

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary
Permit 18267 (Application 26834))

CALIFORNIA DEPARTMENT OF
WATER RESOURCES)

Permittee)

Order: 81-7

Source: Old River (Delta)

County: Contra Costa

FINDINGS AND ORDER VALIDATING THE ISSUANCE
OF TEMPORARY PERMIT 18267

BY BOARD VICE CHAIRMAN MITCHELL:

The State of California, Department of Water Resources (Department) having filed Application 26834 for a temporary urgency permit to divert and use unappropriated water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the Board having consulted with the California Department of Fish and Game; Board Vice-Chairman Mitchell having concluded from available information that the applicant was entitled to a temporary permit to divert and use water, subject to review and validation by the Board as provided by Water Code Section 1425; the Board finds as follows:

Substance of the Application

1. Application 26834 is for a temporary permit to divert and use 1,600 cubic feet per second (cfs) by direct diversion from Old River in the Sacramento-San Joaquin Delta (Delta) in Contra Costa County during the period from May 22, 1981 to July 22, 1981 for various purposes within the service area of the State Water Project (SWP). The maximum amount to be diverted is 193,775 acre-feet. The point of diversion is located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 29, T1S, R4E, MDB&M.

Permittee's Project

2. The permittee has entered into an agreement with the U. S. Bureau of Reclamation (Bureau) for diversion of water from Old River through the Tracy Pumping Plant into the Delta-Mendota Canal for eventual use within the service area of the SWP. Only the pumping and conveyance capacity of the Tracy Pumping Plant in excess of that necessary to operate the Central Valley Project (CVP) will be used to divert water under this temporary permit. The water will be conveyed to San Luis (O'Neill) Forebay, then either delivered to the SWP through the California Aqueduct or stored in the Department's share of San Luis Reservoir for later delivery to the SWP service area.

Availability of Unappropriated Water

3. The determination of availability of unappropriated water required by Water Code Section 1425 for a temporary permit is different from and narrower than the determination required in the case of an application for a traditional water right entitlement. The required determination is that water may be diverted and used without injury to any lawful user of water, and without unreasonable effect upon fish, wildlife, or other instream beneficial uses, for the duration of the temporary permit.

Elsewhere in this Order the Board finds that the temporary diversion will not injure any lawful users of water and will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

Therefore, the Board finds that unappropriated water is available for the duration of the temporary Permit No. 18267.

Permittee has an Urgent Temporary Need to Divert and Use

4. Permittee is owner and operator of the Delta Pumping Plant and the contiguous California Aqueduct, both part of the SWP. On May 18, 1981, the Department first became aware of a critical slippage of aqueduct lining and canal embankment on the California Aqueduct at Kilometer Station 16 (Mile Station 10) about 9 miles northwest of Tracy. The slippage has presently lowered the aqueduct lining and embankment approximately 12 to 24 inches. Flow of water in the aqueduct was shut down on May 20, 1981. The affected canal section is presently being dewatered. Repair work has started to replace approximately 100 - 14' x 14' concrete panels along 600 feet of canal. Estimated completion date of the work is July 1, 1981.

Scheduled diversions of the SWP from the Delta Pumping Plant were up to 3,000 cfs in May and June, and 4,600 cfs in July. Scheduled diversion of the CVP from the Tracy Pumping Plant were up to 3,000 cfs in May and June, and up to 4,600 cfs in July. Capacity of the Tracy Pumping Plant and the Delta-Mendota Canal is 4,600 cfs, which is 1,600 cfs more than the scheduled May and June diversions. Permittee will divert up to 1,600 cfs at the Tracy Pumping Plant during May and June utilizing this excess capacity. In the event that CVP diversions are less than the scheduled 4,600 cfs in July, the excess pumping capacity can be used to transport SWP water. In this manner, up to 193,775 acre-feet of State Water Project water can be transported to San Luis Reservoir that would otherwise be lost. Loss of this water from San Luis Reservoir could be very costly in the future should the present water shortage continue into a second year as occurred in 1976 and 1977.

5. Therefore, the Board concludes that the needs of the Department are urgent. Further, the needs are temporary since they are only for two months, having been caused by slippage in the lining of the California Aqueduct.

Effect of the Diversion on Any Lawful User of Water and the Rights of Downstream Users

6. Water diverted under this temporary permit will not be in excess of water allowed under existing permits for the State Water Project. All facilities used for diversion and transportation of the water are existing and have sufficient capacity for the quantities involved. Compliance with the requirements of this temporary permit will insure suitable water quality and quantity of lawful in-basin and export uses and rights. Based on past studies there will be a very slight lowering of water surface elevations in Delta channels in the vicinity of the Tracy Pumping Plant as a result of the diversion increase from 3,000 cfs to 4,600 cfs. The water surface elevation is expected to drop approximately 0.15 feet at the pumping plant and approximately 0.03 feet in major channels up to 20 miles from the pumping plant.

7. On May 27, 1981, Board staff issued a public notice of the application and temporary permit. The notice was delivered to the permittee for publication in accordance with the provisions of Chapter 6.5, Part 2, Division 2 of the Water Code.

Effect of the Proposed Diversion on Fish, Wildlife, and Other Instream Uses

8. To minimize diversion of young striped bass from the Delta, the Delta standards limit diversions through the Delta Pumping Plant and the Tracy Pumping Plant to 3,000 cfs each during May and June. Diversion through the Delta Pumping Plant is limited to 4,600 cfs in July. To optimize SWP

operations, the diversions in early and mid-May to the California Aqueduct were below those authorized in the Department's existing permits. Because of the Aqueduct closure, diversions will remain below those authorized until repairs are completed in July. Thus, the total diversions from the Delta during May, June and possibly July will be less than authorized.

Mr. H. K. Chadwick, a representative of the California Department of Fish and Game has indicated that the temporary diversion from Old River will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses.

Findings Concerning the California Environmental Quality Act

9. This Board Order authorizes diversion of water on an emergency basis through existing facilities for a period of no more than 2 months. Such activity is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 21080(b) (2) and (4) of that Act (emergency repairs to public service facilities).

The project involves use of existing facilities to pump water that would normally be pumped from other existing, nearby facilities. Therefore, it is also covered by the categorical exemption adopted by the Board for minor water right projects. On May 28, 1981, the Chief, Division of Water Rights, filed a Notice of Exemption with the Secretary, Resources Agency, pursuant to Section 2714(d), Title 23, California Administrative Code.

Action by Vice-Chairman Mitchell

10. Staff explained the foregoing situation to Vice-Chairman Mitchell and recommended approval of the temporary permit. Vice-Chairman Mitchell concurred with the staff recommendation, and on May 22, 1981, authorized issuance of the temporary permit. On the same date, Temporary Permit 18627 was issued.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Issuance of Temporary Permit 18267 is validated.

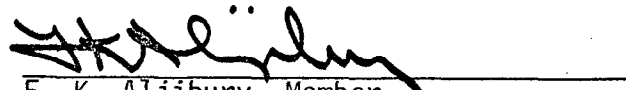
Dated: June 18, 1981

WE CONCUR:


L. L. Mitchell, Vice-Chairman


Carla M. Bard, Chairwoman


Jill B. Dunlap, Member


F. K. Aljibury, Member