

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

**ORDER WR 2012-0034-EXEC**

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In the Matter of Permits 19655, 19656, 19657 and 19658  
(Applications 27220, 27239, 28123 and 28124)

**June Lake Public Utility District**

**ORDER APPROVING PETITIONS FOR EXTENSION OF TIME  
AND PETITIONS FOR CHANGE AND ISSUING AMENDED PERMITS**

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SOURCES: (1) Twin Springs Creek, (2) June Lake

COUNTY: Mono

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**BY THE BOARD:**

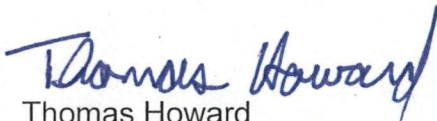
1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permits 19655, 19656, 19657 and 19658 to June Lake Public Utilities District (now known as June Lake Public Utility District) (Permittee) on October 8, 1985, pursuant to Applications 27220, 27239, 28123 and 28124.
2. The permits require that the water be applied to municipal use by December 1, 1995. There have been no time extensions for these water rights. Permits 19655 and 19657 authorize diversion of 0.4 cubic foot per second (cfs) and 0.293 cfs, respectively, from Twin Springs Creek tributary to Reversed Creek. Twin Springs Creek is now known as Snow Creek. Permits 19656 and 19658 authorize diversion from June Lake tributary to Reversed Creek thence Rush Creek thence Mono Lake. Combined diversions under the four permits and License 6020 (Application 16687) are limited to a diversion rate of 0.74 cfs, not to exceed 536 acre feet annually (afa).
3. On December 28, 2005, Permittee filed petitions for extension of time for the four rights, seeking extensions to the year 2030. The required filing fees were submitted.
4. On May 17, 2007, the time extension petitions were noticed. The only acceptable protest was filed by June Lake Advocates. The protest raised the issue that any time extension should be contingent on limiting combined diversions to the quantity Mono County has identified as needed to serve growth. In the November 7, 2008 protest dismissal letter, the Division stated that it would limit the combined right diversion to 394 afa based on the Mono County estimate of build-out water demand and dismissed the protest issue.
5. On November 18, 2010, Permittee documented that June Lake's adopted 2004 Master Water Plan estimated future water demands to be 545 afa. The 394 af amount was from a June 2006 Water Resource Assessment prepared by Eco:Logic Engineering for Mono County Community Development Department. The Eco:Logic document was a planning level document for Mono County and was never approved by June Lake's Board of Directors. Therefore, Permittee asserts that it would not be proper to limit the combined diversion to the amount stated in the 2006 document. The maximum combined diversion limit will remain 536 afa.

6. During the process of preparing the Initial Study/Mitigated Negative Declaration (IS/MND) for the time extension petitions, Permittee discovered that the existing place of use on all four water rights excluded an area of existing and planned development within the Village System. This area includes the northern portion of the June Lake Highlands project in the West Village Area. Development of this area had already been approved by the County of Mono and six homes had been constructed.
7. On May 27, 2011, Permittee filed petitions for change for the four water rights to amend the place of use to include this area. The required filing fees were submitted. The IS/MND was revised prior to circulation to include the change petitions.
8. On June 2, 2011, Permittee documented that adding 40 acres to the existing place of use does not have the potential to impair the water supply of other legal users of water or instream beneficial uses. Permittee also documented that all facilities needed to serve municipal water for existing and future users within the proposed place of use have already been constructed. The change petitions were not noticed. (CCR § 795.)
9. In an October 28, 2010 letter, Division staff noted that diversions did not appear to have increased during the period 1996 to 2008 and asked Permittee to address this concern.
10. In a November 18, 2010 letter, Permittee documented that prior to December 31, 1995 Permittee constructed the Snow Creek Water Treatment Plant and installed over 3,258 feet of ductile iron conveyance pipeline to serve its developing service area. Permittee invested over \$877,000 in its water system infrastructure between 1989 and 1995. After 1995, Permittee expended over \$2.275 million to upgrade its June Lake Water Treatment Plant facility, construct an additional water storage tank, install 169 water meters, and install standby generators and digital flow meters at both treatment plants. This infrastructure was necessary to meet existing and projected future demands within the place of use.
11. Approximately 16 parcels were developed between December 28, 2005 and March 2011. (IS/MND, p. 12.)
12. The State Water Board may grant an extension of time within which to commence or complete construction work or apply water to beneficial use upon a showing of good cause. (Wat. Code, § 1398.) Permittee must show that (1) due diligence has been exercised; (2) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided; and (3) satisfactory progress will be made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay.
13. Permittee has shown that due diligence has been exercised. As noted above, Permittee expended over \$877,000 in its water system infrastructure between 1989 and 1995.
14. Permittee has shown that failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided. Permittee had to upgrade the water mains, storage tank and water treatment plant in order to make further beneficial use of water. Permittee accomplished these tasks from 2002 through 2004. (IS/MND, pp. 12, 14.)

15. Permittee has shown that satisfactory progress will be made if a time extension is granted. This is the first time extension for the water rights. During the initial portion of the extension (1995 through the present), Permittee expended \$2.275 million to complete improvements to the water supply facilities needed to utilize additional water under the permits.
16. Permittee has shown good cause for the time extensions.
17. Permittee has also shown that the change in the consolidated place of use: (a) will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; and (c) the change petitions do not constitute the initiation of new rights.
18. On August 10, 2011, Permittee adopted an MND (SCH No. 2011062029) for the time extension and change petitions in order to comply with the California Environmental Quality Act. The State Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The State Water Board will file a Notice of Determination within five days from the issuance of this order. The MND did not identify any mitigation measures for inclusion in the permits.
19. The permit conditions relating to the continuing authority and water quality objectives of the State Water Board should be added or updated to conform to California Code of Regulations, title 23, section 780, subdivisions (a) & (b).
20. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the Permittee aware of obligations resulting from these acts.
21. A term has been added to require measurement of water diverted under the permit to comply with Water Code section 1605.
22. In addition to any obligation the State Water Board may have under CEQA, the State Water Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].) There is no evidence that the changes and time extensions will have any adverse impacts on public trust resources.

**NOW, THEREFORE, IT IS ORDERED THAT THE STATE WATER BOARD HEREBY APPROVES THE PETITIONS FOR EXTENSION OF TIME AND CHANGE. THE ATTACHED AMENDED PERMITS, WHICH INCORPORATE THE PETITIONED MODIFICATIONS AND TIME EXTENSIONS, ARE ISSUED.**

STATE WATER RESOURCES CONTROL BOARD



Thomas Howard  
Executive Director

Dated: **NOV 16 2012**

Attachments