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STATE WATER RESOURCES
CONTROL BOARD
2009 JUN 12 PM 1:20
DIV. OF WATER RIGHTS
SACRAMENTO

June 12, 2009

VIA HAND DELIVERY AND ELECTRONIC MAIL

Kathy Mrowka
Division of Water Rights
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, California 95814

Re: Extension of Temporary Urgency Permit No. 21232 to Divert Unappropriated Water from the Santa Ana River (San Bernardino County)

Dear Ms. Mrowka:

Consistent with our conversation, enclosed is an application to extend Temporary Urgency Permit No. 21232, for the purpose of diversion and redirection for groundwater replenishment of up to 1,000 acre-feet of water during the period of June 29, 2009 through September 30, 2009. Because of the urgent need for water in Southern California, San Bernardino Valley Municipal Water District ("Valley District") and Western Municipal Water District of Riverside County ("Western") respectfully request that the State Water Resources Control Board ("State Board") extend Permit No. 21232.

On January 6, 2009, the State Board issued Temporary Urgency Permit No. 21232 ("Permit No. 21232") to Valley District and Western. Permit No. 21232 allowed Valley District and Western to divert up to 25,000 af of unappropriated water from the Santa Ana River pursuant to Water Code sections 1425 *et seq.*

As you know, this past February Governor Schwarzenegger proclaimed a state of emergency due to the critical water shortage facing the State. Southern California is in its third year of drought and the substantial reductions in water deliveries by the State Water Project continue unabated. For the last two years precipitation in Southern California has been less than 60% of normal and, despite almost normal rainfall in Northern California this year, the situation remains dire. In terms of the State Water Project, Lake Oroville is presently at 63% of capacity. Moreover, San Luis Reservoir presently contains about 29% of its capacity. <http://cdec.water.ca.gov/cgi-progs/reservoirs/RES>, visited June 10, 2009. Finally, even if the State Water Project is able to capture water at Lake Oroville, the recent rulings by Judge Wanger and the Biological Opinions issued by the United States Fish and Wildlife Service and National Marine Fisheries Service to

Rec'd
\$1,925.00
\$850.00 VFB
MS


protect the delta smelt and salmonids have further reduced the State Water Project's ability to deliver water to Southern California. All of these factors create an urgent need for Valley District and Western to be able to divert any unappropriated water that may be available from the Santa Ana River this summer.

To facilitate processing of this application, we enclose two checks: (i) the filing fee of \$7,925 for this permit that is payable to the State Board and (ii) the DFG fee for \$850 payable to the Department of Fish & Game.

Valley District and Western stand ready to meet with you at your earliest convenience to address any questions or concerns regarding this application. We know that the State Board understands the urgent need for water in Southern California and very much appreciate your processing this application as quickly as possible.

Respectfully submitted,

DOWNEY BRAND LLP



David R.E. Aladjem
Enclosures

cc: Randy Van Gelder, San Bernardino Valley Municipal Water District
John Rossi, Western Municipal Water District of Riverside County

TYPE OR PRINT
IN BLACK INK
(For instructions, see
booklet: "How to File an
Application to Appropriate
Water in California)

California Environmental Protection Agency

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000, Sacramento, CA 95812-2000
Tel: (916) 341-5300 Fax: (916) 341-5400
www.waterrights.ca.gov

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DIV OF WATER RIGHTS
STATE WATER RESOURCES CONTROL BOARD

APPLICATION NO. _____
(leave blank)

APPLICATION TO APPROPRIATE WATER SECTION A: NOTICE INFORMATION

1. APPLICANT/AGENT

a.

	APPLICANT	ASSIGNED AGENT (if any)
Name	San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County	David Aladjem Downey Brand LLP
Mailing Address (Valley District)	Valley District: P.O. Box 5906	621 Capitol Mall, 18th Floor
City, State & Zip	San Bernardino, CA 92412-5906	Sacramento, CA 95814
Mailing Address (Western)	Western: 450 Alessandro Blvd	
City, State & Zip	Riverside, CA 92508	
Telephone	Valley District: (909) 387-9200 Western: (951) 789-5000	(916) 444-1000
Fax	Valley District: (909) 387-9247 Western: (951) 780-3837	(916) 444-2100
E-mail		daladjem@downeybrand.com

2. OWNERSHIP INFORMATION (Please check type of ownership.)

- | | | |
|---|--|--|
| <input type="checkbox"/> Sole Owner | <input type="checkbox"/> Limited Liability Company (LLC) | <input type="checkbox"/> General Partnership* |
| <input type="checkbox"/> Limited Partnership* | <input type="checkbox"/> Business Trust | <input type="checkbox"/> Husband/Wife Co-Ownership |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Joint Venture | <input checked="" type="checkbox"/> Other <u>Municipal Water Districts</u> |

*Please provide a copy of your partnership agreement.

3. PROJECT DESCRIPTION (Provide a detailed description of your project, including, but not limited to, type of construction activity, area to be graded or excavated, and how the water will be used.)

See Attachment No. 1

4. PURPOSE OF USE, DIVERSION/STORAGE AMOUNT AND SEASON

a. PURPOSE OF USE (irrigation, domestic, etc.)	DIRECT DIVERSION				STORAGE		
	AMOUNT		SEASON OF DIVERSION		AMOUNT	SEASON OF COLLECTION	
	Rate (cfs or gpd)*	Acre-feet per year	Beginning date (month & day)	Ending date (month & day)	Acre-feet per year	Beginning date (month & day)	Ending date (month & day)

See Attachment No. 1

*If rate is less than 0.025 cubic feet per second (cfs), use gallons per day (gpd).

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\$7,925.00
\$850.00 DFG
6/12/09
MS

- b. Total combined amount taken by direct diversion and storage during any one year will be 1,000 acre-feet, in addition to any diversions made prior to June 29, 2009, pursuant to Permit No. 21232 (Order WR 2009-0002-DWR).
- c. Reservoir storage is: onstream offstream underground (If underground storage, attach Form APP-UGSTOR.)
- d. County in which diversion is located: San Bernardino County in which water will be used: San Bernardino and Riverside
- e. Assessor's Parcel Number(s): _____

5. SOURCES AND POINTS OF DIVERSION/REDIVERSION

- a. Sources and Points of Diversion (POD)/Points of Rediversion (PORD):
- POD / PORD # 1: Santa Ana River at Seven Oaks Dam tributary to the Pacific Ocean thence _____
 - POD / PORD # 1: Santa Ana River (Cuttle Weir) tributary to _____ thence _____
 - POD / PORD # 2: Santa Ana River channel between the Cuttle Weir and E Street tributary to _____ thence _____
 - POD / PORD # 3: Santa Ana River (Auxiliary River Pickup) tributary to _____ thence _____
 - POD / PORD # 4: Santa Ana River (Greenspot Forebay) tributary to _____ thence _____

See Attachment No. 1

- b. State Planar and Public Land Survey Coordinate Description:

POD/ PORD #	CALIFORNIA COORDINATES (NAD 27)	ZONE	POINT IS WITHIN (40-acre Subdivision)	SECTION	TOWN- SHIP	RANGE	BASE AND MERIDIAN
			¼ of ¼				
			¼ of ¼				
			¼ of ¼				

See Attachment No. 1

- c. Name of the post office most often used by those living near the proposed point(s) of diversion:
U.S. Post Office – Mentone

6. WATER AVAILABILITY

- a. Have you attached a water availability analysis for this project? YES NO

If NO, provide sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation: See attached Exhibit A, which was introduced and accepted as evidence during the May 2007 water right hearing.

See Attachment No. 1

- b. Is your project located on a stream system declared to be fully appropriated by the State Water Resources Control Board during your proposed season of diversion? YES NO
- c. In an average year, does the stream dry up at any point downstream of your project? YES NO If YES, during which months? Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec
- d. What alternate sources of water are available if a portion of your requested diversion season must be excluded because water is not available for appropriation? (e.g., percolating groundwater, purchased water, etc.) Groundwater extractions from underground storage: State Water Project

See Attachment No. 1

7. PLACE OF USE

USE IS WITHIN (40-acre subdivision)	SECTION*	TOWNSHIP	RANGE	BASE & MERIDIAN	IF IRRIGATED	
					Acres	Presently cultivated?
¼ of ¼	See attachment 1					<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
Total:						

*Please indicate if section is projected with a "(P)" following the section number.

See Attachment No. 1

8. PROJECT SCHEDULE

See Attachment No. 1

a. Project is:

- proposed. Year construction will begin: _____
- partially complete. Extent of completion: _____
- complete. Year completed: _____

b. Year of first use: _____ Year water will be used to the full extent intended: _____

SECTION B: MISCELLANEOUS DIVERSION INFORMATION

1. JUSTIFICATION OF AMOUNTS REQUESTED

a. IRRIGATION: Maximum area to be irrigated in any one year: _____ acres.

CROP	ACRES	METHOD OF IRRIGATION (sprinklers, flooding, etc.)	WATER USE (Acre-feet/Yr.)	SEASON OF WATER USE	
				Beginning date (month & day)	Ending date (month & day)

See Attachment No. _____

b. DOMESTIC: Number of residences to be served: _____ Separately owned? YES NO
 Number of people to be served: _____ Estimated daily use per person is: _____ gallons per day
 Area of domestic lawns and gardens: _____ square feet
 Incidental domestic uses: _____
 (dust control area, number and kind of domestic animals, etc.)

c. STOCKWATERING: Kind of stock: _____ Maximum number: _____
 Describe type of operation: _____
 (feedlot, dairy, range, etc.)

d. RECREATIONAL: Type of recreation: Fishing Swimming Boating Other _____

d. Storage reservoirs: (For underground storage, complete and attach form APP-UGSTOR)

RESERVOIR NAME OR NUMBER	DAM					RESERVOIR	
	Vertical height from downstream toe of slope to spillway level (feet)	Construction material	Length (feet)	Freeboard: dam height above spillway crest (feet)	Surface area when full (acres)	Capacity (acre-feet)	Maximum water depth (feet)

See Attachment No. 1

e. Outlet pipe: Complete for storage reservoirs having a capacity of 10 acre-feet or more.

RESERVOIR NAME OR NUMBER	OUTLET PIPE				
	Diameter (inches)	Length (feet)	Fall: vertical distance between entrance and exit of outlet pipe (feet)	Head: vertical distance from spill- way to entrance outlet pipe (feet)	Dead Storage storage below entrance of outlet pipe (acre-feet)

See Attachment No. 1

f. If water will be stored and the reservoir is not at the point of diversion, the maximum rate of diversion to off-stream storage will be 500 cfs. Diversion to offstream storage will be made by: Pumping Gravity

3. CONSERVATION AND MONITORING

a. What methods will you use to conserve water? Explain. See Attachment 1.

b. How will you monitor your diversion to be sure you are within the limits of your water right and you are not wasting water? Weir Meter Periodic sampling Other (describe)
Daily visual inspection. See attachment 1 for additional details

4. RIGHT OF ACCESS

a. Does the applicant own all the land where the water will be diverted, transported and used? YES NO
If NO, I do do not have a recorded easement or written authorization allowing me access.

b. List the names and mailing addresses of all affected landowners and state what steps are being taken to obtain access:

See Attachment No. 1

5. EXISTING WATER RIGHTS AND RELATED FILINGS

a. Do you claim an existing right for the use of all or part of the water sought by this application? YES NO
If YES, please specify: Riparian Pre-1914 Registration Permit License
 Percolating groundwater Adjudicated Other (specify) _____

b. For each existing right claimed, state the source, year of first use, purpose, season and location of the point of diversion (to within quarter-quarter section). Include number of registration, permit, license, or statement of water diversion and use, if applicable.

c. List any related applications, registrations, permits, or licenses located in the proposed place of use or that utilize the same point(s) of diversion? Water Right Application Nos. 31165 and 31370 (currently pending before the SWRCB). Temporary Urgency Permit No. 21212, and Temporary Urgency Permit No. 21232.

See Attachment No. 1

6. OTHER SOURCES OF WATER

Are you presently using, or do you intend to use, purchased water or water supplied by contract in connection with this project? Yes No If yes, please explain: _____

7. MAP REQUIREMENTS

The Division cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section and quarter/quarter section of (1) the proposed points of diversion and (2) the place of use. A copy of a U.S.G.S. quadrangle/topographic map of your project area is preferred, and can be obtained from sporting goods stores or through the Internet at <http://topomaps.usgs.gov>. A certified engineering map is required when (1) appropriating more than three cfs by direct diversion, (2) constructing a dam which will be under the jurisdiction of the Division of Safety of Dams, (3) creating a reservoir with a surface area in excess of ten acres or (4) appropriating more than 1000 acre-feet per annum by underground storage. See the instruction booklet for more information.

See Attachment

Please see Maps attached to Application Nos. 31165 and 31370 (on file with the SWRCB).

SECTION C: ENVIRONMENTAL INFORMATION

Note: Before a water right permit may be issued for your project, the State Water Resources Control Board (SWRCB) must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared for your project, a determination must be made of who is responsible for its preparation. If the SWRCB is determined to be responsible for preparing the CEQA document, the applicant will be required to pay all costs associated with the environmental evaluation and preparation of the required documents. Please answer the following questions to the best of your ability and submit with this application any studies that have been conducted regarding the environmental evaluation of your project.

1. COUNTY PERMITS

a. Contact your county planning or public works department and provide the following information: *

Person contacted: David Lovell Date of contact: October 20, 2008

Department: Department of Public Works Telephone: (909) 387-7964

County Zoning Designation: San Bernardino

Are any county permits required for your project? YES NO If YES, check appropriate box below:

Grading permit Use permit Watercourse Obstruction permit Change of zoning

General plan change Other (explain): _____

* Contacted for Permit 21232

b. Have you obtained any of the required permits described above? YES NO

If YES, provide a complete copy of each permit obtained.

See Attachment No. _____

2. STATE/FEDERAL PERMITS AND REQUIREMENTS

a. Check any additional state or federal permits required for your project:

Federal Energy Regulatory Commission U.S. Forest Service U.S. Bureau of Land Management

U.S. Corps of Engineers U.S. Natural Res. Conservation Service Calif. Dept. of Fish and Game

State Lands Commission Calif. Dept. of Water Resources (Div. of Safety of Dams)

Calif. Coastal Commission State Reclamation Board Other (specify) _____

b. For each agency from which a permit is required, provide the following information:

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.

See Attachment No. _____

- c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank, or riparian habitat of any stream or lake? YES NO
If YES, explain: _____

See Attachment No. _____

- d. Have you contacted the California Department of Fish and Game concerning your project? YES NO
If YES, name and telephone number of contact: _____

3. ENVIRONMENTAL DOCUMENTS

- a. Has any California public agency prepared an environmental document for your project? YES NO
c. If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency. Public agency: _____
d. If NO, check the appropriate box and explain below, if necessary:
 The applicant is a California public agency and will be preparing the environmental document.*
 I expect that the SWRCB will be preparing the environmental document.**
 I expect that a California public agency other than the State Water Resources Control Board will be preparing the environmental document.* Public agency: _____

See Attachment No. 1

* Note: When completed, submit a copy of the final environmental document (including notice of determination) or notice of exemption to the SWRCB, Division of Water Rights. Processing of your application cannot proceed until these documents are submitted.

** Note: CEQA requires that the SWRCB, as Lead Agency, prepare the environmental document. The information contained in the environmental document must be developed by the applicant and at the applicant's expense under the direction of the SWRCB, Division of Water Rights.

4. WASTE/WASTEWATER

- a. Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?
 YES NO
If YES, or you are unsure of your answer, explain below and contact your local Regional Water Quality Control Board for the following information (See instruction booklet for address and telephone no.):

See Attachment No. _____

- b. Will a waste discharge permit be required for your project? YES NO
Person contacted: _____ Date of contact: _____
c. What method of treatment and disposal will be used? _____

See Attachment No. _____

5. ARCHEOLOGY

- a. Have any archeological reports been prepared on this project? YES NO
b. Will you be preparing an archeological report to satisfy another public agency? YES NO
c. Do you know of any archeological or historic sites located within the general project area? YES NO

See Attachment No. 3

6. ENVIRONMENTAL SETTING

Attach **three complete sets of color photographs**, clearly dated and labeled, showing the vegetation that exists at the following three locations:

- Along the stream channel immediately downstream from the proposed point(s) of diversion.
 Along the stream channel immediately upstream from the proposed point(s) of diversion.
 At the place(s) where the water is to be used.
 Photographs of the points of diversion and redirection as well as a map showing the places where the water will be used are on file with the SWRCB as part of the files for Application Nos. 31165 and 31370 and Temporary Urgency Permit 21212)

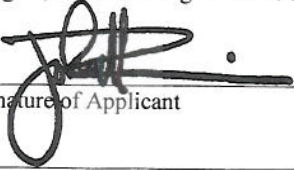
SECTION D: SUBMITTAL FEES

Calculate your application filing fee using the "Water Right Fee Schedule Summary" that was enclosed in the application packet. The "Water Right Fee Schedule Summary" can also be viewed at the Division of Water Rights' website (www.waterrights.ca.gov).

A check for the application filing fee, payable to the "Division of Water Rights" and an \$850 check for the environmental review fee, payable to the "California Department of Fish and Game," must accompany this application. All applicable fees are required at the time of filing. Your application will be returned to you if it is not accompanied by all required fees.

SECTION E: DECLARATION AND SIGNATURE

I declare under penalty of perjury that all information provided is true and correct to the best of my knowledge and belief. I authorize my agent, if I have designated one above, to act on my behalf regarding this water right application.

	<u>General Manager</u>	<u>6/10/2009</u>
Signature of Applicant	Title or Relationship	Date
Signature of Co-Applicant (if any)	Title or Relationship	Date

"APPLICATION TO APPROPRIATE WATER" CHECKLIST

Before you submit your application, be sure to:

- Answer each question completely in Sections A, B, and C.
- Number and include all necessary attachments.
- Include a legible map that meets the requirements discussed in the instruction booklet (Item B6).
- Include the Water Availability Analysis or sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation (Item A6).
- Include three complete sets of color photographs of the project site (Item C6).
- Enclose a check for the required fee, payable to the Division of Water Rights, as specified in Section D.
- Enclose a \$850 check for the environmental review fee, payable to the Department of Fish and Game, as specified in Section D.
- Sign and date the application in Section E.

Send the original and one copy of the entire application to:

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

