

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

ORDER WR 2012-0007-EXEC

In the Matter of Permit 11356 (Application 12178)
Fallbrook Public Utility District

ORDER APPROVING PETITION FOR EXTENSION OF TIME

SOURCE: Tocolota Creek
COUNTY: San Diego

BY THE BOARD:

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permit 11356 to the Fallbrook Public Utility District (Fallbrook or Permittee) on May 2, 1958, pursuant to Application 12178. The permit was subsequently assigned to the U.S. Bureau of Reclamation on June 18, 1974. The permit was transferred back to Fallbrook on February 10, 1999. The permit authorizes storage of 10,000 acre-feet per annum (afa) to be collected from November 1 of each year to June 1 of the succeeding year. The place of use is 226,665 acres within a gross area of 920,472 acres within the boundaries of the San Diego County Water Authority (Water Authority).
2. The permit requires that construction work be completed by December 31, 1990 and that the water be applied to the authorized use by December 31, 1996.
3. Permittee requested, and on February 2, 1998, the Division granted, an extension of time to commence or complete construction work or apply the water to full beneficial use. The time extension order required that water be fully used by December 31, 2008.
4. On December 18, 2008, Permittee filed a petition for an extension of time within which to commence or complete construction work or apply water to beneficial use. The petition fee was paid. Permittee is requesting a 40-year extension of time.

Permittee is a member of the Water Authority, which in turn is a member of the Metropolitan Water District of Southern California (MWD). Water under Permit 11356 is stored in Lake Skinner, an existing 44,000 af reservoir owned and operated by MWD. Lake Skinner is used primarily as a regulating reservoir to deliver imported water from the Colorado Canal and the Diamond Valley Reservoir to a water treatment plant adjacent to Lake Skinner. After treatment, water is delivered to the nearby aqueducts that serve Fallbrook and the Water Authority. The petition form indicates that 1,261 af of water had been put to beneficial use.

The petition indicates that the only reason that full use has not yet occurred is weather. Due to the flashy nature of local hydrology, many years are dry and of limited productivity. Permittee

diverts water to storage pursuant to the permit whenever and to the extent there is water available to do so.

5. Public notice of the request for an extension of time was issued on February 23, 2009 and no protests were received.
6. The State Water Board may grant an extension of time within which to commence or complete construction work or apply water to beneficial use upon a showing of good cause. (Wat. Code, § 1398.) Permittee must show that (1) due diligence has been exercised; (2) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided; and (3) satisfactory progress will be made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay.
7. During the original development period under the water right, Permittee did not construct the authorized facility. On November 20, 2001, the Division approved a change in source, point of diversion and place of use in order to change the authorized storage facility to MWD's Lake Skinner and change the place of use to the Water Authority's service area.

Storage could not be initiated, however, until Permittee entered into an agreement with MWD and the Watermaster appointed by the federal District Court. Lake Skinner matters are vetted through the Watermaster Steering Committee, which consists of the major Santa Margarita River water users, and are the subject of Court required notice and review. On February 16, 2005, the Court approved the agreement with MWD. Water use under the permit began on February 18, 2005. (June 28, 2011 letter from Permittee to Division.) Thus, Permittee has shown that due diligence has been exercised during the most recent time extension period.

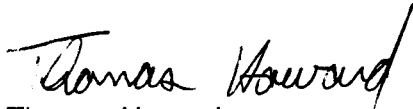
8. Permittee has shown that failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided. Permittee could not store water in Lake Skinner until the federal District Court authorized it to do so. This issue has been addressed.
9. Permittee has shown that satisfactory progress will be made if a time extension is granted. Permittee has provided hydrologic data projecting that full beneficial use will occur if a water year similar to the 1980 water year occurs.
10. Permittee has shown good cause for the time extension.
11. On October 25, 1999, Permittee adopted a Mitigated Negative Declaration (MND) (SCH No.99061086) for the Lake Skinner Project to comply with the California Environmental Quality Act. On April 28, 2003, Permittee approved an Addendum to the MND and concurrently issued a Notice of Exemption for the Change Petition described above. In May of 2009, Permittee issued a Second Addendum to the MND for the Petition for Extension of Time. On June 26, 2009, Permittee filed a Notice of Determination (NOD) with the State Clearinghouse and the County of Riverside for the MND as it related to the time extension petition. Concurrently, Permittee filed a Notice of Exemption for the extension of time with the State Clearinghouse and the County of Riverside, citing the common sense exemption (Guidelines § 15061(b)(3)). No mitigation measures were included in the Second Addendum.
12. The State Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to

the environment. The State Water Board will file an NOD within five days from the issuance of this order.

13. A term has been added to require measurement of water diverted under the permit to comply with Water Code section 1605.

NOW, THEREFORE, IT IS ORDERED THAT THE STATE WATER BOARD HEREBY APPROVES THE PETITION FOR EXTENSION OF TIME. THE ATTACHED AMENDED PERMIT, WHICH INCORPORATES THE TIME EXTENSION, IS ISSUED.

STATE WATER RESOURCES CONTROL BOARD



Thomas Howard
Executive Director

Dated: **MAY 25 2012**

Attachment