



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

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

APPLICATION 32216

PERMIT 21350

Right Holder: Southern Humboldt Unified School District
P.O. Box 650
Miranda, CA 95553

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **December 6, 2013**.

Right holder is hereby granted a right to divert and use water as follows:

- Source of water: **(1) Mattole River**
tributary to: **(1) Pacific Ocean**
within the County of **Humboldt**.

- Location of point of diversion

By California Coordinate System of 1983 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
(1) North 1,896,460 feet and East 6,018,800 feet	NW ¼ of SW ¼	15	5S	2E	H

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	NW ¼ of SW ¼	15	5S	2E	H	
Fire Protection						

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **1,000 gallons per day** by direct diversion to be diverted from January 1 to December 31 of each year and **1.1 acre-feet per year** by storage to be collected from November 1 of each year to July 15 of the succeeding year. The total amount of water to be taken from the source (direct diversion plus collection to storage) for all uses shall not exceed **1.1 acre-feet per year**.
(0000005F)
6. The maximum rate of diversion to offstream storage shall not exceed **0.025 cubic foot per second**.
(0000005J)
7. The total quantity of water diverted under this right and the right pursuant to Application 23936 shall not exceed **1.1 acre-feet per year**.
(0000005Q)
8. The maximum simultaneous rate of diversion under this right and the right pursuant to Application 23936 shall not exceed **0.025 cubic foot per second**.
(0000005S)
9. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2029.
(0000009)
10. Based on the information in the Division's files, water has not been used under a claimed existing right on the place of use. If right holder exercises a claimed existing right on the place of use authorized by this right without prior approval from the State Water Board, right holder shall forfeit this water right.
(0000021C)
11. The equivalent of the authorized continuous flow allowance for any 7-day period may be diverted in a shorter time, provided there is no interference with other water rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed.
(0000027)
12. The State Water Board intends to develop and implement a basin-wide program for real-time electronic monitoring and reporting of diversions, withdrawals, releases and streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this right.
(0090031)
13. No water shall be diverted under this right unless the flow in the Mattole River is at or above 0.7 cubic foot per second, as determined at the Thorn Junction Point of Measurement specified on the map on file with the Division of Water Rights.
(0140060)
14. No water shall be diverted under this right unless right holder is operating the water diversion facility with a fish screen satisfactory to the Deputy Director for Water Rights. The fish screen shall be designed and maintained in accordance with the screening criteria of the National Marine Fisheries Service. Right holder shall provide evidence that demonstrates that the fish screen is in good condition with the annual report and whenever requested by the Division of Water Rights.
(0000213)
15. The State Water Board reserves jurisdiction in the public interest to modify the terms and conditions of

this right, including imposition of requirements to alter project facilities or operations and to modify instream flow releases, in the event of unforeseen adverse impacts to fish or wildlife. State Water Board action will be taken only after notice to interested parties and opportunity for hearing.

(000000M)

16. No water shall be directly diverted under this right unless right holder is monitoring and reporting said diversion of water. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of continuous monitoring of the daily amount of water diverted and shall be properly maintained.

Right holder shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the device is 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.

Right holder shall maintain a record of all diversions under this right that includes the date, time, rate of diversion at time intervals of one hour or less, 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)

THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Once the time to develop beneficial use of water ends under this permit, right holder is not authorized to increase diversions beyond the maximum annual amount diverted or used during the authorized development schedule prior to submitting a time extension petition and obtaining approval of the State Water Board. (0000019)
- E. The amount of water for consideration when issuing a license shall be limited to only the amount of water diverted and applied to beneficial use in compliance with the terms and conditions of this right, as determined by the State Water Board. (Wat. Code, § 1610.) (0000006)
- F. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use. (0000015)
- G. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
 - 1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;

2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(0000011)

J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(0000025)

L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(0000212)

M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

- N. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An “urban water supplier” means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An “agricultural water supplier” means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

- O. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, 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 right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder 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 right 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 right holder 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)

- P. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder 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)

- Q. This right does not authorize any act which results in the taking of a candidate, 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 & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

This right is issued and right holder 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 .

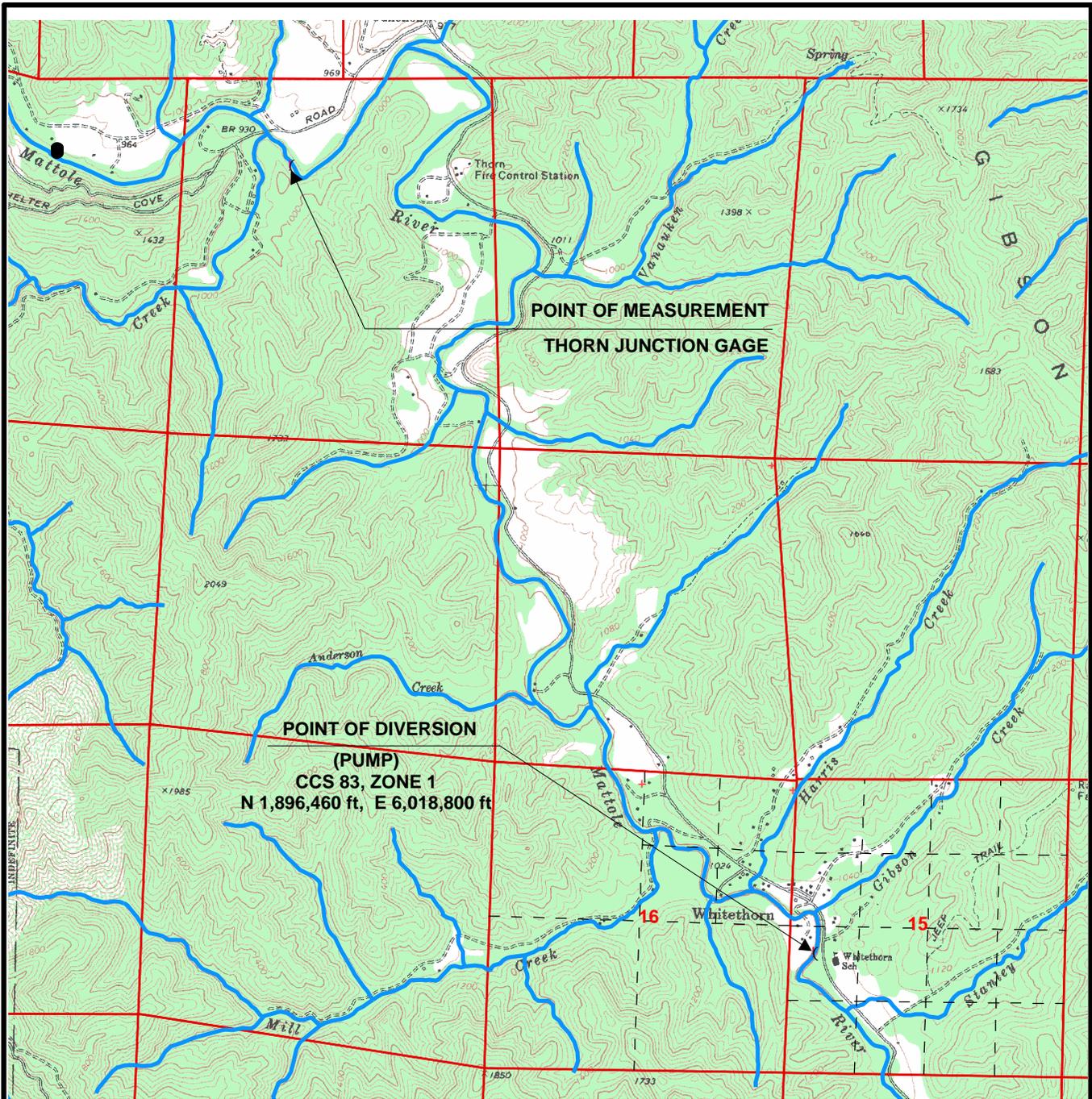
Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water 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:
AMANDA MONTGOMERY FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: MAY 12 2014



OWNER **SOUTHERN HUMBOLDT UNIFIED SCHOOL DISTRICT
WHITETHORN SCHOOL**

SOURCE **MATTOLE RIVER**

POINT OF DIVERSION

WITHIN **NW 1/4 OF SW 1/4** OF PROJECTED

SECTION **15, T5S, R2E, HB&M**

COUNTY OF **HUMBOLDT**

U.S.G.S. QUAD: **BRICELAND** DATE: **1969** SCALE: **1:32,000**

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

APPLICATION NO. **32216**

PERMIT NO. **21350**

LICENSE NO.

DATE: 5-2-2014	DRAWN: MTM	CHECKED: MJM
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Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.

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

DIVISION OF WATER RIGHTS

In the Matter of Water Right License 10721 (Application 23936) and Application 32116
Southern Humboldt Unified School District

**ORDER APPROVING PETITION FOR CHANGE TO ADD STORAGE, CHANGE
PURPOSE AND PLACE OF USE, AND DEDICATE WATER TO INSTREAM FLOW,
AND ISSUING A NEW WATER RIGHT**

SOURCE: Mattole River

COUNTY: Humboldt

WHEREAS:

1. On September 3, 1976, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued License 10721 (Application 23936) to the Southern Humboldt Unified School District (right holder). License 10721 allows for the direct diversion of 1,000 gallons per day (gpd) from the Mattole River, with limited allowances for higher diversion rates, from January 1 to December 31 of each year for the purpose of Domestic use.
2. On May 13, 2013, right holder filed a Petition for Change for License 10721 pursuant to Water Code section 1700 et seq. to add storage, change the place of use, change the purpose of use and dedicate water for instream flow purposes.
3. In addition to adding storage to the direct diversion right, the petition proposes to add Fish and Wildlife Preservation and Enhancement as a purpose of use, and add a portion of the Mattole River to the place of use. The upstream limit is the POD for License 10721 at North 1,896,460 feet and East 6,018,800 feet by California Coordinate System 1983, Zone 1, being within NW ¼ of SW ¼ of projected Section 15, T5S, R2E, HB&M. The downstream limit is the POD for License 7063 of Eric Shafer at North 1,896,935 feet and East 6,018,860 feet by California Coordinate System 1983, Zone 1, being within the SW ¼ of NW ¼ of projected Section 15, T5S, R2E, HB&M.
4. Water Code section 1707 authorizes the use of the change petition provisions of Water Code section 1700 et seq. for a change of the purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation in, or on, the water.
5. Before approving a petition submitted pursuant to Water Code section 1700, the State Water Board must find that the proposed change will neither in effect initiate a new right nor injure any other legal user of water. (Cal. Code Regs., tit. 23, § 791.) Under Water Code section 1707, the State Water Board must find that the proposed change will not increase the amount of water the person is entitled to use, will not unreasonably affect any legal user of water, and otherwise meets the requirements of the Water Code. (Wat. Code, § 1707.)

6. To support a finding that the proposed change will not initiate a new right, the State Water Board must determine that: (1) the right was properly established in accordance with the law; (2) recent beneficial use of the water subject to the right has occurred; and, (3) there is no evidence that continuous beneficial use of the water has not occurred since the right was established. License 10721 was properly established in accordance with the law when the State Water Board issued the license on September 3, 1976. The Division's records for License 10721 provide evidence of both recent beneficial use and continuous beneficial use since the license was issued.
7. Right holder proposes to add storage to License 10721 without increasing the licensed rate of diversion. The limitations on the rate of diversion currently contained in the license will apply to water diverted by either direct diversion or diversion to storage.
8. Right holder proposes to dedicate water under License 10721 for instream beneficial uses only for the portion of the Mattole River from the right holder's POD to the POD for License 7063.
9. For the reasons stated above, the Division finds that the changes proposed in the petition: (1) do not constitute the initiation of a new right; (2) will not operate to the injury of any legal user of water; (3) will not increase the amount of water the right holder is entitled to use; and, (4) will not unreasonably affect any legal user of water.
10. Right holder intends to continue to divert water for domestic purposes as a beneficial use under License 10721. In certain circumstances, diversion of water for domestic use will be reduced or curtailed, leaving the water instream to be applied to beneficial use for the purpose of fish and wildlife preservation and enhancement¹.
11. Decisions about whether or when diversions will be reduced or curtailed will be made by the Petitioner and the California Department of Fish and Wildlife (CDFW) and in communication with the Division, based on natural flow conditions, water temperatures, biological needs of fish and wildlife and other relevant considerations.
12. For any water released under this right for the purpose of fish and wildlife enhancement and preservation within the instream place of use as requested by the petition, right holder has requested that such water be in addition to water that is required, if any, to be used for instream purposes to satisfy any applicable federal, state, or local regulatory requirements governing water quantity, water quality, instream flows, fish and wildlife, wetlands, recreation, and other instream beneficial uses.
13. On December 6, 2013, right holder filed Application 32116 to appropriate water by permit pursuant to Water Code section 1250 et seq. Application 32116 requests direct diversion and diversion to storage of water for Domestic and Fire Protection purposes, not to exceed 1.1 acre-feet per year from the Mattole River. The POD and place of use for Application 32116 is the same as License 10721. The total amount of water diverted, whether by direct diversion or diversion to storage, would not exceed 1.1 acre-feet per year for both water rights.

¹ The petition adds fish and wildlife preservation and enhancement as an authorized beneficial use but does not remove any other authorized uses or reduce the amount of water that may be diverted for those uses. Thus, approval of the petition does not, in and of itself, operate to dedicate any water to the environment; the dedication occurs when right holder exercises the option, as authorized by this Order, of using water for instream beneficial uses instead of diverting and using that amount of water for other uses within the authorized place of use. Neither approval of the petition nor right holder's later dedication of water for instream flow requires the right holder to continue to apply a specific amount of water to instream use in the future.

14. Application 32116 was filed to give the right holder the option to divert water at a rate in excess of the maximum rate limitation in License 10721. Right holder does not intend to divert or use a larger quantity of water than was historically used under License 10721. Application 32216 was filed to allow greater operational flexibility when diverting water to storage.
15. Before approving an application to appropriate water by permit, the State Water Board must find that (1) the intended use of water is beneficial and (2) there is unappropriated water available for appropriation. (Wat. Code, §§ 1243, 1375; Cal. Code Regs., tit. 23, § 695.)
16. The State Water Board has determined that the right holder's intended use of water is beneficial. Water diverted pursuant to Application 32216 will be used for domestic and fire protection purposes at the Whitethorn School.
17. The State Water Board has determined that there is unappropriated water available for Application 32116. Right holder's consultant prepared and submitted a water availability analysis (WAA) that was reviewed and approved by Division staff. Based on the WAA, water is available to serve this application without injury to prior rights or instream beneficial uses.
18. The Petition for Change for License 10721 and Application 32116 were jointly noticed on March 6, 2014. No protests were received.
19. An Initial Study/Mitigated Negative Declaration document was prepared for the project under the California Environmental Quality Act (CEQA) and a Notice of Determination was filed on February 26, 2010 (SCH # 2010012057). The CDFW is the Lead Agency for the project under CEQA, and the State Water Board is a Responsible Agency. The State Water Board has considered the environmental document prepared by the Lead Agency and will file a Notice of Determination in accordance with the California Code of Regulations, title 14, section 15096, subdivision (i) after issuance of this Order.
20. Pursuant to Resolution No. 2013-0035, the State Water Board has adopted a Policy for Maintaining Instream Flows in Northern California Coastal Streams (Policy) that establishes principles and guidelines for maintaining instream flows in northern California coastal streams for the purposes of water right administration. (Wat. Code, § 1259.4, subd. (b).) The project is consistent with the requirements of this Policy.
21. The State Water Board has complied with its independent obligation to consider the effect of the proposed project and change 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].) Potential effects of the proposed project and change were evaluated and conditions were developed to protect public trust resources. The conditions will be included in any rights issued pursuant to License 10721 and Application 32116, and there is no evidence that approval of the Petition for Change for License 10721 or Application 32116 will have any adverse impacts on public trust resources.
22. Pursuant to Resolution No. 2012-0029, the State Water Board has delegated the authority to administer the State Water Board's water rights program. The Deputy Director for Water Rights has redelegated this authority pursuant to a redelegation order dated July 6, 2012.

NOW, THEREFORE, IT IS ORDERED:

1. License 10721 is amended as described below and is subject to the conditions included therein:
 - a. The method of diversion is modified to include diversion by storage.
 - b. The purpose of use is modified to include fish and wildlife preservation and enhancement.
 - c. The place of use for the purpose of fish and wildlife preservation and enhancement is modified to include portions of the Mattole River. The upstream limit is the POD for Water Right License 10721 at North 1,896,460 feet and East 6,018,800 feet by California Coordinate System 1983, Zone 1, being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 15, T5S, R2E, HB&M. The downstream limit is the POD for Water Right License 7063 at North 1,896,935 feet and East 6,018,860 feet by California Coordinate System 1983, Zone 1, being within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T5S, R2E, HB&M.
2. Permit 21350 is issued for Application 32116 subject to the conditions included therein.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
AMANDA MONTGOMERY FOR

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: MAY 12 2014