

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

**DIVISION OF WATER RIGHTS**

**ORDER WR 2025-0008-DWR**

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In the Matter of Permit 21138 (Application 30337)

**South Coast Water District**

**ORDER APPROVING PETITION FOR EXTENSION OF TIME**

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SOURCE: San Juan Creek (subterranean stream)

COUNTY: Orange

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**BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:**

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued water right Permit 21138 to South Coast Water District (SCWD) on December 19, 2002, pursuant to Application 30337.
2. Permit 21138 authorizes the direct diversion of 4 cubic-feet per second of water to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this right shall not exceed 1,300 acre-feet per year (AFY). The authorized use is for Municipal purposes within the SCWD service area boundary (place of use).
3. Permit 21138 originally specified that complete application of the water to the authorized uses shall be prosecuted with reasonable diligence and be completed by December 31, 2012.
4. Right holder requested, and the Division granted one prior time extension for Permit 21138. This prior time extension was requested on April 2, 2012 and the Division approved the request and extended the time to apply water to full beneficial use to December 31, 2022.
5. On September 7, 2022, right holder submitted a petition for extension of time, seeking a 15-year extension to December 31, 2037.

6. Public notice of the petition for an extension of time was issued on October 13, 2022. A protest was received from Clean Water Now (CWN). CWN alleged that SCWD's diversions were causing seawater intrusion into the underground aquifer, a subject raised in a complaint filed by SCWD against some neighboring water districts in 2015. Division Staff conducted a complaint investigation in 2015, with findings presented in a Report of Investigation dated August 27, 2021. The Division's investigation concluded that the diversion at SCWD's Stonehill well contributed to seawater intrusion, resulting in exceedances of the basin plan objectives for groundwater in the San Juan Creek watershed. SCWD was directed to cease all diversions that may cause injury to the reasonable and beneficial uses of water recognized for the San Juan Creek watershed in the Water Quality Control Plan for the San Diego Basin. In a collaborative effort, SCWD and the neighboring water districts hired three independent experts, referred to as the Technical Review Panel (TRP), to respond to the State Water Board's Report of Investigation and amend the San Juan Basin Adaptive Pumping Management Plan to aid in sustainably managing water produced from San Juan Creek. SCWD reduced production at the Stonehill well to the lowest amount possible for the Groundwater Recovery Facility. The Complaint was closed by the Division on October 14, 2021.
7. SCWD responded to CWN's protest by letter dated May 31, 2023. In this letter, SCWD indicates that CWN's protest is outside of the scope of the Noticing for the Time Extension, and instead focuses on the results of the now-closed 2015 Complaint. Terms and conditions in Permit 21138 require SCWD to collect data on water levels in the San Juan Basin, ensure extractions do not exceed recharge rates nor interfere with other senior legal users of water or rights governed by private agreements. Additionally, Permit 21138 has a term to prohibit the diversion of water if such diversions are causing injury to the reasonable and beneficial uses in the San Juan Creek watershed. Regardless of whether or not CWN's protest is within the scope of this time extension request, the issues raised relative to the 2015 Complaint have been addressed, and the terms and conditions in the permit provide protection for other legal users of water and the environment.
8. On October 2, 2023, the State Water Board sent email correspondence to Mr. Roger Butow representing CWN, summarizing the protest and the responses prepared by SCWD and the State Water Board. CWN was given 30 days to provide a statement of facts supporting the allegation that the proposed petition approval would not be within the State Water Board's jurisdiction, would not best serve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law. No response was received by Mr. Butow or CWN, and therefore the protest was cancelled.

9. 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.) SCWD 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.
10. SCWD has shown that due diligence has been exercised. SCWD has been constrained by inadequate diversion well capacity and the local utility's inability to get electrical power to the site delayed progress on perfecting water use under the permit. The original project included three wells to reach the full 1,300 AFY authorized under the permit, however only 1,100 AFY has been achieved through the use of a single well. San Diego Gas and Electric was unable to get adequate power to the second proposed well site. It took five years to get the sub-regional electrical issues resolved. This well site, although located across the river from the first well site, has very different subsurface geological conditions. Well tests indicated that the well was incapable of supplying enough water to meet the full permit amount, and thus a third well would be necessary. The combination of drought and supply chain issues limited the supply of electrical and mechanical components and engineering contractors to construct the additional facilities required to complete water use under the permit.
11. SCWD has shown that failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided. As described above, SCWD could not move forward on the project due to delays stemming from the inability to get electrical power to the site, supply chain issues that limited the supply of components necessary for additional production wells, as well as the engineering contractors to construct them. In addition, well tests revealed the new well would be incapable of supplying enough water to meet the full permit amount. The extension of time will provide the time necessary to complete full build-out of the well infrastructure and achieve the 1,300 AFA under the permit.
12. SCWD has shown that satisfactory progress will be made if a time extension is granted. The desalination plant has the necessary production capacity and once the third well is completed, the combined flow of the three wells is sufficient to meet the full permit amount of 1,300 AFY.
13. Based on the information above, the State Water Board finds that Permittee has shown good cause for the time extension, and satisfactory progress will be made if the extension of time is granted to complete application of water to beneficial use for Permit 21138.

14. Pursuant to Resolution No. 2012-0029, the State Water Board has delegated authority to the Deputy Director for Water Rights (Deputy Director) to act on petitions for time extension under specific circumstances. Resolution No. 2012-0029 authorizes the Deputy Director to redelegate this authority, and this authority has been further redelegated by memorandum dated April 20, 2023.
15. On December 9, 2011, SCWD adopted a mitigated negative declaration (SCH No. 2011101036) for the project in order to comply with CEQA. Further, SCWD filed an addendum to the mitigated negative declaration in July 2023. The Division has considered the environmental documents and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The Division will file a Notice of Determination within five days from the issuance of this Order.
16. 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 change 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 approval of the time extension for Permit 21138 will cause any adverse impacts to public trust resources.

**NOW, THEREFORE, IT IS ORDERED THAT THE STATE WATER BOARD HEREBY APPROVES THE PETITION FOR EXTENSION OF TIME.**

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY

*Julé Rizzardo*  
*Assistant Deputy Director*  
*Division of Water Rights*

Dated: May 30, 2025