

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 11043 (Application 13225)
Monterey County Water Resources Agency

NOTICE OF PROPOSED REVOCATION

SOURCE: Salinas River

COUNTY: Monterey

You are hereby notified that, pursuant to sections 1410-1410.2 of the California Water Code, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), is proposing to revoke Permit 11043 (Application 13225) because the Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 11043 and has not made beneficial use of the water in accordance with the permit, the Water Code, and the State Water Board's regulations.

The proposed revocation is based upon the following facts, information and conclusions:

The State Water Board issued Permit 11043 on November 20, 1957. The permit authorizes Monterey County Flood Control and Water Conservation District (now known as Monterey County Water Resources Agency) (Permittee) to divert 400 cubic feet per second from the Salinas River for municipal use. The permit required that construction work be completed by July 1, 1962 and that the water be applied to the authorized use by July 1, 1967.

A. PERMITTEE HAS FAILED TO COMMENCE, PROSECUTE WITH DUE DILIGENCE, AND COMPLETE THE WORK NECESSARY TO APPROPRIATE WATER UNDER THE PERMIT

1. Permittee has been granted five time extensions. Time extensions were approved by orders dated March 22, 1968, April 2, 1964 and October 24, 1963 and by Order WR 76-12 and Order WR 82-13. Order WR 82-13, paragraph 3, extended the timelines for the project as follows:

Based upon Permittee's Arroyo Seco Project Implementation Schedule, Permittee shall:

- a. Form assessment district by January 1, 1984.
- b. File final P.L. 984 loan applications by June 30, 1984.
- c. Commence both Castroville and Eastside Canal project construction by January 1, 1987.
- d. Construction work on Castroville and Eastside projects shall be completed by December 1, 1988.
- e. Complete application of the water to the authorized use shall be made by December 1, 2008.

Order WR 82-13 also states: This permit shall stand revoked and of no further effect if Permittee fails to meet any of the dates in Paragraph 3 of this Order, unless: (a) Permittee petitions the Board for an extension of time prior to the date in question, and (b) the Board finds good cause for a time extension.

2. Permittee filed a sixth petition for an extension of time dated December 31, 1986. In May 2005, Permittee amended that petition, and subsequently withdrew the petition on July 18, 2008.
 3. Permittee indicates in its 2007 Progress Report by Permittee that construction work has not commenced.
 4. Permittee failed to commence and complete construction of the Castroville and Eastside projects by the deadlines specified in WR 82-13. Permittee confirms that water has not been put to beneficial use pursuant to Permit 11043. (December 5, 2008 attachment to Petition for Extension of Time, p. 3.)
 5. Permittee failed to complete application of water to beneficial use by the December 1, 2008 deadline as contemplated in the permit and in accordance with the Water Code and rules and regulations of the State Water Board.
 6. On December 5, 2008, Permittee submitted a new petition for extension of time. On December 16, 2008, the Division rejected the petition because items 4 through 16 on the form had not been filled out, the \$850 Department of Fish and Game fee had not been paid (Pub. Res. Code, § 10005), and the Environmental Supplement submitted with the petition was not on the Division's form. The time extension petition included a document titled "Attachment to Petition for Change, Petition for Extension of Time, Environmental Information for Petitions, Progress Report by Permittee for 1992 – 2004" (Attachment to Petition for Change). Permittee was advised that any change petition must be submitted on the appropriate forms, and the required fees and maps must accompany a change petition. Because Permittee's submittal did not include the required forms, fees, and maps, the submittal was not a valid change petition. Likewise, the submittal was not a valid petition for extension of time, and therefore the original deadline to complete application of water to beneficial use remains effective.
 7. During the time Permit 11043 has been in place, Permittee has been developing the Salinas Valley Water Project (SVWP). The SVWP project involves water stored behind and released from Nacimiento and San Antonio Dams under Permittee's Licenses 7543 and 12624 and Permit 21089. Permittee indicates that it would like to conjunctively use water directly diverted under Permit 11043 as part of the SVWP. (Attachment to Petition for Change, p. 2.) Permittee has not yet filed a valid change petition to (a) move the point of diversion for Permit 11043 to the SVWP diversion location, and (b) revise the existing permit conditions. Approval of required modifications to Permit 11043 is a necessary pre-requisite to using Permit 11043 for the SVWP. Moreover, the time to complete construction and put water to beneficial use under Permit 11043 has passed, and Permittee does not have a valid petition for extension of time on file with the Division.
- B. BASED ON THE ABOVE FACTS AND INFORMATION, THE DIVISION CONCLUDES THAT CAUSE EXISTS FOR REVOCATION OF PERMIT 11043 PURSUANT TO WATER CODE SECTION 1410, SUBDIVISION (a) BECAUSE:

Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 11043 and has failed to apply to beneficial use all or part of the water authorized for appropriation as contemplated in the permit and in accordance with the Water Code and the regulations of the State Water Board.

As required by Water Code section 1410.1, you are hereby notified that unless the Division receives a written request for a hearing, signed by or on behalf of the Permittee, the State Water Board will revoke Permit 11043, based on the above facts, information and conclusions. The written request for hearing must be postmarked or delivered no later than 15 days from the receipt of this notice. You may request a hearing by delivering or mailing the request to the State Water Board at the following address within the time period provided: Division of Water Rights, P. O. Box 2000, 1001 I Street, Sacramento, CA 95812-2000.

Based on the above facts and conclusions, the State Water Board, Division of Water Rights will revoke Permit 11043 unless the Division receives a written request for hearing within the time period specified above.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY JAMES W. KASSEL for

*Victoria A. Whitney
Deputy Director for Water Rights*

Dated: January 6, 2010