

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2007 - 0013

In the Matter of

Applications 29919, 29920, 22921, and 29922
and Petition for Assignment of State Filed Application 5645 by
El Dorado County Water Agency and El Dorado Irrigation District

Applications 30062 and 30453
and Petition for Assignment of State Filed Application 5645 by
Kirkwood Associates, Inc., and U.S. Eldorado National Forest

Application 30204 by
Kirkwood Meadows Public Utility District
and U.S. Eldorado National Forest

Application 30219
and Petition For Assignment of
State Filed Application 5645 by Alpine County Water Agency

Application 30218
and Petition for Assignment of
State Filed Application 5645 by Amador County

SOURCE: South Fork of the American River and Tributaries

COUNTIES: Alpine, Amador and El Dorado

ORDER AMENDING ORDER WR 2001-22

BY THE BOARD:

1.0 INTRODUCTION

By this order, the State Water Resources Control Board (State Water Board) amends State Water Board Order WR 2001-22 to comply with a peremptory writ of mandate issued by the Sacramento County Superior Court in *El Dorado Irrigation District v. State Water Resources Control Board* (Super. Ct. Sacramento County, 2003, No. 01CS01319, consolidated with Nos. 01CS01321 and 01CS01327). The writ of mandate directs the State Water Board to set aside the provisions of Order WR 2001-22 that include standard permit term 91 in a water right permit issued to El Dorado County Water Agency and El Dorado Irrigation District (hereafter collectively referred to as El Dorado).

2.0 LEGAL AND FACTUAL BACKGROUND

In 1992, El Dorado filed a petition for partial assignment of state-filed Application 5645. State-filed applications are water right applications that have been filed by the State as part of a general or coordinated plan for the development of the State's water resources. (Wat. Code, § 10500.) State-filed applications have a priority based on the date of filing, and are exempt from the due diligence requirement that normally applies to water right applications. (*Ibid.*) State-filed Application 5645 has a 1927 priority date. The State Water Board may assign a state-filed application when the assignment would not conflict with a general or coordinated plan for the development of the State's water resources or with water quality objectives.

The State Water Board acted on El Dorado's petition for partial assignment in 1996 by adopting Decision 1635. In Decision 1635, the State Water Board approved El Dorado's petition and ordered that a water right permit be issued to El Dorado, subject to specified conditions. The approval authorized El Dorado (1) to divert to storage a total of 32,931 acre-feet per annum (afa) at Lake Aloha, Silver Lake and Caples Lake (which are tributary to the South Fork American River), and (2) to redivert water released from upstream storage and directly divert a total of 17,000 afa at Folsom Reservoir.

Initially, the State Water Board did not order that standard permit term 91 be included in El Dorado's permit. Term 91 is a method for determining when water is available for appropriation from the Sacramento-San Joaquin Delta (Delta) watershed on a real-time basis. In summary, Term 91 prohibits diversions when natural and abandoned flows in the Delta and its tributaries are insufficient to meet flow-dependent water quality objectives in the Delta and other inbasin uses, and the State's two major water supply projects, the Central Valley Project and the State Water Project (the Projects), are supplementing natural and abandoned flows with imported or previously stored water in order to meet the objectives. Under those conditions, water is not considered to be available for appropriation by permittees or licensees who are subject to Term 91. The State Water Board has included Term 91 in permits issued after 1965.

In Decision 1635, the State Water Board concluded that it would be inequitable to include Term 91 in El Dorado's permit when the State Water Board has not included Term 91 in many permits that are junior in priority to Application 5645. The owners and operators of the Projects, the U.S. Bureau of Reclamation and the Department of Water Resources, and contractors who

receive water from the Projects, Westlands Water District and the State Water Contractors, filed petitions for reconsideration of the decision not to include Term 91 in El Dorado's permit. The State Water Board took action on the petitions for reconsideration in Order WR 2001-22. Upon reconsideration, the State Water Board concluded that Term 91 was the best method presently available for determining when water is available for appropriation by El Dorado, taking into consideration the 1927 priority date of El Dorado's permit. (Order WR 2001-22, pp. 10-14.) Accordingly, the State Water Board modified Decision 1635 to require El Dorado's permit to include Term 91.

3.0 DISCUSSION

El Dorado and other parties to the proceeding concerning El Dorado's permit filed petitions for writ of mandate in Sacramento County Superior Court, challenging various aspects of Order WR 2001-22, including the imposition of Term 91. The superior court ruled in favor of the State Water Board on all issues except for Term 91. In a judgment entered on December 23, 2003, the superior court ordered that a peremptory writ of mandate be issued, requiring the State Water Board to set aside the provisions of Order WR 2001-22 that include Term 91 in the permit issued to El Dorado. The State Water Board, Westlands Water District, and the State Water Contractors appealed the superior court's judgment on the Term 91 issue.

On September 8, 2006, the Court of Appeal issued an opinion that concluded that the State Water Board abused its discretion by including Term 91 in El Dorado's permit. (*El Dorado Irrigation District v. State Water Resources Control Board* (2006) 142 Cal.App.4th 937 [48 Cal.Rptr.3d 468].) Although the Court recognized the general suitability of Term 91 as a mechanism for protecting water quality in the Delta, the Court observed that the State Water Board had not added junior appropriators as parties to the proceeding leading to issuance of El Dorado's permit. The Court found that inclusion of Term 91 in El Dorado's permit without conducting a proceeding to include a similar restriction in the permits and licenses of junior appropriators in the Delta watershed violated the 1927 priority date of the permit. (*Id.* at pp. 969-976.) Accordingly, the Court of Appeal affirmed the superior court's judgment.

4.0 CONCLUSION

In accordance with the Court of Appeal's decision and the peremptory writ of mandate issued by the superior court, Order WR 2001-22 should be amended to remove Term 91 from El Dorado's permit.

El Dorado's permit contains standard permit Term 80, which reserves authority to change the authorized season of diversion in the permit to conform to later findings of the State Water Board concerning availability of water and the protection of beneficial uses of water in the Delta and San Francisco Bay. This term will remain unchanged.

ORDER

IT IS HEREBY ORDERED that State Water Board Order WR 2001-22 is amended by removing ordering paragraph 42, beginning on page 79.

CERTIFICATION

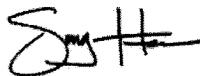
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 3, 2007.

AYE: Tam M. Doduc
Gary Wolff, P.E., Ph.D.
Arthur G. Baggett, Jr.
Charles R. Hoppin

NO: None

ABSENT: Frances Spivy-Weber

ABSTAIN: None



Song Her
Clerk to the Board

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

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21112

Application **5645B** of **El Dorado County Water Agency,**
330 Fair Lane,
Placerville, CA 95667;

El Dorado Irrigation District,
2890 Mosquito Road,
Placerville, CA 95667

filed on **July 30, 1927**, has been approved by the State Water Resources Control Board (SWRCB)
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:
a) Silver Lake	Silver Fork American River thence South Fork American River
b) Caples Lake	Caples Creek thence Silver Fork American River thence South Fork American River
c) Lake Aloha	Pyramid Creek thence South Fork American River
d) South Fork American River	American River

within the Counties of **Amador, Alpine and El Dorado**

2. Location of point of diversion and rediversion(*)	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
a) Silver Lake Dam: North 65° 30' East, 3,260 feet from the SW corner	NW¼ of SE¼	32	10N	17E	MD
b) Caples Lake Dam: North 51° 41' East, 1,400 feet from the SW corner	SW¼ of SW¼	18	10N	18E	MD
c) Lake Aloha Dam: South 50° 40' West, 2,196 feet from the NE corner	SW¼ of NE¼	30	12N	17E	MD

d) Folsom Reservoir Pump Station Intake(*):North 25° 06' East, 2,358 feet from the SW corner	NE¼ of NW¼ of SW¼	10	10N	8E	MD
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3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Domestic Irrigation Municipal	Within the service area of El Dorado Irrigation District (excluding Service Zones 9, 14 and 15), as described and delineated on the map entitled "El Dorado County Water Agency & El Dorado Irrigation District place of use"		8N	8E, 9E, 10E	MD	
			9N	8E, 9E, 10E, 11E, 12E	MD	
			10N	8E, 9E, 10E, 11E, 12E, 13E	MD	
			11N	8E, 9E, 10E, 11E, 12E, 13E	MD	
			12N	9E, 10E	MD	

The place of use is shown on map on file with the State Water Resources Control Board (SWRCB).

5.
 - a) The total quantity of water to be diverted to storage at Caples Lake, Silver Lake, and Lake Aloha shall not exceed 32,931 acre-feet per annum (afa).
 - b) The water appropriated at Lake Aloha shall be limited to the quantity that can be beneficially used and shall not exceed 5,350 acre-feet per annum to be collected from November 1 through July 31.
 - c) The water appropriated at Caples Lake shall be limited to the quantity that can be beneficially used and shall not exceed 21,581 afa to be collected from November 1 through July 31.
 - d) The water appropriated at Silver Lake shall be limited to the quantity that can be beneficially used and shall not exceed 6,000 afa to be collected from November 1 through July 31.
 - e) The total quantity of water to be diverted at Folsom Reservoir in any one year by direct diversion and redirection of stored water shall be limited to 17,000 acre-feet (af). This maximum diversion amount represents the total quantity of water stored in Lake Aloha, Caples Lake, or Silver Lake that may be rediverted at Folsom Reservoir under this permit.

- f) The total quantity of water to be diverted by direct diversion at Folsom Reservoir in any one year shall be limited to the quantity that can be beneficially used and shall not exceed 15,000 af per year to be collected from November 1 through July 31. The water that may be directly diverted under this permit shall be limited to water originating in the South Fork American River upstream of the El Dorado Canal diversion near Kyburz. The maximum rate of direct diversion shall not exceed 156 cubic feet per second (cfs).
6. All water appropriated under this permit is subject to the county of origin preferences as required by Water Code sections 10505 and 10505.5. Any water appropriated under this permit is subject to the right of Amador and Alpine Counties to obtain appropriative rights to water necessary for their development from the water originating in their respective counties. This reservation does not and cannot grant water right applicants in the counties of origin the right to divert and use water directly diverted or diverted to storage at Echo Lake, Lake Aloha, Caples Lake or Silver Lake under any rights that El Dorado Irrigation District (EID) may have acquired from Pacific Gas and Electric Company.

Permittee shall make up to 200 afa of storage available in Silver and Caples Lakes for existing and future uses in the immediate vicinity of the lakes in the counties of origin, without cost to applicants in the counties of origin.

7. No water shall be diverted under this permit until permittee has installed devices, satisfactory to the SWRCB, that are capable of measuring instantaneous flow diverted daily from Folsom Reservoir, to be reported annually in operation reports to the SWRCB. The report shall include daily and monthly quantities reported in acre-feet diverted from Folsom Reservoir, and the quantity in acre-feet released from and remaining in each of Caples Lake, Silver Lake and Lake Aloha at the end of each month. The report shall also, on a monthly basis, account for any water diverted from Folsom Reservoir under any other rights, including contracts with the U.S. Bureau of Reclamation (USBR) or others. Streamflows above and below the El Dorado Canal diversion at Kyburz and quantities diverted into the El Dorado distribution headworks shall also be included in these annual reports. The following gages are approved to be used for measuring water released from Caples Lake, Silver Lake, and Lake Aloha, and for computing water available for direct diversion from Folsom Reservoir:

GAGE NAME	USGS IDENTIFICATION NUMBER	TYPE OF RECORD
CAPLES LAKE	USGS 11436900 EID A5 (aka PG&E A5)	RESERVOIR STAGE RECORDER ON CAPLES LAKE
CAPLES LAKE OUTLET NEAR KIRKWOOD	USGS 11437000 EID A6 (aka PG&E A6)	RATED STREAMFLOW RECORDER BELOW CAPLES LAKE OUTLET
CAPLES CREEK RELEASES BELOW CAPLES DAM	USGS 11436999	
SILVER LAKE	USGS 11435900 EID A8 (aka PG7E A8)	RESERVOIR STAGE RECORDER ON SILVER LAKE

SILVER LAKE OUTLET NEAR KIRKWOOD	USGS 11436000 EID A9 (aka PG&E A9)	RATED STREAMFLOW RECORDER BELOW SILVER LAKE OUTLET
SILVER LAKE LEAKAGE	USGS 11436500	
LAKE ALOHA	EID A1 (aka PG&E A1)	RESERVOIR STAFF GAGE ON LAKE ALOHA
PYRAMID CREEK AT TWIN BRIDGES	USGS 11435100 EID A40 (aka PG&E A40)	RATED STREAMFLOW GAGE RECORDER REPRESENTING OUTFLOW FROM LAKE ALOHA
SOUTH FORK AMERICAN RIVER NEAR KYBURZ (RIVER ONLY)	USGS 11439500 EID A12 (aka PG&E A12)	RATED STREAMFLOW GAGE BELOW EL DORADO DIVERSION DAM
SOUTH FORK AMERICAN RIVER NEAR KYBURZ (TOTAL FLOW)	USGS 11439501 EID A11 (aka PG&E A11)	RATED STREAMFLOW GAGE IN SOUTH FORK AMERICAN RIVER NEAR KYBURZ AND THE EL DORADO CANAL
EL DORADO CANAL NEAR KYBURZ	USGS 11439000	MEASURED FLOWS IN EL DORADO CANAL
EL DORADO IRRIGATION DISTRICT DELIVERY	EID A18 (aka PG&E A18)	RATED STREAM GAGE IN EID CANAL MEASURING PG&E DELIVERIES TO EID
FOLSOM LAKE	EID'S EL DORADO HILLS WATER TREATMENT PLANT	PUMPED WATER CALCULATED FROM FLOW METER MEASUREMENT

8. To protect Lake Aloha's summer recreational uses, permittee shall not divert water released from the lake for consumptive use, excluding nondiscretionary releases required by the Federal Energy Regulatory Commission (FERC) license for Project 184 or the State Division of Safety of Dams, unless the following requirements are met. End-of-the-month lake levels must remain above historic minimum levels, and average end-of-the-month lake levels, as reviewed at five-year intervals, must remain at or above historic average levels, as shown in the following schedule:

LAKE ALOHA
End-of-Month Lake Level Operational Requirements

MONTH	CRITICAL WATER YEAR E.O.M. STAGE (Gage height, feet)	DRY WATER YEAR E.O.M. STAGE (Gage height, feet)	BELOW NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	ABOVE NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	WET WATER YEAR E.O.M. STAGE (Gage height, feet)
June	Average: 18.3 Minimum: 16.2	Average: 19.6 Minimum: 18.1	Average: 19.5 Minimum: 18.2	Average: 19.5 Minimum: 17.2	Average: 18.1 Minimum: 14.3
July	Average: 11.0 Minimum: 5.0	Average: 15.2 Minimum: 10.1	Average: 17.1 Minimum: 15.3	Average: 18.8 Minimum: 16.6	Average: 19.2 Minimum: 14.6
August	Average: 6.6 Minimum: 5.0	Average: 7.6 Minimum: 5.0	Average: 9.9 Minimum: 5.2	Average: 12.2 Minimum: 7.3	Average: 14.2 Minimum: 8.4
September	Average: 6.0 Minimum: 5.0	Average: 5.7 Minimum: 5.0	Average: 6.8 Minimum: 5.0	Average: 7.6 Minimum: 5.0	Average: 8.1 Minimum: 5.0

9. To protect Caples Lake's summer recreational uses, permittee shall not divert water released from the lake for consumptive use, excluding nondiscretionary releases required by the FERC license for Project 184 or the State Division of Safety of Dams, unless the following requirements are met. End-of-the-month lake levels must remain above historic minimum levels, and average end-of-the-month lake levels, as reviewed at five-year intervals, must remain at or above historic average levels, as shown in the following schedule:

Caples Lake
End-of-the-Month Lake Level Operational Requirements

MONTH	CRITICAL WATER YEAR E.O.M. STAGE (Gage height, feet)	DRY WATER YEAR E.O.M. STAGE (Gage height, feet)	BELOW NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	ABOVE NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	WET WATER YEAR E.O.M. STAGE (Gage height, feet)
June	Average: 54.1 Minimum: 45.6	Average: 58.9 Minimum: 53.3	Average: 61.5 Minimum: 58.5	Average: 61.8 Minimum: 61.5	Average: 61.4 Minimum: 56.1
July	Average: 52.9 Minimum: 44.5	Average: 57.8 Minimum: 52.1	Average: 60.9 Minimum: 58.9	Average: 61.6 Minimum: 60.4	Average: 61.9 Minimum: 61.3
August	Average: 46.0 Minimum: 33.0	Average: 50.8 Minimum: 44.9	Average: 54.2 Minimum: 49.3	Average: 57.5 Minimum: 51.1	Average: 59.5 Minimum: 56.2
September	Average: 43.0 Minimum: 30.5	Average: 45.4 Minimum: 39.0	Average: 48.2 Minimum: 42.9	Average: 54.0 Minimum: 44.7	Average: 56.8 Minimum: 51.5
October	Average: 41.3 Minimum: 30.1	Average: 41.5 Minimum: 38.0	Average: 41.9 Minimum: 35.6	Average: 50.5 Minimum: 41.0	Average: 52.9 Minimum: 44.3

10. To protect Silver Lake's summer recreational uses, permittee shall not release water from the lake for consumptive use, power production, or other purposes prior to Labor Day each year, excluding nondiscretionary releases required by the FERC license for Project 184 or the State Division of Safety of Dams. In addition, permittee shall not divert water released from the lake for consumptive use, excluding nondiscretionary releases required by the FERC license for Project 184 or the State Division of Safety of Dams, unless the following requirements are met. End-of-the-month lake levels must remain above historic minimum levels, and average end-of-the-month lake levels, as reviewed at five-year intervals, must remain at or above historic average levels, as shown in the following schedule:

Silver Lake
End-of-the-Month Lake Level Operational Requirements

MONTH	CRITICAL WATER YEAR E.O.M. STAGE (Gage height, feet)	DRY WATER YEAR E.O.M. STAGE (Gage height, feet)	BELOW NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	ABOVE NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	WET WATER YEAR E.O.M. STAGE (Gage height, feet)
September	Average: 11.3 Minimum: 6.3	Average: 9.6 Minimum: 4.6	Average: 10.4 Minimum: 6.9	Average: 11.3 Minimum: 6.0	Average: 12.0 Minimum: 7.8
October	Average: 7.4 Minimum: 3.0	Average: 5.8 Minimum: 1.3	Average: 5.1 Minimum: 2.3	Average: 5.6 Minimum: 0.8	Average: 6.8 Minimum: 0.7

11. Conditions 8, 9, and 10 seek to assure that the use of water from Lake Aloha, Caples Lake, and Silver Lake for consumptive use purposes will not have the effect of increasing the releases from the lakes, consistent with the nondiscretionary obligations imposed upon the operations of these lakes by the FERC license for Project 184. Under Water Code section 1394, the SWRCB reserves jurisdiction over this permit, for a period of ten years from the date of this order, to revise these conditions or to promulgate other conditions which may more effectively assure the maintenance of the levels of these lakes as high as possible consistent with historical lake operation. In addition, the SWRCB reserves jurisdiction, for a period of fifteen years from the date of this order or ten years after FERC issues a new license for Project 184, whichever occurs later, to revise these conditions in light of new information concerning the recreational impacts associated with various lake levels.

Either permittee or other interested persons having an interest in how the lakes are operated may petition the SWRCB to revise the schedules or propose other conditions for the maintenance of lake levels. The proponent of such changes shall have the burden of producing evidence to support the requested changes. No changes will be made to these terms without notice to permittee and other interested persons and the opportunity for a hearing.

12. The permittee shall maintain the release, bypass, and lake capacity requirements imposed by the FERC license for Project 184. The SWRCB reserves continuing authority to revise the conditions of this order as the SWRCB may determine to be necessary or appropriate in light of any changes to the release, bypass, lake capacity or related requirements imposed by the FERC license. In addition, the SWRCB reserves continuing authority to adopt conditions to protect inlake and instream beneficial uses of water if permittee ceases the operation of the licensed hydroelectric project. Permittee is required to put the SWRCB on notice at such time as EID commences any proceeding to cease hydropower operations. If EID ceases hydropower operation, permittee shall continue to operate the components of the hydroelectric project as if the FERC license requirements for protecting inlake and instream beneficial uses were still in effect. Permittee shall continue such operations until such time as the SWRCB exercises its reserved jurisdiction and adopts conditions to protect inlake and instream beneficial uses of water. In exercising its reserved jurisdiction, no condition will be adopted without notice to permittee and other interested persons and the opportunity for a hearing.
13. Once every five years, beginning five years from the date of this permit, permittee shall prepare and submit to the SWRCB a compliance report that demonstrates compliance with conditions 8, 9, and 10. In the years when the report is required, it shall be submitted with the annual Progress Report by Permittee.

Permittee also shall include with the annual Progress Report by Permittee an annual report on lake level impacts to recreational uses at Lake Aloha, Caples Lake, and Silver Lake. The report shall include a qualitative analysis of the recreational impacts associated with the end-of-the-month lake levels for the preceding year. The report shall address, at a minimum, whether the end-of-the-month lake levels affected the following: the usability of boat ramps and docks; swimming access, beaches and angler locations;

campgrounds, picnic areas, recreational residences, organized camps, resorts, and marinas; and aesthetic values.

Permittee also shall make an annual Operating Plan available on EID's web-site and at EID's offices, consistent with EID's Lake Level Operational Commitment, as specified in the 1999 Final EIR for the Acquisition, Permanent Repair, and Operation of the El Dorado Hydroelectric Project and Acquisition of 17,000 Acre-Feet Per Year of New Consumptive Water (1999 EIR).

14. Construction work shall begin within five years of the date of this permit and thereafter be prosecuted with reasonable diligence.
15. Construction work shall be completed by December 31, 2011. (0000009)
16. Complete application of the water to the authorized use shall be made by December 31, 2020. (0000009)
17. The SWRCB shall have continuing authority to revoke all or any portion of this permit and the partial assignment of Application 5645(8) if permittee fails to diligently construct and place water to beneficial use in accordance with conditions 14, 15 and 16. All or any portion of the revoked assignment shall return to the SWRCB and be available for the release or assignment to permittee or others consistent with the requirements of Water Code sections 10500, et seq.
18. No water shall be used under this permit until EID has filed a report of waste discharge with the Central Valley Regional Water Quality Control Board (CVRWQCB) pursuant to Water Code section 13260, and the CVRWQCB or SWRCB has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Water may be diverted only during such times as all requirements prescribed by the CVRWQCB or SWRCB are being met. No point source discharges of waste to surface water shall be made unless waste discharge requirements are issued by the CVRWQCB or SWRCB. (0000101)

No water shall be used under this permit until EID has prepared and the CVRWQCB has approved a mitigation plan that will ensure that increased wastewater discharges from the Deer Creek and El Dorado Hills wastewater treatment plants due to the use of water under this permit will not unreasonably affect wildlife habitat or aquatic habitat. The plan shall specify potential impacts to wildlife and aquatic habitat and shall identify potential mitigation measures, including but not limited to measures that will ensure that EID will not adversely affect the beneficial uses of receiving waters designated in the Water Quality Control Plan for the Central Valley Region, Sacramento River and San Joaquin River Basins (1995). The plan also shall identify any potential mitigation measures that will offset any impacts that cannot be mitigated or avoided directly, and

evaluate the feasibility of all potential mitigation measures identified. As a condition of this permit, EID shall implement the mitigation measures identified in the plan that the CVRWQCB determines are feasible.

19. No water shall be diverted under this permit until El Dorado County has adopted a General Plan that contains policies that are equally or more protective of threatened and endangered plant species than Objective 7.4.1 and the subsequent policies that were contained in the 1996 General Plan, except to the extent that water is delivered to a development project that is approved consistent with the 1996 General Plan.
20. EID shall cooperate with El Dorado County in establishing preserve sites for eight sensitive plant species known as the Pine Hill endemics and their habitats (specifically identified gabbro and serpentine soils).
21. EID shall comply with the El Dorado Irrigation District Urban Water Management Plan (February 26, 1996) and with the Water Conservation Plan for El Dorado Irrigation District (May 4, 1994) Prepared Pursuant to USBR Criteria in Response to the CVPIA, and with subsequent revisions to those plans. EID shall submit a copy of the Urban Water Management Plan and copies of any revisions to either of the plans to the Chief of the Division of Water Rights. Permittee shall include any information necessary to demonstrate compliance with the plans in permittee's annual Progress Report by Permittee.

(0000029A)
22. Prior to the finalization of the route for the pipeline/water delivery system identified in the 1999 EIR, EID shall conduct, in consultation with the Department of Fish and Game (DFG) and the United States Fish and Wildlife Service (USFWS), reconnaissance surveys for state and federally listed threatened and endangered species. The surveys shall, in part, guide the determination of alternatives for the final routes for the pipeline/water delivery system. The survey protocols shall be reviewed and approved by DFG. A final report shall be prepared from the results of the plant/animal surveys. The final report shall include an analysis of the alternative routes considered, and shall identify necessary mitigation and monitoring measures to conserve and protect the species identified to occur within the final routes of the pipeline/water delivery system. The final report shall be submitted to the SWRCB, DFG, and USFWS for review.
23. EID shall implement the following mitigation measures identified in the 1999 EIR. Permittee shall implement those measures summarized in Table 2-1 of the Final EIR that are identified by the following corresponding chapter numbers: 8.2-5, 8.3-1, 8.3-6 & 8.3-7.
24. In accordance with 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 permit until permittee has implemented measures to protect fishlife. Such measures shall include fish screens, or other suitable methods for the prevention of entrainment or impingement of fish, which meet USFWS and DFG criteria. Permittee shall provide certification that its proposed screening methods meet these criteria. Certification shall be made by USFWS or DFG personnel, a Licensed Civil Engineer, or other suitable professional. Construction,

operation, and maintenance of any required facility are the responsibility of the permittee. If the fish entrainment prevention device(s) is(are) rendered inoperative for any reason, all diversions shall cease until such time as the device(s) is(are) restored to service.

(0000213)

25. EID shall implement the mitigation measure summarized in Table 2-1 of the Final EIR that is identified by corresponding chapter number 8.3-13. In addition, EID shall implement any mitigation measures identified as part of the project level environmental review of the pipeline/water delivery system designed to mitigate construction impacts to hydrology or water quality. EID shall submit to the Chief of the Division of Water Rights the environmental documentation for the project level review of the pipeline/water delivery system and documentation of EID's approval of the project, including any mitigation measures adopted by EID. EID shall submit this information with a cover letter indicating that the information is being submitted in conformance with condition 25 of this permit.
26. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, EID shall file a report pursuant to Water Code section 13260 and shall comply with all waste discharge requirements imposed by the CVRWQCB, or by the SWRCB.
27. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall run-off into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.
28. No construction shall be commenced and no water shall be used under this permit until all necessary federal, state and local approvals have been obtained, including any necessary approvals from the CVRWQCB. EID shall abide by any approvals designed to minimize construction impacts to water quality or hydrology.
29. Permittee shall enter into a contract with the USBR for the use of Folsom Reservoir. No water shall be diverted under this permit until the contract is executed and a copy delivered to the Chief of the Division of Water Rights.
30. The SWRCB reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the SWRCB concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

(0000100)

(0000208)

(0000203)

(0000080)

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

(0000119)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

32. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

33. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.

(0000010)

34. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

35. 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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)

36. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB 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 SWRCB 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)

37. 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)

38. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

39. 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 and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with DFG and/or DFG 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)

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: April 6, 2007

STATE WATER RESOURCES CONTROL BOARD

Original Signed By:

James W. Kassel

For 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 21112

Application 5645B of **El Dorado County Water Agency,
330 Fair Lane,
Placerville, CA 95667;**

**El Dorado Irrigation District,
2890 Mosquito Road,
Placerville, CA 95667**

filed on **July 30, 1927**, has been approved by the State Water Resources Control Board (SWRCB) 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:
a) Silver Lake	Silver Fork American River thence South Fork American River
b) Caples Lake	Caples Creek thence Silver Fork American River thence South Fork American River
c) Lake Aloha	Pyramid Creek thence South Fork American River
d) South Fork American River	American River

within the Counties of **Amador, Alpine and El Dorado**

2. Location of point of diversion and redirection(*)	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
a) Silver Lake Dam: North 65° 30' East, 3,260 feet from the SW corner	NW¼ of SE¼	32	10N	17E	MD
b) Caples Lake Dam: North 51° 41' East, 1,400 feet from the SW corner	SW¼ of SW¼	18	10N	18E	MD
c) Lake Aloha Dam: South 50° 40' West, 2,196 feet from the NE corner	SW¼ of NE¼	30	12N	17E	MD

d) Folsom Reservoir Pump Station Intake(*):North 25° 06' East, 2,358 feet from the SW corner	NE¼ of NW¼ of SW¼	10	10N	8E	MD
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3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Domestic Irrigation Municipal	Within the service area of El Dorado Irrigation District (excluding Service Zones 9, 14 and 15), as described and delineated on the map entitled "El Dorado County Water Agency & El Dorado Irrigation District place of use"		8N	8E, 9E, 10E	MD	
			9N	8E, 9E, 10E, 11E, 12E	MD	
			10N	8E, 9E, 10E, 11E, 12E, 13E	MD	
			11N	8E, 9E, 10E, 11E, 12E, 13E	MD	
			12N	9E, 10E	MD	

The place of use is shown on map on file with the State Water Resources Control Board (SWRCB).

5.
 - a) The total quantity of water to be diverted to storage at Caples Lake, Silver Lake, and Lake Aloha shall not exceed 32,931 acre-feet per annum (afa).
 - b) The water appropriated at Lake Aloha shall be limited to the quantity that can be beneficially used and shall not exceed 5,350 acre-feet per annum to be collected from November 1 through July 31.
 - c) The water appropriated at Caples Lake shall be limited to the quantity that can be beneficially used and shall not exceed 21,581 afa to be collected from November 1 through July 31.
 - d) The water appropriated at Silver Lake shall be limited to the quantity that can be beneficially used and shall not exceed 6,000 afa to be collected from November 1 through July 31.
 - e) The total quantity of water to be diverted at Folsom Reservoir in any one year by direct diversion and rediversion of stored water shall be limited to 17,000 acre-feet (af). This maximum diversion amount represents the total quantity of water stored in Lake Aloha, Caples Lake, or Silver Lake that may be rediverted at Folsom Reservoir under this permit.

- f) The total quantity of water to be diverted by direct diversion at Folsom Reservoir in any one year shall be limited to the quantity that can be beneficially used and shall not exceed 15,000 af per year to be collected from November 1 through July 31. The water that may be directly diverted under this permit shall be limited to water originating in the South Fork American River upstream of the El Dorado Canal diversion near Kyburz. The maximum rate of direct diversion shall not exceed 156 cubic feet per second (cfs).
6. All water appropriated under this permit is subject to the county of origin preferences as required by Water Code sections 10505 and 10505.5. Any water appropriated under this permit is subject to the right of Amador and Alpine Counties to obtain appropriate rights to water necessary for their development from the water originating in their respective counties. This reservation does not and cannot grant water right applicants in the counties of origin the right to divert and use water directly diverted or diverted to storage at Echo Lake, Lake Aloha, Caples Lake or Silver Lake under any rights that El Dorado Irrigation District (EID) may have acquired from Pacific Gas and Electric Company.

Permittee shall make up to 200 afa of storage available in Silver and Caples Lakes for existing and future uses in the immediate vicinity of the lakes in the counties of origin, without cost to applicants in the counties of origin.

7. No water shall be diverted under this permit until permittee has installed devices, satisfactory to the SWRCB, that are capable of measuring instantaneous flow diverted daily from Folsom Reservoir, to be reported annually in operation reports to the SWRCB. The report shall include daily and monthly quantities reported in acre-feet diverted from Folsom Reservoir, and the quantity in acre-feet released from and remaining in each of Caples Lake, Silver Lake and Lake Aloha at the end of each month. The report shall also, on a monthly basis, account for any water diverted from Folsom Reservoir under any other rights, including contracts with the U.S. Bureau of Reclamation (USBR) or others. Streamflows above and below the El Dorado Canal diversion at Kyburz and quantities diverted into the El Dorado distribution headworks shall also be included in these annual reports. The following gages are approved to be used for measuring water released from Caples Lake, Silver Lake, and Lake Aloha, and for computing water available for direct diversion from Folsom Reservoir:

GAGE NAME	USGS IDENTIFICATION NUMBER	HYDROLOG RECORD
CAPLES LAKE	USGS 11436900 EID A5 (aka PG&E A5)	RESERVOIR STAGE RECORDER ON CAPLES LAKE
CAPLES LAKE OUTLET NEAR KIRKWOOD	USGS 11437000 EID A6 (aka PG&E A6)	RATED STREAMFLOW RECORDER BELOW CAPLES LAKE OUTLET
CAPLES CREEK RELEASES BELOW CAPLES DAM	USGS 11436999	
SILVER LAKE	USGS 11435900 EID A8 (aka PG7E A8)	RESERVOIR STAGE RECORDER ON SILVER LAKE

SILVER LAKE OUTLET NEAR KIRKWOOD	USGS 11436000 EID A9 (aka PG&E A9)	RATED STREAMFLOW RECORDER BELOW SILVER LAKE OUTLET
SILVER LAKE LEAKAGE LAKE ALOHA	USGS 11436500 EID A1 (aka PG&E A1)	RESERVOIR STAFF GAGE ON LAKE ALOHA
PYRAMID CREEK AT TWIN BRIDGES	USGS 11435100 EID A40 (aka PG&E A40)	RATED STREAMFLOW GAGE RECORDER REPRESENTING OUTFLOW FROM LAKE ALOHA
SOUTH FORK AMERICAN RIVER NEAR KYBURZ (RIVER ONLY)	USGS 11439500 EID A12 (aka PG&E A12)	RATED STREAMFLOW GAGE BELOW EL DORADO DIVERSION DAM
SOUTH FORK AMERICAN RIVER NEAR KYBURZ (TOTAL FLOW)	USGS 11439501 EID A11 (aka PG&E A11)	RATED STREAMFLOW GAGE IN SOUTH FORK AMERICAN RIVER NEAR KYBURZ AND THE EL DORADO CANAL
EL DORADO CANAL NEAR KYBURZ	USGS 11439000 EID A18 (aka PG&E A18)	MEASURED FLOWS IN EL DORADO CANAL
EL DORADO IRRIGATION DISTRICT DELIVERY		RATED STREAM GAGE IN EID CANAL MEASURING PG&E DELIVERIES TO EID
FOLSOM LAKE	EID'S EL DORADO HILLS WATER TREATMENT PLANT	PUMPED WATER CALCULATED FROM FLOW METER MEASUREMENT

8. To protect Lake Aloha's summer recreational uses, permittee shall not divert water released from the lake for consumptive use, excluding nondiscretionary releases required by the Federal Energy Regulatory Commission (FERC) license for Project 184 or the State Division of Safety of Dams, unless the following requirements are met. End-of-the-month lake levels must remain above historic minimum levels, and average end-of-the-month lake levels, as reviewed at five-year intervals, must remain at or above historic average levels, as shown in the following schedule:

LAKE ALOHA
End-of-Month Lake Level Operational Requirements

MONTH	CRITICAL WATER YEAR E.O.M. STAGE (Gage height, feet)	DRY WATER YEAR E.O.M. STAGE (Gage height, feet)	BELOW-NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	ABOVE-NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	AVERAGE WATER YEAR E.O.M. STAGE (Gage height, feet)
June	Average: 18.3 Minimum: 16.2	Average: 19.6 Minimum: 18.1	Average: 19.5 Minimum: 18.2	Average: 19.5 Minimum: 17.2	Average: 18.1 Minimum: 14.3
July	Average: 11.0 Minimum: 5.0	Average: 15.2 Minimum: 10.1	Average: 17.1 Minimum: 15.3	Average: 18.8 Minimum: 16.6	Average: 19.2 Minimum: 14.6
August	Average: 6.6 Minimum: 5.0	Average: 7.6 Minimum: 5.0	Average: 9.9 Minimum: 5.2	Average: 12.2 Minimum: 7.3	Average: 14.2 Minimum: 8.4
September	Average: 6.0 Minimum: 5.0	Average: 5.7 Minimum: 5.0	Average: 6.8 Minimum: 5.0	Average: 7.6 Minimum: 5.0	Average: 8.1 Minimum: 5.0

9. To protect Caples Lake's summer recreational uses, permittee shall not divert water released from the lake for consumptive use, excluding nondiscretionary releases required by the FERC license for Project 184 or the State Division of Safety of Dams, unless the following requirements are met. End-of-the-month lake levels must remain above historic minimum levels, and average end-of-the-month lake levels, as reviewed at five-year intervals, must remain at or above historic average levels, as shown in the following schedule:

**Caples Lake
End-of-the-Month Lake Level Operational Requirements**

MONTH	CRITICAL WATER YEAR E.O.M. STAGE (Gage height, feet)	DRY WATER YEAR E.O.M. STAGE (Gage height, feet)	BELOW NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	ABOVE NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	WELL WATER YEAR E.O.M. STAGE (Gage height, feet)
June	Average: 54.1 Minimum: 45.6	Average: 58.9 Minimum: 53.3	Average: 61.5 Minimum: 58.5	Average: 61.8 Minimum: 61.5	Average: 61.4 Minimum: 56.1
July	Average: 52.9 Minimum: 44.5	Average: 57.8 Minimum: 52.1	Average: 60.9 Minimum: 58.9	Average: 61.6 Minimum: 60.4	Average: 61.9 Minimum: 61.3
August	Average: 46.0 Minimum: 33.0	Average: 50.8 Minimum: 44.9	Average: 54.2 Minimum: 49.3	Average: 57.5 Minimum: 51.1	Average: 59.5 Minimum: 56.2
September	Average: 43.0 Minimum: 30.5	Average: 45.4 Minimum: 39.0	Average: 48.2 Minimum: 42.9	Average: 54.0 Minimum: 44.7	Average: 56.8 Minimum: 51.5
October	Average: 41.3 Minimum: 30.1	Average: 41.5 Minimum: 38.0	Average: 41.9 Minimum: 35.6	Average: 50.5 Minimum: 41.0	Average: 52.9 Minimum: 44.3

10. To protect Silver Lake's summer recreational uses, permittee shall not release water from the lake for consumptive use, power production, or other purposes prior to Labor Day each year, excluding nondiscretionary releases required by the FERC license for Project 184 or the State Division of Safety of Dams. In addition, permittee shall not divert water released from the lake for consumptive use, excluding nondiscretionary releases required by the FERC license for Project 184 or the State Division of Safety of Dams, unless the following requirements are met. End-of-the-month lake levels must remain above historic minimum levels, and average end-of-the-month lake levels, as reviewed at five-year intervals, must remain at or above historic average levels, as shown in the following schedule:

**Silver Lake
End-of-the-Month Lake Level Operational Requirements**

MONTH	CRITICAL WATER YEAR E.O.M. STAGE (Gage height, feet)	DRY WATER YEAR E.O.M. STAGE (Gage height, feet)	BELOW NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	ABOVE NORMAL WATER YEAR E.O.M. STAGE (Gage height, feet)	WELL WATER YEAR E.O.M. STAGE (Gage height, feet)
September	Average: 11.3 Minimum: 6.3	Average: 9.6 Minimum: 4.6	Average: 10.4 Minimum: 6.9	Average: 11.3 Minimum: 6.0	Average: 12.0 Minimum: 7.8
October	Average: 7.4 Minimum: 3.0	Average: 5.8 Minimum: 1.3	Average: 5.1 Minimum: 2.3	Average: 5.6 Minimum: 0.8	Average: 6.8 Minimum: 0.7

11. Conditions 8, 9, and 10 seek to assure that the use of water from Lake Aloha, Caples Lake, and Silver Lake for consumptive use purposes will not have the effect of increasing the releases from the lakes, consistent with the nondiscretionary obligations imposed upon the operations of these lakes by the FERC license for Project 184. Under Water Code section 1394, the SWRCB reserves jurisdiction over this permit, for a period of ten years from the date of this order, to revise these conditions or to promulgate other conditions which may more effectively assure the maintenance of the levels of these lakes as high as possible consistent with historical lake operation. In addition, the SWRCB reserves jurisdiction, for a period of fifteen years from the date of this order or ten years after FERC issues a new license for Project 184, whichever occurs later, to revise these conditions in light of new information concerning the recreational impacts associated with various lake levels.

Either permittee or other interested persons having an interest in how the lakes are operated may petition the SWRCB to revise the schedules or propose other conditions for the maintenance of lake levels. The proponent of such changes shall have the burden of producing evidence to support the requested changes. No changes will be made to these terms without notice to permittee and other interested persons and the opportunity for a hearing.

12. The permittee shall maintain the release, bypass, and lake capacity requirements imposed by the FERC license for Project 184. The SWRCB reserves continuing authority to revise the conditions of this order as the SWRCB may determine to be necessary or appropriate in light of any changes to the release, bypass, lake capacity or related requirements imposed by the FERC license. In addition, the SWRCB reserves continuing authority to adopt conditions to protect inlake and instream beneficial uses of water if permittee ceases the operation of the licensed hydroelectric project. Permittee is required to put the SWRCB on notice at such time as EID commences any proceeding to cease hydropower operations. If EID ceases hydropower operation, permittee shall continue to operate the components of the hydroelectric project as if the FERC license requirements for protecting inlake and instream beneficial uses were still in effect. Permittee shall continue such operations until such time as the SWRCB exercises its reserved jurisdiction and adopts conditions to protect inlake and instream beneficial uses of water. In exercising its reserved jurisdiction, no condition will be adopted without notice to permittee and other interested persons and the opportunity for a hearing.
13. Once every five years, beginning five years from the date of this permit, permittee shall prepare and submit to the SWRCB a compliance report that demonstrates compliance with conditions 8, 9, and 10. In the years when the report is required, it shall be submitted with the annual Progress Report by Permittee.

Permittee also shall include with the annual Progress Report by Permittee an annual report on lake level impacts to recreational uses at Lake Aloha, Caples Lake, and Silver Lake. The report shall include a qualitative analysis of the recreational impacts associated with the end-of-the-month lake levels for the preceding year. The report shall address, at a minimum, whether the end-of-the-month lake levels affected the following: the usability of boat ramps and docks; swimming access, beaches and angler locations;

campgrounds, picnic areas, recreational residences, organized camps, resorts, and marinas; and aesthetic values.

Permittee also shall make an annual Operating Plan available on EID's web-site and at EID's offices, consistent with EID's Lake Level Operational Commitment, as specified in the 1999 Final EIR for the Acquisition, Permanent Repair, and Operation of the El Dorado Hydroelectric Project and Acquisition of 17,000 Acre-Feet Per Year of New Consumptive Water (1999 EIR).

14. Construction work shall begin within five years of the date of this permit and thereafter be prosecuted with reasonable diligence.
15. Construction work shall be completed by December 31, 2011. (0000009)
16. Complete application of the water to the authorized use shall be made by December 31, 2020. (0000009)
17. The SWRCB shall have continuing authority to revoke all or any portion of this permit and the partial assignment of Application 5645(8) if permittee fails to diligently construct and place water to beneficial use in accordance with conditions 14, 15 and 16. All or any portion of the revoked assignment shall return to the SWRCB and be available for the release or assignment to permittee or others consistent with the requirements of Water Code sections 10500, et seq.
18. No water shall be used under this permit until EID has filed a report of waste discharge with the Central Valley Regional Water Quality Control Board (CVRWQCB) pursuant to Water Code section 13260, and the CVRWQCB or SWRCB has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Water may be diverted only during such times as all requirements prescribed by the CVRWQCB or SWRCB are being met. No point source discharges of waste to surface water shall be made unless waste discharge requirements are issued by the CVRWQCB or SWRCB. (0000101)

No water shall be used under this permit until EID has prepared and the CVRWQCB has approved a mitigation plan that will ensure that increased wastewater discharges from the Deer Creek and El Dorado Hills wastewater treatment plants due to the use of water under this permit will not unreasonably affect wildlife habitat or aquatic habitat. The plan shall specify potential impacts to wildlife and aquatic habitat and shall identify potential mitigation measures, including but not limited to measures that will ensure that EID will not adversely affect the beneficial uses of receiving waters designated in the Water Quality Control Plan for the Central Valley Region, Sacramento River and San Joaquin River Basins (1995). The plan also shall identify any potential mitigation measures that will offset any impacts that cannot be mitigated or avoided directly, and

- evaluate the feasibility of all potential mitigation measures identified. As a condition of this permit, EID shall implement the mitigation measures identified in the plan that the CVRWQCB determines are feasible.
19. No water shall be diverted under this permit until El Dorado County has adopted a General Plan that contains policies that are equally or more protective of threatened and endangered plant species than Objective 7.4.1 and the subsequent policies that were contained in the 1996 General Plan, except to the extent that water is delivered to a development project that is approved consistent with the 1996 General Plan.
 20. EID shall cooperate with El Dorado County in establishing preserve sites for eight sensitive plant species known as the Pine Hill endemics and their habitats (specifically identified gabbro and serpentine soils).
 21. EID shall comply with the El Dorado Irrigation District Urban Water Management Plan (February 26, 1996) and with the Water Conservation Plan for El Dorado Irrigation District (May 4, 1994) Prepared Pursuant to USBR Criteria in Response to the CVPIA, and with subsequent revisions to those plans. EID shall submit a copy of the Urban Water Management Plan and copies of any revisions to either of the plans to the Chief of the Division of Water Rights. Permittee shall include any information necessary to demonstrate compliance with the plans in permittee's annual Progress Report by Permittee.

(0000029A)
 22. Prior to the finalization of the route for the pipeline/water delivery system identified in the 1999 EIR, EID shall conduct, in consultation with the Department of Fish and Game (DFG) and the United States Fish and Wildlife Service (USFWS), reconnaissance surveys for state and federally listed threatened and endangered species. The surveys shall, in part, guide the determination of alternatives for the final routes for the pipeline/water delivery system. The survey protocols shall be reviewed and approved by DFG. A final report shall be prepared from the results of the plant/animal surveys. The final report shall include an analysis of the alternative routes considered, and shall identify necessary mitigation and monitoring measures to conserve and protect the species identified to occur within the final routes of the pipeline/water delivery system. The final report shall be submitted to the SWRCB, DFG, and USFWS for review.
 23. EID shall implement the following mitigation measures identified in the 1999 EIR. Permittee shall implement those measures summarized in Table 2-1 of the Final EIR that are identified by the following corresponding chapter numbers: 8.2-5, 8.3-1, 8.3-6 & 8.3-7.
 24. In accordance with 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 permit until permittee has implemented measures to protect fishlife. Such measures shall include fish screens, or other suitable methods for the prevention of entrainment or impingement of fish, which meet USFWS and DFG criteria. Permittee shall provide certification that its proposed screening methods meet these criteria. Certification shall be made by USFWS or DFG personnel, a Licensed Civil Engineer, or other suitable professional. Construction,

operation, and maintenance of any required facility are the responsibility of the permittee. If the fish entrainment prevention device(s) is(are) rendered inoperative for any reason, all diversions shall cease until such time as the device(s) is(are) restored to service.

(0000213)

25. EID shall implement the mitigation measure summarized in Table 2-1 of the Final EIR that is identified by corresponding chapter number 8.3-13. In addition, EID shall implement any mitigation measures identified as part of the project level environmental review of the pipeline/water delivery system designed to mitigate construction impacts to hydrology or water quality. EID shall submit to the Chief of the Division of Water Rights the environmental documentation for the project level review of the pipeline/water delivery system and documentation of EID's approval of the project, including any mitigation measures adopted by EID. EID shall submit this information with a cover letter indicating that the information is being submitted in conformance with condition 25 of this permit.
26. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, EID shall file a report pursuant to Water Code section 13260 and shall comply with all waste discharge requirements imposed by the CVRWQCB, or by the SWRCB.
(0000100)
27. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall run-off into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.
(0000208)
28. No construction shall be commenced and no water shall be used under this permit until all necessary federal, state and local approvals have been obtained, including any necessary approvals from the CVRWQCB. EID shall abide by any approvals designed to minimize construction impacts to water quality or hydrology.
(0000203)
29. Permittee shall enter into a contract with the USBR for the use of Folsom Reservoir. No water shall be diverted under this permit until the contract is executed and a copy delivered to the Chief of the Division of Water Rights.
30. The SWRCB reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the SWRCB concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.
(0000080)

31. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.
- a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the SWRCB for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
- b. Supplemental Project water is defined as that water imported to the basin by the projects plus water released from Project storage which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The SWRCB shall notify permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The SWRCB will advise permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

This term may be modified in accordance with any SWRCB order or decision issued in the future, including but not limited to an order or decision that establishes responsibilities to meet water quality objectives in the Bay-Delta Estuary.

(0000091)

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

(0000119)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD
ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

33. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

34. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.

(0000010)

35. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

36. 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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)

37. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB 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 SWRCB 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)

38. 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)

39. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

40. 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 and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with DFG and/or DFG 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)

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: OCT 16 2001

STATE WATER RESOURCES CONTROL BOARD

David R. Bringer
for Chief, Division of Water Rights