

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

**DIVISION OF WATER RIGHTS**

**ORDER WR 2008-0007-DWR**

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**Big Bear Municipal Water District**  
and  
**Big Valley Mutual Water Company**

**ORDER APPROVING PETITION TO  
MODIFY ORDER WR 95-4**

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**SOURCE:** Bear Creek tributary to Santa Ana River  
**COUNTY:** San Bernardino

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**WHEREAS:**

1. Big Bear Lake is a 73,320 acre-foot capacity reservoir locating on Bear Creek. According to the San Bernardino County Superior Court judgment filed February 7, 1977, Bear Valley Mutual Water Company (Company) holds water rights to divert water at Bear Valley Dam and to store in Big Bear Lake based on a pre-1914 appropriative right.
2. As a result of a public trust complaint, the State Water Resources Control Board (State Water Board) adopted Order WR 95-4 on February 16, 1995, that requires Big Bear Municipal Water District (District) and the Company to release water from Bear Valley Dam and Big Bear Lake to maintain in-stream flows to protect the fishery resource in Bear Creek. Order WR 95-4 requires the District to install and operate gauges to monitor the in-stream flows at Stations A and B along Bear Creek.
3. During the winter of 2004-2005 the District discovered the measuring device at Station A had been severely damaged as a result of storms and a major landslide in the Bear Creek area. Station A is located in steep terrain making it difficult for the District's employees to safely access the station. Even if Station A were repaired, the District would still be required to perform equipment repairs following major storm events that may cause future damage to the measuring device.
4. On June 20, 2006, the District filed a petition to modify Order WR 95-4 with the State Water Resources Board. The District did not pay a petition fee because the District's basis of right is a pre-1914 appropriative right and the State Water Board's fee schedule does not include a petition fee for a pre-1914 right. The District's petition proposes to use data from Station B as a basis for computing flows at Station A, in accordance with a Flow Compliance Plan (Plan), as shown in Exhibit A of this Order.

The District also proposes a ten-year monitoring plan to verify that Station A flow requirements are satisfied. The District will submit a report to the State Water Board and California Department of Fish and Game (DFG) by December 31 of each year with the Bear Creek flow data for the preceding year. At the end of the ten-year period, the District will submit a cumulative report to the State Water Board and DFG to document that data gathered at Station B is sufficient to show compliance with the Station A flow requirements. The State Water Board, after consultation with DFG, will determine if the information is adequate or if any modifications are needed to ensure that the Station A flow requirements are met and will also determine if further monitoring is needed.

5. On November 17, 2006, the Division of Water Rights (Division) issued public notice of the change. No protests were received.
6. On June 7, 2006, DFG stated its support for the District's alternative flow measurement petition.
7. The State Water Board has determined that good cause for such change has been shown.
8. The State Water Board has determined that the petition for modification of Order WR 95-4 does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
9. The State Water Board has delegated authority to the Deputy Director of the Division to act on applications and change petitions pursuant to Resolution No. 2007-0057 (Attachment to Resolution No. 2007-0057, §4.2.4.) The Deputy Director of the Division has redelegated this authority to the Assistant Deputy Director pursuant to the redelegation order dated October 4, 2007.
10. The Petitioner is the lead agency pursuant to the provisions of the California Environmental Quality Act (CEQA). The Petitioner issued a Notice of Exemption (NOE) on April 16, 2007, stating that the proposed modification of Order WR 95-4 solely involves the mechanism by which the Petitioner will gauge flows in Bear Creek. The NOE is based on a Categorical Exemption under section 15061(b)(3) because it will involve no change in existing facilities and section 15306 because the project involves basic data collection.

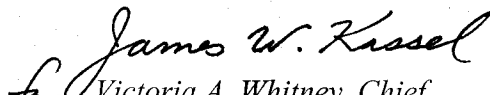
Environmental review began on June 20, 2007. Approval of this project will not result in construction of any new facilities. The existing flow measurement Station B will be used in lieu of re-establishing a new flow Station A. Thus, there is no possibility that the activity in question may have a significant effect on the environment. Pursuant to the provisions of CEQA, the State Water Board issued a Notice of Exemption (NOE) based on an Existing Facilities Exemption, pursuant to Title 14, California Code of Regulations, section 15061(b)(3).

- (1) The project will not cause significant adverse impacts on any sensitive environment and will not result in significant cumulative impacts.
- (2) There are no environmental protests.
- (3) DFG did not identify any public trust impacts associated with this project.

**NOW, THEREFORE, IT IS ORDERED THAT ORDER WR 95-4 IS AMENDED TO READ AS FOLLOWS:**

1. Order WR 95-4 is modified to delete the requirement stated in paragraph 1.a on page 39, that a measuring device be located in Bear Creek no more than 500 feet downstream of the confluence with West Cub Creek.
2. Order WR 95-4, paragraph 3.a on page 40 is modified to read as follows: The District shall monitor instream flows at a measuring device located approximately 300 feet below the Bear Valley Dam. Said measuring device shall be properly maintained. The District shall satisfy the minimum flow requirements 500 feet downstream of the confluence with West Cub Creek by measuring year-to-date precipitation and adjusting the minimum flow requirement 300 feet below the Bear Valley Dam as set forth in the attached Flow Compliance Plan (Exhibit A). The District shall monitor flows 500 feet downstream of the confluence with West Cub Creek for ten years following the modification of this Order to confirm satisfaction of the minimum flow requirements.
3. Order WR 95-4 is modified to incorporate the attached Flow Compliance Plan as Exhibit A to Order WR 95-4.
4. Order WR 95-4 is modified to add the following requirement as paragraph 3.e on page 41: "The District shall submit a report to the State Water Board and DFG by December 31 of each year with the Bear Creek flows at Station A (computed) and Station B (gauge) during the preceding year. On December 31, 2017, the District will submit a cumulative report with the last 10-years of data to the State Water Board and DFG. The State Water Board, after consultation with DFG, shall decide that either (1) the Flow Compliance Plan has been successful, or (2) the Flow Compliance Plan needs modification and the ten-year monitoring period shall be extended."
5. Order WR 95-4 is modified to add the following requirements to the end of paragraph 3.c on page 40: "The District shall submit data tables identifying the accumulated precipitation at Bear Valley Dam as a part of the annual report and electronic file copies of any and all data tables to accompany the hard copy report."
6. All other conditions of Order WR 95-4 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

  
Victoria A. Whitney, Chief  
Division of Water Rights

Dated: **JAN - 8 2008**

Attachment

**EXHIBIT A. FLOW COMPLIANCE PLAN**  
**Big Bear Municipal Water District**  
**Table to Determine Minimum Daily Flows at Station B**  
**Based Upon Year-to-Date Precipitation at Bear Valley Dam**

| Date        | Enter Year-to-date Precipitation at Bear Valley Dam (inches) | Dry Year  |                                 | Below Normal Year                                 |                                 | Above Normal Year                                 |                                 | Wet Year  |                                 |
|-------------|--|---|---------------------------------|---|---------------------------------|---|---------------------------------|---|---------------------------------|
|             |  | If year-to-date precipitation is less than (inches) | Station B Minimum Flow is (cfs) | If year-to-date precipitation is between (inches) | Station B Minimum Flow is (cfs) | If year-to-date precipitation is between (inches) | Station B Minimum Flow is (cfs) | If year-to-date precipitation is more than (inches) | Station B Minimum Flow is (cfs) |
| October 1   | 0.00   | n.a.  | 0.95                            | n.a.  | 0.95                            | n.a.  | 0.95                            | n.a.  | 0.95                            |
| November 1  |  | 0.03  | 0.90                            | 0.03 and 0.56                                     | 0.90                            | 0.57 and 1.93                                     | 0.70                            | 1.93  | 0.70                            |
| December 1  |  | 1.59  | 0.85                            | 1.59 and 3.04                                     | 0.85                            | 3.05 and 5.60                                     | 0.80                            | 5.60  | 0.60                            |
| January 1   |  | 3.73  | 0.90                            | 3.73 and 8.14                                     | 0.75                            | 8.15 and 12.84                                    | 0.75                            | 12.84   | 0.30                            |
| February 1  |  | 8.94  | 1.00                            | 8.94 and 13.84                                    | 0.85                            | 13.85 and 20.79                                   | 0.50                            | 20.79   | 0.30                            |
| March 1     |  | 14.42   | 0.80                            | 14.42 and 20.05                                   | 0.40                            | 20.06 and 31.47                                   | 0.40                            | 31.47   | 0.30                            |
| April 1     |  | 19.29   | 0.75                            | 19.29 and 25.84                                   | 0.50                            | 25.85 and 40.30                                   | 0.40                            | 40.30   | 0.30                            |
| May 1       |  | 21.61   | 0.95                            | 21.61 and 28.65                                   | 0.70                            | 28.66 and 41.16                                   | 0.55                            | 41.16   | 0.30                            |
| June 1      |  | 22.18   | 1.15                            | 22.18 and 30.01                                   | 0.80                            | 30.02 and 41.86                                   | 0.75                            | 41.86   | 0.30                            |
| July 1      |  | 22.42   | 1.20                            | 22.42 and 30.01                                   | 0.95                            | 30.02 and 41.86                                   | 0.95                            | 41.86   | 0.30                            |
| August 1    |  | 22.93   | 1.25                            | 22.93 and 30.69                                   | 1.05                            | 30.70 and 42.48                                   | 0.95                            | 42.48   | 0.30                            |
| September 1 |  | 23.30   | 1.00                            | 23.30 and 30.86                                   | 0.95                            | 30.87 and 43.69                                   | 0.95                            | 43.69   | 0.30                            |