



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898



MAY 07 2010

MP-460
WTR-4.10

Ms. Victoria Whitney
Chief, Division of Water Rights
Attention: Ms. Kate Gaffney
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

Subject: Petition for Temporary Urgency Change; Extension of Spring Rediversion Season,
Constant Head Orifice (CHO) Tehama-Colusa (TC) Canal, Stony Creek – Central
Valley Project (CVP)

Dear Ms. Whitney:

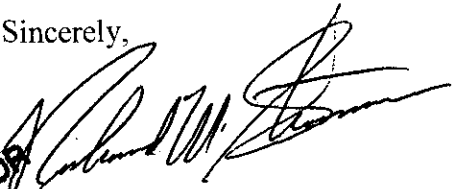
Enclosed please find the "Petition for Temporary Urgency Change" as requested in your letter of April 28, 2010. This Petition replaces the "Application for a Temporary Urgency Permit" to extend the rediversion season for the CHO submitted by letter dated April 7, 2010. This petition is being filed by the Bureau of Reclamation pursuant to California Water Code Section 1435 et seq. The Tehama-Colusa Canal Authority (TCCA) rediverts CVP water from Stony Creek through the CHO on the TC Canal under Permit 13776 as authorized by State Water Resources Control Board Order dated April 1, 1996, amending Permit 13776 and conditioning that order with a diversion season of April 1 to May 15 and September 15 to October 29, for a maximum of 38,293 acre-feet annually. Rediversions at the CHO are authorized when the gates are up at Red Bluff Diversion Dam, which impacts the TCCA's ability to divert Sacramento River water into the TC Canal at the headworks on the Sacramento River.

Included with this Petition is the environmental documentation revealing the negative impact to fishery resources in Stony Creek during the requested extended rediversion season of May 15 through June 15, 2010.

The enclosed "Petition Supplement" also contains the requested corrected points-of-diversion and rediversion for Red Bluff Diversion Dam and the CHO completed in the current version of NAD 83 per the California Coordinates System.

Comments or questions may be directed to Ms. Louise Lindgard, Water Rights Specialist, at 916-978-5258 or llindgard@usbr.gov.

Sincerely,

ACTING FOR 

Richard J. Woodley
Regional Resources Manager

Enclosure

cc: Mr. Jeff Sutton
General Manager
Tehama-Colusa Canal Authority
P.O. Box 1025
Willows, CA 95988 (w/encl)

California Department of Fish and Game
Attention: Ms. Lauren Dailey
1701 Nimbus Road
Rancho Cordova, CA 95670 (w/encl)

Central Valley Regional Water Quality Control Board (5S)
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114 (w/encl)

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

PETITION FOR TEMPORARY URGENCY CHANGE

(Water Code 1435)

Point of Diversion, Point of Rediversion, _____ Place of Use, _____ Purpose of Use

Application # 18115 Permit # 13776 License # _____ Statement or Other _____

I (we) US Bureau of Reclamation hereby petition for a temporary urgency
(Water Right Holders Name)
change(s) noted above and shown on the accompanying map and described as follows:

Point of Diversion or Rediversion (Give coordinate distances from section corner or California Coordinates, and the 40-acre subdivision in which the present and proposed points lie.)

Present See attached

Proposed - Same -

Place of Use (If irrigation, then state number of acres to be irrigated within each 40-acre tract.)

Present As authorized within the service area of the TC Canal

Proposed - Same -

Purpose of Use

Present As currently permitted

Proposed - Same -

Does the proposed use serve to preserve or enhance wetlands habitat, fish and wildlife resources, or recreation in or on the water (See WC 1707)? No (yes/no)

The temporary urgency change(s) is to be effective from 05/15/2010 to 06/15/2010
(Cannot exceed 180 days)

Will this temporary urgency change be made without injury to any lawful user of water? Yes (yes/no)

Will this temporary urgency change be made without unreasonable effect upon fish, wildlife, and other instream beneficial uses? Yes (yes/no)

State the "Urgent Need" (Water Code 1435(c)) that is the basis of this temporary urgency change petition (attach additional information as necessary):

See attached

If the point of diversion or rediversion is being changed, is any person(s) taking water from the stream between the old point of diversion or rediversion and the proposed point?

N/A (yes/no)

Are there any persons taking water from the stream between the old point of return flow and the new point of return flow? N/A (yes/no)

If yes, give name and address, as well as any other person(s) known to you who may be affected by the proposed change.

I (we) consulted the California Department of Fish and Game concerning this proposed temporary change. yes (yes/no)

If yes, state the name and phone number of the person contacted and the opinion concerning the potential effects of your proposed temporary urgency change on fish and wildlife and state the measures required for mitigation.

Lauren Dailey 916-358-2909, March 2010

THIS TEMPORARY URGENCY CHANGE DOES NOT INVOLVE AN INCREASE IN THE AMOUNT OF THE APPROPRIATION OR SEASON OF USE. THIS TEMPORARY URGENCY CHANGE IS REQUESTED FOR A PERIOD OF ONE HUNDRED EIGHTY DAYS OR LESS.

I (we) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief.

Dated May 7, 2010 at SACRAMENTO, California

[Signature] (916) 978-5264
Signature(s) Telephone No.

2800 COTTAGE WAY SACRAMENTO, CA 95825
(Address)

NOTE: All petitions must be accompanied by the filing fee, (see fee schedule at www.waterrights.ca.gov) made payable to the State Water Resources Control Board and an \$850 fee made payable to the Department of Fish and Game must accompany this petition. Separate petitions are required for each water right.

SUPPLEMENT TO PETITION FOR TEMPORARY URGENCY CHANGE UNDER CALIFORNIA WATER CODE 1435, ET SEQ, FOR EXTENSION OF SEASON OF REDIVERSION

APPLICATION 18115, PERMIT 13776

Description of the Proposed Petition for Temporary Urgency Change

Water Right Holder

United States Bureau of Reclamation (Reclamation)

Point of Contact Ms. Louise Lindgard
Bureau of Reclamation
Division of Resources Management
Water Rights and Acreage Limitation Branch, MP-460
2800 Cottage Way
Sacramento, CA 95825

Phone (916) 978-5258
Email: llindgard@mp.usbr.gov

Operator of the Tehama-Colusa Canal (TC Canal) and Constant Head Orifice (CHO)

Tehama-Colusa Canal Authority (TCCA),

Point of Contact: Mr. Jeff Sutton
General Manager
Tehama-Colusa Canal Authority
P.O. Box 1025
Willows, CA 95988

Phone (530) 934-2125
Email: jsutton@tccanal.com

POINT OF DIVERSION AND REDIVERSION

Point of Diversion is at Black Butte Dam within the SE¼ of SW¼, S29, T23N, R4W, MDB&M, California Coordinate System, Zone 1, N 1815676 and E 6467759 and Point of Rediversion is at the Stony Creek Sapon to the Tehama-Colusa Canal within the SW¼ of NW¼, S13, T22N, R3W, MDB&M, California Coordinate System, Zone 2, N 2403889.116 and E 6517859.596.

There are no proposed changes to the Point of Diversion or Rediversion.

URGENT NEED: The TCCA is facing the possibility that due to operations at Red Bluff Diversion Dam (RBDD), the TCCA will not be able to divert an adequate supply of Sacramento River water into the TC Canal for delivery to CVP contractors within the TCCA's service area.

The RBDD has generally been operated with the gates in, allowing gravity water diversions of up to 2,200 cfs into the TC Canal annually between May 15 and September 14. As a result of the new Biological Opinion issued by the National Marine Fisheries Service (NMFS) dated June 4, 2009, on CVP operations, including RBDD, the gates cannot be lowered until June 15. A temporary pumping plant has been installed at Red Bluff to help meet irrigation water demand prior to June until a permanent pumping plant is constructed to replace the function of the RBDD. Some of the temporary pumps and screens do not meet state and federal hydraulic criteria established to protect fish, and California Department of Fish and Game representatives prefer that the CHO be operated to divert water into the TC Canal in lieu of the poorest performing temporary plant screens. Also, the combined capacity of the temporary pumping plant, existing Research Pumping Plant, and submerged pumps in the right bank fish ladder may not be sufficient to meet demand prior to June 15 when the RBDD gates can be lowered, or mechanical problems could create an emergency shortage. Thus, there is an urgent need to have the ability to supplement existing and available means to divert water into the TC Canal after May 15 and until June 15 to avoid potential tree and vine crop damage or destruction due to insufficient water availability.

The amount of water made available to the TCCA as a result of an extended spring season of rediversion will not exceed the current authorized limit of 38,293 acre-feet. In the absence of the proposed action, the water would remain in storage until rediverted for other authorized uses. Therefore, the water would otherwise be removed from use in the downstream water supply as a result of rediversion to storage under Permit 13776. Since the extension of the season of diversion will not result in any more water being diverted into the CHO than the amount analyzed under the above-mentioned Biological Opinion, approval of this action should have no effect upon fish, wildlife, or other in stream beneficial uses. In the absence of the proposed action, the water would have been authorized for use in the authorized place of use including the service area of the TCCA. Therefore, approval of the proposed action would have no adverse effect upon stream flow. In addition, approval of this application would result in the additional 10 cfs of bypass flows being made available for an additional 30 days during the extended rediversion season.

The water proposed for delivery is currently in storage in Black Butte Reservoir pursuant to provisions of Permit 13776 and a biological opinion issued by NMFS, March 11, 2002, (Effects of Lower Stony Creek Water Management on Winter-run Chinook Salmon, Spring-run Chinook Salmon, Fall/Late Fall-run Chinook Salmon and Steelhead).

California Environmental Protection Agency

State Water Resources Control Board

DIVISION OF WATER RIGHTS

P.O. Box 2000, Sacramento, CA 95812-2000

Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

ENVIRONMENTAL INFORMATION FOR PETITIONS

Petition for Change

Petition for Extension of Time

Before the State Water Resources Control Board (SWRCB) can approve a petition to change your water right permit or a petition for extension of time to complete use, the SWRCB must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared, a determination must be made of who is responsible for its preparation. As the petitioner, you are responsible for all costs associated with the environmental evaluation and preparation of the required CEQA documents. Please answer the following questions to the best of your ability and submit any studies that have been conducted regarding the environmental evaluation of your project. If you need more space to completely answer the questions, please number and attach additional sheets.

1. DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE COMPLETED

For a petition to change, provide a description of the proposed changes to your project including, but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated, increase in water diversion and use (up to the amount authorized by the permit), changes in land use, and project operational changes, including changes in how the water will be used. For a petition for extension of time, provide a description of what work has been completed and what remains to be done. Include in your description any of the above elements that will occur during the requested extension period.

Horizontal lines for providing a description of proposed changes or work remaining to be completed.

See Attachment No. 1

ENVIRONMENTAL INFORMATION FOR PETITIONS

2. COUNTY PERMITS

a. Contact your county planning or public works department and provide the following information:

Person contacted: N/A Date of contact: _____

Department: _____ Telephone: (____) _____

County Zoning Designation: _____

Are any county permits required for your project? YES NO If YES, check appropriate box below:

- Grading permit Use permit Watercourse Obstruction permit Change of zoning
 General plan change Other (explain): _____

b. Have you obtained any of the required permits described above? YES NO

If YES, provide a complete copy of each permit obtained.

See Attachment No. _____

3. STATE/FEDERAL PERMITS AND REQUIREMENTS

a. Check any additional state or federal permits required for your project:

- Federal Energy Regulatory Commission U.S. Forest Service Bureau of Land Management
 Soil Conservation Service Dept. of Water Resources (Div. of Safety of Dams) Reclamation Board
 Coastal Commission State Lands Commission Other (specify) _____

b. For each agency from which a permit is required, provide the following information:

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.

See Attachment No. 2

c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed or bank of any stream or lake? YES NO

If YES, explain: _____

See Attachment No. _____

ENVIRONMENTAL INFORMATION FOR PETITIONS

- d. Have you contacted the California Department of Fish and Game concerning your project? YES NO
If YES, name and telephone number of contact: MIKE BERRY (530) 225-2131

4. ENVIRONMENTAL DOCUMENTS

- a. Has any California public agency prepared an environmental document for your project? YES NO
If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency. Public agency: N/A
- b. If NO, check the appropriate box and explain below, if necessary:
- The petitioner is a California public agency and will be preparing the environmental document.*
 - I expect that the SWRCB will be preparing the environmental document.**
 - I expect that a California public agency other than the State Water Resources Control Board will be preparing the environmental document.* Public agency: _____

See Attachment No. 3

* Note: When completed, submit a copy of the final environmental document (including notice of determination) or notice of exemption to the SWRCB, Division of Water Rights. Processing of your petition cannot proceed until these documents are submitted.

** Note: CEQA requires that the SWRCB, as Lead Agency, prepare the environmental document. The information contained in the environmental document must be developed by the petitioner and at the petitioner's expense under the direction of the SWRCB, Division of Water Rights.

5. WASTE/WASTEWATER

- a. Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?
 YES NO
If YES, or you are unsure of your answer, explain below and contact your local Regional Water Quality Control Board for the following information (See instruction booklet for address and telephone no.):

See Attachment No. _____

- b. Will a waste discharge permit be required for your project? YES NO
Person contacted: _____ Date of contact: _____
- c. What method of treatment and disposal will be used? _____

See Attachment No. _____

6. ARCHEOLOGY

- a. Have any archeological reports been prepared on this project? YES NO
- b. Will you be preparing an archeological report to satisfy another public agency? YES NO
- c. Do you know of any archeological or historic sites located within the general project area? YES NO

ENVIRONMENTAL INFORMATION FOR PETITIONS

If YES, explain: _____

See Attachment No. 4

7. ENVIRONMENTAL SETTING

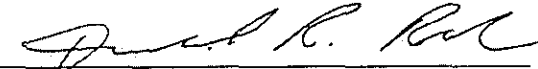
Attach three complete sets of color photographs, clearly dated and labeled, showing the vegetation that exists at the below-listed three locations. For time extension petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

- Along the stream channel immediately downstream from the proposed point(s) of diversion.
- Along the stream channel immediately upstream from the proposed point(s) of diversion.
- At the place(s) where the water is to be used.

8. CERTIFICATION

I hereby certify that the statements I have furnished above and in the attachments are complete to the best of my ability and that the facts, statements, and information presented are true and correct to the best of my knowledge.

Date: 5-3-10

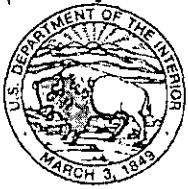
Signature: 

Attachment 1

The proposed changes are an extension of the diversion period to divert water from Stony Creek into the Tehama-Colusa Canal via the existing constant head orifice from May 15 through June 15. No additional construction activities are required, and no additional water volumes will be diverted. The diverted water will be Central Valley Project water, and used for irrigated agriculture consistent with existing water service contracts.

Attachment 2

Reclamation received a June 20, 2008, Biological Opinion from NOAA Fisheries addressing lower Stony Creek water operations. The Opinion concluded these operations were not likely to jeopardize listed fish species, nor destroy or adversely modify their designated critical habitat. Reclamation has discussed the proposed extension of diversion period with NOAA Fisheries staff (Mike Tucker (916) 930-3604), as well as with the U.S. Fish and Wildlife Service and the California Department of Fish and Game. As a result of these discussions, Reclamation determined that the extension of the diversion period would have no affect on fish species listed under the Endangered Species Act (ESA), nor on other native fishes. A letter was sent (copy follows) to NOAA Fisheries documenting these deliberations. Therefore, no additional ESA documentation or permits are required.



United States Department of the Interior

BUREAU OF RECLAMATION

Northern California Area Office
16349 Shasta Dam Boulevard
Shasta Lake, California 96109-8400

IN REPLY REFER TO

APR 21 2010

NC-300
ENV-6.00

Ms. Maria Rea
Office Supervisor
Sacramento Area Office
National Marine Fisheries Service
650 Capitol Mall, Suite 8-300
Sacramento, CA 95814

Subject: Expected 2010 and 2011 Constant Head Orifice Operations in Lower Stony Creek – Reference 2007/08985

Dear Ms. Rea:

The Bureau of Reclamation and the U.S. Army Corps of Engineers (USACE) previously requested Endangered Species Act (ESA) Section 7 consultation with the National Marine Fisheries Service (NOAA Fisheries) on water management operations in lower Stony Creek, a tributary to the Sacramento River. Reclamation and the USACE received a June 20, 2009, Biological Opinion (Opinion) concluding that these operations were not likely to jeopardize the continued existence of anadromous fish species listed under the ESA nor destroy or adversely modify their designated critical habitat.

One of the activities addressed in this Opinion was Reclamation's occasional diversion of Central Valley Project (CVP) water stored in Black Butte Reservoir into the Tehama-Colusa Canal (TC Canal) via the Constant Head Orifice (CHO) located at the crossing of Stony Creek and the TC Canal. This activity was previously permitted by the State Water Resources Control Board (SWRCB) between April 1 and May 15 and September 15 to October 29 when the Red Bluff Diversion Dam (RBDD) gates are out and water cannot be delivered to the TC Canal by gravity diversion. Pursuant to the June 4, 2009, NOAA Fisheries Biological Opinion on the continued operation of the CVP, the RBDD gates will not go in until June 15 in 2010 and 2011. Because various fishery resource agencies have expressed their preference to use the CHO to divert water into the TC Canal over use of the temporary pumping plant installed at the RBDD last year, and in order to enhance diversion method flexibility, Reclamation has applied to the SWRCB for a Temporary Urgency Permit to extend the length of the spring diversion season at the CHO until June 15. This application was filed following extensive discussions about CHO diversion activities with the Technical Advisory Group (TAG). The TAG consists of NOAA Fisheries, U.S. Fish and Wildlife Service, California

Subject: Expected 2010 and 2011 Constant Head Orifice

2

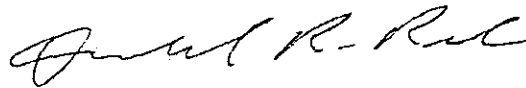
Department of Fish and Game, Department of Water Resources, Reclamation, and Tehama-Colusa Canal Authority representatives that develop recommendations for implementation of the Fish Passage Improvement Project at the RBDD.

Specifically, Reclamation is likely to divert available water from lower Stony Creek into the TC Canal via the CHO during the extended May 15 through June 15 period in 2010 and 2011. Based on extensive sampling and monitoring over the years, and based on TAG discussions, no listed anadromous fish should be present and subject to entrainment into the canal at the CHO location during this extended period. This is due to prohibitively high water temperatures at this time of year, and implementation of flushing flow releases to Stony Creek above the CHO prior to its use for diversion starting in April. In addition, the SWRCB permit requires an increased bypass flow of 40 cubic feet per second below the temporary dam in Stony Creek during use of the CHO for diversion, providing a potential benefit for fish that may be between the CHO and the confluence with the Sacramento River.

Reclamation has determined that the May 15 through June 15 extended diversion season at the CHO will have no effect on anadromous fish species listed under the ESA.

If you have any questions regarding this activity, please contact Mr. Richard Corwin, Fish Biologist, at 530-528-0512 or rcorwin@usbr.gov.

Sincerely



Donald R. Reck, Chief
Environmental and Natural Resources
Division

cc: Mr. Jeff Sutton
General Manager
Tehama-Colusa Canal Authority
P.O. Box 1025
Willows, CA 95988

Attachment 3

No additional construction activities, no additional diverted water quantities, and no additional effects to listed or native fish will occur as a result of the proposed extension of the diversion period.

Attachment 4

Reclamation has completed the National Environmental Policy Act (NEPA) documentation for operation of the constant head orifice to divert water from Stony Creek into the Tehama-Colusa Canal. As part of this analysis, Reclamation's Regional Archeologists have reviewed this project and there are no outstanding issues. The proposed additional diversion period poses no additional potential effects to any archeological resources.