

Before the  
State Water Resources Control Board

In the Matter of the Proposed Revocation of Water Right Permits Nos. 16209, 16210, 16211 and 16212 (Applications 18721, 18723, 21636 and 21637) of the United States Bureau of Reclamation	Policy Statement of the El Dorado County Water Agency
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The El Dorado County Water Agency (EDCWA) appreciates the opportunity to provide this policy statement to the State Water Resources Control Board ("Board") in response to the Board's Notice, dated April 28, 2008, concerning the potential revocation of the Bureau of Reclamation's water right permits for the Auburn Dam Project. EDCWA has long supported the Auburn Dam project because of the water supply benefits the project would provide the region. EDCWA also has a significant and specific interest in protecting and preserving the water resources that are the subject of those permits to meet the existing and future needs of the region. EDCWA joins in the Policy Statement of the El Dorado Irrigation District (EID) and the American River Authority (ARA) and believes that the best way to advance these objectives is for the Board to leave the approved permits in place.

El Dorado County Water Agency ("EDCWA") is a district created by Chapter 96 of the California Water Code Appendices. EDCWA's jurisdictional area consists of all territory lying within the boundaries of El Dorado County. Public water purveyors within its jurisdictional area include EID, the Georgetown Divide Public Utility District, Grizzly Flats Community Services District, a portion of the Tahoe City Public Utility District, and the South Tahoe Public Utility District. EDCWA's mission is to ensure that El Dorado County has adequate water, both today and in the future. EDCWA is also an active member of the ARA, a joint powers organization formed to advocate the Auburn Dam Project.

The public purposes and benefits identified in Congress' original authorization for the Auburn Dam project remain valid to this day. Although Congress has not appropriated sufficient funds to construct the project, neither has it revoked its authorization for the project to proceed. As recently as 2006, Congress appropriated funds to update analyses of the project's costs and benefits. In 2008, the ARA performed an evaluation of the Auburn Dam Project.

Auburn Dam is a project with regional and even statewide benefits, including prospective municipal water supplies. In similar situations, based on the theories of municipal preference and gradual development, the Board has taken a flexible approach to its diligence criteria for completing construction and putting water to beneficial use. Recognizing the importance of such

projects and the protracted timelines that public funding, political processes, and regulatory compliance impose, the Board has liberally granted time extensions to the projects' water right permits. EDCWA believes that the Board should take the same approach as to the Auburn Dam project.

EDCWA is also a proponent of the area-of-origin preferences in California water rights law. In that regard, the Board's determination not to revoke the Auburn Dam permits would best serve area-of-origin interests, as well. When the Auburn Dam water rights were permitted in 1970 (Decision 1356), the Board granted the Bureau of Reclamation's request to release the priority represented by state-filed Applications 7936 and 7937, subordinating those state filings to the Auburn Dam Project water right permits. To offset the subordination's impact on area-of-origin interests, the Board imposed a permit term to ensure that the Auburn Dam project would not hinder future development of the areas upstream. EDCWA, the Bureau, the El Dorado County Water Agency and GDPUD stipulated to the imposition of this permit term, which is substantially the same as the permit terms included in the Bureau's Folsom Reservoir water rights under the Board's Decision 893. The term provides that, to the extent the Auburn Dam water rights are put to beneficial use outside of the watershed tributary to Folsom and Auburn reservoirs, those rights are subject to reduction in favor of future appropriations within the tributary watershed. (D-1356 at p. 17, ¶ 20.) The term within the Bureau's Folsom Reservoir water rights permits was instrumental in EDCWA and EID's acquisition of water rights in the watershed tributary to Folsom (Water Right Permit 21112) and EDCWA believes that the term included in the Auburn Dam water rights is an important confirmation of protected area-of-origin preferences in the watershed tributary to the proposed Auburn Dam site.

Revoking the Auburn Dam water right permits would make the waters to which they pertain available for new appropriation and would consequently remove the protections for the tributary watershed embodied in the Bureau's permits. These water resources are best applied to existing and future regional needs, and notwithstanding any other statutory area-of-origin protections, EDCWA believes that the post-revocation scenario would be less favorable to those regional needs than the status quo. EDCWA believes that area-of-origin interests are best recognized and protected by a Board decision to leave the existing permits in place.

Some proponents of revocation of the Auburn Dam water rights argue that California's water rights are overextended and exist only on paper. As applied to the Auburn Dam water rights, this approach is simplistic and shortsighted. California is facing a major crisis that requires a coordinated approach and solutions. A comprehensive investigation of the state water rights should be undertaken and a balanced determination made based on engineering analyses of water availability, state-wide need, and water quality and environmental requirements. California's water and public interests are better served by the Board's adoption and implementation of a comprehensive and coordinated strategy for water rights, their utilization and application to beneficial uses. It would be premature to revoke Auburn Dam's water rights before a State-wide comprehensive plan assesses if Auburn Dam should have a role in the solution to California water difficulties.

Years ago, El Dorado County attempted to develop a major water supply and hydroelectric project called the South Fork American River Project (SOFAR). For different reasons this

project was not successful and the County was later encouraged to give up the SOFAR water rights. Since then, the County has tried to replace those water rights to meet the growing needs authorized by its General Plan. It has been difficult, tedious, and expensive. One very important lesson the process taught us was to have vision for the long term needs of the future, realizing California will have to make difficult decisions requiring all available options.

Climate change is no longer a coffee shop debate. The State of California has taken a leadership role by acknowledging the potentially devastating impacts of climate change. One of the greatest impacts will be on the State water system, from both a water supply and a flood control perspective. California's Department of Water Resources has identified the northern Sierra to be severely impacted with increases in rainfall runoff and depletion of snow pack. Auburn Dam Project could help ameliorate these concerns but only if it has the appropriate water rights.

EDCWA is a participant in the Sacramento Water Forum process and continues to support its two co-equal objectives of meeting water supply requirements while protecting environmental values of the Lower American River. We support the Water Forum's position that the Board preserves water rights to implement the flow management standards in the Lower American River.

In summary, EDCWA concurs in the policy statements of the El Dorado Irrigation District and the American River Authority urging the Board not to revoke the water right permits for this congressionally authorized project. Leaving the rights in place best serves the public purposes for which they were first granted, including water supply within the region, and the preservation of area-of-origin protections afforded by state law. EDCWA additionally partially concurs in the policy statement submitted by Placer County Water Agency. If the Board should determine to revoke the Bureau's Auburn Dam water right permits, any resulting unappropriated water should be protected for future appropriation in the area of origin.