

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

DIVISION OF WATER RIGHTS

ORDER WR 2008-0037-DWR

In the Matter of License 7543 (Application 16124), License 12624 (Application 16761),
and Permit 21089 (Application 30532)

Monterey County Water Resources Agency

**ORDER APPROVING CHANGE IN PLACE OF USE,
ADDING POINT OF REDIVERSION AND
ISSUING AMENDED LICENSES AND PERMIT**

SOURCES: Nacimiento River and San Antonio River tributary to Salinas River

COUNTIES: Monterey and San Luis Obispo

WHEREAS:

1. The State Resources Control Board (State Water Board) Division of Water Rights (Division) issued License 7543 to the Monterey County Water Resources Agency (MCWRA) on November 4, 1965, pursuant to permitted Application 16124; issued License 12624 to MCWRA on December 2, 1965 (amended April 22, 1990), pursuant to permitted Application 16761; and issued Permit 21089 to MCWRA on March 23, 2001, pursuant to Application 30532.
2. Division records of ownership for all three water rights show the current owner as Monterey County Water Resources Agency.
3. An Environmental Impact Report /Environmental Impact Statement (EIR/EIS) was prepared in order to evaluate potential impacts from MCWRA's Salinas Valley Water Project (SVWP). In June 2003, the MCWRA Board of Supervisors certified the Final EIR/EIS (State Clearinghouse No. 2000034007) (FEIR).
4. On November 8, 2004, MCWRA filed a petition to change the place of use and add a point of rediversion under Licenses 7543 and 12624 and Permit 21089. The petitions were publicly noticed on December 17, 2004. The petitioner sought to change the place of use under the licenses and permit to include 421,435 acres comprising MCWRA Zone 2-C (an assessment zone) as shown on a map dated October 28, 2004.
5. On January 14, 2005, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) filed a protest against the change petitions, arguing that the Salinas Valley Water Project posed a potentially adverse impact to steelhead. The protest was accepted by the Division on February 4, 2005.
6. The location of the point of rediversion was amended by approximately 200 feet in a separate petition, submitted October 23, 2007. The Division determined that a public notice was not required for this petition under title 23 Cal. Code Regs § 795.

7. On June 20, 2007, NMFS issued its final biological opinion for the SVWP.
8. MCWRA prepared an Addendum to the FEIR for the SVWP. The purpose of the Addendum was to analyze the environmental impacts associated with the changes in the SVWP that have occurred since the certification of the FEIR, including changes contemplated in the biological opinion.
9. On August 29, 2008, NMFS withdrew its protest based on inclusion of the biological opinion's flow prescriptions in the amended licenses and permit.
10. The State Water Board has determined the amended licenses and permit do not constitute an initiation of a new right and do not injure prior rights or the public trust resources of the State.

THEREFORE, IT IS ORDERED:

1. The attached Amended License 7543 is issued, superseding former License 7543 issued on September 5, 1967. The priority of Amended License 7543 is November 4, 1954.
2. The attached Amended License 12624 is issued, superseding former Amended License 12624 issued on April 26, 1990. The priority of Amended License 12624 is December 2, 1955.
3. The attached Amended Permit 21089 is issued, superseding former Permit 21089 issued on March 23, 2001. The priority of Amended Permit 21089 is April 23, 1996.
4. The State Water Board has determined that the subject licenses and permit shall be amended to include the following specific changes:
 - (a) Change the place of use to include 421,435 acres comprising MCWRA Zone 2C (an assessment zone) as shown on map dated August 14, 2008.
 - (b) Add a point of diversion to be located as follows:
By California Coordinate System of 1983, Zone 4, North 2,152,792 feet and East 5,755,485 feet being within SW ¼ of SE ¼ of Section 16, T14S, R2E, MDB&M.
 - (c) Add terms to incorporate the flow prescriptions included in the June 20, 2007 NMFS biological opinion.
5. The State Water Board standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for State Department of Fish and Game stream alteration agreement shall be updated or added to the subject amended water rights.
6. Prior to initial operation of the Salinas River Diversion Facility (SRDF) at the point of diversion, the permittee/licensee shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the flow prescriptions specified in the attached amended permit and licenses. The Compliance Plan shall include the following:
 - (a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes, etc.) that have been constructed or will be constructed at the project site and will be used to bypass or release flow to comply with the flow prescriptions.

- (b) A description of the gages and monitoring devices that have been installed or will be installed to measure streamflow and/or reservoir storage capacity.
- (c) A time schedule for the installation of these facilities, if not already installed.
- (d) A description of the frequency of data collection and the methods for recording flows and storage levels.
- (e) An operation and maintenance plan that will be used to maintain all owned facilities in good condition and monitor the condition of facilities owned by other parties.

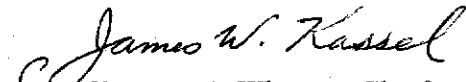
The permittee/licensee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the permittee/licensee for ten years from the date of collection and made available to the Chief of the Division of Water Rights, upon request. Any non-compliance with the terms of the permit or licenses shall be reported by the permittee/licensee promptly to the Chief of the Division of Water Rights.

Operation of the SRDF prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

7. Prior to initial operation of the SRDF, permittee/licensee shall (1) install any devices necessary to measure or calculate the quantities of water placed into underground storage, and (2) install devices to measure, or provide documentation of the method to be used to determine, the quantity of water recovered from underground storage and placed to beneficial use. All devices and the method of determining the quantity of water recovered from underground storage shall be approved by the Chief of the Division of Water Rights prior to initial operation of the SRDF. All devices shall be properly maintained.

STATE WATER RESOURCES CONTROL BOARD


For Victoria A. Whitney, Chief
Division of Water Rights

Dated: **SEP - 5 2008**

Attachments: Amended License 7543
Amended License 12624
Amended Permit 21089



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

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 16124
Page 1 of 9

PERMIT 10137

LICENSE 7543

THIS IS TO CERTIFY, That

Monterey County Water Resources Agency
P.O. Box 930
Salinas, CA 93902

has the right to the use of the waters of **Nacimiento River** in **San Luis Obispo County**
tributary to **Salinas River**

for the purpose of **Municipal, Domestic, Industrial, Irrigation, and Recreational uses.**

Amended License 7543 supersedes the license originally issued on **November 4, 1965**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (State Water Board), or its predecessor, and the terms of **Permit 10137**. The priority of this right dates from **November 4, 1954**. Proof of maximum beneficial use of water under this license was made as of **August 6, 1964**.

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **three hundred fifty thousand (350,000) acre-feet per annum to be collected from October 1 of each year to July 1 of the succeeding year. The maximum withdrawal in any one year shall not exceed 180,000 acre-feet.**

The capacity of the reservoir covered under this license and license issued pursuant to Permit 21089 (Application 30532) shall not exceed 377,900 acre-feet.

This license does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

Nacimiento Dam - By California Coordinate System of 1983, Zone 5, North 2,475,554 feet and East 5,705,620 feet, being within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15, T25S, R10E, MDB&M.

THE POINT OF REDIVERSION OF SUCH WATER IS LOCATED:

Salinas River Diversion Facility (SRDF) - By California Coordinate System of 1983, Zone 4, North 2,152,792 feet and East 5,755,485 feet, being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T14S R2E, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Municipal, Domestic, Industrial, and Irrigation uses within: (1) 200,000 acres net within a gross area of 240,000 acres in Monterey County; (2) 500 acres of irrigated agriculture and 7,000 acres of urban and suburban lands within the San Luis Obispo County Flood Control and Water Conservation District as shown on map dated June 8, 1967; and (3) 421,425 acres comprising Monterey County Water Resources Agency (MCWRA) Zone 2C as shown on map dated August 14, 2008, all filed with the State Water Board. Recreational use at Nacimiento Reservoir within San Luis Obispo County, also shown on a map dated August 14, 2008, filed with the State Water Board.

This license shall not be construed as conferring upon the licensee the right of access to the point of diversion.

(0000022)

If it is determined after license issuance that the conditions of the project are not correctly represented by the map(s) prepared for this license, the licensee shall, at his expense, have the subject map(s) updated or replaced with equivalent as-built map(s). The revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. The revision(s) or map(s) shall be furnished upon request of the Chief of the Division of Water Rights.

(0000030)

Licensee shall maintain such records of stream flow, well levels and groundwater storage as are required by the State Water Board so as to determine the amount stored underground and extracted thereafter, and such records shall be submitted to the State Water Board on request. Submissions may be made to the Board electronically.

Licensee shall maintain devices, satisfactory to the Chief of the Division of Water Rights, to measure the quantities of water placed in underground storage, and water subsequently recovered for beneficial use.

(0080117)

This license is subject to the agreement dated October 19, 1959, between San Luis Obispo County Flood Control and Water Conservation District and MCWRA (formerly known as Monterey County Flood Control and Water Conservation District)

FLOW PRESCRIPTIONS FOR HABITAT MAINTENANCE

Criteria for Determining Water-Year Type

For purposes of applying the flow prescriptions, water year types are defined based on indexing the record of unimpaired mean annual flows at the United States Geological Survey (USGS) streamflow gage No. 11152000 (Arroyo Seco near Soledad). The mean annual flows were ranked in descending order to obtain exceedance probability based on percentile. The percentiles (or exceedance probability) for each year type are described below:

<u>Water-year type</u>	<u>Percentile range (exceedance probability)</u>
Wet	0% to and including 25%
Wet-Normal	over 25% to and including 41.7%
Normal-Normal	over 41.7% to and including 58.3%
Dry-Normal	over 58.3% to and including 75%
Dry	over 75% to and including 100%

The initial values for determining water year types are listed below. These values may be updated in accordance with the percentile ranges (exceedance probability) listed above to incorporate the most recent data. At least the most recent 100 years of data must be included in the calculation. Mean daily flows (MDF) shall be used to calculate the mean annual flow of the water year starting October 1 of each year and ending September 30 of the succeeding year. If the licensee intends to use updated flow rates, the new rates must be declared in writing to the State Water Board by January 1 of the first year they will be utilized. Any revised flow rates shall remain in effect until updated with more recent data.

<u>Water-year type</u>	<u>Mean Daily Flow Rate at USGS Gage 11152000 (Arroyo Seco near Soledad) on March 15 or April 1</u>
Wet	250 cubic feet per second (cfs) or higher
Wet-Normal	152 cfs or higher but less than 250 cfs
Normal-Normal	104 cfs or higher but less than 152 cfs
Dry-Normal	66 cfs or higher but less than 104 cfs
Dry	less than 66 cfs

(0140400)

Flow Prescription for Adult Steelhead Upstream Migration

From February 1 to and including March 31, during all year types, and when the criteria below is met, licensee shall maintain an MDF of 260 cfs at USGS gage No. 11152300 (Salinas River near Chualar) using reservoir releases when necessary to augment natural flow. This requirement is triggered when all four of the criteria below are met simultaneously.

Trigger Criteria for Adult Steelhead Upstream Migration Flow

1. Combined storage of Nacimiento and San Antonio Reservoirs is greater than 220,000 acre-feet.
2. An MDF at USGS gage No. 11152000 (Arroyo Seco near Soledad) greater than or equal to 340 cfs.
3. An MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) greater than or equal to 173 cfs.
4. Hydraulic continuity in the Salinas River exists to the Pacific Ocean.

During wet or dry years, and once all the criteria are met, the 260 cfs MDF requirement remains effective through March 31 unless condition 4 above ceases to exist.

For any of the three normal year types, from January 1 to and including March 31, the 260 cfs MDF requirement must be maintained such that on a 10-year average the number of upstream passage days (days with at least 260 cfs MDF at USGS gage No. 11152300 (Salinas River near Chualar)) listed below will be achieved within a 10% variance. For example, the average number of passage days for all of the dry-normal years within a 10-year period must be at least 14 (16 days average minus variance of 2). At least 5 consecutive days with flow of at least 260 cfs MDF must occur for a flow period to credit towards the total for each year. The year type for the purpose of determining the number of passage days must be determined on March 15 or April 1 using the Criteria for Determining Water Year Type listed above.

<u>Water-year type</u>	<u>Upstream Fish Passage Days from January 1 to March 31</u>
Wet-Normal	Average 73 days with variance of 7 days.
Normal-Normal	Average 47 days with variance of 5 days.
Dry-Normal	Average 16 days with variance of 2 days.

(0140400)

Flow Prescription for Downstream Migration of Smolting Steelhead

The licensee shall provide a single block-flow release (as described in Block-Flow Release Criteria below) from Nacimiento Reservoir and San Antonio Reservoir (under License 12624 [Application 16761]) to facilitate downstream migration of steelhead in the Salinas River in accordance with the event triggers described in the flow chart in Figure 1.

Block-Flow Release Criteria

A block-flow release consists of the natural flow in the Salinas River augmented by releases from Nacimiento and San Antonio dams to achieve the specified MDF for the specific number of consecutive days directed below.

Days 1 through 5: Maintain an MDF of at least 700 cfs at USGS gage No. 11151700 (Salinas River at Soledad).

Day 6 and beyond: Maintain an MDF of at least 300 cfs at USGS gage No. 11152500 (Salinas River at Spreckels).

The number of days the block-flow release must be maintained at the MDF of 300 cfs beyond Day 6 is determined by when Day 1 occurs. If Day 1 occurs between March 15 and April 1, then block flow must continue to April 20. If Day 1 occurs between April 2 and May 31, then block flow must continue for 15 more days (Day 6 through Day 20).

Starting after completion of the block-flow release, if the MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) is greater than 1 cfs, maintain Salinas River surface flow to the ocean through 10 days after flow at USGS gage No. 11152050 initially drops below an MDF of 1 cfs.

(0140400)

Flow Prescription for Downstream Migration of Juvenile and Post Spawn Adult Steelhead

To protect fishery during periods when block-flow releases have not yet been initiated, follow the flow prescription described in the flow chart in Figure 2. From March 15 through May 31 continue to monitor for the initiation of block-flow. If the conditions to initiate block-flow occur, suspend the process in Figure 2 and follow the process in Figure 1.

(0140400)

Flow Prescription for Spawning and Rearing Habitat in the Nacimiento River

Licensee shall augment flow in the Nacimiento River by releasing 60 cfs MDF from Nacimiento Reservoir beginning the 8th day after the first adult steelhead passage day occurs on the Salinas River after January 1 of each year. The first passage day is the first day in a period of 5 consecutive days with an MDF of 260 cfs or higher at the USGS gage No. 11152300 (Salinas River near Chualar). The release of 60 cfs MDF will continue at least through May 31. After May 31, licensee will continue to release 60 cfs MDF the remainder of the calendar year as long as the water surface elevation of Nacimiento Reservoir is above 687.8 feet mean sea level.

(0140400)

Flow Prescription at the End of the Irrigation Season

Prior to lowering of the SRDF, the SRDF impoundment will be filled to its storage capacity and water will be allowed to pass from the impoundment to the lagoon at a rate of 2 cfs MDF (measured at the SRDF) until the impoundment is emptied. The rate may be increased if necessary to empty the impoundment in time to perform facility maintenance before river flows prevent maintenance work.

(0140400)

General Requirements for Flow Prescriptions

The above mentioned flow criteria are dependent on real time flow measurements from USGS stream gages subject to intermittent telemetry interruptions. To ensure compliance during such interruptions the licensee will use its ALERT system data supplemented with field observations by its own staff and/or USGS field personnel as required.

(0140400)

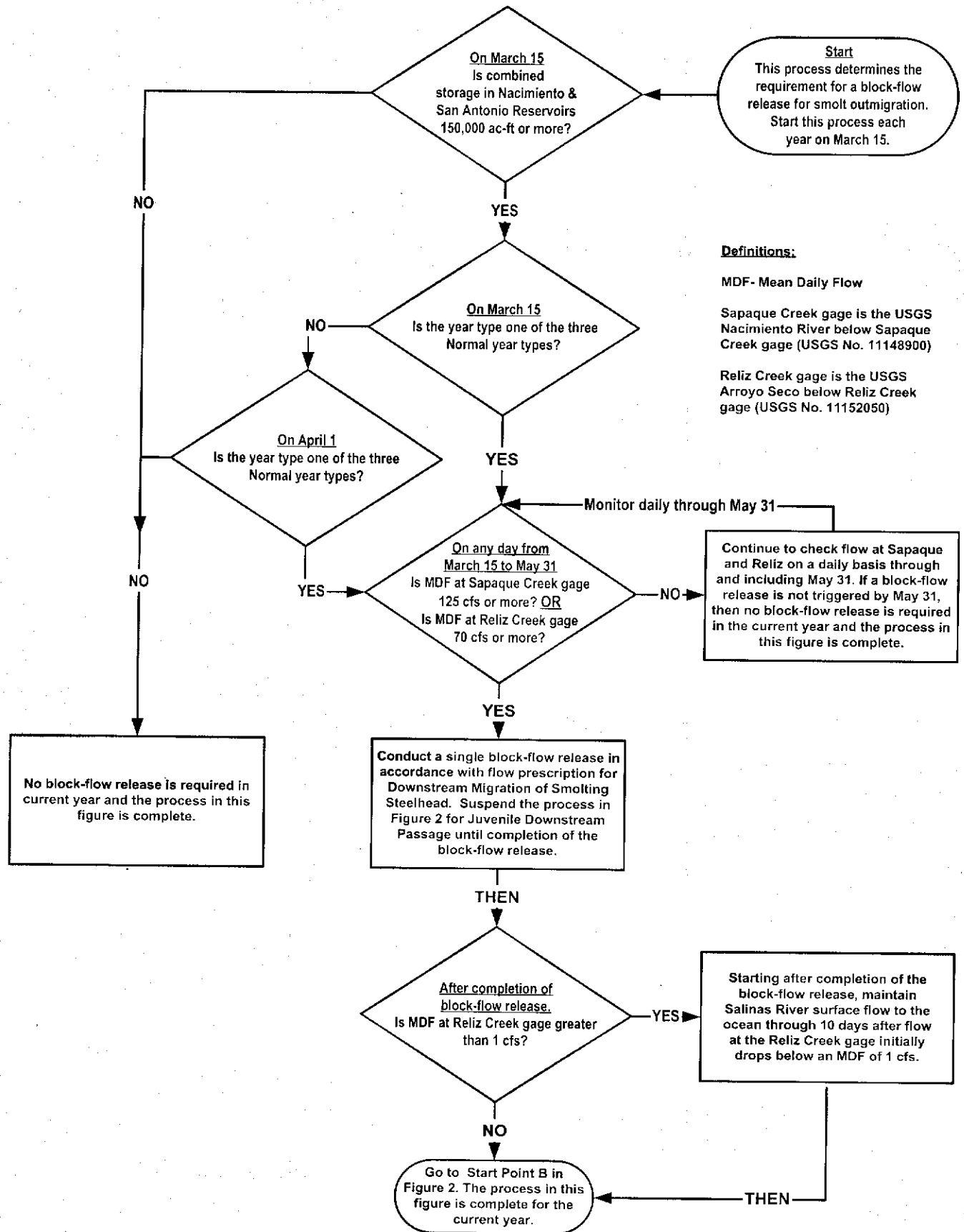


Figure 1 – Criteria to trigger block-flow release for downstream migration of smolting steelhead.

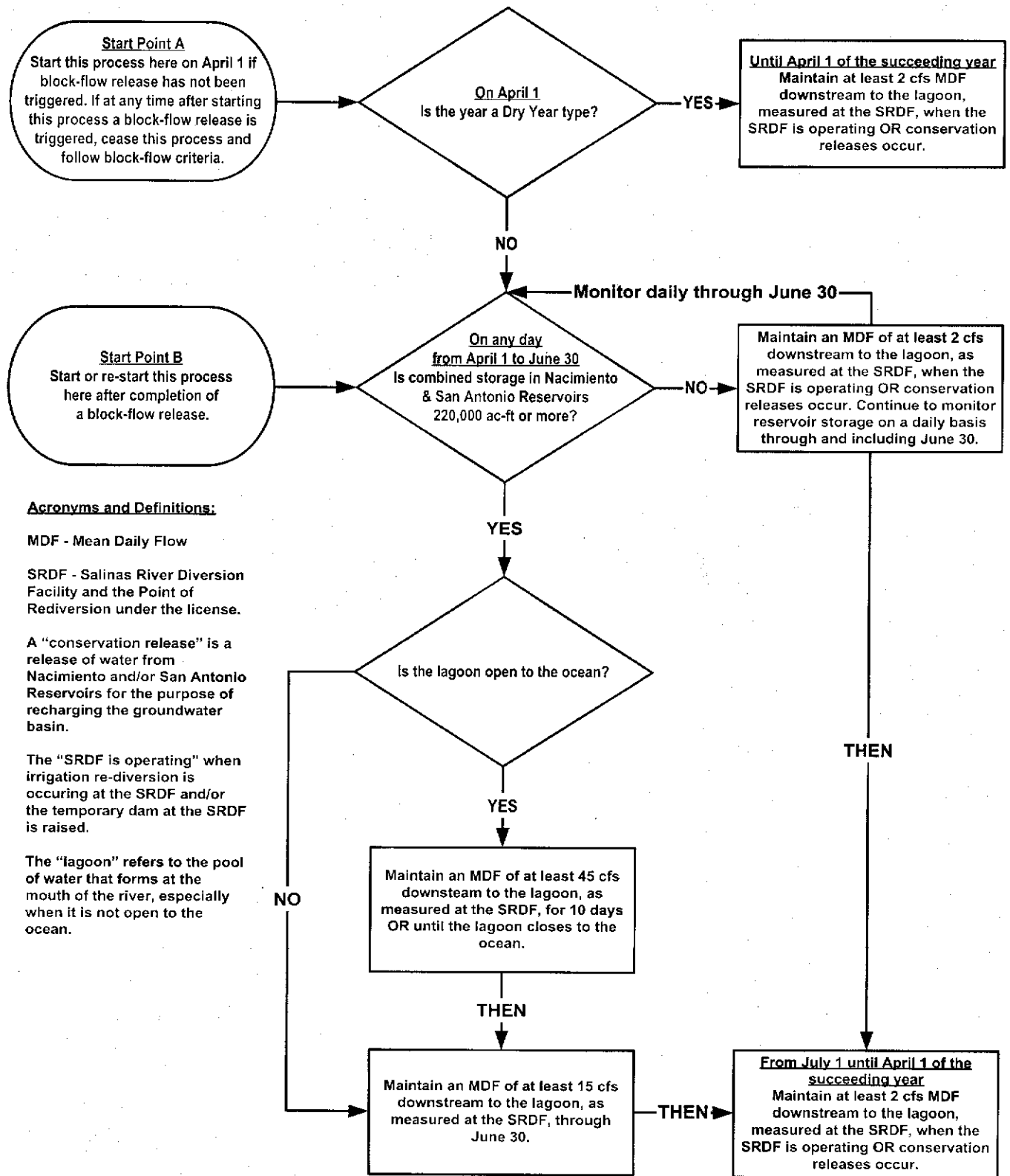


Figure 2 – Flow prescription to enhance downstream migration for juvenile steelhead when block-flow release has not been triggered.

In the event that any gage is no longer available for streamflow measurements, the licensee (or successors-in-interest) is responsible for installing and maintaining an equivalent gage, satisfactory to the Chief of the Division of Water Rights, as near as practicable to the present location of the current USGS gages. In the absence of such equivalent gages, all diversions must cease. These requirements shall remain in force as long as water is being diverted by the licensee (or successors-in-interest) under this license.

(0000204)

MCWRA shall consult with the Department of Fish and Game and National Marine Fisheries Service to develop a plan to monitor bass spawning at Nacimiento and San Antonio Reservoirs. The plan shall include measures regarding bass habitat management, as well as rate and duration of water releases from the reservoirs. MCWRA shall post annually, on its website, the monitoring plan, as well as an evaluation of the plan's effectiveness by the Department of Fish and Game. This information shall remain posted for at least five years.

(0140500)

MCWRA shall develop a riparian restoration plan for construction impacts at the SRDF site and submit for review and approval to California Department of Fish and Game and United States Fish and Wildlife Service. No restoration work shall commence until approvals are obtained and copies submitted to the Chief of the Division of Water Rights.

(0140500)

Nothing in this license shall be construed as authorizing any diversions contrary to the provisions of the following biological opinions, either as written as of the date of this license or as they may be amended: 1) United States Fish and Wildlife Service, July 24, 2007, Biological Opinion on Issuance of Department of the Army Permits to the Monterey County Water Resource Agency for Construction of a Surface Water Diversion Structure in the Salinas River, Near the City of Salinas (Corps File Number 24976S) and for Breaching of the Salinas River Lagoon (Corps File Number 16798S) in Monterey County, California (1-8-06-F-54); and 2) National Marine Fisheries Service, June 20, 2007, Biological Opinion.

(0140500)

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the State Water Board.

Licensee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, 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 license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee 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 license and to determine accurately water use as against reasonable water requirement 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 the licensee 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.

The quantity of water diverted under this license is subject to modification by the State Water Board if, after notice to the licensee 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.

This license 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 licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the State Water Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license 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 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any license 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 licensee 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD

James W. Kussel
for *Victoria A. Whitney, Chief*
Division of Water Rights

Dated:

SEP 05 2008



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

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 16761
Page 1 of 9

PERMIT 12261

LICENSE 12624

THIS IS TO CERTIFY, That

Monterey County Water Resources Agency
P.O. Box 930
Salinas, CA 93902

has the right to the use of the waters of **San Antonio River in Monterey County**
tributary to **Salinas River**

for the purpose of **Municipal, Domestic, Industrial, Irrigation, and Recreational uses.**

Amended License 12624 supersedes the license originally issued on **April 26, 1990**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (State Water Board), or its predecessor, and the terms of **Permit 12261**. The priority of this right dates from **December 2, 1955**.

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **two hundred twenty thousand (220,000) acre-feet per annum to be collected from October 1 of each year to July 1 of the succeeding year. The maximum withdrawal in any one year shall not exceed 210,000 acre-feet.**

The capacity of the reservoir covered by this license shall not exceed 335,000 acre-feet.

The maximum held in storage, including flood control operation, has been 335,000 acre-feet.

This license does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

San Antonio Dam - By California Coordinate System of 1983, Zone 4, North 1,815,845 feet and East 6,002,806 feet, being within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 34, T24S, R10E, MDB&M.

THE POINT OF REDIVERSION OF SUCH WATER IS LOCATED:

Salinas River Diversion Facility (SRDF) - By California Coordinate System of 1983, Zone 4, North 2,152,792 feet and East 5,755,485 feet, being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T14S R2E, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Municipal, Domestic, Industrial, and Irrigation uses within: (1) 259,000 acres net within a gross area of 357,000 acres in Monterey County as shown on map dated April 28, 1988; (2) 500 acres of irrigated agriculture and 7,000 acres of urban and suburban lands within the San Luis Obispo County Flood Control and Water Conservation District as shown on map dated June 8, 1967; and (3) 421,425 acres comprising Monterey County Water Resources Agency (MCWRA) Zone 2C as shown on a map dated August 14, 2008. Recreational use at San Antonio Reservoir within T23S, R8E; T23S, R9E; T24S, R9E; and T24S, R10E, all within MDB&M.

If it is determined after license issuance that the conditions of the project are not correctly represented by the map(s) prepared for the license, the licensee shall, at his expense, have the subject map(s) updated or replaced with equivalent as-built map(s). The revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. The revision(s) or map(s) shall be furnished upon request of the Chief of the Division of Water Rights.

(0000030)

Licensee shall maintain such records of stream flow, well levels and groundwater storage as are required by the State Water Board so as to determine the amount stored underground and extracted thereafter, and such records shall be submitted to the State Water Board on request. Submissions may be made to the Board electronically.

Licensee shall maintain devices, satisfactory to the Chief of the Division of Water Rights, to measure the quantities of water placed in underground storage, and water subsequently recovered for beneficial use.

(0080117)

FLOW PRESCRIPTIONS FOR HABITAT MAINTENANCE

Criteria for Determining Water-Year Type

For purposes of applying the flow prescriptions, water year types are defined based on indexing the record of unimpaired mean annual flows at the United States Geological Survey (USGS) streamflow gage No. 11152000 (Arroyo Seco near Soledad). The mean annual flows were ranked in descending order to obtain exceedance probability based on percentile. The percentiles (or exceedance probability) for each year type are described below:

<u>Water-year type</u>	<u>Percentile range (exceedance probability)</u>
Wet	0% to and including 25%
Wet-Normal	over 25% to and including 41.7%
Normal-Normal	over 41.7% to and including 58.3%
Dry-Normal	over 58.3% to and including 75%
Dry	over 75% to and including 100%

The initial values for determining water year types are listed below. These values may be updated in accordance with the percentile ranges (exceedance probability) listed above to incorporate the most recent data. At least the most recent 100 years of data must be included in the calculation. Mean daily flows (MDF) shall be used to calculate the mean annual flow of the water year starting October 1 of each year and ending September 30 of the succeeding year. If the licensee intends to use updated flow rates, the new rates must be declared in writing to the State Water Board by January 1 of the first year they will be utilized. Any revised flow rates shall remain in effect until updated with more recent data.

<u>Water-year type</u>	<u>Mean Daily Flow Rate at USGS Gage 11152000 (Arroyo Seco near Soledad) on March 15 or April 1</u>
Wet	250 cubic feet per second (cfs) or higher
Wet-Normal	152 cfs or higher but less than 250 cfs
Normal-Normal	104 cfs or higher but less than 152 cfs
Dry-Normal	66 cfs or higher but less than 104 cfs
Dry	less than 66 cfs

(0140400)

Flow Prescription for Adult Steelhead Upstream Migration

From February 1 to and including March 31, during all year types, and when the criteria below is met, licensee shall maintain an MDF of 260 cfs at USGS gage No. 11152300 (Salinas River near Chualar) using reservoir releases when necessary to augment natural flow. This requirement is triggered when all four of the criteria below are met simultaneously.

Trigger Criteria for Adult Steelhead Upstream Migration Flow

1. Combined storage of Nacimiento and San Antonio Reservoirs is greater than 220,000 acre-feet.
2. An MDF at USGS gage No. 11152000 (Arroyo Seco near Soledad) greater than or equal to 340 cfs.
3. An MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) greater than or equal to 173 cfs.
4. Hydraulic continuity in the Salinas River exists to the Pacific Ocean.

During wet or dry years, and once all the criteria are met, the 260 cfs MDF requirement remains effective through March 31 unless condition 4 above ceases to exist.

For any of the three normal year types, from January 1 to and including March 31, the 260 cfs MDF requirement must be maintained such that on a 10-year average the number of upstream passage days (days with at least 260 cfs MDF at USGS gage No. 11152300 (Salinas River near Chualar)) listed below will be achieved within a 10% variance. For example, the average number of passage days for all of the dry-normal years within a 10-year period must be at least 14 (16 days average minus variance of 2). At least 5 consecutive days with flow of at least 260 cfs MDF must occur for a flow period to credit towards the total for each year. The year type for the purpose of determining the number of passage days must be determined on March 15 or April 1 using the Criteria for Determining Water Year Type listed above.

<u>Water-year type</u>	<u>Upstream Fish Passage Days from January 1 to March 31</u>
Wet-Normal	Average 73 days with variance of 7 days.
Normal-Normal	Average 47 days with variance of 5 days.
Dry-Normal	Average 16 days with variance of 2 days.

(0140400)

Flow Prescription for Downstream Migration of Smolting Steelhead

The licensee shall provide a single block-flow release (as described in Block-Flow Release Criteria below) from Nacimiento Reservoir (under License 7543 [Application 16124]) and San Antonio Reservoir to facilitate downstream migration of steelhead in the Salinas River in accordance with the event triggers described in the flow chart in Figure 1.

Block-Flow Release Criteria

A block-flow release consists of the natural flow in the Salinas River augmented by releases from Nacimiento and San Antonio dams to achieve the specified MDF for the specific number of consecutive days directed below.

Days 1 through 5: Maintain an MDF of at least 700 cfs at USGS gage No. 11151700 (Salinas River at Soledad).

Day 6 and beyond: Maintain an MDF of at least 300 cfs at USGS gage No. 11152500 (Salinas River at Spreckels).

The number of days the block flow release must be maintained at the MDF of 300 cfs beyond Day 6 is determined by when Day 1 occurs. If Day 1 occurs between March 15 and April 1, then block flow must continue to April 20. If Day 1 occurs between April 2 and May 31, then block flow must continue for 15 more days (Day 6 through Day 20).

Starting after completion of the block-flow release, if the MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) is greater than 1 cfs, maintain Salinas River surface flow to the ocean through 10 days after flow at USGS gage No. 11152050 initially drops below an MDF of 1 cfs.

(0140400)

Flow Prescription for Downstream Migration of Juvenile and Post Spawn Adult Steelhead

To protect fishery resources during periods when block flow releases have not yet been initiated, follow the flow prescription described in the flow chart in Figure 2. From March 15 through May 31 continue to monitor for the initiation of block flow. If the conditions to initiate block flow occur, suspend the process in Figure 2 and follow the process in Figure 1.

(0140400)

Flow Prescription at the End of the Irrigation Season

Prior to lowering of the SRDF, the SRDF impoundment will be filled to its storage capacity and water will be allowed to pass from the impoundment to the lagoon at a rate of 2 cfs MDF (measured at the SRDF) until the impoundment is emptied. The rate may be increased if necessary to empty the impoundment in time to perform facility maintenance before river flows prevent maintenance work.

(0140400)

General Requirements for Flow Prescriptions

The above mentioned flow criteria are dependent on real time flow measurements from USGS stream gages subject to intermittent telemetry interruptions. To ensure compliance during such interruptions the licensee will use its ALERT system data supplemented with field observations by its own staff and/or USGS field personnel as required.

(0140400)

In the event that any gage is no longer available for streamflow measurements, the licensee (or successors-in-interest) is responsible for installing and maintaining an equivalent gage, satisfactory to the Chief of the Division of Water Rights, as near as practicable to the present location of the current USGS gages. In the absence of such equivalent gages, all diversions must cease. These requirements shall remain in force as long as water is being diverted by the licensee (or successors-in-interest) under this license.

(0000204)

/

/

/

/

/

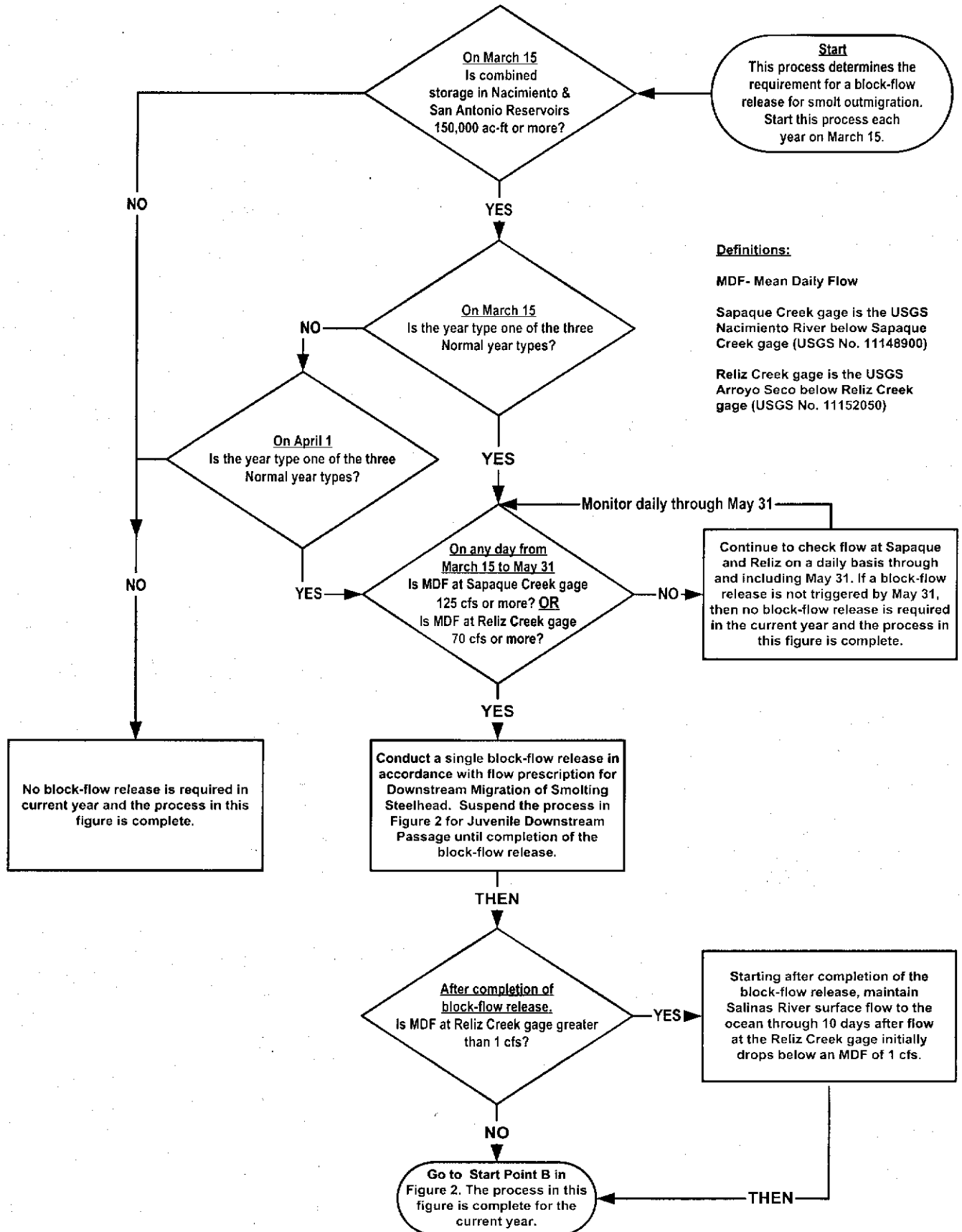


Figure 1 – Criteria to trigger block-flow release for downstream migration of smolting steelhead.

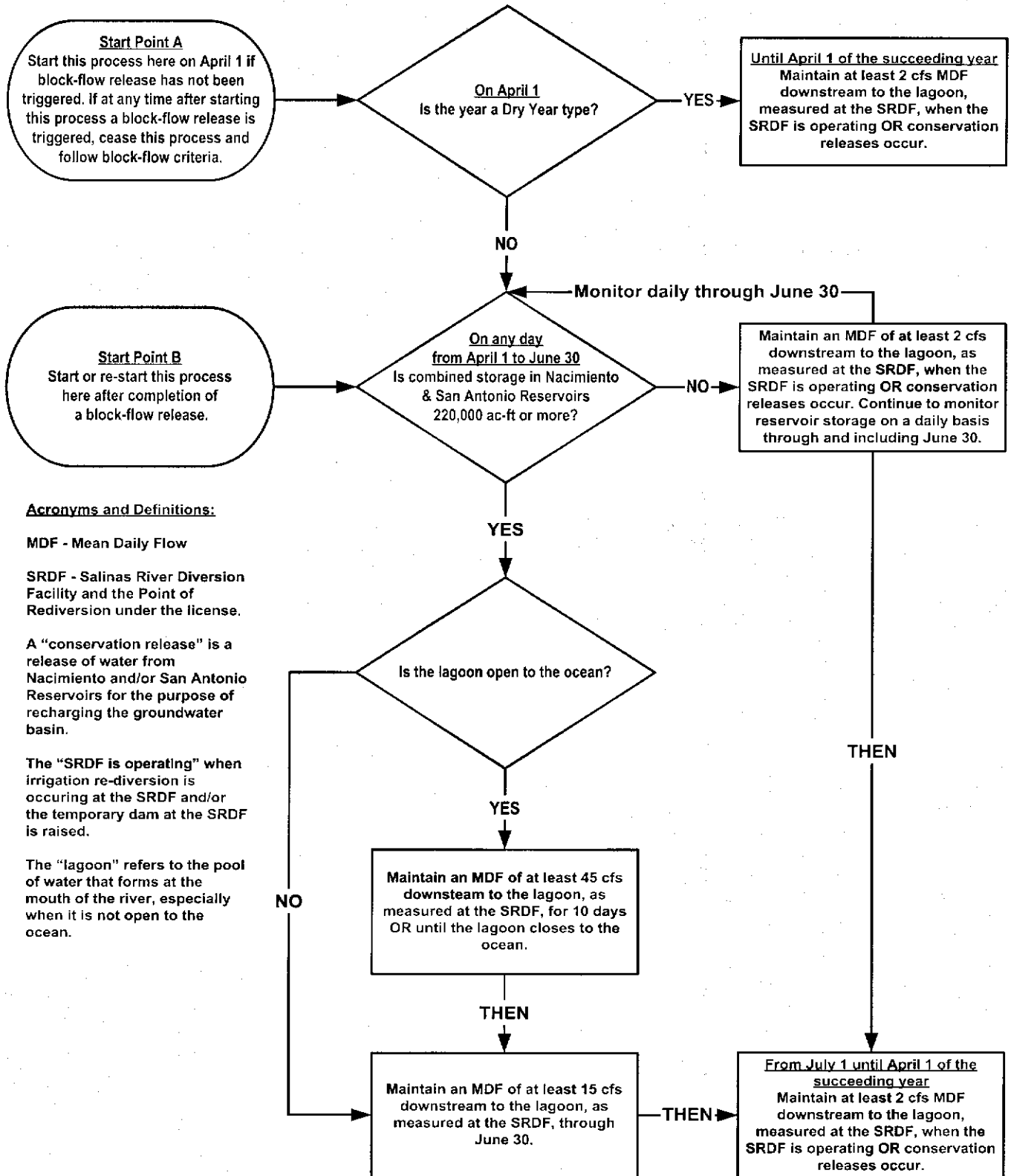


Figure 2 – Flow prescription to enhance downstream migration for juvenile steelhead when block-flow release has not been triggered.

MCWRA shall consult with the Department of Fish and Game and National Marine Fisheries Service to develop a plan to monitor bass spawning at Nacimiento and San Antonio Reservoirs. The plan shall include measures regarding bass habitat management, as well as rate and duration of water releases from the reservoirs. MCWRA shall post annually, on its website, the monitoring plan, as well as an evaluation of the plan's effectiveness by the Department of Fish and Game. This information shall remain posted for at least five years.

(0140500)

MCWRA shall develop a riparian restoration plan for construction impacts at the SRDF site and submit for review and approval to California Department of Fish and Game and United States Fish and Wildlife Service. No restoration work shall commence until approvals are obtained and copies submitted to the Chief of the Division of Water Rights.

(0140500)

Nothing in this license shall be construed as authorizing any diversions contrary to the provisions of the following biological opinions, either as written as of the date of this license or as they may be amended:
1) United States Fish and Wildlife Service, July 24, 2007, Biological Opinion on Issuance of Department of the Army Permits to the Monterey County Water Resource Agency for Construction of a Surface Water Diversion Structure in the Salinas River, Near the City of Salinas (Corps File Number 24976S) and for Breaching of the Salinas River Lagoon (Corps File Number 16798S) in Monterey County, California (1-8-06-F-54); and 2) National Marine Fisheries Service, June 20, 2007, Biological Opinion.

(0140500)

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the State Water Board.

Licensee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, 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 license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee 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 license and to determine accurately water use as against reasonable water requirement 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 the licensee 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.

The quantity of water diverted under this license is subject to modification by the State Water Board if, after notice to the licensee 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.

This license 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 licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the State Water Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license 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.

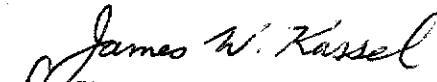
Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any license 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 licensee 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated:

SEP 05 2008

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 21089

Application 30532 of

Monterey County Water Resources Agency
P.O. Box 960
Salinas, CA 93902

filed on April 23, 1996, has been approved by the State Water Resources Control Board (State Water Board or Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Nacimiento River

Tributary to:

Salinas River thence

Pacific Ocean

within the County of San Luis Obispo.

2. Location of point of diversion (1) Nacimiento Dam and point of re-diversion (2) Salinas River
Diversion Facility

By California Coordinate System NAD 83 in Zone: 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
(1) North 2,475,554 feet and East 5,705,620 feet (Zone 5)	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	15	25S	10E	MD
(2) North 2,152,792 feet and East 5,755,485 feet (Zone 4)	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	16	14S	2E	MD

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Municipal, Domestic, Industrial, Irrigation, and Recreational	Within boundaries of Monterey County Water Resources Agency (MCWRA) Zone 2* and Zone 2C**					
Municipal, Domestic, Industrial, Irrigation, and Recreational	7,500 acres within San Luis Obispo County Flood Control and Water Conservation District***					

* MCWRA Zone 2 comprises 200,000 acres net within a gross area of approximately 240,000 acres, excluding all lands annexed to Zone 2 after November 4, 1965, as shown on a map dated June 13, 1997.

** MCWRA Zone 2C comprises approximately 421,435 acres as shown on a map dated August 14, 2008.

*** The places of use within San Luis Obispo County Flood Control and Water Conservation District consist of a net area of 500 acres of irrigated agriculture and a net area of 7,000 acres of urban and suburban lands within a gross area of 1,040,590 acres as shown on a map dated June 8, 1967.

5. The water appropriated shall be limited to the quantity that can be beneficially used and shall not exceed 27,900 acre-feet per annum to be collected from October 1 of each year to July 1 of the succeeding year. (000005C)
6. The total quantity of water collected to storage under this permit and License 7543 (Application 16124) shall not exceed 377,900 acre-feet per annum. (000005L)
7. The capacity of the reservoir covered under this permit (Application 30532) shall not exceed 377,900 acre-feet (af). (000005N)
8. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)
9. Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2021. (000009)
10. The amount authorized for appropriation may be reduced in the license if investigation warrants. (000006)
11. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water

conservation program may be required by the Board at any time within this period. All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(00000029B)

12. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, Permittee shall, at its expense, have the subject map(s) updated or replaced with equivalent as-built maps(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and section 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.

(0000030)

13. Permittee shall install devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the flows required by the conditions of this permit. Said measuring devices shall be properly maintained.

(0060062BP)

SPECIAL TERMS

FLOW PRESCRIPTIONS FOR HABITAT MAINTENANCE

Criteria for Determining Water-Year Type

For purposes of applying the flow prescriptions, water-year types are defined based on indexing the record of unimpaired mean annual flows at the United States Geological Survey (USGS) streamflow gage No. 11152000 (Arroyo Seco near Soledad). The mean annual flows were ranked in descending order to obtain exceedance probability based on percentile. The percentiles (or exceedance probability) for each year type are described below:

<u>Water-year type</u>	<u>Percentile range (exceedance probability)</u>
Wet	0% to and including 25%
Wet-Normal	over 25% to and including 41.7%
Normal-Normal	over 41.7% to and including 58.3%
Dry-Normal	over 58.3% to and including 75%
Dry	over 75% to and including 100%

The initial values for determining water-year types are listed below. These values may be updated in accordance with the percentile ranges (exceedance probability) listed above to incorporate the most recent data. At least the most recent 100 years of data must be included in the calculation. Mean daily flows shall be used to calculate the mean annual flow of the water-year starting October 1 of each year and ending September 30 of the succeeding year. If Permittee intends to use updated flow rates, the new rates must be declared in writing to the State Water Board by January 1 of the first year they will be utilized. Any revised flow rates shall remain in effect until updated with more recent data.

<u>Water-Year type</u>	<u>Mean Daily Flow Rate at USGS Gage 11152000 (Arroyo Seco near Soledad) on March 15 or April 1</u>
Wet	250 cubic feet per second (cfs) or higher
Wet-Normal	152 cfs or higher but less than 250 cfs
Normal-Normal	104 cfs or higher but less than 152 cfs
Dry-Normal	66 cfs or higher but less than 104 cfs
Dry	less than 66 cfs

(0140400)

Flow Prescription for Adult Steelhead Upstream Migration

From February 1 to and including March 31, during all water-year types, and when the criteria below are met, Permittee shall maintain a mean daily flow (MDF) of 260 cfs at USGS gage No. 11152300 (Salinas River near Chualar), using reservoir releases when necessary to augment natural flow. This requirement is triggered when all four of the criteria below are met simultaneously.

Trigger Criteria for Adult Steelhead Upstream Migration Flow

1. Combined storage of Nacimiento and San Antonio Reservoirs is greater than 220,000 af.
2. An MDF at USGS gage No. 11152000 (Arroyo Seco near Soledad) greater than or equal to 340 cfs.
3. An MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) greater than or equal to 173 cfs.
4. Hydraulic continuity in the Salinas River exists to the Pacific Ocean.

During wet or dry water-years, and once all the criteria are met, the 260 cfs MDF requirement remains effective through March 31 unless condition 4 above ceases to exist.

For any of the three normal water-year types, from January 1 to and including March 31, the 260 cfs MDF requirement must be maintained such that on a 10-year average the number of upstream passage days (days with at least 260 cfs MDF at USGS gage No. 11152300 (Salinas River near Chualar)) listed below will be achieved within a 10% variance. For example, the average number of passage days for all of the dry-normal water-years within a 10-year period must be at least 14 (16 days average minus variance of 2). At least 5 consecutive days with flow of at least 260 cfs MDF must occur for a flow period to credit towards the total for each water-year. The water-year type for the purpose of determining the number of passage days must be determined on March 15 or April 1 using the Criteria for Determining Water-Year Type listed above.

Water-year type

Wet-Normal
Normal-Normal
Dry-Normal

Upstream Fish Passage Days from January 1 to March 31

Average 73 days with variance of 7 days.
Average 47 days with variance of 5 days.
Average 16 days with variance of 2 days.

(0140400)

Flow Prescription for Downstream Migration of Smolting Steelhead

Permittee shall provide a single block-flow release (as described in Block-Flow Release Criteria below) from Nacimiento Reservoir and San Antonio Reservoir (under License 12624) to facilitate downstream migration of steelhead in the Salinas River in accordance with the event triggers described in the flow chart in Figure 1 below.

Block-Flow Release Criteria

A block-flow release consists of the natural flow in the Salinas River augmented by releases from Nacimiento and San Antonio Dams to achieve the specified MDF for the specific number of consecutive days directed below.

Days 1 through 5: Maintain an MDF of at least 700 cfs at USGS gage No. 11151700 (Salinas River at Soledad).

Day 6 and beyond: Maintain an MDF of at least 300 cfs at USGS gage No. 11152500 (Salinas River at Spreckels).

Figure 1 – Criteria to trigger block-flow release for downstream migration of smolting steelhead.

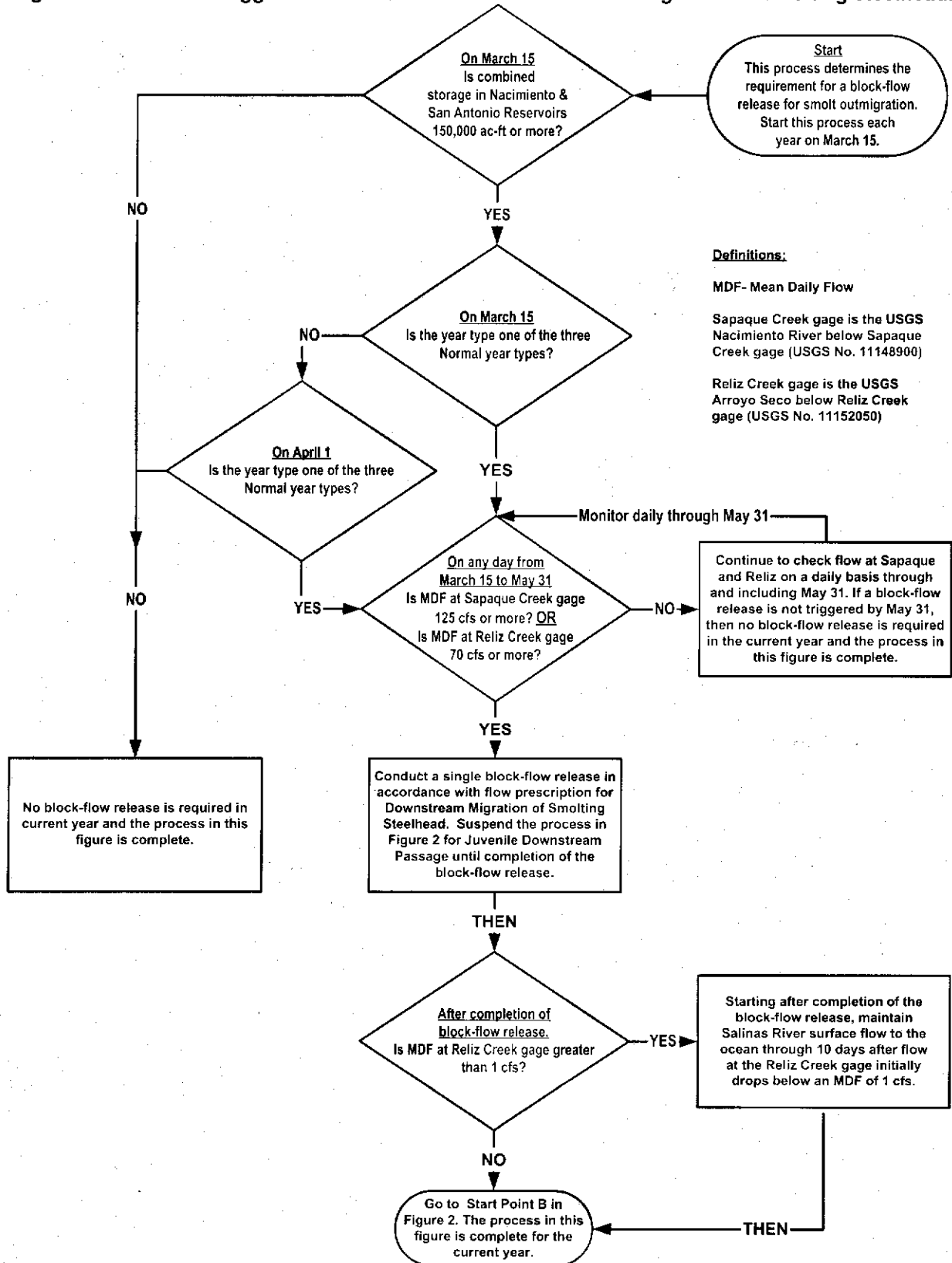
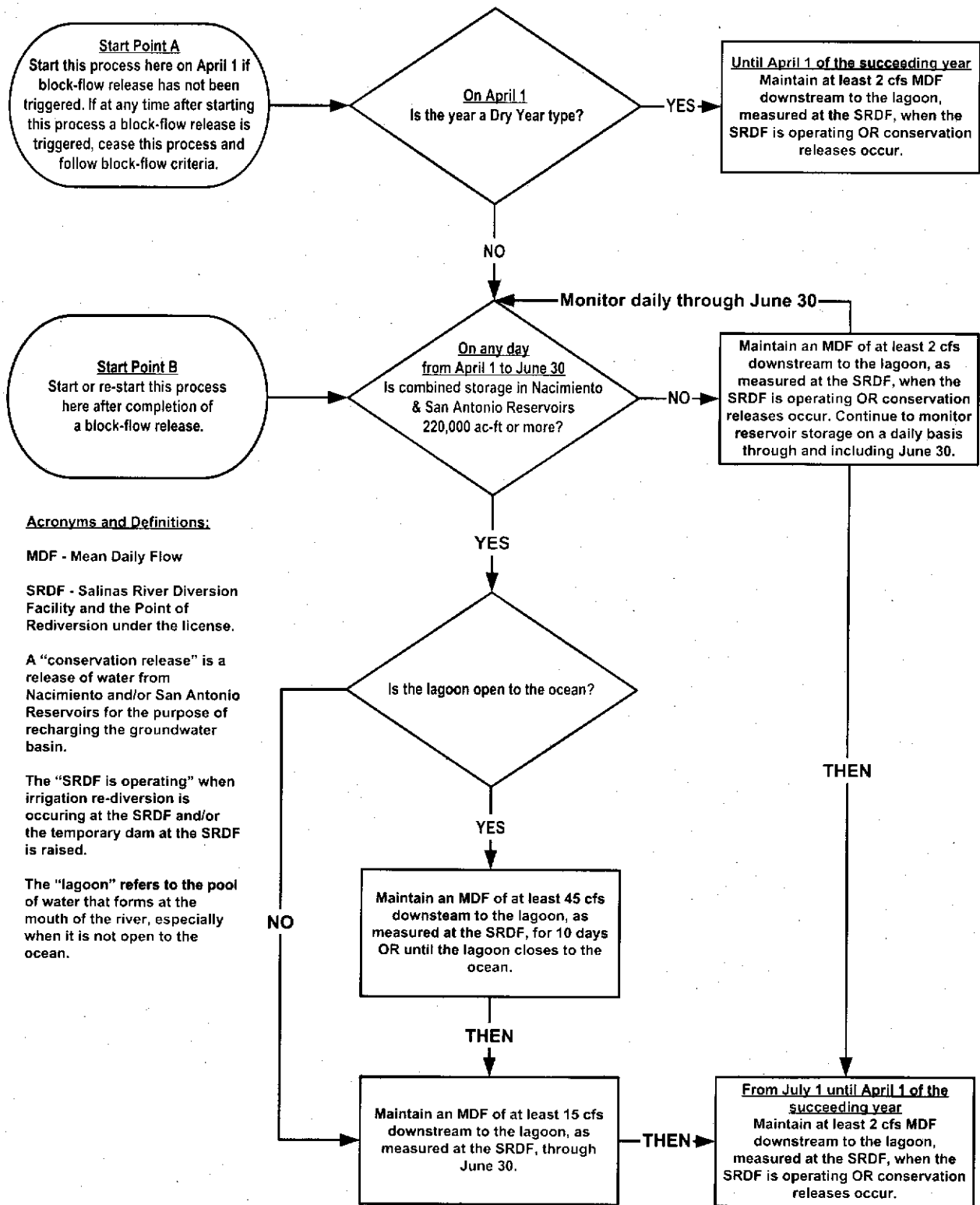


Figure 2 – Flow prescription to enhance downstream migration for juvenile steelhead when block-flow release has not been triggered.



General Requirements for Flow Prescriptions

The above mentioned flow criteria are dependent on real-time flow measurements from USGS stream gages subject to intermittent telemetry interruptions. To ensure compliance during such interruptions Permittee will use its ALERT system data supplemented with field observations by its own staff and/or USGS field personnel as required.

(0140400)

In the event that any gage is no longer available for streamflow measurements, Permittee (or successors-in-interest) is responsible for installing and maintaining an equivalent gage, satisfactory to the Chief, Division of Water Rights, as near as practicable to the present location of the current USGS gage. In the absence of such equivalent gage, all diversions must cease. These requirements shall remain in force as long as water is being diverted by Permittee (or successors-in-interest) under this permit.

(0000204)

MCWRA shall consult with the Department of Fish and Game and National Marine Fisheries Service to develop a plan to monitor bass spawning at Nacimiento and San Antonio Reservoirs. The plan shall include measures regarding bass habitat management, as well as rate and duration of water releases from the reservoirs. MCWRA shall post annually on its website the monitoring plan, as well as an evaluation of the plan's effectiveness by the Department of Fish and Game. This information shall remain posted for at least five years.

(0140500)

MCWRA shall develop a riparian restoration plan for construction impacts at the SRDF site and submit for review and approval to California Department of Fish and Game and United States Fish and Wildlife Service. No restoration work shall commence until approvals are obtained and copies submitted to the Chief, Division of Water Rights.

(0140500)

Nothing in this permit shall be construed as authorizing any diversions contrary to the provisions of the following biological opinions, either as written as of the date of this permit or as they may be amended:

- 1) *Biological Opinion on Issuance of Department of the Army Permits to the Monterey County Water Resource Agency for Construction of a Surface Water Diversion Structure in the Salinas River, Near the City of Salinas (Corps File Number 24976S) and for Breaching of the Salinas River Lagoon (Corps File Number 16798S) in Monterey County, California.* United States Fish and Wildlife Service, July 24, 2007 (1-8-06-F-54).
- 2) *Biological Opinion.* National Marine Fisheries Service, June 20, 2007.

(0140500)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

- B. Progress reports shall be submitted promptly by Permittee when requested by the State Water Board until a license is issued.

(0000010)

- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

- D. Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of 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 permit with a view to eliminating waste of water and to meeting the reasonable water requirements of Permittee without unreasonable draft on the source. Permittee 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 permit 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 the permittee 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)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to Permittee 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)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued, and Permittee 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 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

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 therefore 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

for James W. Kessel
Victoria A. Whitney, Chief
Division of Water Rights

Dated: **SEP - 5 2008**