in Amended Permits 8964 and 20785.
2. Term 6 in the June 19 Order requiring the District to submit an Urban Water Management Plan is deleted. Related Term 8 from Amended Permit 8964 and Term 7 from Amended Permit 20785 are deleted. The Order is amended to require the District to notify the Division of Water Rights when it exceeds 3,000 customers or supplies over 3,000 acre-feet of water annually. No later than 12 months following reaching this threshold, the District shall consult with the Division of Water Rights and submit an Urban Water Management Plan.

Amended Permits 8964 and 20785 are modified to include the following term:

When and if the permittee exceeds 3,000 customers, or supplies more than 3,000 acre-feet of water annually, the permittee shall, after notification to the Division of Water Rights, develop an Urban Water Management Plan in accordance with the Urban Water Management Planning Act (Wat. Code, §§ 10610-10656.) After consultation with the Division of Water Rights, such plan shall be submitted to the State Water Board no later than 12 months from the time permittee exceeds 3,000 customers or supplies more than 3,000 acre-feet annually of water.

3. The June 19, 2009 Order is amended to include the following condition.

Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this amended permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(0000029B)

4. Term H in Amended Permits 8964 and 20785 is modified to state:

Effective 180 days of the issuance of this amended permit, 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 the State Department of Fish and Game and Permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of this agreement is the responsibility of Permittee. If a stream or lake agreement is not necessary for this permitted project, Permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

5. Term 9 in Amended Permit 8964 is deleted. The Division shall reissue Amended Permit 8964 with the following term:

By June 1, 2011, Permittee shall submit a study to the Division of Water Rights that examines whether its diversions under Amended Permit 8964 have an adverse impact on federally listed species or state species of special concern on the Salinas River. Specifically, the study shall address whether a measurable surface flow at United States Geological Service Gage No. 11147500 between October 1 and April 1 will benefit Steelhead Trout or any federally listed species or state species of special concern. The scope of the study shall be determined after consultation with the State Water Board Deputy Director for Water Rights and shall be approved by the Deputy Director prior to implementation. Any study should evaluate impacts to public trust resources during various water year types. The State Water Board reserves jurisdiction to impose additional terms and conditions in Amended Permit 8964 to protect Steelhead Trout or other federally listed species or state species of special concern.

9.17.09
Dated

Dorothy Rice
Dorothy Rice
Executive Director

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20785

Application 30299 of

**Templeton Community Services District
PO Box 780
Templeton, CA 93465**

filed on **September 23, 1993**, has been approved by the State Water Resources Control Board (State Water Board) 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:

Salinas River Underflow

Tributary to:

Pacific Ocean

within the County of **San Luis Obispo**.

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 5	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1. Platz Well North 2,410,941 feet and East 5,761,427 feet	SW ¼ of SW ¼	9	27S	12E	MD
2. Smith Well North 2,398,811 feet and East 5,759,734 feet	SE ¼ of NE ¼	29	27S	12E	MD
3. Creekside Well North 2,400,638 feet and East 5,760,724 feet	SW ¼ of SW ¼	21	27S	12E	MD

3. Purpose of use	4. Place of use	Section (Projected) *	Township	Range	Base and Meridian	Acres
Domestic, Municipal	3,400 acres within the District boundaries	8, 9, 16-21, 28-32	27S	12E	MD	
		24, 25, 36	27S	11E	MD	
		5, 6	28S	12E	MD	

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

5. The water appropriated under Amended Permit 20785 shall be limited to the quantity which can be beneficially used and shall not exceed **1.5 cubic feet per second (cfs)** to be diverted from **April 1 to May 15** of each year. The maximum amount diverted under this permit shall not exceed **133.7** acre-feet per year.
(000005A)
6. Complete application of the water to the authorized use shall be made by December 31, 2010.
(0000009)
7. The total quantity of water diverted under this permit, together with that diverted under Amended Permit 8964 (Application 12526), shall not exceed 500 acre-feet per annum.
(0000114)
8. Water shall be diverted under this permit only when there is measurable surface flow in the Salinas River at the United States Geological Survey streamflow gage at Paso Robles (Gage #11147500). Prior to diverting water each year, permittee shall notify the State Water Resources Control Board in writing that said conditions exist. Permittee shall also notify the Board in writing if, after commencing diversion under this permit, the streamflow at the Paso Robles gage becomes unmeasurable prior to the end of the diversion season authorized herein.
(0360900)
9. When and if the permittee exceeds 3,000 customers, or supplies more than 3,000 acre-feet of water annually, the permittee shall, after notification to the Division of Water Rights, develop an Urban Water Management Plan in accordance with the Urban Water Management Planning Act (Wat. Code, §§ 10610-10656.) After consultation with the Division of Water Rights, such plan shall be submitted to the State Water Board no later than 12 months from the time permittee exceeds 3,000 customers or supplies more than 3,000 acre-feet annually of water.
(0000029A)
10. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this amended permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(0000029B)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE 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 Resources Control Board (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 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 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 applicable Endangered Species Act 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.

- 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. Within 180 days of the issuance of this amended permit, 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 the State Department of Fish and Game 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 the State Department of Fish and Game.

(0000063)

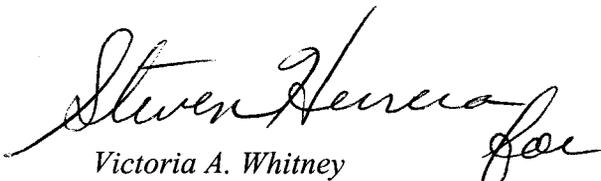
This permit is issued and permittee takes it subject to the following provisions of the Water Code:

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 therefore 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


Victoria A. Whitney
Deputy Director for Water Rights

Dated: **SEP 17 2009**

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

In the Matter of Permit 20785 Application 30299
Templeton Community Services District

ORDER APPROVING EXTENSION OF TIME AND AMENDING THE PERMIT

SOURCE: Salinas River tributary to Pacific Ocean

COUNTY: San Luis Obispo

WHEREAS:

1. Permit 20785 was issued to Templeton Community Services District on March 27, 1995, pursuant to Application 30299.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on April 10, 2000.
3. The permittee has proceeded with diligence and good cause has been shown for extension of time. Public notice of the request for extension of time was issued on June 16, 2000 and no protests were received.
4. The SWRCB has determined that the petition for extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT Permit 20785 IS AMENDED TO READ AS FOLLOWS:

1. Condition 8 of the permit be amended to read:

Complete application of the water to the authorized use shall be made by December 31, 2010.

(0000009)

2. Permit 20785 is amended to include the following Endangered Species condition:

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

(0000014)

Dated: OCT 13 2000

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20785

Application 30299 of Templeton Community Services District

Post Office Box 780, Templeton, CA 93465

filed on October 28, 1993, has been approved by the State Water Resources Control Board
 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: | Tributary to: |
| <u>Salinas River Underflow</u> | <u>Pacific Ocean</u> |
| | |
| | |

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Township	Range	Base and Meridian
California Coordinate System, Zone 5					
1) North 770,500 feet and East 1,200,100 feet	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	9	27S	12E	MD
2) North 758,400 feet and East 1,198,400 feet	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	29	27S	12E	MD

County of San Luis Obispo

* projected

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Domestic						
Municipal	A gross 3,400 acres within the following projected Sections: 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31 & 32;		27S	12E	MD	
	24, 25 & 36;		27S	11E	MD	
	5 & 6		28S	12E	MD	

The place of use is shown on map on file 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 1.5 cubic feet per second to be diverted from April 1 to May 15 of each year. The maximum amount diverted under this permit shall not exceed 133.7 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. Complete application of the water to the authorized use shall be made by December 31, 1999. (0000009)
9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
10. 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)

11. 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. (0000012)

12. 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)

13. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein. (000029B)

14. The total quantity of water diverted under this permit, together with that diverted under the permit issued pursuant to Application 12526, shall not exceed 500 acre-feet per annum. (0000114)

15. Water shall be diverted under this permit only when there is measurable surface flow in the Salinas River at the United States Geological Survey streamflow gage at Paso Robles (Gage #11147500). Prior to diverting water each year, permittee shall notify the State Water Resources Control Board in writing that said conditions exist. Permittee shall also notify the Board in writing if, after commencing diversion under this permit, the streamflow at the Paso Robles gage becomes unmeasurable prior to the end of the diversion season authorized herein. (0360900)

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

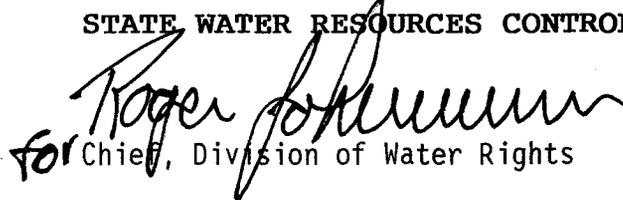
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

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: MARCH 28 1995

STATE WATER RESOURCES CONTROL BOARD


for Chief, Division of Water Rights