

WANGER JONES HELSLEY PC
ATTORNEYS

265 E. RIVER PARK CIRCLE, SUITE 310
FRESNO, CALIFORNIA 93720

MAILING ADDRESS

POST OFFICE BOX 28340
FRESNO, CALIFORNIA 93729

TELEPHONE
(559) 233-4800

FAX
(559) 233-9330



OFFICE ADMINISTRATOR
LYNN M. HOFFMAN

Writer's E-Mail Address:
gsanchez@wjhatorneys.com

Website:
www.wjhatorneys.com

OLIVER W. WANGER
TIMOTHY JONES*
MICHAEL S. HELSLEY
RILEY C. WALTER
PATRICK D. TOOLE
SCOTT D. LAIRD
JOHN P. KINSEY
KURT F. VOTE
TROY T. EWELL
JAY A. CHRISTOFFERSON
MARISA L. BALCH
AMANDA G. HEBESHA**
PETER M. JONES†
MICHAEL L. WILHELM‡
STEVEN M. CRASS†
DEBORAH K. BOYETT
STEVEN K. VOTE
GIULIO A. SANCHEZ
CHRISTOPHER A. LISIESKI***
BENJAMIN C. WEST
HUNTER C. CASTRO
STEPHANIE M. HOSMAN
DANIELLE M. PATTERSON‡
AMBER N. LES
GARRETT R. LEATHAM††
HEIDI G. WEINRICH

* Also admitted in Washington
** Also admitted in Idaho
*** Also admitted in Virginia
†† Also admitted in Utah
† Of Counsel
‡ Provisionally licensed per
California State Bar

April 23, 2021

VIA EMAIL jmaupin@nywd.org

Jeff Maupin, General Manager
NORTH YUBA WATER DISTRICT
8691 La Porte Road
Brownsville, CA 95919

**Re: North Yuba Water District, April 22, 2021,
Agenda: Action Item I. Woodleaf Contract:
Renewal of Special Use Agreement**

Dear Mr. Maupin:

On behalf of Marieke Furnee and other irrigators within North Yuba Water District ("NYWD"), I am submitting the following objections to Action Item I on NYWD's April 23, 2021 meeting agenda, which concerns the proposed Agreement for Special Water Use (the "Agreement") between NYWD and Woodleaf Younglife Campaign ("Woodleaf").

The Agreement intends to bind NYWD to deliver water to Woodleaf from the Forbestown Ditch on a continuous flow basis at a flow of 4.0 miner's inches (.2 CFS) during the regular irrigation season (April 15 through October 14 of each year). (**Attachment 1** at p. 1.) However, the Agreement would violate NYWD's obligations to its existing irrigation customers under the California Water Code, as well as its obligation to make reasonable use of water under general California law. Moreover, the water distribution required by the Agreement constitutes a

WANGER JONES HELSLEY PC

Jeff Maupin
April 23, 2021
Page 2

“project” for purposes of the California Environmental Quality Act, Public Resources Code, Section 21000, *et seq.* (“CEQA”), and thus, the Agreement is subject to CEQA’s environmental review requirements. Because NYWD has not engaged in any environmental, NYWD would also violate CEQA by entering into the Agreement. For these reasons, we submit the following comments and objections to Action Item I.

A. NYWD Cannot Ignore Its Obligations to Irrigation Customers Under the Water Code and its Permits

Pursuant to Permits No. 11516, 11518, and 1270, NYWD may distribute water for irrigation, domestic, and fire protection uses. (**Attachment 2**). The Agreement indicates that the water distribution to Woodleaf is for irrigation purposes. As an initial matter, this is an inaccurate description of the use. Rather, we understand the water will be used for recreation purposes, and be stored in an impoundment on Woodleaf’s property without being used for the irrigation of crops.

Moreover, as a California Water District, NYWD is subject to the provisions contained in Division 13 of the California Water Code. (Wat. Code § 34013, *et seq.*) Division 13, section 35420, of the Water Code specifically requires that “[a]ll water distributed for irrigation purposes, except as otherwise provided in this article, shall be apportioned ratably to each holder of title to land upon the basis of the ratio which the last assessment against his land for district purposes bears to the whole sum assessed in the district for district purposes.” Here, even assuming that Woodleaf is an existing irrigation customer of NYWD—which is inaccurate—the Agreement does not provide that Woodleaf’s ownership of property within NYWD has increased, or other owner’s property has decreased, such that Woodleaf is entitled to more irrigation water per Water Code section 34013.

In fact, NYWD has claimed that there is insufficient water to properly service irrigation customers to begin with. At NYWD’s March 26, 2021 meeting, NYWD’s President, Eric Hansard indicated that, due to the lack of water and expected record drought this summer, NYWD voted that the NYWD forego the irrigation season altogether. A discussion regarding the true amount of water available for irrigation ensued. Now, NYWD seeks to increase Woodleaf’s apportionment of irrigation even though there is an ongoing concern about other irrigation customers being unable to receive any irrigation water.

B. The Agreement Violates the Reasonable Use Doctrine

The Water Code also provides that “[w]ater is a public resource that the California Constitution protects against waste and unreasonable use.” (Wat. Code § 10608, subd. (a).) “All uses of water . . . must conform to the standard of reasonable use.” (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 442.) “What constitutes reasonable water use is dependent upon not only the entire circumstances presented but varies as the current situation changes.” (*Environmental Defense Fund, Inc. v. East Bay Min. Utility Dist.* (1980) 26 Cal.3d

WANGER JONES HELSLEY PC

Jeff Maupin
April 23, 2021
Page 3

183, 194; see *In re Matter of Applications 23865 and 23943*, (1973) Cal.St.Wat.Res.Bd. 1973 WL 19665 [Storage of water for purely aesthetic purposes to afford recreation for a few was not reasonable or in the public interest].)

In the present case, Woodleaf operates a camp. Contrary to the contention in the Agreement, Woodleaf uses water for, at best, the recreation and aesthetic purpose of filling up ponds on its property. NYWD intends to provide Woodleaf with water for these purposes, in excess of what Woodleaf already receives, while threatening to deny water to irrigators who produce foodstuffs and other resources for public consumption. In promoting the storage of water for plainly aesthetic purposes rather than convey that water to irrigation customers, who need the water to sustain life, NYWD is in direct violation of its obligation to make reasonable use of water.

C. NYWD Intends to Evade Required Environmental Review

All “projects” are subject to environmental review under CEQA. (CEQA Guidelines § 15002(d).) A “project” is “the whole of an action, which has a potential for resulting in either a *direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.*” (CEQA Guidelines § 15378(a) [Emphasis added].) The term “project” is interpreted broadly to maximize the protection of the environment. (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1180.) The term “project” includes any discretionary action – i.e., an action where the agency exercises its judgment in deciding whether and how to carry out or approve [the] project.” (CEQA Guidelines § 15002(i).)

Here, the water distribution contemplated by the Agreement threatens to have a direct and/or indirect change in the environment because it will deprive the agricultural lands owned by the customer irrigators of water. (**Attachment 3.**) All of the reasonably foreseeable harms, set forth below, necessitate environmental review, or in the least a formal determination of whether the water distribution contemplated by the Agreement is a “project” under CEQA and, if so, whether the District contends that the Project is exempt from CEQA review.

To make a formal determination on the applicability of CEQA, NYWD needs to engage in a series of tasks:

1. Obtain and formally adopt a final project description (the project description may change as the CEQA compliance process goes forward);
2. Prepare a CEQA checklist that provides NYWD with a description of all the things NYWD needs to look at and evaluate in order to be CEQA compliant, including performing studies the checklist indicates;

WANGER JONES HELSLEY PC

Jeff Maupin
April 23, 2021
Page 4

3. Conducting and formally adopting a “preliminary review” in order to determine if a project is subject to CEQA;
4. Conduct and formally adopt an “initial study” - a preliminary assessment of the potential environmental impacts of the proposed project. The purpose of the Initial Study is to determine whether a Negative Declaration or Environmental Impact Report (EIR) must be prepared.
5. If the Initial Study determines that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, then an EIR must be prepared. If the Initial Study determines that there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment, then a Negative Declaration should be prepared.
6. If the project does not qualify for a negative declaration, NYWD must prepare and formally adopt an “environmental impact report” (EIR) for projects that may have significant environmental effects. (Public Resource Code §§ 21100, subd. (a), 21151, subd. (a)). “Environmental effects” is broadly defined to include noise, traffic, air quality, aesthetics, and cultural impacts.
7. If, as the CEQA compliance process moves forward, the project changes, then NYWD must prepare and formally adopt a supplemental EIR.
8. If the EIR identifies cultural and/or environmental impacts connected to the project, then NYWD must prepare and adopt a “mitigation monitoring and reporting plan” (“MMRP”) and, for cultural impacts, retain a Cultural Resource Monitor, and, for environmental impacts, retain one or more Biological Resource Monitor, all of which will implement and monitor the MMRP and perform a compliance survey every year for 10 years;
9. NYWD must submit all CEQA documents and studies to the California State Water Resource Control Board (SWRCB) for review and comment;
10. All CEQA related documents are then revised to comply with SWRCB directives/comments.

WANGER JONES HELSLEY PC

Jeff Maupin
April 23, 2021
Page 5

11. NYWD must file a “notice of determination” with the State Office of Planning and Research and with the County Clerk.
12. NYWD must release CEQA documents to the public for comment and conduct public hearings during the CEQA compliance process. (CEQA Guidelines, § 15002(j).)

NYWD has not even initiated this process, yet it intends to approve the Agreement on April 23, 2021. Still, because CEQA may apply to the water distribution contemplated by the Agreement, NYWD needs to, at least, make a formal determination that the water distributions are not a “project” under CEQA before approving the Agreement.

But, this is a determination that the District cannot, in good faith, actually make, as substantial evidence exists that significant environmental impacts *will* result from granting Woodleaf additional water allocations instead of providing those waters to true irrigators, including, but not limited to impacts to . . .

Aesthetics. Several irrigators have confirmed that the repeated deprivation of water which the District has imposed on the residents of Oregon House has resulted in the loss of substantial amounts of trees and the inability to fill ponds on their properties. These impacts collectively reduce the scenic character of the area and degrade the existing visual character of the public views.

Agricultural and Forestry Resources. The irrigation customers have also suffered devastating impacts to their crops, livestock, and soil quality as a result of the District’s irresponsible and retaliatory management of water.

Biological Resources. As has already been brought to the District’s attention in ongoing litigation, the area, and specifically the ditches and canals servicing the area, are home to the protected Foothill yellow-legged frog, the Ringtail Cat, and freshwater shrimp. The presence of sensitive species requires further review before exercising District discretion to deprive these species’ habitat of necessary water.

Geology and Soils. As has also been brought to the attention of the District, the repeated refusal to convey water to the irrigators leaves the land exposed and vulnerable to erosion. Burrowing animals are also able to access parts of the canal that would otherwise be submerged, and can cause significant structural damage to the canal. In addition, the irrigators’ resulting increased reliance on groundwater to irrigate crops and water animals in the area could lead to subsidence, due to massive depletion in groundwater reserves as a direct result of the District’s actions.

Hydrology and Water Quality. The increased reliance on groundwater also affects the water quality of the remaining reserves. Dissolved solids in groundwater are

WANGER JONES HELSLEY PC

Jeff Maupin
April 23, 2021
Page 6

dispersed throughout the reserves stored underground, and, as those reserves are quickly and substantially depleted, the proportion of dissolved solids in the remaining water is necessarily higher. Further, the deprivation of flow to the canal reduces recharge, and exacerbates an already catastrophic lack of groundwater in California for agricultural purposes.

Wildfire. The aforementioned loss of trees, and a lack of available water for landscaping contributes to the continued drying of an area already historically plagued by wildfires. Further, the lack of water directly impacts fire crews' and residents' ability to combat wildfires when they do occur, which grows increasingly likely year after year.

All of the aforementioned impacts are evidence of a fair argument that significant environmental impacts will occur as a result of the Project granting additional water to Woodleaf as opposed to serving the irrigators. As such, a full environmental impact report is required. (Public Res. Code § 21151, subd. (a); see also *Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 200 ["The fair argument standard creates a 'low threshold' for requiring an EIR, reflecting a legislative preference for resolving doubts in favor of environmental review."]; and see *Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156, 1173 ["Under [the fair argument] test, the agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a proposed project may have a significant effect on the environment. [Citations.] 'If such evidence is found, it cannot be overcome by substantial evidence to the contrary.'"])

D. NYWD's Consideration of the Agreement Is Further Evidence of NYWD's Effort to Retaliate Against the Irrigators for Exercising their Constitutional Rights

I have also been informed that NYWD's decision to deny irrigators access to irrigation water in 2021 was based, at least in part if not entirely, on the irrigator's opposition to the Forbsetown Ditch Pipeline Project. This is an improper basis for NYWD's decision-making, and a violation of my client's constitutional rights. The NYWD Board's consideration of the Agreement, to the detriment of the irrigator's rights, is further evidence of NYWD's infringement of the irrigator's rights.

E. I Request Special Notice of All Future Activities Related to the Agreement

Through this letter, I am also requesting special notice of:

1. All agendas for any meeting, as that term is defined under the Brown Act, of the North Yuba Water District; and
2. Any and all future activities relating to the Agreement, including approval thereof, and water distributions to Woodleaf. This

WANGER JONES HELSLEY PC

Jeff Maupin
April 23, 2021
Page 7


request includes notice of any public meeting or hearings, and any environmental review performed in connection therewith under CEQA, Public Resources Code, § 21000, *et seq.* This request also includes notices related to the preparation, publication, release for public review, or posting of any document prepared by North Yuba Water District concerning the Agreement, including approval thereof, and water distributions to Woodleaf

Please direct all notices to the following address:

WANGER JONES HELSLEY PC
John P. Kinsey
Giulio A. Sanchez
265 E. River Park Circle
Second Floor
Fresno, CA 93720

Thank you for your consideration of this letter.

Very truly yours,


Giulio A. Sanchez

ATTACHMENT 1

AGREEMENT FOR SPECIAL WATER USE

2021 - North Yuba Water District and Woodleaf Younglife

The North Yuba Water District, hereinafter referred to as "DISTRICT", and Woodleaf Younglife Campaign, hereinafter referred to as "APPLICANT", do hereby agree to the provisions established herein for the delivery of and payment for water furnished to APPLICANT.

Said delivery shall be subject to all rules, regulations, and policies of the DISTRICT pertaining to the delivery of irrigation water, except as otherwise specifically provided herein:

1. The point of delivery of water shall be at the end of the open canal otherwise known as the Forbestown Ditch, in the Northwest 1/4 of Section 9, T.19 N., R.7 E., MDB & M, at the point at which the canal enters the Woodleaf Siphon.
2. All conveyance facilities from said point of delivery to the actual place of use shall be considered to be the property of the APPLICANT, and all costs of installation, replacement, maintenance, and repair of such facilities shall be the responsibility of the APPLICANT.
3. Water is delivered hereunder through a miner's inch box which shall be set and adjusted as approved by DISTRICT.
4. The water contemplated to be delivered hereunder shall normally be available only during the regular irrigation season (April 15 through October 15 of each year) and will be limited to those periods when flows of water are present in the Forbestown Ditch as necessary to meet other purposes of the DISTRICT.

During periods when water is available as aforesaid, delivery shall be considered to be on a continuous flow basis at a flow not exceeding 4.0 miner's inches (.2 CFS) as requested by the APPLICANT, subject to terms of the District's IRRIGATION POLICY.

Refund(s) for periods when water is unavailable shall be made in accordance with **Section VI. C.9 of the IRRIGATION POLICY**.

5. Service Charges-
 - a. An Initial Service Charge of \$25.00 shall be required at the beginning of each season to cover the cost of checking and/or adjusting the measuring device.
 - b. The APPLICANT may request adjustments in flow or inspection of the measuring device at any time. However, each such occurrence shall be subject to a service charge of \$25.00.
6. In the event of adjustments in volume, the charges for the remainder of the season shall be adjusted by calculating the total volume projected to the end of the irrigation season, and applying the appropriate revised unit cost for the adjusted flow. If applicable, any refunds then due shall be made in accordance with Section VII B of the IRRIGATION POLICY.

7. The unit rate to be paid by the APPLICANT shall be 1.5 times the appropriate unit rate as determined in accordance with Section II of Appendix C #2 of the IRRIGATION POLICY.
8. Charges for delivery of water shall be due and payable at the time of making application.
9. All other charges shall be made in accordance with the IRRIGATION POLICY.
10. The APPLICANT shall assure ingress and egress to the DISTRICT for purposes of fulfilling its functions under this Agreement.
11. This Agreement is effective only until the end of the 2021 irrigation season.
12. This Agreement is intended to be an Amendment to the Irrigation Application.
13. The APPLICANT hereby certifies receipt of copy of the current IRRIGATION POLICY, and agrees to abide by all terms of such policy, notwithstanding any provisions contained herein.
14. The individual signing this Agreement on behalf of the APPLICANT hereby certifies authorization to do so.

FOR THE WOODLEAF YOUNGLIFE CAMPAIGN:

Property Manager

Date

FOR THE NORTH YUBA WATER DISTRICT:

Gary Hawthorne /Vice President of the Board

Date

Jeffrey Maupin
Secretary of Record / General Manager

Date

**2021 North Yuba Water District
Irrigation Application**

Account: Woodleaf Younglife Please make any necessary corrections to customer information shown.

1. Place of Delivery

Parcel # (s)	Gross Acreage	Legal Owner of Record
050-050-015	206	Younglife

2. Amount of water: Shown only in increments of one-half (1/2) miner's inch. (1 miner's inch equals a flow of approximately 10 gallons per minute).

4 Miner's Inches

3. Number of service connections One

4. Total Fees Required:

A. Any Previous Balance	0
B. Rate (\$356.00) x 1.5 = (\$534) x 4 Miner's Inches	\$ 2,136.00
C. Turn On Fee	\$ 25.00
D. Late Fee	<u>0</u>
Total Due	\$ 2,161.00

Applicant Signature

Date

Mailing Address

Telephone Number

Service Address (if different)

ATTACHMENT 2

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 11518

Application 14113 of **Yuba County Water District**
P.O. Box 299
Brownsville, CA 95919

filed on **December 28, 1950**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

<p>1. Source of water Source: <u>1. South Fork Feather River</u></p> <hr/> <p><u>2. Lost Creek</u></p> <hr/> <p><u>3. Feather River</u></p>	<p>Tributary to: <u>Feather River</u></p> <hr/> <p><u>South Fork Feather River thence Feather River</u></p> <hr/> <p><u>Sacramento River</u></p>
---	--

within the Counties of **Butte, Sutter and Plumas.**

2. Location of point of diversion

By California Coordinate System of 1927 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Points of Diversion					
1. <u>Little Grass Valley Storage Dam</u> S55°W, 4055 feet from NE corner of section 31	SE¼ of NE¼	31	22N	9E	MD
2. <u>South Fork Diversion Dam</u> N1°30'W, 1,520 feet from SE corner of section 30	NE¼ of SE¼	30	21N	8E	MD
3. <u>Sly Creek Storage Dam</u> S8°30'W, 1,240 feet from NE corner of section 19	NE¼ of NE¼	19	20N	8E	MD
4. <u>Lost Creek Storage Dam</u> N28°E, 2,200 feet from S¼ corner of section 24	NW¼ of SE¼	24	20N	7E	MD
5. <u>Feather River</u> N63°36'59"E, 4,195 feet from S¼ corner of section 10	NW¼ of SW¼	11	15N	3E	MD

By California Coordinate System of 1927 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Points of Rediversion					
1. South Fork Diversion Dam N1°30'W, 1,520 feet from SE corner of section 30	NE¼ of SE¼	30	21N	8E	MD
2. Sly Creek Storage Dam S8°30'W, 1,240 feet from NE corner of section 19	NE¼ of NE¼	19	20N	8E	MD
3. Lost Creek Storage Dam N28°E, 2,200 feet from S¼ corner of section 24	NW¼ of SE¼	24	20N	7E	MD
4. Forbestown Diversion Dam S45°W, 2,000 feet from NE corner of section 32	SW¼ of NE¼	32	20N	7E	MD
5. Ponderosa Dam N41°30'E, 3,710 feet from SW corner of section 33	NW¼ of SE¼	33	20N	6E	MD
6. Swain Hill Dam S55°E, 1,900 feet from NW corner of section 10	NE¼ of NW¼	10	17N	5E	MD
7. Dry Creek North 1,500 feet and East 1,400 feet from SW corner of section 2	NE¼ of SW¼	2	18N	6E	MD
8. Feather River N63°36'59"E, 4,195 feet from S¼ corner of section 10	NW¼ of SW¼	11	15N	3E	MD

3. Purpose of use	4. Place of use	Sections	Township	Range	Base and Meridian	Acres
Domestic	Within the boundaries of the Yuba County Water District and Yuba City as shown on maps dated July 1958, December 1988 and August 2000 filed with the State Water Board					
Municipal*						
Industrial*						
Irrigation	Within the boundaries of Yuba County Water District as shown on map filed with the State Water Board, and 20,000 acres net within a gross area of 44,200 acres within Townships 16 and 17N, Ranges 4, 5, 6 and 7E, MDB&M, and being the Lower Yuba County Area as outlined on map filed with the State Water Board.					

*Upon compliance with Condition 9 of this permit

The place of use is shown on map on file with the State Water Board.

5. The amount of water to be appropriated shall not exceed 350 cubic feet per second from South Fork Feather River by direct diversion between January 1 and December 31 of each year and

77,300 acre-feet per annum from South Fork Feather River by storage to be collected between November 1 of each year and July 1 of the succeeding year; 350 cubic feet per second from Lost Creek by direct diversion between January 1 and December 31 of each year, and 40,000 acre-feet per annum from Lost Creek by storage to be collected between November 1 of each year and July 1 of the succeeding year.

The total amount of water to be appropriated under permits issued pursuant to Applications 13676, 14112 and 14113 shall not exceed 350 cubic feet per second from South Fork Feather River and 350 cfs from Lost Creek by direct diversion; 77,300 acre-feet per annum from South Fork Feather River and 40,000 acre-feet per annum from Lost Creek by storage.

The total amount of water allowed under Permits 1267, 1268, 1271, 2492, 11516 and 11518 shall not exceed 810,000 acre-feet per water year of October 1 to September 30.

(000005F)

6. The permittee may file petitions for an extension of time under Permits 11516 and 11518 to apply water necessary for future growth and development to beneficial use, not to exceed total combined diversions for existing demands and future use of 23,700 acre-feet per annum by Yuba County Water District, subject to the timelines and requirements set forth in Order WR 2004-0029.
(0000999)
7. Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2004.
(0000009)
8. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.
(0000030)
9. The petitions to add municipal and industrial purposes of use under 11516, and 11518 were approved in Order WR 2004-0029 subject to the permittee's submission of water conservation plans that meet the requirements for an urban water management plan under Water Code section 10620 et seq. and that is acceptable to the Chief, Division of Water Rights (Division Chief). Order WR 2004-0029 requires that the water conservation plans shall be submitted to the Division Chief by December 14, 2005, and any revisions required to make the plans acceptable to the Division Chief shall be submitted in accordance with a schedule established by the Division Chief. Yuba County Water District shall submit a water conservation plan for use under Permit 11518. South Feather Water and Power Agency (SFWPA) shall submit a water conservation plan for use under Permit 11516. In addition, the water conservation plans submitted by SFWPA shall evaluate and address ditch conveyance losses. No water shall be diverted for municipal and industrial purposes, except for amounts currently delivered to Yuba City, until the Division Chief accepts the plan. The permittee also shall submit to the Division Chief any updates made in accordance with Water Code section 10621 and, at the same time, provide information regarding the permittee's implementation of any measures previously required by the Division Chief that are contained in the water conservation plan. All cost effective measures in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.
(0410800)

10. Permittee shall bypass down the natural stream channels of the streams involved in this permit sufficient water for the purpose of maintaining fish life as set forth in the stipulation for withdrawal of protest of California Department of Fish and Game dated March 24, 1958, filed of record as Oroville-Wyandotte Irrigation District Exhibit No. 66 at the hearing of Applications 13676, 13956, 13957, 14112 and 14113.

(0140500)

11. This permit shall be subject to that certain agreement between South Feather Water and Power Agency (formerly Oroville-Wyandotte Irrigation District) and Yuba County Water District, dated March 21, 1958, filed as Oroville-Wyandotte Irrigation District Exhibit 65 at the hearing of said application and the modifications to the agreement dated December 9, 1959, which are contained in the agreement between said Districts dated December 20, 1965.

This permit condition shall not be construed as a limitation upon the future exercise of the State Water Board's lawful jurisdiction and discretion with respect to any of the matters referred to in either of said agreements, including but not limited to any changes and additions to the appropriations of water by the parties to said agreements that are set forth therein, which require approval by the State Water Board.

The State Water Board will maintain continuing authority to change or add terms or conditions necessary to resolve, in the public interest, issues arising from alleged conflicts among the provisions of the agreement to which the permit is subject.

(0430300)

12. No water shall be directly diverted for consumptive use from the Feather River at Yuba City under Permit 11518 until the permittee submits a direct diversion operations plan to the Chief, Division of Water Rights (Division Chief) and the Division Chief approves the plan. The operations plan must identify the following: (1) the flow conditions under which Yuba City will directly divert water under Permit 11518; (2) the quantity of natural and abandoned flows typically available at the Lost Creek and South Fork Feather River points of diversion when Yuba City will be diverting water; and (3) the quantity of natural and abandoned flows projected to be diverted by the permittees under Permits 1267, 1268, 1271, 2492, 11516 and 11518 at the Lost Creek and South Fork Feather River points of diversion to serve the permittees' place of use when Yuba City will be directly diverting water. The plan must provide a means of demonstrating that direct diversion at Yuba City under Permit 11518 will always be less than or equal to the quantity of natural and abandoned flows at the Lost Creek and South Fork Feather River points of diversion minus the quantity diverted under Permits 1267, 1268, 1271, 2492, 11516, and 11518 at the Lost Creek and South Fork Feather River points of diversion. All quantities shall be calculated after deducting from the quantity of natural and abandoned flows any bypass flows required now or in the future.

The Progress Reports by Permittee shall document the dates when Yuba City received water by direct diversion under Permit 11518, shall specify the quantity directly diverted, and shall demonstrate that direct diversions did not exceed the quantity of natural and abandoned flows minus the quantity diverted, as provided in the direct diversion operations plan.

No water shall be rediverted for consumptive use from the Feather River at Yuba City under Permit 11518 until the permittee submits a reservoir operations plan to the Division Chief at least 30 days before the proposed operation and the Division Chief approves the plan. The plan must identify the following: (1) the reservoir(s) that will be used to serve Yuba City; (2) the flow conditions under which Yuba City will receive released stored water; (3) the typical release rates based on hydrologic conditions and the subsequent rediversion rates at Yuba City; and (4) a means for metering diversions at Yuba City. If releases will vary on a seasonal basis, all release rates must be specified for expected reservoir storage conditions. The plan shall be updated whenever there is a modification in the reservoir operations that may affect reservoir releases to serve Yuba City and the

revised plan shall be submitted to the Division Chief for approval within the timeframe established by the Division Chief for such modifications.

The Progress Reports by Permittee shall document the dates when Yuba City received released stored water, identify the reservoir from which the water was released, and identify the quantity of water (i) released from storage and (ii) rediverted at Yuba City.

If Yuba County Water District is responsible for the rediversion of water from the Feather River at Yuba City, the reservoir operations plan shall also identify the basis of Yuba County Water District's right to control such rediversions. Accordingly, no water shall be rediverted from the Feather River at Yuba City until the following actions are taken: (1) South Feather Water and Power Agency and Yuba County Water District have an agreement establishing sufficient control by Yuba County Water District over reservoir operations for the rediversion of water at Yuba City; (2) South Feather Water and Power Agency and Yuba County Water District provide a copy of the agreement to the Division Chief; and (3) the Division Chief advises the permittee in writing that the agreement provides Yuba County Water District with the necessary operational control.

The permittee must separately report daily diversions at Yuba City on the Progress Reports by Permittee for Permit 11518 (and any subsequent license issued pursuant to Permit 11518).

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board

determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit 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 & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

for James W. Kassel
Victoria A. Whitney, Chief
Division of Water Rights

Dated:

APR 27 2006

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 11516

Application 13957 of **Yuba County Water District**
P.O. Box 299
Brownsville, CA 95919

filed on **September 20, 1950**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Slate Creek

Tributary to:

North Fork Yuba River thence

Yuba River

within the Counties of **Plumas and Yuba**.

2. Location of point of diversion

By California Coordinate System of 1927 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Points of Diversion					
1. <u>Slate Creek Storage Dam</u> S89°W, 2,910 feet from SE corner of section 36	SE¼ of NE¼	1	20N	8E	MD
2. <u>Slate Creek Diversion Dam</u> S89°45'E, 4,800 feet from S¼ corner of section 3	SE¼ of SW¼	2	20N	8E	MD
Points of Rediversion					
1. <u>Slate Creek Diversion Dam</u> S89°45'E, 4,800 feet from S¼ corner of section 3	SE¼ of SW¼	2	20N	8E	MD
2. <u>Sly Creek Storage Dam</u> S8°30'W, 1,240 feet from NE corner of section 19	NE¼ of NE¼	19	20N	8E	MD
3. <u>Lost Creek Storage Dam</u> N28°E, 2,200 feet from S¼ corner of section 24	NW¼ of SE¼	24	20N	7E	MD
4. <u>Forbestown Diversion Dam</u> S45°W, 2,000 feet from NE corner of section 32	SW¼ of NE¼	32	20N	7E	MD
5. <u>Ponderosa Dam</u> N41°30'E, 3,710 feet from SW corner of section 33	NW¼ of SE¼	33	20N	6E	MD

By California Coordinate System of 1927 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
6. Swain Hill Dam S55°E, 1,900 feet from NW corner of section 10	NE¼ of NW¼	10	17N	5E	MD
7. Dry Creek North 1,500 feet and East 1,400 feet from SW corner of section 2	NE¼ of SW¼	2	18N	6E	MD

3. Purpose of use	4. Place of use	Sections	Township	Range	Base and Meridian	Acres
Domestic	Within the boundaries of the Yuba County Water District as shown on map dated July 1958 filed with the State Water Board					
Municipal*						
Industrial*						
Irrigation	Within the boundaries of Yuba County Water District as shown on map filed with the State Water Board, and 20,000 acres net within a gross area of 44,200 acres within Townships 16 and 17N, Ranges 4, 5, 6 and 7E, MDB&M, and being the Lower Yuba County Area as outlined on map filed with the State Water Board					

*Upon compliance with Condition 9 of this permit

The place of use is shown on map on file with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 300 cubic feet per second by direct diversion to be diverted from May 1 to November 1 of each year and 35,000 acre-feet per annum by onstream and offstream storage at a rate not to exceed 300 cubic feet per second to be collected from January 1 to July 1 of each year.

The total amount of water to be appropriated under permits issued pursuant to Application 13956 and 13957 shall not exceed 300 cubic feet per second by direct diversion and 35,000 acre-feet per annum by onstream and offstream storage at a rate not to exceed 300 cubic feet per second or a total direct diversion and diversion to storage of not to exceed 600 cubic feet per second.

The total amount of water allowed under Permits 1267, 1268, 1271, 2492, 11516 and 11518 shall not exceed 810,000 acre-feet per water year of October 1 to September 30.

(000005F)

6. The permittee may file petitions for an extension of time under Permits 11516 and 11518 to apply water necessary for future growth and development to beneficial use, not to exceed total combined diversion for existing demands and future use of 23,700 acre-feet per annum by Yuba County Water District, subject to the timelines and requirements set forth in Order WR 2004-0029.

(0000999)

7. Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2004.

(0000009)

8. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.
(0000030)
9. The petitions to add municipal and industrial purposes of use under 11516, and 11518 were approved in Order WR 2004-0029 subject to the Permittee's submission of water conservation plans that meet the requirements for an urban water management plan under Water Code section 10620 et seq. and that is acceptable to the Chief, Division of Water Rights (Division Chief). Order WR 2004-0029 requires that the water conservation plans shall be submitted to the Division Chief by December 14, 2005, and any revisions required to make the plans acceptable to the Division Chief shall be submitted in accordance with a schedule established by the Division Chief. Yuba County Water District shall submit a water conservation plan for use under Permit 11518. South Feather Water and Power Agency shall submit a water conservation plan for use under Permit 11516. In addition, the water conservation plans submitted by South Feather Water and Power Agency shall evaluate and address ditch conveyance losses. No water shall be diverted for municipal and industrial purposes, except for amounts currently delivered to Yuba City, until the Division Chief accepts the plan. The permittee also shall submit to the Division Chief any updates made in accordance with Water Code section 10621 and, at the same time, provide information regarding the Permittee's implementation of any measures previously required by the Division Chief that are contained in the water conservation plan. All cost effective measures in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.
(0000030)
10. Permittee shall bypass down the natural stream channels of the streams involved in this permit sufficient water for the purpose of maintaining fish life as set forth in the stipulation for withdrawal of protest of California Department of Fish and Game dated March 24, 1958, filed of record as Oroville-Wyandotte Irrigation District Exhibit No. 66 at the hearing of Applications 13676, 13956, 13957, 14112 and 14113.
(0140500)
11. This permit shall be subject to that certain agreement between South Feather Water and Power Agency (formerly Oroville-Wyandotte Irrigation District) and Yuba County Water District, dated March 21, 1958, filed of record as Oroville-Wyandotte Irrigation District Exhibit No. 65 at the hearing of said application and the modifications to the agreement dated December 9, 1959, which are contained in the agreement between said Districts dated December 20, 1965.

This permit condition shall not be construed as a limitation upon the future exercise of the State Water Board's lawful jurisdiction and discretion with respect to any of the matters referred to in either of said agreements, including but not limited to any changes and additions to the appropriations of water by the parties to said agreements that are set forth therein, which require approval by the State Water Board.

The State Water Board will maintain continuing authority to change or add terms or conditions necessary to resolve, in the public interest, issues arising from alleged conflicts among the provisions of the agreement to which the permit is subject.

(0430300)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit 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 & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)
- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605. (0000015)
- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game. (0000063)

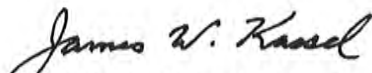
This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

for 
Victoria A. Whitney, Chief
Division of Water Rights

Dated: **APR 27 2006**



STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

Page 1 of 2
APPLICATION 2978

PERMIT 1270

LICENSE **12984**

THIS IS TO CERTIFY, That

*Yuba County Water District
P.O. Box 299
Brownsville, CA 95919*

has made proof as of **April 26, 1988** (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the water of **Dry Creek in Yuba County**

tributary to **Yuba River thence Feather River thence Sacramento River**

for the purpose of **Irrigation and Fire Protection uses**

under Permit 1270 of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from **August 12, 1922** and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **twenty-one and four-tenths (21.4) cubic feet per second to be diverted from April 1 to October 15 of each year. The maximum amount diverted under this license shall not exceed 6,060 acre-feet per year.**

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(0000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

South 15° 00' West 365 feet from NE corner of Section 3, T18N, R6E, MDB&M, being within NE¼ of NE¼ of said Section 3.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Fire protection and irrigation of 3,064 acres net within a gross area of 4,481 acres being a part of Improvement District No. 1 of Yuba County Water District, and consisting of all or part of Sections 11, 12, 13, 25, and 36, T18N, R6E, MDB&M, Sections 18, 19, 20, 29, 30, 31, and 32, T18N, R7E, MDB&M, Sections 1, 11, 12, 13, and 14, T17N, R6E, MDB&M, and Sections 6 and 7, T17N, R7E, MDB&M, as shown on map filed with State Water Resources Control Board.

For the protection of fish and wildlife, licensee shall bypass a minimum of 4 cubic-feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount.

(0140060)

No water shall be diverted under this license unless licensee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this license. Said measuring device shall be properly maintained.

(0060062)

Licensee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, county and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, county and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, county and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: JUNE 03 1993

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson
Chief, Division of Water Rights

ATTACHMENT 3

Donna Corson
POB 162
Dobbins, CA 95935

April 20, 2021

To Whom It May Concern:

North Yuba Water District's (NYWD) decision to not provide me irrigation services this year, after a decade of similar sporadic or non-service, continues to cause irreparable harm to me and my property.

I have a large pond, near my home, that is fed and filled by NYWD irrigation water. In addition to the esthetic value this body of water provides, it provides me:

- **Safety:** Access to a large volume of water is available to protect my home and outbuilding should a wildfire occur; While NYWD makes claims that their water is not for wildfire use, Permit 1270, that delineates irrigation water services to Dobbins/Oregon House, states that the water is dedicated for fire suppression use;
- **Protection:** There's water to keep my gardens and trees green, yet another wildfire suppression strategy;
- **Confidence:** My community is more fire resistant because my irrigation neighbors are keeping their properties green;
- **Sustenance:** I grow much of my food and use irrigation water to water my gardens and fowl;
- **Security:** I want to retain the value of my home and property; Without the irrigation service, and a full pond, my property value decreases.

As you can see, NYWD's decision to not provide me irrigation services this year causes me great stress and concern. The current and potential harm to me and my property, as a result of not having irrigation services, may be impossible to rectify or repair. This is unacceptable and NYWD must rethink its decision as soon as possible.

Sincerely,



Donna Corson



Fellowship of Friends

April 21, 2021

To Whom It May Concern:

The Fellowship of Friends owns about 1250 acres land in Oregon House. Most of the land is used for agricultural purposes, vineyards, orchards, vegetable gardens and animal husbandry, to name a few.

The Fellowship of Friends relies on the irrigation water it receives from NYWD (ditch water) for these agricultural uses. It has designed the agricultural water distribution based on the availability of the ditch water.

Lack of the ditch water for the last few years, has put a strain on the wells on the property and has taxed our potable water system. Our water system is designed to serve potable-residential needs and as a supplemental source for irrigation. Since we stopped receiving ditch water it is also fully supporting the agricultural needs. Our wells now show the strain.

In years of drought, like the current year, the need for irrigation water is greater and the irrigation season is extended. It came to our knowledge that there is enough water available to the NYWD, maybe not for the whole irrigation season but enough to serve the irrigation customers for a period of time.

Without the water from NYWD, and as a result of the drought, we will need to curtail irrigation, which will certainly result in lesser crops, dry terrain and fire hazards. The financial burden for lost crops, well overuse, and possible toll on the community because of loss of jobs and fire danger could be devastating.

Please consider allowing NYWD water even if for a shorter irrigation season.

A handwritten signature in black ink, appearing to read "Greg Holman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Greg Holman
President, Fellowship of Friends
P.O. Box 1000, Oregon House, CA 95962
530-692-2222

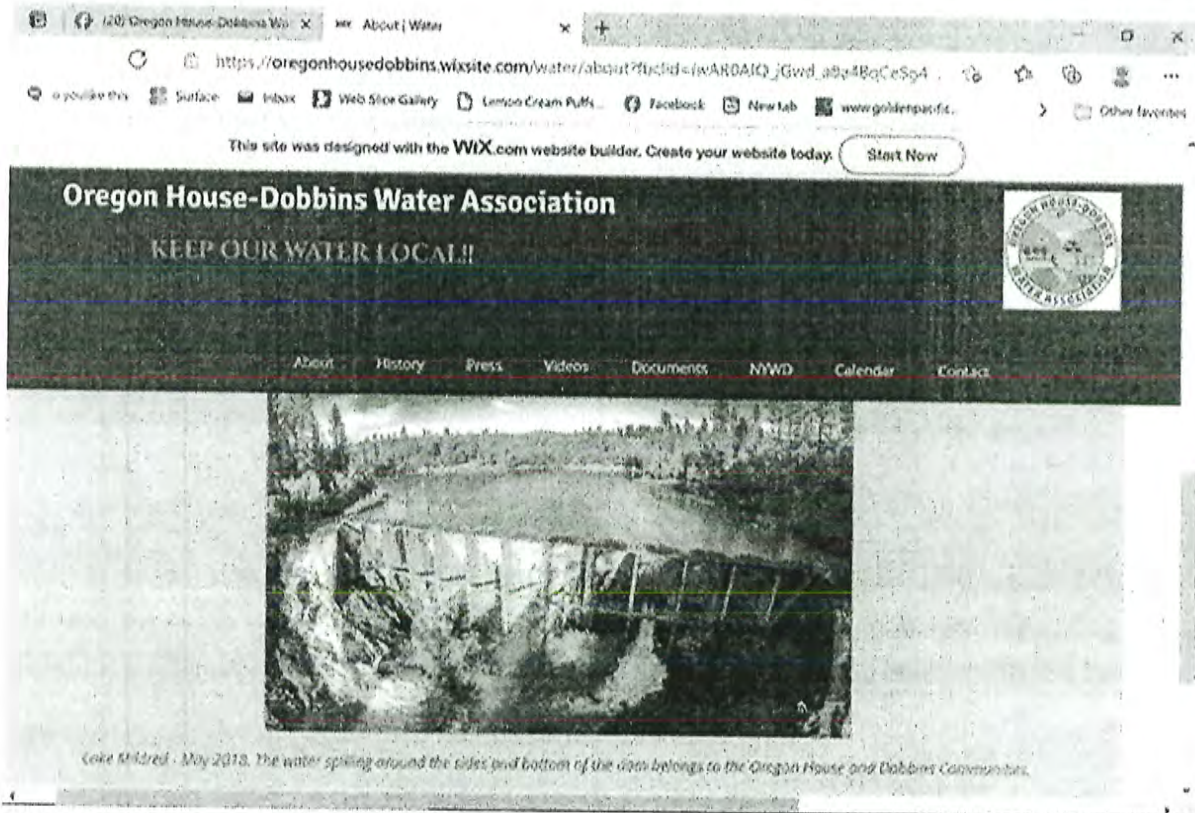
CC: RVW

April 20, 2021

To whom it my concern,

I am writing this letter in protest to the failure of North Yuba Water District to deliver irrigation water to the customers of Oregon House and Dobbins, California. There are 119 irrigation customers that receive service from April 15-October 15 of each year. The irrigation seasons of 2018 and now 2021 have not received any water. The 2019 and 2020 seasons received a very unreliable partial delivery. This failure of North Yuba Water District to not deliver irrigation water has caused irreversible damage to myself and my community. This damage is physical, financial and emotional damage. Personally, I am a full time cattle rancher and depend on this water to irrigate my pastures, as well as my orchard and family garden. Due to lack of water, I have lost my permanent pasture because the grass failed to grow and reseed. I have had many over 100 year old Oak trees that have died and have had to be fallen. As a result of lack of pasture, I have had to buy hay for my cattle. This has been very financially stressful because the cost has been over \$5000.00/year. The loss of my trees is a permanent loss to the serenity and beauty that these trees provide. My property value has decreased because having irrigation water is a very valuable asset which now I do not have. Emotionally, this failure of North Yuba Water District not delivering my water has been emotionally very stressful. We live in a very fire prone area, actually on maps, we are in one of the worst wildland fire zones. This loss of water affects not only myself, but, my community as well. Having water in the Oregon House/Dobbins Irrigation ditches provides necessary water for fire fighters when there is a fire. In 2016, the board of North Yuba Water District approved a budget of \$2,500,000 to purchase equipment, including all new rolling stock, new backhoe, new excavator, trailer to haul equipment, new dump truck and, also employed an additional 3 members to the field staff to maintain the irrigation system. To this date, the ditches are in deplorable condition, the equipment sits idle in the district yard and the three new employees are still on the payroll.

The irrigation customers are adamant about this situation. Not only are we not receiving water, but our tax dollars are being misused and wasted. Attached is a picture of Lake Mildred, which is located at Thousand Trails in Oregon House. The water that supplies this lake is from Dry Creek. North Yuba Water District has a pre 1914 water right on Dry Creek and this water is the first tier of water that is used to provide irrigation service to Oregon House and Dobbins customers. The picture of Lake Mildred was taken in April of 2018. Please note that the water is spilling over the top of the dam, both sidespills and both drains below. North Yuba Water District declined our water in April 2018, saying there was not enough water to provide service. Also for reference, please visit www.oregonhousedobbinswaterassociation



North Yuba Water District Former Board Member-1993-2016

Resident and property owner of Oregon House since 1989

Jeanette L. Cavaliere

530-635-0183

Jeanette L. Cavaliere

Jenny Cavaliere

Oregon House Farms(CCOF)

Oregon House Farm Store

High Sierra Beef, Inc.

www.highsierrabeef.com

14582 Indiana School Road,

Oregon House, CA 95962

530-692-2564

530-635-0183

April 21st, 2021

To whom it may concern,

My husband and I have lived happily here in Dobbins for over 40 years and raised three daughters on our 88 acres. We have improved our property by planting many fruit trees, berry patches and huge flower and vegetable gardens. We were able to do this because for decades we were provided irrigation water by the water district. The irrigation ditch runs right through our property - by the way - property that we pay land tax for and we're happy to do it in order to be able to buy badly needed irrigation water.

Our beautiful pond provided cool relief during the hot days of summer as well as pumped water for our gardens and fire protection once the district irrigation water was turned off in October of each year.

What NYWD has done under the management of Jeff Maupin is a crime! In my opinion they have been trying to get rid of the irrigation customers for years. Remember - the NYWD first was formed many decades ago for irrigation purposes only. This year we had already paid for the first month of irrigation and had already prepared to begin receiving our water when, with only 1 week of warning, the rug was pulled from underneath our feet and we were told that there would be no water delivery. How can they destroy and cause so much hardship to peoples' lives - people who have lived here for decades - by their own greed, selfishness, and incompetence?

Our household well water is not capable of irrigating all of our gardens. I have to stay up late and get up during the night to water different plants or trees for short periods of time and it's hard on my health. In 1997 our newly-built home, our mobile home, and all our land and possessions were burnt in a forest fire here in Dobbins. Since then we had formed a green belt around our home and gardens with the gravity-flow irrigation water which provided a safety zone from fire for us. Without irrigation delivery we have no green zone for safety, our pond is drying up, our landscaping and gardens struggle to stay alive, and we have to decide which fruit trees and plants have to die.

My husband now has dementia and so all responsibility falls on my shoulders now and I am crying because of this decision made by the water district. This lowers the property value of all of our properties.

My daughter, Stephanie Krizman who lives in Park City, Utah ((435) 640-5848), called the manager of South Feather Water District who told her that they were willing to provide this district more water to help us receive irrigation water. The water is available!

Why is this general manager, Jeff Maupin, an outsider, against providing irrigation water to the people of this area, many who have been customers for decades?

Sincerely,

Margaret and Wayne Kangas

Sent from my iPhone

*Gideon Beinstock
9269 Collin House Dr
Oregon House, CA 95962*

To whom it may concern,

This is my attempt to document the impact that NYWD's decisions and actions had on my finances and operations over the past 10 years.

My wife and I own and operate a small vineyard and winery in Oregon House, CA. We farm 6 acres of grapes - 3 on our own land and 3 on my neighbor Israel Perla's land, and produce 700-1000 cases of wine a year.

In 2011, we planted about 4000 vines on Mr Perla's property. We installed a drip irrigation system, to be supplied by the District water, to which this property is entitled.

Note: In California, young vines need frequent irrigation to survive and thrive (every 1-2 days in their first year, 2-3 days in the 2nd year, 3-5 days in the 3rd year and so forth).

In 2012, NYWD shut off the irrigation water supply shortly after the State declared a drought year. This was done with little or no advance warning and gave us no time to establish some type of backup water supply. It resulted in the loss of about 80% of the vines we planted the previous year (estimated at least \$20,000 in vine cost and labor).

In 2013, we connected the new vineyard's irrigation system to our own wells, in order to create a backup safety net to prevent such occurrences from ever happening again (cost: ~\$800-1,000 in materials and labor). Our limited resources prevented us from re-planting the whole 3 acre in one step so, instead, we resorted to re-planting small sections as our resources allowed every year. The re-planting project of the whole vineyard was only completed in 2020. It is hard to estimate the total monetary loss caused by this extended delay to our production schedule. It forced us to buy grapes every year since

to make up for the loss of our own production. In view of my own age (66), the mere loss of time may be equally, or potentially even more significant.

Through the years, NYWD's water supply has been erratic, unpredictable, and unreliable. A few years, water supply fizzled out some time during the season, at which point we would use our well backup option. That, of course, costs us in increased utility bills and strain on our well, which are not very strong. I have not captured these figures, but it would be in the hundreds of dollars per each such occurrence.

In 2018, NYWD decided to not deliver any irrigation water to its customers. I would estimate the cost of pumping irrigation water that year alone to be \$1,000-2,000.

In 2019 and 2020, NYWD declared that there was not enough water in the ditch to keep the pipe that serves our neighborhood (a privately owned 4" pipe that delivers water to 10-20 properties) fully supplied. That meant that throughout these two seasons, we frequently had to use our backup well connection, at our own cost. (I would estimate the cost to have been in the hundreds of dollars).

The overall figures here may be relatively small, but so is our business. On our scale, these monetary and time losses, and increased operation costs are very significant.

I have been to a number of NYWD's board meetings and did voice my grievances and concerns. I have had communications with the General Manager, and individual Directors, with no apparent result.

gideon@clossaron.com, (530) 635 3244.

April 20, 2021

To Whom It May Concern

I know that this letter is supposed to reflect losses for the year 2018 and the projected losses for 2021 but frankly any year I don't get a full season is devastating for my 143 acre ranch operation. I bought this property in November of 2011. One of the reasons I bought it was due to it having six miners inches of gravity flow irrigation water. With the land gently falling away from the irrigation box it is well set up to irrigate a very large portion of the ranch without needing electricity or fossil fuels to run pumps.

This land is unique in that it has the only "class one soil" in the entire Yuba County Foothills, according to the National Resources Conservation Service, and that amazing top soil is up to 81" deep in my meadow.

This property had operated as a successful cattle ranch by its previous owners since the early 1950s. However in the ten years I've owned the property I think there has been only two full seasons of irrigation water. Prior to my time here and under very different management I know of only one or two years out of more than twenty three plus years due to severe drought that this district didn't get a full season.

Under Manager Maupin my losses have been horrendous and continue to accumulate at an accelerating rate. As I list the various losses keep in mind that it's not just monetary but it has also caused a wide range of emotional damage as well, including heartbreak, broken dreams, stress, frustration, fear, pain, anger and constant worry. One of the first losses was finding a \$700 dollar registered ewe who died because she crawled into a pond that she normally drank from but was now a sea of mud. She became entrapped in the mud and died there because the irrigation water that normally kept it full and would have allowed her to simply walk safely to its edge to get a drink had been turned off. This ewe was the product of flying frozen fertilized eggs out of Australia to be used in recipient ewes here in the USA. I purchased her at a purebred Dorper auction specifically to bring those Australian superior meat quality genetics to my flock.

Next I began seeing massive losses of sheep to predators. These predators, Coyotes, Mountain Lions and Bears were congregating around my Livestock watering tanks because they had no where else to drink and were then easily picking off my sheep as they came for in water. In one season I lost twenty lambs and four good adult ewes. That winter I imported two livestock guardian dog puppies. Which worked well because I only lost one young lamb the entire next year but those dogs were not cheap. One was \$1000 the other was \$1500. They were each \$500 to ship and I average spending about \$130 per month for food, flea and tick control and heart worm medication. Also a \$350 vet bill for fox tails in one of the dogs paws.

Next I lost 22 huge beautiful mature ponderosa pine trees that both ringed my pond and were growing alongside the irrigation ditch. Now how does one put a price on that beauty? These trees have been dependent on season after season of water flowing in those ditches for many, many years. So when the water is suddenly cut off the shock was just too much. It cost me \$1000 to bring in a logger and drop those 22 trees but the loss of those magnificent trees, some of who's trunks were four feet across just can't be

measured. The general mess is still there to remind me of that loss and it's been painfully slow to get it cleaned up since we are older and it's heavy work.

In 2019 two more trees came down. These were beautiful graceful old oaks. As if losing these beautiful trees and their valuable shade weren't enough unfortunately one of them fell on a 20x40 foot outbuilding. Luckily my insurance paid out \$27,000 for its loss but I have not been able to rebuild that structure for that amount which is where I normally store my hay. This brings me to the greatest "expense" of all due to not having irrigation. Each year I don't get a full season of irrigation I have to spend between \$7000-\$8000 on a semi truck and trailer load of hay.

On this ranch with its huge meadow of class one soil I should not need to feed hay more than 45-60 days in the middle of winter but without irrigation I'm feeding hay more than five months of the year!!!! This has been the case eight years out of the ten years I've owned this place!!!

Then last year for the first time we had to evacuate due to fire. If we'd had water we would have stayed and fought it. Instead I loaded up the two guardian dogs, six cats, and three horses. It took us and the sheriff posse volunteers most of the night to get the horses loaded and to safety. I left my 100 head of sheep to fend for themselves which is one of the hardest things I've ever done. After that nightmare I decided not to bring the horses back home until after fire season had ended. That expense was \$300 per horse per month for three months, totaling \$2,700 plus I donated \$200 to the sheriff posse for their help with hauling the animals.

But wait there's one more cherry on the cake. On October first of last year my insurance company had finally had enough of Dobbins/ Oregon House water woes and canceled my insurance policy for the ranch even though

I live immediately across the street from the Cal Fire Station. I have not been able to find any insurance I can afford since. Neighbors are paying over \$10,000 per year for the type of ranch coverage I'd need, one good neighbor who lives right on the irrigation ditch is selling out because her insurance has jumped to \$13,000 a year. It completely unnerves me but I simply can't afford the fire insurance. This water district has taken all my dreams.

Karolyn McCall
9875 Marysville Road
Dobbins, California, 95935
530-277-1611