

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

**DIVISION OF WATER RIGHTS**

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**Hayden Ranch, FLP**

**ORDER APPROVING PETITION FOR CHANGES IN POINT OF  
DIVERSION, PURPOSE OF USE, PLACE OF USE, AND  
DEDICATION OF INSTREAM FLOW (WATER CODE 1707)**

**ADJUDICATED WATER RIGHT J000011**

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SOURCE: East Fork Scott River tributary to Scott River

COUNTY: Siskiyou

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**WHEREAS:**

1. East Fork Scott River is a tributary to the Scott River thence Klamath River. East Fork Scott River water rights have been adjudicated and are described in the Scott River Stream System Decree No. 30662 (Decree). Hayden Ranch, FLP (Petitioner) is authorized to divert water under Lower Ditch point of diversion No. 67-16-B7 on the East Fork Scott River pursuant to the Decree at Point of Diversion (POD) 67.
2. On March 12, 2009, Petitioner filed a petition pursuant to Water Code Section 1707 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) to change the point of diversion, to add preservation and enhancement of fish and wildlife resources as a purpose of use and to change the place of use to include the East Fork Scott River between POD 66 and POD 67. The petition proposes the following changes: (1) add POD 66 (Decree No. 66-16-E or "China Cove Ditch") as an authorized point of diversion for the decreed water right exercised at POD 67 (Decree No. 67-17-B7 or "Lower Ditch water right"), and (2) add instream beneficial uses and recreational use to the authorized beneficial uses under the Lower Ditch water right.

Implementation of the project will require: (1) replacement of the earthen dam at POD 66 with a new intake system to improve fish passage, (2) installation of a new headgate and 280 feet of pipe to a new fish screen and flow meter, (3) replacement of the existing earthen ditch with 15-inch diameter pipe, (4) installation of a pressurized irrigation system in lieu of flood irrigation within the place of use, and; (5) improving 1,200 feet of livestock exclusion fencing along the East Fork Scott River. The petition indicates that the points of diversion were consolidated and combined in 1997.

3. The Decree authorizes direct diversion of a total allotment of 3.52 cubic feet per second (cfs) for irrigation of 38 acres from about April 1 to about October 1 of each year as follows: (a) 1st priority right of 0.01 cfs, (b) 2nd priority right of 2.75 cfs and (c) a surplus right of 0.76 cfs. The Petitioner asserts that water is also used for domestic and stockwatering purposes. (See Decree, para. 41 & 42.)
4. The authorized point of diversion on the East Fork Scott River (POD 67) is listed in Schedule 2 of the Decree. The point of diversion currently exercised (POD 66; listed in Schedule 2 of the Decree) is located South 800 feet and East 100 feet of the NW corner of Section 23, within the NW ¼ of NW ¼ of Section 23, T40N, R8W, MDB&M. POD 66 is also the point of diversion associated with License 325 of Hayden Ranch.
5. The State Water Board has determined that the petition for change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water. The State Water Board has also determined that good cause for such change has been shown. Dedicating water as authorized under the 1707 petition is consistent with the Decree because the project would be: (1) operated in accordance with water rights recognized in the Decree, (2) will be subject to any seasonal diversion limits established in the Decree, and; (3) does not change the priorities of rights.
6. The State Water Board finds that the change in purpose and place of use pursuant to the 1707 petition will not increase the amount of water that the Petitioner is entitled to use, and will not initiate a new right or unreasonably affect any legal user of water. The State Water Board further finds that the changes are in the public interest, will not adversely affect fish, wildlife, instream beneficial uses, or public trust resources and otherwise meets the requirements of Division 2, of the Water Code. The finding that the project will not adversely affect fish and wildlife is based on the February 2009 "Biological Justification to Support Proposed Changes to Points of Diversion and Purpose of Use of Decreed Water, East Fork Scott River, Siskiyou County" prepared by the Department of Fish and Game.
7. The baseline for this project is conditions as of March 12, 2009, the date the petition was filed with the State Water Board, Division of Water Rights. Pursuant to the California Environmental Quality Act (CEQA), the State Water Board is issuing a Notice of Exemption based on an existing facilities exemption (Cal. Code Regs., tit. 14, section 15301), and minor alterations to land exemption (Cal. Code Regs., tit. 14 section 15304).

The project involves replacement of unlined ditch with pipeline laid in the ditch and change from flood irrigation to sprinkler irrigation and related dedication of the conserved water savings to instream flow. Also, a new fish screened diversion works has been built at POD 66 and the diversion was shifted to this location in 1997. Use of the new diversion facility occurred prior to the baseline for CEQA review. The project will not cause significant adverse impacts on any sensitive environment and will not result in significant cumulative impacts. The project will not involve removal of healthy, mature, scenic trees. The project does not involve an expansion in use beyond that which existed at the time the State Water Board began its environmental review.
8. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed on the water right making the holder aware of possible obligations resulting from these acts.
9. A term has been added to require measurement of water diverted under the water right to comply with Water Code section 1605.

10. The State Water Board has delegated the authority to act on change petitions to the Deputy Director for Water Rights (Deputy Director) pursuant to Resolution No. 2007-0057. (Resolution No. 2007-0057, section 4.2.4.) Resolution No. 2007-0057 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director for Water Rights. This authority has been so redelegated.
11. Pursuant to Resolution No. 2007-0057, the State Water Board has delegated authority to the Deputy Director to administer the duties required under CEQA. (Resolution No. 2007-0057, section 4.10.) Resolution No. 2007-0057 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director for Water Rights. This authority has been so redelegated.
12. The instream flow dedication is subject to the terms and conditions of the Scott River Stream System Adjudication, including limits on diversion based on priority of rights.

**NOW, THEREFORE, IT IS ORDERED:**

1. The authorized points of diversion shall include Decree POD 66-16 at: North 2,362,232 feet and East 6,359,241 feet by California Coordinate System 1983, Zone 1, being within NE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 13, T40N, R8W, MDB&M.
2. The purposes of use are modified to include preservation and enhancement of fish and wildlife resources.
3. The place of use is modified to include the East Fork Scott River within the following boundaries: Upstream Limit – North 2,362,232 feet and East 6,359,241 feet, being within NE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 13, T40N, R8W, MDB&M. Downstream Limit – North 2,361,528 feet and East 6,350,418 feet, being within the SW  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 15, T40N, R8W, MDB&M. All coordinates are by California Coordinate System of 1983, Zone 1.
4. The quantity dedicated to instream flow is 1.8 cfs of the total 3.52 cfs recognized in the Decree for POD 67. Water will be dedicated during the period July 1 to October 15 of each year. Water dedicated to instream flow resources shall not be later recovered under any lower priority water right owned by the Petitioner (or successor) located on Hayden Ranch.
5. Petitioner shall install and maintain measuring devices, satisfactory to the State Water Board. Alternatively, petitioner may coordinate with the Watermaster appointed to enforce the terms of the Scott River Stream System Decree to install and maintain measuring devices required by this order. Approximately weekly weir measurements and calculations made and maintained by the Watermaster or Petitioner during the irrigation season shall be sufficient to fulfill this requirement if they include, at a minimum: (1) the amount of water diverted from East Fork Scott River for consumptive use and (2) the amount of water available for diversion but allowed to remain instream pursuant to the 1707 dedication for East Fork Scott River. The Petitioner and Watermaster may rely on instream flow measured continuously at the Department of Water Resources gauge upstream of the diversion, if available, or equivalent measures of instream flow satisfactory to the State Water Board. The State Water Board will carefully consider the expertise of the Watermaster in evaluating a Watermaster-approved equivalent methodology.

(0510900)

6. On a triennial basis, starting January 1 of the third year following issuance of this order, Petitioner shall report to the State Water Board annual diversion: (a) for consumptive purpose of use, (b) the quantity dedicated to the environment, pursuant to the 1707 petition, and (c) the total quantity diverted under the water right. No credit for instream flow dedication shall accrue for any year in which the Petitioner fails to timely document the quantity set aside for the environment.  
(0510900)
7. The State Water Board may supervise diversion and use of water under this order for the protection of lawful users of water and instream beneficial uses and for compliance with the conditions. Petitioner shall allow representatives of the State Water Board and the Watermaster reasonable access to the project works to determine compliance with the terms of this order.  
(0000011M)
8. This order 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 water right holder shall obtain authorization for an incidental take prior to construction or operation of the project. The water right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this order.  
(0000014)

STATE WATER RESOURCES CONTROL BOARD



*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: **SEP 27 2011**