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August 3, 2017

**BY HAND DELIVERY  
IMMEDIATE ACTION REQUIRED**

Eric Oppenheimer, Chief, Division of Water Rights  
SWRCB  
Division of Water Rights  
Records Unit  
1001 I Street, 2nd Floor  
Sacramento, California

Re: Application for a Temporary Permit to divert as a Nonconsumptive user, water available beyond the existing license (12885) for Kings River Conservation District

Dear: Eric Oppenheimer:

The Kings River Conservation District (KRC D) owns and operates the Pine Flat Power Plant (Project) located at Pine Flat Dam, which is owned and operated by the United States Army Corp of Engineers (USACE). The KRC D Project was developed under the Federal Energy Regulatory Commission (FERC Project No. 2741).

This Project operates under an existing License for Diversion and Use of Water, Application 25169, Permit 17687, and License 12885.

The current water year (2016-17) has been one of the greatest for the Kings River watershed and is currently ranked as the third wettest in recorded history based on a pre-project natural flow of 4.123 million acre feet. To ensure that the continual release from Pine Flat Reservoir is put to beneficial use to the fullest extent which we are capable, the KRC D hereby submits the attached application for a Temporary Permit to divert back to the point of diversion as a nonconsumptive user, 400,000 acre-feet (AF) of water in excess of its current license which calls out 2,732,000 AF of water. The cubic feet per second (CFS) rate will not exceed the existing license rate of 7,900 CFS on a 14 day average. The current projections indicate that KRC D will be at the maximum the current license allows on or about August 29, 2017 (Attachment 2).

This diversion under the Temporary Permit meet the urgent need requirement of Section 1425 of the Water Code because they would further the State's constitutional policy of putting water resources to beneficial use to the fullest extent possible and of preventing waste of water. Under License 12885, the KRC D may divert up to 2,732,000 AF of water per calendar year for the purposes of hydroelectric generation. To remain within the existing license, the KRC D would need to bypass approximately 400,000 AF of water and shutdown the hydroelectric power facility on approximately August 29, 2017. But if the temporary permit is granted, that water can be used to provide low-cost electrical energy without generating greenhouse emissions.

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The Project operates on a run-of-river basis, based on water release for irrigation as directed by the Kings River Water Association (KRWA) or under the flood control requirements as directed by the USACE. This Project under contract with the California Department of Water Resources (DWR) provides very affordable energy to the State Water Project. Without this project, the DWR must procure their electrical demand needs on the power market. If the Temporary Permit is granted and KRCD is allowed to beneficially use the additional forecasted water release, it will allow KRCD to generate up to 75,000 megawatt hours of electrical energy between the August and December 2017 timeframe.

The Temporary Permit Application seeks only direct diversions, not storage, and the water will be used entirely for nonconsumptive power generation. Thus, the entire volume of water that is run through the power plant will be available for the downstream water license right holders use.

The KRCD's diversion and beneficial use of the Pine Flat Reservoir source water under the Temporary Permit will not have an unreasonable effect upon the public trust resources of the Kings River. All of the KRCD FERC imposed license requirement will be in affect at all times. This also includes minimum fishery flows.

KRCD's request for this Temporary Permit, places the requested water to fullest beneficial use possible during the requested timeframe. This request requires no additional construction, will not injure the existing water right holders, and will not adversely affect instream or riparian uses. If the application is granted, it will allow KRCD to generate up to 75,000 megawatt hours of electricity, limiting the need of a conventional facility and reduce the amount of greenhouse gas emissions generated.

As noted above, the Temporary Permit is limited to the August and December 2017 timeframe. Due to the short window, time is of the essence. KRCD respectfully requests that the SWRCB to take prompt action on the application to allow the hydroelectric facility to continue to operate and provide affordable energy as the state continues to deal with very high ambient temperatures and resulting higher electrical loads. KRCD also requests, that if the Board is unable to process this request by the time that excess water is available or if there are additional requirements that involve a lengthy review that KRCD be allowed to terminate the application and be refunded the associated fees minus the required administrative fee.

KRCD greatly appreciates your immediate attention to this matter. Please feel free to contact me at (559) 237-5567 ext. 111 or at dmerritt@krcd.org, if you have any questions or require additional information.

Sincerely,



David M. Merritt  
Deputy General Manager;  
Power, Flood & Environmental Resources

DM/dmr

Attachments: As stated

Cc: Paul Peschel, KRCD GM  
Joseph Hughes, KRCD General Counsel  
Steve Haugen, KRWA Water Master  
Julie Vance, Director, Central Region, CDFW

Ghassan Alqaser, CDWR  
David Duvall, CDWR  
Ravi Sharma, CDWR  
Bill Forsythe, CDWR  
Matthew McCarthy, Division of Water Rights  
Mitchell Moody, Division of Water Rights

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