

JULY 2025



**History of Water Rights –  
A013225 (Permit 11043), A032263C,  
A032263D, and A032263E**

Held by Monterey County Water Resources Agency

Prepared for the Salinas Valley Basin  
Groundwater Sustainability Agency

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## Attachments

- Attachment 1: SWRCB Order 76-12
- Attachment 2: SWRCB Order 82-13
- Attachment 3: 2013 Settlement Agreement
- Attachment 4: SWRCB Order 2013-0030-EXEC
- Attachment 5: Permit 11043 (Amended)

## Introduction

This report supports the first phase of a multi-phase study by the Salinas Valley Basin Groundwater Sustainability Agency (GSA) to support Sustainable Groundwater Management Act implementation pursuant to State of California Department of Water Resources (DWR) grant funding. The GSA is evaluating the Castroville and Eastside Canals and Alternatives to identify potential projects to halt the advancement of seawater intrusion and raise groundwater levels.

## Purpose

The purpose of this report is to summarize water right Applications 13225 (Permit 11043), 32263C, 32263D, and 32263E and relevant history based on a review of the State Water Resources Control Board's (SWRCB) files obtained from the Division of Water Rights (Division) in May of 2025. Understanding the water rights and associated history will inform whether any of the rights may be aligned and usable for implementing the potential projects the GSA is evaluating.

## A013225 (Permit 11043)

### Initial Application to Permit Issuance (1949-1957)

The Division of Water Resources of the Department of Public Works, predecessor to DWR, published Bulletin No. 52 in 1946, which was focused on groundwater in the Salinas Valley and preventing seawater intrusion. Based on the recommendations provided in Bulletin No. 52, the Monterey County Flood Control and Water Conservation District, the predecessor to the Monterey County Water Resources Agency (MCWRA)<sup>1</sup>, submitted an application with the SWRCB on June 13, 1949, for the year-round direct diversion of 400 cubic feet per second (cfs) from the Salinas River for municipal and irrigation purposes. On June 24, 1949, the SWRCB returned this application on the basis that (1) separate applications were needed for municipal and irrigation uses and (2) the approximate location of the proposed point of diversion must be identified. In response, MCWRA submitted two updated applications, each for the year-round direct diversion of 400 cfs from the Salinas River, which were received and accepted by the SWRCB on July 11, 1949, the date of priority for these applications, and given application numbers 13225 (municipal) and 13226 (irrigation). MCWRA was given a year to complete the applications and further define the projects pursuant to these applications; however, MCWRA filed multiple Petitions for Extension of Time.

Around the same time that Applications 13225 and 13226 were submitted, MCWRA submitted applications for storage on the Salinas River<sup>2</sup> and Nacimiento River. For all three of these projects, MCWRA worked closely with the U.S. Army Corps of Engineers (USACE) for planning and design. The storage project on the Nacimiento River (Nacimiento Reservoir), was the first project to be designed and constructed. MCWRA submitted multiple Petitions for Extension of Time to complete Applications 13225 and 13226 on the basis that simultaneous

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<sup>1</sup> Throughout this document, "MCWRA" is used to refer to both Monterey County Water Resources Agency and its predecessor, Monterey County Flood Control and Water Conservation District.

<sup>2</sup> The proposed project for storage on the Salinas River was never built and any application pursuant to this project was cancelled or revoked.

efforts with Nacimiento Reservoir planning was not feasible and water supply studies may need to be conducted after the completion of Nacimiento Reservoir to design a project pursuant to Applications 13225 and 13226 that would be considerate of the water supply needs in the basin.

Within the amended applications received by the SWRCB on December 21, 1954, MCWRA defined a project which would divert surface water into the proposed East Side Canal for municipal and irrigation use during the irrigation season and municipal use and replenishment of the underground supply (now referred to as groundwater recharge) outside of the irrigation season. It was stated that water replenished into the groundwater basin would be extracted at a later time for municipal, irrigation, and domestic purposes<sup>3</sup>. The SWRCB informed MCWRA that more information would be needed in the applications if the project was partially for underground storage (groundwater recharge). Due to the complexity of including underground storage at the time, MCWRA decided to remove underground storage from the applications, which was reflected on the amended applications submitted on December 21, 1954. Since underground storage was not being pursued, domestic was not included as a purpose of use in the amended applications. Pursuant to these amended applications, Permit 11043 (A013225) and Permit 11044 (A013226) were issued on November 20, 1957.

When Permits 11043 and 11044 (A013225 and A013226, respectively) were issued, the proposed East Side Canal Project involved the construction of a sump near the Salinas River into which surface water would flow by gravity when available. From the sump, the water would be pumped into a 40 mile long high line canal with a capacity of 250 cfs and flow down the east side of the Salinas Valley for direct use for irrigation purposes on approximately 86,500 acres. The proposed project also involved the construction and operation of a well field adjacent to Salinas River to supply water to the East Side Canal when water could not be diverted from the river. It was stated in a letter from the SWRCB to MCWRA that the pumping of groundwater from the well field would not be pursuant to Permits 11043 and 11044 (A013225 and A013226, respectively) but instead the right to such pumping would be claimed as an appropriation of percolating underground water, outside of the jurisdiction of the SWRCB.

The dates of the Orders approving the Petitions for Extension of Time to complete Applications 13225 and 13226 along with the significant dates related to application amendments and permit issuance are listed below.

<b>Date</b>	<b>Action</b>
July 22, 1949	Order extending time to complete Application 13225 & 13226 to 7/11/1950
August 30, 1950	Order extending time to complete Application 13225 & 13226 to 7/11/1951
July 12, 1951	Order extending time to complete Application 13225 & 13226 to 1/1/1952
January 16, 1952	Order extending time to complete Application 13225 & 13226 to 1/1/1953
January 21, 1953	Order extending time to complete Application 13225 & 13226 to 1/1/1954
December 30, 1953	Order extending time to complete Application 13225 & 13226 to 1/1/1955
December 21, 1954	Amended applications received
July 8, 1955	Order extending time to complete Application 13225 & 13226 to 7/1/1956

<sup>3</sup> The intent was that individuals with private groundwater wells could pump the water for domestic use on their properties.

May 28, 1956	Amended applications received
November 23, 1956	Affidavit of publication received
November 20, 1957	Permit 11043 and Permit 11044 issued

### Permit Issuance to SWRCB Order 76-12 (1958-1976)

Following the issuance of Permits 11043 and 11044 (A013225 and A013226, respectively), MCWRA submitted a Petition for Change to add a point of diversion to the permits, which was approved with a SWRCB Order dated October 11, 1962. The added point of diversion, referred to as the Castroville Canal Intake, was a component of a proposed project to provide water to the Castroville area. The proposed Castroville Irrigation Project, at the time, involved the construction of a removable five-foot high weir diversion structure in the Salinas River, about four miles upstream of the town of Spreckels<sup>4</sup>. The design capacity of the proposed system would be 62 cfs.

While these efforts related to Applications 13225 and 13226 were ongoing, MCWRA submitted an application for storage on the San Antonio River in 1955 (San Antonio Reservoir). Within the terms of Permits 11043 and 11044 (A013225 and A013226, respectively), it was stated that MCWRA was to begin construction on or before July 1, 1960, complete construction work on or before July 1, 1962, and complete application of water on or before July 1, 1967. However, MCWRA subsequently submitted three Petitions for Extension of Time on the basis that simultaneous efforts with San Antonio Reservoir planning made the current schedule not feasible and water supply studies would need to be conducted after the completion of San Antonio Reservoir to determine the amount of previously stored water from Nacimiento Reservoir and San Antonio Reservoir that would be available for rediversion downstream pursuant to Permits 11043 and 11044 (A013225 and A013226, respectively). The SWRCB clarified that the rediversion of water stored at Nacimiento Dam or at San Antonio Dam is not covered by Permits 11043 and 11044 (A013225 and A013226, respectively) unless these waters are considered abandoned<sup>5</sup> in the channels below the dams. The SWRCB also stated that this rediversion is also not covered under the water rights for Nacimiento Reservoir or San Antonio Reservoir as neither of these water rights name the proposed facilities as points of rediversion. The SWRCB recommended that MCWRA submit petitions to add points of rediversion under the water rights

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<sup>4</sup> The project design included a 2,500 foot long earth diversion channel leading into an open rectangular concrete sump and pump structure which would have a protective headwall, slide gate and trash rack at its entrance. From this main pumping station, about 16.2 miles of underground cast-in-place concrete pipeline varying in size from 30 inches to 66 inches would extend along an alignment adjacent to existing field and county roads and drainage ditches to the service area.

<sup>5</sup> Due to rediversion at the Salinas River Diversion Facility (SRDF) and minimum fish flow requirements pursuant to the water rights for Nacimiento Reservoir and San Antonio Reservoir, we would not anticipate any previously stored water (withdrawals) being abandoned during the typical summer withdrawal period (i.e. withdrawals would not be available for diversion under Permit 11043). However, at times, mainly outside of the typical summer withdrawal period, withdrawal only for flood control purposes can occur and this flow would be abandoned and thus available for diversion downstream, including under Permit 11043. Flood control is not a beneficial use of water pursuant to a water right. Withdrawal for flood control typically occurs when there is already a high volume of water available in the river and most likely would not provide significant additional supply benefit under Permit 11043.

for Nacimiento Reservoir or San Antonio Reservoir if it is the intent to divert this stored water into the proposed facilities.

After three Orders to extend the time to complete construction and application of water pursuant to Permits 11043 and 11044 (A013225 and A013226, respectively), MCWRA submitted a fourth Petition for Extension of Time on January 24, 1974. A hearing took place on July 8, 1975, to decide whether the Petition for Extension of Time should be approved or if the permits should be revoked. At the time of the hearing, it was recognized that the permits authorized two points of diversion, which represented two different projects: (1) Castroville Irrigation Project through the proposed Castroville Canal Intake, and (2) East Side Canal Project. At the time of the hearing, only the Castroville Irrigation Project was being actively pursued, but MCWRA had not abandoned the East Side Canal Project and hoped to develop it in the future. In the Order subsequent to the hearing, it was recognized that MCWRA had exercised due diligence in its efforts to obtain financing for the Castroville Irrigation Project and indicated that the East Side Canal Project remained a sufficiently viable project to justify an extension of time.

However, DWR found the Castroville area of Monterey County to be a great site for wastewater reclamation and urged that MCWRA more fully examine the possibility of substituting reclaimed wastewater for the proposed water supply for the Castroville Irrigation Project. It was stated in the Order that it was in the public interest to require MCWRA to consider the use of reclaimed wastewater as a supply for the Castroville Irrigation Project.

Therefore, the SWRCB concluded in its September 16, 1976, Order 76-12 that the time to commence construction under Permits 11043 and 11044 (A013225 and A013226, respectively) was extended to December 1, 1979, but that construction would not commence until further order of the SWRCB upon a hearing. Order 76-12 also required MCWRA to adequately consider the use of all practicable alternative water supplies including the use of reclaimed wastewater and make all reasonable effort to coordinate its water supply decisions with local water pollution control agencies. It was also stated that if authorization to commence construction is given, a future SWRCB order will include appropriate standard and special permit terms including terms concerning the time allowed for completion of construction and for application of water to beneficial use.

The dates of the Orders approving the Petition for Change, Petitions for Extension of Time, and significant events related to the hearing held prior to SWRCB Order 76-12 are listed below.

<b>Date</b>	<b>Action</b>
October 11, 1962	Order allowing change in point of diversion (added Castroville Canal Intake)
October 24, 1963	Order extending time to begin construction by 12/1/1963, complete construction by 12/1/1965, and complete application of water by 12/1/1970
April 2, 1964	Order extending time to begin construction by 12/1/1966, complete construction by 12/1/1967, and complete application of water by 12/1/1970
March 22, 1968	Order extending time to begin construction by 12/1/1970, complete construction by 12/1/1972, and complete application of water by 12/1/1973
January 24, 1974	Petition for Extension of Time Received
June 13, 1974	Notice of Petition for Extension of Time

June 11, 1975	Notice of Hearing to be held 7/8/1975
July 8, 1975	Hearing held
September 16, 1976	SWRCB Order 76-12 extending time to begin construction to 12/1/1979

**SWRCB Order 76-12 to SWRCB Order 82-13 (1977-1983)**

During the years following SWRCB Order 76-12, MCWRA worked diligently to investigate reasonable alternative supplies of water. MCWRA cooperated in the investigation of the use of reclaimed wastewater as a source of supply for the Castroville Irrigation Project through membership on a task force conducting the Monterey Wastewater Reclamation Study. MCWRA also began to consider a dam along the Arroyo Seco through a partial assignment (125,000 acre-feet [AF]) of state filed Application 25863<sup>6</sup>. MCWRA adopted a plan for the Arroyo Seco Dam Project which would include the Castroville Irrigation Project and East Side Canal Project as integral parts. While MCWRA made efforts towards these projects, MCWRA could not meet the schedule defined in Order 76-12 and the SWRCB issued a Notice of Proposed Revocation on July 14, 1981. In response, MCWRA submitted a fifth Petition for Extension of Time on August 17, 1981, and requested a hearing on the proposed revocation. A hearing took place on August 11, 1982, and the SWRCB issued Order 82-13 which stated that MCWRA had been diligent in pursuit of the conditions of Order WR 76-12, and it was in the public interest to grant an extension of time. After SWRCB Order 82-13, an amended permit was issued on March 8, 1983. SWRCB Order 82-13 and the subsequent amended permit stated that:

- (1) MCWRA must form an assessment district by January 1, 1984, and file final P.L. 984 loan applications by June 30, 1984 (pursuant to the Arroyo Seco Dam Project).
- (2) Time is extended to begin construction by January 1, 1987, complete construction by December 1, 1988, and complete application of water by December 1, 2008.
- (3) A maximum amount of 168,538 AF can be diverted each year.
- (4) Permit 11043 (A013225) and Permit 11044 (A013226) are to be combined by revoking Permit 11044 (A013226) and adding irrigation to Permit 11043 (A013225).
- (5) MCWRA must prepare and submit a water conservation plan to the SWRCB within a year.

The requirement to form an assessment district and file loan applications was related to the proposed Arroyo Seco Dam Project, which would include the Castroville Irrigation Project and East Side Canal Project. The schedule was also based on the proposed Arroyo Seco Dam Project.

A maximum amount of 168,538 AF was established as a result of an adopted SWRCB policy which requires that all permits, as they come before the SWRCB, be amended to include a total annual diversion and use limitation. It was stated in a letter from the SWRCB to MCWRA that

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<sup>6</sup> State Filed Applications are applications filed by a state agency for the development of water resources based on preliminary predictions of potential future project locations. A major benefit of acquiring a State Filed Application is acquiring the priority date of that filing. Parties may petition the SWRCB for assignment of all or part of a State Filed Application. To petition for assignment of an application, the proposed use of water must be consistent with the State Filed Application (rate of diversion, season of use, place of use, etc.). In addition, a proposed use under a State Filed Application must not be in conflict with a general or coordinated plan or water quality objectives established pursuant to law.

the annual limitation took into account water used for both municipal and irrigation purposes and was based on studies which indicated that the annual use for the combined permitted uses is seven times the amount of water consumed during the month of maximum use. The following equation was provided in the letter:

$400 \text{ cfs} \times 1.98 \text{ af/da/cfs} \times 30.4 \text{ days/mo} \times 7 = 168,538 \text{ afa}$ <p>where:                  cfs = cubic feet per second                  af/da/cfs = acre-feet per day per cubic feet per second                  afa = acre-feet per annum</p>
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Permit 11043 (A013225) and Permit 11044 (A013226) were to be combined by revoking Permit 11044 (A013226) and adding irrigation to Permit 11043 (A013225). This was due to a change in SWRCB policy, which now allows for one water right to include both municipal and irrigation uses.

Shortly after the hearing and prior to the issuance of Order 82-13, MCWRA submitted a Petition for Change on October 5, 1982, to update the locations of the points of diversion authorized pursuant to Permits 11043 and 11044 (A013225 and A013226, respectively) to the locations identified below. It was requested that the East Side Canal Intake move to the location between Spreckels and Spence (where at the time, the Castroville Canal Intake was authorized) and it was requested that the Castroville Canal Intake move to a location further downstream near Blanco Road. This request was based on the proposed Arroyo Seco Dam project.

<b>October 5, 1982, Petition for Change – Point of Diversion (POD) Changes Requested</b>		
<b>Point of Diversion</b>	<b>Authorized Location</b>	<b>Requested Location</b>
Eastside Canal Intake	NW1/4 of SW1/4 of Projected S36, T17S, R6E, MDBM	NE1/4 of SE1/4 of Projected S24, T15S, R3E, MDBM
Castroville Canal Intake	NW1/4 of NE1/4 of Projected Section 23, T15S, R3E	NE1/4 of NE1/4 of Projected S33, T14S, R2E, MDBM

The dates of the significant events related to SWRCB Order 82-13 and the Petition for Change are listed below.

<b>Date</b>	<b>Action</b>
July 14, 1981	Notice of Proposed Revocation
July 21, 1981	Letter from MCWRA requesting hearing
August 17, 1981	Petition for Extension of Time Received
April 7, 1982	Notice of Hearing to be held May 12, 1982
April 29, 1982	Notice of Postponed Hearing
August 11, 1982	Hearing Held
September 27, 1982	SWRCB Staff Recommendation
October 5, 1982	Petition for Change to update locations of listed points of diversion based on Arroyo Seco Dam Project received (no action)
November 18, 1982	SWRCB Order 82-13

	<ol style="list-style-type: none"> <li>(1) Stating that MCWRA must form assessment district by January 1, 1984 and file final P.L. 984 loan applications by June 30, 1984</li> <li>(2) extending time to begin construction by 1/1/1987, complete construction by 12/1/1988, and complete application of water by 12/1/2008</li> <li>(3) Setting maximum amount of 168,538 AF to be diverted in a given year</li> <li>(4) Combining Permit 11043 (A013225) and Permit 11044 (A013226) by revoking Permit 11044 (A013226) and adding irrigation to Permit 11043 (A013225)</li> <li>(5) Stating that MCWRA must prepare and submit a water conservation plan to the SWRCB within a year</li> </ol>
<p>March 8, 1983</p>	<p>Amended Permit Issued</p>

**SWRCB Order 82-13 to Petitions for Change and Extension of Time (1984-1988)**

Following Order 82-13, MCWRA worked diligently with the Monterey Peninsula Water Management District to prepare the Water Conservation Plan required in Permit 11043 (A013225), as amended by Order 82-13. However, the required schedule for preparing the Water Conservation Plan was not feasible and more time was requested and approved for completion of the plan. The final conservation plan was approved on July 8, 1988.

After the issuance of Order 82-13, it became apparent that there was significant local opposition to the Arroyo Seco Dam Project. Therefore, the Petition for Change to update locations of the points of diversion was no longer being pursued and there was no further action on the petition. Without the Arroyo Seco Dam Project, matters were complicated relative to the schedule and requirements defined in Permit 11043 (A013225), as amended by Order 82-13.

The assessment district was going to be formed to finance the Arroyo Seco Dam Project. However, due to the opposition, the formation was put on hold. Instead, an Ad Hoc Committee was formed to evaluate other alternatives to prevent further seawater intrusion. Around the same time, MCWRA entered into a contract with the SWRCB for a grant through the EPA Section 205(j) Water Quality Management Planning Program to conduct a study evaluating alternatives to prevent further seawater intrusion and adopt an action plan. Since MCWRA was no longer in a position to move forward with the Arroyo Seco Dam Project, MCWRA sent a letter requesting the deletion of the term in Permit 11043 (A013225) requiring the formation of an assessment district and the filing of loan applications. In the same letter, MCWRA requested an extension of time pursuant to the term if it could not be deleted. A Notice for Petition of Extension of Time was issued in July of 1984 pursuant to this permit term, but there was no subsequent SWRCB Order on the matter.

The Ad Hoc Committee studied solutions to the seawater intrusion problem and attained agreement among the 11 members for the conceptual design of a project called the “Salinas Valley Seawater Intrusion Project”, eventually shortened to the “Seawater Intrusion Project”. This proposed project would involve a scaled-down surface water irrigation project for the Castroville area and a water supply for Fort Ord and Marina from a proposed dispersed well system to be located in the Salinas Valley.

While MCWRA was in the process of preparing and submitting the Water Conservation Plan, MCWRA filed a Petition for Extension of Time pursuant to the Permit 11043 (A013225) development schedule on December 31, 1986. Within this Petition for Extension of Time, MCWRA petitioned to begin construction work by January 1, 1989.

On December 22, 1988, MCWRA submitted an amendment to the Petition for Extension of Time relative to the development schedule for the Permit. MCWRA amended the Petition to request the following development schedule:

<b>Action</b>	<b>Date to Which an Extension is Sought</b>
Commencement of Construction	December 31, 1994
Completion of Construction	December 31, 1997
Complete Application of Water to Authorized Use	December 31, 2017

On December 22, 1988, MCWRA also submitted a Petition for Change to delete two permit terms and change the location of the Castroville Canal Intake Point of Diversion, as shown below. The terms requested to be deleted were 1) the term requiring the formation of an assessment district and the filing of loan applications and 2) the term stating that the permit will stand revoked and of no further effect if MCWRA failed to meet any of the dates specified (unless MCWRA submitted a Petition for Extension of Time and the SWRCB finds good cause for the extension). The removal or extension of the term requiring the formation of an assessment district and the filing of loan applications had been previously requested but there was no subsequent SWRCB Order on the matter. Similarly, no action was ever taken on these new petitions. Therefore, the terms were never removed and are still in Permit 11043 (A013225).

<b>December 22, 1988, Petition for Change – Point of Diversion (POD) Changes Requested</b>		
<b>Point of Diversion</b>	<b>Authorized Location</b>	<b>Requested Location</b>
Eastside Canal Intake	NW1/4 of SW1/4 of Projected S36, T17S, R6E, MDBM	No Change Requested
Castroville Canal Intake	NW1/4 of NE1/4 of Projected Section 23, T15S, R3E	NE1/4 of NE1/4 of Projected S21, T14S, R2E, MDBM

The dates of the significant events related to this time period are listed below.

<b>Date</b>	<b>Action</b>
November 8, 1983	Letter from MCWRA requesting an extension of time to complete the Water Conservation Plan
December 2, 1983	Letter from MCWRA requesting deletion of the permit term requiring the formation of an assessment district and the filing of loan applications. In the same letter, MCWRA requested an extension of time pursuant to the term if it could not be deleted
December 22, 1983	Letter from SWRCB stating that extensions of time for both the Water Conservation Plan and the permit term requiring the formation of an assessment district and the filing of loan applications would be approved once fees were received
May 18, 1984	Six-month extension granted for the Water Conservation Plan

June 20, 1984	Letter from MCWRA asking why an extension of time was not granted for the permit term requiring the formation of an assessment district and the filing of loan applications
July, 1984	Issuance of Notice of Petition of Extension of Time for the permit term requiring the formation of an assessment district and the filing of loan applications
September 25, 1984	18-month extension granted for the Water Conservation Plan
April 15, 1985	Approval of extension of time to January 31, 1986, for the Water Conservation Plan
January 27, 1986	MCWRA submits Water Conservation Plan
May 12, 1986	Office of Water Conservation (OWC), DWR states that the final Water Conservation Plan meets all requirements
October 10, 1986	Comments regarding Water Conservation Plan received from SWRCB
December 31, 1986	Petition for Extension of Time submitted pursuant to the development schedule defined in the permit
May 15, 1987	Letter from SWRCB reminding MCWRA that the Water Conservation Plan was never approved
July 20, 1987	MCWRA submits amended Water Conservation Plan
July 8, 1988	SWRCB approves Water Conservation Plan
December 22, 1988	Amendment to Petition for Extension of Time submitted on December 31, 1986; Petition for Deletion of Permit Terms and Change in Point of Diversion

**Petitions for Change and Extension of Time to Settlement Agreement (1989-2013)**

MCWRA began developing the environmental documentation for the Seawater Intrusion Project, including an Environmental Impact Statement/ Environmental Impact Report (EIS/EIR). Many comments and protests were received on the EIS/EIR, particularly with respect to the proposed Salinas Valley dispersed well system to supply water to Fort Ord and Marina. Many protestants felt that the transfer of water from the valley to coastal urban areas would harm groundwater quality in the valley. Due to ongoing conversations about the best alternative for preventing further seawater intrusion, no action was taken on the Petitions submitted on December 22, 1988. On March 31, 1997, the SWRCB requested that MCWRA submit updated Petitions to reflect the current status of efforts. In response, MCWRA stated that it was completing a computer modeling program for assessing both surface and groundwater supplies and would need to wait to see the results. On September 5, 2000, the SWRCB sent a letter to MCWRA stating that it was no longer a requirement to include a date in the Permit stating when construction will be completed, just a date when construction will commence.

Once again on November 10, 2004, the SWRCB requested that MCWRA submit updated petitions to reflect the current status of efforts within 30 days. In this letter it was also requested that MCWRA conduct CEQA analyses and submit an analysis that demonstrates that the change requested will comply with requirements of the Fish and Game Code and the Federal Endangered Species Act (Water Code section 1701.3) within 60 days. On December 8, 2004, MCWRA requested an additional 90 days to complete the requests. Around the time when the 90

days extension was ending, the SWRCB sent a letter on April 8, 2005, granting an additional 30 days to complete the requests.

On May 10, 2005, MCWRA submitted a new and updated Petition for Extension of Time and Petition for Change to delete permit terms, change the point of diversion, change the point of rediversion, and change the place of use. At this time, MCWRA was developing its Salinas River Diversion Facility (SRDF) for rediversion of stored water in Nacimiento Reservoir and San Antonio Reservoir and wanted to also have the ability to divert water pursuant to Permit 11043 at this facility. Therefore, the goal was to file the updated Petition for Change consistent with the plans for the SRDF, including a change in point of diversion to add the SRDF, as shown below. However, the Petition for Change filed by MCWRA was unclear and caused confusion with the SWRCB. The SWRCB wrote a letter to MCWRA on June 7, 2005, stating that the Petitions were received but corrections and clarifications were needed for consistency with the nature of Permit 11043. The SWRCB felt that the updated Petition for Change was seeking to change a direct diversion water right to allow storage in Nacimiento Reservoir. Moreover, the SWRCB felt that the updated Petition for Change was trying to use Permit 11043 to meet instream flow requirements for the Salinas Valley Water Project (fish and wildlife enhancement is not an authorized purpose of use for Permit 11043). It is unclear whether MCWRA was trying to do either of these things or if the SWRCB was making incorrect assumptions because the Petition for Change was unclear.

<b>May 10, 2005, Petition for Change – Point of Diversion (POD) Changes Requested</b>		
<b>Point of Diversion</b>	<b>Authorized Location</b>	<b>Requested Location</b>
Eastside Canal Intake	NW1/4 of SW1/4 of Projected S36, T17S, R6E, MDBM	No Change Requested
Castroville Canal Intake	NW1/4 of NE1/4 of Projected Section 23, T15S, R3E	No Change Requested
Salinas River Diversion Facility (SRDF)	Not authorized at the time	SE1/4 of Projected S16, T14S, R2E, MDBM

On July 18, 2008, MCWRA sent the SWRCB a letter with the purpose of withdrawing the Petition for Extension of Time and Petition for Change submitted on May 10, 2005. In this letter, MCWRA stated that it planned to submit new petitions which would include more recent and project-specific plans.

On December 5, 2008, MCWRA submitted a new and updated Petition for Extension of Time. On December 16, 2008, the SWRCB wrote a letter to MCWRA stating that the Petition was received but not complete. In response, on February 27, 2009, MCWRA sent a letter to the SWRCB stating that it was redrafting the Petition. However, a completed Petition was never submitted and the SWRCB issued a Notice of Proposed Revocation on January 6, 2010. In response, MCWRA sent a letter requesting a hearing. On November 20, 2012, the SWRCB issued a Notice of Public Hearing tentatively scheduling a hearing for January 28-30, 2013. The Notice of Public Hearing described two key issues that would be discussed in the hearing, listed below.

- 1) Should Permit 11043 be revoked in accordance with Water Code section 1410?
- 2) Did MCWRA prosecute with due diligence and complete construction of the project and apply the water to beneficial use as contemplated by the permit and in accordance with the Water Code and the rules and regulations of the SWRCB?

In response to the Notice of Public Hearing, MCWRA requested an additional six months to prepare for the hearing. MCWRA stated that its efforts had been focused on identifying and securing an alternative water supply to replace California-American Water Company's (Cal-Am) diversions from the Carmel River that were the subject of a SWRCB 2009 Cease and Desist Order. MCWRA and Cal-Am executed a settlement agreement and mutual release on December 4, 2012. December 7, 2012, the same day that MCWRA requested an additional six months to prepare for the hearing, the SWRCB responded and said that they would consider the request but they recommended that MCWRA submit a Notice of Intent to Appear in case the request was denied. In response, MCWRA submitted its Notice of Intent to Appear on December 12, 2012. On January 15, 2013, the SWRCB issued a Notice of Postponement of Public Hearing and on May 6, 2013, the SWRCB issued a Notice of Rescheduling of Public Hearing to August 13-15, 2013. In the Notice of Rescheduling of Public Hearing, the SWRCB added a new key issue ("Key Issue 3") to the two key issues listed in the previous Notice of Public Hearing. Key Issue 3 was described as follows:

- 3) Did MCWRA meet all of the dates set forth in Paragraph 3<sup>7</sup> of Board Order WR 82-13? If MCWRA did not meet the dates specified in Paragraph 3 of Board Order WR 82-13, did MCWRA petition the Board for an extension of time prior to the date in question, and did the Board find good cause for a time extension?

MCWRA sent a letter on May 23, 2013, stating its objection to the addition of Key Issue 3 for the reason that it was not consistent with the water code. On June 13, 2013, the SWRCB ruled that Key Issue 3 was appropriate and was rightfully included.

On July 1, 2013, MCWRA and the SWRCB entered into a Settlement Agreement, which is further described in the next section. All dates relative to actions and efforts between the Petitions for Change and Extension of Time and the Settlement Agreement are listed below.

<b>Date</b>	<b>Action</b>
March 31, 1997	SWRCB letter requesting that MCWRA submit updated Petitions to reflect the current status of efforts
September 5, 2000	SWRCB letter stating that it is no longer a requirement to include a date that construction will be completed, just started
November 10, 2004	SWRCB letter requesting that MCWRA submit updated Petitions to reflect the current status of efforts. This letter also requested that MCWRA conduct CEQA and submit an analysis that demonstrates that the change requested will comply with requirements of the Fish and Game Code and the Federal Endangered Species Act (Water Code section 1701.3)

<sup>7</sup> Paragraph 3 of Board Order WR 82-13 defined the requirement for the formation of an assessment district and the filing of loan applications pursuant to the Arroyo Seco Dam Project.

December 8, 2004	MCWRA requests additional 90 days to complete requests in SWRCB letter dated November 10, 2004
April 8, 2005	SWRCB letter granting an additional 30 days to complete requests in SWRCB letter dated November 10, 2004
May 10, 2005	New and updated Petition for Extension of Time and Petition for Change
June 7, 2005	SWRCB letter stating that correction and clarification of Petitions was needed
July 18, 2008	Withdrawal of May 10, 2005 Petition for Extension of Time and Petition for Change
December 5, 2008	New and updated Petition for Extension of Time
December 16, 2008	SWRCB letter stating that Petition was not complete and more was needed
February 27, 2009	MCWRA letter stating that the Petition is being re-drafted
January 6, 2010	Notice of Proposed Revocation
January 15, 2010	MCWRA requests a hearing
November 20, 2012	SWRCB tentatively schedules hearing for January 28-30, 2013
December 4, 2012	Settlement Agreement between MCWRA and Cal-Am
December 7, 2012	MCWRA requests an additional 6 months to prepare for hearing
December 12, 2012	MCWRA submits Notice of Intent to Appear
January 15, 2013	SWRCB issues Notice of Postponement of Public Hearing
May 6, 2013	SWRCB issues Notice of Rescheduling of Public Hearing to August 13-15, 2013
May 23, 2013	MCWRA letter objecting to Key Issue 3 included in Notice of Rescheduling of Public Hearing
June 13, 2013	SWRCB letter ruling that Key Issue 3 is appropriate
July 1, 2013	Settlement Agreement between MCWRA and the SWRCB

**Settlement Agreement to Current (2013-2025)**

In the Settlement Agreement entered into on July 1, 2013, between MCWRA and the SWRCB, it was agreed that the Notice of Proposed Revocation would be withdrawn but that modifications would be made to Permit 11043 (A013225) and milestones would be set for completing Phase II of the Salinas Valley Water Project<sup>8</sup>. The modifications and milestones defined in the Settlement Agreement are as follows:

1. *Amendments to Permit 11043*
  - a. *Face Value Amount: The maximum amount of water diverted under Permit 11043 shall be reduced to a quantity not to exceed 135,000 acre feet per year.*
  - b. *Bypass Flows: The Agency will refrain from diverting under Permit 11043 unless the natural flow of the Salinas River at the East Side Canal Intake Point of Diversion under Permit 11043, which shall be calculated by subtracting releases by MCWRA from Nacimiento and San Antonio Reservoirs from total flows at the Soledad gauging station on a three day running average, is greater than the following amounts:*

<sup>8</sup> Phase I of the Salinas Valley Water Project included the Nacimiento Reservoir Spillway Modification (completed in 2009) and construction of the SRDF (completed in 2010). Phase II of the Salinas Valley Water Project refers to the development of a project that would utilize Permit 11043.

<i>Month</i>	<i>Amount (cfs)</i>
<i>January</i>	<i>3.30</i>
<i>February</i>	<i>6.20</i>
<i>March</i>	<i>6.41</i>
<i>April</i>	<i>16.43</i>
<i>May</i>	<i>17.21</i>
<i>June</i>	<i>20.62</i>
<i>July</i>	<i>24.02</i>
<i>August</i>	<i>18.89</i>
<i>September</i>	<i>20.97</i>
<i>October</i>	<i>10.51</i>
<i>November</i>	<i>4.56</i>
<i>December</i>	<i>2.64</i>

*These amounts are to be bypassed before any water is diverted pursuant to Permit 11043. These amounts are based on the best available information of recent diversions from the Salinas River downstream of the East Side Canal Intake Point of Diversion under Permit 11043 as reported to the SWRCB.*

- c. Other terms: All other terms of Permit 11043 will remain unchanged. In particular, the purpose of use of the water appropriated under Permit 11043 will continue to be for municipal and industrial and agricultural purposes and the points of diversion and places of use identified in Permit 11043 will remain unchanged.*
- 2. Milestones*
- MCWRA shall make progress towards implementation of Phase II of the Salinas Valley Water Project ("Project") by:*
- a. Submitting a Petition for Extension of Time to the SWRCB within 60 days of the effective date of this Agreement.*
  - b. Issuing a Notice of Preparation for the Project by July 1, 2014.*
  - c. Releasing a Draft Environmental Impact Report for the Project by July 1, 2015.*
  - d. Issuing a draft financing plan for construction and operation of the Project by July 1, 2016.*
  - e. Certifying a Final Environmental Impact Report for the Project by July 1, 2017.*
  - f. Submitting necessary permit applications for regulatory agency approvals for the Project by July 1, 2018.*
  - g. Approving a financing plan for construction and operation of the Project by July 1, 2019.*
  - h. Finalizing Project construction drawings by July 1, 2020.*
  - i. Submitting a financing plan for construction and operation of the Project for public approval by July 1, 2021.*
  - j. Obtaining final permits and other agency approvals for the Project by July 1, 2023.*
  - k. Issue notice to proceed with construction of the Project by July 1, 2024.*
  - l. Complete construction of the Project and make initial diversion of water under Permit 11043 by July 1, 2026.*

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*As required by California Code of Regulations title 23 section 847, MCWRA will file progress reports annually not later than each September 1 with the SWRCB to document progress and completion of each milestone.*

On August 7, 2013, The SWRCB issued Order 2013-0030-EXEC approving the Settlement Agreement and partial revocation of Permit 11043 (from 168,538 AF to 135,000 AF). The approval of the Settlement Agreement decreased the face value of the permit, added bypass flow requirements, and added milestones related to the Salinas Valley Water Project Phase II. All other terms of Permit 11043 remained unchanged, including the development schedule. On September 18, 2013, the SWRCB transmitted Permit 11043 (A013225), as amended by Order 2013-0030-EXEC. This is the current version of Permit 11043 (A013225) as there has been no additional Order or amended permit since.

The development schedule is a standard term defined in all water rights while the milestones added to the permit with the Settlement Agreement and Order 2013-0030-EXEC are part of an additional term for Permit 11043 that is not standard amongst all water rights. From the time that Permit 11043 was issued, there has been a defined development schedule which sets dates for the commencement of construction, completion of construction, and date to complete beneficial use of water. As of the date of this report, the standard permit term pursuant to development schedules has been changed by the SWRCB and now only lists a date to complete beneficial use of water. It is our understanding that the dates for commencing and completing construction defined in the development schedule would be removed in any amended permit issued pursuant to the petitions, but we recommend discussing with legal counsel and the SWRCB.

The first milestone defined in the amended permit was to submit a Petition for Extension of Time to the SWRCB by October 8, 2013. MCWRA met this milestone on October 2, 2013, when it filed an 18-year Petition for Extension of Time pursuant to the development schedule (“2013 Petition”). If approved, the 18-year extension requested in the 2013 Petition would change the date to complete application of water to beneficial use from December 1, 2008, to December 1, 2026. SWRCB policy no longer requires the development schedule to include the date that construction will be initiated or completed, just the date to complete application of water to beneficial use.

On June 25, 2014, MCWRA submitted a Notice of Preparation for the Salinas Valley Water Project Phase II. One day later, June 26, 2014, MCWRA, National Marine Fisheries Service (NMFS), and the California Department of Fish and Wildlife (CDFW) hosted an informational meeting regarding the Salinas Valley Water Project Phase II. The presentation at the informational meeting shared information about the Regional Advisory Committee (RAC), which the presentation referred to as a balanced group of Salinas Valley stakeholders assembled in 2013 to evaluate the Salinas Valley Water Project Phase II as proposed and identify and recommend alternative projects to prevent further seawater intrusion. At the time of the presentation, both the Eastside Canal and the Castroville Canal points of diversion were being considered. The addition of storage to Permit 11043 was also being considered.

In 2014, the California Legislature adopted the Sustainable Groundwater Management Act (SGMA) which fundamentally transformed the management of groundwater resources in California. A group of regional stakeholders including Salinas Valley cities, the County of Monterey and other public agencies, and Monterey County agricultural interests (collectively "Consortium") released a Request for Statements of Qualifications (RFQ) on April 20, 2015, for the purpose of developing the Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA).

The evaluation of the Salinas Valley Water Project Phase II by the RAC and the passage of SGMA shifted efforts pursuant to Permit 11043 (A013225) due to improved cooperation and coordination of key stakeholders. Based on the projects being discussed at the time, MCWRA prepared a proposed implementation schedule, which was developed into a flow chart. The result of the proposed implementation schedule is that water from Permit 11043 would be put to use four years later than the milestone set in a Permit 11043 (A013225) term, as amended by Order 2013-0030-EXEC. Therefore, MCWRA submitted a four-year Petition for Extension of Time ("2015 Petition") on May 18, 2015, pursuant to the milestones<sup>9</sup> defined in Permit 11043 (A013225). If approved, the four-year extension requested in the 2015 Petition would change the milestone date to complete construction from July 1, 2026, to July 1, 2030. MCWRA attended a meeting with the SWRCB on June 24, 2015, to discuss the two outstanding Petitions for Extension of Time: 1) the 2013 Petition for Extension of Time to extend the development schedule by 18 years and 2) the 2015 Petition for Extension of Time to extend the milestones defined in one of the permit terms by four years. At this time, neither petition had been noticed. On October 21, 2015, the SWRCB sent MCWRA a letter summarizing this discussion. According to the letter, during the discussion, the SWRCB stated that in order to change the milestones permit term, a Petition for Change would be needed, not a Petition for Extension of Time. This is because a Petition for Extension of Time can only extend the time of the standard development schedule defined in all water rights while a Petition for Change is needed to make changes to any permit terms other than the development schedule. MCWRA stated that it would file the Petition for Change and withdraw the 2015 Petition for Extension of Time. The SWRCB also recommended that MCWRA amend the 2013 Petition for Extension of Time pursuant to the development schedule to give itself more time to complete beneficial use of water. Lastly the milestones permit term was discussed in respect to the sentence that states:

*In the event that right holder fails to timely complete a milestone, right holder shall also file a letter by September 1 of the year noted in the milestone, advising the Division of such failure, providing the basis for failing to meet the milestone and identifying when the milestone will be met.*

The SWRCB requested that MCWRA send a letter to the SWRCB in respect to this permit term. On December 23, 2015, MCWRA complied with this request and sent a letter to the SWRCB stating that it was not able to meet a milestone due to the plethora of studies, projects, and uncertainties at the time; including but not limited to the Basin Investigation (modeling), waterSMART Grant work, SGMA, Pure Water Monterey Project, expansion of MCWRA's

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<sup>9</sup> The dates defined in the milestones are not consistent with the dates defined in the development schedule.

recycled water facilities, Salinas River Stream Maintenance Program (SRSMP), and the Interlake Tunnel and San Antonio Spillway Modification Project.

On March 31, 2016, MCWRA filed a Petition for Change to extend the dates defined in the milestones permit term by four years, as recommended by the SWRCB. If approved, the milestone date to complete construction would be extended from July 1, 2026, to July 1, 2030. MCWRA also submitted a letter on March 31, 2016, stating that it would like to extend the date to complete application of water to beneficial use to December 31, 2040. While it doesn't explicitly say that this request was being made as an amendment to the 2013 Petition for Extension of Time, it can be reasonably inferred. Therefore, this would change the 2013 Petition for Extension of Time from an 18-year extension request to a 32-year (and 30-day) extension request. If approved, the now 32-year Petition for Extension of Time would change the date to complete application of water to beneficial use from December 1, 2008, to December 31, 2040. Since the 2016 filing and amendment, there has been no action on these petitions by the SWRCB. Files documenting recent communication between Division staff indicate that the SWRCB may be interested in taking action relative to these petitions. However, it appears that Division staff are not familiar with the petitions or the conversations with MCWRA that occurred in 2015.

All dates relative to actions and efforts from the time of the Settlement Agreement to present are summarized below.

<b>Date</b>	<b>Action</b>
July 1, 2013	Settlement Agreement between MCWRA and the SWRCB
August 7, 2013	Order 2013-0030-EXEC issued by the SWRCB approving Settlement Agreement
September 18, 2013	Amended Permit 11043 issued by the SWRCB pursuant to Settlement Agreement and Order 2013-0030-EXEC
October 2, 2013	Petition for Extension of Time – 18 years (development schedule)
June 25, 2014	Notice of Preparation for Phase II of Salinas Valley Water Project
June 26, 2014	Informational Meeting with MCWRA, NMFS, and CDFW
April 20, 2015	Release of Request for Statements of Qualifications (RFQ) for developing the Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA)
May 18, 2015	Petition for Extension of Time – 4 years (milestones) (withdrawn)
June 24, 2015	SWRCB and MCWRA meeting to discuss the permit and the Petitions for Extension of Time
October 21, 2015	Letter from the SWRCB summarizing June 24, 2015, meeting and SWRCB recommendations
December 23, 2015	Letter from MCWRA regarding milestones permit term
March 31, 2016	Petition for Change (milestones) and letter amending 2013 Petition for Extension of Time

**Current Permit 11043 (A013225)**

**Priority Date:** July 11, 1949

**Permit Issuance Date:** November 20, 1957

**Source:** Salinas River

**Water Right Type:** Direct Diversion

**Rate:** 400 cfs

**Quantity:** 135,000 AF

**Purpose of Use:** Irrigation, Municipal

**Point of Diversion:**

Eastside Canal Intake - NW1/4 of SW1/4 of Projected S36, T17S, R6E, MDBM

Castroville Canal Intake - NW1/4 of NE1/4 of Projected Section 23, T15S, R3E

**Places of Use:**

Irrigation - 86,500 net acres within a gross of 107,000 acres within portions of Zone 2 of the Monterey County Water Resources Agency

Municipal - Within portions of Zone 2 of the Monterey County Water Resources Agency

**Significant Permit Terms**

Development Schedule –

- Construction of both the Castroville and Eastside Canal projects shall commence by January 1, 1987.
- Construction work on Castroville and Eastside projects shall be completed by December 1, 1988.
- Complete application of the water to the authorized use shall be made by December 1, 2008.

Assessment District and Loan Applications:

- Form assessment district by January 1, 1984
- File final P.L. 984 loan applications by June 30, 1984

Failure to Meet Dates

- This permit shall stand revoked and of no further effect if right holder fails to meet any of the dates specified unless:
  - Right holder petitions the Board for an extension of time prior to the date in question, and
  - The Board finds good cause for a time extension.

Bypass Flows

- Right holder shall not divert water unless the natural flow of the Salinas River at Eastside Canal Intake is greater than the amounts listed in the table below. The natural flow shall be calculated by subtracting reservoir releases from Nacimiento and San Antonio Reservoirs from total flows at the Soledad gaging station on a three-day running average.

<i>Month</i>	<i>Amount (cfs)</i>
<i>January</i>	<i>3.30</i>
<i>February</i>	<i>6.20</i>
<i>March</i>	<i>6.41</i>
<i>April</i>	<i>16.43</i>
<i>May</i>	<i>17.21</i>

<i>June</i>	<i>20.62</i>
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<i>September</i>	<i>20.97</i>
<i>October</i>	<i>10.51</i>
<i>November</i>	<i>4.56</i>
<i>December</i>	<i>2.64</i>

### Milestones

This permit is subject to timely completion of the following actions towards implementation of Phase II of the Salinas Valley Water Project (Project):

- Submitting a petition for extension of time by October 8, 2013.
- Issuing a Notice of Preparation for the Project by July 1, 2014.
- Releasing a Draft Environmental Impact Report for the Project by July 1, 2015.
- Issuing a draft financing plan for construction and operation of the Project by July 1, 2016.
- Certifying a Final Environmental Impact Report for the Project by July 1, 2017.
- Submitting necessary permit applications for regulatory agency approvals for the Project by July 1, 2018.
- Approving a financing plan for construction and operation of the Project by July 1, 2019.
- Finalizing Project construction drawings by July 1, 2020.
- Submitting a financing plan for construction and operation of the Project for public approval by July 1, 2021.
- Obtaining final permits and other agency approvals for the Project by July 1, 2023.
- Issue notice to proceed with construction of the Project by July 1, 2024.
- Complete construction of the Project and make initial diversion of water under the permit by July 1, 2026.

Right holder shall file documentation of its progress and completion of each milestone with the annual electronic report of water diversion and use. In the event that right holder fails to timely complete a milestone, right holder shall also file a letter by September 1 of the year noted in the milestone, advising the Division of such failure, providing the basis for failing to meet the milestone and identifying when the milestone will be met.

### **Outstanding Petitions**

#### 2013 Petition for Extension of Time – Pursuant to Development Schedule

- Requests to extend time to complete beneficial use of water to 2040.

#### 2016 Petition for Change – Pursuant to Milestones

- Requests to extend the dates defined in the milestones permit term by four years. Currently the milestones state that construction will be completed and diversion will commence by July 1, 2026. The Petition for Change, if approved, would extend this date to July 1, 2030.

### A032263

MCWRA submitted an application with the SWRCB on May 19, 2014, for the year-round direct diversion of 300 cubic feet per second (cfs) from the Blanco Drain, Reclamation Ditch and Tembladero Slough for irrigation, domestic and municipal purposes, for a total of 25,000 acre-feet per year. On November 10, 2014, the SWRCB identified deficiencies in the application and requested additional information within 60 days to address (1) the nature and amount of proposed use (2) potential effect on fish and wildlife (3) unappropriated water availability and (4) proper maps. On December 18, 2014, MCWRA requested a meeting with SWRCB staff to discuss the application deficiencies and for a time extension to provide responses. A meeting was held on January 8, 2015, and the SWRCB approved an extension until March 10, 2015. In response, MCWRA submitted additional information to address the deficiencies on March 9, 2015. The projects were further defined with the goal of continuing to address both Bulletin 52 recommendations and complimenting other regional water projects, in a phased approach. Additionally, MCWRA furthered their partnership with the regional wastewater treatment provider, now known as Monterey One Water<sup>10</sup> and the Monterey Peninsula Water Management District and included the Pure Water Monterey Project, which was designed to address both the over pumping of the Carmel River and the need for additional source water in the Castroville Seawater Intrusion Project. In order to address the proposed phased approach to project development, MCWRA requested that the application be split into 5 separate applications, with the same priority date.

On March 25, 2015, the SWRCB accepted the revised application and requested additional detail regarding the split applications and the status of the necessary environmental review. That information was provided to the SWRCB on July 29, 2015, and in November of 2015, Application 32263 was split into five individual applications. A032263A (Blanco Drain) and A032263B (Reclamation Ditch) were proposed for the Pure Water Monterey Project and were permitted on March 17, 2017, as Permits 21376 and 21377, respectively. The project has been operating since 2019 per an agreement between Monterey One Water and MCWRA. The outstanding applications (A032263C, A032263D, and A032263E) have not yet been permitted and are described below.

### A032263C

Application 32263C was also associated with Pure Water Monterey and proposed to divert surface flow in Tembladero Slough at Castroville to the Monterey One Water Regional Treatment Plant (RTP) for two purposes: 1) to create purified recycled water for injection into the Seaside Groundwater Basin and extraction through the Cal-Am Monterey distribution system; and 2) to provide additional recycled water for agricultural use in the Castroville Seawater Intrusion Project Area. The application states that detailed information is contained in the Draft Environmental Impact Report for the Pure Water Monterey Groundwater Replenishment Project, circulated April 22, 2015. Notice of public hearing to certify the final

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<sup>10</sup> Previously known as the Monterey Regional Water Pollution Control Agency (MRWPCA)

EIR was provided in September 2015. The application was put on hold in 2015 at MCWRA's request.

Application 32263C proposes to directly divert up to 3 cfs of water and collect to underground storage up to 1,500 AF, not to exceed 1,500 AF per year combined by direct diversion and collection to storage. The source of water is Tembladero Slough for year-round diversion, and water would be treated and then put underground via injection wells in the Seaside Groundwater Basin. The application, a November 5, 2015, memorandum, and a February 3, 2016, memorandum provided analyses of water availability, but the files do not include documentation of review or acceptance of the analysis by SWRCB staff. The purposes of use are irrigation, in the Castroville area, and municipal, associated with the Seaside Groundwater Basin. The places of use are within the Castroville Seawater Intrusion Project Service Area, a gross 12,043 acres of Zone 2B of MCWRA for irrigation, and within a gross 33,703 acres of the of the California American Water Company for municipal. Application 32263C was determined "complete" and publicly noticed on December 18, 2015.

In January 2016, a draft Biological Assessment was submitted to the Division and a site visit was conducted with USFWS and CDFW staff. On February 16, 2016, protests were received on Application 32263C. CDFW filed a protest based on concern of impacts to the wetland functions of Tembladero Slough for the Elkhorn Slough estuary. NMFS filed a protest based on concern of impacts to steelhead and their habitat from surface flow reductions in Tembladero Slough and downstream waterways. MCWRA responded to the protests on March 18, 2016. Numerous meetings and correspondence occurred between MCWRA, CDFW, NMFS, and Division staff during the spring of 2016. In June 2016, per protest dismissal terms pursuant to Applications 32263A and 32263B, MCWRA committed to cease efforts to pursue A032263C for the Pure Water Monterey Project and requested that processing of Application 32263C be suspended.

MCWRA reserves the right to pursue Application 32263C, independently, only if all of the following circumstances occur: (1) a future, new project (i.e., not the Pure Water Monterey Project) is proposed by MCWRA that would divert and use the diversion, (2) the new project or projects are subject to a new CEQA process, and (3) the water right application is amended, for example through filing a petition to change the water right application, to be consistent with that future proposed project. Application 32263C will remain active with the SWRCB and the NMFS protest of the application would also remain active and be addressed when and if MCWRA proceeds with a new project. A settlement agreement was executed in October 2016 with CDFW. On September 20, 2019, MCWRA requested to keep Application 32263C on hold.

In 2024, the Division requested supplemental information related to Application 32263C and MCWRA's intent. MCWRA met with the Division in December of 2024. In early May of 2025, Division staff identified that this application should no longer be kept on hold and needs to make forward progress, or it may risk cancellation. MCWRA met with Division staff in late May 2025 and identified concern with CDFW conditions involving the application. Division staff agreed to review its records and to meet again in August 2025. Water can't be diverted under this water right until a permit is issued.

### A032263D

Application 32263D was proposed to support the Coastal Sustainability Agricultural Project, to support the goal of combating seawater intrusion. As proposed, it would add water sources to allow for the expansion of the existing Castroville Seawater Intrusion Project to serve additional areas and reduce dependence on groundwater wells. The application states that MCWRA would conduct a feasibility study to inform the final design of the project and prepare a CEQA document. The application was put on hold in 2015 at MCWRA's request.

Application 32263D proposes to directly divert up to 30 cfs of water and collect to storage up to 9,800 AF, not to exceed 9,800 AF per year combined by direct diversion and collection to storage. The sources of water are Blanco Drain, Reclamation Ditch, and Tembladero Slough for year-round diversion. The application included an analysis of water availability, but the files do not include documentation of review or acceptance of the analysis by Division staff. The purpose of use is irrigation.

In 2024, the Division notified MCWRA that it needed to make progress relative to Application 32263D and provided a draft public notice. MCWRA has met with Division staff in 2025 to discuss potential changes to the application ahead of its public notice. These changes requested include the confirmation of underground storage, adding a point of diversion, moving two of the existing points of diversion, and expansion of the place of use. The application can be easily revised prior to public notice, but once the application has been noticed major changes would require a Petition for Change process. It is our understanding that MCWRA is currently preparing an updated application package for Application 32263D which will include these requested changes and be resubmitted to the Division. Water can't be diverted under this water right until a permit is issued.

### A032263E

Application 32263E was proposed to support the Municipal Sustainability Project, to support the goal of combating seawater intrusion. As proposed, it would diversify the current water sources for municipalities, residences, and industries to add drought resilience and reduce dependence on groundwater wells. The application states that MCWRA would conduct a feasibility study to inform the final design of the project and prepare a CEQA document. The application was put on hold in 2015 at MCWRA's request.

Application 32263E proposes to directly divert up to 55 cfs of water and collect to storage up to 8,700 AF, not to exceed 8,700 AF per year combined by direct diversion and collection to storage. The sources of water are Blanco Drain, Reclamation Ditch, and Tembladero Slough for year-round diversion. The application included an analysis of water availability, but the files do not include documentation of review or acceptance of the analysis by Division staff. The purposes of use are municipal, irrigation, and domestic.

In 2024, the Division notified MCWRA that it needed to make progress relative to Application 32263E and provided a draft public notice. MCWRA has met with Division staff in 2025 to discuss potential changes to the application ahead of its public notice. These changes requested

include the confirmation of underground storage and expansion of place of storage. The application can be easily revised prior to public notice, but once the application has been noticed major changes would require a Petition for Change process. It is our understanding that MCWRA is currently preparing an updated application package for Application 32263E which will include these requested changes and be resubmitted to the Division. Water can't be diverted under this water right until a permit is issued.

SWRCB Order 76-12

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 11043  
and 11044, Issued on Applica-  
tions 13225 and 13226, MONTEREY  
COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT,  
Permittee.

Order : 76-12  
Source: Salinas River  
County: Monterey

ORDER GRANTING EXTENSION OF TIME

BY BOARD MEMBER DODSON:

A hearing having been held pursuant to Section 1410 of the Water Code before the State Water Resources Control Board on the eighth day of July, 1975, in the Resources Building, 1416 Ninth Street, Sacramento, California, for the purpose of allowing Monterey County Flood Control and Water Conservation District, hereinafter called the permittee, to show cause why Permits 11043 and 11044 should not be revoked pursuant to Water Code Section 1410; due notice of the time, place, and nature of said hearing having been given by certified mail to said permittee; said notice having been received, as is evidenced by signed return receipt; said permittee having appeared at said hearing; the Department of Water Resources having appeared as an interested party; evidence having been presented and received at said hearing and having been duly considered, the Board finds as follows:

1. On November 20, 1957, Permit 11043 was issued to Monterey County Flood Control and Water Conservation District on Application 13225. The permit authorized appropriation of 400 cubic feet per second (cfs)\* from January 1 to December 31 at two points of diversion on the Salinas River in Monterey County for municipal purposes. At the same time, Permit 11044 was issued, which is identical to Permit 11043 except that it authorizes irrigation and domestic use of the same water.

2. The time authorized in said permit for application of water to beneficial use expired on December 1, 1973, after three extensions of time. A petition for extension of said time for a period of three years was filed on January 24, 1974.

3. The project originally envisioned by the permittee has changed since issuance of the permits. At the time of hearing, only that portion of the original project known as the Castroville Irrigation Project, which will divert water for irrigation purposes from one of the permitted points of diversion, was being actively pursued (RT 6). However, permittee has not abandoned the other portion of the project, known as the East Side Canal Project, and hopes to develop it in the future (RT 6, 24, 25).

4. Permittee has applied for a federal loan pursuant to Public Law 984 to finance the Castroville Irrigation Project and is very confident that necessary financing will be forthcoming (RT 6, 8, 36). Additionally, permittee has prepared and circulated through the State Clearinghouse an environmental impact report

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\*Total amount to be diverted under either or both permits.

disclosing the impacts of that project (RT 6). Permittee has not applied for financing for the East Side Canal Project, but may finance that project through a Public Law 984 loan as well (RT 24).

5. Permittee has exercised due diligence in its efforts to obtain financing for the Castroville Irrigation Project, the eastern portion of its original project and has indicated that the East Side Canal Project remains a sufficiently viable project to justify an extension of time.

6. The Department of Water Resources has found the Castroville area of Monterey County to be "potentially one of the best sites for waste water reclamation in California...". That Department has urged that the Board compel the permittee and the Monterey Peninsula Water Pollution Control Agency (which has applied to the Board for a Clean Water Grant for a regional wastewater treatment facility) to examine more fully the possibility of substituting reclaimed wastewater for the proposed water supply for the Castroville Irrigation Project.

7. The record does not show that permittee has adequately considered the substitution of reclaimed wastewater as suggested by the Department of Water Resources. Failure to make this showing is not considered entirely the fault of the permittee since it does not have comprehensive control over the water resources planning process in Monterey County. However, because the water resources of the State must be put to use to the fullest extent of which they are capable, it is in the public interest to require

permittee to consider further the use of reclaimed wastewater as a supply for the Castroville Irrigation Project. Therefore, construction of the Castroville Irrigation Project or any project utilizing water covered by Permits 11043 and 11044 should not commence until further order of the Board, preceded by a hearing at which permittee demonstrates that all practicable alternatives, including use of reclaimed wastewater, have been fully considered and that permittee has made all reasonable effort to coordinate its water supply decisions with local water pollution control agencies.

8. Permittee also holds Permit 12261 (A16761) which allows rediversion of stored San Antonio River water (tributary to the Salinas River) at the same two points of diversion specified in Permits 11043 and 11044. The development period for Permit 12261 expired on December 1, 1975. Permittee has requested an extension of time for development under Permit 12261, and the Board shall consider conditioning any extension which may be granted to provide for a joint hearing on all three permits.

It is concluded from the foregoing findings that further extension of time until December 1, 1979, is justified.

NOW THEREFORE IT IS ORDERED:

1. Time to commence construction under Permits 11043 and 11044 is extended to December 1, 1979.
2. Construction shall not commence until further order of the Board upon a hearing and a showing by the permittee that the use of all practicable alternative water supplies, including

the use of reclaimed wastewater, have been adequately considered and that permittee has made all reasonable effort to coordinate its water supply decisions with local water pollution control agencies.

If authorization to commence construction is given, the further Board order will include appropriate standard and special permit terms, including terms concerning the time allowed for completion of construction and for application of water to beneficial use.

Jurisdiction to so condition these permits is reserved.

3. In addition, the Board specifically reserves jurisdiction to impose further terms and conditions on Permits 11043 and 11044 requiring permittee to use reclaimed wastewater to satisfy all or some of its water needs should the public interest so require.

Dated: September 16, 1976

ROY E. DODSON  
Roy E. Dodson, Member

JOHN E. BRYSON  
John E. Bryson, Chairman

W. DON MAUGHAN  
W. Don Maughan, Vice Chairman

W. W. ADAMS  
W. W. Adams, Member

JEAN AUER  
Jean Auer, Member

SWRCB Order 82-13

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 11043  
and 11044, Issued on Applications  
13225 and 13226,  
  
MONTEREY COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT,  
  
Permittee

ORDER: WR 82-13  
  
SOURCE: Salinas River  
  
COUNTY: Monterey

ORDER GRANTING EXTENSION OF TIME

BY VICE CHAIRMAN MITCHELL:

A hearing having been held pursuant to Section 1410 of the Water Code before the State Water Resources Control Board on August 11, 1982, for the purpose of allowing Monterey County Flood Control and Water Conservation District to show cause why Permits 11043 and 11044 should not be revoked; permittee having appeared at the hearing; the Department of Fish and Game having appeared as an interested party; evidence having been presented and received and having been duly considered, the Board finds as follows:

1. On November 20, 1957, Permits 11043 and 11044 were issued to Monterey County Flood Control and Water Conservation District pursuant to Applications 13225 and 13226. The permits currently authorize appropriation of 400 cubic feet per second (cfs)\* from January 1 to December 31 at two points of diversion on the Salinas River in Monterey County for municipal, irrigation and domestic use.

2. The time authorized in said permits for application of water to beneficial use expired on December 1, 1979, after four extensions of time. A petition for an additional extension was filed on August 17, 1981.

\*Total amount to be diverted under either or both permits.

3. The project originally envisioned by the permittee has changed significantly since issuance of the permits.

4. Board Order WR 76-12 provided for extension of the time to commence construction to December 1, 1979. It also provides that:

"2. Construction shall not commence until further order of the Board upon a hearing and a showing by the permittee that the use of all practicable alternative water supplies, including the use of reclaimed wastewater, have been adequately considered and that permittee has made all reasonable effort to coordinate its water supply decisions with local water pollution control agencies...."

The order is silent regarding timing of the hearing, the studies to be conducted and who was to institute the hearing process.

5. Permittee has been diligent in pursuit of the conditions of Order WR 76-12 in that:

(a) Permittee has investigated reasonable alternative supplies of water including well fields, other dams, the State Water Project, the Corps of Engineers' groundwater studies, and the Arroyo Seco Dam project;

(b) Permittee is cooperating in the investigation of the use of reclaimed wastewater as a source of supply for the Castroville Irrigation Project through membership on a task force coordinating the Monterey Wastewater Reclamation Study. This study will not be completed until 1985. The extended time for completion of this study is beyond the control of permittee.

6. Permittee has adopted a plan for the Arroyo Seco Dam project which includes the Castroville and Eastside Irrigation Projects as integral parts of the main project.

7. It is in the public interest to grant an extension of time in this case because the canal projects will be a useful part of an overall Monterey County water plan and no other agency is known which can make any reasonable use of the water at this time.

8. The Arroyo Seco Dam feasibility study Final Report is relevant to the issues of this hearing and should be admitted into evidence.

9. Since a permittee is no longer required to file a separate application for municipal, domestic, and irrigation uses, it is proper to combine the two permits into one.

10. A portion of the schedule set forth by the permittee should be adopted so that future diligence or the lack thereof may be determined.

NOW THEREFORE IT IS ORDERED:

1. That Permits 11043 and 11044 shall be combined as Permit 11043.

2. The permit shall include all applicable standard permit terms including 8, 10, 11, 12 and 13.\*

3. Based upon permittee's Arroyo Seco Project implementation Schedule, permittee shall:

(a) Form assessment district by January 1, 1984.

(b) File final P. L. 984 loan applications by June 30, 1984.

(c) Commence both Castroville and Eastside Canal project construction by January 1, 1987.

(d) Construction work on Castroville and Eastside projects shall be completed by December 1, 1988.

(e) Complete application of the water to the authorized use shall be made by December 1, 2008.

(4) This permit shall stand revoked and of no further effect if permittee fails to meet any of the dates in Paragraph 3 of this Order, unless:

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\* The Board maintains a list of standard permit terms. Copies of these may be obtained upon request.

(a) Permittee petitions the Board for an extension of time prior to the date in question, and

(b) The Board finds good cause for a time extension.

4. The Arroyo Seco Feasibility Study Final Report is admitted into evidence in the hearing in this matter.

6. In addition, the Board specifically reserves jurisdiction to impose further terms and conditions on Permit No. 11043 (which combines Permits Nos. 11043 and 11044) requiring permittee to use reclaimed wastewater to satisfy all or some of its water needs should the public interest so require.

7. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue.

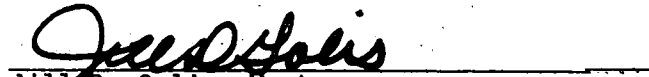
8. Permittee shall consult with the Division of Water Rights and the Department of Water Resources and develop and implement a water conservation program or actions. A progress report on development of the program shall be

submitted to the Board within six months. The program or proposed actions shall be presented to the Board for approval within one year from the date of this Order or such further time as may, for good cause shown, be allowed by the Board.

Dated: November 18, 1982

  
L. L. Mitchell, Vice Chairman

  
Carole A. Onorato, Chairwoman

  
Jill D. Golis, Member

  
F. K. Aljibury, Member

  
Warren D. Noteware, Member

# 2013 Settlement Agreement

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into and effective this 1st day of July, 2013 by and among the Prosecution Team of the State Water Resources Control Board's ("State Water Board" or "Board") Division of Water Rights ("Division Prosecution Team"), and the Monterey County Water Resources Agency ("Agency"). Each of the parties to this Agreement is sometimes referred to as a "Party" and are collectively sometimes referred to as the "Parties."

### Recitals

- A. Permit 11043 (Application 13225) authorizes Monterey County Flood Control and Water Conservation District (now known as Monterey County Water Resources Agency) to divert 400 cubic feet per second from the Salinas River for municipal, industrial and agricultural uses. The maximum amount of water diverted under Permit 11043 is not to exceed 168,538 acre-feet per year.
- B. The Agency originally submitted Application 13225 (and Application 13226 that was combined into Permit 11043) in response to the problems of seawater intrusion in the Salinas Valley Groundwater Basin that were examined in the California Department of Public Works, Division of Public Works' Bulletin 52 published in 1946. Bulletin 52 ascertained the extent and cause of seawater intrusion into the Basin and proposed the diversion of Salinas River water for delivery to the East Side Area and Pressure Areas of the Basin to alleviate groundwater pumping in those areas. The express intent of Applications 13225 and 13226 was to implement the solution outlined in Bulletin 52 to combat seawater intrusion.
- C. In 2010, the Agency, together with funding assistance and policy support from the Board, successfully implemented Phase I of the Salinas Valley Water Project to stop seawater intrusion in the Basin by delivering water for agricultural use in the areas identified in Applications 13225 and 13226 in lieu of groundwater pumping. Phase II of the Project will provide the additional surface water needed, based on actual monitoring data of the effectiveness of Phase I, to bring complete resolution to seawater intrusion by the delivery of surface water to the areas identified in Applications 13225 and 13226. Permit 11043 is an important part of the Phase II solution to seawater intrusion.
- D. On January 6, 2010, the Division Prosecution Team issued a Notice of Proposed Revocation of Permit 11043. The Division Prosecution Team asserted that the Agency had failed to commence, prosecute with due diligence and complete the work necessary to appropriate water under Permit 11043. Upon request by the Agency, the Board, on November 21, 2012, issued a Notice of Public Hearing for the proposed revocation of Permit 11043. The hearing is currently scheduled to commence on August 13, 2013.
- E. The Parties have engaged in settlement negotiations seeking to set aside the proposed revocation of Permit 11043 in light of the important public interest in solving seawater intrusion in the Salinas Valley. The Parties believe that the provisions of this Agreement serve the public

interest and so believe that proceeding with the proposed revocation and hearing is not in the best interests of any Party or the public:

F. This Settlement Agreement will be submitted to the State Water Board's Executive Director for approval and adoption pursuant to Government Code section 11415.60 as a decision by settlement and will become effective when the State Water Board's Executive Director issues an order approving the settlement.

G. The Parties wish to resolve the issues identified in the Notice of Proposed Revocation by means of this Agreement, as follows:

Agreements

1. Amendments to Permit 11043.

- a. *Face Amount.* The maximum amount of water diverted under Permit 11043 shall be reduced to a quantity not to exceed 135,000 acre-feet per year.
- b. *Bypass Flows.* The Agency will refrain from diverting under Permit 11043 unless the natural flow of the Salinas River at the Eastside Canal Intake point of diversion under Permit 11043, which shall be calculated by subtracting releases by the Agency from Nacimiento and San Antonio Reservoirs from total flows at the Soledad gaging station on a three-day running average, is greater than the following amounts:

Month	Amount (cfs)
January	3.30
February	6.20
March	6.41
April	16.43
May	17.21
June	20.62
July	24.02
August	18.89
September	20.97
October	10.51
November	4.56
December	2.64

These amounts are to be bypassed before any water is diverted pursuant to Permit 11043. These amounts are based on the best available information of recent diversions from the Salinas River downstream of the Eastside Canal Intake point of diversion under Permit 11043 as reported to the Board.

- c. *Other terms.* All other terms of Permit 11043 will remain unchanged. In particular, the purpose of use of the water appropriated under Permit 11043 will continue to be for municipal and industrial and agricultural purposes and the points of diversion and places of use identified in Permit 11043 will remain unchanged.
2. Milestones. The Agency shall make progress towards implementation of Phase II of the Salinas Valley Water Project ("Project") by:
- a. Submitting a Petition for Extension of Time to the Board within 60 days of the effective date of this Agreement.
  - b. Issuing a Notice of Preparation for the Project by July 1, 2014.
  - c. Releasing a Draft Environmental Impact Report for the Project by July 1, 2015.
  - d. Issuing a draft financing plan for construction and operation of the Project by July 1, 2016.
  - e. Certifying a Final Environmental Impact Report for the Project by July 1, 2017.
  - f. Submitting necessary permit applications for regulatory agency approvals for the Project by July 1, 2018.
  - g. Approving a financing plan for construction and operation of the Project by July 1, 2019.
  - h. Finalizing Project construction drawings by July 1, 2020.
  - i. Submitting a financing plan for construction and operation of the Project for public approval by July 1, 2021.
  - j. Obtaining final permits and other agency approvals for the Project by July 1, 2023.
  - k. Issue notice to proceed with construction of the Project by July 1, 2024.
  - l. Complete construction of the Project and make initial diversion of water under Permit 11043 by July 1, 2026.

As required by California Code of Regulations, title 23, section 847, the Agency will file progress reports annually not later than each September 1 with the Board to document progress and completion of each milestone.

3. Withdrawal of Notice of Proposed Revocation. The Division Prosecution Team agrees, within 5 business days of the effective date of this Agreement, to withdraw the Notice of Proposed Revocation of Permit 11043 and support cancellation of the public hearing by the Board.
4. No Admissions. Nothing in this Agreement shall be construed as an admission by any Party regarding any subject matter of this Agreement. Nothing herein shall be interpreted as any endorsement, assertion or rejection of water rights claimed by third parties not subject to this Agreement. The Parties agree that California Evidence Code sections 1152 and 1154, and Federal Rule of Evidence 408, render this Agreement inadmissible as evidence against either of the Parties in any adjudicative or quasi-adjudicative proceeding, except: (i) that either Party may offer this Agreement as evidence in an action that seeks to compel the other Party to perform its obligations under this Agreement, and (ii) this Agreement and the Agency's performance of the terms of this Agreement may be offered as evidence in the event that the Division Prosecution Team seeks to renew its efforts to revoke Permit 11043. Notwithstanding the preceding sentence, the Parties agree that they may jointly offer this Agreement in evidence to support the Board's actions under paragraph 3 in the event that such actions are challenged, either before the Board or in any other administrative, legislative or judicial forum.
5. Costs and Fees. Each Party shall bear its own fees and costs, including attorneys' and experts' fees, associated with the Proposed Revocation and this Agreement, including any dispute or other proceeding regarding this Agreement that may arise in the future.
6. Postpone Hearing. The Agency and the Division Prosecution Team have requested that the hearing in this matter be indefinitely postponed pending approval of this Settlement Agreement by the Executive Director.
7. Waiver of Reconsideration. The Agency waives its right to request reconsideration of the State Water Board Executive Director's order approving this Settlement Agreement, provided no material modifications to this Settlement Agreement or additional requirements beyond the requirements of this Settlement Agreement are included in that order.
8. General Provisions
  - a. Authority. Each signatory of this Agreement represents that s/he is authorized to execute this Agreement on behalf of the Party for which s/he signs. Each Party represents that it has legal authority to enter into this Agreement and to perform all obligations under this Agreement.
  - b. Amendment. This Agreement may be amended or modified only by a written instrument executed by each of the Parties to this Agreement.

- c. *Jurisdiction and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- d. *Headings.* The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Parties to this Agreement.
- e. *Construction and Interpretation.* This Agreement has been arrived at through negotiations and each Party has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in the construction or interpretation of this Agreement.
- f. *Entire Agreement.* This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.
- g. *Partial Invalidity.* If, after the date of execution of this Agreement, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable. However, in lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- h. *Successors and Assigns.* This Agreement shall be binding on and inure to the benefit of the successors and assigns of the respective Parties to this Agreement. No Party may assign its interests in or obligations under this Agreement without the written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.
- i. *Waivers.* Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement and forbearance to enforce one or more of the remedies provided in this Agreement shall not be deemed to be a waiver of that remedy.
- j. *Necessary Actions.* Each Party agrees to execute and deliver additional documents and instruments and to take any additional actions as may be reasonably required to carry out the purposes of this Agreement.
- k. *Compliance with Law.* In performing their respective obligations under this Agreement, the Parties shall comply with and conform to all applicable laws, rules, regulations and ordinances.

- i. *Third Party Beneficiaries.* This Agreement shall not create any right or interest in any non-Party or in any member of the public as a third party beneficiary. In particular, the Parties explicitly agree and acknowledge that the bypass flows set forth above in Paragraph 1.b do not create a right or other interest in such flows in favor of any third party.
- m. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.
- n. *State Water Board Is Not Liable.* Neither the State Water Board members nor the Board's staff, attorneys or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Agency or its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Settlement Agreement, nor shall the State Water Board, its members or staff be held as parties to or guarantors of any contract entered into by the Agency or its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Settlement Agreement.
- o. *Notices.* All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing unless provided otherwise in this Agreement and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by facsimile transmission on the Party to whom notice is to be given at the address(es) provided below, (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

STATE WATER RESOURCES CONTROL BOARD

Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812-2000  
Attention: Assistant Deputy Director, Permitting and Enforcement Branch

MONTEREY COUNTY WATER RESOURCES AGENCY

David Chardavoyne  
General Manager  
893 Blanco Circle  
Salinas, CA 93901

Dated: July 1, 2013

STATE WATER RESOURCES CONTROL BOARD

By: James W. Kassel  
James W. Kassel  
Assistant Deputy Director  
State Water Board, Division of Water Rights

Prosecution Team

Dated: July 1, 2013

Approved As To Form:

By: David Rose  
David Rose  
Staff Attorney  
State Water Board, Division of Water Rights

Prosecution Team

Dated: 28 June, 2013

MONTEREY COUNTY WATER RESOURCES AGENCY

By: David Chardavoigne  
David Chardavoigne  
General Manager

Dated: June 28, 2013

Approved As To Form:

By: David R.E. Aladjem  
David R.E. Aladjem  
Counsel

SWRCB Order 2013-0030-EXEC

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

**ORDER WR 2013-0030-EXEC**

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In the Matter of the Diversion and Use of Water by  
**Monterey County Water Resources Agency**

**ORDER APPROVING SETTLEMENT AGREEMENT  
AND PARTIAL REVOCATION**

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**BY THE EXECUTIVE DIRECTOR<sup>1</sup>**

**1.0 INTRODUCTION**

This matter comes before the Executive Director of the State Water Resources Control Board (State Water Board or Board) following the issuance of a Notice of Proposed Revocation to the Monterey County Water Resources Agency (Agency). In accordance with the attached Settlement Agreement, the State Water Board's Division of Water Rights prosecution team (Division Prosecution Team) and the Agency have agreed to settle this matter in lieu of proceeding to a hearing. The issuance of a decision or order pursuant to a settlement agreement is authorized under Government Code section 11415.60. The settlement is approved.

**2.0 BACKGROUND**

The Agency originally submitted Application 13225 (and Application 13226 that was combined into Permit 11043) in response to the problems of seawater intrusion in the Salinas Valley Groundwater Basin that were examined in the California Department of Public Works, Division of Public Works' Bulletin 52 published in 1946. Bulletin 52 ascertained the extent and cause of seawater intrusion into the Basin and proposed the

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<sup>1</sup> State Water Board Resolution No. 2002 - 0104 delegates to the Executive Director the authority to issue a decision or order by settlement of the parties under Government Code section 11415.60.

diversion of Salinas River water for delivery to the East Side Area and Pressure Areas of the Basin to alleviate groundwater pumping in those areas. The express intent of Applications 13225 and 13226 was to implement the solution outlined in Bulletin 52 to combat seawater intrusion.

Permit 11043 authorizes Monterey County Flood Control and Water Conservation District (now known as Monterey County Water Resources Agency) to divert 400 cubic feet per second from the Salinas River for municipal, industrial and agricultural uses. The maximum amount of water diverted under Permit 11043 is not to exceed 168,538 acre-feet per year. The permit required that construction work be completed by July 1, 1962 and that the water be applied to the authorized use by July 1, 1967.

Permittee has been granted five time extensions. Time extensions were approved by orders dated March 22, 1968, April 2, 1964 and October 24, 1963, and by Orders WR 76-12 and WR 82-13.

In 2010, the Agency, together with funding assistance and policy support from the Board, successfully implemented Phase I of the Salinas Valley Water Project to stop seawater intrusion in the Basin by delivering water for agricultural use in the areas identified in Applications 13225 and 13226 in lieu of groundwater pumping. Phase II of the Project will provide the additional surface water needed based on actual monitoring data of the effectiveness of Phase I, to bring complete resolution to seawater intrusion by the delivery of surface water to the areas identified in Applications 13225 and 13226. Permit 11043 is an important part of the Phase II solution to seawater intrusion.

On January 6, 2010, the Division Prosecution Team issued a Notice of Proposed Revocation of Permit 11043. The Division Prosecution Team asserted that the Agency had failed to commence, prosecute with due diligence and complete the work necessary to appropriate water under Permit 11043. Upon request by the Agency, the Board, on

November 21, 2012, issued a Notice of Public Hearing for the proposed revocation of Permit 11043.

The Agency and the Division Prosecution Team have agreed to settle the matters identified in the Notice of Proposed Revocation through the attached Settlement Agreement in lieu of a hearing on said matters. On July 5, 2013, at the request of the Division Prosecution Team, the hearing was postponed. A number of parties requested copies of the Settlement Agreement, which was provided by the Division Prosecution Team on July 10, 2013. Pursuant to the November 21, 2012 hearing notice, the Board, by email dated July 11, 2013, provided the parties to the hearing an opportunity to comment on the settlement. Seven comments were received from parties to the hearing and two from non-parties; all were considered.

### **3.0 SETTLEMENT AGREEMENT**

The Agency and the Division Prosecution Team engaged in settlement discussions and reached an agreement on language that is mutually acceptable and is contained in the Settlement Agreement that is attached hereto. The general terms of the settlement are: (1) the Agency agrees to partial revocation of the face value of Permit 11043 to 135,000 acre-feet per year; (2) the Agency agrees to bypass flows, as specified in paragraph 1.b. of the Settlement Agreement, prior to diverting any water pursuant to Permit 11043; (3) the Agency agrees to the identified milestones towards implementation of Phase II of the Salinas Valley Water Project; and (4) the Division Prosecution Team agrees to withdraw the Notice of Proposed Revocation dated January 6, 2010. The parties recognize that approval of the Settlement Agreement does not constitute State Water Board approval of any petitions for change or extension of time that may be required for completion of the Project.

**ORDER**

**IT IS HEREBY ORDERED THAT** the attached Settlement Agreement between the Division Prosecution Team and the Agency is approved and is incorporated by reference into this Order.

**STATE WATER RESOURCES CONTROL BOARD**

A handwritten signature in black ink, appearing to read 'T. Howard', with a stylized flourish at the end.

*Thomas Howard*  
*Executive Director*

Dated: *August 7, 2013*

# Permit 11043 (Amended)



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

**DIVISION OF WATER RIGHTS**

**RIGHT TO DIVERT AND USE WATER**

APPLICATION 13225

PERMIT 11043

Right Holder: Monterey County Water Resources Agency  
P.O. Box 930  
Salinas, CA 93902-0930

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **July 11, 1949**. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. This right supercedes any previously issued right on **Application 13225**.

**Right holder is hereby granted a right to divert and use water as follows:**

1. Source of water: **(1) Salinas River**  
tributary to: **(2) Pacific Ocean**  
within the County of **Monterey**

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b><u>Eastside Canal Intake:</u></b> North 2,038,821 feet and East 5,891,976 feet	<b>NW ¼ of SW ¼</b>	<b>36</b>	<b>17S</b>	<b>6E</b>	<b>MD</b>
<b><u>Castroville Canal Intake:</u></b> North 2,118,722 feet and East 5,796,575 feet	<b>NW ¼ of NE ¼</b>	<b>23</b>	<b>15S</b>	<b>3E</b>	<b>MD</b>

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Irrigation</b>	<b>86,500 net acres within a gross of 107,000 acres within portions of Zone 2 of the Monterey County Water Resources Agency</b>					
<b>Municipal</b>	<b>Within portions of Zone 2 of the Monterey County Water Resources Agency</b>					

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

5. The water appropriated under this right shall be limited to the quantity which can be beneficially used and shall not exceed **400 cubic feet per second** by direct diversion to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this right shall not exceed **135,000 acre-feet per year.**  
(000005A)
6. Construction of both the Castroville and Eastside Canal projects shall commence by January 1, 1987.  
(0000007)
7. Construction work on Castroville and Eastside projects shall be completed by December 1, 1988.  
(0000008)
8. Complete application of the water to the authorized use shall be made by December 1, 2008.  
(0000009)
9. Based upon right holder's Arroyo Seco Project implementation schedule, right holder shall:
  - (a) Form assessment district by January 1, 1984
  - (b) File final P.L. 984 loan applications by June 30, 1984  
(0320300)
10. This permit shall stand revoked and of no further effect if right holder fails to meet any of the dates specified unless:
  - (a) Right holder petitions the Board for an extension of time prior to the date in question, and
  - (b) The Board finds good cause for a time extension.  
(0010300)
11. The Board specifically reserves jurisdiction to impose further terms and conditions on this permit requiring right holder to use reclaimed wastewater to satisfy all or some of its water needs should the public interest so require.  
(0000600)
12. Any right which may be consummated under this application and permit is subject to the prior right for municipal use only which the City of Paso Robles may consummate under Application 17123.  
(0000112)

13. Right holder shall not divert water unless the natural flow of the Salinas River at Eastside Canal Intake (NAD 83, Zone 4, North 2,038,821 feet and East 5,891,976 feet) is greater than the amounts listed in the table below. The natural flow shall be calculated by subtracting reservoir releases from Nacimiento and San Antonio Reservoirs from total flows at the Soledad gaging station on a three-day running average.

Month	Amount (cubic feet per second)
January	3.3
February	6.2
March	6.41
April	16.43
May	17.21
June	20.62
July	24.02
August	18.89
September	20.97
October	10.51
November	4.56
December	2.64

(0160300)

14. This permit is subject to timely completion of the following actions towards implementation of Phase II of the Salinas Valley Water Project (Project):
- (a) Submitting a petition for extension of time by October 8, 2013.
  - (b) Issuing a Notice of Preparation for the Project by July 1, 2014.
  - (c) Releasing a Draft Environmental Impact Report for the Project by July 1, 2015.
  - (d) Issuing a draft financing plan for construction and operation of the Project by July 1, 2016.
  - (e) Certifying a Final Environmental Impact Report for the Project by July 1, 2017.
  - (f) Submitting necessary permit applications for regulatory agency approvals for the Project by July 1, 2018.
  - (g) Approving a financing plan for construction and operation of the Project by July 1, 2019.
  - (h) Finalizing Project construction drawings by July 1, 2020.
  - (i) Submitting a financing plan for construction and operation of the Project for public approval by July 1, 2021.
  - (j) Obtaining final permits and other agency approvals for the Project by July 1, 2023.

- (k) Issue notice to proceed with construction of the Project by July 1, 2024.
- (l) Complete construction of the Project and make initial diversion of water under the permit by July 1, 2026.

Right holder shall file documentation of its progress and completion of each milestone with the annual electronic report of water diversion and use. In the event that right holder fails to timely complete a milestone, right holder shall also file a letter by September 1 of the year noted in the milestone, advising the Division of such failure, providing the basis for failing to meet the milestone and identifying when the milestone will be met.

(0270700)

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**THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Once the time to develop beneficial use of water ends under this permit, right holder is not authorized to increase diversions beyond the maximum annual amount diverted or used during the authorized development schedule prior to submitting a time extension petition and obtaining approval of the State Water Board. (0000019)
- E. Only the amount of water applied to beneficial use during the authorized diversion season, as determined by the State Water Board, shall be considered when issuing a license. (Wat. Code, § 1610.) (0000006)
- F. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use. (0000015)
- G. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
  - 1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;

2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(0000011)

- J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

- K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(0000025)

- L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(0000212)

- M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

- N. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An "urban water supplier" means a supplier, either publicly or privately owned, providing water

for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An "agricultural water supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(000029D)

- O. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the 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 right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder 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 right 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 right holder 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.

(000012)

- P. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder 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.

(000013)

- Q. This right does not authorize any act which results in the taking of a candidate, threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

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*This right is issued and right holder 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 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 therefor 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

ORIGINAL SIGNED BY:  
PHILLIP CRADER FOR

*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: SEP 18 2013