

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary	)	ORDER:	WR 95-13
Permits 20804 and 20805)		
(Applications 30469 and 30470)	)	SOURCE:	1. Toe Drain
	)		Dry Slough
	)		2. Morrison Creek
	)		Sacramento River
ARB, Inc., Permittee.	)	COUNTY:	1. Yolo
	)		2. Sacramento

FINDINGS AND ORDER VALIDATING THE
ISSUANCE OF TEMPORARY PERMITS

ARB, Incorporated, hereinafter referred to as ARB, having filed Applications 30469 and 30470 for temporary permits to divert and use water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (SWRCB) having consulted with the California Department of Fish and Game (DFG), the Central Valley Regional Water Quality Control Board, and the California Department of Water Resources; the Deputy Director Dale Claypoole, acting on behalf of Executive Director Walt Pettit, having reviewed available information, authorized issuance of the temporary permits to divert and use water subject to review and validation by the SWRCB as provided by Water Code Section 1425(d); temporary permits having been issued on August 15, 1995; the SWRCB finds as follows:

1.0 Issuance of Temporary Permits

Water Code Section 1425(d) provides for delegation of the authority to issue temporary permits. The SWRCB has delegated the authority to authorize issuance of temporary permits to Walt Pettit, pursuant to Resolution 91-21. Walt Pettit, has redelegated this authority to Deputy Director Dale Claypoole to be exercised only in Mr. Pettit's absence. When the delegation of authority is exercised, Water Code Section 1425(d) further requires that the SWRCB review and validate any temporary permit so issued within 30 days of issuance. On August 15, 1995, Deputy Director Dale Claypoole authorized issuance of the temporary permits, and on the same date, the Chief of the Division of Water Rights issued Temporary Permits 20804 and 20805. The matter is before the SWRCB for review and validation.

2.0 Substance of the Application and Project

The Sacramento Municipal Utility District (SMUD) is developing three natural gas fired cogeneration plants in Sacramento to be located at the:

1. Sacramento Regional Wastewater Treatment Plant (Carson Ice Cogeneration Plant);
2. Campbell Soup factory on 47th Avenue; and

3. Proctor and Gamble plant north of the former Sacramento Army Depot.

In order to supply these facilities with natural gas, SMUD will be constructing approximately 53 miles of pipeline in Yolo and Sacramento Counties from the existing Pacific Gas & Electric Lines 400 and 401 near Interstate 505 west of Davis to the cogeneration plants. Pipeline crossings of major waterways will utilize horizontal drilling and boring techniques. Water is required in this process to make drilling muds. In addition, water is also required for hydrostatic testing of the 20-inch diameter steel pipeline.

2.1 Temporary Permit 20804, is for direct diversion and use of water from the Toe Drain adjacent to the Sacramento Deep Water Channel and Dry Slough in Yolo County for the purpose of conducting hydrostatic pressure tests, making drilling muds which will be used in directional drilling under the Toe Drain, the Sacramento River Deep Water Channel, and Dry Slough, and for dust control purposes. The season of diversion is from August 15, 1995 to December 31, 1995. The point of diversion on the Toe Drain is located in the SE¼ of the NW¼ of projected Section 7, T7N, R3E, MDB&M, approximately 1/8 of a mile north of the Sacramento Northern Old Railroad Grade just west of the Sacramento River Deep Water Channel. The point of diversion on Dry Slough is located in the SW¼ of the NE¼ of Section 29, T9N, R2E, MDB&M, approximately 2 miles north of the City of Davis.

2.2 Temporary Permit 20805, is for direct diversion and use of water from Morrison Creek and the Sacramento River in Sacramento County for the same purposes and season as Temporary Permit 20804. The drilling muds will be used in directional drilling under Morrison Creek and the Sacramento River. The point of diversion on Morrison Creek is located in the SE¼ of the NE¼ of projected Section 18, T7N, R5E, MDB&M, between Morrison Creek's confluence with Beacon and Laguna Creeks approximately 1 1/2 miles east of Freeport. The point of diversion on the Sacramento River is located in the NE¼ of the NE¼ of projected Section 14, T7N, R4E, MDB&M, near Freeport Bend.

2.3 Water will be diverted at a rate of 0.67 cubic foot per second from each source, up to a maximum combined amount of 25 acre-feet from all sources. All water diverted into the pipeline for hydrostatic testing purposes, except any lost to leakage, will be returned to the source upon completion of the tests. The diversion pump intakes will be screened in accordance with the requirements of the DFG.

3.0 Urgent Need of Permittee to Divert and Use Water

Hydrostatic testing of pipeline sections is required by the California Energy Commission (CEC) to ensure that the system will operate at the design maximum allowable operating pressure. Hydrostatic testing of the pipeline is a nonconsumptive use requiring water withdrawals for a short

duration and then discharge back to the source. Directional drilling requires water for drilling mud to facilitate the boring under stream channels. ARB has no other source of water available to provide the drilling mud at Dry Slough, the Toe Drain, deep water channel, Sacramento River, and Morrison Creek crossings. The pipeline construction has progressed to the directional drilling phase of the project at the Toe Drain/deep water channel site and all other drilling sites are scheduled to be completed by early November, 1995.

In consideration of the above circumstance, the SWRCB finds that ARB has an urgent need to divert and use water under the temporary permits.

4.0 Notice of the Application for Temporary Permit

Public notice of the applications for temporary permits was issued on August 11, 1995. Copies of the notice were posted and also mailed, in accordance with Water Code Section 1428, to all known interested parties and diverters downstream from the four points of diversion. The closing date to file comments or objections was 5:00 PM on August 21, 1995. No objections were received to diversion of water as specified in the public notice and as authorized in the temporary permits.

5.0 Effect of the Diversion on Other Lawful Users of Water

Based upon the facts described above, the SWRCB finds that water may be diverted and used under Temporary Permits 20804 and 20805 without injury to any lawful user of water.

6.0 Effects of the Proposed Diversion of Fish, Wildlife, and Other Instream Uses

The DFG was consulted regarding the diversions for the pipeline project water uses described above. DFG has requested that the temporary permits be conditioned to require that the diversion pump intakes be screened with a device that meets the requirements of DFG. The temporary permits were so conditioned. Accordingly, the SWRCB finds that water may be diverted and used without unreasonable effect upon fish, wildlife or other instream beneficial uses.

7.0 Findings Concerning the California Environmental Quality Act

The CEC prepared an environmental document as a certified program in accordance with Section 15251 of Title 14, California Code of Regulations (CCR). The CEC did not consult with the SWRCB in accordance with Section 15253(b) of the CCR so the SWRCB is unable, as an responsible agency, to use the CEC's document in place of an Environmental Impact Report (EIR). Therefore the SWRCB acted as lead

ORDER

NOW, THEREFORE, IT IS ORDERED that the issuance of Temporary Permits 20804 and 20805 is validated subject to the conditions specified in the temporary permits.

CERTIFICATION

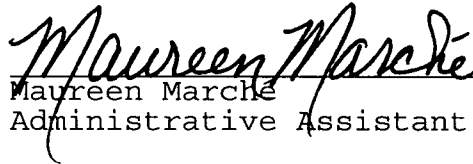
The undersigned, Administrative Assistant to the SWRCB, does hereby certify that the foregoing is a full, true and correct copy of an order duly and regularly adopted at a special meeting of the State Water Resources Control Board held on September 6, 1995.

AYE: John Caffrey
Mary Jane Forster
Marc Del Piero
James M. Stubchaer
John W. Brown

NO: None

ABSENT: None

ABSTAIN: None



Maureen Marche
Administrative Assistant to the Board