

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

DIVISION OF WATER RIGHTS

**TEMPORARY PERMIT
FOR DIVERSION AND USE OF WATER**

TEMPORARY PERMIT 21276

Application T031850 of **Dean and Deborah Wilson**
c/o Brian Donald
Beta Engineering California, LLP
9990 Mesa Rim Road, Suite 150
San Diego, CA 92121

filed on **August 12, 2010** is approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Beta Engineering California LLP (Beta Engineering) filed a temporary permit application on August 12, 2010, under Water Code section 1425. Beta Engineering requires a temporary water supply for earthwork and dust control uses for the Suncrest Powerlink Project of San Diego Gas and Electric Company (San Diego), an electrical substation proposed for construction by San Diego. The subject water source is two existing reservoirs located on a neighboring parcel to the project site, owned by Dean and Deborah Wilson.

The State Water Board may issue a temporary permit if the State Water Board finds that: (1) the applicant has an urgent need for the proposed diversion and use of water, (2) the water may be diverted and used without injury to any lawful user of water, (3) the water may be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses, and (4) the proposed diversion and use is in the public interest. (Wat. Code, § 1425, subd. (b).)

The State Water Board has delegated to the Deputy Director for Water Rights the authority to act on applications for temporary permits in accordance with Water Code sections 1425-1431 where no objections are outstanding. (State Water Board Resolution 2007-0057, para. 4.2.9.) Public notice of the application for this temporary permit was issued on November 27, 2010. The Department of Fish and Game (DFG) was consulted and it was determined that the applicant should be required to maintain water at a depth of 5-feet in the reservoir at all times to maintain hydrologic connectivity for upstream fish passage. In addition, DFG issued a Lake or Streambed Alteration Agreement for this project on October 28, 2010. A copy of this agreement is on file with the State Water Board.

The Applicant Has an Urgent Need for the Water

The State Water Board finds that the applicant has an urgent need for the water to be diverted and used. San Diego has been approved by the California Public Utility Commission to construct a 500/230kV electrical substation as part of the utility's Suncrest Powerlink Project. The dust control project will commence for a period of six months. Potential alternative sources of water are a minimum of 15 miles from the project site and would likely cause adverse traffic and air pollution impacts.

The Water May Be Diverted and Used without Injury to any Lawful User of Water

The water will be diverted and used without injury to any lawful user of water. The proposed diversion is subject to prior rights. The Division of Water Rights (Division) has no record of any water rights between the applicant's diversion points and the downstream Loveland Reservoir.

The Water May Be Diverted and Used without Unreasonable Effects upon Fish, Wildlife, or other Instream Beneficial Uses

The diversion and use of water under the permit will not unreasonably affect fish, wildlife, or other instream beneficial uses. DFG conducted a site inspection and determined that no adverse impacts would occur if a minimum of a five-foot depth of water was maintained in both the upper and lower reservoirs at all times. The State Water Board will require compliance with the carryover storage limitations proposed by DFG.

The Proposed Diversion and Use Is in the Public Interest

The proposed diversion and use is in the public interest because it will improve reliability by strengthening the electric transmission grid in California and transport up to 1,000 megawatts of renewable energy from the Imperial Valley to San Diego.

In light of the findings set forth above, this proposed temporary permit is approved, subject to the following conditions:

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

1. Source of water

Source

Tributary to

Peterson Creek

Taylor Creek

thence Sweetwater River

within the County of **San Diego**

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Reservoir 1: North 1,871,654 feet, East 6,433,667 feet	SE$\frac{1}{4}$ of NW$\frac{1}{4}$	3	16S	3E	SB
Reservoir 2: North 1,874,513 feet, East 6,435,678 feet	SW$\frac{1}{4}$ of SW$\frac{1}{4}$	3	16S	3E	SB

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Dust Control	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	4	16S	3E	SB	
	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	4	16S	3E	SB	

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

5. The water appropriated shall not exceed 76.7 acre-feet to be collected for a 180-day period commencing on the issuance date of the permit, including 15.3 acre-feet for replenishment of initial storage withdrawn for beneficial use. Reservoir storage shall not exceed 43 acre-feet in Reservoir 1 ("Upper Reservoir") and 18.4 acre-feet in Reservoir 2 ("Lower Reservoir"). (000005K)
6. For the protection of instream beneficial uses, Permittee shall maintain a minimum water surface elevation of 5-feet, as measured from the bottom elevation of each reservoir, at all times during the effective period of this temporary permit. (0450500)
7. This permit expires 180 days from the date of its issuance. (0510700)
8. Permittee shall install and properly maintain staff gages in the reservoirs, satisfactory to the State Water Board, for the purpose of determining water levels in the reservoirs. (0100047)
9. Permittee shall report to the State Water Board by April 29, 2011, the total quantity of water diverted under this temporary permit. (0100500)
10. 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)
11. The State Water Board may supervise diversion and use of water under this temporary permit for the protection of lawful users of water and instream beneficial uses and for compliance with permit conditions. Permittee shall allow representatives of the State Water 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 temporary permit. (0480600)
12. This temporary permit is issued and permittee takes it subject to California Water Code, Division 2, Chapter 6.5, section 1425 et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the State Water Board. (0510800)
13. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this temporary permit including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water 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 temporary permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

(0000012)

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



Barbara Evoy
Deputy Director for Water Rights

Dated: **OCT 29 2010**