

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 2452 (Application 3544)

**Montague Water Conservation District**

**AMENDED ORDER APPROVING PETITION FOR  
TEMPORARY URGENCY CHANGE IN POINT OF DIVERSION,  
PURPOSE OF USE, PLACE OF USE, METHOD OF DIVERSION  
AND DEDICATION OF INSTREAM FLOW  
(WITH MODIFICATIONS DATED JULY 24, 2014)**

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SOURCE: Shasta River

COUNTY: Siskiyou

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BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

**1.0 SUBSTANCE OF PETITION**

Montague Water Conservation District (right holder) requests that the State Water Resources Control Board (State Water Board) approve a Petition for Temporary Urgency Change for Permit 2452 (Application 3544) pursuant to Water Code sections 1435 and 1707. The State Water Board provided public notice of the petition on May 30, 2014 and issued an Order approving the change on June 3, 2014. This Order amends the June 3, 2014 Order in response to requests by the Scott Valley and Shasta Valley Watermaster District. Amendments are shown using underline for additions and strikethrough for deletions. Right holder requests authorization to make the following temporary changes:

- a. **Point of Diversion.** Add a new Point of Diversion and Rediversion (City Diversion) on the Shasta River near the City of Montague (City);
- b. **Purpose of Use.** Add Municipal and Fish and Wildlife Preservation and Enhancement as authorized beneficial uses;
- c. **Place of Use.** Add the boundaries of the City and the Shasta River from Dwinnell Dam to the City Diversion as authorized places of use;
- d. **Method of Diversion.** Add direct diversion as an authorized method of diversion of the water that would otherwise be collected to storage at Dwinnell Dam at the City Diversion at a rate not to exceed 1.5 cubic feet per second (cfs);
- e. **Instream Flow Dedication.** Dedicate up to 1.5 cfs to instream beneficial use within the reach of the Shasta River added as an authorized place of use.

The changes listed above will enable the right holder to deliver water to the City in a manner that is more efficient than the current method, thereby conserving water during extraordinary drought conditions. The right holder will release into the Shasta River for the purpose of subsequent rediversion either (1) water previously diverted to storage in Dwinnell Reservoir or (2) water directly diverted by regulation at Dwinnell Dam into the Shasta River. Water stored or regulated at Dwinnell Dam and released into the Shasta River will be diverted or rediverted at the City Diversion. The right holder expects to provide water to the City through the changes listed above at a rate not to exceed 1.5 cfs and a total amount not to exceed 200 acre-feet. Water will be released or bypassed in pulses that will last approximately three days, which is the time necessary for the City's 10 acre-foot reservoir to be filled at a rate of 1.5 cfs.

## **2.0 BACKGROUND**

Shasta River water rights have been adjudicated and are described in Shasta River Decree No. 7035 (Decree) dated December 29, 1932. Diversions pursuant to the Decree are managed by the Scott Valley and Shasta Valley Watermaster District (Watermaster).

Elevated water temperatures and low dissolved oxygen levels in the Shasta River watershed have resulted in the impairment of designated beneficial uses of water and the non-attainment of water quality objectives, primarily associated with cold water fish. This includes the migration, spawning, and early development of cold water fish such as coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*O. tshawytscha*), and steelhead trout (*O. mykiss*.) The coho salmon population in the Shasta River watershed is listed as threatened under the federal Endangered Species Act and the California Endangered Species Act.

### **2.1 Water Rights of Montague Water Conservation District**

Right holder holds several water rights in the Shasta River watershed, including the following three post-1914 water rights relevant to the proposed change:

- a. Permit 2452 (Application 3544) has a priority date of July 23, 1923. Permit 2452 provides the right to divert to storage up to 35,000 acre-feet per year (afa) from the Shasta River in Dwinnell Reservoir, also known as Lake Shastina. The season of diversion is October 1 of each year to June 15 of the succeeding year, and the purpose of use is Irrigation.
- b. Permit 2453 (Application 3555) has a priority date of July 30, 1925. Permit 2453 provides the right to divert to storage up to 14,000 afa from Parks Creek for rediversion by storage in Dwinnell Reservoir. The season of diversion is October 1 of each year to June 15 of the succeeding year, and the purpose of use is Irrigation.
- c. Permit 2581 (Application 4909) has a priority date of February 4, 1926. Permit 2581 provides the right to directly divert 2.3 cfs from the Little Shasta River. The season of diversion is January 1 to December 31 of each year, and the purpose of use is Domestic and Industrial.

The right holder has provided water to the City for approximately 80 years. From about November 15 of each year through March of the succeeding year, the right holder is able to provide all of the water needed by the City under Permit 2581 from the Little Shasta River. However, beginning in April of each year, the right holder is typically unable to divert water under Permit 2581 due to its relatively low priority in the Decree. During the time when water is unavailable under Permit 2581, the right holder has provided water to the City from Dwinnell Reservoir through the Main Canal. Water deliveries to the City from Dwinnell Reservoir are timed to occur in conjunction with deliveries to irrigation customers due to high conveyance loss rates that occur when moving water in the Main Canal without irrigation deliveries.

Because the construction of Dwinnell Reservoir affected holders of prior water rights, the right holder entered into a Prior Right Agreement with the prior right holders when Dwinnell Reservoir was constructed to provide them with water from Dwinnell Reservoir in lieu of their prior rights up to a cumulative total of 3,382 afa. Upon demand, the right holder releases water from Dwinnell Reservoir into the Shasta River to satisfy the Prior Right Agreement.

On December 19, 2013, the right holder entered into a Settlement Agreement with Klamath Riverkeeper and the Karuk tribe. Some of the right holder's interim obligations under the Settlement Agreement that are relevant to the proposed change include:

- a. Providing 2,250 acre-feet of water each year for instream flow purposes during a dry year. This water allotment is to be released under a schedule developed by the parties to the Settlement Agreement in consultation with fisheries agencies, as described in the Settlement Agreement; and,
- b. Maintaining a minimum pool of 2,000 acre-feet in storage in Dwinnell Reservoir on October 1 of each year. This water allotment is to be maintained in order to allow the right holder to meet the water supply needs of the City and potential instream flow releases after October 1.

The right holder must satisfy the demands of the Prior Right Agreement as a first priority under the Settlement Agreement.

## **2.2 2014 Drought Conditions and Responses**

As of April 1, 2014, the volume of water stored in Dwinnell Reservoir was approximately 8,500 acre-feet, which is less than 30% of the average volume of water in Dwinnell Reservoir on April 1 in a normal year. In a normal water year, approximately 30,000 acre-feet of water is in storage in Dwinnell Reservoir on April 1, and any year when less than 18,000 acre-feet is in storage as of April 1 is considered a dry year. For reference, the volume of water in Dwinnell Reservoir on April 1, 1977 was 13,800 acre-feet, which had been the lowest volume of water ever recorded on April 1 prior to 2014.

During April 2014, the right holder provided approximately 1,500 acre-feet of water for irrigation to provide drought relief for landowners, many of whom have had to stop irrigating pasture and sell livestock. As a result of those deliveries, releases for prior rights, releases for instream flows under the Settlement Agreement, and seepage losses from Dwinnell Reservoir, the volume of water stored in Dwinnell Reservoir was approximately 5,800 acre-feet on May 1, 2014.

As of May 1, 2014, the right holder was still obligated to provide up to approximately 2,000 acre-feet under the Prior Right Agreement and 2,250 acre-feet under the Settlement Agreement. Of the 2,250 acre-feet, there are currently 250 acre-feet allotted for instream releases and 2,000 acre-feet will be used to meet the October 1 minimum pool requirement. Therefore, as of May 1, 2014, less than 1,550 acre-feet of the approximately 5,800 acre-feet stored in Dwinnell Reservoir remained unaccounted for.

On April 10, 2014, the City declared a drought emergency and enacted Mandatory Water Shortage Emergency Procedures (Emergency Procedures) on the following day. The restrictions imposed by the Emergency Procedures include a ban on all outdoor uses of City water, including:

- a. Irrigating turf, ground cover, shrubbery, crops, vegetation, or trees in a manner than allows runoff;
- b. Irrigating turf on public parks or ball fields;
- c. Washing sidewalks, walkways, driveways, parking lots, open ground, or other hard surfaces;
- d. Washing cars, boats, trailers, aircraft, or other vehicles;
- e. Construction, compaction, dust control, street or parking lot sweeping, or building wash downs;
- f. Fire protection training without prior approval of the City Commissioner; and
- g. Filling or maintaining levels in private swimming pools, fountains, ponds, or evaporative coolers.

The Emergency Procedures also include a tiered additional fee structure for residents whose monthly water usage exceeds 5,000 gallons per household. There is a \$5, \$10 or \$15 penalty for each additional 1,000 gallons used. The financial penalties are included to provide incentive for residents to comply with the Emergency Procedure's water conservation measures.

By proclamations dated January 17, 2014 and April 25, 2014, the Governor declared a state of emergency in California due to the ongoing extraordinary drought. In response to the Governor's proclamations, several federal, state and local agencies coordinated to resolve the water supply needs of vulnerable communities, including the City. The proposed change is a component of the solution that was mutually agreed upon to be the best option to address the City's water supply needs for the rest of 2014.

The right holder proposes to temporarily change Permit 2452 to allow for the release of stored water from Dwinell Reservoir into the Shasta River for rediversion at the City Diversion from July 1 to October 1. During a normal year, the right holder would normally rely on water diverted under Permit 2581 from the Little Shasta River after October 1. However, should this extraordinary drought continue, the right holder has also proposed to temporarily change Permit 2452 to allow for the direct diversion by regulation of water that would otherwise be collected to storage in Dwinell Reservoir for the purpose of regulating such water into the Shasta River and then diverting the water at the City Diversion from October 1 through December 27. Rediversion of stored water or direct diversion of regulated water will require the construction of the City Diversion and related infrastructure to move water from the City Diversion to the City's reservoir. The City requires water to be delivered in pulses throughout the year to refill the City's 10 acre-foot reservoir. The pulses occur on average every 10 to 14 days, and with a proposed rate of rediversion/diversion of 1.5 cfs, each pulse is estimated to last about three days. The total amount anticipated to be necessary to supply the City is approximately 200 acre-feet.

Direct diversion is the diversion of water either for immediate use or for short term collection into a sump, holding reservoir, or tank from which it will be used at a more convenient rate. Diversion to storage is the diversion of water in a reservoir or tank which will be held for use during a time of deficient streamflow in the source.

Another component of the solution to the City's water supply needs, which is not included in the right holder's petition or subject to this Order, is the development of a well located near Dwinell Dam and related infrastructure to move water from the well to the Shasta River. The right holder believes the well would be extracting percolating groundwater and is outside of the State Water Board's permitting authority. Currently, information is not available regarding the profile of the proposed well, thus the State Water Board is unable to make a determination whether the well would be drawing from percolating groundwater or subterranean streamflow. A determination that the well is drawing from subterranean streamflow would place any extraction from the well within the permitting authority of the State Water Board.

Absent the proposed change, the only other viable option is delivery of water by vehicle, which is costly, inefficient, and would likely result in harmful effects on air quality due to vehicle emissions.

### **3.0 COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

By proclamations dated January 17, 2014 and April 25, 2014, the Governor declared a state of emergency in California due to the ongoing extraordinary drought. Each proclamation included a directive that suspended the environmental review required by the CEQA to allow certain directives from the Governor to take place as quickly as possible. The proposed change is consistent with the following directives from the April 25, 2014 proclamation that are included in the Governor's suspension of the CEQA:

- a. Directive 2. The Department of Water Resources and the State Water Resources Control Board (Water Board) will immediately and expeditiously process requests to move water to areas of need, which include requests involving voluntary water transfers, forbearance agreements, water exchanges, or other means. If necessary, the Department will request that the Water Board consider changes to water right permits to enable such voluntary movements of water.
- b. Directive 12. The California Department of Public Health, the Office of Emergency Services, and the Office of Planning and Research will assist local agencies that the Department of Public Health has identified as vulnerable to acute drinking water shortages in implementing solutions to those water shortages.

- c. Directive 13. The Department of Water Resources and the Water Board, in coordination with other state agencies, will provide appropriate assistance to public agencies or private water companies in establishing temporary water supply connections to mitigate effects of the drought.
- d. Directive 14. For the protection of health, safety, and the environment, CAL FIRE, the Office of Emergency Services, the Department of Water Resources, and the Department of Public Health, where appropriate, may enter into contracts and arrangements for the procurement of materials, goods, and services necessary to quickly mitigate the effects of the drought.

The proposed change is exempt from the CEQA because it is an emergency project that is being carried out consistent with a "state of emergency" as proclaimed by the Governor on January 17, 2014, and expanded upon in an April 25, 2014 proclamation.

The proposed change is also consistent with the statutory exemption criteria for an emergency project. (Public Resources Code, § 21080, subd. (b)(3), (4); Cal. Code Regs., tit. 14, § 15269, subd. (a) & (c).) The basis for claiming the exemption is that the City's water situation is dire, and that water stored in Dwinell Reservoir, which is the only reasonable source of water for drought protection, is being depleted and must be conserved to mitigate the effects of the drought emergency declared by the Governor and to prevent worse effects.

The State Water Board will issue a Notice of Exemption for the proposed change.

#### **4.0 PUBLIC NOTICE OF THE PETITION**

The State Water Board will issue and deliver to the right holder as soon as practicable a notice of this Order. (Wat. Code, § 1438.) The right holder is required to publish the notice in a newspaper having a general circulation and published within the county wherein the points of diversion lie. The State Water Board will post the notice of this Order and accompanying materials on its website, and will distribute the notice of this Order through an electronic notification system. The State Water Board may issue a temporary urgency change order in advance of the required notice. (*Id.*)

#### **5.0 CRITERIA FOR APPROVING THE PROPOSED TEMPORARY URGENCY CHANGE**

Water Code section 1435 provides that a right holder who has an urgent need to change the point of diversion, place of use, or purpose of use from that specified in the water right may file a Petition for Temporary Urgency Change with the State Water Board. The State Water Board's regulations set forth the filing and other procedural requirements applicable to a Petition for Temporary Urgency Change. (Cal. Code Regs., tit. 23, §§ 805, 806.)

Before approving a Petition for Temporary Urgency Change, the State Water Board must make the following findings (Wat. Code, § 1435, subd. (b).):

- a. The right holder has an urgent need to make the proposed change;
- b. The proposed change may be made without injury to any other lawful user of water;
- c. The proposed change may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and
- d. The proposed change is in the public interest.

A discussion of each finding and the information necessary to support each finding is provided below.

## 5.1 Urgency of the Proposed Change

Under Water Code section 1435, subdivision (c), an “urgent need” means “the existence of circumstances from which the board may in its judgment conclude that the proposed temporary change is necessary to further the constitutional policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that waste of water be prevented . . . .” However, the State Water Board shall not find the need urgent if it concludes that the right holder has failed to exercise due diligence in petitioning for a change pursuant to other appropriate provisions of the Water Code.

The City is projected ~~ing~~ that it ~~will~~ would not have water available to supply its municipal customers by July 1, 2014. It is estimated that the City will require approximately 200 acre-feet during the period of this petition.

As described in finding 2.1 above, the City is dependent upon deliveries of water from the right holder, and the only water reasonably available to supply the City during the summer months is water previously diverted to storage in Dwinnell Reservoir. Such water is typically delivered via the Main Canal, however because irrigation deliveries will not occur during the summer of 2014, water released to supply the City through the Main Canal will be subject to conveyance losses of approximately 90%. Therefore, the right holder would need to release up to 200 acre-feet in order to deliver 10 acre-feet to the City. Given the needs of the City, the right holder would need at least 2,000 acre-feet of water available. As described in finding 2.2 above, the right holder has approximately 1,500 acre-feet of water available to supply the needs of the City.

The proposed change would allow the right holder to release or bypass water for later diversion by the City at a new Point of Diversion along the Shasta River. Conveyance of water in this manner would result in negligible losses and would allow the right holder to provide enough water to supply the needs of the City while also meeting its other obligations. In addition, releasing or bypassing water into the Shasta River that would otherwise be diverted to storage in Dwinnell Reservoir or released into an irrigation canal will provide improved instream flows within a 24.5-mile reach of the Shasta River.

Absent the change, the City likely will not be able to supply enough water to meet minimum health and safety requirements without relying on vehicle deliveries of water. Delivering water by vehicle to supply the water volumes needed by the City is costly, inefficient, and would result in harmful effects on air quality due to vehicle emissions.

## 5.2 No Injury to Any Other Lawful User of Water

Water subject to the proposed change can be characterized as water either previously collected to storage and held in Dwinnell Reservoir, or water that would be collected to storage at Dwinnell Dam under Permit 2452 (see finding 7.0.) Water subject to the proposed change and subsequently released into the Shasta River for later rediversion is not considered to be “abandoned water” and will not be available for diversion by other appropriative or riparian diverters. (*Stevens v. Oakdale Irr. Dist.* (1939) Cal.2d 343, 350-353; Wat. Code, §§ 7044, 7075; Shasta Decree Sec. II, paragraph 4, page 4.)

Any extraction or diversion of groundwater from the proposed well is not subject to the proposed change. The right holder characterizes the water from the well as percolating groundwater. Similar to the release of stored or regulated water, the extraction of percolating groundwater and diversion of such water conveyed in a natural channel is not available for diversion by other appropriative or riparian diverters.

Although the right holder is including a dedication of water released or bypassed at Dwinnell Dam to instream beneficial uses, such water is nevertheless legally protected from diversion by other appropriative and riparian diverters absent the instream flow dedication.

As explained in finding 2.1, water has already been allocated to senior right holders through the Prior Right Agreement. Approval of this petition will not change the existing allocation for, or result in less water being available to, the senior right holders named in the Prior Right Agreement.

The Watermaster manages allocations subject to the Decree, including the proposed change to Permit 2452. Because of the potential for injury to other lawful users of water under the Decree due to increased Watermaster costs, the right holder has agreed to assume responsibility for all reasonable costs incurred by the Watermaster to implement the proposed change. In addition, clarifying language regarding the effect of this Order on other lawful users of water and the responsibility of the right holder to provide notice to the Watermaster has been added.

### **5.3 No Unreasonable Effect upon Fish, Wildlife, or Other Instream Beneficial Uses**

As described in finding 2.0, the Shasta River watershed includes the beneficial use associated with cold water fish, including the migration, spawning, and early development of cold water fish such as coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*O. tshawytscha*), and steelhead trout (*O. mykiss*.) The coho salmon population in the Shasta River watershed is listed as threatened under the federal Endangered Species Act and the California Endangered Species Act. However, elevated water temperatures and low dissolved oxygen levels in the Shasta River watershed have resulted in the impairment of this beneficial use of water and the non-attainment of water quality objectives.

Release of stored or regulated water at Dwinnell Dam has the potential to introduce water with elevated temperatures into the Shasta River. Through consultation with federal and state fishery agencies, the right holder has determined that the appropriate threshold for restricting the release of water at Dwinnell Dam is 16°C (60.8° F.) Water stored in Dwinnell Reservoir typically exceeds this threshold during the period July 1 through September 15, thus the right holder likely will not be allowed to release stored water from Dwinnell Dam for rediversion at the City Diversion during this time.

As described in finding 2.2, in order to supply water to the City during any periods when water in Dwinnell Reservoir is not available for release and rediversion at the City Diversion, the right holder proposes the development of a well near Dwinnell Dam. The well would extract cold percolating groundwater and discharge it into the Shasta River for diversion at the City Diversion.

The proposed change includes an instream flow dedication of water released from Dwinnell Dam. Use of the Shasta River between Dwinnell Dam and the City diversion to convey water will increase the volume of water that is normally flowing in the Shasta River during summer months and should benefit fish and wildlife provided temperature does not exceed the appropriate threshold specified above and water is not released in such a manner as to serve as false attraction flows that may confuse fish into beginning migration earlier than normal.

The right holder, in coordination with the California Department of Fish and Wildlife (CDFW) and the National Marine Fisheries Service (NMFS), will monitor conditions in Dwinnell Reservoir and the reach of the Shasta River between Dwinnell Dam and the City Diversion during pulse releases and the period between pulse releases.

### **5.4 The Proposed Change is in the Public Interest**

The proposed change is in the public interest. The City has implemented the Emergency Procedures as described in finding 2.2. Further conservation measures will be implemented if the current measures are determined to be inadequate. Assuming the current weather pattern continues, the volume of water available for health and safety purposes may be endangered.

## **6.0 CRITERIA FOR APPROVING A CHANGE IN PURPOSE OF USE AND PLACE OF USE FOR THE PURPOSE OF DEDICATING WATER**

Water Code section 1707 authorizes the use of the temporary urgency change petition provisions of Water Code section 1435 et seq. to add the purposes of preserving or enhancing wetland habitat, fish and wildlife resources, or recreation in, or on, the water. Under Water Code section 1707, the State Water Board must find that the proposed change will not increase the amount of water the person is entitled to use, will not unreasonably affect any legal user of water, and otherwise meets the requirements of the Water Code. (Wat. Code, § 1707.)

Water dedicated under Water Code section 1707 will either be characterized as stored or regulated water (see finding 5.2.) In either case, the right holder will dedicate up to 1.5 cfs and the amount of water dedicated will be included the quantity authorized to be appropriated under Permit 2452. See finding 5.2 for a discussion of why the proposed change will not unreasonably affect any legal user of water.

## **7.0 CRITERIA FOR APPROVING A CHANGE IN METHOD OF DIVERSION**

California Code of Regulations, title 23, section 791, subdivision (e) authorizes the right holder to petition the State Water Board for changes to water rights other than changes in point of diversion, place of use, or purpose of use. Such changes are subject to the same filing and procedural requirements that apply to changes in point of diversion, place of use, or purpose of use. For this type of change, the State Water Board must find that the proposed change will neither in effect initiate a new right nor injure any other legal user of water.

Right holder is authorized to divert water under Permit 2452 and proposes to temporarily modify the method of water diversion under the permit. Currently, Permit 2452 authorizes only diversion to storage in Dwinnell Reservoir. However, the right holder proposes to temporarily add direct diversion to Permit 2452 and regulate water at Dwinnell Dam for the purpose of diversion and rediversion at the City Diversion.

See finding 5.2 for a discussion of why the proposed change will not unreasonably affect any legal user of water.

## **8.0 CONCLUSIONS**

The State Water Board has adequate information in its files to make the evaluation required by Water Code sections 1435 and 1707.

I conclude that, based on the available evidence:

- a. Right holder has an urgent need to make the proposed change;
- b. The change will not operate to the injury of, nor will it unreasonably affect, any other lawful user of water;
- c. The change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses;
- d. The change is in the public interest; and
- e. The change will not initiate a new right nor will it increase the amount of water the right holder is entitled to use.

## ORDER

**NOW, THEREFORE, IT IS ORDERED THAT:** the Petition filed by right holder for a temporary urgency change in Permit 2452 is approved.

All existing terms and conditions of Permit 2452 remain in effect, except as temporarily amended by the following additional terms:

1. The temporary changes are limited to the period of July 1, 2014 through December 27, 2014.
2. The purpose of use is modified to include Municipal and Fish and Wildlife Preservation and Enhancement.
3. The place of use is modified to include the following:
  - a. For the purpose of use of Municipal, the boundary of the City of Montague, as shown on map; and
  - b. For the purpose of use of Fish and Wildlife Preservation and Enhancement, the Shasta River from Dwinnell Dam to the location of the City Diversion, as shown on map. The upstream limit is Dwinnell Dam at North 2,444,900 feet and East 6,459,200 feet by California Coordinate System 1983, Zone 1, being within NE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 25, T43N, R5W, MDB&M. The downstream limit is the City Diversion at North 2,503,900 feet and East 6,416,000 feet by California Coordinate System 1983, Zone 1, being within NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 34, T45N, R6W, MDB&M.
4. The City Diversion is added as a point of diversion and rediversion, located at North 2,503,900 feet and East 6,416,000 feet by California Coordinate System 1983, Zone 1, being within NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 34, T45N, R6W, MDB&M.
5. The method of diversion is modified to include direct diversion at a rate not to exceed 1.5 cfs. The amount of water directly diverted cannot exceed the inflow regulated at Dwinnell Dam that would otherwise be diverted to storage under this right during the authorized diversion season. Direct diversion by regulation at Dwinnell Dam shall only occur for the purpose of releasing such water from Dwinnell Dam into the Shasta River for the purpose of rediversion at the City Diversion.
6. Right holder shall be responsible for any reasonable costs incurred by the Watermaster associated with operating the City Diversion as a point of diversion and rediversion under Permit 2452 that are above and beyond normal reasonable costs associated with monitoring and implementing the Decree's adjudicated water rights.
7. No party, other than the right holder, shall be required to install, replace or modify any existing diversion works or measuring devices to facilitate compliance with this Order.
8. Right holder shall provide the Watermaster a minimum of 48-hour notice by phone and email when water is to be released from Dwinnell Dam for diversion at the City Diversion. Notice by email will include, at a minimum, the rates and timing of releases from Dwinnell Dam and the rates and timing of diversion at the City Diversion.
9. Right holder shall coordinate with the City to ensure that the City reduces water demand by instituting water rationing and promoting conservation as described in the April 11, 2014 Mandatory Water Shortage Emergency Procedures (Procedures.) Right holder shall immediately notify the State Water Board if the City rescinds or repeals any of the elements of the Procedures.
10. Right holder shall not release water stored in Dwinnell Reservoir or regulated at Dwinnell Dam for the purpose of rediversion at the City Diversion unless water temperature at the cross canal weir is at or below 16°C (60.8° F.)

11. Right holder shall consult with the California Department of Fish and Wildlife to develop a schedule of releases to avoid adverse consequences such as creating attraction flows and to respond when the temperature threshold of 16°C (60.8° F) is exceeded. The schedule of releases shall include timing and ramping up and down of releases.
12. Right holder shall record the water surface elevation and water temperature in Dwinnell Reservoir. The required information will be recorded on a weekly basis and the right holder will provide the information to the State Water Board in writing each week.
13. During pulse releases of water from Dwinnell Dam for the purpose of diversion or rediversion at the City Diversion, right holder shall record the change in storage at Dwinnell Dam, the rate, volume and temperature of water released from Dwinnell Dam at the cross canal weir located near the base of Dwinnell Dam, and the rate and volume of water diverted or rediverted at the City Diversion. This information will be recorded on an hourly basis and the right holder will provide the information to the State Water Board in writing within three days of the conclusion of each pulse release.
14. When right holder exercises the option of direct diversion by regulation at Dwinnell Dam, right holder shall collect sufficient information to support a determination that the water being directly diverted is water flowing into Dwinnell Reservoir that would otherwise be collected to storage under this right. This information will be provided to the State Water Board in writing within three days of the conclusion of each pulse release of water that includes such direct diversion.
15. No water shall be diverted or rediverted at the City Diversion unless right holder is operating the water diversion facility for the City Diversion with a fish screen satisfactory to the Deputy Director for Water Rights. The fish screen shall be designed and maintained in accordance with the screening criteria of the National Marine Fisheries Service. Right holder shall provide evidence that demonstrates that the fish screen is in good condition prior to commencing diversion at the City Diversion, within two weeks of the expiration of this Order, and whenever requested by the Division of Water Rights.
16. Right holder shall immediately notify the State Water Board if any significant change in storage conditions in Dwinnell Reservoir occurs that warrants reconsideration of this Order.
17. This Order 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 and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C.A. section 1531 et seq.) If a "take" will result from any act authorized under this Order, the right holder shall obtain authorization for an incidental take permit prior to construction or operation. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary urgency change authorized under this Order.
18. The State Water Board reserves jurisdiction to supervise the temporary urgency change under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Barbara Evoy, Deputy Director*  
*Division of Water Rights*

Dated: JUL 24 2014